



## **City of Marquette, MI**

300 West Baraga Ave  
Marquette, Michigan 49855

### **Meeting Agenda City Commission**

**Monday, March 29, 2021**

**6:00 PM**

**Commission Chambers**

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#### **Call to Order, Pledge of Allegiance and Roll Call**

#### **Approval of the Agenda**

#### **Announcements**

#### **Boards and Committees**

**1. Appointment**

Dennis Honch, Marquette County Solid Waste Management Authority, for an unexpired term ending 07-01-23

**2. Reappointments**

Callie New, Brownfield Redevelopment Authority, for a term expiring 02-01-24

Rob Beranek, Brownfield Redevelopment Authority, for a term expiring 02-01-24

Margaret Brumm, Marquette Area Wastewater Treatment Advisory Board, for a term expiring 12-31-23

Margaret Schwalm, Elections Board, for a term expiring 04-11-25

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

#### **Presentation(s)**

**3. Redistricting Michigan, by MICRC General Counsel Julianne Pastula**

**4. Harbor Advisory Committee, by Chair Kane Beauchamp**

**5. Consent Agenda**

**5.a.** Approve the minutes of the March 8, 2021 regular Commission meeting.

**5.b.** Approve the total bills payable in the amount of \$1,215,978.93

**5.c.** City of Marquette Bridge Inspection

**5.d.** Coast Guard Building Boiler Replacement

**5.e.** Construction Materials Testing Services Acceptance for 2021 Reconstruction Projects

**5.f.** Lakeview Russell Dasher Board - Bid Award

**5.g.** Marquette Beautification and Restoration Committee, Inc. Petunia Pandemonium

Project

**5.h.** Recreation Software Contract

**5.i.** Tri-Party Letter and Security Agreement - Customs House, LLC and Consumers Credit Union

**5.j.** Water Corrosion Control Operations Plan

### **New Business**

**6.** Kids Cove Inclusive Playground - Professional Services Contract Award

**7.** Presque Isle Marina - MDNR Waterways Grant Application

**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**

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**Kyle Whitney, City Clerk**

*This meeting will be live on Marquette Charter Cable Channel 191 and will be broadcast (subject to temporary programming) as follows: Tuesday at 11a.m. and 6p.m.; Wednesday at noon and 8 p.m.; Thursday at 4 a.m. and 1 p.m.; Friday at 6 p.m.; Saturday at noon; and Sunday at 8 a.m. and 4 p.m.*

*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](mailto:estemen@marquettemi.gov).*

# Marquette City Board/Committee Application Form

Please use this form to express your interest in serving on a particular board/committee or commission. You may attach additional material if you wish. For information on vacancies and board/committee bylaws, please visit the Vacancies page (<https://www.marquettemi.gov/commission/boards-and-committees/vacancies/>), call 225-8104 (tel:225-8104) or e-mail [shobbins@marquettemi.gov](mailto:shobbins@marquettemi.gov) (mailto:shobbins@marquettemi.gov). Please note that applications are kept on file for six months. The Marquette City Commission makes appointments to City Boards at their regular meetings as vacancies occur. Completed applications are public documents and are subject to the Michigan Freedom of Information Act.

## City of Marquette Board/Committee Application

**Applicant Name as it Appears on License \***

DENNIS

First

NOEL

Middle

HONCH

Last

**Driver's License Number: \***

0 of 13 max characters

What board/committee would you like to apply for? \*

Marquette County Solid Waste Management Authority

Please view the vacancy listing at [www.marquettetmi.gov/vacancies](http://www.marquettetmi.gov/vacancies) for a list of available openings.

Second Choice

Please Select

Third Choice

Please Select

Email \*

Home Phone \*

906-225-5019

906 250-4543 CELL

Home Address \*

1730 ALTAMONT, MARQUETTE, MI.

Street Address

Address Line 2

City

Occupation \*

RETIRED

Business Name \*

N/A

Business Phone

N/A

**Business Address**

N/A

Street Address

Address Line 2

City

**Are you a registered voter in the City of Marquette? \***

Please Select YES

According to the City Charter, each member appointed by the City Commission shall have been a resident of the city for at least one year immediately prior to the day of appointment and shall also be a qualified and registered elector of the city on such day and throughout the member's tenure of office.

**Have you been a City resident for at least 12 months? \***

Please Select YES, SINCE 1987

**Are you currently in default to the City of Marquette? \***

Please Select NO

**Are you related to any elected City Commissioner (including by marriage)? \***

Please Select NO

**Do you have any pending litigation against the City? \***

Please Select NO

**Are you currently serving or have you served on any City board or committee? \***

Please Select YES, (PRESQUE ISLE ADVISORY BOARD, MQT SOLID WASTE

MRQ. ZONING BOARD OF APPEALS) MANAGEMENT AUTHORITY SINCE 2015 TO PRESENT

UNIV. N. DAK. - B.S. DEGREE - EDUCATION  
MICH. STATE POLICE - 27 YRS - RETIRED  
PRIVATE INVESTIGATOR - 16 YRS - RETIRED  
FIRE INVESTIGATION  
FOR INSURANCE COMPANIES

What are your professional activities that relate to this board/committee? \*

What community activities are you involved in that relate to this board/committee? \*

BOARD MEMBER MARQUETTE CO. SOLID WASTE  
MANAGEMENT AUTHORITY

Why are you interested in serving on this board/committee? \*

What talents or experience would you bring to the board/committee? \*

EXPERIENCE AS MCSLWMA BOARD MEMBER,  
CONTRACT NEGOTIATION

Any other comments or information you wish to provide to the Mayor and City Commissioners?

Are you involved in any personal, professional or business pursuit that would affect your ability to make fair and impartial recommendations as a member of a City advisory board or committee? \*

Please Select **NO**

Are you aware of the meeting schedule and are you available to attend regularly scheduled meetings? \*

Please Select **YES**

Appointed members are expected to attend all meetings of the board/committee. A member who misses more than 3 consecutive meetings or 1/3 of all meetings will tender their resignation to the board/committee chair.

Signature \*

*Dennis J. Douch*



*Signature certifies that there are no misrepresentations, omissions or falsifications on this application and by signing this application consent is given to the City to conduct a background check to verify the information provided.*

Application Date \*

**3** **1** **2021**  
MM DD YYYY

CAPTCHA

I'm not a robot



Submit

Save and Continue Later

## City of Marquette Board/Committee Reappointment Form

**Applicant Name as it Appears on License**

Callie Beth New

**Driver's License Number:****What board/committee are you reapplying for?**

Marquette Brownfield Redevelopment Authority

**Email**

[callie.new88@gmail.com](mailto:callie.new88@gmail.com)

**Home Phone**

(307) 349-1730

**Home Address**

391 Harrison Street  
Marquette, Michigan  
United States

**Occupation**

Planner

**Business Name**

Design Workshop

**Business Address**

120 E. Main Street  
Aspen, CO, Michigan  
United States

**Are you a registered voter in the City of Marquette?**

Yes

**Have you been a City resident for at least 12 months?**

Yes

**Are you currently in default to the City of Marquette?**

No

**Are you related to any elected City Commissioner (including by marriage)?**

No

**Do you have any pending litigation against the City?**

No

**Are you involved in any personal, professional or business pursuit that would affect your ability to make fair and impartial recommendations as a member of a City advisory board or committee?**

No

**Signature**

C. New

***Signature certifies that there are no misrepresentations, omissions or falsifications on this application and by signing this application consent is given to the City to conduct a background check to verify the information provided.***

**Application Date**

02/28/2021

## City of Marquette Board/Committee Application

**Applicant Name as it Appears on License**

Callie Beth New

**Driver's License Number:****What board/committee would you like to apply for?**

Ad Hoc Housing Committee

**Second Choice**

Marquette Brownfield Redevelopment Authority

**Third Choice**

Downtown Development Authority

**Email**

[callie.new88@gmail.com](mailto:callie.new88@gmail.com)

**Home Phone**

(307) 349-1730

**Home Address**

391 Harrison Street  
Marquette, Michigan  
United States

**Occupation**

Community & Environmental Planner

**Business Name**

Pictured Rocks National Lakeshore

**Are you a registered voter in the City of Marquette?**

Yes

**Have you been a City resident for at least 12 months?**

Yes

**Are you currently in default to the City of Marquette?**

No

**Are you related to any elected City Commissioner (including by marriage)?**

No

**Do you have any pending litigation against the City?**

No

**Are you currently serving or have you served on any City board or committee?**

No

**Please describe your education/credentials:**

I have a Masters of Science in Urban Planning from Columbia University (2014), where I studied, in addition to general urban planning, economic development, land use, and natural resource extraction. I completed a BA in International Studies from Southern Oregon University in 2010.

**What are your professional activities that relate to this board/committee?**

Most recently, I have been working as a consultant for Central Upper Peninsula Planning and Development (CUPPAD) on a Regional Housing Assessment, where we are doing a deep data dive to understand housing trends, and the socioeconomic and market factors that are impacting price, availability, and stock. We have been holding Focus Group meetings throughout the 6 county area between September and December; Marquette's Focus Group meeting is planned for March/April 2020.

Prior to moving to Marquette, I served as an agency representative on the State of Utah's Housing Affordability Commission, where we researched and provided guidance on state-wide housing policy. I have worked for 5 years as a Transportation Planner and 3 years in Environmental Planning.

**What community activities are you involved in that relate to this board/committee?**

Attendance of community events, avid park and trail user, member of Ampersand Coworking space.

**Why are you interested in serving on this board/committee?**

First and foremost, I am interested in applying my skills, education, and interest in the city in which I reside. I chose to pursue a career in urban planning not just "to have a job," but because I am deeply interested and invested in the well-being of people and community. I see housing affordability as a critical issue facing the City of Marquette. I believe that with direction and a solid vision, the community can strike a delicate balance between supporting growth and tourism while remaining an inclusive place for all residents in all life stages. The background work that I have done with CUPPAD around this issue in the city, county, and region provides me the ability to have an informed and data-driven conversation on this issue.

I am also interested in serving on the Brownfield Redevelopment Advisory Committee, as I see brownfield redevelopments as a rare opportunity for bringing life into obsolete or underutilized spaces within the City. As brownfields are places of previous contamination, they can be perceived as risky places to develop and may sit idle for years without some form of publicly driven catalyst. These efforts requires thoughtful planning, and for the city to take a broad view across the city's landscape to develop a vision for the best use for the area. I have been impressed with the City's efforts in this space so far, and would be honored to serve in this capacity.

**What talents or experience would you bring to the board/committee?**

I have research experience related to housing, economic development, and transportation, and have led research efforts related to this exact topic in Marquette. My background as planner makes me well-versed in the process and policies that guide such efforts, and provides me the ability to facilitate and guide conversations to stay relevant and on track.

**Any other comments or information you wish to provide to the Mayor and City Commissioners?**

I applaud the City for taking this step and forming a Housing Committee! I look forward to learning more as the Committee forms.

**Are you involved in any personal, professional or business pursuit that would affect your ability to make fair and impartial recommendations as a member of a City advisory board or committee?**

No

**Are you aware of the meeting schedule and are you available to attend regularly scheduled meetings?**

Yes

**Signature**

A handwritten signature in black ink, appearing to be 'C. New'.

***Signature certifies that there are no misrepresentations, omissions or falsifications on this application and by signing this application consent is given to the City to conduct a background check to verify the information provided.***

**Application Date**

01/23/2020

## City of Marquette Board/Committee Reappointment Form

**Applicant Name as it Appears on License**

Stephen R Beranek

**Driver's License Number:****What board/committee are you reapplying for?**

Marquette Brownfield Redevelopment Authority

**Email**

[rob.beranek1@gmail.com](mailto:rob.beranek1@gmail.com)

**Home Phone**

(207) 409-6058

**Home Address**

539 East Ohio Street  
Marquette, Michigan  
United States

**Occupation**

Environmental Affairs

**Business Name**

Cleveland-Cliffs Inc.

**Are you a registered voter in the City of Marquette?**

Yes

**Have you been a City resident for at least 12 months?**

Yes

**Are you currently in default to the City of Marquette?**

No

**Are you related to any elected City Commissioner (including by marriage)?**

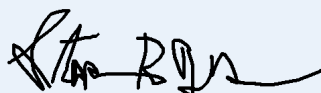
No

**Do you have any pending litigation against the City?**

No

**Are you involved in any personal, professional or business pursuit that would affect your ability to make fair and impartial recommendations as a member of a City advisory board or committee?**

No

**Signature**

***Signature certifies that there are no misrepresentations, omissions or falsifications on this application and by signing this application consent is given to the City to conduct a background check to verify the information provided.***

**Application Date**

02/18/2021



## APPLICATION FORM MARQUETTE CITY BOARDS AND COMMITTEES

Please use this form to express your interest in serving on a particular board/committee or commission. You may attach additional material if you wish. For information on vacancies and board/committee bylaws, please visit <http://www.marquettemi.gov/commission/boards-and-committees/vacancies/>, call 225-8104 or e-mail [shobbins@marquettemi.gov](mailto:shobbins@marquettemi.gov). Please note that applications are kept on file for six months. The Marquette City Commission makes appointments to City Boards at their regular meetings as vacancies occur. Completed applications are public documents and are subject to the *Michigan Freedom of Information Act*.

### **Eligibility Requirements:**

Are you a registered voter in the City of Marquette? \* ☒ Yes ☐ No  
Have you been a City resident for at least 12 months? \* ☒ Yes ☐ No  
Are you currently in default to the City of Marquette? ☐ Yes ☒ No  
Are you related to any elected City Commissioner (including by marriage)? ☐ Yes ☒ No  
Do you have any pending litigation against the City? ☐ Yes ☒ No

\*According to the City Charter, each member appointed by the City Commission shall have been a resident of the city for at least one year immediately prior to the day of appointment and shall also be a qualified and registered elector of the city on such day and throughout the member's tenure of office.

Name of City Board or Committee: If applying for more than one board/committee, please list order of preference:

- 1) Brownfield Redevelopment Authority
- 2) \_\_\_\_\_
- 3) \_\_\_\_\_

Applicant Name as it Appears on License: Stephen Robert Beranek

Driver's License Number: [REDACTED]

Home Address: 539 E. Ohio St. Phone: 207.409.6058

Occupation: Environmental Mgr. Business: Cleveland-Cliffs Inc.

Business Address: 500 E. Division St. Phone: \_\_\_\_\_

E-Mail Address: rob.beranek1@gmail.com

Are you currently serving or have you served on any City board or committee? If so, please list and give approximate dates.

No.

(over)

*Please answer each question in as much detail as possible.*

Education/Credentials: B.S. Applied Physics, Michigan Technological University. M.S. Environmental Science, Antioch New England.

Professional activities that relate to this board/committee: \_\_\_\_\_  
Environmental professional with experience in the remediation and redevelopment of idled assets.

Community activities that relate to this board/committee: \_\_\_\_\_  
Supportive of a vibrant Marquette that utilizes underdeveloped assets.

Why are you interested in serving on this board/committee? \_\_\_\_\_  
Interested in investing my personal time to bring my professional experience to support the betterment of Marquette.

What talents or experience would you bring to the board/committee? \_\_\_\_\_  
Professional experience in the remediation and redevelopment of idled assets.

Any other comments or information you wish to provide to the Mayor and City Commissioners? \_\_\_\_\_  
Although my official first name is Stephen, I go by a shortened version of my middle name "Rob". Also, I work for Cleveland-Cliffs Inc. Historically, Cleveland-Cliffs did have assets within the city limits, but I believe most of those assets have been divested to other entities.

Are you involved in any personal, professional or business pursuit that would affect your ability to make fair and impartial recommendations as a member of a City advisory board or committee? Yes ☐ No ☒

***Appointed members are expected to attend all meetings of the board/committee. A member who misses more than 3 consecutive meetings or 1/3 of all meetings will tender their resignation to the board/committee chair. Are you aware of the meeting schedule and are you available to attend regularly scheduled meetings? Yes ☒ No ☐***

 4/24/18  
Signature Date

*I certify that there are no misrepresentations, omissions or falsifications on this application and by signing this application I give consent to the City to conduct a background check to verify the information I have provided.*

Please return this form with any attachments to:  
shobbins@marquettetmi.gov; fax to: 906-228-0429; or mail to: City Manager's  
Office, Marquette City Hall, 300 W. Baraga Avenue, Marquette, MI 49855.  
**Thank you for your interest in serving as a volunteer board or committee  
member. Your willingness to serve is greatly appreciated.**

## City of Marquette Board/Committee Reappointment Form

**Applicant Name as it Appears on License**

Margaret Brumm

**Driver's License Number:****What board/committee are you reapplying for?**

Marquette Area Wastewater Treatment Advisory Board

**Email**

[MickeyBrumm@aol.com](mailto:MickeyBrumm@aol.com)

**Home Phone**

(331) 444-8497

**Home Address**

404 East Magnetic Street  
Marquette, Michigan  
United States

**Occupation**

Patent Attorney

**Business Name**

The Law Offices of Margaret Brumm

**Business Phone**

(331) 444-8497

**Business Address**

404 East Magnetic Street  
Marquette, Michigan  
United States

**Are you a registered voter in the City of Marquette?**

Yes

**Have you been a City resident for at least 12 months?**

Yes

**Are you currently in default to the City of Marquette?**

No

**Are you related to any elected City Commissioner (including by marriage)?**

No

**Do you have any pending litigation against the City?**

No

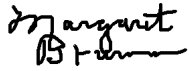
**Is there any information you would like to add to your previous application?**

I appreciate the opportunity to serve on the Advisory Board and look forward to attending the meetings.

**Are you involved in any personal, professional or business pursuit that would affect your ability to make fair and impartial recommendations as a member of a City advisory board or committee?**

No

**Signature**



***Signature certifies that there are no misrepresentations, omissions or falsifications on this application and by signing this application consent is given to the City to conduct a background check to verify the information provided.***

**Application Date**

03/05/2021



## APPLICATION FORM MARQUETTE CITY BOARDS AND COMMITTEES

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### **Eligibility Requirements:**

|                                                                           |     |    |
|---------------------------------------------------------------------------|-----|----|
| Are you a registered voter in the City of Marquette? *                    | Yes | No |
| Have you been a City resident for at least 12 months?*                    | Yes | No |
| Are you currently in default to the City of Marquette?                    | Yes | No |
| Are you related to any elected City Commissioner (including by marriage)? | Yes | No |
| Do you have any pending litigation against the City?                      | Yes | No |

\*According to the City Charter, each member appointed by the City Commission shall have been a resident of the city for at least one year immediately prior to the day of appointment and shall also be a qualified and registered elector of the city on such day and throughout the member's tenure of office.

Name of City Board or Committee: If applying for more than one board/committee, please list order of preference:

- 1) \_\_\_\_\_
- 2) \_\_\_\_\_
- 3) \_\_\_\_\_

Applicant Name as it Appears on License: \_\_\_\_\_

Driver's License Number: \_\_\_\_\_

Home Address: \_\_\_\_\_ Phone: \_\_\_\_\_

Occupation: \_\_\_\_\_ Business: \_\_\_\_\_

Business Address: \_\_\_\_\_ Phone: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Are you currently serving or have you served on any City board or committee? If so, please list and give approximate dates.

\_\_\_\_\_  
\_\_\_\_\_

(over)

*Please answer each question in as much detail as possible.*

Education/Credentials: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Professional activities that relate to this board/committee: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Community activities that relate to this board/committee: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Why are you interested in serving on this board/committee? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

What talents or experience would you bring to the board/committee? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Any other comments or information you wish to provide to the Mayor and City Commissioners?  
\_\_\_\_\_  
\_\_\_\_\_

Are you involved in any personal, professional or business pursuit that would affect your ability to make fair and impartial recommendations as a member of a City advisory board or committee?    Yes      No

***Appointed members are expected to attend all meetings of the board/committee. A member who misses more than 3 consecutive meetings or 1/3 of all meetings will tender their resignation to the board/committee chair. Are you aware of the meeting schedule and are you available to attend regularly scheduled meetings?    Yes      No***

\_\_\_\_\_  
*Signature* *Date*

*I certify that there are no misrepresentations, omissions or falsifications on this application and by signing this application I give consent to the City to conduct a background check to verify the information I have provided.*

Please return this form with any attachments to:  
shobbins@marquettemi.gov; fax to: 906-228-0429; or mail to: City Manager's  
Office, Marquette City Hall, 300 W. Baraga Avenue, Marquette, MI 49855.  
**Thank you for your interest in serving as a volunteer board or committee  
member. Your willingness to serve is greatly appreciated.**

## City of Marquette Board/Committee Reappointment Form

**Applicant Name as it Appears on License**

Margaret Elizabeth Schwalm

**Driver's License Number:****What board/committee are you reapplying for?**

Elections Board

**Email**

[mschwalm@nmu.edu](mailto:mschwalm@nmu.edu)

**Home Phone**

(225) 439-4411

**Home Address**

1540 W Ridge St  
Apt 2  
Marquette, Michigan  
United States

**Occupation**

Retired

**Business Name**

NMU - Human Resources, Benefits Assistant - retired 2012

**Are you a registered voter in the City of Marquette?**

Yes

**Have you been a City resident for at least 12 months?**

Yes

**Are you currently in default to the City of Marquette?**

No

**Are you related to any elected City Commissioner (including by marriage)?**

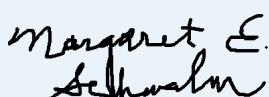
No

**Do you have any pending litigation against the City?**

No

**Are you involved in any personal, professional or business pursuit that would affect your ability to make fair and impartial recommendations as a member of a City advisory board or committee?**

No

**Signature**

***Signature certifies that there are no misrepresentations, omissions or falsifications on this application and by signing this application consent is given to the City to conduct a background check to verify the information provided.***

**Application Date**

03/01/2021



www.mqtcty.org

FEB 10 2017

## APPLICATION FORM MARQUETTE CITY BOARDS AND COMMITTEES

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Are you a registered voter in the City of Marquette? \* ☒ Yes ☐ No  
Have you been a City resident for at least 12 months? \* ☒ Yes ☐ No  
Are you currently in default to the City of Marquette? ☐ Yes ☒ No  
Are you related to any elected City Commissioner (including by marriage)? ☐ Yes ☒ No  
Do you have any pending litigation against the City? ☐ Yes ☒ No

\*According to the City Charter, each member appointed by the City Commission shall have been a resident of the city for at least one year immediately prior to the day of appointment and shall also be a qualified and registered elector of the city on such day and throughout the member's tenure of office.

Name of City Board or Committee: If applying for more than one board/committee, please list order of preference:

- 1) Election Board
- 2) \_\_\_\_\_
- 3) \_\_\_\_\_

Applicant Name as it Appears on License: Margaret Elizabeth Schwalm

Driver's License Number: [REDACTED]

Home Address: 1414 Gray St Phone: 228-2026

Occupation: Retired Business: \_\_\_\_\_

Business Address: \_\_\_\_\_ Phone: \_\_\_\_\_

E-Mail Address: mschwalm@nmu.edu

Are you currently serving or have you served on any City board or committee? If so, please list and give approximate dates.

No

(over)

*Please answer each question in as much detail as possible.*

Education/Credentials: \_\_\_\_\_  
BA in Secondary Education/Spanish from Oakland University

Professional activities that relate to this board/committee: \_\_\_\_\_  
Worked in Human Resources at NMU as a Benefits Assistant for 20 years. Have been retired for 5 years.

Community activities that relate to this board/committee: \_\_\_\_\_  
Have volunteered for various church committees over the years.

Why are you interested in serving on this board/committee? \_\_\_\_\_  
Feel voting is an important right and responsibility as a citizen.

What talents or experience would you bring to the board/committee? \_\_\_\_\_  
Detail oriented. Reliable. Enjoy working with people.

Any other comments or information you wish to provide to the Mayor and City Commissioners?

Are you involved in any personal, professional or business pursuit that would affect your ability to make fair and impartial recommendations as a member of a City advisory board or committee? Yes ☐ No ☒

***Appointed members are expected to attend all meetings of the board/committee. A member who misses more than 3 consecutive meetings or 1/3 of all meetings will tender their resignation to the board/committee chair. Are you aware of the meeting schedule and are you available to attend regularly scheduled meetings? Yes ☒ No ☐***

*Margaret E. Schwaab*  
Signature

*2/9/17*  
Date

*I certify that there are no misrepresentations, omissions or falsifications on this application and by signing this application I give consent to the City to conduct a background check to verify the information I have provided.*

Please return this form with any attachments to:  
shobbins@mqcty.org; fax to: 906-228-0429; or mail to: City Manager's Office,  
Marquette City Hall, 300 W. Baraga Avenue, Marquette, MI 49855.  
**Thank you for your interest in serving as a volunteer board or committee member. Your willingness to serve is greatly appreciated.**

**City of Marquette, MI**

300 West Baraga Avenue  
Marquette, MI 49855

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**Agenda Date: 3/29/2021**

**Consent Agenda**

**Approve the minutes of the March 8, 2021 regular Commission meeting.**

**ALTERNATIVES:**

As determined by the Commission.

**ATTACHMENTS:**

Description

- ▣ March 8 Minutes



## City of Marquette, MI

300 West Baraga Avenue  
Marquette, Michigan 49855

### Meeting Minutes City Commission Meeting

**Monday, March 8, 2021  
6:00 PM  
Commission Chambers (Zoom Video Conferencing)**

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#### Call to Order, Pledge of Allegiance and Roll Call

Present: Mayor Smith. Mayor Pro Tem Hill. Commissioners Bonsall, Davis, Hanley, Mayer and Stonehouse.

All members attended via videoconferencing. Five were physically located in the City of Marquette, while Commissioner Hanley was joining the meeting from Ironwood in Gogebic County and Commissioner Mayer was exempted under the Michigan Open Meetings Act from disclosing his location.

#### Announcements

Mayor Smith had no announcements tonight.

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

As the meetings are still being held without the public present, residents were given the opportunity to call in and speak or submit written public comments to be read during the meeting.

The only written comment came from Margaret Brumm, commenting on a recent news item about the City receiving \$28,000 from the state through the new tax and funding structure set up around adult-use marijuana businesses. She asked if the money had been received, if it had been budgeted for and what it would be used for.

#### 1. Consent Agenda

Commissioner Evan Bonsall moved to Approve the Consent Agenda as presented, seconded by Commissioner Jessica Hanley and Carried Unanimously.

- 1.a. Approve the minutes of the February 22, 2021 regular Commission meeting.**
- 1.b. Approve the total bills payable in the amount of \$630,590.71**
- 1.c. Annual Maintenance Management Software Renewal Fee**
- 1.d. Fire Station #2 Boiler Replacement**
- 1.e. Grant of License Agreement for Room at the Inn Warming Center**
- 1.f. KBIC Funding for the U.P. Children's Museum**
- 1.g. NTN EGLE Permit Application**

- 1.h. Proclamation - Spread Goodness Day
- 1.i. Sale of Surplus Equipment

## New Business

### 2. New Liquor License Application - Roll Call Vote

Bill Nordeen, representing Towners Chocolate, called in to the meeting via Zoom and informed the Commission that he and the owner of the business were both available to answer any questions the Commission might have.

Commissioner Fred Stonehouse moved to Approve the resolution recommending Michigan Liquor Control Commission approval of a new Tavern License for Towners Chocolate, LLC at 315 South Front Street, seconded by Mayor Pro Tem Jenn Hill and Carried Unanimously by Roll Call Vote.

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

There was no one looking to offer public comments at this time.

### Comments from the Commission

**Commissioner Stonehouse** said that the vaccination process is moving along, and commented on the difficulty in appropriately disposing of used masks.

**Commissioner Bonsall** said he is hopeful that we are starting to see the beginning of the end of the pandemic.

**Commissioner Davis** had no comments.

**Commissioner Hanley** praised the vaccination process, and said she is able to see some members of her family for the first time in over a year, thanks to the vaccine.

**Mayor Pro Tem Hill** noted that we are at the one-year anniversary of the first Covid-19 case in Michigan. She said that on the Governor is asking people to turn their outside lights on for March 10, in an attempt to honor those lost during the pandemic.

**Commissioner Mayer** offered an update on his own vaccination situation. He recently received the second dose, he said, and was a bit fatigued but experienced nothing bad. He urged everyone to get vaccinated.

**Mayor Smith** said, in response to Margaret Brumm's question, there have been several budget adjustments made recently, including tonight, for unanticipated expenses. She said the \$28,000 is going to cover some of those unexpected items. The Mayor also announced that Commission meetings will go back to in-person events on April 12, with members of the public still joining remotely.

