

**A REGULAR MEETING**

Of The

**TRAVERSE CITY LIGHT AND POWER BOARD**

Will Be Held On

**TUESDAY, November 13, 2012**

At

**5:15 p.m.**

In The

**COMMISSION CHAMBERS**

(2<sup>nd</sup> floor, Governmental Center)  
400 Boardman Avenue

Traverse City Light and Power will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities at the meeting/hearing upon notice to Traverse City Light and Power. Individuals with disabilities requiring auxiliary aids or services should contact the Light and Power Department by writing or calling the following.

Stephanie Tvardek  
Administrative Assistant  
1131 Hastings Street  
Traverse City, MI 49686  
(231) 932-4543

Traverse City Light and Power  
1131 Hastings Street  
Traverse City, MI 49686  
(231) 922-4940

Posting Date: 11-9-12  
4:30 p.m.

## AGENDA

### Pledge of Allegiance

#### 1. Roll Call

#### 2. Consent Calendar

*The purpose of the consent calendar is to expedite business by grouping non-controversial items together to be dealt with by one Board motion without discussion. Any member of the Board, staff or the public may ask that any item on the consent calendar be removed therefrom and placed elsewhere on the agenda for full discussion. Such requests will be automatically respected. If an item is not removed from the consent calendar, the action noted in parentheses on the agenda is approved by a single Board action adopting the consent calendar.*

- a. Consideration of approving minutes of the Regular Meeting of October 23 and Special Meeting of October 26, 2012. (Approval recommended)
- b. MPPA Agency Alternatives. (Approval recommended) (Arends)

#### Items removed from the Consent Calendar

None.

#### 3. Old Business

- a. Highland Park Overhead to Underground Conversion project re-authorization. (Arends/Olney)
- b. Major Projects Update.
  - LED Street Lighting Conversion Project (Verbal – Olney)
  - 2012 Distribution Circuit Rehabilitation BW-22 Project (Olney)
  - East Hammond Substation Project (Verbal - GRP Engineering)
  - East Hammond Transmission Line (Verbal – Abraitis/Doren)
  - South Side Distribution Substation Project (Verbal – McGuire)

#### 4. New Business

- a. Consideration of authorizing an Assignment of Lease with Right of Reassignment and Landlord's Consent to Assignment for Traverse Tall Ship Company, LLC. (Arends)
- b. Executive Director Recruitment Ad Hoc Committee report to Board. (Taylor)

#### 5. Appointments

None.

**6. Reports and Communications**

- a. From Legal Counsel.
- b. From Staff.
  - 1. TCL&P City Fee vs. City Tax Analysis. (Arends)
  - 2. M-72 wind turbine status update. (Verbal - Olney)
  - 3. MECA board education opportunity. (Arends)
- c. From Board.
  - 1. Discuss status of the 2<sup>nd</sup> Regular Board Meeting in December. (Verbal - McGuire)

**7. Public Comment**

/st

**TRAVERSE CITY  
LIGHT AND POWER BOARD**

Minutes of Regular Meeting  
Held at 5:15 p.m., Commission Chambers, Governmental Center  
Tuesday, October 23, 2012

**Board Members -**

Present: Barbara Budros, Jim Carruthers, Mike Coco, John Snodgrass, Bob Spence,  
John Taylor, Patrick McGuire

**Ex Officio Member -**

Present: R. Ben Bifoss

**Others:** Ed Rice, W. Peter Doren, Tim Arends, Stephanie Tvardek, Tom Olney

The meeting was called to order at 5:15 p.m. by Chairman McGuire.

**Item 2 on the Agenda being Consent Calendar**

None.

**Items removed from the Consent Calendar**

None.

**Item 3 on the Agenda being Old Business**

None.

**Item 4 on the Agenda being New Business**

**4(a).** Consideration of approving minutes of the Regular Meeting of September 25, 2012.

Moved by Carruthers, seconded by Coco, that the minutes of the Regular Meeting of September 25, 2012, be approved.

CARRIED unanimously.

**4(b).** Highland Park Overhead to Underground Conversion project authorization.

The following individuals addressed the Board:

Ed Rice, Executive Director  
Tom Olney, Operations Manager

Moved by Carruthers, seconded by Coco, that the Light and Power Board authorize staff to proceed with the Highland Park Overhead to Underground Distribution Conversion Project and seek the necessary board approvals for expenditures.

Commissioner Budros asked if she needed to recuse herself from the vote, as she is a resident of the Highland Park area. W. Peter Doren clarified there is no conflict of interest, therefore recusal from the vote is not necessary.

The Board requested a detailed list of estimated project costs be added to the approved project authorization request form.

Roll Call:

Yes – Budros, Carruthers, Coco, Spence, Taylor, McGuire

No – Snodgrass

CARRIED.

- 4(c).** Consideration of authorizing a Contract with Elmer's for the Highland Park Overhead to Underground Conversion Project.

The following individuals addressed the Board:

Ed Rice, Executive Director

Tom Olney, Operations Manager

Moved by Coco, seconded by Taylor, that the Light and Power Board authorize the Chairman and Secretary to enter into a contract with Elmer's, in the amount of \$50,910 for the Highland Park Overhead to Underground Conversion Project; subject to approval as to substance by the Executive Director and approval as to form by Counsel; and further authorizes the Executive Director to administer amendments and change orders that are in the best interests of the Light and Power Department.

Roll Call:

Yes – Budros, Carruthers, Coco, Spence, Taylor, McGuire

No – Snodgrass

CARRIED.

- 4(d).** Consideration of Executive Directors Contract.

The following individuals addressed the Board:

W. Peter Doren, General Counsel

Moved by Budros, seconded by Spence, to terminate the Executive Directors contract effective immediately based on the results of the evaluation.

Moved by Coco, seconded by Snodgrass, to appeal the Chairman's ruling that it is out of order to discuss the Executive Director's evaluation.

Roll Call:

Yes – Budros, Carruthers, Coco, Snodgrass, Spence, Taylor

No – McGuire

CARRIED.

The Board discussed the performance evaluation of the Executive Director.

Moved by Taylor, seconded by Coco, to amend the original motion to read as follows: To terminate the Executive Director's Contract in 60 days unless renewed by the Board prior to that time.

Coco proposed a friendly amendment that the Contract be terminated in 90 days. Friendly amendment failed due to lack of support from Taylor.

Therefore, the motion before the Board is to amend the original motion to include a 60 day probationary period.

Roll Call:

Yes – Coco, Snodgrass, Taylor

No – Budros, Carruthers, Spence, McGuire

FAILED.

The following individuals from the public addressed the Board:

Rick Buckhalter, 932 Kelley Street, Ratepayer

Corey Schichtel, 9090 M-37, Non-Ratepayer (TCL&P employee)

Rob Hipp, 3166 Voss, Non-Ratepayer (TCL&P employee)

Pat Brady, 1617 East Lane, Ratepayer

Doug Izard, 1910 Iroquois, Ratepayer (TCL&P employee)

Corey Grueber, 10123 E. Claremont Dr. Non-Ratepayer (TCL&P employee)

Kevin Bartz, 5650 East Duck Lake Rd., Non-Ratepayer (TCL&P employee)

Now, the motion before the Board is as follows: To terminate the Executive Directors contract effective immediately based on the results of the evaluation.

Roll Call:

Yes – Budros, Carruthers, Spence, McGuire

No – Coco, Snodgrass, Taylor

CARRIED.

Moved by Carruthers, seconded by Taylor to appoint Tim Arends, TCL&P Controller as the *Interim* Executive Director.

The following individuals from the public addressed the Board:

Rick Buckhalter, 932 Kelley Street, Ratepayer

CARRIED unanimously.

The Board scheduled a Special Meeting for Friday, October 26, 2012.

#### **Item 5 on the Agenda being Appointments**

None.

#### **Item 6 on the Agenda being Reports and Communications**

A. From Legal Counsel.

None.

B. From Staff.

None.

C. From Board.

1. Mike Coco, John Snodgrass and Pat McGuire thanked Mr. Rice for his service as Executive Director of TCL&P.
2. Jim Carruthers spoke regarding:
  - The Environmental Stewardship Award presentation for Goodwill Industries
  - Skip Pruss presentation regarding the 25by25 State Proposal scheduled for Wednesday, October 24 at the City Opera House
  - TCL&P Incentives postcard mailed to customers recently
  - TC Saves program expansion

**Item 7 on the Agenda being Public Comment**

The following individuals addressed the Board:

Ed Rice, 1664 Strasbourg, Non-Ratepayer  
Rick Buckhalter, 932 Kelley St., Ratepayer

There being no objection, Chairman McGuire declared the meeting adjourned at 7:39 p.m.

/st

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Tim Arends, Secretary  
LIGHT AND POWER BOARD

**TRAVERSE CITY  
LIGHT AND POWER BOARD**

Minutes of Light and Power Board Special Meeting  
Held at 5:15 p.m., Commission Chambers, Governmental Center  
Friday, October 26, 2012

**LIGHT AND POWER BOARD MEMBERS -**

Present: Barbara Budros, Jim Carruthers, Mike Coco, John Snodgrass, Bob Spence,  
John Taylor, Pat McGuire

**EX OFFICIO MEMBER -**

Presnet: Ben Bifoss, City Manager

**OTHERS:** Tim Arends, W. Peter Doren, Stephanie Tvardek

The meeting was called to order at 5:15 p.m. by Chairman McGuire.

Moved by Carruthers, seconded by Coco, that the agenda be amended to include Public Comment immediately following agenda item 4.

CARRIED unanimously.

**1. Discussion and Board Action concerning an interim Executive Director.**

The following individuals addressed the Board:

Tim Arends, *Interim* Executive Director/Controller  
W. Peter Doren, General Counsel  
R. Ben Bifoss, City Manager

Moved by Coco, seconded by Carruthers, that the Board accept the Interim Executive Director job description as presented and amended, and further appoint Tim Arends as Interim Executive Director until the position is filled.

McGuire proposed a friendly amendment with the support of Coco and Curruthers, that the Board appoints Tim Arends as Secretary of the Board.

The following individuals from the public addressed the Board:

Pat Brady, 1617 East Lane, Ratepayer



Now, the motion before the Board is as follows: That the Board accept the Interim Executive Director job description as presented and amended, and further appoints Tim Arends as the Interim Executive Director and Secretary of the Board until the position is filled.

