

A REGULAR MEETING

Of The

TRAVERSE CITY LIGHT AND POWER BOARD

Will Be Held On

TUESDAY, October 8, 2013

At

5:15 p.m.

In The

COMMISSION CHAMBERS
(2nd 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: 10-4-13
4:00 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 September 24, 2013. (Approval recommended) (p. 4)
- b. Consideration of authorizing a Traffic Signal Maintenance Agreement between TCL&P and City of Traverse City. (Approval recommended) (Myers-Beman) (p. 6)
- c. Consideration of authorizing an Amendment to the Dark Fiber Services Agreement with Grand Traverse County. (Approval recommended) (Myers-Beman) (p. 17)
- d. Consideration of repealing the following policies:
 - a. Bayside Power Plant Roof Access Policy
 - b. Cogeneration Facilities Policy
 - c. Electric Utility Customer Credit Policy(Approval recommended) (Myers-Beman) (p. 41)
- e. Consideration of authorizing a customer refund request. (Approval recommended) (Myers-Beman) (p. 47)

Items Removed from the Consent Calendar

- a.

3. Unfinished Business

None.

4. New Business

- a. Pine Street Overhead to Underground Distribution Conversion project re-authorization. (Arends) (p. 50)
 1. Presentation of Uptown Project. (Jean Derenzy/Mike Wills)
- b. Consideration of awarding bid for the Parsons to Airport Transmission Line Project. (Arends/McGeehan) (p. 69)

- c. Consideration of awarding bid for the East Transmission Line Project.
(Arends/McGeehan) (p. 72)

5. Appointments

None.

6. Reports and Communications

- a. From Legal Counsel.
- b. From Staff.
- c. From Board.

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, September 24, 2013

Board Members -

Present: Barbara Budros, Jim Carruthers, Jan Geht, Jeff Palisin, John Taylor,
Patrick McGuire

Absent: Bob Spence

Ex Officio Member -

Present: Jered Ottenwess, City Manager

Others: Tim Arends, Scott Menhart, Karla Myers-Beman, Tom Olney, Stephanie
Tvardek, Jessica Wheaton

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

Item 2 on the Agenda being 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 10, 2013.

Moved by Carruthers, seconded by Palisin, that the minutes of the Regular Meeting of September 10, 2013 be approved.

CARRIED unanimously. (Spence absent)

4(b). Consideration of authorizing a Tree Trimming Services Agreement with Penn Line.

The following individuals addressed the Board:

Tim Arends, Executive Director

Moved by Budros, seconded by Taylor, that the Board authorize the Chairman and Secretary to enter into a three year Tree Trimming Service Agreement with Penn Line Services, Inc. in the amount of \$442,457.60; subject to approval as to substance by the Executive Director and as to form by General Counsel.

CARRIED unanimously. (Spence absent)

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.

1. Tim Arends and Bob Dyer, RTD Consulting, spoke re: the Lansing Board of Water & Light Contract Power Purchase – 2014.
2. Jessica Wheaton gave a report on an outage feedback survey created by staff.

The following individuals addressed the Board:

Tim Arends, Executive Director

C. From Board.

1. Pat McGuire complimented TCL&P for the streetlight pole painting currently taking place.

Item 7 on the Agenda being Public Comment

-Rick Buckhalter, 932 Kelley Street, Ratepayer

There being no objection, Chairman McGuire declared the meeting adjourned at 7:07 p.m.

/st

Tim Arends, Secretary
LIGHT AND POWER BOARD



TRAVERSE CITY
LIGHT & POWER

To: Light & Power Board
From: Karla Myers-Beman, Controller *KMB*
Date: September 30, 2013
Subject: Traffic Signals Maintenance Agreement

In February 2010 the City of Traverse City (“City”) and Traverse City Light & Power (“TCL&P”) entered into a Letter of Agreement (attached) that transferred the responsibility of traffic signal maintenance duties to TCL&P. Since that time, TCL&P has performed operation and maintenance of the City and Grand Traverse County Road Commission (“GTCRC”) traffic signals under an Agreement that existed between the City and GTCRC.

Since TCL&P is responsible for traffic signal maintenance, it is appropriate that a new contract be entered into between TCL&P and the City. Attached is a proposed Agreement for your consideration. This Agreement is similar to the original Agreement with the GRCRC, which also includes detailed responsibilities in regard to signal operation and maintenance (Exhibit A), and the location of signals being maintained (Exhibit B). TCL&P invoices the City for MDOT work monthly for the services it performs related to MDOT signal maintenance, approximately \$2,300 annually.

Staff recommends the Board agree to the terms of the Agreement as presented. This item is appearing on the Consent Calendar as it is deemed a non-controversial item by staff. Approval of this item on the Consent Calendar means you agree with staff’s recommendation.

If any member of the Board or the public wishes to discuss this matter, other than clarifying questions, it should be placed on the “items removed from the consent calendar” portion of the agenda for full discussion. If after Board discussion you agree with staff’s recommendation the following motion would be appropriate:

MOVED BY _____, SECONDED BY _____,

THAT THE BOARD AUTHORIZES THE SECRETARY AND CHAIRMAN TO ENTER INTO A TRAFFIC SIGNAL MAINTENANCE AGREEMENT BETWEEN TRAVERSE CITY LIGHT & POWER DEPARTMENT AND CITY OF TRAVERSE CITY FOR TRAFFIC SIGNAL SERVICES; AND FURTHER AGREES TO THE TERMS AND CONDITIONS AS SET FORTH IN THE AGREEMENT SUBJECT TO APPROVAL AS TO SUBSTANCE BY THE EXECUTIVE DIRECTOR AND AS TO FORM BY GENERAL COUNSEL.