### Comments from the City Manager

**City Manager Angeli** offered a general update on local adult-use marijuana licenses and on state tax and funding plans for these shops. He also said the Lakeshore Boulevard project encountered some delays and permit issues and the work may not be completed this year. He also gave an update on the Founders Landing Piling project.

### Adjournment

Mayor Smith adjourned the meeting at 6:19 p.m.

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**Jennifer A. Smith, Mayor**

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**Kyle Whitney, City Clerk**

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

## City of Marquette, MI

300 West Baraga Avenue  
Marquette, MI 49855

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**Agenda Date:** 3/29/2021

### **Consent Agenda** **City of Marquette Bridge Inspection**

#### **BACKGROUND:**

The City of Marquette owns three bridges that are required by the Michigan Department of Transportation to be inspected once every three years. The bridges meeting this classification are:

1. County Road 550 Bridge crossing the Dead River
2. Lakeshore Boulevard Bridge crossing the Dead River
3. Lakeshore Boulevard Arch Culvert crossing the Whetstone Brook at Founders Landing.

A request for proposals was issued and three consultants responded with prices as listed below. All three firms met the required qualifications.

1. Spicer Group: \$1,640.00
2. UP Engineers and Architects: \$2,100.00
3. Ayres Consultants: \$3,500.00

#### **FISCAL EFFECT:**

Sufficient funds for this project as recommended are available in the FY 2021 Budget.

#### **RECOMMENDATION:**

Approve the selection of Spicer Group of St. Johns, Michigan for Professional Services Related to Bridge Inspection as part of the fiscal year 2021 budget in an amount of \$1,640.00, authorize \$1,000 in contingency funding for additional inspection related work if required, and authorize the Mayor and Clerk to sign the contract.

#### **ALTERNATIVES:**

As determined by the Commission.

#### **ATTACHMENTS:**

##### Description

- ▣ Spicer Engineering Proposal
- ▣ Professional Services Contract
- ▣ Insurance

February 24, 2021

Mik Kilpela, City Engineer  
City of Marquette  
1100 Wright Street  
Marquette, MI 49855

RE: RFP #21-01 Bridge Inspections  
City of Marquette

Mik:

This document contains Spicer Group's proposal for Bridge Safety Inspections for 2021.

### **Project Understanding / Scope of Services**

Within the guidelines of the National Bridge Inventory (NBI), the City of Marquette is required to perform Bridge Safety Inspections at not more than 24-month intervals on its three structures that meet the NBI bridge definition.

Spicer Group is MDOT prequalified for Bridge Safety Inspections and we are pleased to provide you with a proposal for our services as outlined in this letter agreement.

Spicer's proposed services follow. They are phased to reflect the orderly and reasonable progress of the project and unless otherwise directed by you, we will only proceed from one phase to the next with your concurrence and approval. This proposal will remain valid for 30 days.

1. During the Bridge Safety Inspections phase we will:
  - Perform field inspections in accordance with NBI and MDOT requirements.
  - Update bridge inspection reports and work recommendations in MiBRIDGE.
  - Notify the City immediately of any items that may be cause for bridge closure or immediate repair.
  - Record posting photos for STR 13623 as required by MDOT.
  - Submit a summary of the above documents to City.
  - Perform Bridge Inspection QA/QC per NBI and MDOT requirements.

### **Additional Services**

Additional services related to this project will be furnished by us after you authorize the work. Our fee for the additional services will be determined at the time they are agreed to and rendered.

- Spicer Group has assisted several local agencies with their bridge programs and obtaining MDOT Local Agency Bridge funding assistance. We can assist the city in preparing Local Agency Bridge Program Applications.
- If required due to condition, we are very familiar with MDOT's load rating requirements and can update the load ratings for these structures if needed.

### **Key Personnel**

**Rich Kathrens, PE** will be the project manager and will be performing the field inspections and report preparation for this project. He meets the requirements as a Qualified Team Leader (QTL) as defined by the National Bridge Inspection Standards (NBIS). He was responsible for MDOT's bridge inspection program for 8 years and served as liaison between MDOT, FHWA, and the Local Agencies for ensuring compliance with the NBIS. He has completed thousands of bridge safety inspections since 1993 following the policies and procedures

developed by MDOT to ensure compliance with the FHWA NBIS. He helped develop the Michigan Structure Inspection Manual (MiSIM), and very familiar with the MiBRIDGE web application. Mr. Kathrens has 27 years of bridge safety inspection, scoping, and design experience.

Contact Info: Rich Kathrens, PE  
1400 Zeeb Dr.  
St. Johns, MI 48879  
(517) 749-4274 (Cell)  
[rich.kathrens@spicergroup.com](mailto:rich.kathrens@spicergroup.com)

**Linda Reed, PE** was MDOT's former Bridge Scoping Engineer is a qualified team leader meeting the NBIS requires. She is very familiar with the NBI Bridge inspection requirements and performed Bridge Quality Control reviews in the upper peninsula last year. She will be available to complete quality control reviews for this project. Mr. Kathrens has 27 years of bridge safety inspection, and bridge scoping experience.

Resumes for Key Personnel have been provided. NBI Team Leader Certifications can be provided upon request.

### **Location**

Spicer Group's entire staff has adapted to working remotely due to the pandemic. We have a very mobile work force, and have systems set in place to allow us to work from any location, whether it be from our office location, our home or on the road. Mr. Kathrens is based out of our St. Johns, MI location, but completes inspection and reporting from all over the state. This includes the entire Upper Peninsula last year when he performed QA/AC reviews and inspections for MDOT.

### **Cost Schedule**

Our proposed fee schedule follows. We will submit monthly invoices to you for our professional services including any additional authorized services or reimbursable expenses. Unless other payment arrangements are made, we will include any of our project subconsultant's costs on our invoice including a 10% fee to cover taxes, administration, and insurances. If the fee is a lump sum, the amount will be based on the proportion of work completed during the billing period.

|                                                              |          |                   |
|--------------------------------------------------------------|----------|-------------------|
| 1. STR 6557, County Road 550 over Dead River                 | Lump Sum | \$ 390.00         |
| 2. STR 6624, Lakeshore Blvd. over Dead River                 | Lump Sum | \$ 390.00         |
| 3. STR 13623, Lakeshore Blvd. over Whetstone Creek           | Lump Sum | \$ 390.00         |
| <b>Subtotal Inspections</b>                                  |          | <b>\$1,170.00</b> |
| 4. Complete 1 independent QC Review specific to Marquette ** | Lump Sum | \$ 420.00         |
| <b>TOTAL</b>                                                 |          | <b>\$1,640.00</b> |

**\*\* Note:** MDOT requires bridge inspection quality control to be performed on the inspection/team leader and their policy is based on the number of inspections they complete per year. There is a 5% review requirement that must be checked for quality and the number is independent of the agency they are performing the inspection for. We have included a cost to have an independent review completed for 1 of Marquette's structures per the scope requirements, however there could be a cost savings to city if they accept MDOT's QC policy.

We have calculated these fees based on our understanding of the project. Should we approach the amount of the fee for any reason before we are finished with the work, if the scope changes or our understanding was incorrect, we will notify you and discuss with you the option of adjusting the amount of the fee or adjusting the scope of services.

### **Project Schedule**

- The RFP listed that the inspections to be completed by 9/17/21. The next inspection for Structure 13623 is due in July of 2021. We understand the city's desire to have all their structures on the same cycle and we will complete the field work and reports in July of 2021 for all three of these structures.
- We will complete final reporting in MiB<sup>RIDGE</sup> and provide documentation to the City within 30 days of the field work to meet MDOT's requirements.

Thank you for the opportunity to work with you. We look forward to working with you this project.

Sincerely,



**Richard D. Kathrens, P.E.**

Project Manager

**SPICER GROUP, INC**

1400 Zeeb Drive

St. Johns, MI 48879

Phone: (517) 749-4274

mailto: rich.kathrens@spicergroup.com

Cc: SGI File 130093SG2021

# RICHARD D. KATHRENS, P.E.

ROLE ON THIS PROJECT: Project Manager, QTL

YEARS OF EXPERIENCE: Spicer Group - 13 | Other Firms - 14



## GENERAL EXPERIENCE AND QUALIFICATIONS

Mr. Kathrens is a Senior Project Manager responsible for bridge, transportation, and municipal engineering projects with a focus on bridge safety inspection, scoping, load rating, and design. Mr. Kathrens meets the requirements as a Qualified Team Leader (QTL) as defined by the National Bridge Inspection Standards (NBIS). He was responsible for MDOT's bridge inspection program for 8 years and served as liaison between MDOT, FHWA, and the Local Agencies for ensuring compliance with the NBIS. He has completed thousands of bridge safety inspections since 1993 following the policies and procedures developed by MDOT to ensure compliance with the FHWA NBIS. He helped develop the Michigan Structure Inspection Manual (MiSIM), and very familiar with the MiB<sup>RIDGE</sup> web application.

## EDUCATION

B.S. Civil Engineering, Michigan Technological University, 1992

## LICENSES/REGISTRATION

Professional Engineer: Michigan, 1998 (43892)

## ADDITIONAL TRAINING

- NHI 130108 Bridge Maint. Training, (2017)
- NHI 130110 Tunnel Safety Inspection (2015)
- NHI 130078 Fracture Critical Inspection (2005/2010)
- NHI 130055 Bridge Inspection Refresher Training (2005)
- NHI 130053 Safety Inspection of In-Service Bridges (1998)
- CTT Load Rating Advanced Topics (2018)
- CTT Load Rating Workshop (2010/2018)
- NHI 135047 Stream Stability & Scour at Highway Bridges (2011)
- NHI 135048 Bridge Scour Countermeasure Design (2015)
- NHI 135085 Plan of Action Scour Critical Bridges (2013)
- FHWA Element Level Inspection (2013)
- NHI 130099 Bridge Inspection Non-Destructive Testing (2011)
- NHI 120095A - LRFD and Analysis of Curved Bridges (2010)
- First Aid and CPR
- MDOT Maintenance Division, Sky Genie Training (2016)

## SIMILAR EXPERIENCE

### *MDOT Flood Response-Detailed Damage Inspection Reports (DDIR)*

**CS** Various **JN** 209289EPE  
**Year:** 07/20-12/20  
**Location:** Bay Region  
**Vendor Role:** Prime

**Project Manager, Team Leader, QA/QC Engineer** responsible for completing detailed damage assessments of various structures due to flood damage caused during the May 17-19, 2020 event. Tasks include completing the field assessments for both MDOT and Local Agency structures to determine the extent of damage and the safety of the structure. Coordination with MDOT staff, Local Agency staff and FHWA was completed. Preparation of Detailed Damage Inspection Reports (DDIR) which included preliminary engineering and scoping data was completed and repair recommendations with emergency and final cost estimates.

**Client Contact:** MDOT, Kimberly Zimmer, P.E. (989) 233-0597  
**Service Budget:** \$530,000 **Construction Budget:** N/A

### *MDOT Metro Region As-needed Routine and In-Depth Bridge Safety Inspections*

**CS** Various **JN** 208015OPS  
**Year:** 03/20-03/21  
**Location:** Metro Region  
**Vendor Role:** Prime

**Project Manager, Team Leader, QA/QC Engineer** responsible for completing routine and in-depth inspections in accordance with the NBIS and MDOT policies. Tasks include completing the field work and reporting for detailed and hands on inspections and providing Railroad coordination as needed to obtain necessary permits and flagging to gain access to the railroad ROW. Reports were completed according to the guidance provided in the Michigan Structure Inspection Manual (MiSIM).

**Client Contact:** MDOT, Christal Larkins, P.E. (248) 489-5100  
**Service Budget:** \$150,000 **Construction Budget:** N/A

| SIMILAR EXPERIENCE                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
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| <p><b>MDOT University Region As-needed Routine and In-Depth Bridge Inspections</b></p> <p>CS Various JN 210719<br/>Year: 07/20-07/22<br/>Location: University Region<br/>Vendor Role: Prime</p> | <p><b>Project Manager, Team Leader, QA/QC Engineer</b> responsible for completing routine and in-depth inspections in accordance with MDOT and the NBIS. Tasks include completing the field work and developing / entering reports into MiB<sup>RIDGE</sup>. Additional services include coordination with TSC's for as-needed traffic control and preparing Advance Notices. Reports were completed according to the guidance in the Michigan Structure Inspection Manual (MiSIM).</p> <p><b>Client Contact:</b> MDOT, Melissa Knauff, P.E. (517) 230-5774<br/><b>Service Budget:</b> \$150,000 <b>Construction Budget:</b> N/A</p>                                                                                                                                                                 |
| <p><b>MDOT Metro Region Bridge Scoping and Detailed Inspections</b></p> <p>CS Various JN 205402<br/>Year: 5/19 – 10/20<br/>Location: Metro Region<br/>Vendor Role: Prime</p>                    | <p><b>Project Manager, Team Leader (QTL), QA/QC Engineer</b> responsible for completing as-needed bridge scoping and detailed inspections for structures located in the Metro Region. Tasks include completing field work for detailed and hands on inspections to provide repair alternatives, scope of work, and cost estimates for each structure assigned. MDOT TSC and Region coordination was completed to develop temporary maintaining traffic strategies to complete the initial field inspections and for inclusion in the scoping reports.</p> <p><b>Client Contact:</b> MDOT, Alexander Shteynvil, P.E. (248) 794-5038<br/><b>Service Budget:</b> \$150,000 <b>Construction Budget:</b> N/A</p>                                                                                          |
| <p><b>MDOT University Region Bridge Scoping</b></p> <p>CS Various JN 205402<br/>Year: 5/19 – 3/20<br/>Location: University Region<br/>Vendor Role: Sub</p>                                      | <p><b>Project Manager, Team Leader (QTL), QA/QC Engineer</b> responsible for completing in-depth bridge inspections and scoping for 5 structures located in University Region. Tasks included completing the field work for the detailed inspections and provide repair alternatives, scope of work and cost estimates for each bridge. Additional coordination with both the CSX RR and MDOT Office of Rail to access 4 structures over these railroads. Complete the routine bridge safety inspection reports according to the guidance provided in the Michigan Structure Inspection Manual (MiSIM), and upload condition data to MiBRIDGE.</p> <p><b>Client Contact:</b> Fishbeck, Vincent Guadagni, P.E. (616) 575-3824<br/><b>Service Budget:</b> \$90,000 <b>Construction Budget:</b> N/A</p> |
| <p><b>Wayne County As-Needed Bridge Safety Inspections</b></p> <p>Year: 2018-Ongoing<br/>Location: Wayne County<br/>Vendor Role: Prime</p>                                                      | <p><b>Project Manager, Team Leader, QA/QC, and Load Rating Engineer</b> responsible for completing routine inspections, fracture critical, in-depth inspections, and load ratings in accordance with the NBIS and MDOT policies. Services also include assisting Wayne county with developing the Wayne County Bridge Inspection Program and completing the Plan of Corrective Action (PCA) requirements as agreed upon with MDOT and FHWA.</p> <p><b>Client Contact:</b> Wayne County Dept. of Public Services, Wisam Al-Musawi (313) 657-8500<br/><b>Service Budget:</b> \$270,250 <b>Construction Budget:</b> N/A</p>                                                                                                                                                                             |
| <p><b>As-needed Routine and In-Depth Bridge Safety Inspections</b></p> <p>CS Various JN 201662<br/>Year: 11/18-11/20<br/>Location: Statewide<br/>Vendor Role: Prime</p>                         | <p><b>Project Manager, Team Leader, QA/QC Engineer</b> responsible for completing routine, fracture critical, and in-depth inspections in accordance with the NBIS and MDOT policies. Tasks include completing the field work for detailed and hands on inspections and providing Railroad coordination to obtain necessary permits and flagging to gain access to the railroad ROW. Reports were completed according to the guidance provided in the Michigan Structure Inspection Manual (MiSIM).</p> <p><b>Client Contact:</b> MDOT, Andrew Bouvy, P.E. (517) 242-1164<br/><b>Service Budget:</b> \$150,000 <b>Construction Budget:</b> N/A</p>                                                                                                                                                   |
| <p><b>MCDR Bridge Safety Inspection (2020-2021)</b></p> <p>Year: 04/20-04/22<br/>Location: Macomb County<br/>Vendor Role: Prime</p>                                                             | <p><b>Project Manager, Team Leader (QTL), Load Rating Engineer, QA/QC Engineer</b> responsible for completing bridge inspections for 223 structures as needed, per MDOT requirements. Tasks include completing the field work for detailed and hands on inspections and providing reports as necessary. Reports are completed according to the guidance provided in the Michigan Structure Inspection Manual (MiSIM), and information is being uploaded to MiBRIDGE. Load Ratings were completed in accordance with MDOT's Bridge Load Rating policies.</p>                                                                                                                                                                                                                                          |

# LINDA M. REED, P.E.

ROLE ON THIS PROJECT: QTL, QA Review

YEARS OF EXPERIENCE: Spicer Group - .5 | Other Firms - 32



## GENERAL EXPERIENCE AND QUALIFICATIONS

Ms. Reed is a Senior Bridge Engineer with a focus on providing QA/QC for bridge scoping and safety inspections. Ms. Reed meets the requirements as a Qualified Team Leader (QTL) as defined by the National Bridge Inspection Standards (NBIS). She assisted in the development of MDOT scoping policy and established the procedures for bridge scoping. She has completed countless in-depth bridge inspections to document bridge condition, develop rehabilitation alternatives and recommendations, and create cost estimates and life cycle cost analysis in the development of bridge scoping reports. She has provided bridge asset management guidance to Local Agencies and performed inspections on hundreds of Local Agency bridges to provide condition assessment and evaluate eligibility for State and Federal bridge replacement funding.

## EDUCATION

B.S. Civil Engineering, Michigan State University, 1983

## LICENSES/REGISTRATION

Professional Engineer: Michigan, 1988 (33671)

## ADDITIONAL TRAINING

- NHI 130078 Fracture Critical Inspection (1997)
- NHI 130055 Bridge Inspection Refresher Training (2020)
- NHI 130053 Safety Inspection of In-Service Bridges (1998)
- CTT Bridge Inspection Quality Assurance/Quality Control, Reporting, & Safety (2016)
- FHWA Element Level Inspection (2013)
- MDOT Bridge Inspection Calibration (2016)
- FHWA Culvert Inspection and Operations (1998)
- NHI 135047 Stream Stability & Scour at Highway Bridges (1998)
- NHI 135048 Bridge Scour Countermeasure Design (1998)
- NHI 130099 Bridge Inspection Non-Destructive Testing (2011)
- MDOT Maintenance Division, Sky Genie Training (2005)
- NHI 130110 Tunnel Safety Inspection (2015)
- CTT Load Rating Workshop (2015)

## SIMILAR EXPERIENCE

### *As-Needed MDOT Bridge Inspection and Load Rating QA/QC*

CS Various JN Various  
Year: 09/20-06/23  
Location: Statewide  
Vendor Role: Prime

**Team Leader (QTL), QA/QC**, responsible for completing field review assessment for local agency and MDOT owned structures. Completed field review of 45 structures in the Superior Region as part of this review. Field reviews were completed to Routine Inspection standards and included using waders to access waterway areas to determine the underside conditions and to verify the limits of scour. Field markups and photos were documented using an Apple iPad and Pencil to quantify and describe deficiencies. The data collected from these field reviews will be used as part of the independent quality assurance review of the NBIS activities completed by each bridge owner.

**Client Contact:** MDOT, Allie Nadjarian, P.E. (231) 510-6050  
**Service Budget:** \$350,000 **Construction Budget:** N/A

### *MDOT Metro Region Bridge Scoping and Detailed Inspections*

CS Various JN 205402  
Year: 09/20 – 10/20  
Location: Metro Region  
Vendor Role: Prime

**QA/QC Engineer** responsible for reviewing bridge scoping reports, including repair alternatives and recommendations, cost estimates, and assumptions for life cycle cost analysis for each structure assigned. Provides guidance for estimating the cost of unique work activities. Ensures consistency and accuracy in depicting condition and distress in scoping report documentation.

**Client Contact:** MDOT, Alexander Shteynvil, P.E. (248) 794-5038  
**Service Budget:** \$150,000 **Construction Budget:** N/A

| SIMILAR EXPERIENCE                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>MDOT Bay Region Bridge Scoping</b><br><br><b>CS</b> Various <b>JN</b> 210134<br><b>Year:</b> 09/20 – 12/20<br><b>Location:</b> Bay Region<br><b>Vendor Role:</b> Prime | <b>QA/QC Bridge Engineer</b> responsible for reviewing bridge scoping reports, including repair alternatives and recommendations, cost estimates, and assumptions for life cycle cost analysis for each structure assigned. Provides guidance for estimating the cost of unique work activities. Ensures consistency and accuracy in depicting condition and distress in scoping report documentation.<br><br><b>Client Contact:</b> MDOT, Paul Schiefer, P.E. (517) 241-0648<br><b>Service Budget:</b> \$527,000 <b>Construction Budget:</b> N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>Bridge Scoping Engineer, MDOT</b><br><br><b>Year:</b> 2000-2017<br><b>Location:</b> Statewide<br><b>Vendor Role:</b> N/A                                               | <b>MDOT Bridge Scoping Engineer.</b> Served as the Department's statewide bridge scoping engineer, responsible for the general oversight and guidance of the state's highway bridge scoping program to ensure consistency, accuracy, and thoroughness. Served as liaison and specialist to the department's seven regions in support of their bridge scoping duties. Responsible for ensuring uniform interpretation of bridge condition and documentation of bridge distress in scoping reports. Annually calculated bridge rehabilitation unit prices and developed and maintained the scoping cost estimate worksheet and Life Cycle Cost Analysis (LCCA) tools. Assisted with the development of the Bridge Deck Preservation Matrix and the MDOT Scoping Manual. Developed the bridge scoping Request for Proposal template and the Bridge Capital Scheduled Maintenance Manual. Responsible for scoping and assisting with the asset management of the Big Bridge population, consisting of the largest and most complex structures in the MDOT inventory. Served as project manager responsible for the Big Bridge scoping contracts, including Movable Bridges.<br><br><b>Client Contact:</b> MDOT, Rebecca Curtis, P.E. (517) 449-5243<br><b>Service Budget:</b> N/A <b>Construction Budget:</b> N/A |
| <b>Local Agency Programs Bridge Program Manager, MDOT</b><br><br><b>Year:</b> 1993-2000<br><b>Location:</b> Statewide<br><b>Vendor Role:</b> N/A                          | Bridge Program Manager responsible for providing Local Agencies with bridge asset management guidance and assistance. Statewide field work included inspecting Local Agencies bridges submitted for replacement funding to assess condition and eligibility. Provided QA/QC by reviewing LAP bridge design preliminary and final plans, special provisions, and cost estimates, and administering Grade Inspection and OEC meetings.<br><br><b>Client Contact:</b> N/A<br><b>Service Budget:</b> N/A <b>Construction Budget:</b> N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

## **PROFESSIONAL SERVICES CONTRACT**

**THIS AGREEMENT**, made this March 29<sup>th</sup> 2021 between the City of Marquette, hereinafter called the "City" and Spicer Group, a 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 City of Marquette Bridge Inspections (RFP #20-01).

### **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 24, 2021 (attached as Exhibit A).

### **Article 3**

#### **Time of Completion**

The completion date of this project is September 17<sup>th</sup>, 2021.

### **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 \$1,640.00.

**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 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 \_\_\_\_\_, 2021.

**OWNER**  
CITY OF MARQUETTE, OWNER

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Jenna Smith, Mayor

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Kyle Whitney, Clerk



Richard D. Kathrens, P.E.

\_\_\_\_\_  
Witness

**CONSULTANT**



By: Shawn P. Middleton, P.E.

Its: Prinicpal

Address: 1400 Zeeb Drive, St. Johns,  
MI 48879

Telephone #: 989-224-2355

**APPROVED AS TO SUBSTANCE:**

---

**L. Michael Angeli**  
**City Manager**

**APPROVED AS TO FORM:**

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**Suzanne Larsen**  
**City Attorney**



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/2/2021

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 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).

| <b>PRODUCER</b><br>Professional Concepts Insurance Agency, Inc.<br>1127 South Old US Highway 23<br>Brighton MI 48114-9861 |        | <b>CONTACT NAME:</b> certs@pciaonline.com<br><b>PHONE (A/C No. Ext.):</b> (800) 969-4041<br><b>E-MAIL ADDRESS:</b> certs@pciaonline.com<br><b>FAX (A/C No.):</b> (800) 969-4081                                                                                                                                                                                                                                                                                                                         |  |                               |        |                                           |       |                                   |       |                                          |       |                      |       |            |  |            |  |
|---------------------------------------------------------------------------------------------------------------------------|--------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|-------------------------------|--------|-------------------------------------------|-------|-----------------------------------|-------|------------------------------------------|-------|----------------------|-------|------------|--|------------|--|
| <b>INSURED</b><br>Spicer Group, Inc.<br>230 S Washington Ave<br>Saginaw MI 48607                                          |        | <table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A: Travelers Indem. Co of America</td> <td>25666</td> </tr> <tr> <td>INSURER B: Travelers Indemnity Co</td> <td>25658</td> </tr> <tr> <td>INSURER C: Travelers Indemnity Co. of CT</td> <td>25682</td> </tr> <tr> <td>INSURER D: Travelers</td> <td>25682</td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </tbody> </table> |  | INSURER(S) AFFORDING COVERAGE | NAIC # | INSURER A: Travelers Indem. Co of America | 25666 | INSURER B: Travelers Indemnity Co | 25658 | INSURER C: Travelers Indemnity Co. of CT | 25682 | INSURER D: Travelers | 25682 | INSURER E: |  | INSURER F: |  |
| INSURER(S) AFFORDING COVERAGE                                                                                             | NAIC # |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |  |                               |        |                                           |       |                                   |       |                                          |       |                      |       |            |  |            |  |
| INSURER A: Travelers Indem. Co of America                                                                                 | 25666  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |  |                               |        |                                           |       |                                   |       |                                          |       |                      |       |            |  |            |  |
| INSURER B: Travelers Indemnity Co                                                                                         | 25658  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |  |                               |        |                                           |       |                                   |       |                                          |       |                      |       |            |  |            |  |
| INSURER C: Travelers Indemnity Co. of CT                                                                                  | 25682  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |  |                               |        |                                           |       |                                   |       |                                          |       |                      |       |            |  |            |  |
| INSURER D: Travelers                                                                                                      | 25682  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |  |                               |        |                                           |       |                                   |       |                                          |       |                      |       |            |  |            |  |
| INSURER E:                                                                                                                |        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |  |                               |        |                                           |       |                                   |       |                                          |       |                      |       |            |  |            |  |
| INSURER F:                                                                                                                |        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |  |                               |        |                                           |       |                                   |       |                                          |       |                      |       |            |  |            |  |

COVERAGES CERTIFICATE NUMBER: 21-22 REVISION NUMBER:

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                        | <input checked="" type="checkbox"/>                                         | COMMERCIAL GENERAL LIABILITY |                                     |                                     | X         |          | 6806H00700121   | 1/1/2021                | 1/1/2022                | EACH OCCURRENCE                           | \$ 1,000,000    |                          |              |
|                          | <input type="checkbox"/>                                                    | CLAIMS-MADE                  | <input checked="" type="checkbox"/> | OCCUR                               |           |          |                 |                         |                         | DAMAGE TO RENTED PREMISES (Ea occurrence) | \$ 1,000,000    |                          |              |
|                          | <input checked="" type="checkbox"/>                                         | X,C,U                        |                                     |                                     |           |          |                 |                         |                         | MED EXP (Any one person)                  | \$ 10,000       |                          |              |
|                          | <input checked="" type="checkbox"/>                                         | Contractual Liability        |                                     |                                     |           |          |                 |                         |                         | PERSONAL & ADV INJURY                     | \$ 1,000,000    |                          |              |
|                          | GEN'L AGGREGATE LIMIT APPLIES PER:                                          |                              |                                     |                                     |           |          |                 |                         |                         | GENERAL AGGREGATE                         | \$ 2,000,000    |                          |              |
|                          | <input type="checkbox"/>                                                    | POLICY                       | <input checked="" type="checkbox"/> | PRO-JECT                            |           |          |                 |                         |                         | <input type="checkbox"/>                  | LOC             | PRODUCTS - COMP/OP AGG   | \$ 2,000,000 |
| <input type="checkbox"/> | OTHER:                                                                      |                              |                                     |                                     |           |          |                 |                         |                         | \$                                        |                 |                          |              |
| B                        | AUTOMOBILE LIABILITY                                                        |                              |                                     |                                     |           |          | 8103R4304652147 | 1/1/2021                | 1/1/2022                | COMBINED SINGLE LIMIT (Ea accident)       | \$ 1,000,000    |                          |              |
|                          | <input checked="" type="checkbox"/>                                         | ANY AUTO                     |                                     |                                     |           |          |                 |                         |                         | BODILY INJURY (Per person)                | \$              |                          |              |
|                          | <input type="checkbox"/>                                                    | ALL OWNED AUTOS              | <input type="checkbox"/>            | SCHEDULED AUTOS                     |           |          |                 |                         |                         | BODILY INJURY (Per accident)              | \$              |                          |              |
|                          | <input checked="" type="checkbox"/>                                         | HIRED AUTOS                  | <input checked="" type="checkbox"/> | NON-OWNED AUTOS                     |           |          |                 |                         |                         | PROPERTY DAMAGE (Per accident)            | \$              |                          |              |
|                          | <input type="checkbox"/>                                                    |                              | <input type="checkbox"/>            |                                     |           |          |                 |                         |                         | Hired & Non-Owned                         | \$ 1,000,000    |                          |              |
| B                        | <input checked="" type="checkbox"/>                                         | UMBRELLA LIAB                |                                     | <input checked="" type="checkbox"/> | OCCUR     |          |                 | CUP6C50490621           | 1/1/2021                | 1/1/2022                                  | EACH OCCURRENCE | \$ 10,000,000            |              |
|                          | EXCESS LIAB                                                                 |                              | <input type="checkbox"/>            | CLAIMS-MADE                         | AGGREGATE |          |                 |                         |                         |                                           | \$ 10,000,000   |                          |              |
|                          | <input type="checkbox"/>                                                    | DED                          | <input checked="" type="checkbox"/> | RETENTION \$ 10,000                 |           |          |                 |                         |                         |                                           | \$              |                          |              |
| C                        | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY                               |                              |                                     |                                     | Y/N       | N/A      | UB9J10139521    | 1/1/2021                | 1/1/2022                | <input checked="" type="checkbox"/>       | PER STATUTE     | <input type="checkbox"/> | OTH-ER       |
|                          | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) |                              |                                     |                                     |           |          |                 |                         |                         | 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                        | Professional Liability                                                      |                              |                                     |                                     |           |          | 106428805       | 1/1/2021                | 1/1/2022                | Per Claim                                 | \$ 5,000,000    |                          |              |
|                          | Pollution Liability                                                         |                              |                                     |                                     |           |          |                 | 1/1/2021                | 1/1/2022                | Aggregate                                 | \$ 5,000,000    |                          |              |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
 City of Marquette is named as Additional Insured as respects to the General Liability Policies and would apply so long as required within a written contract.