CARRIED unanimously.

**2. Discussion and possible Board Action concerning the search for a permanent Executive Director.**

The following individuals addressed the Board:

R. Ben Bifoss, City Manager  
Tim Arends, *Interim* Executive Director/Controller  
W. Peter Doren, General Counsel

Moved by Budros, seconded by Carruthers, that the Board create an Executive Director Recruitment Ad Hoc Committee and appoints Mike Coco, Vice Chairman John Taylor and Chairman Pat McGuire to the Committee, with Taylor to serve as Committee Chairman. The Ad Hoc Committee will expire once it completes the task of recruiting and hiring an Executive Director.

CARRIED unanimously.

**3. Discussion and possible Board Action concerning a Board Improvement Initiative.**

The following individuals addressed the Board:

Tim Arends, *Interim* Executive Director/Controller  
W. Peter Doren, General Counsel

**4. Discussion and possible Board Action concerning critical projects, contracts or other operational matters indentified by Staff, which may require special attention by the Board and/or Staff.**

The following individuals addressed the Board:

Tim Arends, *Interim* Executive Director/Controller  
W. Peter Doren, General Counsel

**Reports and Communications:**

1. Mike Coco spoke re: the Chamber Sleep Out for Heating Assistance at the Open Space scheduled for Tuesday, October 30, 2012.
2. John Snodgrass spoke re: the complaint filed by MPPA against MichCon due to a billing dispute.

3. Tim Arends spoke re: Christmas lights – installation will begin Monday, October 29, 2012.

**5. Public Comment**

The following individuals from the public addressed the Board:

Pat Brady, 1617 East Lane, Ratepayer

There being no objection, Chairman McGuire declared the meeting adjourned at 6:40 p.m.

/st

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Tim Arends, Secretary  
LIGHT AND POWER BOARD


DRAFT



TRAVERSE CITY  
LIGHT & POWER

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**To:** Light & Power Board  
**From:** Tim Arends, *Interim* Executive Director/Controller  
**Date:** November 8, 2012  
**Subject:** Michigan Public Power Agency Commissioner & Alternates



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The Michigan Public Power Agency (MPPA) Bylaws permit each member municipality's governing body to appoint a Commissioner and a first (1<sup>st</sup>) and second (2<sup>nd</sup>) alternate to represent the municipality on the MPPA Board of Directors. The recognition to vote is applied in ascending order from Commissioner to the 1<sup>st</sup> alternate and then the 2<sup>nd</sup> alternate.

It is customary for participating municipalities, and past practice for TCL&P to appoint its Executive Director as Commissioner on the MPPA Board. Since much of the business of the MPPA is focused on energy supply issues it would be appropriate that Karen Feahr, Energy Supply Manager, be appointed as the 1<sup>st</sup> alternate and Tom Olney, Operations Manager, be appointed as the 2<sup>nd</sup> alternate. Both are very familiar with the Kalkaska C.T. project in which MPPA is the owner and TCL&P is majority participant. Karen has also been elected by the MPPA Board to chair the C.T. Committee, which I affirm.

This item is being placed on the consent calendar because staff deems it to be a non-controversial item. Approval of this item on the consent calendar will mean that you agree with staff's recommendation.

If removed from the consent calendar it should be placed as a New Business item and the following motion is appropriate if you agree with staff's recommendation:

**MOVED BY \_\_\_\_\_, SECONDED BY \_\_\_\_\_,  
THAT THE LIGHT & POWER BOARD APPOINTS TIM ARENDS AS THE TCL&P  
COMMISSIONER ON THE MPPA BOARD, WITH KAREN FEHR DESIGNATED AS THE  
FIRST ALTERNATE AND TOM OLNEY AS THE SECOND ALTERNATE TO  
REPRESENT TCL&P ON THE MPPA BOARD OF DIRECTORS.**



TRAVERSE CITY  
LIGHT & POWER

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**To:** Light & Power Board  
**From:** Tim Arends, *Interim* Executive Director/Controller   
Tom Olney, Operations Manager  
**Date:** November 13, 2012  
**Subject:** Project Reauthorization Request – Highland Park Overhead to Underground Distribution Conversion Project

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**ARENDS:**

At your last board meeting I indicated that staff would have this project on your next agenda to request approval of a new timeline for spring construction as opposed to trying to start and work through the winter months. In revisiting the project staff decided to start the process over as if this project were never presented to the board, and provide the detailed information that the board expressed they were interested in seeing associated with the project authorization form.

This new process was arduous for staff and involved every single administrative staff member. In some way, every staff position contributed to the information attached, or to the presentation that will be given for the board/public. This was an opportunity to create a new model in how L&P estimates its projects and will be further fine-tuned and enhanced by staff going forward, including any board suggestions. While not perfect, this new process/format is only a starting point. Not only will staff put this effort into new project estimates, it will also report project updates and project final costs as compared to the preliminary estimates. This will provide a history of project estimates and actual costs that will enable staff to provide more accurate estimates of future projects.

During the process of reanalyzing the Highland Park Overhead to Underground Distribution Conversion Project, it became apparent that the original estimated cost of \$200K was significantly lower than the new project estimate of \$316.5K. Because of the significant change in the cost of the project, it seems only appropriate to allow the board the opportunity to “reauthorize” the project and rescind its prior actions related to this project; in addition, staff is recommending (if the project is reauthorized by the board) that new boring bids be sought in the spring, just ahead of project construction.

I want to thank the staff for all of their efforts. Many had to set aside their normal duties/projects or put in extra time to accomplish this task.

**OLNEY:**

The staff has prepared a packet of information and is requesting L&P Board for staff to delay construction of the Highland Park Overhead to Underground Distribution Conversion Project until spring of next year.

Details for this project are included in your packet. Staff will be prepared to answer any questions.

Because this estimated project cost has significantly changed, staff recommends the TCL&P Board rescind its action at the October 23, 2012 regular meeting in which it approved the Project Authorization Request; and further rescind its action approving a boring contract with Elmer's, and further approve the Project Re-Authorization Request, with boring services to be rebid in the spring.

If the Board agrees with staff's recommendation the following motion is appropriate:

**MOVED BY \_\_\_\_\_, SECONDED BY \_\_\_\_\_,  
THAT THE LIGHT AND POWER BOARD RESCIND ITS ACTION OF OCTOBER 23,  
2012 APPROVING THE PROJECT AUTHORIZATION REQUEST FOR HIGHLAND PARK  
OVERHEAD TO UNDERGROUND DISTRIBUTION CONVERSION; AND FURTHER  
RESCINDS IT ACTION APPROVING A BORING CONTRACT WITH ELMERS FOR SAID  
PROJECT; AND FURTHER APPROVES THE HIGHLAND PARK OVERHEAD TO  
UNDERGROUND DISTRIBUTION CONVERSION PROJECT REAUTHORIZATION  
REQUEST AS PRESENTED, WITH BORING SERVICES TO BE REBID IN SPRING  
2013.**

**Project Name:** Highland Park Overhead to Underground Distribution Conversion Project

**Date of Board Presentation/Consideration:** November 13, 2012

**Budgeted in Capital Plan:** Yes      **Project Estimate:** \$316,496

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**Project Description:**

Replace 11 spans of high voltage overhead power lines and associated devices that are not accessible by vehicle with 3,500 feet of high voltage underground cable and associated devices. This is part of the main circuit that serves power to the Peninsula.

**Project Location:**

The overhead power line located between Highland Park Drive and Bloomfield Avenue, and runs through Highland Park.

*Reference: Attachment A.1-A.2 – Project Maps*

**Project Purpose and Necessity:**

The present overhead pole line is located in a rear lot line easement which is inaccessible to TCL&P vehicles requiring all repair work to be completed manually. Conversion of this line to underground would greatly improve the reliability of service to the customers in this area and also to all customers north of this line.

**Project Benefits:**

- Improve reliability by reducing the frequency of outages.
- Greatly reduce the need for tree trimming and possible tree removal in the project area.
- Reduction in annual maintenance costs associated with tree trimming, line maintenance and emergency repairs.
- Improve aesthetics in the neighborhood and City park.

**Selection Method:**

Originally this section of overhead line was slated to be converted to underground in conjunction with the rehabilitation project. Interruptions to this line not only affects the 35 customers in the area but also results in outages to 233 customers to the north that are also served by this line. TCL&P KPI (key performance indices) show the average customer experiences one interruption to service per year. Customers in this service area have been exposed to an average of three interruptions per year over the last three years. The staff collectively agreed that this project has been given top priority to successfully achieve the greatest reliability to TCL&P customers.

**Project Timeline:**

April 15, 2013 – Target Start Date

June 28, 2013 – Target Completion Date

Project Phases:

<u>Timeline</u>		<u>Phase</u>
Current	- 4/15/2013	Preliminary Engineering and Design
4/15/2013	- 5/1/2013	Directional Bore of Conduit
5/1/2013	- 5/31/2013	Installation of Basements, Transformers and T-Taps
5/1/2013	- 5/31/2013	Trenching to Existing Underground Services
5/1/2013	- 5/31/2013	Pulling of Conductor through Conduit
5/1/2013	- 5/31/2013	Installation of Terminations
6/3/2013	- 6/4/2013	Energizing New Underground System
6/5/2013	- 6/28/2013	Removal of Overhead
4/15/2013	- 6/28/2013*	On-going Site Restoration