TRAFFIC SIGNAL MAINTENANCE AGREEMENT

THIS AGREEMENT for Traffic Signal maintenance within the city limits of Traverse City, Michigan, is made and entered into as of the _____ day of _____, 2013, by and between the TRAVERSE CITY LIGHT & POWER DEPARTMENT, a Michigan municipal electric utility, (“TCL&P”), of 1131 Hastings Street, Traverse City, Michigan 49686, and the CITY OF TRAVERSE CITY, a Michigan municipal corporation, (the “City”), of 400 Boardman Avenue, Traverse City, Michigan, 49684,

RECITALS

WHEREAS, the City owns certain electric traffic control devices that it wishes TCL&P to routinely maintain; and

WHEREAS, TCL&P has the personnel and equipment to maintain electronic traffic control devices; and

WHEREAS, this Agreement is made pursuant to the intergovernmental transfers of functions and responsibilities act. MCL 124.531 et seq., and the Intergovernmental Contracts between Municipal Corporations Act, MCL 124.1 et seq.;

NOW, THEREFORE, the parties agree as follows:

1. Purpose. The purpose of this Agreement is to provide for routine and special maintenance of the City’s electronic traffic control devices (“City Traffic Signals.” To the extent of the duties being undertaken in this Agreement, the City delegates to TCL&P its rights and privileges to maintain the Traffic Signals described herein. Nothing herein shall alter the City’s responsibility and obligation under the terms of any agreement providing a funding source for City Traffic Signals within the City’s jurisdiction.
2. Term. This Agreement shall be effective as of the above date. The term of this Agreement is for five years from its effective date with an automatic renewal clause for a period of five (5) years unless any of the parties cancel this Agreement with no less than one year’s notice to the other party. However, either party may earlier terminate the Agreement by giving a one-year advance notice of the termination specifying the exact date of termination. Furthermore, after the date first written above, either party upon written request to the other party may require the other party to renegotiate within thirty (30) days, any or all cost matters associated with this Agreement.
3. Routine and Special Maintenance. TCL&P agrees to provide routine maintenance, defined in the attached Exhibit A, and special maintenance (trouble calls) for the City Traffic Signals identified in the locations on the attached Exhibit B, which is incorporated herein by reference. The City may add to and subtract from the maintenance or locations listed on Exhibit A or Exhibit B upon not less than seven

(7) days written notice to TCL&P, with such notice being given simultaneously to TCL&P Executive Director and subject to his/her approval. The repair and maintenance of electric service poles and underground facilities are not covered by this Agreement.

4. Routine Maintenance Schedule. Routine maintenance consists of that maintenance which is performed periodically, but which is not in response to a known defect or problem. TCL&P shall conduct such routine maintenance according to a mutually agreed upon schedule and when specially requested by the City. Schedule permitting, such maintenance specially requested shall be completed within thirty (30) business days. Routine maintenance will be scheduled during normal working hours and will normally require two persons working on a signal.
5. Special Maintenance. Special maintenance consists of all maintenance and repair that is not routine maintenance. During normal utility working hours, requests for special maintenance shall be made to TCL&P. Special maintenance will normally be handled by one person, with a second person being called, if needed, or when the aerial bucket truck is used. Special maintenance requests will be handled by a Utility Signal Technician and a second Utility Signal Technician shall be utilized as a back-up person when needed. Efforts will be made to complete special maintenance within the time directed by the requesting party.
6. Back-Up Maintenance. The Grand Traverse County Road Commission has agreed to provide back-up maintenance for routine maintenance and special maintenance on all City Traffic Signals when TCL&P maintenance personnel are unavailable and when requested by TCL&P or the City through its Police Department in the manner that the Road Commission's schedule permits. TCL&P shall immediately notify the City upon expiration or termination of the agreement with the Grand Traverse County Road Commission referenced above (dated 7/24/13) or if either party to that agreement requests the agreement be amended or terminated.
7. Employees and Contractors. In the event of an emergency, either party may, in its sole discretion, discharge the maintenance duties described herein with its own employees or by selecting and contracting with an outside contractor or licensed electrician. In the event a contractor is used, the billing will be sent directly to the party owning the device which received the service from the contractor, who agrees to promptly pay such billing. Contractor invoices for MDOT or percentage shared MDOT signals will be paid by the City.
8. Costs – MDOT Signals. The City shall pay TCL&P's actual cost for all work involved in the maintenance of electronic traffic control devices described in this Agreement for MDOT signals. The City shall pay for the employee's regular hourly rate based on the contemporaneous collective bargaining agreements, per hour, per person, at normal rates or, as necessary, at overtime rates, and shall pay for the minimum hours of call-in time as may be required including a 40% labor overhead charge to cover the cost of employee benefits. The City shall pay the prevailing rental rates for equipment used while maintaining signals.