## CERTIFICATE HOLDER

City of Marquette  
 850 W. Baraga Avenue  
 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

Mike Cosgrove/KATHRY

*Michael Cosgrove*

# COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the company providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II – Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section V – Definitions.

## SECTION I – COVERAGES

### COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY

#### 1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments.

- b. This insurance applies to "bodily injury" and "property damage" only if:

- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";
- (2) The "bodily injury" or "property damage" occurs during the policy period; and
- (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II – Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

- c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.
- d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:
  - (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
  - (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
  - (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

## COMMERCIAL GENERAL LIABILITY

- e. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

### 2. Exclusions

This insurance does not apply to:

#### a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

#### b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided that the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured will be deemed to be damages because of "bodily injury" or "property damage", provided that:
  - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
  - (b) Such attorneys' fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

#### c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or

- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages. For the purposes of this exclusion, permitting a person to bring alcoholic beverages on your premises, for consumption on your premises, whether or not a fee is charged or a license is required for such activity, is not by itself considered the business of selling, serving or furnishing alcoholic beverages.

#### d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

#### e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
  - (a) Employment by the insured; or
  - (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

#### f. Pollution

- (1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":
  - (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:
    - (i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that

is used to heat, cool or dehumidify the building, or produced by or originating from equipment that is used to heat water for personal use by the building's occupants or their guests;

- (ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or
- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";
- (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;
- (c) If such "pollutants" are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:
  - (i) Any insured; or
  - (ii) Any person or organization for whom you may be legally responsible;
- (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:
  - (i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed

to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;

- (ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or
- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire"; or
- (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are or were at any time performing operations to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".
- (2) Any loss, cost or expense arising out of any:
  - (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or

## COMMERCIAL GENERAL LIABILITY

- (b) Claim or suit by or on behalf of any governmental authority or any other person or organization because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

### g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
  - (a) 50 feet long or less; and
  - (b) Not being used to carry any person or property for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft;
- (5) "Bodily injury" or "property damage" arising out of:
  - (a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify as "mobile equipment" under the definition of "mobile equipment" if such land vehicle were not subject to a compulsory or financial responsibility law, or other motor vehicle insurance law, where it is licensed or principally garaged; or

- (b) The operation of any of the machinery or equipment listed in Paragraph f.(2) or f.(3) of the definition of "mobile equipment"; or

### (6) An aircraft that is:

- (a) Chartered with a pilot to any insured;
- (b) Not owned by any insured; and
- (c) Not being used to carry any person or property for a charge.

### h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity

### i. War

"Bodily injury" or "property damage" arising out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

### j. Damage To Property

"Property damage" to:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;

(5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or

(6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "premises damage". A separate limit of insurance applies to "premises damage" as described in Paragraph 6. of Section III – Limits Of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

**k. Damage To Your Product**

"Property damage" to "your product" arising out of it or any part of it.

**l. Damage To Your Work**

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

**m. Damage To Impaired Property Or Property Not Physically Injured**

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

(1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or

(2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and

accidental physical injury to "your product" or "your work" after it has been put to its intended use.

**n. Recall Of Products, Work Or Impaired Property**

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

(1) "Your product";

(2) "Your work"; or

(3) "Impaired property";

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

**o. Personal And Advertising Injury**

"Bodily injury" arising out of "personal and advertising injury".

**p. Electronic Data**

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate "electronic data".

However, this exclusion does not apply to liability for damages because of "bodily injury".

**q. Unsolicited Communication**

"Bodily injury" or "property damage" arising out of any actual or alleged violation of any law that restricts or prohibits the sending, transmitting or distributing of "unsolicited communication".

**r. Access Or Disclosure Of Confidential Or Personal Information**

"Bodily injury" or "property damage" arising out of any access to or disclosure of any person's or organization's confidential or personal information.

**s. Asbestos**

(1) "Bodily injury" or "property damage" arising out of the actual or alleged presence or actual, alleged or threatened dispersal of asbestos, asbestos fibers or products containing asbestos, provided that the "bodily injury" or "property damage" is caused or contributed to by the hazardous properties of asbestos.

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(2) "Bodily injury" or "property damage" arising out of the actual or alleged presence or actual, alleged or threatened dispersal of any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapors, soot, fumes, acids, alkalis, chemicals and waste, and that are part of any claim or "suit" which also alleges any "bodily injury" or "property damage" described in Paragraph (1) above.

(3) Any loss, cost or expense arising out of any:

(a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, asbestos, asbestos fibers or products containing asbestos; or

(b) Claim or suit by or on behalf of any governmental authority or any other person or organization because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, asbestos, asbestos fibers or products containing asbestos.

### t. Employment-Related Practices

"Bodily injury" to:

(1) A person arising out of any:

(a) Refusal to employ that person;

(b) Termination of that person's employment; or

(c) Employment-related practice, policy, act or omission, such as coercion, demotion, evaluation, reassignment, discipline, failure to promote or advance, harassment, humiliation, discrimination, libel, slander, violation of the person's right of privacy, malicious prosecution or false arrest, detention or imprisonment applied to or directed at that person, regardless of whether such practice, policy, act or omission occurs, is applied or is committed before, during or after the time of that person's employment; or

(2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" to that person at whom any of the

employment-related practices described in Paragraph (a), (b), or (c) above is directed.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the "bodily injury".

Exclusions c. through n. do not apply to "premises damage". A separate limit of insurance applies to "premises damage" as described in Paragraph 6. of Section III – Limits Of Insurance.

## COVERAGE B – PERSONAL AND ADVERTISING INJURY LIABILITY

### 1. Insuring Agreement

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:

(1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and

(2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments.

b. This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

### 2. Exclusions

This insurance does not apply to:

#### a. Knowing Violation Of Rights Of Another

"Personal and advertising injury" caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury".

This exclusion does not apply to "personal injury" caused by malicious prosecution.

**b. Material Published With Knowledge Of Falsity**

"Personal and advertising injury" arising out of oral or written publication, including publication by electronic means, of material, if done by or at the direction of the insured with knowledge of its falsity.

**c. Material Published Or Used Prior To Policy Period**

(1) "Personal and advertising injury" arising out of oral or written publication, including publication by electronic means, of material whose first publication took place before the beginning of the policy period; or

(2) "Advertising injury" arising out of infringement of copyright, "title" or "slogan" in your "advertisement" whose first infringement in your "advertisement" was committed before the beginning of the policy period.

**d. Criminal Acts**

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

**e. Contractual Liability**

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages:

(1) That the insured would have in the absence of the contract or agreement; or

(2) Because of "personal injury" assumed by you in a contract or agreement that is an "insured contract", provided that the "personal injury" is caused by an offense committed subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed by you in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured will be deemed to be damages because of "personal injury", provided that:

(a) Liability to such party for, or for the cost of, that party's defense has also been assumed by you in the same "insured contract"; and

(b) Such attorneys' fees and litigation expenses are for defense of that party

against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

**f. Breach Of Contract**

"Advertising injury" arising out of a breach of contract.

**g. Quality Or Performance Of Goods - Failure To Conform To Statements**

"Advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

**h. Wrong Description Of Prices**

"Advertising injury" arising out of the wrong description of the price of goods, products or services stated in your "advertisement".

**i. Intellectual Property**

"Personal and advertising injury" arising out of any actual or alleged infringement or violation of any of the following rights or laws, or any other "personal and advertising injury" alleged in any claim or "suit" that also alleges any such infringement or violation:

- (1) Copyright;
- (2) Patent;
- (3) Trade dress;
- (4) Trade name;
- (5) Trademark;
- (6) Trade secret; or
- (7) Other intellectual property rights or laws.

This exclusion does not apply to:

- (1) "Advertising injury" arising out of any actual or alleged infringement or violation of another's copyright, "title" or "slogan" in your "advertisement"; or
- (2) Any other "personal and advertising injury" alleged in any claim or "suit" that also alleges any such infringement or violation of another's copyright, "title" or "slogan" in your "advertisement".

**j. Insureds In Media And Internet Type Businesses**

"Personal and advertising injury" caused by an offense committed by an insured whose business is:

- (1) Advertising, "broadcasting" or publishing;

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(2) Designing or determining content of websites for others; or

(3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs a.(1), (2) and (3) of the definition of "personal injury".

For the purposes of this exclusion:

(1) Creating and producing correspondence written in the conduct of your business, bulletins, financial or annual reports, or newsletters about your goods, products or services will not be considered the business of publishing; and

(2) The placing of frames, borders or links, or advertising, for you or others anywhere on the Internet will not, by itself, be considered the business of advertising, "broadcasting" or publishing.

### **k. Electronic Chatrooms Or Bulletin Boards**

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board the insured hosts or owns, or over which the insured exercises control.

### **l. Unauthorized Use Of Another's Name Or Product**

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatag, or any other similar tactics to mislead another's potential customers.

### **m. Pollution**

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

### **n. Pollution-Related**

Any loss, cost or expense arising out of any:

(1) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or

(2) Claim or suit by or on behalf of any governmental authority or any other person or organization because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or

neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

### **o. War**

"Personal and advertising injury" arising out of:

(1) War, including undeclared or civil war;

(2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

(3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

### **p. Unsolicited Communication**

"Personal and advertising injury" arising out of any actual or alleged violation of any law that restricts or prohibits the sending, transmitting or distributing of "unsolicited communication".

### **q. Access Or Disclosure Of Confidential Or Personal Information**

"Personal and advertising injury" arising out of any access to or disclosure of any person's or organization's confidential or personal information.

### **r. Asbestos**

(1) "Personal and advertising injury" arising out of the actual or alleged presence or actual, alleged or threatened dispersal of asbestos, asbestos fibers or products containing asbestos, provided that the "personal and advertising injury" is caused or contributed to by the hazardous properties of asbestos.

(2) "Personal and advertising injury" arising out of the actual or alleged presence or actual, alleged or threatened dispersal of any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapors, soot, fumes, acids, alkalis, chemicals and waste, and that are part of any claim or "suit" which also alleges any "personal and advertising injury" described in Paragraph (1) above.

(3) Any loss, cost or expense arising out of any:

(a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or

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assess the effects of, asbestos, asbestos fibers or products containing asbestos; or

- (b) Claim or suit by or on behalf of any governmental authority or any other person or organization because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, asbestos, asbestos fibers or products containing asbestos.

### s. Employment-Related Practices

"Personal injury" to:

- (1) A person arising out of any:
  - (a) Refusal to employ that person;
  - (b) Termination of that person's employment; or
  - (c) Employment-related practice, policy, act or omission, such as coercion, demotion, evaluation, reassignment, discipline, failure to promote or advance, harassment, humiliation, discrimination, libel, slander, violation of the person's right of privacy, malicious prosecution or false arrest, detention or imprisonment applied to or directed at that person, regardless of whether such practice, policy, act or omission occurs, is applied or is committed before, during or after the time of that person's employment; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "personal injury" to that person at whom any of the employment-related practices described in Paragraph (a), (b), or (c) above is directed.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the "personal injury".

## COVERAGE C – MEDICAL PAYMENTS

### 1. Insuring Agreement

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:
  - (1) On premises you own or rent;
  - (2) On ways next to premises you own or rent; or

- (3) Because of your operations; provided that:

- (a) The accident takes place in the "coverage territory" and during the policy period;
- (b) The expenses are incurred and reported to us within one year of the date of the accident; and
- (c) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

- (1) First aid administered at the time of an accident;
- (2) Necessary medical, surgical, X-ray and dental services, including prosthetic devices; and
- (3) Necessary ambulance, hospital, professional nursing and funeral services.

### 2. Exclusions

We will not pay expenses for "bodily injury":

#### a. Any Insured

To any insured, except "volunteer workers".

#### b. Hired Person

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

#### c. Injury On Normally Occupied Premises

To a person injured on that part of premises you own or rent that the person normally occupies.

#### d. Workers' Compensation And Similar Laws

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

#### e. Athletics Activities

To a person injured while practicing, instructing or participating in any physical exercises or games, sports, or athletic contests.

#### f. Products-Completed Operations Hazard

Included within the "products-completed operations hazard".

#### g. Coverage A Exclusions

Excluded under Coverage A.

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### SUPPLEMENTARY PAYMENTS

1. We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:

- a. All expenses we incur.
- b. Up to \$2,500 for the cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
- c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.
- e. All court costs taxed against the insured in the "suit". However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.
- f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
- g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

2. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:
  - a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
  - b. This insurance applies to such liability assumed by the insured;
  - c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been

assumed by the insured in the same "insured contract";

- d. The allegations in the "suit" and the information we know about the "occurrence" or offense are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
- e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
- f. The indemnitee:
  - (1) Agrees in writing to:
    - (a) Cooperate with us in the investigation, settlement or defense of the "suit";
    - (b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
    - (c) Notify any other insurer whose coverage is available to the indemnitee; and
    - (d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
  - (2) Provides us with written authorization to:
    - (a) Obtain records and other information related to the "suit"; and
    - (b) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph 2.b.(2) of Section I – Coverages – Coverage A – Bodily Injury And Property Damage Liability or Paragraph 2.e. of Section I – Coverages – Coverage B – Personal And Advertising Injury Liability, such payments will not be deemed to be damages for "bodily injury", "property damage" or "personal injury", and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

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- a. We have used up the applicable limit of insurance in the payment of judgments, settlements or medical expenses; or
- b. The conditions set forth above, or the terms of the agreement described in Paragraph f. above, are no longer met.

### SECTION II – WHO IS AN INSURED

#### 1. If you are designated in the Declarations as:

- a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
- c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
- e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

#### 2. Each of the following is also an insured:

- a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:

##### (1) "Bodily injury" or "personal injury":

- (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer

workers" while performing duties related to the conduct of your business;

- (b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph (1)(a) above;

- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (1)(a) or (b) above; or

- (d) Arising out of his or her providing or failing to provide professional health care services.

Unless you are in the business or occupation of providing professional health care services, Paragraphs (1)(a), (b), (c) and (d) above do not apply to "bodily injury" arising out of providing or failing to provide first aid or "Good Samaritan services" by any of your "employees" or "volunteer workers", other than an employed or volunteer doctor. Any such "employees" or "volunteer workers" providing or failing to provide first aid or "Good Samaritan services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.

##### (2) "Property damage" to property:

- (a) Owned, occupied or used by;

- (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;

you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

- b. Any person (other than your "employee" or "volunteer worker"), or any organization, while acting as your real estate manager.

- c. Any person or organization having proper temporary custody of your property if you die, but only:

- (1) With respect to liability arising out of the maintenance or use of that property; and

- (2) Until your legal representative has been appointed.

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- d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.
  - e. Any person or organization that, with your express or implied consent, either uses or is responsible for the use of a watercraft that you do not own that is:
    - (1) 50 feet long or less; and
    - (2) Not being used to carry any person or property for a charge.
3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and of which you are the sole owner or in which you maintain an ownership interest of more than 50%, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
  - b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
  - c. Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

For the purposes of Paragraph 1. of Section II – Who Is An Insured, each such organization will be deemed to be designated in the Declarations as:

- a. An organization, other than a partnership, joint venture or limited liability company; or
  - b. A trust;
- as indicated in its name or the documents that govern its structure.
4. Any person or organization that is a premises owner, manager or lessor and that you have agreed in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" that:
- a. Is "bodily injury" or "property damage" that occurs, or is "personal and advertising injury" caused by an offense that is committed, subsequent to the signing of that contract or agreement; and

- b. Arises out of the ownership, maintenance or use of that part of any premises leased to you.

The insurance provided to such premises owner, manager or lessor is subject to the following provisions:

- a. The limits of insurance provided to such premises owner, manager or lessor will be the minimum limits that you agreed to provide in the written contract or agreement, or the limits shown in the Declarations, whichever are less.
- b. The insurance provided to such premises owner, manager or lessor does not apply to:
  - (1) Any "bodily injury" or "property damage" that occurs, or "personal and advertising injury" caused by an offense that is committed, after you cease to be a tenant in that premises; or
  - (2) Structural alterations, new construction or demolition operations performed by or on behalf of such premises owner, manager or lessor.

5. Any person or organization that is an equipment lessor and that you have agreed in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage", or "personal and advertising injury" that:

- a. Is "bodily injury" or "property damage" that occurs, or is "personal and advertising injury" caused by an offense that is committed, subsequent to the signing of that contract or agreement; and
- b. Is caused, in whole or in part, by your acts or omissions in the maintenance, operation or use of equipment leased to you by such equipment lessor.

The insurance provided to such equipment lessor is subject to the following provisions:

- a. The limits of insurance provided to such equipment lessor will be the minimum limits that you agreed to provide in the written contract or agreement, or the limits shown in the Declarations, whichever are less.
- b. The insurance provided to such equipment lessor does not apply to any "bodily injury" or "property damage" that occurs, or "personal and advertising injury" caused by an offense that is committed, after the equipment lease expires.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint

venture or limited liability company that is not shown as a Named Insured in the Declarations. This paragraph does not apply to any such partnership, joint venture or limited liability company that otherwise qualifies as an insured under Section II – Who Is An Insured.

### SECTION III – LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

- a. Insureds;
- b. Claims made or "suits" brought; or
- c. Persons or organizations making claims or bringing "suits".

2. The General Aggregate Limit is the most we will pay for the sum of:

- a. Medical expenses under Coverage C;
- b. Damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
- c. Damages under Coverage B.

3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".

4. Subject to Paragraph 2. above, the Personal And Advertising Injury Limit is the most we will pay under Coverage B for the sum of all damages because of all "personal injury" and "advertising injury" sustained by any one person or organization.

5. Subject to Paragraph 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:

- a. Damages under Coverage A; and
- b. Medical expenses under Coverage C; because of all "bodily injury" and "property damage" arising out of any one "occurrence".

For the purposes of determining the applicable Each Occurrence Limit, all related acts or omissions committed in providing or failing to provide first aid or "Good Samaritan services" to any one person will be deemed to be one "occurrence".

6. Subject to Paragraph 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "premises damage" to any one premises. The Damage To Premises Rented To You Limit will be:

- a. The amount shown for the Damage To Premises Rented To You Limit in the Declarations of this Coverage Part; or
- b. \$300,000 if no amount is shown for the Damage To Premises Rented To You Limit in the Declarations of this Coverage Part.

7. Subject to Paragraph 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

### SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS

#### 1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

#### 2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

b. If a claim is made or "suit" is brought against any insured, you must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or "suit" as soon as practicable.

c. You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";

## COMMERCIAL GENERAL LIABILITY

- (2) Authorize us to obtain records and other information;
  - (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
  - (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.
- d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.
- e. The following provisions apply to Paragraph a. above, but only for purposes of the insurance provided under this Coverage Part to you or any insured listed in Paragraph 1. or 2. of Section II – Who Is An Insured:
- (1) Notice to us of such "occurrence" or offense must be given as soon as practicable only after the "occurrence" or offense is known to you (if you are an individual), any of your partners or members who is an individual (if you are a partnership or joint venture), any of your managers who is an individual (if you are a limited liability company), any of your "executive officers" or directors (if you are an organization other than a partnership, joint venture, or limited liability company), any of your trustees who is an individual (if you are a trust) or any "employee" authorized by you to give notice of an "occurrence" or offense.
  - (2) If you are a partnership, joint venture, limited liability company or trust, and none of your partners, joint venture members, managers or trustees are individuals, notice to us of such "occurrence" or offense must be given as soon as practicable only after the "occurrence" or offense is known by:
    - (a) Any individual who is:
      - (i) A partner or member of any partnership or joint venture;
      - (ii) A manager of any limited liability company;
      - (iii) An executive officer or director of any other organization; or
      - (iv) A trustee of any trust;
- that is your partner, joint venture member, manager or trustee; or
- (b) Any employee authorized by such partnership, joint venture, limited liability company, trust or other organization to give notice of an "occurrence" or offense.
- (3) Notice to us of such "occurrence" or offense will be deemed to be given as soon as practicable if it is given in good faith as soon as practicable to your workers' compensation insurer. This applies only if you subsequently give notice to us of the "occurrence" or offense as soon as practicable after any of the persons described in Paragraph e.(1) or (2) above discovers that the "occurrence" or offense may result in sums to which the insurance provided under this Coverage Part may apply.
- However, if this policy includes an endorsement that provides limited coverage for "bodily injury" or "property damage" or pollution costs arising out of a discharge, release or escape of "pollutants" which contains a requirement that the discharge, release or escape of "pollutants" must be reported to us within a specific number of days after its abrupt commencement, this Paragraph e. does not affect that requirement.
3. **Legal Action Against Us**
- No person or organization has a right under this Coverage Part:
- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
  - b. To sue us on this Coverage Part unless all of its terms have been fully complied with.
- A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured, and the claimant or the claimant's legal representative.

**4. Other Insurance**

If valid and collectible other insurance is available to the insured for a loss we cover under Coverages A or B of this Coverage Part, our obligations are limited as described in Paragraphs a. and b. below.

As used anywhere in this Coverage Part, other insurance means insurance, or the funding of losses, that is provided by, through or on behalf of:

- (i) Another insurance company;
- (ii) Us or any of our affiliated insurance companies, except when the Non cumulation of Each Occurrence Limit provision of Paragraph 5. of Section III – Limits Of Insurance or the Non cumulation of Personal and Advertising Injury Limit provision of Paragraph 4. of Section III – Limits of Insurance applies because the Amendment – Non Cumulation Of Each Occurrence Limit Of Liability And Non Cumulation Of Personal And Advertising Injury Limit endorsement is included in this policy;
- (iii) Any risk retention group; or
- (iv) Any self-insurance method or program, in which case the insured will be deemed to be the provider of other insurance.

Other insurance does not include umbrella insurance, or excess insurance, that was bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

As used anywhere in this Coverage Part, other insurer means a provider of other insurance. As used in Paragraph c. below, insurer means a provider of insurance.

**a. Primary Insurance**

This insurance is primary except when Paragraph b. below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in Paragraph c. below, except when Paragraph d. below applies.

**b. Excess Insurance**

(1) This insurance is excess over:

- (a) Any of the other insurance, whether primary, excess, contingent or on any other basis:
  - (i) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

(ii) That is insurance for "premises damage";

(iii) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to any exclusion in this Coverage Part that applies to aircraft, "autos" or watercraft;

(iv) That is insurance available to a premises owner, manager or lessor that qualifies as an insured under Paragraph 4. of Section II – Who Is An Insured, except when Paragraph d. below applies; or

(v) That is insurance available to an equipment lessor that qualifies as an insured under Paragraph 5. of Section II – Who Is An Insured, except when Paragraph d. below applies.

(b) Any of the other insurance, whether primary, excess, contingent or on any other basis, that is available to the insured when the insured is an additional insured, or is any other insured that does not qualify as a named insured, under such other insurance.

(2) When this insurance is excess, we will have no duty under Coverages A or B to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

(3) When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

(a) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(b) The total of all deductible and self-insured amounts under all that other insurance.

(4) We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

## COMMERCIAL GENERAL LIABILITY

### c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

### d. Primary And Non-Contributory Insurance If Required By Written Contract

If you specifically agree in a written contract or agreement that the insurance afforded to an insured under this Coverage Part must apply on a primary basis, or a primary and non-contributory basis, this insurance is primary to other insurance that is available to such insured which covers such insured as a named insured, and we will not share with that other insurance, provided that:

- (1) The "bodily injury" or "property damage" for which coverage is sought occurs; and
- (2) The "personal and advertising injury" for which coverage is sought is caused by an offense that is committed;

subsequent to the signing of that contract or agreement by you.

### 5. Premium Audit

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

### 6. Representations

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

The unintentional omission of, or unintentional error in, any information provided by you which we relied upon in issuing this policy will not prejudice your rights under this insurance. However, this provision does not affect our right to collect additional premium or to exercise our rights of cancellation or nonrenewal in accordance with applicable insurance laws or regulations.

### 7. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

### 8. Transfer Of Rights Of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

### 9. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

## SECTION V – DEFINITIONS

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:
  - a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
  - b. Regarding websites, only that part of a website that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.

## COMMERCIAL GENERAL LIABILITY

### 2. "Advertising injury":

#### a. Means injury caused by one or more of the following offenses:

- (1) Oral or written publication, including publication by electronic means, of material in your "advertisement" that slanders or libels a person or organization or disparages a person's or organization's goods, products or services, provided that the claim is made or the "suit" is brought by a person or organization that claims to have been slandered or libeled, or that claims to have had its goods, products or services disparaged;
- (2) Oral or written publication, including publication by electronic means, of material in your "advertisement" that:
  - (a) Appropriates a person's name, voice, photograph or likeness; or
  - (b) Unreasonably places a person in a false light; or
- (3) Infringement of copyright, "title" or "slogan" in your "advertisement", provided that the claim is made or the "suit" is brought by a person or organization that claims ownership of such copyright, "title" or "slogan".

#### b. Includes "bodily injury" caused by one or more of the offenses described in Paragraph a. above.

### 3. "Auto" means:

- a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
- b. Any other land vehicle that is subject to a compulsory or financial responsibility law, or other motor vehicle insurance law, where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

### 4. "Bodily injury" means:

- a. Physical harm, including sickness or disease, sustained by a person; or
- b. Mental anguish, injury or illness, or emotional distress, resulting at any time from such physical harm, sickness or disease.

### 5. "Broadcasting" means transmitting any audio or visual material for any purpose:

- a. By radio or television; or

#### b. In, by or with any other electronic means of communication, such as the Internet, if that material is part of:

- (1) Radio or television programming being transmitted;
- (2) Other entertainment, educational, instructional, music or news programming being transmitted; or
- (3) Advertising transmitted with any of such programming.