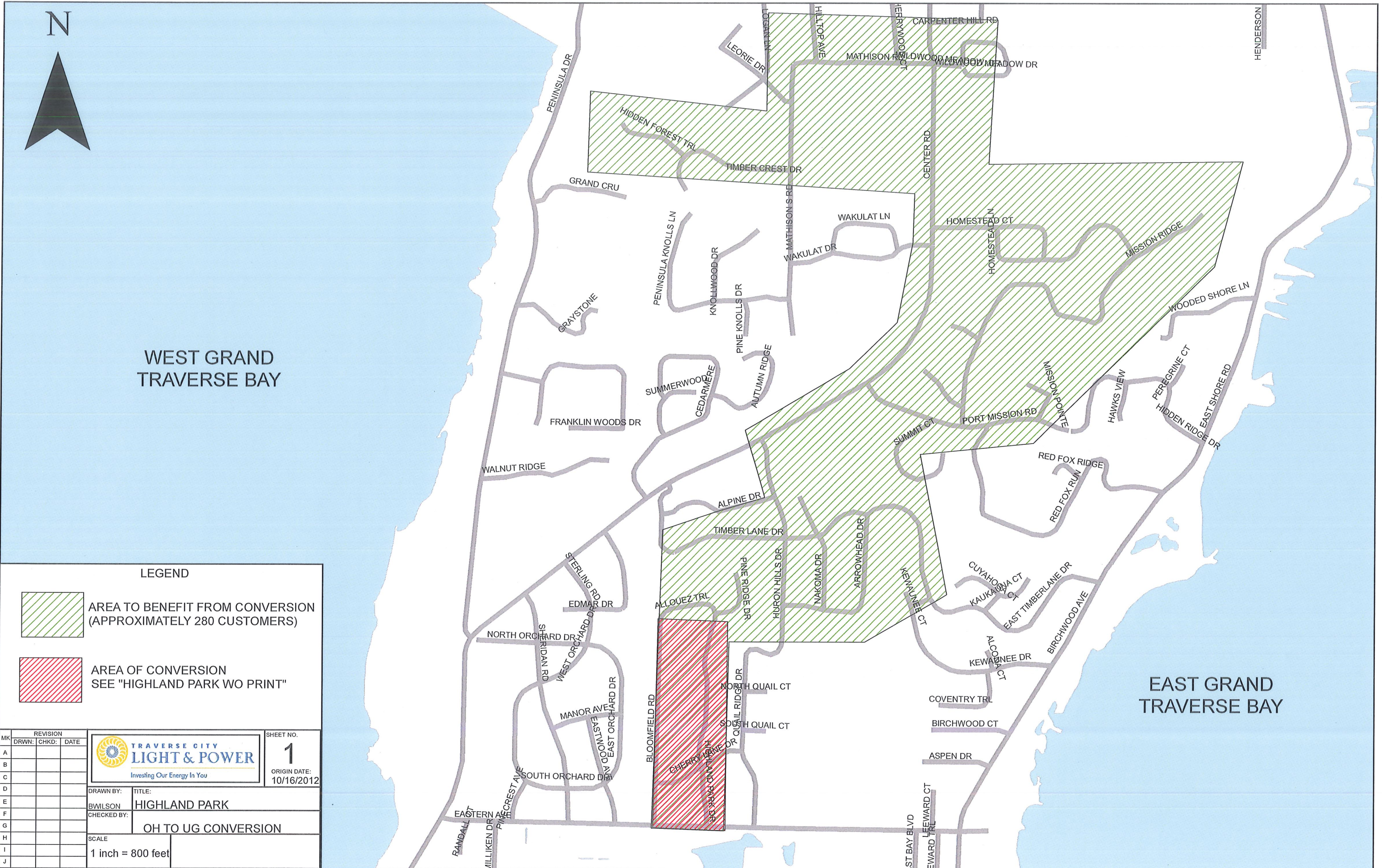
\*Until complete

*Reference: Attachment B – Gantt Chart***Project Budget:**

Labor/Benefit Costs	\$72,658
Labor Contingency	18,164
Equipment Cost	51,562
Materials Cost	38,813
Contract Services	72,000
<b>Subtotal</b>	<b>\$253,197</b>
Administration Overhead	\$37,980
Total Project Contingency	\$25,320
<b>Grand Total</b>	<b>\$316,496</b>

*Reference: Attachment C.1-C.2 - Cost Estimates and Labor Breakdown***Financing Method:**

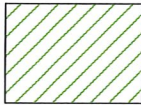
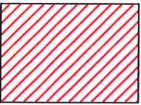
The use of TCL&P funds as planned for in the Capital Improvements Plan (line improvements and extensions). Bonding will not be required.



WEST GRAND TRVERSE BAY


EAST GRAND TRVERSE BAY

LEGEND

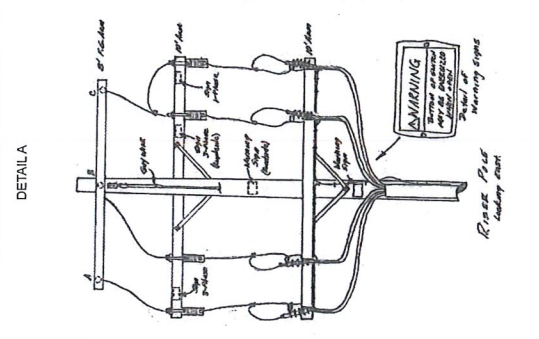
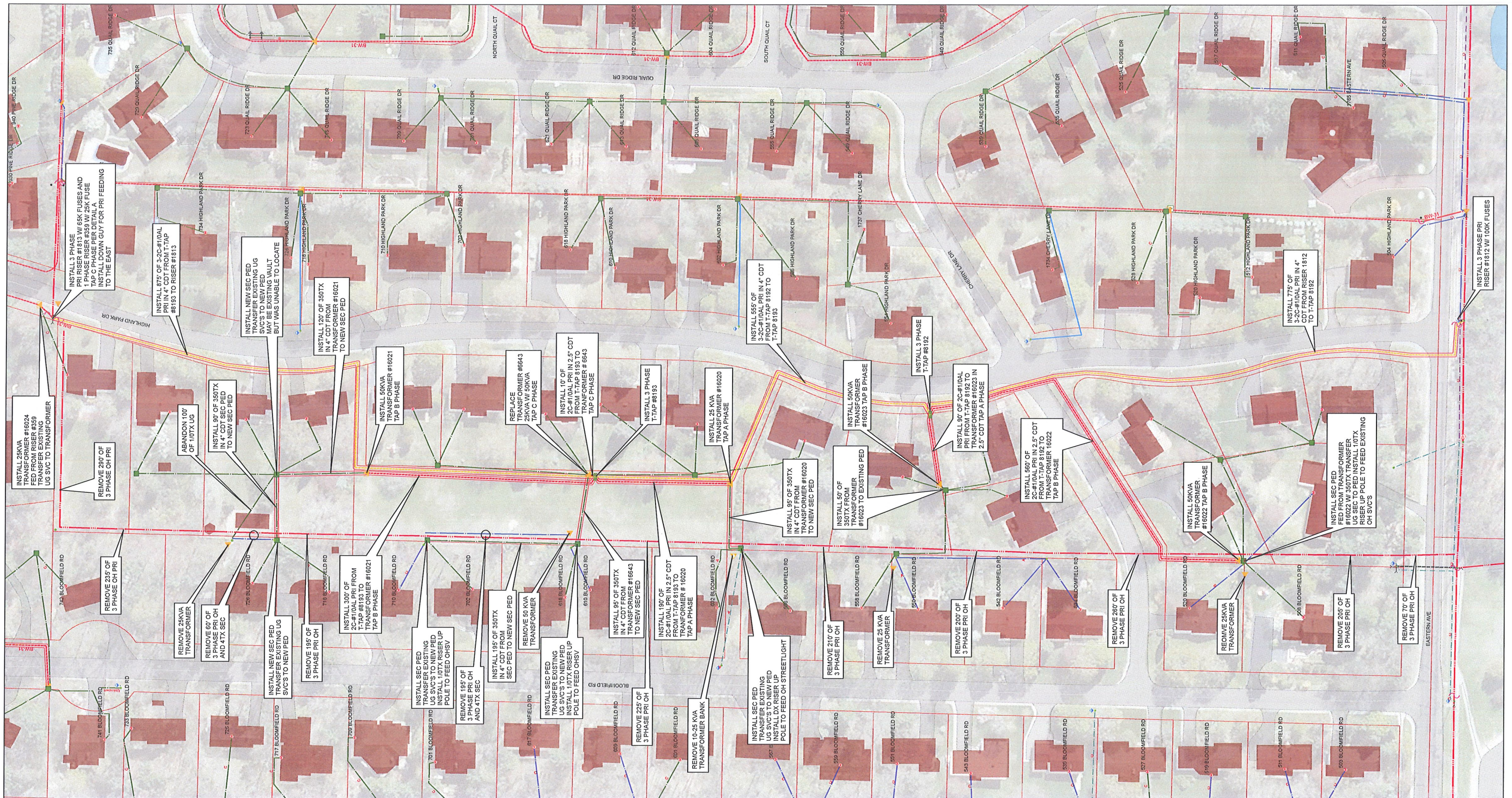
-  AREA TO BENEFIT FROM CONVERSION (APPROXIMATELY 280 CUSTOMERS)
-  AREA OF CONVERSION SEE "HIGHLAND PARK WO PRINT"

REVISION			SHEET NO.
MK	DRWN:	CHKD: DATE	
A			<b>1</b> ORIGIN DATE: 10/16/2012
B			
C			
D			
E			
F			
G			
H			
I			
J			

 <b>TRAVERSE CITY LIGHT &amp; POWER</b> Investing Our Energy In You	DRAWN BY: BWILSON	TITLE: HIGHLAND PARK
	CHECKED BY:	OH TO UG CONVERSION
SCALE: 1 inch = 800 feet		





**Legend**

**Overhead**

- Single Phase Delta
- Three Phase Open Delta
- Three Phase Wye Grounded
- Pole
- OH Switch
- Single Phase Primary Overhead
- Two Phase Primary Overhead
- Three Phase Primary Overhead
- Single Phase Secondary Overhead
- Three Phase Secondary Overhead
- Neutral
- OH Streetlight Conductor Single Wire

**Underground**

- Single Phase Underground
- Three Phase Underground
- Padmount Switch
- Vault
- Pedestal
- T-Tap
- Connection Box
- Single Phase Secondary Underground
- Three Phase Secondary Underground
- Single Phase Primary Underground
- Three Phase Primary Underground
- Underground Streetlight Conductor

**Common**

- Electric Meter
- Streetlight

**North Arrow**

**Scale:** 1 inch = 60 feet

**Company:** LIGHT & POWER

**Project:** HIGHLAND PARKWAY PRINT

**Date:** 10/07/2012

**Scale:** OH TO UG CONVERSION

# HIGHLAND PARK OVERHEAD TO UNDERGROUND CONVERSION



Activity Name	Start Date	Finish Date	2013		
			April	May	June
Preliminary Engineering and	6/4/12	4/15/13			
Directional Bore Conduit	4/15/13	5/1/13			
Pulling Conductor Through	5/1/13	5/31/13			
Installing Transformers and	5/1/13	5/31/13			
Trenching to Existing	5/1/13	5/31/13			
Installation of Terminations	5/1/13	5/31/13			
Energize New Underground	6/3/13	6/4/13			
Removal of Overhead	6/5/13	6/28/13			
On-going Site Restoration	4/15/13	6/28/13			
			April	May	June