9. Costs – City Signals. Traverse City Light & Power shall pay actual cost for all work involved in the maintenance of electronic traffic control devices described in this Agreement for City owned signals. The utility shall pay for the employee’s regular hourly rate based on the contemporaneous collective bargaining agreements, per hour, per person, at normal rates or, as necessary, at overtime rates, and shall pay for the minimum hours of call-in time as may be required including the current labor overhead charge to cover the cost of employee benefits. The utility shall pay the prevailing rental rates for equipment used while maintaining signals.
10. Signal Parts. TCL&P will maintain its own inventory of parts used for maintenance and repair of electronic traffic control devices. Inventory owned by TCL&P shall not become the property of the City until the time of installation into the signal. At the time of such installation the ownership for the part shall be transferred to the City.
11. Records. TCL&P shall maintain records required for good maintenance and accounting purposes and shall make those available to the City during normal business hours for inspection.
12. Notices. Notices and requests to be made under this Agreement shall be made in the following manner:

If to the City:
City of Traverse City
Attn: City Manager
400 Boardman Avenue
Traverse City, MI 49684
(231) 922-4440 Telephone
_____ Email
cc: Benjamin C. Marentette, City Clerk
bmarente@traversecitymi.gov

If to TCL&P:
Traverse City Light & Power Department
Attn: Executive Director
1131 Hastings Street
Traverse City, MI 49686
(231) 922-4940 Telephone
_____ Email
cc: Karla Myers-Beman
kmyersbe@tclp.org

13. Transfer of Employees. There are no transfers of employees required or contemplated by this Agreement.

14. Concurrent Resolution. This contract must be approved by concurrent resolution of the governing body of each party.
15. Independent Contractor. The parties shall be considered an independent contractor and not an agent or employee of the other parties. Each party shall remain responsible for any claims arising out of their own acts or omissions during the performance of this agreement, as provided by law. This agreement is not intended to increase or decrease the parties' liability for, or immunity from, tort claims.
16. Hold Harmless. The parties agree to hold each other, their officers, agents and employees, harmless from and against all claims, damages, losses and expenses, including reasonable attorneys' fees arising out of the performance of this Agreement which are caused in whole or in part by the negligent acts or omissions of a party in performing the service under this Agreement, or that of anyone employed by them to the extent that the parties have insurance coverage for such claims, damages, losses and expenses.
17. Non-Discrimination. The parties agree not to discriminate against an employee or applicant for employment or a matter directly or indirectly related to employment because of race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation, or gender identity. Breach of this covenant may be regarded as a material breach of this Agreement. The parties agree to require similar provisions from any subcontractors.
18. Dispute Resolution. If any party has a dispute with another regarding the meaning, operation or enforcement of any provision of this Agreement, the disputing parties agree to meet and confer to negotiate a resolution of the dispute. They further agree as follows:
 - (a) Mediation. If they are unable to resolve the dispute themselves, and before formally instituting any other dispute mechanism, they shall utilize the services of a mutually acceptable neutral mediator, who meets the qualifications of MCR 2.411, to bring them together in at least one mediation session.
 - (b) Venue. All meetings, hearings and actions to resolve the dispute shall be in Grand Traverse County.
 - (c) Notice. Written notice of a dispute shall be given to the other parties not later than 90 days after the occurrence giving rise to the dispute becomes known or should have become known. Negotiations and mediation shall occur within 60 days after such notice.
19. Entire Agreement. This contract, together with all items incorporated herein by reference, constitutes the entire agreement of the parties. No other statement of any person shall modify or otherwise affect the terms, conditions, or specifications

stated in this Agreement. All modifications to the Agreement must be made in writing by the parties.

20. 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. Force Majeure. If either party is prevented or delayed in the performance of any of its obligations under this Agreement due to Force Majeure (defined below), that party will provide written notice to the other party specifying the nature and expected duration of the Force Majeure. The performance of the party invoking Force Majeure with respect to any obligation will be excused and the time for performance extended, but only for the period of delay or inability to perform due to Force Majeure. If the total of any period of delay or inability to perform due to Force Majeure asserted by either party during the Term equals or exceeds 30 consecutive days, the other party will have the right, at its option, to either terminate this Agreement by written notice or to continue to excuse the first party's performance for the period of any delay or inability to perform due to Force Majeure. As used in this Agreement, "Force Majeure" shall mean any act of God, fire, casualty, flood, war, strike, lockout, labor trouble or any other circumstances beyond the reasonable control of the party asserting it that prevents or delays the performance of any of its obligations under this Agreement.
22. The TCL&P's Responsibility. TCL&P shall perform the work in a good and workmanlike manner and assumes the risk in performing under this Agreement. TCL&P shall be solely responsible and answerable in damages for all improper work, accidents or injuries to person or property.
23. Compliance with Regulations. TCL&P shall comply with all applicable statutes, rules and regulations of all federal, state and local governments and agencies having jurisdiction, and bears the risk of any such authorities or changes thereto.
24. Standard of Conduct. TCL&P shall render all services under this Agreement according to generally accepted professional practices for the intended use of the work or project.
25. Prohibition Against Assignment. This Agreement is intended to secure the service of TCL&P because of its ability and reputation and none of the TCL&P's duties under this Agreement shall be assigned, subcontracted, or transferred without the prior written consent of the City Manager. Any assignment, subcontract or transfer of TCL&P's duties under this Agreement must be in writing.

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

TRAVERSE CITY LIGHT &
POWER DEPARTMENT

CITY OF TRAVERSE CITY

By: _____
Pat McGuire, Chairman

By: _____
Michael Estes, Mayor

By: _____
Timothy J. Arends, Secretary

By: _____
Benjamin C. Marentette, Clerk

Approved as to Substance:

Approved as to Substance:

Timothy J. Arends, Executive Director

Jered Ottenwess, City Manager

Approved as to Form:

Approved as to Form:

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

Lauren Tribble-Laucht, City Attorney

EXHIBIT A

MONTHLY ROUTINE MAINTENANCE

- Inspect controller and cabinet for proper operation, damage, and graffiti.
- Check operation of the fan.
- Inspect all vehicular and pedestrian signals for proper operation, alignment, visibility and replace outages found.
- Check operations of all pedestrian pushbuttons and crosswalk signals.
- Verify correct clock settings in the controller, correct as needed.
- Visually check for wear and function of controllers.
- Inspect illuminated street name signs for proper operation, including lamps and photocells.
- Test emergency/transit pre-emption.
- Check that intersection is adequately serving traffic demands.
- Complete maintenance checklist, noting any comments.
- Manually record inspection date and time in controller cabinet and log details in the file checklist on the Server. Send confirmation of monthly inspection with recommendations by intersection to your Supervisor.