### 6. "Coverage territory" means:

- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
- b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in Paragraph a. above; or
- c. All other parts of the world if the injury or damage arises out of:
  - (1) Goods or products made or sold by you in the territory described in Paragraph a. above;
  - (2) The activities of a person whose home is in the territory described in Paragraph a. above, but is away for a short time on your business; or
  - (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication;

provided the insured's responsibility to pay damages is determined in a "suit" on the merits in the territory described in Paragraph a. above, or in a settlement we agree to.

### 7. "Electronic data" means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

### 8. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".

### 9. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, bylaws or any other similar governing document.

## COMMERCIAL GENERAL LIABILITY

10. "Good Samaritan services" means any emergency medical services for which no compensation is demanded or received.
11. "Hostile fire" means a fire which becomes uncontrollable or breaks out from where it was intended to be.
12. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
- It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
  - You have failed to fulfill the terms of a contract or agreement;
- if such property can be restored to use by the repair, replacement, adjustment or removal of "your product" or "your work" or your fulfilling the terms of the contract or agreement.
13. "Insured contract" means:
- A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for "premises damage" is not an "insured contract";
  - A sidetrack agreement;
  - Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
  - An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
  - An elevator maintenance agreement;
  - That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury", "property damage" or "personal injury" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.
- Paragraph f. does not include that part of any contract or agreement:
- (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;
  - (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
    - Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
    - Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
  - (3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in Paragraph (2) above and supervisory, inspection, architectural or engineering activities.
14. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".
15. "Loading or unloading" means the handling of property:
- After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
  - While it is in or on an aircraft, watercraft or "auto"; or
  - While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;
- but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".
16. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:
- Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
  - Vehicles maintained for use solely on or next to premises you own or rent;
  - Vehicles that travel on crawler treads;

- d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:

- (1) Power cranes, shovels, loaders, diggers or drills; or
- (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;

- e. Vehicles not described in Paragraph a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:

- (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
- (2) Cherry pickers and similar devices used to raise or lower workers;

- f. Vehicles not described in Paragraph a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

- (1) Equipment designed primarily for:
  - (a) Snow removal;
  - (b) Road maintenance, but not construction or resurfacing; or
  - (c) Street cleaning;
- (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However, "mobile equipment" does not include any land vehicle that is subject to a compulsory or financial responsibility law, or other motor vehicle insurance law, where it is licensed or principally garaged. Such land vehicles are considered "autos".

**17. "Occurrence" means:**

- a. An accident, including continuous or repeated exposure to substantially the same general harmful conditions; or

- b. An act or omission committed in providing or failing to provide first aid or "Good Samaritan services" to a person, unless you are in the business or occupation of providing professional health care services.

**18. "Personal and advertising injury" means "personal injury" or "advertising injury".**

**19. "Personal injury":**

- a. Means injury, other than "advertising injury", caused by one or more of the following offenses:

- (1) False arrest, detention or imprisonment;
- (2) Malicious prosecution;
- (3) The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, provided that the wrongful eviction, wrongful entry or invasion of the right of private occupancy is committed by or on behalf of the owner, landlord or lessor of that room, dwelling or premises;
- (4) Oral or written publication, including publication by electronic means, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services, provided that the claim is made or the "suit" is brought by a person or organization that claims to have been slandered or libeled, or that claims to have had its goods, products or services disparaged; or
- (5) Oral or written publication, including publication by electronic means, of material that:
  - (a) Appropriates a person's name, voice, photograph or likeness; or
  - (b) Unreasonably places a person in a false light.

- b. Includes "bodily injury" caused by one or more of the offenses described in Paragraph a. above.

**20. "Pollutants" mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.**

## COMMERCIAL GENERAL LIABILITY

### 21. "Premises damage" means:

- a. With respect to the first paragraph of the exceptions in Exclusion j. of Section I – Coverage A – Bodily Injury And Property Damage Liability, "property damage" to any premises while rented to you for a period of seven or fewer consecutive days, including the contents of such premises; or

- b. With respect to the exception to Exclusions c. through n. in the last paragraph of Paragraph 2. of Section I – Coverage A – Bodily Injury And Property Damage Liability, "property damage" to any premises while rented to you for a period of more than seven consecutive days, or while temporarily occupied by you with permission of the owner, caused by:

- (1) Fire;
- (2) Explosion;
- (3) Lightning;
- (4) Smoke resulting from fire, explosion or lightning; or
- (5) Water.

But "premises damage" under this Paragraph b. does not include "property damage" to any premises caused by:

- (1) Rupture, bursting, or operation of pressure relief devices;
- (2) Rupture or bursting due to expansion or swelling of the contents of any building or structure caused by or resulting from water; or
- (3) Explosion of steam boilers, steam pipes, steam engines or steam turbines.

### 22. "Products-completed operations hazard":

- a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:

- (1) Products that are still in your physical possession; or
- (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:
  - (a) When all of the work called for in your contract has been completed.
  - (b) When all of the work to be done at the job site has been completed if your

contract calls for work at more than one job site.

- (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

- b. Does not include "bodily injury" or "property damage" arising out of:

- (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;
- (2) The existence of tools, uninstalled equipment or abandoned or unused materials; or
- (3) Products or operations for which the classification, listed in the Declarations or in a policy Schedule, states that products-completed operations are subject to the General Aggregate Limit.

### 23. "Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use will be deemed to occur at the time of the physical injury that caused it; or
- b. Loss of use of tangible property that is not physically injured. All such loss of use will be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this insurance, "electronic data" is not tangible property.

### 24. "Slogan":

- a. Means a phrase that others use for the purpose of attracting attention in their advertising.
- b. Does not include a phrase used as, or in, the name of:
  - (1) Any person or organization, other than you; or
  - (2) Any business, or any of the premises, goods, products, services or work, of any person or organization, other than you.

## COMMERCIAL GENERAL LIABILITY

25. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:
- An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
  - Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.
26. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.
27. "Title" means a name of a literary or artistic work.
28. "Unsolicited communication" means any communication, in any form, that the recipient of such communication did not specifically request to receive.
29. "Volunteer worker" means a person who is not your "employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.
30. "Your product":
- Means:
    - Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
      - You;
      - Others trading under your name; or
      - A person or organization whose business or assets you have acquired; and
    - Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.
  - Includes:
    - Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
    - The providing of or failure to provide warnings or instructions.
  - Does not include vending machines or other property rented to or located for the use of others but not sold.
31. "Your work":
- Means:
    - Work or operations performed by you or on your behalf; and
    - Materials, parts or equipment furnished in connection with such work or operations.
  - Includes:
    - Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and
    - The providing of or failure to provide warnings or instructions.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **XTEND ENDORSEMENT FOR ARCHITECTS, ENGINEERS AND SURVEYORS**

This endorsement modifies insurance provided under the following:

### **COMMERCIAL GENERAL LIABILITY COVERAGE PART**

**GENERAL DESCRIPTION OF COVERAGE** – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to this Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>A. Non-Owned Watercraft – 75 Feet Long Or Less</li> <li>B. Who Is An Insured – Unnamed Subsidiaries</li> <li>C. Who Is An Insured – Retired Partners, Members, Directors And Employees</li> <li>D. Who Is An Insured – Employees And Volunteer Workers – Bodily Injury To Co-Employees, Co-Volunteer Workers And Retired Partners, Members, Directors And Employees</li> <li>E. Who Is An Insured – Newly Acquired Or Formed Limited Liability Companies</li> <li>F. Blanket Additional Insured – Controlling Interest</li> <li>G. Blanket Additional Insured – Mortgagees, Assignees, Successors Or Receivers</li> </ul> | <ul style="list-style-type: none"> <li>H. Blanket Additional Insured – Governmental Entities – Permits Or Authorizations Relating To Premises</li> <li>I. Blanket Additional Insured – Governmental Entities – Permits Or Authorizations Relating To Operations</li> <li>J. Incidental Medical Malpractice</li> <li>K. Medical Payments – Increased Limit</li> <li>L. Amendment Of Excess Insurance Condition – Professional Liability</li> <li>M. Blanket Waiver Of Subrogation – When Required By Written Contract Or Agreement</li> <li>N. Contractual Liability – Railroads</li> </ul> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

### **PROVISIONS**

#### **A. NON-OWNED WATERCRAFT – 75 FEET LONG OR LESS**

1. The following replaces Paragraph (2) of Exclusion g., **Aircraft, Auto Or Watercraft**, in Paragraph 2. of **SECTION I – COVERAGES – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY**:

- (2) A watercraft you do not own that is:
  - (a) 75 feet long or less; and
  - (b) Not being used to carry any person or property for a charge;

2. The following replaces Paragraph 2.e. of **SECTION II – WHO IS AN INSURED**:

- e. Any person or organization that, with your express or implied consent, either

uses or is responsible for the use of a watercraft that you do not own that is:

- (1) 75 feet long or less; and
- (2) Not being used to carry any person or property for a charge;

#### **B. WHO IS AN INSURED – UNNAMED SUBSIDIARIES**

The following is added to **SECTION II – WHO IS AN INSURED**:

Any of your subsidiaries, other than a partnership or joint venture, that is not shown as a Named Insured in the Declarations is a Named Insured if:

- a. You are the sole owner of, or maintain an ownership interest of more than 50% in, such subsidiary on the first day of the policy period; and

## COMMERCIAL GENERAL LIABILITY

- b. Such subsidiary is not an insured under similar other insurance.

No such subsidiary is an insured for "bodily injury" or "property damage" that occurred, or "personal and advertising injury" caused by an offense committed:

- a. Before you maintained an ownership interest of more than 50% in such subsidiary; or
- b. After the date, if any, during the policy period that you no longer maintain an ownership interest of more than 50% in such subsidiary.

For purposes of Paragraph 1. of Section II – Who Is An Insured, each such subsidiary will be deemed to be designated in the Declarations as:

- a. A limited liability company;
  - b. An organization other than a partnership, joint venture or limited liability company; or
  - c. A trust;
- as indicated in its name or the documents that govern its structure.

### C. WHO IS AN INSURED – RETIRED PARTNERS, MEMBERS, DIRECTORS AND EMPLOYEES

The following is added to Paragraph 2. of SECTION II – WHO IS AN INSURED:

Any person who is your retired partner, member, director or "employee" that is performing services for you under your direct supervision, but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, no such retired partner, member, director or "employee" is an insured for:

#### (1) "Bodily injury":

- (a) To you, to your current partners or members (if you are a partnership or joint venture), to your current members (if you are a limited liability company) or to your current directors;
- (b) To the spouse, child, parent, brother or sister of that current partner, member or director as a consequence of Paragraph (1)(a) above;
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (1)(a) or (b) above; or
- (d) Arising out of his or her providing or failing to provide professional health care services.

Unless you are in the business or occupation of providing professional health care services, Paragraphs (1)(a), (b), (c) and (d) above do not apply to "bodily injury" arising out of providing or failing to provide first aid or "Good Samaritan services" by any of your retired partners, members, directors or "employees", other than a doctor. Any such retired partners, members, directors or "employees" providing or failing to provide first aid or "Good Samaritan services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.

#### (2) "Personal injury":

- (a) To you, to your current or retired partners or members (if you are a partnership or joint venture), to your current or retired members (if you are a limited liability company), to your other current or retired directors or "employees" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
- (b) To the spouse, child, parent, brother or sister of that current or retired partner, member, director, "employee" or "volunteer worker" as a consequence of Paragraph (2)(a) above;
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (2)(a) or (b) above; or
- (d) Arising out of his or her providing or failing to provide professional health care services.

#### (3) "Property damage" to property:

- (a) Owned, occupied or used by; or
  - (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;
- you, any of your retired partners, members or directors, your current or retired "employees" or "volunteer workers", any current partner or member (if you are a partnership or joint venture), or any current member (if you are a limited liability company) or current director.

**D. WHO IS AN INSURED – EMPLOYEES AND VOLUNTEER WORKERS – BODILY INJURY TO CO-EMPLOYEES, CO-VOLUNTEER WORKERS AND RETIRED PARTNERS, MEMBERS, DIRECTORS AND EMPLOYEES**

The following is added to Paragraph 2.a.(1) of SECTION II – WHO IS AN INSURED:

Paragraphs (1)(a), (b) and (c) above do not apply to "bodily injury" to a current or retired co-"employee" while in the course of the co-"employee's" employment by you or performing duties related to the conduct of your business, or to "bodily injury" to your other "volunteer workers" or retired partners, members or directors while performing duties related to the conduct of your business.

**E. WHO IS AN INSURED – NEWLY ACQUIRED OR FORMED LIMITED LIABILITY COMPANIES**

The following replaces Paragraph 3. of SECTION II – WHO IS AN INSURED:

3. Any organization you newly acquire or form, other than a partnership or joint venture, and of which you are the sole owner or in which you maintain an ownership interest of more than 50%, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only:

- (1) Until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier, if you do not report such organization in writing to us within 180 days after you acquire or form it; or

- (2) Until the end of the policy period, when that date is later than 180 days after you acquire or form such organization, if you report such organization in writing to us within 180 days after you acquire or form it;

- b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and

- c. Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

For the purposes of Paragraph 1. of Section II – Who Is An Insured, each such

organization will be deemed to be designated in the Declarations as:

- a. A limited liability company;
  - b. An organization other than a partnership, joint venture or limited liability company; or
  - c. A trust;
- as indicated in its name or the documents that govern its structure.

**F. BLANKET ADDITIONAL INSURED – CONTROLLING INTEREST**

1. The following is added to SECTION II – WHO IS AN INSURED:

Any person or organization that has financial control of you is an insured with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" that arises out of:

- a. Such financial control; or
- b. Such person's or organization's ownership, maintenance or use of premises leased to or occupied by you.

The insurance provided to such person or organization does not apply to structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

2. The following is added to Paragraph 4. of SECTION II – WHO IS AN INSURED:

This paragraph does not apply to any premises owner, manager or lessor that has financial control of you.

**G. BLANKET ADDITIONAL INSURED – MORTGAGEES, ASSIGNEES, SUCCESSORS OR RECEIVERS**

- The following is added to SECTION II – WHO IS AN INSURED:

Any person or organization that is a mortgagee, assignee, successor or receiver and that you have agreed in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to its liability as mortgagee, assignee, successor or receiver for "bodily injury", "property damage" or "personal and advertising injury" that:

- a. Is "bodily injury" or "property damage" that occurs, or is "personal and advertising injury" caused by an offense that is committed,

## COMMERCIAL GENERAL LIABILITY

subsequent to the signing of that contract or agreement; and

- b. Arises out of the ownership, maintenance or use of the premises for which that mortgagee, assignee, successor or receiver is required under that contract or agreement to be included as an additional insured on this Coverage Part.

The insurance provided to such mortgagee, assignee, successor or receiver is subject to the following provisions:

- a. The limits of insurance provided to such mortgagee, assignee, successor or receiver will be the minimum limits that you agreed to provide in the written contract or agreement, or the limits shown in the Declarations, whichever are less.
- b. The insurance provided to such person or organization does not apply to:
  - (1) Any "bodily injury" or "property damage" that occurs, or any "personal and advertising injury" caused by an offense that is committed, after such contract or agreement is no longer in effect; or
  - (2) Any "bodily injury", "property damage" or "personal and advertising injury" arising out of any structural alterations, new construction or demolition operations performed by or on behalf of such mortgagee, assignee, successor or receiver.

### H. BLANKET ADDITIONAL INSURED – GOVERNMENTAL ENTITIES – PERMITS OR AUTHORIZATIONS RELATING TO PREMISES

The following is added to **SECTION II – WHO IS AN INSURED**:

Any governmental entity that has issued a permit or authorization with respect to premises owned or occupied by, or rented or loaned to, you and that you are required by any ordinance, law, building code or written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of the existence, ownership, use, maintenance, repair, construction, erection or removal of any of the following for which that governmental entity has issued such permit or authorization: advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away

openings, sidewalk vaults, elevators, street banners or decorations.

### I. BLANKET ADDITIONAL INSURED – GOVERNMENTAL ENTITIES – PERMITS OR AUTHORIZATIONS RELATING TO OPERATIONS

The following is added to **SECTION II – WHO IS AN INSURED**:

Any governmental entity that has issued a permit or authorization with respect to operations performed by you or on your behalf and that you are required by any ordinance, law, building code or written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of such operations.

The insurance provided to such governmental entity does not apply to:

- a. Any "bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the governmental entity; or
- b. Any "bodily injury" or "property damage" included in the "products-completed operations hazard".

### J. INCIDENTAL MEDICAL MALPRACTICE

1. The following replaces Paragraph b. of the definition of "occurrence" in the **DEFINITIONS** Section:

- b. An act or omission committed in providing or failing to provide "incidental medical services", first aid or "Good Samaritan services" to a person, unless you are in the business or occupation of providing professional health care services.

2. The following replaces the last paragraph of Paragraph 2.a.(1) of **SECTION II – WHO IS AN INSURED**:

Unless you are in the business or occupation of providing professional health care services, Paragraphs (1)(a), (b), (c) and (d) above do not apply to "bodily injury" arising out of providing or failing to provide:

- (a) "Incidental medical services" by any of your "employees" who is a nurse, nurse assistant, emergency medical technician, paramedic, athletic trainer, audiologist, dietician, nutritionist,

occupational therapist or occupational therapy assistant, physical therapist or speech-language pathologist; or

- (b) First aid or "Good Samaritan services" by any of your "employees" or "volunteer workers", other than an employed or volunteer doctor. Any such "employees" or "volunteer workers" providing or failing to provide first aid or "Good Samaritan services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.

- 3. The following replaces the last sentence of Paragraph 5. of **SECTION III – LIMITS OF INSURANCE**:

For the purposes of determining the applicable Each Occurrence Limit, all related acts or omissions committed in providing or failing to provide "incidental medical services", first aid or "Good Samaritan services" to any one person will be deemed to be one "occurrence".

- 4. The following exclusion is added to Paragraph 2., **Exclusions**, of **SECTION I – COVERAGES – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY**:

**Sale Of Pharmaceuticals**

"Bodily injury" or "property damage" arising out of the violation of a penal statute or ordinance relating to the sale of pharmaceuticals committed by, or with the knowledge or consent of the insured.

- 5. The following is added to the **DEFINITIONS** Section:

"Incidental medical services" means:

- a. Medical, surgical, dental, laboratory, x-ray or nursing service or treatment, advice or instruction, or the related furnishing of food or beverages; or
- b. The furnishing or dispensing of drugs or medical, dental, or surgical supplies or appliances.

- 6. The following is added to Paragraph 4.b., **Excess Insurance**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

This insurance is excess over any valid and collectible other insurance, whether primary, excess, contingent or on any other basis,

that is available to any of your "employees" for "bodily injury" that arises out of providing or failing to provide "incidental medical services" to any person to the extent not subject to Paragraph 2.a.(1) of Section II – Who Is An Insured.

**K. MEDICAL PAYMENTS – INCREASED LIMIT**

The following replaces Paragraph 7. of **SECTION III – LIMITS OF INSURANCE**:

- 7. Subject to Paragraph 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person, and will be the higher of:

- a. \$10,000; or
- b. The amount shown in the Declarations of this Coverage Part for Medical Expense Limit.

**L. AMENDMENT OF EXCESS INSURANCE CONDITION – PROFESSIONAL LIABILITY**

The following is added to Paragraph 4.b., **Excess Insurance**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis, that is Professional Liability or similar coverage, to the extent the loss is not subject to the professional services exclusion of Coverage A or Coverage B.

**M. BLANKET WAIVER OF SUBROGATION – WHEN REQUIRED BY WRITTEN CONTRACT OR AGREEMENT**

The following is added to Paragraph 8., **Transfer Of Rights Of Recovery Against Others To Us**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

If the insured has agreed in a written contract or agreement to waive that insured's right of recovery against any person or organization, we waive our right of recovery against such person or organization, but only for payments we make because of:

- a. "Bodily injury" or "property damage" that occurs; or
- b. "Personal and advertising injury" caused by an offense that is committed;

subsequent to the signing of that contract or agreement.

## COMMERCIAL GENERAL LIABILITY

### N. CONTRACTUAL LIABILITY – RAILROADS

1. The following replaces Paragraph c. of the definition of "insured contract" in the **DEFINITIONS** Section:
  - c. Any easement or license agreement;
2. Paragraph f.(1) of the definition of "insured contract" in the **DEFINITIONS** Section is deleted.

## City of Marquette, MI

300 West Baraga Avenue  
Marquette, MI 49855

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**Agenda Date:** 3/29/2021

### **Consent Agenda** **Coast Guard Building Boiler Replacement**

#### **BACKGROUND:**

The building and domestic water heating systems in the Coast Guard Station and Captain's Quarters at the Coast Guard Park are past the end of their useful life and need immediate replacement. Due to the age of the current system staff determined that a design build approach would be the best option to protect the City from potential cost over runs that could occur with such an aged boiler system and piping.

Staff reached out to two local firms to provide a design and build proposal based upon a standard set of equipment specs. Johnson Controls quoted a total cost of \$78,250 and Prime Mechanical quoted the project at \$71,995. Since Prime Mechanical provided the best and lowest bid, staff continued to work with them to value engineer the project to decrease the overall cost while maintaining equipment quality and performance. By adjusting the proposed equipment manufacturers Prime Mechanical was able to value engineer the price to \$58,345. Due to the age of the buildings and their State Historic Preservation status, staff recommends adding a 15% contingency to the project to cover any unforeseen issues. The City will realize approximately \$1,600 in energy rebates from Semco once the project is complete.

#### **FISCAL EFFECT:**

The project will be funded through the Coast Guard Property Improvement Bond. Adequate funds in the bond are available.

#### **RECOMMENDATION:**

Approve the replacement of the boiler systems in Coast Guard Park by Prime Mechanical of Marquette, Michigan in an amount not-to-exceed \$67,100.

#### **ALTERNATIVES:**

As determined by the Commission.

#### **ATTACHMENTS:**

Description

- ▣ Prime Proposal #1
- ▣ Prime Proposal #2
- ▣ JCI Proposal

February 19, 2021

TO: **Eric Stemen**  
**City of Marquette**  
**Marquette, MI 49855**

RE: **Proposal 20-289**

We appreciate the opportunity to provide this quote to replace the boilers in the Captains House and "Old" Coast Guard Station with high efficiency condensing boilers.

**Riello Condexa High Efficiency Boiler and System Circulator Replacements:**

**Lump Sum \$71,995**

- Install system cleaner and circulate prior to draining for demolition
- Remove & dispose existing cast iron boilers
- Furnish & install NEW Riello High Efficiency Boilers
  - Captains House Combi 80,750 Btu/HR Heating
  - Captains House Combi 120,000 BTU/HR Domestic Water Heating
  - Coast Guard Station 255 MBH High Efficiency Boiler
- Furnish & install New Domestic Water Heaters
  - Captains House- Combi Boiler 3.3 GPM @ 70 Deg Rise
  - Coast Guard Station- 50 Gallon Indirect
- Furnish & Install New Circulating Pumps
  - Captains House (2) Grundfos Alpha
  - Coast Guard Station (3) Grundfos Magna
- Furnish and Install New boiler piping accessories
  - Air/Dirt/Magnetic Separators
  - Check trol isolation flange sets on each new HW circulating pump
  - Thermometers, circuit setters and isolation valves on HW return headers
- PVC venting for boilers will be ran to the North side of houses
- Boiler E- stops
  - Captains House (1)
  - Coast Guard Station (2)
- New ½" RPZ's, Pressure Reducing Fill Valves and Expansion Tanks

**Exclusions**

- Hazardous materials identification or abatement of any kind or type, unless specifically noted
- Boiler and circulator start/stop controls, system monitoring, thermostats, control wiring.

**Water Service Repairs:**

**Captains House-** Replace ¾" Pex water supply piping from water meter to water heater with ¾" Type L copper pipe, Approximately 40': \$1,100<sup>.00</sup>

- Does not include pipe insulation

**Coast Guard Station-** Remove existing pressure reducing valve and check valve on water service pipe feeding basement, replace with copper pipe: \$318.00

- Patch insulation where devices were removed

Our team at Prime appreciates this opportunity. Should you have any questions, or if you would like to discuss, never hesitate to call.

Sincerely,  
Jesse Harvala

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#### TERMS & CONDITIONS

- This proposal is valid for 30 days and shall be considered withdrawn if a deposit is not provided prior to its expiration
- When applicable, all taxes and permit fees are included in this proposal.
- All material is guaranteed to be installed according to all state and local codes and in a professional manner.
- All material and labor supplied by us is warranted for one-year from the date of installation.
- Employees are fully covered by workmen's compensation insurance and general liability insurance.
- Liability of products sold by us are limited to manufacturer's guarantee period and terms.

#### ACCEPTANCE OF PROPOSAL

PAYMENT SCHEDULE TO BE MADE AS FOLLOWS:

|                        |                                 |
|------------------------|---------------------------------|
| Acceptance of Proposal | 50% deposit                     |
| Balance Due            | Immediately Upon Installation   |
|                        | Progress Billings if applicable |

The above prices, specifications and conditions are satisfactory and are hereby accepted. Field changes are subject to current install rates at per hour/per man, plus materials. Please note, once materials are ordered for this job, not all items can be returned, and some may incur a re-stocking charge. You are authorized to do the work as specified.

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

Print Name: \_\_\_\_\_

Date of Acceptance: \_\_\_\_\_

March 15, 2021

TO: **Eric Stemen**  
**City of Marquette**  
**Marquette, MI 49855**

RE: **Proposal 20-289 W/ Value Engineering Option**

We appreciate the opportunity to provide this quote to replace the boilers in the Captains House and "Old" Coast Guard Station with high efficiency condensing boilers.

**NTI High Efficiency Boiler and B&G System Circulator Replacements:**

**Lump Sum \$58,345.00**

- Install system cleaner and circulate prior to draining for demolition
- Remove & dispose existing cast iron boilers
- Furnish & install NEW NTI High Efficiency Boilers
  - Captains House (1) NTI TFT-110 Trinity SS Gas Boiler
    - Includes Protonode RER Gateway interface (MODBUS-BACnet)
  - Coast Guard Station (1) NTI TFT-154 Trinity SS Gas Boiler
    - Includes Protonode RER Gateway interface (MODBUS-BACnet)
- Furnish & install New Domestic Indirect Water Heaters
  - Captains House- 40 Gallon
  - Coast Guard Station- 50 Gallon
- Furnish & Install New Circulating Pumps
  - Captains House
    - (2) B&G NRF 25 Circulating Pumps
  - Coast Guard Station
    - (2) B&G NRF 45 Circulating Pumps
    - (1) B&G Series 100 Circulating Pump
- Furnish and Install New boiler piping accessories
  - Air/Dirt/Magnetic Separators
  - Check trol isolation flange sets on each new HW circulating pump
  - Thermometers, circuit setters and isolation valves on HW return headers
- PVC venting for boilers will be ran to the North side of houses
- Boiler E- stops
  - Captains House (1)
  - Coast Guard Station (2)
- New ½" RPZ's, Pressure Reducing Fill Valves and Expansion Tanks

**Exclusions**

- Hazardous materials identification or abatement of any kind or type, unless specifically noted
- Boiler and circulator start/stop controls, system monitoring, thermostats, control wiring.

902 W. Baraga Avenue  
Marquette, MI 49855  
Office: 906.226.8381  
Email: Office@PrimeMQT.com



**Prime Specialty Contracting, LLC**  
Prime Mechanical Contracting  
Prime Plumbing, Heating, & Cooling  
Prime Metals & Materials

### Water Service Repairs:

**Captains House-** Replace  $\frac{3}{4}$ " Pex water supply piping from water meter to water heater with  $\frac{3}{4}$ " Type L copper pipe, Approximately 40': \$1,100<sup>00</sup>

- Does not include pipe insulation

**Coast Guard Station-** Remove existing pressure reducing valve and check valve on water service pipe feeding basement, replace with copper pipe: \$318.00

- Patch insulation where devices were removed

Our team at Prime appreciates this opportunity. Should you have any questions, or if you would like to discuss, never hesitate to call.

Sincerely,  
Jesse Harvala

---

### TERMS & CONDITIONS

- This proposal is valid for 30 days and shall be considered withdrawn if a deposit is not provided prior to its expiration
- When applicable, all taxes and permit fees are included in this proposal.
- All material is guaranteed to be installed according to all state and local codes and in a professional manner.
- All material and labor supplied by us is warranted for one-year from the date of installation.
- Employees are fully covered by workmen's compensation insurance and general liability insurance.
- Liability of products sold by us are limited to manufacturer's guarantee period and terms.