\*Inclement weather days may alter the timeline as presented

## Highland Park Overhead to Underground Distribution Conversion Project

### Cost Estimates and Crew Breakdown

Labor/Benefit Costs	Rate	Hrs		Labor	Grand Totals
Crew 1	95.07	228		21,676	
Crew 2	95.07	228		21,676	
			Total Labor		43,352
			Benefits (67.7%)		29,306
			<b>Total Labor/Benefit Costs</b>		<b>72,658</b>
			<b>Labor Contingency (25%)</b>		<b>18,164</b>

Equipment Cost	Rates	Hrs			
122 Bucket Truck	53.01	285		15,108	
123 Bucket Truck	43.95	285		12,526	
126 Line Truck	79.55	160		12,728	
136 4 x 4 Pick-up	11.58	285		3,300	
149 Backhoe	46.46	160		7,434	
313 Reel Trailer	11.67	40		467	
			<b>Total Equipment Cost</b>		<b>51,562</b>

Materials Cost	Quantity	Cost			
50 kva padmount transformer	4	2,223.03		8,892	
25 kva padmount Transformer	2	1640.39		3,281	
1/0 pri ug	8,140	2.30		18,722	
350 ug tx	695	2.62		1,821	
3 Phase T-Tap	2	354.20		708	
45-4 POLE	1	388.30		388	
Misc Mtrl	1	5,000.00		5,000	
			<b>Total Materials</b>		<b>38,813</b>

Contract Services					
Bore (contractor installed)	1	65,000.00		65,000	
plan & profile	1	7,000.00		7,000	
			<b>Total Contract Services</b>		<b>72,000</b>

			<b>Sub-Total</b>		<b>253,197</b>
			<b>Adimistration Overhead (15%)</b>		<b>37,980</b>
			<b>Total Project Contingency (10%)</b>		<b>25,320</b>
			<b>Grand Total</b>		<b>316,496</b>

## HIGHLAND PARK LABOR BREAKDOWN



<u>Timeline</u>	<u>Phase</u>	<u>Crew Hours</u>
5/1/2013 - 5/31/2013	Installation of Transformers & T-taps	80
5/1/2013 - 5/31/2013	Trenching to Existing Underground Services	80
5/1/2013 - 5/31/2013	Pulling of Conductor through Conduit	80
5/1/2013 - 5/31/2013	Installation of Terminations	80
6/3/2013 & 6/4/2013	Energizing New Underground System	16
6/5/2013 - 6/14/2013	Removal of Overhead	120
	<b>Subtotal</b>	<b>456</b>
	<b>25% Contingency</b>	<b>114</b>
	<b>Grand Total</b>	<b>570*</b>

\*Contingency estimate complete by 6/28/2013

Note:

1. Typical crew is made up of (1) Lead Lineman and (2) Linemen A
2. 25% contingency is due to unforeseen issues with underground construction and access issues with overhead removal.



TRAVERSE CITY  
LIGHT & POWER

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**To:** Light & Power Board  
**From:** Tim Arends, *Interim* Executive Director/Controller  
**Date:** November 13, 2012  
**Subject:** Major Projects Update

A handwritten signature in black ink, appearing to be "TA", enclosed in a circular scribble.

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The Board has requested an update on major projects that are currently in-process for the utility. The projects will be updated for the board in the order as listed on the Board agenda; these were the projects staff considered to be "major" in nature and/or far enough along to provide an update.

Some reports are listed as verbal updates; however, if the Board is interested in any additional documentation it would like relating to any project please let me know in advance and that information will be provided both electronically and as a handout at the meeting. It was my sense that the Board was most interested in assurance from staff that projects were not deterred by the events in recent weeks.

As of the agenda posting I anticipate an update as listed; however, I understand that GRP Engineering is working through a conflict it has with the meeting date and may have to give their update at the next board meeting.

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**Project Name:** 2012 Distribution Circuit Rehabilitation Circuit BW-22

**Date of Board Update:** November 13, 2012

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As of October 31<sup>st</sup>, the expenditures of the BW-22 Circuit Rebuild Project are as follows:

**Total Project Budget: \$1,400,000**

YTD Expenditures

CC Power Labor:	\$186,102	(Total Contract Amt. \$657,280)
TCL&P Supervision:	\$56,540	
Material:	\$65,091	
TCL&P Field Labor:	\$16,138	

YTD Breakdown of Materials:

42 New Poles  
18 Transformers  
80 Wood Cross Arms  
4.5 Miles of New Conductor

Construction Start Date: June 2012  
Estimated Field Completion YTD: 50%  
Estimated Completion Date: June 2013



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**To:** Light & Power Board  
**From:** Tim Arends, *Interim* Executive Director/Controller  
**Date:** November 8, 2012  
**Subject:** Traverse Tall Ship Company License Assignment

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A handwritten signature in dark ink, appearing to be "T. Arends", is written over the "From:" line of the header.

Attached is a request from Dave McGinnis of Traverse Tall Ship Company, LLC to assign its License to Use Coal Dock and Bottomlands with Traverse City Light & Power Department (TCL&P) to Traverse City State Bank for financing purposes. License Section 12 (license attached for your reference) requires prior written consent of Licensor before the License may be assigned.

This request was reviewed by Mr. Doren for his legal opinion, and he concluded that Board approval was required for the consent.

TCL&P staff does not anticipate that this assignment will in any way impair the License authorized by the Board. In fact, if for some reason Traverse Tall Ship was unable to pay their obligations under the License Agreement the Assignment would allow Traverse City State Bank to make payments required in the License on their behalf.

Staff recommends the Board approve written consent to allow assignment of the License between Traverse Tall Ship and TCL&P to Traverse City State Bank. If the Board is in agreement with staff's recommendation the following motion is appropriate:

**MOVED BY \_\_\_\_\_, SECONDED BY \_\_\_\_\_,**  
**THAT THE BOARD AUTHORIZE THE *INTERIM* EXECUTIVE DIRECTOR AND THE BOARD CHAIRMAN TO PROVIDE WRITTEN CONSENT OF ASSIGNMENT TO TRAVERSE CITY STATE BANK OF THE LICENSE TO USE COAL DOCK AND BOTTOMLANDS DATED FEBRUARY 6, 2012 BETWEEN TRAVERSE CITY LIGHT & POWER DEPARTMENT AND TRAVERSE TALL SHIP COMPANY, LLC.**



November 6, 2012

Mr. Tim Arends  
Traverse City Light and Power  
1131 Hastings Street  
Traverse City, MI 49686

Dear Tim:

Traverse City State Bank has requested from Traverse Tall Ship Company an assignment of their lease with TCLP. This is necessary as collateral for the loan for two reasons. First, it is a requirement as part of their SBA financing. Second, the boat and its size provides for limited docking options therefore should the bank need to foreclose on the boat the assignment of lease would provide the bank a place to keep the boat in the interim as it was being sold.

Assignments of leases are common collateral for commercial borrowers, especially when leased space has been improved and the bank's funds were used for those improvements. Traverse Tall Ship Company is a longtime customer of the commercial loan officer making the request and has always handled their obligations as agreed.

Thank you for your attention to this matter.

Sincerely,

Dave McGinnis  
Manager and Senior Captain



# ASSIGNMENT OF LEASE WITH RIGHT OF REASSIGNMENT

**Borrower:** TRAVERSE TALL SHIP COMPANY, LLC  
13258 SOUTH WEST BAYSHORE DRIVE  
TRAVERSE CITY, MI 49684

**Lender:** Traverse City State Bank  
Main Branch  
310 West Front Street  
PO Box 192  
Traverse City, MI 49685-0192

THIS ASSIGNMENT OF LEASE WITH RIGHT OF REASSIGNMENT is entered into among TRAVERSE TALL SHIP COMPANY, LLC ("Borrower"), whose address is 13258 SOUTH WEST BAYSHORE DRIVE, TRAVERSE CITY, MI 49684; Traverse City State Bank ("Lender"), whose address is Main Branch, 310 West Front Street, PO Box 192, Traverse City, MI 49685-0192; and Traverse City Light & Power Department ("Landlord"), whose address is 1131 Hastings Street, Traverse City, MI 49686. Borrower and Lender have entered into, or are about to enter into, an agreement whereby Lender has acquired or will acquire a security interest or other interest in the Collateral. Some or all of the Collateral may be affixed or otherwise become located on the Premises. To induce Lender to extend the Loan to Borrower against such security interest in the Collateral and for other valuable consideration, Landlord hereby agrees with Lender and Borrower as follows.

**COLLATERAL DESCRIPTION.** The word "Collateral" means certain of Borrower's personal property in which Lender has acquired or will acquire a security interest, including without limitation the following specific property:

Traverse City Light & Power Dept. License to Use Coal Dock and Bottomlands

**BORROWER'S ASSIGNMENT OF LEASE.** Borrower hereby assigns to Lender all of Borrower's rights in the Lease, as partial security for the Loan. The parties intend that this assignment will be a present transfer to Lender of all of Borrower's rights under the Lease, subject to Borrower's rights to use the Premises and enjoy the benefits of the Lease while not in default on the Loan or Lease. Upon full performance by Borrower under the Loan, this assignment shall be ended, without the necessity of any further action by any of the parties. This assignment includes all renewals of and amendments to the Lease or the Loan, until the Loan is paid in full. No amendments may be made to the Lease without Lender's prior written consent, which shall not be unreasonably withheld or delayed.

**CONSENT OF LANDLORD.** Landlord consents to the above assignment. If Borrower defaults under the Loan or the Lease, Lender may reassign the Lease, and Landlord agrees that Landlord's consent to any such reassignment will not be unreasonably withheld or delayed. So long as Lender has not entered the Premises for the purpose of operating a business, Lender will have no liability under the Lease, including without limitation liability for rent. Whether or not Lender enters into possession of the Premises for any purpose, Borrower will remain fully liable for all obligations of Borrower as lessee under the Lease. While Lender is in possession of the Premises, Lender will cause all payments due under the Lease and attributable to that period of time to be made to Landlord. If Lender later reassigns the Lease or vacates the Premises, Lender will have no further obligation to Landlord.