3 - MONTH ROUTINE MAINTENANCE (In addition to monthly)

- Visually inspect roadway along loop detectors for possible exposed wires, cracks and pot holes.
- Check manual operation.
- Check pull box covers.
- Check controller cabinet filter.
- Check and verify timing on School Flashers
- Note vegetation preventing access to or visibility of traffic controls.
- Check detector amplifiers and tune if needed.
- Reset vehicle detectors and observe detection operation
- Inspect cameras, clean lenses, and check coaxial connections
- View that camera detection is operational where applicable
- Manually record inspection date and time in controller cabinet and log details in file checklist on the Server. Send confirmation of 3-month inspection with recommendations by intersection to your Supervisor.

6 - MONTH ROUTINE MAINTENANCE (In addition to monthly and 3-month)

- Check ground rod clamp and wire.
- Check wire schematics and records to make sure they are in the cabinet.
- Check operation of ground fault receptacle.
- Measure voltage at service inputs in cabinet and record.
- Visually check integrity of splices.
- Verify controller signal timing plans against the time sheet. Forward any discrepancies to the immediate Supervisor.
- Test the battery back-up system.
- Manually record inspection date and time in controller cabinet and log details in the file checklist on the Server. Send confirmation of 6-month inspection with recommendations by intersection to your Supervisor.

YEARLY ROUTINE MAINTENANCE (In addition to monthly, 3 and 6-month)

- Clean and polish all lenses and reflectors, as needed.
- Test the conflict monitor unit.
- Inspect measurements of overhead equipment. Adjust to min 15' to max 19' height.
- Vacuum and clean controller cabinet and contents.
- Replace cabinet filter.
- Check weatherproof gasket seal on controller cabinets.
- Check for water accumulation and duct sealant.
- Lubricate hinges and lock on controller cabinets
- Tighten and/or secure all lugs and screws.
- Secure all breakers in place.
- Check indicator lamps.
- Check all connectors.
- Check detector extensions.
- Check load switches.
- Check relays.
- Verify flash rate.
- Spot check LED luminosity
- Save and clear log in controller for faults and monitor.
- Manually record inspection date and time in controller cabinet and log details in the file checklist on the Server.
Send confirmation of yearly inspection with recommendations by intersection to your Supervisor.

Exhibit B

Traffic control inventory-Signals and Flashing Beacons

Traverse City

Front/Cass	
Front/Union	
Front/Park	
State/Union	
State/Cass	
Union/Eighth	
Union/Fourteenth	
Cass/Eighth	
Cass/Fourteenth	
Fourteenth/Veterans dr.	
<u>Eighth/Boardman</u>	
Eighth/Woodmere	
Eighth/Garfield	
Woodmere/Carver	
Woodmere/Hannah	
Garfield/Hannah	
Garfield/Boon	
Parsons/Hastings	
Garfield/Carver	
Parsons/Airport Access	
Woodmere/Eighth	
Eighth/Rose	
State/Boardman	Flasher
WestFront/Pine	Flasher
Eighth/Lake	Flasher
Carver/Traverse Heights	School Flasher
Garfield/Oak Park	School Flasher
Eastern/Central High	School Flasher
Seventh/Central	School Flasher
Eighth/Central	School Flasher
Fourteenth/Glen Loomis	School Flasher
901 Carver /Rose	Cross walk sign
Garfield/Oak Park	Cross walk sign
West Front Between Park/Front	Cross walk sign
West Front Between Union/Cass	Cross walk sign
Cass Between State/Union	

Traffic Control Inventory – Signals & Flashers

US-31:M37: Division/Front Street
US-31:M37: Division/14th, Silver Lake
US-31:M37: Division/7th Street
US-31:M37:M22: Grandview Parkway/Park
US-31:M72:M22: Grandview Parkway/Division
US-31:M72: Grandview Parkway/Union
US-31:M72: Munson/8th Street
US31-:M72:M37: Front/Grandview Parkway
US-31:M72: Munson/Airport Access
US-31:M72:M37: Front/Garfield
US-31:M72:M37: Front/Barlow
US-31:M72: Front/Fair

FOR THE LIGHT & POWER BOARD MEETING OF OCTOBER 8, 2013



TRAVERSE CITY
LIGHT & POWER

To: Light and Power Board
From: Karla Myers-Beman, Controller *KMB*
Date: September 30, 2013
Subject: Amendment to Grand Traverse County Dark Fiber Services Agreement

Attached for your consideration is an Amendment to Grand Traverse County Dark Fiber Services Agreement between TCL&P and Grand Traverse County (“County”).

The County and TCL&P entered into an agreement dated November 26, 2007 for the purposes of providing the County a fiber optic communication system. The initial term of the contract expires in November and the County plans on renewing the agreement for another five years as allowed by the contract. However, with the renewal, the County requests the following modifications be made to the current contract.