### ACCEPTANCE OF PROPOSAL

PAYMENT SCHEDULE TO BE MADE AS FOLLOWS:

|                        |                                 |
|------------------------|---------------------------------|
| Acceptance of Proposal | 50% deposit                     |
| Balance Due            | Immediately Upon Installation   |
|                        | Progress Billings if applicable |

The above prices, specifications and conditions are satisfactory and are hereby accepted. Field changes are subject to current install rates at per hour/per man, plus materials. Please note, once materials are ordered for this job, not all items can be returned, and some may incur a re-stocking charge. You are authorized to do the work as specified.

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

Print Name: \_\_\_\_\_

Date of Acceptance: \_\_\_\_\_



Johnson Controls, Inc.  
N961 Tower View Dr  
Greenville, WI 54942  
Cell: 906-458-2954  
Fax: 920-831-3801

Mr. Eric Stemen  
City of Marquette  
1100 Wright St  
Marquette, MI 49855

February 10, 2020

SUBJECT: City of Marquette Coast Guard Housing Boiler Replacement

**Our Scope for this project includes the following:**

**Captains Quarters:**

- Disconnect existing heating water piping from the boilers and heating water pumps.
- Disconnect existing gas piping from the boilers.
- Disconnect existing electrical power and controls wiring.
- Remove (1) existing boiler.
- Remove water heater zone pumping.
- Provide (1) Riello Condexa Residence Pro 32 KIS Wall Hung Combi Condensing Water Tube Boiler & water heater providing hydronic hot water and domestic hot water.
- Provide outdoor air/header sensor kit to have boiler operate on temperature reset schedule.
- Provide and install (2) Grundfos Alpha2 26-99 Pumps. Will monitor operation through BAS.
- Provide and install (1) 1 ½" Caleffi Air/Dirt/Mag Separator in hydronic loop to remove air in the system.
- Provide and install 23 gallon Bladder Type Expansion Tank.
- Connect the (1) new boiler to revised sch 40 natural gas piping.
- Provide and revise required piping to accommodate the (1) new boiler and water heater.
- Provide and install ¾" inline pressure reducing valve on the water service.
- Replace existing backflow prevention with an RPZ double check with atmospheric relief. Relief will be piped to the floor drain.
- Provide and install condensate piping to floor drains in basement.
- Provide boiler venting to the (1) new Riello Boiler through the basement sidewall.
- Provide piping insulation on all newly installed heating water piping.
- Provide electrical power to the (1) new boiler.
- Provide new electrical E-Stop at each entrance to boiler room.
- Start-up and owner training.

### Crew Housing:

- Disconnect existing heating water piping from the boilers and heating water pumps.
- Disconnect existing gas piping from the boilers.
- Disconnect existing electrical power and controls wiring.
- Remove (1) existing boiler.
- Remove water heater zone pumping.
- Provide (1) Riello Condexa 255 Wall Hung Combi Condensing Water Tube Boiler with separate 40 gallon Diversified Heat Transfer indirect water heater providing hydronic hot water and domestic hot water.
- Provide and install outdoor air/header sensor kit to have boiler operate on temperature reset schedule.
- Provide and install (3) Grundfos Magna3 32-100 Pumps. Will monitor operation through BAS.
- Provide and install (1) 2" Caleffi Air/Dirt/Mag Separator in hydronic loop to remove air in the system.
- Provide and install 35 gallon Bladder Type Expansion Tank.
- Connect the (1) new boiler to revised sch 40 natural gas piping.
- Provide and revise required piping to accommodate the (1) new boiler and water heaters.
- Provide and install ¾" inline pressure reducing valve on the water service.
- Replace existing backflow prevention with an RPZ double check with atmospheric relief. Relief will be piped to the floor drain.
- Provide and install condensate piping to floor drains in basement.
- Provide boiler venting to the (1) new Riello Boilers through the basement sidewall.
- Provide piping insulation on all newly installed heating water piping.
- Provide electrical power to the (1) new boilers.
- Provide new electrical E-Stop at each entrance to boiler room.
- Start-up and owner training.

### Notes:

- (1) Year labor and workmanship warranty, parts and equipment warranty per manufacturer
- This quote is based on current commodity material pricing and availability
- This proposal includes local permit and registration of the boiler(s) with the Michigan LARA Boiler Division
- Work hours are 7:00 am – 3:30 pm Monday-Friday
- This proposal includes engineering and state approved drawings

### Exclusions:

- Premium time
- Testing or abatement of lead paint or asbestos
- State approvals and engineered drawings.
- TAB is not included. New pumping will modulate based on demand.

\*\*\*\*\*

**PRICING:**

Johnson Controls would like to thank you for the opportunity to present this proposal for your consideration. Pricing is valid for 60 days after quotation.

**BASE BID -----\$78,250.00**  
(INCLUDES Taxes)

Please call if you have any questions regarding this scope of work.

Respectfully,  
Chris Oja  
Johnson Controls, Inc.  
906-458-2954

**CUSTOMER APPROVAL:**

Total Price: \_\_\_\_\_

Customer Name: \_\_\_\_\_

Signature (\*) \_\_\_\_\_

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

\* By signing this proposal, you agree to purchase the bill of material as described in this proposal document, pursuant to the attached standard terms and conditions and for the Total Price documented on the above line.

## TERMS AND CONDITIONS

By accepting this proposal, Purchaser agrees to be bound by the following terms and conditions:

1. **SCOPE OF WORK.** This proposal is based upon the use of straight time labor only. Plastering, patching and painting are excluded. "In-line" duct and piping devices, including, but not limited to, valves, dampers, humidifiers, wells, taps, flow meters, orifices, etc., if required hereunder to be furnished by Johnson, shall be distributed and installed by others under Johnson's supervision but at no additional cost to Johnson. Purchaser agrees to provide Johnson with required field utilities (electricity, toilets, drinking water, project hoist, elevator service, etc.) without charge. Johnson agrees to keep the job site clean of debris arising out of its own operations. Purchaser shall not back charge Johnson for any costs or expenses without Johnson's written consent.

Unless specifically noted in the statement of the scope of work or services undertaken by JCI under this agreement, JCI's obligations under this agreement expressly exclude any work or service of any nature associated or connected with the identification, abatement, clean up, control, removal, or disposal of environment Hazards or dangerous substances, to include but not be limited to asbestos or PCBs, discovered in or on the premises. Any language or provision of the agreement elsewhere contained which may authorize or empower the Purchaser to change, modify, or alter the scope of work or services to be performed by JCI shall not operate to compel JCI to perform any work relating to Hazards without JCI's express written consent.

2. **INVOICING & PAYMENTS.** Johnson may invoice Purchaser monthly for all materials delivered to the job site or to an off-site storage facility and for all work performed on-site and off-site. Purchaser shall pay Johnson at the time purchaser signs this agreement an advance payment equal to 50% of the contract price, which advance payment shall be credited against the final payment (but not any progress payment) due hereunder and purchaser agrees to pay Johnson additional amounts invoiced upon receipt of the invoice. Waivers of lien will be furnished upon request, as the work progresses; to the extent payments are received. If Johnson's invoice is not paid within 30 days of its issuance, it is delinquent.
3. **MATERIALS.** If the materials or equipment included in this proposal become temporarily or permanently unavailable for reasons beyond the control and without the fault of Johnson, then in the case of such temporary unavailability, the time for performance of the work shall be extended to the extent thereof, and in the case of permanent unavailability, Johnson shall (a) be excused from furnishing said materials or equipment, and (b) be reimbursed for the difference between the cost of the materials or equipment permanently unavailable and the cost of a reasonably available substitute therefore.
4. **WARRANTY.** Johnson warrants that the equipment manufactured by it shall be free from defects in material and workmanship arising from normal usage for a period of ninety (90) days from delivery of said equipment, or if installed but not manufactured by Johnson, for a period of ninety (90) days from installation. Johnson warrants that for equipment furnished and or installed but not manufactured by Johnson, Johnson will extend the same warranty terms and conditions which Johnson receives from the manufacturer of said equipment. For equipment installed by Johnson, if Purchaser provides written notice to Johnson of any such defect within thirty (30) days after the appearance or discovery of such defect, Johnson shall, at its option, repair or replace the defective equipment. For equipment not installed by Johnson, if Purchaser returns the defective equipment to Johnson within thirty (30) days after appearance or discovery of such defect, Johnson shall, at its option, repair or replace the defective equipment and return said equipment to Purchaser. All transportation charges incurred in connection with the warranty for equipment not installed by Johnson shall be borne by Purchaser. These warranties do not extend to any equipment which has been repaired by others, abused, altered or misused, or which has not been properly and reasonably maintained. THESE WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THOSE OF MERCHANTABILITY AND FITNESS FOR A SPECIFIC PURPOSE.
5. **LIABILITY.** Johnson shall not be liable for any special, indirect or consequential damages arising in any manner from the equipment or material furnished or the work performed pursuant to this agreement.
6. **TAXES.** The price of this proposal does not include duties, sales, use, excise, or other similar taxes, unless required by federal, state or local law. Purchaser shall pay, in addition to the stated price, all taxes not legally required to be paid by Johnson or, alternatively, shall provide Johnson with acceptable tax exemption certificates. Johnson shall provide Purchaser with any tax payment certificate upon request and after completion and acceptance of the work.
7. **DELAYS.** Johnson shall not be liable for any delay in the performance of the work resulting from or attributed to acts or circumstances beyond Johnson's control, including, but not limited to, acts of God, fire, riots, labor disputes, conditions of the premises, acts or omissions of the Purchaser, Owner or other Contractors or delays caused by suppliers or subcontractors of Johnson, Etc.
8. **COMPLIANCE WITH LAWS.** Johnson shall comply with all applicable federal, state and local laws and regulations and shall obtain all temporary licenses and permits required for the prosecution of the work. Licenses and permits of a permanent nature shall be procured and paid for by the Purchaser.
9. **DISPUTES.** All disputes involving more than \$15,000 shall be resolved by arbitration in accordance with the rules of the American Arbitration Association. The prevailing party shall recover all legal costs and attorney's fees incurred as a result. Nothing here shall limit any rights under construction lien laws.
10. **INSURANCE.** Insurance coverage in excess of Johnson's standard limits will be furnished when requested and required. No credit will be given or premium paid by Johnson for insurance afforded by others.
11. **INDEMNITY.** The Parties hereto agree to indemnify each other from any and all liabilities, claims, expenses, losses or damages, including attorneys' fees, which may arise in connection with the execution of the work herein specified and which are caused, in whole or in part, by the negligent act or omission of the Indemnifying Party.
12. **OCCUPATIONAL SAFETY AND HEALTH.** The Parties hereto agree to notify each other immediately upon becoming aware of an inspection under, or any alleged violation of, the Occupational Safety and Health Act relating in any way to the project or project site.
13. **ENTIRE AGREEMENT.** This proposal, upon acceptance, shall constitute the entire agreement between the parties and supersedes any prior representations or understandings.
14. **CHANGES.** No change or modification of any of the terms and conditions stated herein shall be binding upon Johnson unless accepted by Johnson in writing.

## **City of Marquette, MI**

300 West Baraga Avenue  
Marquette, MI 49855

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**Agenda Date: 3/29/2021**

### **Consent Agenda**

## **Construction Materials Testing Services Acceptance for 2021 Reconstruction Projects**

### **BACKGROUND:**

Construction materials incorporated into municipal projects require testing to ensure conformance with project specifications. City Engineering Technicians are certified in the testing of some materials, but some testing is beyond the scope of the department and City owned testing equipment.

A request for qualifications for construction materials testing was advertised. Two firms responded. Each firm was evaluated using a Qualifications Based Selection process and ranked numerically with the highest ranking being the best. Evaluations were done by the City Engineer, Assistant City Engineer, and the Staff Engineer. Evaluation criteria included the cost of each type of testing service, the scope of the testing services to be provided, and past customer service satisfaction. The results are summarized below:

Vendor Average Score:  
GEI Consultants, P.C. 89  
Coleman Engineering Co. 80

### **FISCAL EFFECT:**

\$15,000 is included within the approved FY 2021 budget for this purpose. Sufficient funds for testing services are identified for each project.

### **RECOMMENDATION:**

Approve the construction materials testing Professional Services Contract for 2021 reconstruction projects with GEI Consultants of Michigan, P.C. for an amount not-to-exceed \$15,000, and authorize the Mayor and Clerk to sign the contract.

### **ALTERNATIVES:**

As determined by the Commission.

### **ATTACHMENTS:**

Description

- ▣ Consultant Proposal - Exhibit A
- ▣ Professional Services Contract

Consulting  
Engineers and  
Scientists

March 17, 2021  
Proposal No. 610043



Mr. Mikael Kilpela, City Engineer  
City of Marquette Engineering Department  
Municipal Service Center  
1100 Wright Street  
Marquette, Michigan 49855  
[mkilpela@marquettemi.gov](mailto:mkilpela@marquettemi.gov)

**RE: Proposal for Construction Material Testing Services 2021  
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 235 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 (906) 214-4141

**Green Bay, Wisconsin**

3159 Voyager Drive, Suite A  
Green Bay, WI 54311  
Phone (920) 455-8200  
Fax (920) 455-8225

**Iron Mountain, Michigan**

617 N. Stephenson Avenue  
Iron Mountain, MI 49801  
Phone (906) 828-9303  
Fax (906) 214-4141

**Madison, Wisconsin**

406 Science Drive, Suite 404  
Madison, WI 53711  
Phone (608) 620-1764  
Fax (920) 455-8225

*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*

230 N. Washington Square, Suite 201  
Lansing, MI 48933  
Phone (517) 974-5530  
Fax (906) 214-4141

*Plymouth, Michigan*

9282 General Drive, Suite 180  
Plymouth, MI 48170  
Phone (734) 680-1600  
Fax (906) 214-4141

**Statement of Project Understanding**

Based on the RFP, we understand the City of Marquette has the following projects planned for the 2021 construction season:

- Annual Sidewalk Repair, Replacement;
- Washington Street 100 Block Streetscape (Third to Front);
- Hewitt Avenue Reconstruction (Pine to Spruce);
- Pine Street Reconstruction (Hewitt to Prospect);
- College Avenue Reconstruction (Presque Isle to Front);
- Front Street Reconstruction (Magnetic to Fair);
- Newberry Street Upgrade (Division to E. End);
- Shiras Drive Upgrade (US41 to Schoolcraft);
- 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 2021 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 23 years of experience in testing, managing, and overseeing large CQA projects. The day to day project activities will be managed by Mr. Kevin Rautiola. Mr. Rautiola has over 17 years of experience in the testing industry. He will provide coordination, review daily field reports and test results, and distribute results to the appropriate parties. Our 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:

| <b>Staff Title</b>      | <b>Staff Name</b>   | <b>Phone Number</b> | <b>MDOT/ACI Concrete Cert.</b> | <b>MDOT Density Cert.</b> | <b>MDOT Aggregate Base Cert.</b> |
|-------------------------|---------------------|---------------------|--------------------------------|---------------------------|----------------------------------|
| Project Supervisor      | Chris Abraham, P.E. | (906) 284-9044      | -                              | -                         | -                                |
| Project Manager         | Kevin Rautiola      | (906) 250-8666      | Level II                       | Yes                       | Yes                              |
| Engineering Technician  | Bruce Peterson      | (906) 869-0454      | Level I                        | Yes                       | Yes                              |
| Engineering Technician  | Tom LaFave          | (906) 362-1328      | Level I                        | -                         | -                                |
| Engineering Technician  | Josh Eckert         | (608) 449-6585      | Level I                        | Yes                       | Yes                              |
| Engineering Technician  | Colton Tarsi        | (906) 367-0346      | Level I                        |                           |                                  |
| Technical Support Staff | Jacob Paquet        | (906) 458-2295      | Level I                        | -                         | -                                |

**Project Costs**

Our services will be billed on a time-and-expense basis utilizing the rates included on the attached "2021 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, 2021. 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 or [cabraham@geiconsultants.com](mailto:cabraham@geiconsultants.com) if you have any questions.

Sincerely,

GEI CONSULTANTS OF MICHIGAN, P.C.



Kevin A. Rautiola  
Project Manager



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

KAR/CRA:lmc

Enclosures:

2021 City of Marquette Request for Proposals Service Rates Spreadsheet  
Messrs. Chris Abraham and Kevin Rautiola Resumes  
Marquette Laboratory AMRL/AASHTO Certification  
Marquette Laboratory ACOE Validation

## 2021 City of Marquette Testing Services Request for Proposals

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

| Service                   | Rate               | Comments*                                                                     |
|---------------------------|--------------------|-------------------------------------------------------------------------------|
| <b>1) Technician rate</b> | \$59/hour          | Technicians performing the work will be licensed to operate a                 |
|                           |                    | Nuclear Density Gauge and will also hold ACI and MDOT Concrete                |
|                           |                    | Testing certifications.                                                       |
| <b>2) Mileage</b>         | N/C                | Mileage will not be charged for work performed within the                     |
|                           |                    | Marquette City limits.                                                        |
|                           |                    |                                                                               |
| <b>3) Compaction</b>      |                    |                                                                               |
| Michigan Cone Test        | N/C                | The cost of this test is included in the Technician hourly rate.              |
| Density Nuclear Gauge     | N/C                | The cost of this test is included in the Technician hourly rate.              |
|                           |                    |                                                                               |
|                           |                    |                                                                               |
| <b>4) Concrete</b>        |                    |                                                                               |
| Field Testing             | N/C                | The cost of this test is included in the Technician hourly rate.              |
| Compressive Strength      | \$20/cylinder      | For specimens that undergo compressive strength testing only.                 |
| Hold                      | \$10/cylinder      | Hold or Spare cylinders that are not tested will be charged at this rate.     |
|                           |                    |                                                                               |
|                           |                    | (Field Testing Line Item Includes air, slump, and cylinders)                  |
| <b>5) Aggregate</b>       |                    |                                                                               |
| Sieve Analysis - Sand     | \$100/test         |                                                                               |
| Sieve Analysis - Gravel   | \$130/test         |                                                                               |
|                           |                    |                                                                               |
|                           |                    |                                                                               |
| <b>6) HMA</b>             |                    |                                                                               |
| Extraction with Gradation | \$335/test         | Includes crush count                                                          |
| Density Nuclear Gauge     | N/C                | The cost of this test is included in the Technician hourly rate               |
|                           |                    |                                                                               |
|                           |                    |                                                                               |
| <b>7) Reporting</b>       |                    | Describe Reporting: Reports will generally be prepared by the Project Manager |
| Administration Staff      | \$60/hour          | with assistance from Administrative Staff as necessary. All reports will be   |
| Project Manager           | \$93/hour          | reviewed by a licensed Professional Engineer prior to transmittal.            |
|                           |                    |                                                                               |
|                           |                    |                                                                               |
|                           |                    |                                                                               |
| <b>8) Expenses</b>        | Cost +10%          | List Expenses:                                                                |
|                           |                    | There are no expenses anticipated for this project.                           |
|                           |                    |                                                                               |
|                           |                    |                                                                               |
|                           |                    |                                                                               |
|                           |                    |                                                                               |
| <b>9) Overtime</b>        |                    |                                                                               |
| Over 8 hours              | 1.25 x hourly rate |                                                                               |
| Saturdays                 | "                  |                                                                               |
| Sundays/Holidays          | "                  |                                                                               |
|                           |                    |                                                                               |
|                           |                    |                                                                               |
| <b>10) Other*</b>         | N/A                |                                                                               |
|                           |                    |                                                                               |
|                           |                    |                                                                               |
|                           |                    |                                                                               |
|                           |                    |                                                                               |

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

## Chris R. Abraham, P.E.

Branch Manager/Senior Project Manager

Mr. Abraham is a project manager with geotechnical engineering experience providing overall project management, geotechnical engineering analysis, foundation subgrade evaluations, and design and construction recommendations to a wide variety of clients. He has managed subsurface exploration programs and prepared geotechnical engineering analysis reports for clients in the municipal, commercial, industrial, and transportation market sectors.

Mr. Abraham also has a wealth of experience in the construction quality assurance and quality control field of materials testing and construction oversight. He has performed or managed staff performing materials testing and construction oversight services such as caisson construction observation, driven pile observation, foundation subgrade observation and testing, field compaction testing of structural fill materials, site balancing observation and testing, concrete, mortar and grout testing, structural steel observation and testing, and sprayed fire resistive material (SFRM) observation and testing.

### PROJECT EXPERIENCE

**MDOT US-2 Bridge Reconstruction Concrete Testing Services, Escanaba, Michigan.** Served as project manager and project engineer responsible for overseeing and coordinating the concrete quality control testing related to the reconstruction of a large, 4-lane bridge over the Escanaba River.

**Numerous MDOT Bridge and Highway Reconstruction Projects, Various Locations, Upper Michigan.** Served as project manager for dozens of projects over the past 11 years. Responsible for developing an MDOT Quality Control Plan for concrete testing services as well as coordinating technicians to perform the site concrete testing services in the field and the laboratory concrete testing.

**Eagle Mine Cemented Rock Backfill Testing Services, Marquette County, Michigan.** Served as project manager and project engineer responsible for overseeing and coordinating the Cemented Rock Fill (CRF) quality control testing for material used to backfill stopes within the underground mine that had been successfully mined. Services also included developing concrete mix designs and performing trial batches at the laboratory to determine the functionality of the mix.



### EDUCATION

B.S., Civil Engineering, Michigan Technological University

### EXPERIENCE IN THE INDUSTRY

23 years

### EXPERIENCE WITH GEI

11 years

### REGISTRATIONS AND LICENSES

Professional Engineer, WI No. 42133  
Professional Engineer, MI No. 6201054903  
Professional Engineer, KS No. 22605

### CERTIFICATIONS

Mine Safety and Health Administration (MSHA)

### PROFESSIONAL ASSOCIATIONS

American Society of Professional Engineers (ASPE)

**MDOT Transportation Improvement Concrete Testing Services, Marquette, Michigan.** Served as project manager and project engineer responsible for overseeing the concrete quality control testing along approximately 1 mile of US-41 and associated City of Marquette streets.

**Wolf Creek Nuclear Power Plant ESW Project, Burlington Kansas.** Served as project coordinator responsible for directing and coordinating field and laboratory construction monitoring services for a \$600-million-dollar nuclear facility upgrade project. Specifically, Mr. Abraham was responsible for building and maintaining a full-service soils and concrete testing laboratory to service the project. The laboratory was staffed with as many as six technicians during peak construction and was in operation 24 hours per day, 7 days a week for nearly 2 years. Services provided included compaction testing, foundation subgrade observation and testing, and concrete, grout, and mortar testing. Staff for this project were also responsible for developing and trial batching new concrete mix designs for the project.

**Aldi Retail Store Project, Escanaba, Michigan.** Served as project manager and project engineer. Responsible for directing and coordinating field construction monitoring services, including compaction testing of structural fill, foundation subgrade observation and testing, and concrete and masonry testing.

**Marquette Meijer Superstore Project, Marquette, Michigan.** Served as project manager and project engineer. Responsible for directing and coordinating field construction monitoring services, including compaction testing of structural fill, foundation subgrade observation and testing, concrete and masonry testing, and structural steel observation and testing.

**Keweenaw Bay Indian Community Casino Expansion, Marquette, Michigan.** Served as project manager and project engineer. Responsible for developing, coordinating, and overseeing the subsurface exploration and providing the geotechnical design and construction recommendations during the design phase of the project. The project entailed a large expansion to the existing casino, a new hotel, and a new water tower. Additional services also included directing and coordinating field construction monitoring services, including compaction testing of structural fill, foundation subgrade observation and testing, concrete and masonry testing, and structural steel observation and testing.

**Marquette Hospital Relocation Project, Skanska/Closner, Marquette, Michigan.** Served as project manager and project engineer. Responsible for directing and coordinating field construction monitoring services, including undercut observation and documentation, compaction testing of structural fill, foundation subgrade observation and testing, concrete and masonry testing, structural steel testing, and Sprayed Fire Resistive Material Testing and Firestop observation and testing.

**Twin Falls Powerhouse, Iron Mountain, Michigan.** Served as project manager responsible for coordinating and performing the instrumentation installation and monitoring during rock blasting activities. Mr. Abraham also developed and managed the project budget and was responsible for directing and coordinating field construction monitoring services, including compaction testing, foundation subgrade observation and testing, and concrete testing for more than 16,000 cubic yards of concrete associated with dam and spillway construction and the new powerhouse.

**Calumet New Medical Building Project, Calumet, Michigan.** Served as project manager and project engineer. Responsible for directing and coordinating field construction monitoring services, including undercut observation and documentation, compaction testing of structural fill, foundation subgrade observation and testing, and concrete and masonry testing.

**Municipal Service Center, Marquette, Michigan.** Served as project manager and project engineer. Responsible for developing, coordinating, and overseeing the subsurface exploration and providing the geotechnical design and construction recommendations during the design phase of the project. Also responsible for directing and coordinating field construction monitoring services, including compaction testing, foundation subgrade observation and testing, concrete testing, and structural steel testing.

**Colbert Fossil Plant Ash Pond No. 4 East Dike, Seismic Improvement Project, Tuscumbia, Alabama.** Served as project coordinator responsible for directing and coordinating field construction monitoring services for construction of Deep Mix Method (DMM) walls to stabilize approximately 3100 feet of foundation alluvium and wet sluiced ash dike material. Services Mr. Abraham's staff provided included DMM drill rig construction observation and documentation, observation of dike raising construction activities, compaction testing, and soil-cement mixture sampling and testing.

**UPHP New Office Building Seismic Monitoring, Marquette, Michigan.** Served as project manager and engineer. Responsible for developing and implementing a seismic monitoring program to monitor vibrations during soldier pile and lagging earth support system installation activities. The monitors continuously recorded vibrations near existing structures during pile installation. A summary report was provided at the end of the project.

**City of Marquette Materials Testing Services to 2011-2016 and 2018, Marquette, Michigan.** Served as project manager for each season's project. Responsible for directing and coordinating field construction monitoring services, including compaction testing on soil and bituminous materials, field and laboratory concrete testing, and laboratory soil testing.

**VA Hospital Surgery Addition and Renovation Project, Iron Mountain, Michigan.** Served as project manager and project engineer. Responsible for coordinating and performing the subsurface exploration and providing the geotechnical design and construction recommendations during the design phase of the project. Mr. Abraham also developed the project budget and was responsible for directing and coordinating field construction monitoring services, including compaction testing, foundation subgrade observation and testing, and concrete testing.

**Silver Lake Dam Reconstruction Project, Marquette County, Michigan.** Served as project engineer. Responsible for overseeing field exploration activities including monitoring drilling operations with multiple drill rigs performing standard penetration testing and rock coring activities. Additional responsibilities included overseeing test pit operations to identify suitable borrow areas for embankment material. Also assisted with developing the project budget to implement the Quality Control Inspection Plan (QCIP) and served as the construction services coordinator responsible for directing and coordinating as many as four field technicians to perform field construction monitoring services, including observation and testing of foundations, embankments, reinforcing steel, and cast-in-place concrete. Also supervised the laboratory testing services required for this project.

**New Bell Memorial Hospital, Ishpeming, Michigan.** Served as project manager and project engineer. Responsible for performing a geotechnical evaluation of a heavily wooded 40-acre site with significant grade changes, including generating a geotechnical report complete with site balancing and development recommendations and foundation design and construction recommendations. Also developed the project budget and served as the project manager and engineer responsible for directing and coordinating field construction monitoring services, including observation and testing of site balancing activities, compaction testing on structural fill, foundation subgrade observation and testing, concrete testing, structural steel testing, and testing of sprayed fire resistive material testing.

## Kevin A. Rautiola

Field Professional

Kevin Rautiola has 15 years of experience in many aspects of the quality assurance oversight, inspection, and materials testing for civil/structural engineering projects. He has worked on many projects from start to finish performing tasks that include assisting in subsurface exploration, surveying, cost estimating, quality assurance oversight and materials testing.

Mr. Rautiola assisted in development and has been managing the Marquette Laboratory for the past ten years. He has performed laboratory services such as soil gradations, specific gravities, atterberg limits, hydrometers, organic impurities, flat and elongated particles, deleterious particles, asphalt extraction/gradations, proctor testing, abrasion testing, soundness testing, concrete mix design verification lab trials and concrete compressive strength testing.