**LEASE DEFAULTS.** Both Borrower and Landlord agree and represent to Lender that, to the best of their knowledge, there is no breach or offset existing under the Lease or under any other agreement between Borrower and Landlord. Landlord agrees not to terminate the Lease, despite any default by Borrower, without giving Lender written notice of the default and an opportunity to cure the default within a period of sixty (60) days from the receipt of the notice. If the default is one that cannot reasonably be cured by Lender (such as insolvency, bankruptcy, or other judicial proceedings against Borrower), then Landlord will not terminate the Lease so long as Landlord receives all sums due under the Lease for the period during which Lender is in possession of the Premises, or so long as Lender reassigns the Lease to a new lessee reasonably satisfactory to Landlord.

**DISCLAIMER OF INTEREST.** Landlord hereby consents to Lender's security interest (or other interest) in the Collateral and disclaims all interests, liens and claims which Landlord now has or may hereafter acquire in the Collateral. Landlord agrees that any lien or claim it may now have or may hereafter have in the Collateral will be subject at all times to Lender's security interest (or other present or future interest) in the Collateral and will be subject to the rights granted by Landlord to Lender in this Agreement.

**ENTRY ONTO PREMISES.** Landlord and Borrower grant to Lender the right to enter upon the Premises for the purpose of removing the Collateral from the Premises or conducting sales of the Collateral on the Premises. The rights granted to Lender in this Agreement will continue until a reasonable time after Lender receives notice in writing from Landlord that Borrower no longer is in lawful possession of the Premises. If Lender enters onto the Premises and removes the Collateral, Lender agrees with Landlord not to remove any Collateral in such a way that the Premises are damaged, without either repairing any such damage or reimbursing Landlord for the cost of repair.

**MISCELLANEOUS PROVISIONS.** The following miscellaneous provisions are a part of this Agreement: This Agreement shall extend to and bind the respective heirs, personal representatives, successors and assigns of the parties to this Agreement. The covenants of Borrower and Landlord respecting subordination of the claim or claims of Landlord in favor of Lender shall extend to, include, and be enforceable by any transferee or endorsee to whom Lender may transfer any claim or claims to which this Agreement shall apply. Lender need not accept this Agreement in writing or otherwise to make it effective. This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan. If Landlord is other than an individual, any agent or other person executing this Agreement on behalf of Landlord represents and warrants to Lender that he or she has full power and authority to execute this Agreement on Landlord's behalf. Lender shall not be deemed to have waived any rights under this Agreement unless such waiver is in writing and signed by Lender. Without notice to Landlord and without affecting the validity of this Consent, Lender may do or not do anything it deems appropriate or necessary with respect to the Loan, any obligors on the Loan, or any Collateral for the Loan; including without limitation extending, renewing, rearranging, or accelerating any of the Loan indebtedness.

**AMENDMENTS.** This Agreement, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

**NO WAIVER BY LENDER.** Lender shall not be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Agreement shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by Lender, nor any course of dealing between Lender and Landlord, shall constitute a waiver of any of Lender's rights or of any of Landlord's obligations as to any future transactions. Whenever the consent of Lender is required under this Agreement, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

**SEVERABILITY.** If a court of competent jurisdiction finds any provision of this Agreement to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so

**ASSIGNMENT OF LEASE WITH RIGHT OF REASSIGNMENT  
(Continued)**

modified, it shall be considered deleted from this Agreement. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Agreement shall not affect the legality, validity or enforceability of any other provision of this Agreement.

**DEFINITIONS.** The following capitalized words and terms shall have the following meanings when used in this Agreement. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Agreement shall have the meanings attributed to such terms in the Uniform Commercial Code:

**Agreement.** The word "Agreement" means this Assignment of Lease with Right of Reassignment, as this Assignment of Lease with Right of Reassignment may be amended or modified from time to time, together with all exhibits and schedules attached to this Assignment of Lease with Right of Reassignment from time to time.

**Borrower.** The word "Borrower" means TRAVERSE TALL SHIP COMPANY, LLC and includes all co-signers and co-makers signing the Note and all their successors and assigns.

**Collateral.** The word "Collateral" means all of Borrower's right, title and interest in and to all the Collateral as described in the Collateral Description section of this Agreement.

**Landlord.** The word "Landlord" means Traverse City Light & Power Department, and is used for convenience purposes only. Landlord's interest in the Premises may be that of a fee owner, lessor, sublessor or lienholder, or that of any other holder of an interest in the Premises which may be, or may become, prior to the interest of Lender.

**Lease.** The word "Lease" means that certain lease of the Premises, dated February 6, 2012, between Landlord and Borrower..

**Lender.** The word "Lender" means Traverse City State Bank, its successors and assigns.

**Loan.** The word "Loan" means any and all loans and financial accommodations from Lender to Borrower whether now or hereafter existing, and however evidenced.

**Note.** The word "Note" means the Note executed by TRAVERSE TALL SHIP COMPANY, LLC in the principal amount of \$50,000.00 dated October 24, 2012, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the note or credit agreement.


**Premises.** The word "Premises" means the real property located in Leelanau County, State of Michigan, commonly known as 13258 S. West Bay Shore Dr., Traverse City, MI 49684.

**Related Documents.** The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Loan.

BORROWER AND LANDLORD ACKNOWLEDGE HAVING READ ALL THE PROVISIONS OF THIS ASSIGNMENT OF LEASE WITH RIGHT OF REASSIGNMENT, AND BORROWER AND LANDLORD AGREE TO ITS TERMS. THIS AGREEMENT IS DATED OCTOBER 24, 2012.

**BORROWER:**

TRAVERSE TALL SHIP COMPANY, LLC

By:   
DAVID P MCGINNIS, Manager of TRAVERSE  
TALL SHIP COMPANY, LLC

**LANDLORD:**

TRAVERSE CITY LIGHT & POWER DEPARTMENT

By: \_\_\_\_\_  
Authorized Signer for Traverse City Light &  
Power Department

By: \_\_\_\_\_  
Authorized Signer for Traverse City Light &  
Power Department

**LENDER:**

TRAVERSE CITY STATE BANK

X \_\_\_\_\_  
Authorized Officer

This Assignment of Lease with Right of Reassignment was prepared by: SANDRA BUCHAN, Commercial Loan Processor  
Traverse City State Bank  
310 W. Front Street  
Traverse City, MI 49684

## LANDLORD'S CONSENT TO ASSIGNMENT

**Borrower:** TRAVERSE TALL SHIP COMPANY, LLC  
13258 SOUTH WEST BAYSHORE DRIVE  
TRAVERSE CITY, MI 49684

**Lender:** Traverse City State Bank  
Main Branch  
310 West Front Street  
PO Box 192  
Traverse City, MI 49685-0192

THIS LANDLORD'S CONSENT TO ASSIGNMENT is entered into among TRAVERSE TALL SHIP COMPANY, LLC ("Borrower"), whose address is 13258 SOUTH WEST BAYSHORE DRIVE, TRAVERSE CITY, MI 49684; Traverse City State Bank ("Lender"), whose address is Main Branch, 310 West Front Street, PO Box 192, Traverse City, MI 49685-0192; and Traverse City Light & Power Department ("Landlord"), whose address is 1131 Hastings Street, Traverse City, MI 49686. Borrower and Lender have entered into, or are about to enter into, an agreement whereby Lender has acquired or will acquire a security interest or other interest in the Collateral. Some or all of the Collateral may be affixed or otherwise become located on the Premises. To induce Lender to extend the Loan to Borrower against such security interest in the Collateral and for other valuable consideration, Landlord hereby agrees with Lender and Borrower as follows.

**COLLATERAL DESCRIPTION.** The word "Collateral" means certain of Borrower's personal property in which Lender has acquired or will acquire a security interest, including without limitation the following specific property:

Traverse City Light & Power Dept. License to Use Coal Dock and Bottomlands

**BORROWER'S ASSIGNMENT OF LEASE.** Borrower hereby assigns to Lender all of Borrower's rights in the Lease, as partial security for the Loan. The parties intend that this assignment will be a present transfer to Lender of all of Borrower's rights under the Lease, subject to Borrower's rights to use the Premises and enjoy the benefits of the Lease while not in default on the Loan or Lease. Upon full performance by Borrower under the Loan, this assignment shall be ended, without the necessity of any further action by any of the parties. This assignment includes all renewals of and amendments to the Lease or the Loan, until the Loan is paid in full. No amendments may be made to the Lease without Lender's prior written consent, which shall not be unreasonably withheld or delayed.

**CONSENT OF LANDLORD.** Landlord consents to the above assignment. If Borrower defaults under the Loan or the Lease, Lender may reassign the Lease, and Landlord agrees that Landlord's consent to any such reassignment will not be unreasonably withheld or delayed. So long as Lender has not entered the Premises for the purpose of operating a business, Lender will have no liability under the Lease, including without limitation liability for rent. Whether or not Lender enters into possession of the Premises for any purpose, Borrower will remain fully liable for all obligations of Borrower as lessee under the Lease. While Lender is in possession of the Premises, Lender will cause all payments due under the Lease and attributable to that period of time to be made to Landlord. If Lender later reassigns the Lease or vacates the Premises, Lender will have no further obligation to Landlord.

**LEASE DEFAULTS.** Both Borrower and Landlord agree and represent to Lender that, to the best of their knowledge, there is no breach or offset existing under the Lease or under any other agreement between Borrower and Landlord. Landlord agrees not to terminate the Lease, despite any default by Borrower, without giving Lender written notice of the default and an opportunity to cure the default within a period of sixty (60) days from the receipt of the notice. If the default is one that cannot reasonably be cured by Lender (such as insolvency, bankruptcy, or other judicial proceedings against Borrower), then Landlord will not terminate the Lease so long as Landlord receives all sums due under the Lease for the period during which Lender is in possession of the Premises, or so long as Lender reassigns the Lease to a new lessee reasonably satisfactory to Landlord.

**MISCELLANEOUS PROVISIONS.** The following miscellaneous provisions are a part of this Agreement: This Agreement shall extend to and bind the respective heirs, personal representatives, successors and assigns of the parties to this Agreement. The covenants of Borrower and Landlord respecting subordination of the claim or claims of Landlord in favor of Lender shall extend to, include, and be enforceable by any transferee or endorsee to whom Lender may transfer any claim or claims to which this Agreement shall apply. Lender need not accept this Agreement in writing or otherwise to make it effective. This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan. If Landlord is other than an individual, any agent or other person executing this Agreement on behalf of Landlord represents and warrants to Lender that he or she has full power and authority to execute this Agreement on Landlord's behalf. Lender shall not be deemed to have waived any rights under this Agreement unless such waiver is in writing and signed by Lender. Without notice to Landlord and without affecting the validity of this Consent, Lender may do or not do anything it deems appropriate or necessary with respect to the Loan, any obligors on the Loan, or any Collateral for the Loan; including without limitation extending, renewing, rearranging, or accelerating any of the Loan indebtedness.