The first modification is to remove the Health Services Building site located at 2325 Garfield Rd from the contract as the building is no longer being utilized by the County. The second modification is to provide the County the ability to remove sites from the contract in the future. Staff concurred with both modifications except with a stipulation on the second. The stipulation is a site must remain on the contract until TCL&P has received a full initial term of payments to allow for cost recovery of the initial build out costs.

The original contract along with the prepared amendment is attached for your review.

Staff recommends approval of the amendment as presented. This item is appearing on the consent calendar as it is deemed by staff to be a non-controversial issue. Approval of this item on the Consent Calendar means you agree with staff’s recommendation.

If any member of the Board or the public wishes to discuss this matter, other than clarifying questions, it should be placed on the agenda as an item under “items removed from the consent calendar.”

If after Board discussion you agree with staff’s recommendation the following motion would be appropriate:

(RECOMMENDED MOTION ON FOLLOWING PAGE)

FOR THE LIGHT & POWER BOARD MEETING OF OCTOBER 8, 2013

MOVED BY _____, SECONDED BY _____,

THAT THE BOARD AUTHORIZES THE CHAIRMAN AND SECRETARY TO ENTER INTO AMENDMENT ONE FOR THE GRAND TRAVERSE COUNTY DARK FIBER SERVICES AGREEMENT, SUBJECT TO APPROVAL AS TO SUBSTANCE BY THE EXECUTIVE DIRECTOR AND AS TO FORM BY GENERAL COUNSEL.

GRAND TRAVERSE COUNTY
DARK FIBER SERVICES AGREEMENT
AMENDMENT 1

On this ____ day of _____, 2013, Amendment 1 is made to the Grand Traverse County Dark Fiber Services Agreement (“Agreement”) entered into November 26, 2007 by and between Traverse City Light and Power Department (“TCL&P”), whose address is 1131 Hastings Street, Traverse City, Michigan 49686 and Grand Traverse County (“Customer”) whose address is 400 Boardman Avenue, Traverse City, Michigan 49684.

1. The Health Services site located at 2325 Garfield Road is removed as a Site from the contract at Exhibit 1 as of _____, 2013, with no further obligation to pay for the Site by the Customer. The ERU Fee shall be reduced to reflect the elimination of this Site.
2. After the Initial Term of a site addition, other Sites will be allowed to be removed by the Customer if the Customer vacates that Site. In order to remove a Site, the Customer must request removal of a Site not less than 60 days before a Site is removed and document with such notice that the Customer has or will vacate the Site within 60 days.
3. Removal of a Site from Exhibit 1 automatically vacates the Customer’s exclusive right to use the fibers allocated to that site in TCL&P’s fiber optic cable.
4. In all other respects the Agreement shall remain in full force and effect.

Executed on the date first above written.

Traverse City Light and Power Department:

Grand Traverse County:

By: Patrick McGuire, Chairman

By: Herb Lemcool, Chairman

By: Timothy Arends, Secretary

By: Bonnie Scheele, County Clerk

Approved to as form:

W. Peter Doren, General Counsel for TCL&P

GRAND TRAVERSE COUNTY
AMENDED EXHIBIT 1

Leased Fiber Count

2
2
2
2
2

Site

Governmental Center
Civic Center
Front Street
Law Enforcement Center
Public Services

Address

400 Boardman Ave
1125 West Civic Cntr Dr
520 West Front Street
859 Woodmere
2650 LaFranier Rd

Total of 5 Sites.

GRAND TRAVERSE COUNTY
DARK FIBER SERVICES AGREEMENT

THIS DARK FIBER SERVICES AGREEMENT ("Agreement") is made and entered into as of the 26th day of November, 2007, by and between the TRAVERSE CITY LIGHT & POWER DEPARTMENT, a Michigan municipal electric utility, whose address is 1131 Hastings Street, Traverse City, Michigan 49686 ("TCL&P"), and GRAND TRAVERSE COUNTY, whose address is 400 Boardman, Traverse City, Michigan, 49684, ("Customer").

RECITALS

WHEREAS, TCL&P owns and/or operates fiber optic communications systems in metropolitan Traverse City ("TCL&P Systems") as generally depicted and/or described on Exhibit 1 attached hereto ("TCL&P System Routes"); and

WHEREAS, Customer desires to obtain the exclusive right to use certain fibers ("Customer Fibers") in TCL&P's fiber optic cable ("Cable") which are further described in Exhibit 1; and

WHEREAS, TCL&P is willing to grant Customer the exclusive right to use the Customer Fibers subject to the terms and conditions contained herein.

NOW THEREFORE, in consideration of the foregoing Recitals and the covenants and agreements set forth below, TCL&P and Customer hereby agree as follows:

ARTICLE I
DEFINITIONS

For purposes of this Agreement, words spelled with initial capital letters (other than proper names, section headings, and the beginnings of sentences) shall have the defined meanings set forth in the applicable provisions of this Agreement or in this Article I.

- 1.01 **"Acceptance Date"** shall mean the date that Customer delivers a Notice of Acceptance to TCL&P or the date that Customer uses the Customer Fibers for the purpose of delivering communications traffic (other than traffic which is transmitted only and solely for the purpose of testing the performance of the Customer Fibers).
- 1.02 **"Affiliate"** shall mean any Person that is directly or indirectly controlled by, or is under the common control with, the Customer and includes contractors of customers on the sites being served.
- 1.03 **"Costs"** shall mean the actual, reasonable direct costs paid or payable in accordance with the accounting procedures generally used by TCL&P including (i) direct costs and out of pocket expenses on a direct pass-through basis, (ii) internal labor costs, direct wages and salaries and overhead, and (iii) external costs of contractors, subcontractors or others providing service to TCL&P.