### PROJECT EXPERIENCE

#### **Bridge and Street Projects**

- **US-2 Improvements, MDOT Projects 110586 & 113853, Iron River, Michigan**
- **Ironwood Phase I and II US-2 Improvements, MDOT Projects, Ironwood, Michigan**
- **Bridge Replacement County Road 440 over Indian River, MDOT Project 105349, Manistique, Michigan**
- **Bridge Deck Replacement County Road 643 over Paint River, MDOT Project 115635, Iron County, Michigan**
- **Bridge Replacement County Road I-18 over Rapid River, MDOT Project 112384, Delta County, Michigan**
- **Bridge Replacement County Road G-24 over Tacoosh River, MDOT Project 112389, Delta County, Michigan**
- **Bridge Reconstruction County Road 480 over LS&I Railroad, MDOT Project 122994, Marquette County, Michigan**
- **Bridge Replacements County Road 550 over Big/Little Garlic Rivers, MDOT Projects 115641 / 118666, Marquette County, Michigan**
- **Bridge Replacement County Road MK over Werner Creek, MDOT Project 118665, Palmer, Michigan**
- **Bridge Rehabilitation Hwy 13 over Sturgeon River, MDOT Project 124258, Rapid River, Michigan**
- **Bridge Replacement County Road FR-1 over Ten Mile, MDOT Project 118667, Delta County, Michigan**
- **Bridge Replacement County Road EM over Mehl and Little Lake Overflow, MDOT Project 115638, Gwinn, Michigan.**

Technician. Developed and managed QC plans and assisted in field testing as well as laboratory testing of concrete compressive strength. The work also included development of Health and Safety Plans for GEI employees.



### EDUCATION

Civil Engineering Technology, Michigan Technological University

### EXPERIENCE IN THE INDUSTRY

15 years

### EXPERIENCE WITH GEI

10 years

### REGISTRATIONS AND LICENSES

United States Nuclear Regulatory Commission - NRC Material License No. 21-32834-01

### CERTIFICATIONS

MDOT Aggregate Technician Level I MDOT Aggregate Technician Level II  
MDOT Bituminous Paving Operations  
MDOT Concrete Paving Inspection  
Traffic Control Technician  
Michigan Department of Environmental Quality Certified Storm Water Operator  
Radiation Safety Officer Training  
Certified Nuclear Meter Operator  
Hazmat Certification  
Michigan Department of Transportation Density Technician  
Mine Safety and Health Administration Training  
American Red Cross First Aid/CPR Training  
ACI Concrete Field Testing Technician - Grade I  
ACI Concrete Strength Testing Technician  
MCA Concrete Field Testing Technician Level I  
MCA Level II Advanced Concrete Technician  
40 Hour- Hazardous Waste Operations and Emergency Response  
8 Hour- Supervisor Hazardous Waste Operations and Emergency Response

**Alger County Road Commission H-58 Phase IV, V and IIA Reconstruction, Alger County, Munising, Michigan.** Technician. Alger County reconstructed H-58 from gravel to asphalt roadway with an improved drainage system. Assisted in materials testing on all phases of reconstruction. Performed compaction testing on sand embankment fill and aggregate subbase. Performed field sampling of sand fill and aggregate along with laboratory work. Performed numerous extractions in laboratory on asphalt samples taken on all phased each day of placement.

**Miscellaneous Services, City of Marquette, Marquette, Michigan.** Technician. Managed and provided as needed compaction testing on multiple city re-construction street projects as well as laboratory testing of concrete compressive strength and bituminous asphalt extractions. The work also included development of Health and Safety Plan for GEI employees.

**Ishpeming Small Urban 2013, City of Ishpeming, Ishpeming, MI.** Technician. Provided concrete and compaction testing of a \$500,000 road improvements project for various streets within the City of Ishpeming, funded through the Michigan Department of Transportation (MDOT) Small Urban Grant Program.

**Ishpeming Partridge Creek Phase I, City of Ishpeming, Ishpeming, MI.** Technician. Provided engineering services for the design and construction of Phase I (\$2.3 Million) of an estimated \$8 Million project. Phase I consisted of full replacement of 48" and 72" diameter storm sewer, sanitary sewer, and watermain, as well as the construction of two open channel sections, and associated permitting. Performed materials testing services that included compaction testing and concrete sampling and testing and assisted with site inspection during construction.

**Ishpeming Partridge Creek Phase II, City of Ishpeming, Ishpeming, MI.** Technician. Provided engineering services for an approximately \$4 million project to construct large diameter (84") storm sewer main through the City of Ishpeming to reroute Partridge Creek through the storm sewer. Performed materials testing services that included compaction testing and concrete sampling and testing and assisted with site inspection during construction.

**Reconstruction Croix Street, Phase II, City of Negaunee, Michigan.** Technician. Performed construction engineering inspection services including oversight and materials testing of the construction Croix Street reconstruction. Also ensured contractor's compliance with MDOT Standard Specifications and other related project contract documents. Performed HMA inspection, measurement of project quantities, computation, documentation of quantities, and completion of Inspector's Daily Reports utilizing Field Book software.

**City of Detroit Reconstruction of New Railroad Bridge, MDOT Project JN60077A, City of Detroit, Michigan.** Technician. Performed construction engineering inspection services including oversight of the construction of a new railroad bridge and major reconstruction and staging with the Canadian Pacific Railway to maintain continuous rail traffic. Also ensured contractor's compliance with MDOT Standard Specifications and other related project contract documents. Performed HMA inspection, measurement of project quantities, computation, documentation of quantities, and completion of Inspector's Daily Reports utilizing Field Book software.

**City of Southfield Reconstruction of I-696/M-10, MDOT Project NH 63081-45715A**

**MDOT Project NH 63101-54301A, Southfield, Michigan.** Technician. Aided in the project inspection to ensure contractor's compliance with MDOT Standard Specifications and other related project contract documents. Additional responsibilities included concrete and HMA inspection, measurement of project quantities, computation, documentation of quantities, and completion of inspector's daily reports utilizing Field Book Software.



# CERTIFICATE OF ACCREDITATION



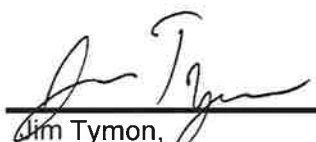
## GEI Consultants of Michigan, P.C.

in

### Marquette, Michigan, USA

has demonstrated proficiency for the testing of construction materials and has conformed to the requirements established in AASHTO R 18 and the AASHTO Accreditation policies established by the AASHTO Committee on Materials and Pavements.

The scope of accreditation can be viewed on the Directory of AASHTO Accredited Laboratories ([aashtoresource.org](http://aashtoresource.org)).

  
Jim Tymon,  
AASHTO Executive Director

  
Moe Jamshidi,  
AASHTO COMP Chair

This certificate was generated on 01/07/2020 at 10:49 AM Eastern Time. Please confirm the current accreditation status of this laboratory at [aashtoresource.org/aap/accreditation-directory](http://aashtoresource.org/aap/accreditation-directory)



# SCOPE OF AASHTO ACCREDITATION FOR:

GEI Consultants of Michigan, P.C.

in Marquette, Michigan, USA

## Quality Management System

| Standard:         |                                                                                                                                        | Accredited Since: |
|-------------------|----------------------------------------------------------------------------------------------------------------------------------------|-------------------|
| R18               | Establishing and Implementing a Quality System for Construction Materials Testing Laboratories                                         | 07/24/2015        |
| C1077 (Aggregate) | Laboratories Testing Concrete and Concrete Aggregates                                                                                  | 07/24/2015        |
| D3740 (Soil)      | Minimum Requirements for Agencies Engaged in Testing and/or Inspection of Soil and Rock as Used in Engineering Design and Construction | 05/02/2016        |
| E329 (Aggregate)  | Standard Specification for Agencies Engaged in the Testing and/or Inspection of Materials Used in Construction                         | 05/02/2016        |
| E329 (Soil)       | Standard Specification for Agencies Engaged in the Testing and/or Inspection of Materials Used in Construction                         | 05/02/2016        |



# SCOPE OF AASHTO ACCREDITATION FOR:

GEI Consultants of Michigan, P.C.  
in Marquette, Michigan, USA

## Soil

| Standard:                                                                                              | Accredited Since: |
|--------------------------------------------------------------------------------------------------------|-------------------|
| D421 Dry Preparation of Disturbed Soil and Soil Aggregate Samples for Test                             | 10/05/2018        |
| D422 Particle Size Analysis of Soils by Hydrometer                                                     | 07/24/2015        |
| D698 The Moisture-Density Relations of Soils Using a 5.5 lb [2.5 kg] Rammer and a 12 in. [305 mm] Drop | 07/24/2015        |
| D1140 Amount of Material in Soils Finer than the No. 200 (75- $\mu$ m) Sieve                           | 10/05/2018        |
| D1557 Moisture-Density Relations of Soils Using a 10 lb [4.54 kg] Rammer and an 18 in. [457 mm] Drop   | 07/24/2015        |
| D2216 Laboratory Determination of Moisture Content of Soils                                            | 07/24/2015        |
| D4318 Determining the Liquid Limit of Soils (Atterberg Limits)                                         | 07/24/2015        |
| D4318 Plastic Limit of Soils (Atterberg Limits)                                                        | 07/24/2015        |



# SCOPE OF AASHTO ACCREDITATION FOR:

GEI Consultants of Michigan, P.C.  
in Marquette, Michigan, USA

## Aggregate

| Standard:                                                                              | Accredited Since: |
|----------------------------------------------------------------------------------------|-------------------|
| C40 Organic Impurities in Fine Aggregates for Concrete                                 | 07/24/2015        |
| C117 Materials Finer Than 75- $\mu$ m (No. 200) Sieve in Mineral Aggregates by Washing | 07/24/2015        |
| C127 Specific Gravity and Absorption of Coarse Aggregate                               | 07/24/2015        |
| C128 Specific Gravity (Relative Density) and Absorption of Fine Aggregate              | 07/24/2015        |
| C136 Sieve Analysis of Fine and Coarse Aggregates                                      | 07/24/2015        |
| C142 Clay Lumps and Friable Particles in Aggregate                                     | 07/24/2015        |
| C702 Reducing Samples of Aggregate to Testing Size                                     | 07/24/2015        |
| D75 Sampling Aggregate                                                                 | 07/24/2015        |



**USACE CERTIFICATE  
OF  
LABORATORY VALIDATION**



**GEI Consultants of Michigan, PC**

**109 West Baraga Avenue  
Marquette, MI,  
Kevin Rautiola  
(906) 250-8666**

has demonstrated, by abbreviated audit of its AASHTO accreditation, or by inspection of required records, equipment, procedures, facilities, and/or final reports, its proficiency to perform testing of construction materials, as established by the quality standards of AASHTO R 18 guidance and the requirements of the applicable ASTM standards.

**THIS USACE CERTIFICATE OF LABORATORY VALIDATION IS ACCURATE AS OF ITS DATE AND TIME OF  
GENERATION:**

**19 JUN 2020 AT 17:27 HOURS**

**ALL METHODS LISTED ON THIS CERTIFICATE OF VALIDATION WILL EXPIRE ON 04/10/2021**

PLEASE CONFIRM THE CURRENT VALIDATION STATUS OF THIS LABORATORY USING THE SEARCH FEATURE ON  
OUR PUBLIC WEBSITE: <https://mtc.erdcdren.mil>

Chad A. Gartrell, PE, Director  
USACE Materials Testing Center  
Vicksburg, Mississippi, USA

**AGGREGATE**

Aggregate - C 40 - Opt - Organic Impurities  
Aggregate - D 75 - Opt - Sampling  
Aggregate - C 117 - Req - Material Finer than 75 µm (No. 200) Sieve  
Aggregate - C 127 - Req - Specific Gravity & Absorption in Coarse Aggregate  
Aggregate - C 128 - Req - Specific Gravity & Absorption in Fine Aggregate  
Aggregate - C 136 - Req - Sieve Analysis of Aggregates  
Aggregate - C 142 - Opt - Clay Lumps  
Aggregate - E 329 - Opt - Standard Specification for Agencies Engaged in Construction Inspection, Testing, or Special Inspection  
Aggregate - C 702 - Opt - Reducing Samples to Testing Size  
Aggregate - C 1077 - Opt - Concrete and Concrete Aggregate Testing Standards (Quality Standards)

**CONCRETE**

Concrete - C 31 - Req - Making and Curing Test Specimens in the Field  
Concrete - C 39 - Req - Compressive Strength of Cylindrical Specimens  
Concrete - C 138 - Req - Unit Weight and Air Content by Gravimetric  
Concrete - C 143 - Req - Slump  
Concrete - C 172 - Req - Sampling  
Concrete - C 231 - Req - Air Content by Pressure \*\*\*required if C173 not performed\*\*\*  
Concrete - C 470 - Opt - Molds for Forming Concrete Test Cylinders Vertically  
Concrete - C 511 - Opt - Moist Cabinets, Moist Rooms, Water Storage Tanks  
Concrete - C 1064 - Req - Temperature of Concrete  
Concrete - C 1231 - Opt - Unbonded Caps

**MASONRY**

Masonry - C 109 - Req - Compressive Strength of Cement Mortars Using Cube Specimens  
Masonry - C 1019 - Req - Sampling and Testing Grout

**ROCK**

Rock - D 4543 - Req - Preparing Rock Core Specimens and Determining Tolerances  
Rock - D 7012 - Req - Compressive Strength & Elastic Moduli of Rock Core Specimens

**SOILS**

Soils - E 329 - Opt - Standard Specification for Agencies Engaged in Construction Inspection, Testing, or Special Inspection  
Soils - D 421 - Req - Dry Preparation for Particle Size Distribution & Soil Constants  
Soils - D 422 - Req - Particle Size Analysis  
Soils - D 698 - Req - Compaction Characteristics by Standard Effort  
Soils - D 1140 - Req - Material Finer than 75  $\mu$ m (No. 200) Sieve  
Soils - D 1557 - Req - Compaction Characteristics by Modified Effort  
Soils - D 2166 - Req - Unconfined Compressive Strength  
Soils - D 2216 - Req - Water Content  
Soils - D 2974 - Req - Moisture, Ash, & Organic Matter of Peat & Other Organic Soils  
Soils - D 3740 - Opt - Soil and Rock Testing Standards (Quality Standard)  
Soils - D 4318 - Req - Liquid & Plastic Limits & Plasticity Index

## PROFESSIONAL SERVICES CONTRACT

**THIS AGREEMENT**, made this March 29, 2021 between the City of Marquette, hereinafter called the “City” and GEI Consultants of Michigan, P.C., a Michigan professional 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 2021 for the City of Marquette Michigan.

### 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 March 17, 2021 (attached as Exhibit A).

### Article 3

#### **Time of Completion**

The completion date of this project is December 1, 2021.

### 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 \$15,000.

**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 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 \_\_\_\_\_, 2021.

**OWNER**

CITY OF MARQUETTE, OWNER

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Jenna Smith, Mayor

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Kyle Whitney, Clerk

**CONSULTANT**

\_\_\_\_\_  
Witness

\_\_\_\_\_

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

Its: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone #: \_\_\_\_\_

APPROVED AS TO SUBSTANCE:

---

L. Michael Angeli  
City Manager

APPROVED AS TO FORM:

---

Suzanne Larsen  
City Attorney

## City of Marquette, MI

300 West Baraga Avenue  
Marquette, MI 49855

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**Agenda Date:** 3/29/2021

### **Consent Agenda** **Lakeview Russell Dasher Board - Bid Award**

#### **BACKGROUND:**

Staff advertised an RFP for dasher boards and glass for the Russell arena at Lakeview Arena on March 4, 2021 with proposals due on March 18, 2021. Four proposals were submitted as follows:

- Rink Systems, Albert Lea, MN - \$119,300.00
- Welmar Recreational Products, Guelph, ON - \$137,630.00
- All American Arena Products, Albert Lea, MN - \$162,400.00
- Athletica Sport Systems, Waterloo, ON - \$200,660.00

Staff evaluated all proposals based on experience of personnel, experience with arena dasher board systems, project management experience, cost, references and office location. All bids were found to be sufficient with the low bidder, Rink Systems, achieving the highest average score.

Staff recommends moving forward with Rink Systems and adding a 10% contingency for any on-site conditions discovered during their site visit.

#### **FISCAL EFFECT:**

This project is budgeted and the low bid is within the budget.

#### **RECOMMENDATION:**

Award the bid to Rink Systems of Albert Lea, Minnesota for an amount not-to-exceed \$131,230.00, including a 10% contingency for on-site conditions, and authorize the expenditure.

#### **ALTERNATIVES:**

As determined by the Commission.

#### **ATTACHMENTS:**

Description

- ▣ Bid Tabulation
- ▣ RFP

## BID TABULATION

### RFP21-04 "Lakeview Arena Russell Dasher Board Replacement"

2:00 P.M., March 19, 2021

| Bid Received From                             | Base Bid Amount (as read) | Bid Amount with Options |
|-----------------------------------------------|---------------------------|-------------------------|
| All American Arena Products<br>Albert Lea, MN | \$ 172,900.00             | \$162,400.00            |
| Athletica Sport Systems<br>Waterloo, ON       | \$219,560.00              | \$200,660.00            |
| Rink Systems Inc.<br>Albert, Lea, MN          | \$111,800.00              | \$119,300.00            |
| Welmar Recreational Products<br>Guelph, ON    | \$153,560.00              | \$137,630.00            |

## **I. INTENT**

It is the intent of this proposal to select a company to provide select a company to supply new dasher boards and acrylic for the Russell Arena at Lakeview Arena. The company will work directly with the City of Marquette Staff.

## **II. SELECTION PROCESS**

Selection will be made using a qualification based selection system to include experience with ice arena board design, ice arena board construction, project management services, capability to meet the timelines and objectives as provided and cost factors. Final selection will be made by the City Commission.

### **RATING OF FIRMS**

City staff will evaluate the proposals using a numeric rating system. Criteria and relative merit have not been determined at this time; however, the following is given as an example of what a firm may expect:

- Relative experience of personnel (20 points)
- Experience in design and construction of arena dasher boards (20 points)
- Project management experience (15)
- Cost (20 points)
- References (10 points)
- Office location (15 points)

## **III REQUIRED CONSIDERATIONS**

### **TASK ONE**      Site Evaluation

1. Meet with the City staff as needed to obtain a thorough understanding of the specific desires
  - A Define
    - (1.) Basic client desires
    - (2.) Specific project objectives to guide plan development
  - B. Attend virtual meetings when necessary

### **TASK TWO**      Board Design

1. Develop a design for the new board system
2. Develop a removal plan for existing boards which may include trade value
3. Provide cost estimations.

### **TASK THREE**      Action Plan

1. Provide lead time for boards.
2. Provide a plan which may include installation or supervised installation of boards

#### TASK FIVE                      Final Deliverable

For the Lakeview Arena Russell Board Project, **FINAL DOCUMENT, AND THE PROPOSOL** must be supplied to the City. All final print should be emailed to Katie Burnette at [kburnette@marquettetmi.gov](mailto:kburnette@marquettetmi.gov). Documents shall also be delivered in digital form in Microsoft Word format. Precision of language, clear organization, and clarity of presentation should be emphasized in all documents.

#### **IV.    OTHER CONSIDERATIONS**

The successful bidder will be notified of the award in writing and will be expected properly and promptly to execute a contract, such contract will include the following conditions:

##### INSURANCE

Provide evidence of insurance and the coverage limits, or state method for addressing insurance in the following categories:

- Workers Compensation – in compliance with Worker’s Compensation Act
- Comprehensive General Liability (including coverage for completed operations)
- Comprehensive Automobile Liability (including non-ownership and hired car)
- Professional Liability (errors and omissions, including contractual liability)

##### DOCUMENTS

All documents including drawings and specifications created or existing as part of this project, shall be available for use by, and become property of, the City.

#### **V.    OBJECTIVES OF THE REQUEST FOR PROPOSAL**

The objective of the RFP is to:

- Provide design, cost, and installation information for the replacement of the Russell Arena Dasher Boards at Lakeview Arena.

Proposals should be prepared simply and economically, providing a straightforward, concise description of the consultant’s ability to meet the requirements of the RFP.

##### TIMELINES

The following timelines is suggested

- March 29 – City Commission Approves
- May - Preliminary Design
- June - Final Design Review
- August - Mobilization
- September – Installation

## **VI. RECEIPT OF INFORMATION**

Interested parties are invited to respond to this RFP by submitting a response to the City. Please see section III, “Required Considerations” in formulating your response.

To be considered by the City of Marquette, the proposals must be received at the City Finance Department no later than **2:00 p.m. EST March 18, 2021**. Proposals are to be in emailed, clearly identifying the proposal title, “Lakeview Arena Russell Dasher Board Replacement” and are addressed to:

City of Marquette  
Katie Burnette, Finance Dept.  
kburnette@marquettemi.gov  
RFP21-04  
Lakeview Arena Russell Dasher Board Replacement

Proposals will be publicly opened at the following place and time:

Date: March 18, 2021  
Time: 2:00 p.m. EST  
Place: TBD

### **LATE PROPOSALS**

Any proposals received by the City Finance Department after the exact date specified above will not be considered.

### **WITHDRAWAL OF PROPOSALS**

Proposals may be withdrawn by written notice received at any time prior to award. Proposals may be withdrawn in person by an officer or by a representative of the firm, provided that the representative signs a receipt for the proposal prior to award.

Transmission by fax or email will not be accepted. **The City of Marquette reserves the right to reject any and all proposals.**

**VII. QUESTIONS CONCERNING THE RFP**

Please direct all comments and questions to Michael Anderson, Parks and Recreation Coordinator. All contact regarding this RFP or any matter relating thereto must be in writing and may be mailed, e-mailed, or faxed as follows:

Michael Anderson  
Parks and Recreation Coordinator  
300 W. Baraga  
Marquette, MI 49855  
Phone: (906) 225-8589  
Fax: (906) 228-0429  
Email: [mianderson@marquettemi.gov](mailto:mianderson@marquettemi.gov)

## **City of Marquette, MI**

300 West Baraga Avenue  
Marquette, MI 49855

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**Agenda Date:** 3/29/2021

### **Consent Agenda**

## **Marquette Beautification and Restoration Committee, Inc. Petunia Pandemonium Project**

### **BACKGROUND:**

The Marquette Beautification and Restoration Committee, Inc. is a well-respected leader within our community and a vital, long-standing partner with the City. For many years the City Commission has designated the committee as an authorized volunteer for the purpose of planting flowers during the Petunia Pandemonium and removal of the flowers in the fall.

The Michigan Department of Transportation (MDOT) approved the attached permit allowing the activities described in the permit for the purpose of carrying out the Petunia Pandemonium Project.

### **FISCAL EFFECT:**

None by this action.

### **RECOMMENDATION:**

Approve and designate the Marquette Beautification and Restoration Committee, Inc. as the City's authorized volunteer for the purpose of carrying out the activities of the Petunia Pandemonium Project as allowed by the MDOT permit.

### **ALTERNATIVES:**

As determined by the Commission.

### **ATTACHMENTS:**

Description

- ▣ MDOT Permit



# INDIVIDUAL CONSTRUCTION PERMIT

For Operations within State Highway Right-of-Way

**Issued To:**  
CITY OF MARQUETTE

300 W BARAGA AVE  
MARQUETTE MI 49855-4712

**Contact:**  
SCOTT CAMBENSY  
906-228-0444(O)  
SCAMBENSY@MARQUETTEMI.GOV

**Permit Number:** 52042-075727-21-030121  
**Permit Type:** Individual Application  
**Permit Fee:**  
**Effective Date:** Mar 01, 2021 to Mar 01, 2022  
**Bond Numbers:**  
**Liability Insurance Expiration Date:**

**THIS PERMIT IS VALID ONLY FOR THE FOLLOWING PROPOSED OPERATIONS:**

## PURPOSE:

Petunia Pandemonium Project - Clean-up and preparation of project area for the planting of flowers; planting maintenance of flowers; removal of flowers and general clean-up of project area.

**STATE ROUTE:** US-41      **CITY OF:** Marquette      **COUNTY:** Marquette County

| NEAREST INTERSECTION: | SIDE OF ROAD: | DISTANCE TO NEAREST INTERSECTION: | (in feet) | DIRECTION TO NEAREST INTERSECTION: |
|-----------------------|---------------|-----------------------------------|-----------|------------------------------------|
| M-28                  | E W           | 0.00                              |           | North                              |

| CONTROL SECTION: | MILE POINT FROM: | MILE POINT TO: | LOCATION:                           |                          |                                     |                          |
|------------------|------------------|----------------|-------------------------------------|--------------------------|-------------------------------------|--------------------------|
|                  |                  |                | LEFT                                | MEDIAN                   | RIGHT                               | TRANSVERSE               |
| 52042            | 3.770            | 4.310          | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

**REQUISITION NUMBER:**      **WORK ORDER NUMBER:**      **MDOT JOB NUMBER:**      **ORG JOB NUMBER:**

52042-075727-21-030121 Issued To: CITY OF MARQUETTE

**This permit is incomplete without "General Conditions and Supplemental Specifications"**

**I certify that I accept the following:**

1. I am the legal owner of this property or facility, the owner's authorized representative, or have statutory authority to work within state highway Right-of-Way.
2. Commencement of work set forth in the permit application constitutes acceptance of the permit as issued.
3. Failure to object, **within ten (10) days** to the permit as issued constitutes acceptance of the permit as issued.
4. If this permit is accepted by either of the above methods, I will comply with the provisions of the permit.
5. I agree that Advance Notice for Permitted Activities for shall be submitted **5 days prior** to the commencement of the proposed work.

I agree that Advance Notice for Permitted Utility Tree Trimming and Tree Removal Activities shall be submitted **15 days prior** to the commencement of the proposed work for an annual permit.

## CAUTION

**Work shall NOT begin until the Advance Notice has been approved.  
Failure to submit the advance notice may result in a Stop Work Order.**

CITY OF MARQUETTE

Benjamin Carrigan  
MDOT

March 01, 2021  
Approved Date

TSC Contact Info

Ishpeming TSC

(906) 485-4270

**THE STANDARD ATTACHMENTS, ATTACHMENTS AND SPECIAL CONDITIONS MARKED BELOW ARE A PART OF THIS PERMIT.**

### STANDARD ATTACHMENTS:

- 1 Mobility Flowchart for Permit Activities (2204C)
- 2 General Conditions for Permit (General Conditions)
- 3 ENVIRONMENTAL REQUIREMENTS FOR ACTIVITIES WITHIN MDOT RIGHT-OF-WAY (2486)
- 4 System Operation Advisory-Fluorescent Sheeting Implementation Sept. 20, 2016 (SOA) Fluorescent Sheeting

### ADDITIONAL ATTACHMENTS:

- 1 Scanned from MSC-C8045 - 2021-02-25T140656.793.pdf
- 2 LaneClosureMultiLaneUnDividedSection Front Street.pdf
- 3 November 25, 2008.pdf
- 4 Worker Visibility Clothing Requirement MDOT\_CA\_2009-08\_287335\_7 (2).pdf
- 5 Marquette City 01.08.18.pdf

**52042-075727-21-030121 Issued To:CITY OF MARQUETTE**

**AMENDMENT ATTACHMENTS:**

**SPECIAL CONDITIONS:**

- 1 The Department of Transportation does not, by issuance of this permit, assume any liability claims or maintenance costs resulting from the Petunia planting facility placed by this permit. The Department reserves the right to require removal of all or any portion of this facility as needed for highway maintenance or construction purposes without replacement or reimbursement of any costs incurred by the permitted or other party. The permitted will defend, indemnify and hold harmless the Department for any claims whatsoever resulting from the construction or the removal of the authorized by this permit.
- 2 All workers shall wear safety vests.
- 3 Sidewalks are to remain clear for pedestrians when pedestrians are present.

## City of Marquette, MI

300 West Baraga Avenue  
Marquette, MI 49855

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**Agenda Date:** 3/29/2021

### **Consent Agenda** **Recreation Software Contract**

#### **BACKGROUND:**

Community Services utilizes software for reservations and point of sale transactions. MaxGalaxy has been under contract until last year. The contract has an automatic renewal unless advance notification by either party is given. MaxGalaxy will no longer be supported beginning October 12, 2021 due to Microsoft Silverlight support expiration.

City staff have been looking at options since being notified by MaxGalaxy this winter. Prior to this ACTIVE Network bought MaxGalaxy. ACTIVE Network has proposed a three-year contract to continue service beginning in October for the same annual fee plus an additional one time data transfer and training fee. The contract has year one costs at \$21,702.50 and year two and three at \$11,040.00.

#### **FISCAL EFFECT:**

The 2022 budget would include the increase to cover the data transfer fee and training. 2023 and 2024 budgets would have similar costs to 2021.