**AMENDMENTS.** This Agreement, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

**NO WAIVER BY LENDER.** Lender shall not be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Agreement shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by Lender, nor any course of dealing between Lender and Landlord, shall constitute a waiver of any of Lender's rights or of any of Landlord's obligations as to any future transactions. Whenever the consent of Lender is required under this Agreement, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

**SEVERABILITY.** If a court of competent jurisdiction finds any provision of this Agreement to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Agreement. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Agreement shall not affect the legality, validity or enforceability of any other provision of this Agreement.

**DEFINITIONS.** The following capitalized words and terms shall have the following meanings when used in this Agreement. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Agreement shall have the meanings attributed to such terms in the Uniform Commercial Code:

**Agreement.** The word "Agreement" means this Landlord's Consent to Assignment, as this Landlord's Consent to Assignment may be amended or modified from time to time, together with all exhibits and schedules attached to this Landlord's Consent to Assignment from time to time.

**LANDLORD'S CONSENT TO ASSIGNMENT  
(Continued)**

**Borrower.** The word "Borrower" means TRAVERSE TALL SHIP COMPANY, LLC and includes all co-signers and co-makers signing the Note and all their successors and assigns.

**Collateral.** The word "Collateral" means all of Borrower's right, title and interest in and to all the Collateral as described in the Collateral Description section of this Agreement.

**Landlord.** The word "Landlord" means Traverse City Light & Power Department, and is used for convenience purposes only. Landlord's interest in the Premises may be that of a fee owner, lessor, sublessor or lienholder, or that of any other holder of an interest in the Premises which may be, or may become, prior to the interest of Lender.

**Lease.** The word "Lease" means that certain lease of the Premises, dated February 6, 2012, between Landlord and Borrower..

**Lender.** The word "Lender" means Traverse City State Bank, its successors and assigns.

**Loan.** The word "Loan" means any and all loans and financial accommodations from Lender to Borrower whether now or hereafter existing, and however evidenced.

**Note.** The word "Note" means the Note executed by TRAVERSE TALL SHIP COMPANY, LLC in the principal amount of \$50,000.00 dated October 24, 2012, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the note or credit agreement.

**Premises.** The word "Premises" means the real property located in Leelanau County, State of Michigan, commonly known as 13258 S West Bay Shore Dr, Traverse City, MI 49684.

**Related Documents.** The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Loan.

BORROWER AND LANDLORD ACKNOWLEDGE HAVING READ ALL THE PROVISIONS OF THIS LANDLORD'S CONSENT TO ASSIGNMENT, AND BORROWER AND LANDLORD AGREE TO ITS TERMS. THIS AGREEMENT IS DATED OCTOBER 24, 2012.

**BORROWER:**

TRAVERSE TALL SHIP COMPANY, LLC

By: 

DAVID P MCGINNIS, Manager of TRAVERSE  
TALL SHIP COMPANY, LLC

**LANDLORD:**

TRAVERSE CITY LIGHT & POWER DEPARTMENT

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

Authorized Signer for Traverse City Light &  
Power Department

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

Authorized Signer for Traverse City Light &  
Power Department

**LENDER:**

TRAVERSE CITY STATE BANK

X \_\_\_\_\_

Authorized Officer

This Landlord's Consent to Assignment was prepared by: SANDRA BUCHAN, Commercial Loan Processor  
Traverse City State Bank  
310 W. Front Street  
Traverse City, MI 49684

**TRAVERSE CITY LIGHT & POWER DEPARTMENT**  
**LICENSE TO USE COAL DOCK AND BOTTOMLANDS**

This Agreement is made this 6<sup>th</sup> day of February, 2012, by and between the TRAVERSE CITY LIGHT & POWER DEPARTMENT, whose address is 1131 Hastings Street, Traverse City, Michigan 49686, a Michigan municipal electric utility, (hereinafter referred to as "Licensor") and the TRAVERSE TALL SHIP COMPANY, LLC, a Michigan limited liability company, whose address is 13390 S. West Bay Shore Drive, Traverse City, Michigan 49684, (hereinafter referred to as "Licensee").

The parties agree as follows:

1. License. Licensor hereby grants to Licensee the right, privilege, and permission to access and use the east wall of a dock owned by Licensor in Elmwood Township on West Grand Traverse Bay. Licensor's property, the Coal Dock, is shown on Attachment A and that part of it which is hereby made available to Licensee is marked Areas A and C also shown on Attachment A. The Area shown as available to Licensee is hereinafter referred to as "the Property." This License is not exclusive.

2. Use. The Property may be used by Licensee to install its facilities and utilize it for passengers to embark and disembark from April 1 to October 31 annually (the "Season"). Only the 114 foot long tall ship Manitou owned and titled to Licensee may be docked by Licensee at the Property. Dockage of the vessel is restricted to Area A and loading and unloading are restricted to Area C as depicted on Attachment A. No maintenance shall be performed or storage shall occur on the Coal Dock outside the boundaries of Area C, which shall be kept neat and orderly. No off-Season use is allowed on the Coal Dock, the Property or within Licensor's Bottomlands Agreement.

3. Term. This License is for a term of one (1) year and shall automatically renew annually for another year for five (5) years from the date hereof unless earlier terminated in writing by either party before September 30 annually for the succeeding term.

4. Consideration. Licensee shall pay as consideration to Licensor for this license \$3,533.00 for the first year. The annual License fee shall be increased in each additional year by the Consumer Price Index – All Urban Consumers (CPI-U, Midwest Urban All items), published by the United States Department of Labor, Bureau of Labor Statistics (1982-84=100), In the event such index shall cease to be computed or published, the parties shall designate a successor index to be used in determining any increase to the annual License fee. The License fee shall be paid in three equal installments each on August 1<sup>st</sup>, September 1<sup>st</sup>, and October 1<sup>st</sup> and continuing on the first (1<sup>st</sup>) day of each August, September, and October thereafter during the term of this License.

5. Late Payment. If Licensee fails to timely pay a license fee installment, there shall be a late fee charge of \$125.00 plus interest at a rate of 6% per annum until paid.

6. Taxes and Utilities. Licensee shall be responsible for and shall promptly pay all taxes and utility charges resulting from its use or occupancy of the Property.

7. Termination. Absent written notification to the Licensor, if Licensee is not using the Property for the above use for any consecutive 30 days period from May 31 to September 1 in any year, either party may terminate this Agreement and the license at any time by specifying in writing the date of termination and giving written notice to the other party not less than 14 days prior to the date of termination specified in the notice. After termination, at Licensor's option, all or some of the items or facilities on the Property placed there by Licensee shall become the sole property of Licensor. After termination, Licensor may at Licensee's expense, remove all or some of the items or facilities on the Property including vessels and associated equipment placed there by Licensee. Licensee shall pay for or reimburse Licensor for all costs in connection with removal of items, facilities and vessels, including actual attorney fees, and shall hold harmless and indemnify Licensor. Licensee shall promptly remove its vessel from the Coal Dock at the termination of this License.

8. Care of Property. Licensee at all times shall keep the Property and all adjoining property and water clean and neat from all rubbish and other items deposited by Licensee or those acting under this License. Licensee shall take particular care to make sure that there is no spill or leakage of fuel or any other substances and, if there is such a spill or leakage, will report it immediately to the Executive Director of Licensor.

9. Insurance. Licensee shall obtain and maintain general liability insurance with a coverage limit of not less than five (5) million dollars and shall name Licensor as an additional insured without restrictions under that policy. The policy shall contain a provision requiring that Licensor be given 30 days or more prior to cancellation of any such policy.

10. Waste. Licensee may cut grass and weeds, but shall not cut trees, excavate, move earth, plant trees or shrubs, or commit any waste on the Property without prior written consent of the Executive Director of Licensor.

11. Hold Harmless. Licensee agrees to indemnify, defend, and save harmless Traverse City Light and Power Department, the City of Traverse City, and their officials and employees, from and against all loss or expense, including costs and attorney's fees, by reason of any claim against or liability imposed by law upon the City or Traverse City Light and Power, for damages because of bodily injury, including death, at any time resulting therefrom, arising out of, or in consequence of the performance of the operations of Licensee, unless such injury or damage is occasioned by the sole negligence of Licensor or the City. Neither the City nor Traverse City Light and Power waive the defense of governmental immunity by this Agreement or any undertaking pursuant to this Agreement.

12. Assignment. This License is personal to Licensee and Licensee may not assign or transfer all or any part of said License without the prior written consent of Licensor.

13. Amendments. This License may only be amended in a writing signed by both Licensor and Licensee.

14. Moving Vessels and Equipment. Licensor at its sole discretion may require Licensee or the owner to move vessels and associated equipment to other dockage or moorage as it may deem necessary for its own utility purposes, for deliveries on the Coal Dock, for emergencies or other use deemed necessary by Licensor. Licensor shall give Licensee 14 days notice of a required move, with the exception of emergencies, in which case all reasonable effort will be made to notify Licensee in a timely manner.

15. Installed Facilities. Licensee is allowed to install items and facilities that are described in Attachment B attached hereto and incorporated here by reference. Installed items and facilities shall be made by Lessee at its expense; however, ownership of any installed items or facilities shall be that of the Licensor upon its installation. No other items or facilities shall be allowed or be placed on the Coal Dock without prior written permission of the Licensor's Executive Director.

16. Bottomlands Agreement. Licensor has obtained from the State of Michigan an Agreement to Use and Occupy Unpatented Great Lakes Bottomlands for Private Purposes dated December 13, 2005. This Agreement is subject to and subordinate to that Bottomlands Agreement. The parties believe that this License complies with the Bottomlands Agreement, but, if in the opinion of the State of Michigan it does not comply, this Agreement shall automatically terminate. If the Bottomlands Agreement expires or is terminated for any reason, this Agreement is automatically terminated.