- 1.04 **“Customer Agreement” or “Agreement”** shall mean this Agreement entered into between Customer and TCL&P.
- 1.05 **“Dark Fiber Services”** shall mean the delivery of dark fiber and associated services to Customer pursuant to the terms and conditions of this Agreement and the Customer Agreement.
- 1.06 **“ERU”** shall mean the exclusive right to use the Customer Fibers.
- 1.07 **“Governmental Authority”** shall mean any federal, state, regional, county, city, municipal, local, territorial, or tribal government, whether foreign or domestic, or any department, agency, bureau or other administrative or regulatory body obtaining authority from any of the foregoing, including without limitation, courts, public utilities and other authorities.
- 1.08 **“Person”** shall mean any natural person, corporation, partnership, limited liability company, business trust, joint venture, association, company or Governmental Authority.

ARTICLE II
GRANT OF RIGHTS

- 2.01 **Dark Fiber Services:** Customer has requested Dark Fiber Services and an exclusive right to use the Customer Fibers as set forth in Exhibit 1.
- 2.02 **Grant of ERU:** As of the Acceptance Date, TCL&P hereby grants to Customer and Customer hereby acquires from TCL&P an exclusive right of use for the purposes and subject to the limitations described herein, of the Customer Fibers along the TCL&P System Route (the “ERU”). During the Term of this Agreement, TCL&P shall not grant any other Person the right to use the Customer Fibers.
- 2.03 **Customer Fibers:** Exhibit 1 identifies the number of fibers, route mileage, configuration and consideration for the Customer Fibers to be granted to Customer hereunder.

ARTICLE III
USE OF CUSTOMER FIBERS

- 3.01 **Customer Representation and Warranty:** Customer represents and warrants that it will use the Customer Fibers and the ERU granted hereunder in compliance with all applicable codes, ordinances, laws, rules and regulations of any applicable Governmental Authority.

- 3.02 **Permitted Use:** Subject to the provisions of this Agreement, Customer may use the Customer Fibers and the ERU for any lawful purpose. Customer acknowledges and agrees that it has no right to use any fibers, other than the Customer Fibers, included or incorporated in the TCL&P System, and that Customer shall keep any and all of the TCL&P System free from any liens, rights or claims of any third party attributable to Customer.
- 3.03 **Prohibited Use:** During the Term Customer shall have no right to, and TCL&P may enjoin Customer from any attempt to, assign, sell, lease, sublease, transfer, or grant an indefeasible right of use or other similar right or interest in the ERU, or the Customer Fibers of this Agreement to anyone other than an Affiliate of Customer or the City of Traverse City.
- 3.04 **No Liens by TCL&P:** TCL&P agrees to keep any and all of the Customer Fibers free from any lien, rights or claims of any third party attributable to TCL&P which may materially and adversely affect the right of Customer to use the Customer Fibers hereunder. Notwithstanding the foregoing, nothing herein shall in any way limit TCL&P's right to assign this Agreement or pledge any interest in and to the TCL&P System or the Customer Fibers as collateral for indebtedness in favor of bondholders, a bank or creditor as part of security interest in the assets of TCL&P.

ARTICLE IV CONSIDERATION

- 4.01 **ERU Fee:** In consideration for the ERU granted to Customer hereunder, Customer agrees to pay to TCL&P the sums, and at the time or times, set forth on Exhibit 2 (the "ERU Fee").
- 4.02 **Other Fees:** In addition to the ERU Fee, Customer shall pay directly or reimburse TCL&P for all other sums, costs, fees and expenses which are expressly provided to be paid by Customer under this Agreement.
- 4.03 **Invoices:** TCL&P will send to Customer in advance invoices for payment of the ERU Fee and any other amounts due and owing hereunder. Customer shall pay such invoiced amounts within forty-five (45) days.
- 4.04 **Late Payments:** Any sums not paid when due hereunder shall be subject to a late payment interest charge of twelve (12) percent per annum.
- 4.05 **Failure to make payments:** In addition to any other rights and remedies under this Agreement failure to make any payment when due hereunder (inclusive of the applicable cure period) shall be a default in a material term of this Agreement.

ARTICLE V
TERM

- 5.01 **Term:** This Agreement shall commence as of the Acceptance Date of the last of the sites shown on Exhibit 1 and shall continue in full force and effect for the Initial Term of five (5) years unless terminated earlier or extended under the terms of this Agreement. Customer may renew this Agreement for three (3) additional five (5) year periods (each a "Renewal Term" and together with the Initial term, the "Term") by giving TCL&P written notice at least ninety (90) calendar days before to the end of the Initial Term or any Renewal Term. If Customer does not so notify TCL&P of renewal or termination, this Agreement shall continue in effect on a month-to-month basis, until terminated by either party upon at least thirty (30) Calendar Days prior written notice to the other party. TCL&P shall have the right to increase the ERU Fee and the Recurring Charge at the beginning of a Renewal Term in accordance with Exhibit 2.
- 5.02 **Expiration/Termination:** The Term of this Agreement shall continue until the earlier of (a) the end of the Term, if any, set forth above or (b) termination by either party in accordance with this Agreement.
- 5.03 **Multiple Site Connection.** The parties intend that all sites listed on Exhibit 1 will be connected to each other within six (6) months of the Acceptable Date of the first site. If not, the Initial Term of this Agreement shall commence on the Acceptance Date of the second of the sites listed on Exhibit 1.