#### **RECOMMENDATION:**

Approve the three-year contract with ACTIVE Network for recreation software at an annual cost of \$21,702.50 for the first year and \$11,040.00 per year for the remainder of the contract.

#### **ALTERNATIVES:**

As determined by the Commission.

#### **ATTACHMENTS:**

Description

- ▣ Contract



# Schedule

Company Address 717 North Harwood Drive, Suite 2500  
Dallas, TX 75201  
US

Created Date 2/4/2021  
Quote Number 00118778  
Currency USD

Prepared By Kim Klauer  
Opportunity Owner Becky Potter  
Owner Email [becky.baldridge@activenetwork.com](mailto:becky.baldridge@activenetwork.com)

Contact Name Michael Anderson  
Phone (906) 225-8589  
Email mianderson@marquettemi.gov

Bill To Name City of Marquette  
Bill To Contact Michael Anderson  
Bill To Address City of Marquette 300 W Baraga Ave  
Marquette, MI 49855 United States

Ship To Contact Michael Anderson  
Ship To Address City of Marquette 300 W Baraga Ave  
Marquette, MI 49855 United States  
Total Processing Volume USD 1,392,689.04

| Product                                                                                   | Product Type | Description                                                                                                                                                                                                                                                                                                                                                                                                                                               | Quantity | Fee % | Total Price | Total Discount Amount |
|-------------------------------------------------------------------------------------------|--------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|-------|-------------|-----------------------|
| ACTIVENet - Annual Subscription Fee                                                       | SaaS         |                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 1        |       | 11,040.00   | USD 0.00              |
| ACTIVENet - (credit card refunds - flat fee)                                              | SaaS         |                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 1        |       | 0.10        | USD 0.00              |
| ACTIVENet - Functionality: Activity Registration                                          | SaaS         |                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 1        |       |             | USD 0.00              |
| ACTIVENet - Functionality: Equipment Lending & POS                                        | SaaS         |                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 1        |       |             | USD 0.00              |
| ACTIVENet - Functionality: Facility Reservation                                           | SaaS         |                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 1        |       |             | USD 0.00              |
| ACTIVENet - Functionality: Memberships                                                    | SaaS         |                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 1        |       |             | USD 0.00              |
| ACTIVENet - SaaS                                                                          |              |                                                                                                                                                                                                                                                                                                                                                                                                                                                           |          |       |             | USD 0.00              |
| ACTIVENet - Credit Card Processing Fee (%)                                                | SaaS         |                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 1        | 3.00  |             | USD 0.00              |
| ACTIVENet - Public Interface Fee Set up - absorbed by client                              | SaaS         |                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 1        |       |             | USD 0.00              |
| ACTIVENet - Staff Interface - Payment Processing Fee - Electronic Cheque/Check Processing | SaaS         |                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 1        | 0.50  |             | USD 0.00              |
|                                                                                           |              | ACTIVE Net Service Package STANDARD 4 consists of the following Services:<br>• remote business process review<br>• remote functionality review & data collection preparation<br>• remote data collection review<br>• remote data entry (system inventory and policy controls)<br>• remote user testing<br>• LMS training<br>• remote supplemental training<br>• remote Go Live preparation<br>• remote go live support<br>• remote hardware configuration |          |       |             |                       |
| ACTIVENet - Service Package Standard                                                      | Service      |                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 1        |       | 10,662.50   | USD 10,662.50         |

|                                                           |             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |   |  |           |          |
|-----------------------------------------------------------|-------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|--|-----------|----------|
|                                                           |             | <ul style="list-style-type: none"> <li>• remote system optimization training</li> </ul> <p>The scope of Services is contained to the 4 functionalities of choice.</p> <p>50% of total Service costs will be billed at Service initiation, payable within 30 days of the date of invoice.</p> <p>50% of total Service costs will be billed at Service completion, payable within 30 days of the date of invoice.</p>                                                                                   |   |  |           |          |
| ACTIVENet - Technical Services: MaxGalaxy Data Conversion | Service     | <p>ACTIVE Net Technical Services: MaxGalaxy Data Conversion consists of the following services:</p> <ul style="list-style-type: none"> <li>• Remote configuration, testing, &amp; training</li> </ul> <p>Service information</p> <ul style="list-style-type: none"> <li>• This service enables a one-time import of customer information from MaxGalaxy to ACTIVE Net.</li> <li>• Please refer to the ACTIVE Net Reference Document – MaxGalaxy Data Conversion Guide for further details.</li> </ul> | 1 |  | 9,000.00  | USD 0.00 |
| ACTIVENet - ACH Remittance- Every 1 week                  | Service     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 1 |  |           | USD 0.00 |
| ACTIVENet - Loyalty Discount                              | Service     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 1 |  | -9,000.00 | USD 0.00 |
| ACTIVENet - Support Advanced Package                      | Maintenance | Support package for organizations migrating to ACTIVE Net.                                                                                                                                                                                                                                                                                                                                                                                                                                            | 1 |  |           | USD 0.00 |

Total Price USD 21,702.50

Annual Projected Contract Value USD 30,119.75

Active reserves the right, and may take additional measures to verify Client's account which may consist of reviewing publicly available data and/ confirmation of Client provided information. Such verification measures will be completed in advance of remittance.

All fees described herein are in consideration of the Software and Services that Active provides. Active and Client acknowledge that certain credit card network rules and laws prohibit imposing a surcharge that is based on the type of payment method used (e.g., having a different fee for the use of a credit card vs. debit card), and therefore, each agree not to impose such a surcharge on any End User.

The payment options we offer may include MasterCard, Visa, American Express and Discover.

If your order includes hardware, please note that all hardware orders have a 30-day return policy, and it is recommended that you inspect your purchases upon delivery.

\*Sales tax and shipping not included in total price. Sales tax and shipping, where applicable, will be added to your invoice.

By signing this Schedule, you agree to the terms and conditions governing your use of the Software and Services as set forth at:

General Terms - <http://www.activenetwork.com/general-terms>

Product Terms - <http://www.activenetwork.com/membership-terms>

Third Party Hardware Product Attachment - <http://www.activenetwork.com/thirdpartyhardware-terms>

Quote Acceptance Information



## Schedule

Signature:

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Name:

---

Title:

---

Date:

---

PO# (if applicable):

---

Signature:

---

Name:

---

Title:

---

Date:

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## **City of Marquette, MI**

300 West Baraga Avenue  
Marquette, MI 49855

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**Agenda Date:** 3/29/2021

### **Consent Agenda**

#### **Tri-Party Letter and Security Agreement - Customs House, LLC and Consumers Credit Union**

##### **BACKGROUND:**

As with other Brownfield Projects, Consumers Credit Union, which is financing the renovation of the Customs House Building and conversion for condominiums, is requesting a security interest in Brownfield TIF revenues and acknowledgement of that interest by the City of Marquette Brownfield Redevelopment Authority (MBRA) and the City of Marquette.

Section 10.2 of the Development and Reimbursement Agreement provides for the assignment of rights, including Brownfield TIF reimbursement, with the written consent of all parties, from which consent will not be unreasonably withheld.

Attached are two documents to effectuate this arrangement: A Tri-Party Agreement between Customs House, LLC, the MBRA and the City of Marquette acknowledging and consenting to the Security Agreement; and the Security Agreement between Customs House, LLC and Consumers Credit Union that details the circumstances under which Brownfield TIF revenues would be obligated.

Approval of the Tri-Party Letter acknowledging and consenting to the Security Agreement is required by the MBRA under Section 10.2 of the Development and Reimbursement Agreement and by the City of Marquette as a party to receive the Brownfield TIF under the Development and Reimbursement Agreement.

The City Attorney has reviewed the Security Agreement and Tri-Party Letter on behalf of the City of Marquette and the MBRA.

The Tri-Party Letter acknowledging and consenting to the Security Agreement was approved by the MBRA at their March 18, 2021 meeting.

##### **FISCAL EFFECT:**

None.

##### **RECOMMENDATION:**

Approve the Tri-Party Letter, and authorize the Mayor to sign.

##### **ALTERNATIVES:**

As determined by the Commission.

ATTACHMENTS:

Description

- ▣ Letter
- ▣ Security Agreement

**CONSUMERS CREDIT UNION**  
**7200 Elm Valley Drive**  
**Kalamazoo, MI 49077**

March \_\_, 2021

City of Marquette Brownfield Redevelopment Authority  
1100 Wright Street  
Marquette, MI 49855  
Attn: Sheri Davie, Executive Director

Customs House, LLC  
5431 Egypt Creek Blvd.  
Ada, MI 493001  
Attn: David Gregory  
Nicole A. Meloche-Gregory

City of Marquette  
300 Baraga Avenue  
Marquette, MI 49855  
Attn: L. Michael Angeli, City Manager

Re: Development and Reimbursement Agreement between City of Marquette Brownfield Redevelopment Authority, a Michigan public body corporate (the “Authority”), the City of Marquette (the “City”), and Customs House, LLC, a Michigan limited liability company (“Developer”), dated December 21, 2020 (as amend or modified from time to time, if at all, the “Development Agreement”) regarding the Eligible Property

Security Agreement (Incentives) (“Security Agreement”) executed by Developer in favor of Consumers Credit Union (“Lender”)

311 Lakeshore Blvd., Marquette, MI 49855

Ladies and Gentlemen:

Capitalized terms not defined in this letter have the meanings ascribed to them in the Development Agreement.

In consideration for Lender providing financing to Developer, Developer will, by execution of the Security Agreement, collaterally assign to Lender and grant Lender a security interest in (among other things) Developer’s rights to reimbursement of its eligible expenses from tax increment revenues upon Developer’s compliance with, and subject to the terms and conditions of, the Development Agreement. Per Section 10.3 of the Development Agreement, said collateral assignment and grant requires the consent of each other party to the Development Agreement.

In connection with the foregoing, Lender requests, and the Authority and the City agree, that:

(a) the Authority and the City each consent to said collateral assignment and grant set forth above;

(b) in the event of default (beyond any applicable grace period or notice and cure period) by Developer under Lender’s loan documents (a “Loan Default”), the Authority will permit Lender to complete the performance of any remaining Developer obligations concerning the Eligible Property, the Development and the Development Agreement, submit (in accordance with the Development Agreement and/or the Authority’s policies and procedures) to the Authority its costs for doing so, and otherwise

City of Marquette Brownfield  
Redevelopment Authority  
City of Marquette  
Customs House, LLC

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March \_\_, 2021

satisfy any remaining conditions precedent to the Authority's obligation under the Development Agreement to make payments from Brownfield Tax Increment Revenues;

(c) following receipt of written notice from Lender that a Loan Default exists, and until said notice is revoked by subsequent written notice from Lender, the Authority will remit directly to Lender (at the above address) all payments which the Authority is obligated to make to Developer from time to time under the Development Agreement;

(d) in the event of Developer's default under the Development Agreement, the Authority will notify Lender in writing concurrently with any notice given by the Authority to Developer of any such default. The Authority agrees that Lender will have the right (but not the obligation) to cure any breach or default specified in such notice, and the Authority will not declare a default by Developer under the Development Agreement if Lender cures such breach or default within thirty (30) days after the expiration of the time period provided to Developer in the Development Agreement for the cure thereof by Developer; provided, however, that if such breach or default cannot with diligence be cured by Lender within the above period provided to Lender, the commencement of action by Lender within such thirty (30) day period to remedy the same shall be deemed sufficient so long as Lender pursues such cure with diligence to completion by not later than one hundred eighty (180) days after the expiration of the time period provided to Developer in the Development Agreement; and

(e) (i) of the total costs of Eligible Activities approved for reimbursement (the "Eligible Costs"), \$668,050 of the Eligible Costs are reimbursable/payable to Developer and the remaining \$224,125 of the Eligible Costs are reimbursable/payable to the City (in each case, with Interest, as defined in the Development Agreement), on a pro rata basis, subject to the terms and conditions of the Development and Reimbursement Agreement, Act 381, and the Brownfield Plan; and (ii) the "recapture period" shall end upon the earlier of reimbursement of all Eligible Costs or tax year 2051, whichever comes first.

This letter may be executed in one or more counterparts, and by separate parties on separate counterparts, all of which shall constitute one and the same agreement. The signature of a party to any counterpart shall be sufficient to legally bind that party and the signature page(s) from any counterpart may be attached to any other counterpart in order to have a single document containing the signatures of all parties. Copies of signature pages sent by facsimile or electronic mail shall be treated as manually signed originals and given full legal effect. Any party delivering an executed counterpart by facsimile or electronic mail also shall deliver the manually executed counterpart, but the failure to do so shall not affect the validity, enforceability, and binding effect of this letter.

Please confirm the Authority's and the City's receipt and review of this letter and consent and agreement to the contents hereof by executing and returning its below Acknowledgment to me at the above address. Developer is also requested to similarly execute and return its below Acknowledgment.

(signature page follows)

City of Marquette Brownfield  
Redevelopment Authority  
City of Marquette  
Customs House, LLC

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March \_\_, 2021

Thank you for your cooperation.

CONSUMERS CREDIT UNION

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

Acknowledged and Agreed by Developer, Authority, and the City:

CUSTOMS HOUSE, LLC

By: \_\_\_\_\_  
Name: David Gregory  
Title: Member

CITY OF MARQUETTE BROWNFIELD  
REDEVELOPMENT AUTHORITY

By: \_\_\_\_\_  
Name: P. David Allen  
Title: Chair

CITY OF MARQUETTE

By: \_\_\_\_\_  
Name: Jennifer A. Smith  
Title: Mayor

cc: Trent J. Taylor, Esq.

**SECURITY AGREEMENT**  
**(INCENTIVES)**

THIS SECURITY AGREEMENT (INCENTIVES) (“**Agreement**”) is executed, delivered and made effective as of March \_\_, 2021, by CUSTOMS HOUSE, LLC, a Michigan limited liability company (“**Debtor**”), in favor of CONSUMERS CREDIT UNION (“**Lender**”).

**1. DEFINITIONS.**

1.1 “**Authority**” means the City of Marquette Brownfield Redevelopment Authority, a Michigan public body corporate.

1.2 “**Brownfield Plan**” has the meaning ascribed to it in the Development Agreement.

1.3 “**City**” means the City of Marquette, a Michigan municipal corporation.

1.4 “**Development Agreement**” means the Development and Reimbursement Agreement among the Authority, the City and Debtor, dated December 21, 2020, including any and all exhibits, addenda and attachments thereto, as amended, restated and/or replaced from time to time.

1.5 “**Governing Body**” means the City, the Authority and/or any other political subdivision or governmental entity, whether state, local or otherwise, having an agreement with Debtor regarding, and/or jurisdiction over, the applicable Incentive(s).

1.6 “**Incentive Documents**” means the TIF Documents.

1.7 “**Incentive Proceeds**” means any and all products and/or proceeds of the Incentives.

1.8 “**Incentives**” means the TIF Reimbursements.

1.9 “**Loan**” means the convertible draw loan evidenced by the Note.

1.10 “**Loan Agreement**” means the Construction Loan Agreement between Debtor and Lender, dated on or about the date hereof, as amended, restated and/or replaced from time to time.

1.11 “**Loan Documents**” means all documents, whenever executed, evidencing, securing guarantying or otherwise relating to the Loan, including without limitation the Loan Agreement, the Note, the Mortgage and this Agreement, as each of the foregoing may be amended, restated and/or replaced from time to time.

1.12 “**Mortgage**” means the Future Advance Mortgage executed by Debtor in favor of the Lender, dated on or about the date hereof, regarding Debtor’s fee simple interest in the Premises and securing the Obligations, as said mortgage may be amended, restated and/or replaced from time to time.

1.13 “**Note**” means the Draw Note in the stated amount of \$1,586,250, executed by Debtor in favor of Lender, dated on or about the date hereof, as amended and/or restated from time to time and together with any note(s) executed from time to time in exchange or replacement thereof.

1.14 “**Obligations**” has the meaning ascribed to it in the Loan Agreement.

1.15 “**Premises**” has the meaning ascribed to it in the Mortgage and includes without limitation the following real estate:

311 Lakeshore Blvd, Marquette, MI 49855, being approximately 0.39 acres, Tax Parcel ID # 52-52-011-000-80.

1.16 “**Project**” has the meaning ascribed to it in the Loan Agreement.

1.17 “**TIF Documents**” means the Development Agreement, Brownfield Plan and any and all applications, approvals, pre-approvals, authorizations, agreements, certificates, instruments and other documents related to the TIF Reimbursements, and any and all amendments, extensions, addenda or other modifications of the foregoing executed from time to time.

1.18 “**TIF Reimbursements**” means tax increment revenues and any other amounts (including without limitation Interest, as defined in the Development Agreement) received/paid or to be received/paid by or to Debtor in accordance with the Development Agreement.

2. **GRANT OF SECURITY INTEREST IN COLLATERAL.** To secure the payment and performance of the Obligations, Debtor pledges, assigns and grants to Lender a continuing security interest and lien in all of Debtor’s present and future right, title and interest in and to the following assets and property, whether tangible or intangible, together with all replacements, substitutions, and additions thereto, all proceeds and products thereof, and any records, reports, information, or documents relating thereto (collectively, the “**Collateral**”): the TIF Documents, the TIF Reimbursements, and any other property related to either or both of them.

3. **WARRANTIES AND REPRESENTATIONS.** Debtor represents, warrants and covenants to Lender as follows:

3.1 **Payment of Obligations.** Debtor will pay and perform all of the Obligations when due, whether by maturity, acceleration or otherwise.

3.2 **Authority.** This Agreement is the valid and binding obligation of Debtor, enforceable in accordance with its terms. Debtor is duly organized and validly existing and in good standing under the laws of the State of Michigan, and the execution, delivery and performance of this Agreement has been duly authorized by all necessary action of Debtor’s managers and members and will not violate Debtor’s governing instruments or other agreements.

3.3 **Name; Address; Location of Collateral.** Debtor’s name and mailing address, chief executive office address, and the location of the Collateral and all records concerning the Collateral are accurately set forth in Section 14.3 of this Agreement.

3.4 **Title to Collateral.** Debtor has applied for, and received pre-approval of, the Incentives, and submitted all documents and performed all tasks required of Debtor for the final approval, issuance and payment of the Incentives (or the proceeds thereof). All conditions to the final approval and issuance of the Incentives have been satisfied. Debtor has good and marketable title to the Collateral, free and clear of any liens, encumbrances or security interests whatsoever, other than the security interest granted by this

Agreement and existing liens, encumbrances or security interests disclosed to and accepted by Lender in writing. Debtor will keep the Collateral free of all other liens, encumbrances and security interests. Debtor will defend the Collateral against all claims and demands of all persons at any time claiming any interest in the Collateral. Except for Debtor's completion of the Project and steps related to the final approval, issuance and payment of the Incentives (or the proceeds thereof), which steps cannot possibly be performed until the Project has been completed, and except for notices/requests for approval from Debtor to a Governmental Body related to modifications of Debtor's plans/specifications for the Project which require approval from the Governmental Body before completion of the Project, Debtor is aware of no fact or circumstance which would hinder, jeopardize or delay (a) the final approval and/or issuance of the Incentives, (b) Debtor's receipt of the Incentives (or the proceeds or reduced tax obligations which are a part thereof), or Debtor's filing of requests for reimbursement under the Development Agreement and subsequent receipt of said reimbursements from Tax Increment Revenues.

3.5 **Financing Statements.** Except as disclosed to and accepted by Lender in writing, no financing statement (other than a financing statement(s) in favor of Lender) covering all or any part of the Collateral is on file in any public office. Debtor authorizes Lender to file any initial financing statement and all amendments, without Debtor's signature or other authentication (a) describing the Collateral and (b) containing any other information required by the Michigan Uniform Commercial Code ("UCC") or other applicable law for sufficiency or filing office acceptance. This Agreement shall be terminated upon the first to occur of (i) the filing of a termination statement in accordance with the applicable provisions of the UCC, or (ii) repayment of the Obligations in full. Debtor shall do all other things, execute all documents, and pay all related costs necessary or requested by Lender to establish, verify or continue the validity and priority of Lender's security interest.

3.6 **No Defenses or Defaults.** No part of the Collateral is subject to any valid defense, counterclaim or setoff, and Debtor has full right to enforce the performance thereof, in accordance with its terms, to receive all sums due thereunder, and to execute and deliver this Agreement to Lender. No unwaived default has occurred under the terms of any document, instrument or agreement governing or respecting any part of the Collateral by any party thereto and none shall occur upon the giving of this Agreement.

3.7 **Lender May Cure.** Lender may, but shall not be obligated to, cure any default by Debtor under or in connection with any of the Collateral, the result of which could excuse any performance or payment by any other party thereunder. The Lender's costs of cure shall be added to the Obligations as specifically set forth in Section 11 hereof.

3.8 **Information About Collateral.** Debtor has delivered to Lender copies of all applications and other documents submitted by Debtor to the Governing Body with regard to the Incentives and any and all responses and other correspondence received by Debtor from the Governing Body in connection with same. In addition, Debtor will, if such are in the future executed by Debtor, deliver to Lender copies of all documentation created in the future with regard to the Incentives or the approval, issuance or payment thereof (or of the proceeds thereof) along with any addenda, exhibits and other attachments thereto and any amendments and/or restatements thereof. Debtor shall furnish such additional information regarding the Collateral as Lender may request and shall permit Lender to inspect all books and records relating thereto, including without limitation all financial and other reports about Debtor.

3.9 **Conversion of Incentives to Cash.** Effective during the existence of an Event of Default, Debtor shall cause the Incentives (or the proceeds thereof), to be paid directly to Lender for application to the Obligations.

3.10 **Further Assurances.** Debtor shall execute any other document or instrument required or requested by Lender to complete or further evidence this Agreement, and all rights and interests of Debtor hereafter arising under any of the Collateral, including without limitation any interests acquired in the future, shall simultaneously become subject to this Agreement.

3.11 **No Other Incentives.** There are no federal, state, local or other tax credits, grants or incentives whatsoever applied for with regard to the Premises or the Project except for those specifically enumerated in this Agreement.

3.12 **Valuation of Incentives.** The information set forth in the Valuation of Incentives attached to this Agreement as Exhibit A is accurate.

3.13 **MSF Approval.** Given that the Development Agreement does not contemplate school tax capture, no approval thereof is required from the Michigan Strategic Fund.

#### 4. **PAYMENTS FOR INCENTIVES.**

4.1 **Direction to Governing Body.** Effective during the existence of an Event of Default, Lender may direct the Governing Body to deliver an Incentive (or the proceeds thereof), including without limitation any TIF Reimbursements directly to Lender, and Debtor shall cooperate to the extent necessary to ensure same, including without limitation by submitting to the Governing Body, if requested by Lender, a request in that regard naming Lender as assignee.

4.2 **Actions of Lender.** Debtor agrees that, during the existence of an Event of Default, Lender shall be entitled (but without having any obligation), in its own name (or in the name of Debtor or otherwise) but at the sole expense of Debtor, to collect, demand, receive, sue for or compromise any and all of the Collateral, to give good and sufficient releases, to endorse any checks, drafts or other orders for the payment of money payable to Debtor in payment of any distribution on the Collateral and, in Lender's discretion, to file any claims or take any other action or commence any other proceeding, which Lender deems advisable.

4.3 **No Duty.** Debtor acknowledges and agrees that Lender shall not be required or obligated to make any, demand or to make any inquiry as to the nature or sufficiency of any payment received by Lender with respect to the Collateral or to present to file any claim or take any other action to collect or enforce the payment of any amounts with respect to the Collateral.

5. **DELIVERY OF PAYMENTS.** Debtor agrees that, notwithstanding its agreement herein that during the existence of an Event of Default, any payment by a Governing Body or any other third party for the Incentives or any proceeds thereof shall be made directly to the Lender, Debtor shall, upon receipt of any payment of the Incentives, any proceeds thereof, or any other Collateral, endorse and remit the payment to Lender for application to the Obligations. Unless otherwise agreed in writing or until the occurrence of an Event of Default, Debtor shall be entitled to collect the Incentives or any proceeds thereof; provided that upon the occurrence of an Event of Default, Lender may (as provided for in this Agreement) immediately collect such Incentives or any proceeds thereof as they become due, and apply the same, less the cost and expense of collection thereof, towards the payment of any of the Liabilities.

6. **AUTHORITY TO COLLECT.** Debtor shall notify the Governing Body and any other person liable for payment for any sale, assignment or claim for refund with regard to any Incentives of the security interest under this Agreement and of Lender's interest in the Collateral and, effective during the existence of an Event of Default and/or if so provided in the Loan Documents, direct payment of amounts now or in the future owing by the Governing Body or said other person to Debtor to Lender. Effective during the existence of an Event of Default, Debtor (a) irrevocably appoints Lender or any agent of Lender (which appointment is coupled with an interest) the true and lawful attorney of Debtor (with full power of substitution) in the name, place and stead of, and at the expense of, Debtor and (b) authorizes Lender or any agent of Lender, in its own name, at Debtor's expense, and as Lender, in its sole discretion, deems appropriate, to demand, receive, sue for and give receipts or acquittances for any moneys due or to become due on any Collateral and to endorse any item representing any payment on or proceeds of the Collateral.

7. **ENFORCEMENT OF AGREEMENTS.** During the existence of an Event of Default, Lender shall be entitled, at its option, to enforce and enjoy the benefits of the Incentive Documents, including without limitation the right to pursue the payment of TIF Reimbursements. The foregoing shall be in addition to Lender's other rights and remedies under the Loan Documents. Debtor agrees that Lender has not assumed any of Debtor's obligations with respect to any of the Incentive Documents unless and until Lender expressly assumes such obligations in writing and exercises its right, granted hereby, to enforce or enjoy the benefits of such agreements.

8. **PROHIBITION ON TRANSFER OR MODIFICATION.** Debtor shall not convey, assign, transfer, allocate or otherwise distribute any Collateral to any person or entity whatsoever. Further, Debtor shall not enter into any amendment, extension, addenda or other modification under any Incentive Documents or any part thereof without the prior written consent of the Lender, which consent shall not be unreasonably withheld, conditioned or delayed. Any of the above acts by Debtor without Lender's consent shall be void.

9. **POWER OF ATTORNEY.** Debtor constitutes and appoints Lender the true and lawful attorney of Debtor, coupled with an interest, and in the name, place and stead of Debtor and effective during the existence of an Event of Default, to exercise or assert any rights under the Incentive Documents, file any claims, take any actions or institute any proceedings which Lender may deem to be necessary or advisable in connection with the Collateral, including without limitation the right to take any and all actions necessary to satisfy any conditions to Debtor's obligations set forth in any Incentive Documents.

10. **REIMBURSEMENT OF EXPENSES.** Debtor shall reimburse Lender for all costs and expenses, including attorneys' fees, incurred by Lender in enforcing the rights of Lender under this Agreement. All costs and expenses shall be included in the Obligations and shall be immediately due and payable together with interest at the default rate set forth in the Note ("**Default Rate**"). Such costs and expenses shall include, without limitation, costs or expenses incurred by Lender in any bankruptcy, reorganization, insolvency or other similar proceeding. Any reference in this Agreement to attorneys' fees shall mean fees, charges, costs and expenses of both in-house and outside counsel and paralegals, whether or not a suit or proceeding is instituted, and whether incurred at the trial court level, on appeal, in a bankruptcy, administrative or probate proceeding, in a workout, in consultation with counsel, or otherwise. All costs, expenses and fees of any nature for which Debtor is obligated to reimburse or indemnify Lender are part of the Obligations secured by this Agreement and are payable upon demand, unless expressly provided otherwise, with interest at the Default Rate (but not to exceed the maximum rate permitted by law).

11. **RIGHTS AND OBLIGATIONS OF LENDER.** In the event that Debtor fails to perform any obligation arising under this Agreement, Lender may pay or perform such obligation(s) for the account of Debtor and the same shall be added to the Obligations and shall be immediately due and payable together with interest at the Default Rate (but not to exceed the maximum rate permitted by law). Lender shall not be liable for any loss to the Collateral nor shall such loss reduce the balance due on the Obligations.

12. **INDEMNIFICATION.** Debtor agrees to indemnify and hold Lender harmless from all liability, loss, damage or expense which Lender may incur under or by reason of this Agreement, or for any action permitted to be taken by Lender under this Agreement, or by reason or in defense of any and all claims and demands asserted against Lender arising out of the Collateral. Should Lender incur any such liability, loss, damage or expense, the amount thereof (including reasonable attorneys' fees), with interest thereon at the Default Rate, shall be payable by Debtor immediately, without demand.