17. Cooperation. Licensee understands and agrees that this Agreement is not exclusive and that Licensor and others with Licensor's permission utilize the Coal Dock, the bottomlands and uplands for a variety of other purposes and uses. The parties agree to cooperate with other users and occupants of the Coal Dock, bottomlands and uplands. Licensee agrees that in the event of a conflict between users, it will not be deemed to be a breach of this Agreement and will not hold Licensor liable or responsible in any way.

18. Township and County Requirements. Licensee agrees to comply with all ordinances, rules, requirements and directives issued by Elmwood Township, Leelanau County or any of their officials. Licensee agrees to abide by all judgments and orders of the Leelanau Circuit Court, subject to Licensee's rights to appeal any such ruling(s).

19. Enforcement Costs. Licensee shall pay Licensor all costs, including reasonable attorney fees, Licensor incurs in the enforcement of any provision of this Agreement.

20. No Third-Party Beneficiaries. This Agreement confers no rights or remedies on any third-party, other than the parties to this Agreement, and their respective successors and permitted assigns.

21. No Joint Venture or Partnership. This Agreement does not and is not intended to create a joint venture or partnership between the parties. The rights and obligations of the parties are entirely contained within this Agreement.

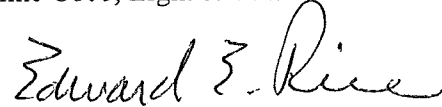
22. Force Majeure. To the extent that Force Majeure causes a delay in performance,

the time for performance shall be extended by the period of Force Majeure. Either party shall have authority to terminate this Agreement at any time during a period of Force Majeure. There shall be no damages, lost profits or extra expense paid to Licensee as a result of a delay occasioned by Force Majeure. "Force Majeure" means unforeseeable events beyond a party's reasonable control and without such party's failure or negligence, including, but not limited to, acts of God, acts of public enemy, acts of the federal or state government, acts of a court such as injunctions, fire, flood, inclement weather, epidemic, quarantine restrictions, strikes and embargoes, and labor disturbance, but only if the party seeking to claim Force Majeure takes reasonable actions necessary to avoid or lessen delays caused thereby.

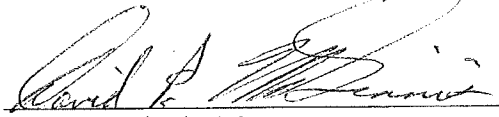
IN WITNESS WHEREOF, the parties have executed this Agreement on the date and year first above mentioned.

TRAVERSE CITY LIGHT & POWER DEPARTMENT


By:   
Mike Coco, Light & Power Board Chairman

By:   
Edward E. Rice, Secretary

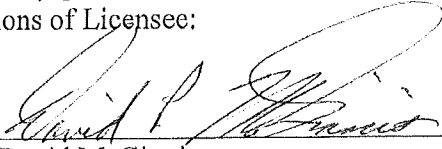
TRAVERSE TALL SHIP COMPANY, LLC

By:   
David McGinnis, Manager

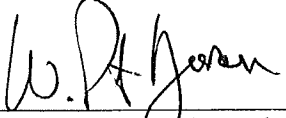
APPROVED AS TO SUBSTANCE

  
Edward E. Rice, Executive Director  
Traverse City Light and Power

I personally guarantee the promises and obligations of Licensee:

  
David McGinnis


APPROVED AS TO FORM:

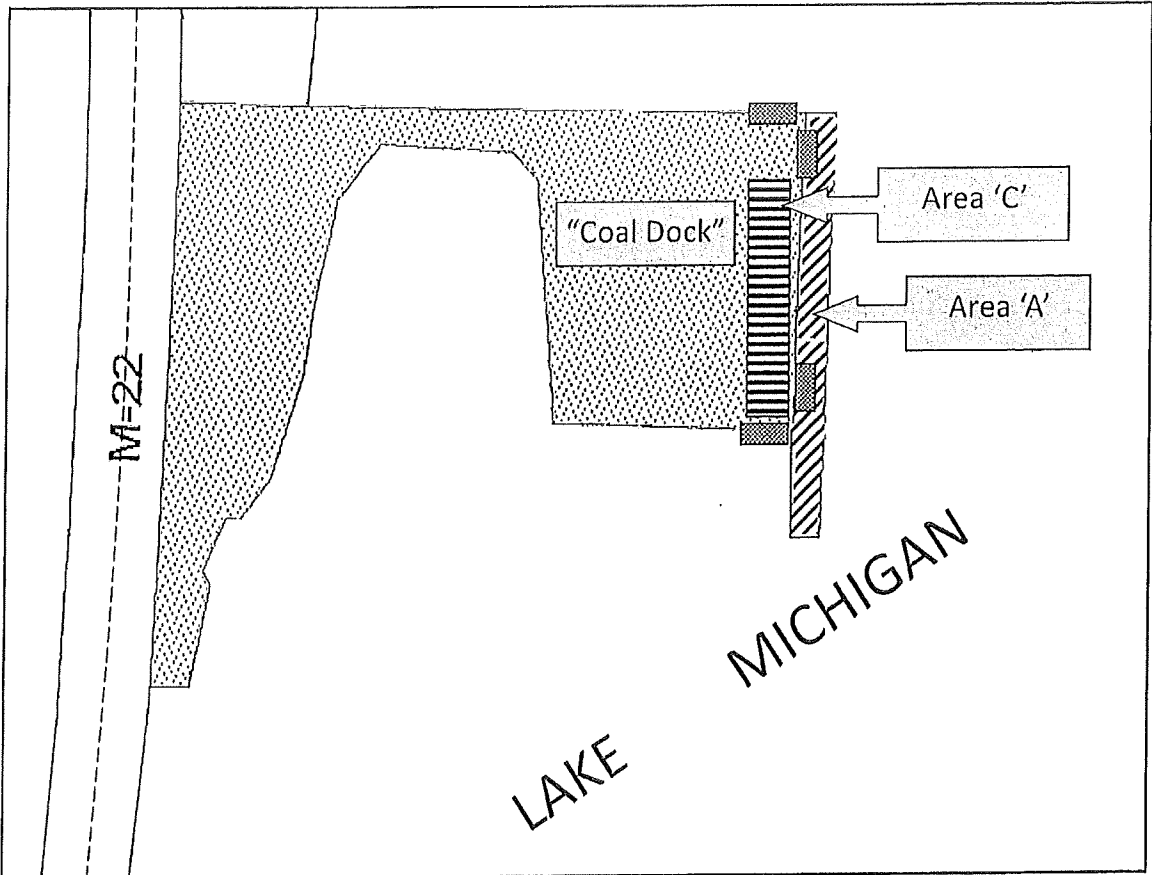
  
W. Peter Doren, General Counsel  
Traverse City Light & Power



# Attachment 'A'

## Property

 = "Danger, No Swimming/No Diving" Signs



**Attachment B**

**Installed Facilities**

Licensee may install the following items and facilities.

1. A brick patio at the boarding area on the east wall of the following size: 30' x 30'.
2. Four bits sunken into the ground along the east wall to permit tying up the vessel to the Dock.
3. A 120V/30 amp electrical hookup near the east wall of the Dock and underground electrical connection from the service located at the dock currently leased to Maritime Heritage Alliance.
4. A water spigot at the east wall of the Dock and underground plumbing of 3/4 inches running from the municipal water main.
5. "DANGER – No Swimming/No Diving" signs shall be installed on the railings, at Licensee's expense, as depicted in Attachment A.

Licensee shall remove at its expense all underground and above ground installed facilities at the request of Licensor.

Other items and facilities are allowed only if there is prior written approval of Licensor's Executive Director.



TRAVERSE CITY  
LIGHT & POWER

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**To:** Light & Power Board   
**From:** Tim Arends, *Interim* Executive Director/Controller  
**Date:** November 8, 2012  
**Subject:** Executive Director Recruitment Ad Hoc Committee Report

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Attached is a report from the Ad Hoc Committee with recommended next steps in the process to fill the Executive Director position for Traverse City Light & Power. John Taylor, Committee Chairman, will be prepared to present this item for the Board's consideration.

If the Board agrees with the Committee's recommendation to engage the services of Mary Grover to assist in the process, the following motion would be appropriate to do so:

**MOVED BY \_\_\_\_\_, SECONDED BY \_\_\_\_\_,**  
**THAT THE LIGHT & POWER BOARD AUTHORIZES THE *INTERIM* EXECUTIVE DIRECTOR TO ISSUE A SERVICE ORDER TO MARY GROVER FOR SERVICES PERFORMED FOR THE BOARD TO-DATE; AND FURTHER INCLUDING THE SERVICES AS RECOMMENDED BY THE EXECUTIVE DIRECTOR RECRUITMNET AD HOC COMMITTEE.**

To: TCLP Board  
From: John Taylor, Pat McGuire, and Mike Coco  
Date: November 7, 2012  
Re: Next Steps for Hiring Executive Director

---

## **We Recommend Contracting a 3<sup>rd</sup>-party To Solicit Input on Hiring Criteria**

The Ad Hoc met on November 5<sup>th</sup>. We recommend that as an immediate next step the Board initiate a process to gather input from individual directors, city commissioners, and staff regarding the criteria and necessary qualifications that would be used to select the next Executive Director (E.D.). This information would be used to draft a job description and to assess applicants. If the Board agrees, we would contact with a third-party (e.g. Mary Grover) to interview all TCLP Directors, including the city manager. City Commissioners would be invited to participate. The third-party would work with the interim Executive Director to gather input from staff to the extent practical (perhaps interviewing a small sample of direct reports and a representative (s) from the bargaining unit). Stakeholders representing outside organizations would not be interviewed, but would be encouraged to provide public comment during the board meeting when the findings were presented and discussed.

Ideally, the findings of this process would be submitted to TCLP directors by December 4<sup>th</sup>, so that we may discuss them at our regularly scheduled meeting of December 11<sup>th</sup>.

## **Initial Conclusions Regarding the Hiring Process**

The Ad Hoc also identified tasks where the Board is likely to need outside assistance, discussed a timeline for hiring an E.D., and suggested immediate next steps.