ARTICLE VI
AUTHORIZATIONS

- 6.01 **TCL&P Authorizations:** TCL&P represents and warrants that it has obtained or will obtain all regulatory approvals, franchises, permits, orders, consents and rights-of-way, either by contract, franchise or some other agreement, and all other rights necessary (all of which are collectively referred to herein as the "Authorizations") to be obtained by TCL&P to enable it to construct, install and provide the Customer Fibers, grant the ERU to Customer, and perform all other rights and obligations hereunder. TCL&P shall use commercially reasonable efforts to cause such Authorizations to remain effective through the Term and any extensions thereof (or to replace such Authorizations with suitable replacement Authorizations). In the event that any Authorizations are discontinued and not replaced and the loss of such Authorizations prohibits the use of the Customer Fibers, TCL&P shall issue a rebate (excluding non-recurring one-time costs) to Customer. The amount of the rebate shall be the pro-rata portion of the ERU Fee allocable to the remainder of the Term, in proportion to the number of fiber miles.

- 6.02 **Customer Authorizations:** Customer represents and warrants that it has obtained or will obtain prior to the Acceptance Date all Authorizations to be obtained by Customer necessary to enable it to use, operate, or access the Customer Fibers and the ERU granted hereunder and to perform all other rights and obligations hereunder. Customer shall use commercially reasonable efforts to cause such Authorizations to remain effective through the Term and any extensions thereof (or to replace such Authorizations with suitable replacement Authorizations.) The failure of Customer to maintain any Authorizations hereunder shall be default pursuant to Article XIX hereof.

ARTICLE VII
CONSTRUCTION, TESTING AND ACCEPTANCE

- 7.01 **Fiber Optic Cable:** The Customer Fiber will meet or exceed the Industry standards for high quality long haul Single Mode Fiber operating in the 1310 nm and 1550 nm frequency range.
- 7.02 **Testing:** TCL&P shall test the Customer Fibers in accordance with the testing procedures and standards also specified in Exhibit 3 ("Acceptance Testing Procedures").
- 7.03 **Completion:** When TCL&P reasonably determines the Customer Fibers have satisfied the Acceptance Testing Procedure, TCL&P shall provide a written notice of completion to Customer ("Notice of Completion").
- 7.04 **Customer Acceptance or Rejection:** Customer shall, within twenty-one (21) days of receipt of the Notice of Completion, either accept the Customer Fibers by delivering a notice of acceptance to TCL&P ("Notice of Acceptance") or reject the Customer Fibers by delivering a notice of rejection ("Notice of Rejection") to TCL&P specifying the defect or failure to meet the Specifications. The date of the Notice of Acceptance or any Deemed Acceptance, as defined herein, shall be the customer acceptance date ("Acceptance Date"). In the event Customer delivers a Notice of Rejection to TCL&P, TCL&P shall promptly, and at no cost to Customer, remedy the defect or failure specified in the Notice of Rejection. Thereafter, TCL&P shall again give Customer a Notice of Completion with respect to the Customer Fibers. Subject to Customer's rights under Article XVIII to terminate a Service Order or this Agreement as provided for herein, the foregoing procedure shall apply again and successively thereafter until TCL&P has remedied all defects or failures specified by Customer. In the event Customer delivers two (2) Notices of Rejection for the same defect or failure and in both instances, TCL&P fails to find or cannot confirm any such defect or failure, then Customer shall pay TCL&P's Costs associated with its investigation of the Notice of Rejection. Any failure of Customer to deliver a Notice of Rejection by the twenty first (21st) day after Customer's receipt of the Notice of Completion or any use by Customer of the Customer Fibers for the purpose of delivering communications traffic (other than traffic which is transmitted only and solely for the purpose of testing the performance of the Customer Fibers) shall be deemed to constitute Acceptance ("Deemed Acceptance").

ARTICLE VIII
ACCESS

- 8.01 **TCL&P Control:** TCL&P shall control all activities concerning access to the TCL&P System, including the Customer Fibers.
- 8.02 **Work by TCL&P:** Any work required respecting the TCL&P System or the Customer Fibers required by Customer for any reason, including, without limitation, splicing of the Customer Fibers or the installation of handholes or other access points along the TCL&P System Route, shall be undertaken only by TCL&P at Customer's request as set forth in this Agreement.
- 8.03 **TCL&P Negligence Or Willful Misconduct:** Customer shall not have any obligation to reimburse TCL&P for any Costs if such Costs were incurred or arose out of TCL&P's negligence or willful misconduct or TCL&P's breach of this Agreement.

ARTICLE IX
OPERATIONS

- 9.01 **No Interference By Customer:** Customer shall not interfere with, or materially or adversely affect the use by any other Person of the TCL&P System and/or any electronic or optronic equipment used by such Person in connection therewith.
- 9.02 **No Interference By TCL&P:** TCL&P shall not interfere with, or materially or adversely affect or permit another Person under the control of TCL&P to interfere with, materially or adversely affect Customer's use of the Customer Fibers and/or any optronics, electronics, electric, optronic, or other equipment or related facilities used by Customer in connection therewith; provided, however, that TCL&P shall not be required to alter pre-existing uses of the TCL&P System to avoid adversely affecting new and presently unanticipated uses of the Customer Fibers by Customer. If a Person materially, adversely affects Customer's use of the Customer Fibers and such Person is in any way leasing, licensing or otherwise using (through an ERU or otherwise) any part of the TCL&P System, TCL&P shall require that such Person cease using the TCL&P System until such Person can do so without causing such material, adverse affect on Customer.
- 9.02 **No Obligation To Supply Electronics:** Customer acknowledges and agrees that TCL&P is not supplying nor is TCL&P obligated to supply to Customer any optronics or electronics or optical or electrical equipment, any related facilities, or any space for the placement thereof (except as agreed in any Customer Agreement or any other agreement executed by the Parties), all of which are the sole responsibility of Customer.