13. **EVENTS OF DEFAULT AND REMEDIES.**

13.1 **Events of Default.** Any of the following events shall, for purposes of this Agreement, constitute an "Event of Default;"

(a) The occurrence of any default or event of default under any of the Loan Documents, beyond any applicable grace period or notice and cure period;

(b) Any failure by Debtor to comply with, or breach by Debtor of, any of the terms, provisions, warranties or covenants of this Agreement; which failure or breach, if curable by nature, continues for thirty (30) days following Debtor's receipt of written notice thereof from Lender; or

(c) The occurrence of any of the following events:

(i) The default (beyond any applicable grace period or notice/cure period) by Debtor under any of the Incentive Documents;

(ii) There occurs any amendment or revocation of any statute or other law that materially impacts Debtor's ability to liquidate or otherwise receive the benefit of any Incentive(s) or any proceeds thereof;

(iii) Debtor's failure to file (or failure to permit Lender to file) by the applicable deadline (taking into account available grace periods) with the Governing Body any documentation required by the Governing Body for the issuance and/or final approval of any Incentive(s);

(iv) Debtor's failure to receive the final approval of any of the Incentives by the applicable Governing Body(ies);

(v) Debtor's failure to submit to the Authority a request for reimbursement of its Eligible Costs (as defined in the Development Agreement) within the timeframe required therefor;

(vi) A Governing Body's failure to deliver any of the Incentives, the proceeds of any of the Incentives, or confirmation of Debtor's eligibility for any Incentives to Debtor (or

to Lender on account of Debtor) within 60 days of when same is required under the Development Agreement.

13.2 **Remedies Upon Event of Default.** Upon the occurrence of any Event of Default, Lender shall have the right to do any and all of the following:

(a) Institute legal proceedings to foreclose the lien and security interest granted by this Agreement, to recover judgment for all of the Obligations then due and owing, and to collect it out of any of the Collateral.

(b) Institute legal proceedings for the sale, under the judgment or decree of any court of competent jurisdiction, of any or all of the Collateral.

(c) Take possession of the Collateral wherever located and all related records, and/or render any of it unusable with or without demand, and with or without process of law; sell, lease, license and dispose of the Collateral, with or without preparation or processing, in amount or order reasonably designed to maximize its value, at one or more public or private sales or other dispositions, at places and times and on terms and conditions as Lender may deem fit, and distribute the proceeds according to this Agreement and applicable law. Any statutory requirement for notice shall be met if Lender shall send notice to Debtor at least ten (10) days prior to the date of sale, disposition or other applicable event.

(d) Notify all account debtors, the Governing Body, and any other persons obligated under any of the Collateral to make all payments and otherwise render all performance to or for the benefit of Lender and demand, collect, sue for, receive, receipt for, settle and compromise, extend or postpone the time for payment of, forbear from enforcing, and otherwise do all things Debtor could do in connection therewith.

(e) Exercise any one or more of the rights and remedies under the UCC or at law or equity to enforce the payment of the Obligations.

(f) Satisfy any conditions to the final approval of the Incentives and issuance/payment of any Incentive Proceeds.

(g) Enforce the Incentive Documents against the other parties thereto and/or prosecute Debtor's claim to the Incentive Proceeds with the subject Governing Body.

13.3 **Remedies Generally.**

(a) Lender may disclaim or modify any warranties on any disposition of any Collateral. At any sale pursuant to this Agreement, physical or constructive possession of the Collateral is not required and any purchaser may conclusively rely on the recitals in any evidence of conveyance and shall have no obligation to see to the application of the purchase money. Any sale of any of the Collateral under this Agreement shall be a perpetual bar against Debtor with respect to that Collateral.

(b) Debtor agrees, upon request of Lender, to assemble the Collateral and all related records and make it available to Lender at any place which is reasonably convenient for Lender.

Debtor grants Lender permission to enter upon any premises owned or occupied by Debtor for the purpose of taking possession of the Collateral. Debtor agrees to notify all persons obligated under any of the Collateral to make all payments to Lender and Debtor waives any right to recover from any other party liable for the Obligations (by subrogation, indemnity, or otherwise) any amount Debtor pays or Lender recovers under this Agreement.

(c) All remedies provided for under this Agreement shall be available to the extent not prohibited by law. Each remedy shall be cumulative and additional to any other remedy of Lender at law, in equity or by statute. No delay or omission to exercise any right or power accruing upon any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of, or acquiescence in, any such default or Event of Default.

(d) Lender has no obligation to marshal any collateral security or other assurances of payment in favor of Debtor or to resort to any collateral security or assurances of payment in any order.

(e) To the extent that Lender must exercise remedies in a commercially reasonable manner, Debtor agrees that it is not commercially unreasonable if Lender does not (i) incur expense Lender deems significant or unreasonable to prepare or process Collateral before disposition, (ii) exercise collection remedies against or compromise or settle claims with account debtors or other persons obligated on any Collateral, (iii) advertise Collateral dispositions in any particular media, (iv) use professional auctioneers or internet auction sites for Collateral disposition, (v) dispose of Collateral in wholesale rather than retail markets, or (vi) disclaim warranties on disposition.

13.4 **Further Actions.** Promptly upon the request of the Lender, Debtor shall execute, acknowledge and deliver any and all further documents, security agreements, financing statements and assurances, and do or cause to be done all further acts as the Lender may require to confirm and protect the lien of this Agreement or otherwise to accomplish the purposes of this Agreement.

13.5 **Attorneys' Fees.** Any reference in this Agreement to attorneys' fees shall refer to fees, charges, costs and expenses of in-house and outside attorneys and paralegals, whether or not a suit or proceeding is instituted, and whether incurred at the trial court level, on appeal, in a bankruptcy, administrative or probate proceeding, in consultation with counsel, or otherwise. All costs, expenses and fees of any nature for which Debtor is obligated to reimburse or indemnify the Lender are part of the Obligations secured by this Agreement and are payable upon demand, unless expressly provided otherwise, with interest until repaid at the Default Rate (but not to exceed the maximum rate permitted by law).

#### 14. **MISCELLANEOUS.**

14.1 **Governing Law.** This Agreement shall be construed according to the laws of the State of Michigan.

14.2 **Successors and Assigns.** The Lender shall have the right to assign any of the Obligations and deliver all or any part of the Collateral without Debtor's consent. This Agreement shall be binding upon the successors and assigns of Debtor including, without limit, any debtor in possession or trustee in bankruptcy for Debtor, and the rights and privileges of the Lender under this Agreement shall inure to the benefit of its successors and assigns. Subject to the terms and conditions of the Loan Agreement and the

Development Agreement, this shall not be deemed a consent by the Lender or any Governmental Authority to a conveyance by Debtor of all or any part of the Collateral or of any ownership interest in Debtor.

14.3 **Notices.** All notices, demands or other communications required or permitted to be given pursuant to the provisions of this Agreement shall be in writing and shall be considered as properly given if delivered personally or sent by first class United States Postal Service mail, postage prepaid, except that notice of Default may be sent by certified mail, return receipt requested, or by Overnight Express Mail or by overnight commercial courier service, charges prepaid. Notices so sent shall be effective 3 days after mailing, if mailed by first class mail, and otherwise upon receipt at the address set forth below; provided, however, that non-receipt of any communication as the result of any change of address of which the sending party was not notified or as the result of a refusal to accept delivery shall be deemed receipt of such communication. For purposes of notice, the address of the parties shall be:

Debtor: Customs House, LLC  
5431 Egypt Creek Blvd.  
Ada, MI 49301

Lender: Consumers Credit Union  
7200 Elm Valley Drive  
Kalamazoo, MI 49077  
Attn: Gary Ferguson

With a copy to: Trent J. Taylor, Esq.  
Miller Canfield  
99 Monroe Avenue N.W.  
Suite 1200  
Grand Rapids, MI 49503

Any party shall have the right to change its address for notice hereunder to any other location within the United States by the giving of 15 days' notice to the other party in the manner set forth hereinabove.

14.4 **Entire Agreement; Amendments.** This Agreement and any agreement to which it refers state all rights and obligations of the parties and supersede all other agreements (oral or written) with respect to the security interests granted by this Agreement. Any amendment of this Agreement shall be in writing and shall require the signature of Debtor and Lender.

14.5 **Partial Invalidity.** The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of the remaining provisions of this Agreement.

14.6 **Inspections.** Any inspection, audit, appraisal or examination by Lender or its agents of the Collateral or of information or documents pertaining to the Collateral is for the sole purpose of protecting Lender's interests under this Agreement and is not for the benefit or protection of Debtor or any third party.

14.7 **Joint and Several Liability.** If there is more than one Debtor, each Debtor agrees that all undertakings, warranties and covenants made by Debtor and all rights, powers and authorities given to or conferred upon Lender are made or given jointly and severally, and each reference to the term Debtor shall mean each and every Debtor a party hereto, individually and collectively, jointly and severally.

14.8 **Automatic Reinstatement.** Notwithstanding any prior revocation, termination, surrender or discharge of this Agreement, the effectiveness of this Agreement shall automatically continue or be reinstated, as the case may be, in the event that:

(a) Any payment received or credit given by Lender in respect of the Obligations is returned, disgorged or rescinded as a preference, impermissible setoff, fraudulent conveyance, diversion of trust funds, or otherwise under any applicable state or federal law, including, without limit, laws pertaining to bankruptcy or insolvency, in which case this Agreement shall be enforceable as if the returned, disgorged or rescinded payment or credit had not been received or given, whether or not the Agreement relied upon this payment or credit or changed its position as a consequence of it.

(b) In the event of continuation or reinstatement of this Agreement, Debtor agrees upon demand by Lender to execute and deliver to Lender those documents which Lender determines are appropriate to further evidence (in the public records or otherwise) this continuation or reinstatement, although the failure of Debtor to do so shall not affect in any way the reinstatement or continuation. If Debtor does not execute and deliver to the Lender such documents upon demand, the Lender and each officer of the Lender is irrevocably appointed (which appointment is coupled with an interest) the true and lawful attorney of Debtor (with full power of substitution) to execute and deliver such documents in the name and on behalf of Debtor.

14.9 **WAIVER OF JURY TRIAL.** DEBTOR AND LENDER ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED. EACH PARTY, AFTER CONSULTING (OR HAVING HAD THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF THEIR CHOICE, KNOWINGLY AND VOLUNTARILY, AND FOR THEIR MUTUAL BENEFIT, WAIVES ANY RIGHT TO TRIAL BY JURY IN THE EVENT OF LITIGATION REGARDING THE PERFORMANCE OR ENFORCEMENT OF, OR IN ANY WAY RELATED TO, THIS AGREEMENT OR THE OBLIGATIONS.

14.10 **Conflicting Terms.** In the event of conflict between the provisions of this Agreement and the provisions of any other Loan Document, the provisions of this Agreement shall prevail.

(signature page follows)

[SIGNATURE PAGE – SECURITY AGREEMENT (INCENTIVES)]

This Agreement is dated and effective on the day and year first above written.

DEBTOR:

CUSTOMS HOUSE, LLC

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

Name: David Gregory

Its: Member

DRAFT

## **EXHIBIT A**

### **VALUATION OF INCENTIVES**

Tax increment financing reimbursements for a recapture period ending not later than the tax year 2051, providing a maximum total reimbursement (excluding Interest as defined and required under the Development Agreement) (a) to Debtor, of up to \$668,050, and (b) to the City, of up to \$224,125, for an aggregate total reimbursement of \$892,175.

## City of Marquette, MI

300 West Baraga Avenue  
Marquette, MI 49855

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**Agenda Date:** 3/29/2021

### **Consent Agenda** **Water Corrosion Control Operations Plan**

#### **BACKGROUND:**

The Marquette City Commission previously approved Fishbeck, Thompson, Carr & Huber (FTC&H) Engineering to perform a Corrosion Control Study on the City's drinking water. The recommendation from that study was for the City to increase the pH level of the drinking water to make it less corrosive. The Michigan Department of Environment, Great Lakes & Energy (EGLE) requires the City to have an approved optimized corrosion control operations plan before any recommended changes are made. It was anticipated that the cost for the operation plan would not exceed the \$10,000 threshold required for City Commission approval; however, with repeated requests from EGLE to make changes to the plan, the threshold may be exceeded.

#### **FISCAL EFFECT:**

The Water Filtration Plant Budget has sufficient funds for the development of this plan.

#### **RECOMMENDATION:**

Approve Fishbeck, Thompson, Carr & Huber to develop a State of Michigan approved Water Corrosion Control Plan for an amount not-to-exceed \$12,000.

#### **ALTERNATIVES:**

As determined by the Commission.

#### **ATTACHMENTS:**

Description

No Attachments Available

## **City of Marquette, MI**

300 West Baraga Avenue  
Marquette, MI 49855

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**Agenda Date: 3/29/2021**

### **New Business**

#### **Kids Cove Inclusive Playground - Professional Services Contract Award**

##### **BACKGROUND:**

At its March 30, 2020 meeting, the City Commission authorized submitting a Michigan Natural Resources Trust Fund grant application for replacement of Kids Cove playground with a fully inclusive universal design playground. The City has been notified the grant application was successful and an executed grant agreement from the State is expected in May 2021. The grant award is \$300,000 with the match requirement of \$300,000. The Marquette Playgrounds For All has committed to raising the entire grant match. The total project budget of \$600,000 includes design and construction services.

Community Services staff issued a Request for Proposals (RFP) for design and construction oversight services. Qualification statements were due on March 3, 2021. The following proposals were received:

GEI Consultants, Marquette, MI - \$58,398

Sanders & Czapski Associates, Marquette, MI - \$71,000

Each firm's proposal was evaluated by Community Services staff for completeness and understanding of the project and grant requirements. Both proposals were complete and showed a full understanding of the project, however, only GEI's proposal fell within the stated budget of \$60,000.

Staff recommends GEI Consultants be awarded the bid as the firm offering the most services for the least cost.

##### **FISCAL EFFECT:**

The project is budgeted for and is within the expected cost for professional services.

##### **RECOMMENDATION:**

Approve GEI Consultants' proposal for design and construction oversight of the Kids Cove Inclusive Playground project in the amount of \$58,398, and direct the City Attorney to develop a professional service agreement.

##### **ALTERNATIVES:**

As determined by the Commission.

ATTACHMENTS:

Description

- ▢ Bid Tabulation
- ▢ RFP

## **BID TABULATION**

**RFP 21-03 “Kids Cove Engineering”  
(DNR TF#20-0199)**

**2:00 p.m., March 3, 2021**

| <b>Bid Received From</b>                        | <b>Bid Amount (as read)</b> |
|-------------------------------------------------|-----------------------------|
| GEI Consultants<br>Marquette, MI                | \$58,398                    |
| Sanders and Czapski Associates<br>Marquette, MI | \$71,000.00                 |

## **I. INTENT**

It is the intent of this proposal to select a firm to conduct a public planning process that will result in a Universally Accessible playground design that will accommodate the current and future needs of the community. The firm will work directly with the City of Marquette – Parks & Recreation Advisory Board, Marquette Playground For All, City personnel and playground equipment company eventually selected..

## **II. SELECTION PROCESS**

Selection will be made using a qualification-based selection system to include experience with public park land use planning, capability to meet the timelines and objectives as provided and cost factors. Final selection will be made by the City Commission.

### **RATING OF FIRMS**

City staff and Marquette Playgrounds For All will evaluate the proposals using a numeric rating system. Criteria and relative merit have not been determined at this time; however, the following is given as an example of what a firm may expect:

- Relative experience of personnel or organization (25 points)
- Experience in developing Universally Accessible design plans (25 points)
- Experience in projects with grant requirements (5 points)
- Cost (25 points)
- References (10 points)
- Office location (10 points)

## **III REQUIRED CONSIDERATIONS**

### **TASK ONE**      Park/Playground Site Evaluation

1. Meet with the City staff as needed to obtain a thorough understanding of the specific desires; consultant is encouraged to use electronic meeting options as agreed upon by staff and consultant whenever possible.
  - A. Define
    - (1.) Basic client desires
    - (2.) Specific project objectives to guide plan development
    - (3.) Grant requirements
  - B. Establish project team responsibilities and lines of communication
  - C. Review the status of the project efforts with the client as requested
  - D. Attend meetings electronically or in Marquette to discuss the project.
2. Perform a thorough field study of the existing Kids Cove Playground at Mattson Park.
3. Assist City Staff and MPFA in selection process of a playground equipment/construction firm and meet all grant requirements.
4. Work directly with selected firm, the Marquette community and MPFA to select and layout the equipment for the playground.

5. Assist in facilitating at least three public meetings to gather input on the project. These meetings must be held in accordance with any state mandates and the firm must demonstrate how they intend to gather information in a meaningful way resulting in recommendation of inclusive playground design options and other supplemental features or items that are inclusive considering, at a minimum, the following:
  - a. Use of existing playground footprint and pathways that will need to be altered for Universal Design
  - b. Evaluation of utilities including: water, sewer, natural gas and electric
  - c. Incorporation of interactive features for an inclusive universal design
  - d. Incorporation of the natural environment and a minimum of 95% recycled content materials into design concepts for some elements.
6. Work with the Parks & Recreation Advisory Board and the Marquette Public Art Commission for recommendation of design options as well as opportunities to include public art into the project.
7. Work with the Marquette Playgrounds For All on a monthly basis to provide updates and gather input for design options and accessibility.
8. Evaluate traffic flow and walkable connectivity when providing access to the proposed playground, relationship with other public facilities, Mattson Park Concession Pavilion, Cinder Pond Marina, City's non-motorized path.
9. Incorporate a community-build project if possible.

## TASK TWO

### Action Plan

1. Based on the inventory and evaluation, meetings with City staff, Marquette Playgrounds For All, and Parks & Recreation Advisory Board, inventory analysis, previous tasks, recommend Kids Cove Inclusive Playground options.
2. Make necessary updates or changes to plans based on feedback from stakeholders. Provide final stamped plans and contract documents inclusive of material specifications, demolition plans, site plans, playground equipment detail and elevations. Three copies of the final design must be provided as well as an electronic copy. The information should be in .shp/coverage format compatible with the City's Arcview GIS software.

## TASK THREE

### Project Management & Construction

1. Coordinate with all involved parties to establish project schedule and delineate tasks.
2. Oversee demolition and installation of inclusive playground.
3. Coordinate final playground safety inspection for new equipment.

## TASK FOUR

### Final Deliverable

1. Provide final inspection services for completion, quality assurance, and grant requirements. All manuals are to be provided after completion of construction.

2. Assist in ribbon cutting ceremony.

#### **IV. OTHER CONSIDERATIONS**

The successful bidder will be notified of the award in writing and will be expected properly and promptly to execute a contract, such contract will include the following conditions:

##### **INSURANCE**

Provide evidence of insurance and the coverage limits, or state method for addressing insurance in the following categories:

- Workers Compensation – in compliance with Worker’s Compensation Act
- Comprehensive General Liability (including coverage for completed operations)
- Comprehensive Automobile Liability (including non-ownership and hired car)
- Professional Liability (errors and omissions, including contractual liability)

##### **DOCUMENTS**

All documents including drawings and specifications created or existing as part of this project, shall be available for use by, and become property of, the City.

#### **V. OBJECTIVES OF THE REQUEST FOR PROPOSAL**

The objective of the RFP is to:

- Engineering Services for Kids Cove Inclusive Playground

Proposals should be prepared simply and economically, providing a straightforward, concise description of the consultant’s ability to meet the requirements of the RFP.

##### **TIMELINES**

The following timelines is suggested

- |   |                 |                                    |
|---|-----------------|------------------------------------|
| • | March 2021      | City Commission Approve Consultant |
| • | May – June 2021 | Draft Plan Development             |
| • | July 2021       | Meeting with Stakeholders          |
| • | August 2021     | Edit Draft Plan                    |
| • | September 2021  | Final Plan delivered               |
| • | September 2021  | Present to Stakeholders            |
| • | October 2021    | Present to City Commission         |
| • | Spring 2022     | Oversee construction               |

##### **BUDGET:**

The overall cost of services should not exceed \$60,000

#### **VI. RECEIPT OF INFORMATION**

Interested parties are invited to respond to this RFP by submitting a response to the City. Please see section III, "Required Considerations" in formulating your response.

To be considered by the City of Marquette, **Five (5) black and white** (copy able) proposals must be received at the City Finance Department no later than **2:00 p.m. EST March 3<sup>rd</sup>, 2021**. Proposals are to be in sealed envelopes, clearly identifying the proposal title, "Kids Cove Inclusive Playground" and are addressed to:

City of Marquette  
Katie Burnette, Finance Dept.  
RFP – 21-03  
Kids Cove Inclusive Playground  
300 W. Baraga  
Marquette MI 49855

Proposals will be publicly opened at the following place and time:

Date: March 3<sup>rd</sup>

Time: 2:00 P.M. EST

Place: Finance Conference Room, City Hall, 300 W. Baraga Avenue, Marquette, MI 49855

*\*Virtual meeting link to be provided upon request*

#### LATE PROPOSALS

Any proposals received by the City Finance Department after the exact date specified above will not be considered.

#### WITHDRAWAL OF PROPOSALS

Proposals may be withdrawn by written notice received at any time prior to award.

Proposals may be withdrawn in person by an officer or by a representative of the firm, provided that the representative signs a receipt for the proposal prior to award.

Transmission by fax or email will not be accepted. **The City of Marquette reserves the right to reject any and all proposals.**

#### **VII. QUESTIONS CONCERNING THE RFP**

Please direct all comments and questions to Jon Swenson, Community Service Director.

All contact regarding this RFP or any matter relating thereto must be in writing and may be mailed, e-mailed, or faxed as follows:

Jon Swenson  
Community Service Director  
401 East Fair Ave.  
Marquette, MI 49855  
Phone: (906) 225-8593  
Fax: (906) 228-0493  
Email: [jswenson@marquettemi.gov](mailto:jswenson@marquettemi.gov)

## **City of Marquette, MI**

300 West Baraga Avenue  
Marquette, MI 49855

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**Agenda Date: 3/29/2021**

### **New Business**

#### **Presque Isle Marina - MDNR Waterways Grant Application**

##### **BACKGROUND:**

In 2019 the City Commission adopted the City's Five-Year Recreation Master Plan. The plan outlines the needs of Presque Isle Marina as well as the fiscal policy adopted by the Commission in 2016 that governs the rate increases needed to pay for the facilities.

In 2017 the City Commission authorized the submission of a Michigan Department of Natural Resources - Waterways Grant Program application for the removal and replacement of the middle pier of the marina. In July of 2019 the Commission awarded that contract to Kokosing Industrial in the amount of \$1,401,607 for construction.

That portion of the project did not address removal of the northern most pier or the replacement of the parking lot. Additionally, the new pier was designed to be frozen in place reducing the potential for ice damage and the need for bubblers, but requires a utility decoupling system to be added to accomplish this. This addition should reduce ice damage repair costs as well as winter electricity use at the facility.

Staff has completed a Waterways Grant Program Application for the removal of the remaining pier and replacement of the parking lot as well as an installation of the utilities decoupling system. The total estimated cost for the project is \$524,200. If successful, the Michigan Department of Natural Resources - Waterways grant would fund fifty percent (50%) of the project costs, or \$262,100.

The deadline for submission of the grant application is April 1, 2021. If successful, the grant dollars will be appropriated in October of 2021, with project anticipated to commence in the fall of 2021.

##### **FISCAL EFFECT:**

Marina Fiscal Policy has established a fee schedule to fund both principal and interest payment for Presque Isle Marina - Phase III.

##### **RECOMMENDATION:**

Approve submitting a Michigan Department of Natural Resources - Parks and Recreation Division Waterways Grant Program Application for Presque Isle Marina - Phase III.

##### **ALTERNATIVES:**

As determined by the Commission.

ATTACHMENTS:

Description

- ▣ Grant Application

**WATERWAYS GRANT PROGRAM APPLICATION**

*This information is required by Authority of Part 781 of the Natural Resources and Environmental Protection Act 1994 PA 451.*

**Grant applications must be emailed to program manager Paul Petersen at [PetersenP@michigan.gov](mailto:PetersenP@michigan.gov) by 5 p.m. est. on April 1<sup>st</sup>.**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                       |  |                                                                                                                                                                                                                                                            |                       |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| Applicant Name (Local Government)                                                                                                                                                                                                                                                                                                                                                                                                                     |  | Name of Contact Person/Title                                                                                                                                                                                                                               |                       |
| Address                                                                                                                                                                                                                                                                                                                                                                                                                                               |  | Address                                                                                                                                                                                                                                                    |                       |
| City, State, ZIP                                                                                                                                                                                                                                                                                                                                                                                                                                      |  | City, State, ZIP                                                                                                                                                                                                                                           |                       |
| Federal Employer Identification Number (FEIN) (REQUIRED)                                                                                                                                                                                                                                                                                                                                                                                              |  | E-mail Address                                                                                                                                                                                                                                             |                       |
| <b>NOTE:</b> FEIN Number of municipality identified as Applicant Name ( <i>Local Government</i> ) above <b>MUST</b> be provided to receive grant funds.                                                                                                                                                                                                                                                                                               |  |                                                                                                                                                                                                                                                            |                       |
| Applicant Telephone                                                                                                                                                                                                                                                                                                                                                                                                                                   |  | Applicant FAX                                                                                                                                                                                                                                              |                       |
| Contact Person Telephone                                                                                                                                                                                                                                                                                                                                                                                                                              |  | Contact Person FAX                                                                                                                                                                                                                                         |                       |
| <b>PROJECT LOCATION</b> <input type="checkbox"/> County <input type="checkbox"/> Township <input type="checkbox"/> City <input type="checkbox"/> Village                                                                                                                                                                                                                                                                                              |  | County                                                                                                                                                                                                                                                     | State Senate District |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                       |  | State House of Representative District                                                                                                                                                                                                                     |                       |
| <b>TYPE OF PROJECT</b><br><input type="checkbox"/> Harbor<br><br><input type="checkbox"/> Boating Access Site (must contain or propose a ramp, maneuver area, and parking to be grant eligible)                                                                                                                                                                                                                                                       |  | <b>TYPE OF GRANT</b><br><input type="checkbox"/> Preliminary Engineering Study<br><br><input type="checkbox"/> Infrastructure Improvements* (i.e., construction projects)<br>*Preliminary engineering has been completed by a licensed design professional |                       |
| <b>PROJECT TITLE</b>                                                                                                                                                                                                                                                                                                                                                                                                                                  |  |                                                                                                                                                                                                                                                            |                       |
| <b>DESCRIPTION OF PROJECT</b><br>Attach a description of the overall project (including scope items, estimated costs, estimated construction schedule, and digital site photos) and a needs assessment.<br><br>Note, for harbor projects, attach the last 3 years of harbor traffic (harbor logs), and last 3 years of harbor financial summaries. In addition, you must provide a 5 Year Harbor Recreation Plan to the Natural Resources Trust Fund. |  |                                                                                                                                                                                                                                                            |                       |
| <b>BUDGET SUMMARY</b>                                                                                                                                                                                                                                                                                                                                                                                                                                 |  |                                                                                                                                                                                                                                                            |                       |
| A. Estimated Project Cost (B + C):                                                                                                                                                                                                                                                                                                                                                                                                                    |  | \$ _____                                                                                                                                                                                                                                                   |                       |
| B. Requested Grant Amount                                                                                                                                                                                                                                                                                                                                                                                                                             |  | \$ _____                                                                                                                                                                                                                                                   |                       |
| C. Applicant's Matching Funds:                                                                                                                                                                                                                                                                                                                                                                                                                        |  | \$ _____                                                                                                                                                                                                                                                   |                       |
| As Designated Representative of above-named Applicant, I hereby agree to implement this project according to the materials provided with this application and to abide by the provisions of the Waterways Grant program, including compliance with all applicable Federal and State laws and regulations.                                                                                                                                             |  |                                                                                                                                                                                                                                                            |                       |
| Printed Name and Title of Applicant's Designated Representative                                                                                                                                                                                                                                                                                                                                                                                       |  | Signature                                                                                                                                                                                                                                                  | Date                  |

**Application with attached Project Description must be emailed to program manager Paul Petersen at [PetersenP@michigan.gov](mailto:PetersenP@michigan.gov) by 5 p.m. est. on April 1<sup>st</sup>.**

**FOR DNR USE ONLY**☐ Facility Number.: ☐ Compliance Review

Comments

Program Manager (please print)

Signature

Date