### **Tasks**

We recommend the full board approve the final job description, review all resumes deemed responsive, and participate in the interview process. However, this leaves the following tasks that likely require outside assistance. City staff, county staff, a private consultant, or any combination could potentially perform these tasks; some are optional:

- Drafting a job description (with assistance from the Ad Hoc and pending approval by the full board)
- Identifying where to post the job description
- Screening applications to eliminate non-responsive applicants
- Drafting an RFP for a search firm (optional)
- Actively recruiting applicants (optional)

### Timeline

As a goal, we suggest the following timeline independent of who performs which tasks (this timeline ensures the Board has received and digested the findings of the management audit prior to assessing applicants):

- **December 4:** Summary of search criteria and qualifications circulated to TCLP Board
- **December 11:** Public meeting to discuss criteria that will be used to create a job description that will be posted publicly.
- **December 31:** Post the job description and invite applications
- **March 1:** Applications due, begin to assess applications.
- **March 15:** Begin phone interview process of promising candidates

### Suggested Action Items


We recommend the following next steps be taken within the next two weeks:

- TCLP staff post an announcement on the website inviting interested parties to register to receive updates on the application process and to frequently visit the TCLP website for updates
- TCLP staff obtain an updated compensation study from APPA
- The Ad Hoc investigate HR resources within the Traverse City and Grand Traverse County government that could be leveraged by TCLP during the hiring process
- The Ad Hoc investigate search firms that could actively solicit applicants if deemed necessary
- The Ad Hoc reach out to APPA, MPPA, and other relevant associations to discuss best practices for recruiting an E.D.



TRAVERSE CITY  
LIGHT & POWER

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**To:** Ed Rice, Executive Director  
**From:** Tim Arends, Controller   
**Date:** November 2, 2011  
**Subject:** City Fee vs. City Tax

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Attached is an analysis that calculates the estimated property taxes L&P would pay if it were not a municipal utility and exempt from paying such taxes; and a comparison of those tax revenues vs. the city fee provided as general fund revenue to the City of Traverse City.

As you know, at the last board meeting a board member commented that Light & Power's low residential rates, in comparison to other utilities in the state, was due in part to the fact the L&P was exempt from taxes. The issue of selling the municipal utility and the tax revenue that would be provided the city annually has been raised many times over the past several years. I prepared this analysis as much to satisfy my own curiosity as to providing you with factual information if you are posed questions related to this issue in the future.

The attached analysis only addresses property taxes in the city, but keep in mind that there would be other taxes if L&P were not a municipal utility such as: property taxes in the townships, state and federal taxes on net earnings, along with tax credits and different state personal property depreciation schedules that would all affect the total tax liability of a "for-profit L&P"; however, the board member comments appeared to be centered around L&P paying its "fair share" to the city's general fund, so I limited the scope of my analysis to that issue.

In 2011, L&P provided a little more than \$1.5 million to the city's general fund as required by City Charter. If L&P were taxable, like a cooperative or investor owned utility, the total property taxes would be about \$800,000 per year, however, the revenue provided directly to the city's general fund would only be \$176,000 per year, or \$1.3 million less than the municipal utility provides through the city fee. The utility's current assets that would be subject to taxation in the city are \$31.6 million. To generate the \$1.5 million in city general fund tax revenue the utility would need assets valued at \$271 million, or more than eight times the current book value.

It was also mentioned by some board members that L&P makes too much of the "contribution" to the general fund with the "big check" presentation. I would agree that the word "contribution" related to the city fee is a mischaracterization; however, the intent of the presentation of the "big check" to the City Commission during Public Power Week is to bring awareness to the taxpayers of the financial benefit of being a public power community. There are many benefits to communities that have public power utilities including local control of rates, policy, reliability, etc., but certainly the financial benefits to those communities and the taxpayers/residents could be the greatest benefit, as supported by this analysis. Perhaps future commission presentations should focus more on this type of information instead of the "big check".

Please let me know if you have questions or would like any further analysis on this topic. Please forward to the board if you believe it will be a benefit to them or the public.

Traverse City Light & Power  
Property Tax Calculation Estimate - 2011

\$	1,511,219	City Fee - 2011
\$	176,190	City Tax
\$	1,335,029	Difference

Depreciated Book value of L&P assets at 6/30/2011 \$ 36,625,435

In-City assets subject to tax:

Real property (land/buildings) \$ 4,451,006 undepreciated  
 Personal property (lines/poles/other) \$ 27,247,305 depreciated book value *(includes property outside city limits)*  
 Value subject to city taxes \$ 31,698,311

Taxable value - real property \$ 2,225,503 55.7451 Real property millage rate (includes DDA)  
 Taxable value - personal property \$ 13,623,652 43.7451 Personal property millage rate (includes DDA)

TC Millages - 2011	Millage Rates	Real Property	Personal Property	Total Tax
City (general fund)	11.1167	\$ 24,740	\$ 151,450	\$ 176,190
ACT 345 (police & fire retirement system)	1.9400	\$ 4,317	\$ 26,430	\$ 30,747
Intermediate school district - allocated	2.9312	\$ 6,523	\$ 39,934	\$ 46,457
School - state education	6.0000	\$ 13,353	\$ 81,742	\$ 95,095
School - operating	18.0000	\$ 40,059	\$ 163,484	\$ 203,543
School - debt	3.1000	\$ 6,899	\$ 42,233	\$ 49,132
College - assessed	2.1700	\$ 4,829	\$ 29,563	\$ 34,393
College - debt	0.7350	\$ 1,636	\$ 10,013	\$ 11,649
County	4.9838	\$ 11,091	\$ 67,898	\$ 78,989
BATA	0.3454	\$ 769	\$ 4,706	\$ 5,474
Commission on aging	0.4858	\$ 1,081	\$ 6,618	\$ 7,700
District library	0.9548	\$ 2,125	\$ 13,008	\$ 15,133
District library - bond	0.1597	\$ 355	\$ 2,176	\$ 2,531
Medical care	0.6595	\$ 1,468	\$ 8,985	\$ 10,453
Recreation authority - operating	0.0994	\$ 221	\$ 1,354	\$ 1,575
Recreation authority - debt	0.2600	\$ 579	\$ 3,542	\$ 4,121
Downtown Development Authority	1.8038	\$ 4,014	\$ 24,574	\$ 28,589
<b>Totals</b>	<u>55.7451</u>	<u>\$ 124,061</u>	<u>\$ 677,710</u>	<u>\$ 801,771</u>

**TRAVERSE CITY LIGHT & POWER**  
**Historical City Fee Contributions**

	Electric	Fiber	Total
2011-12	\$ 1,598,157	\$ 9,691	\$ 1,607,848
2010-11	\$ 1,511,219	\$ 9,180	\$ 1,520,399
2009-10	\$ 1,374,844	\$ 8,608	\$ 1,383,452
2008-09	\$ 1,454,540	\$ 5,920	\$ 1,460,460
2007-08	\$ 1,514,716	\$ 482	\$ 1,515,198
2006-07	\$ 1,478,700	-	\$ 1,478,700
2005-06	\$ 1,337,048	-	\$ 1,337,048
2004-05	\$ 1,158,373	-	\$ 1,158,373
2003-04	\$ 1,156,695	-	\$ 1,156,695
2002-03	\$ 1,048,355	-	\$ 1,048,355
2001-02	\$ 1,019,875	-	\$ 1,019,875
2000-01	\$ 966,751	-	\$ 966,751
1999-00	\$ 943,592	-	\$ 943,592
1998-99	\$ 868,925	-	\$ 868,925
1997-98	\$ 835,351	-	\$ 835,351
1996-97	\$ 773,526	-	\$ 773,526
1995-96	\$ 757,763	-	\$ 757,763
1994-95	\$ 754,550	-	\$ 754,550
1993-94	\$ 703,251	-	\$ 703,251
1992-93	\$ 695,218	-	\$ 695,218
1991-92	\$ 708,315	-	\$ 708,315
	<u>\$ 22,659,763</u>	<u>\$ 33,881</u>	<u>\$ 22,693,644</u>





TRAVERSE CITY  
LIGHT & POWER

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**To:** Light & Power Board  
**From:** Tim Arends, *Interim* Executive Director/Controller  
**Date:** November 13, 2012  
**Subject:** MECA Board Member Training Opportunity

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Attached is information regarding a board member training opportunity offered by the Michigan Electric Cooperative Association (MECA) to be held in Lansing on December 11, 2012. This opportunity is open to L&P Board Members at no cost, according to Cherryland Electric Cooperative General Manager, Tony Anderson.

L&P would, of course, cover your expenses and reimburse board members for mileage at IRS rates. If any board member wishes to take advantage of this opportunity please contact myself or the Administrative Assistant and we will get you registered and make other necessary accommodations on your behalf.

Please let us know by November 21<sup>st</sup> if you are interested.

In addition, I was informed that MECA will be providing 5 days of similar training in Traverse City sometime this summer.

As mentioned at a previous board meeting, staff is researching other training opportunities for L&P Board members and will provide that information as it becomes available.



Michigan Electric Cooperative Association

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**MEMORANDUM**

**TO:** MECA Board of Directors  
Administrative Assistants

**CC:** Craig Borr, Doug Snitgen

**FROM:** Dawn Coon

**DATE:** October 19, 2012

**RE:** MECA Director's Conference – December 11, 2012  
Kellogg Center, East Lansing, Michigan

The MECA Directors Conference is scheduled for **Tuesday, December 11 from 8:00 a.m. to 5:00 p.m.**, at the Kellogg Center in East Lansing.

This year, MECA is offering NRECA Board Leadership Certification (“BLC”) course **955.1 *Your Board's Culture: Its Impact on Effectiveness***. Highlights from this course include:

- How boardroom cultures develop and how they impact the board's effectiveness
- Case studies in boardroom conflict and boardroom complacency, and what directors can do to limit threats and risks of a counter-productive culture
- How boards deal with risk and other unintended consequences

MECA is able to offer this training at a significantly reduced cost due to the generous contributions of the MECA Associate Members. **The total cost per cooperative is \$500, regardless of how many directors from your co-op attend.** This includes all training materials, continental breakfast, lunch, and reception.

**SCHEDULE**

**Tuesday, December 11, 2012**

7:30 a.m. – Continental breakfast

8:00 a.m. – Director training

12:00 p.m. – Luncheon and Election Recap with Bill Ballenger, *Inside Michigan Politics* and Steve Mitchell, *Mitchell Research & Communications, Inc.*

1:30 p.m. – Director training resumes

5:00 p.m. – Reception

**Wednesday, December 12, 2012**

7:30 a.m. – Continental breakfast

8:30 a.m. – MECA Board of Directors meeting

Lunch to follow