ARTICLE X
MAINTENANCE AND REPAIR OF THE CUSTOMER FIBERS

- 10.01 **TCL&P to Maintain and Repair:** From and after the Acceptance Date, the maintenance and repair of the TCL&P System including, without limitation the Customer Fibers, shall be provided in accordance with the terms and conditions set forth herein. When performing maintenance and repairs, TCL&P shall in all cases use commercially reasonable efforts to minimize disruption of Customer's business operation and treat the Customer Fibers with at least as high a priority (subject to applicable law) as TCL&P treats any and all other fibers or Persons. All preventive maintenance and reactive maintenance (as defined herein) shall be performed by TCL&P at TCL&P's cost as part of the Recurring Charge set forth in Article III below. TCPL&P shall be responsible for all maintenance and repair of Customer Fibers except to the extent that repair is necessitated by Customer's negligence or willful misconduct.
- 10.02 **No Maintenance By Customer:** Customer shall not, by itself or by or through any agent or contractor, make any repair to or replacement of the Customer Fibers or any other equipment owned by TCL&P.
- 10.03 **TCL&P Emergency Control Center:** TCL&P shall operate and maintain one emergency control center staffed by trained and qualified personnel beginning with the Acceptance Date of at least two (2) of the connected sites described in Exhibit 1. Customer shall promptly report the need for any unscheduled or emergency maintenance in Accordance with the procedures set forth herein using TCL&P's service number, which is 1-231-922-4942.
- 10.04 **Right to Subcontract:** TCL&P shall have the right to subcontract any maintenance performed hereunder for Customer, provided that TCL&P shall require any subcontractor to perform in accordance with the requirements and procedures set forth in this Agreement and all applicable industry standards. The use of any such subcontractor shall not relieve TCL&P of any of its obligations hereunder.
- 10.05 **Notice to Customer:** TCL&P shall give the Customer at least seven (7) days advance notice of preventive maintenance that includes an interruption of signal continuity.
- 10.06 **Preventive Maintenance:** Preventive maintenance is defined as the routine maintenance and repair of dark fiber. TCL&P performs routine maintenance, repair checks and services, including preventive inspections, as determined necessary by TCL&P to maintain dark fibers within the agreed upon specifications. Maintenance is performed to the TCL&P demarcation point. Customer may also request additional routine maintenance on dark fiber based on the backbone and on any secondary laterals past the TCL&P demarcation points on an individual case basis by detailing the request to TCL&P. Annual operation and maintenance charges ("Recurring Charge") do not

provide coverage for any fiber laterals past the TCL&P demarcation points. All costs incurred for the additional maintenance and services are charged back to the requesting customer.

- (a) Normal preventive maintenance activities performed by TCL&P include, but are not limited to:
 - (i) Patrol and monitoring of the TCL&P backbone on a regularly scheduled basis;
 - (ii) Regular testing to establish thresholds for quality assurance on the TCL&P backbone;
 - (iii) Establishment and operation of a "Call-Before-You-Dig" program; and
 - (iv) Performance of all required cable locates and record-keeping on the TCL&P backbone.

- (b) In the event that preventive maintenance is canceled or delayed, TCL&P shall notify Customer at the earliest opportunity to reschedule the activity.

10.07 **Reactive Maintenance:** Reactive maintenance is any non-routine maintenance and repair of dark fiber not identified as preventive maintenance, including repairs required as a result of cable cuts or natural or man-made disasters. Reactive maintenance is repair activity performed in response to any of the following:

- (a) Notification by the customer or notification by third party of any failure;
- (b) Interruption or impairment of dark fiber; and
- (c) Any event likely to cause the failure, interruption or impairment of dark fiber.

10.08 **Temporary Repairs:** TCL&P representatives are equipped to communicate with the customer during emergency unscheduled maintenance in order to provide regular updates throughout the repair process. When correcting or repairing cable discontinuity or damage, TCL&P uses reasonable efforts to respond, within 4 hours, to the customer to determine the repair of traffic-affecting problems within the time frames agreed to by both the customer and TCL&P. In order to meet those repair deadlines, TCL&P may approve temporary repairs until a more permanent repair is completed. Typically, TCL&P will be on-site, within the agreed to time, after receiving notice and service will be restored as soon as feasible. Within twenty-four (24) hours after completing a temporary repair, TCL&P begins planning for permanent repair, notifies the customer of those plans, and then implements permanent repairs as soon as possible.

ARTICLE XI
RELOCATION, REPLACEMENT AND CONDEMNATION
OF CUSTOMER FIBERS

- 11.01 **Relocation Request by Third Party:** If TCL&P receives notice of any request, intent or plan by any third party ("Relocation Request"), including but not limited to any Governmental Authority, to relocate any segment of TCL&P's System Route affecting the Customer Fibers, TCL&P shall notify Customer of such Relocation Request and shall keep Customer advised of the status of any such proceedings and negotiations related thereto. If relocation is required as a result of any such Relocation Request, TCL&P shall give Customer at least sixty (60) days (or such lesser period of notice that TCL&P may have received) prior written notice of any such required relocation ("Relocation Notice") including an estimate of the cost of such relocation. TCL&P shall relocate the Customer Fibers and TCL&P shall seek reimbursement for the costs of such relocation from the third party or Governmental Authority.
- 11.02 **Relocation Request by Customer.** If the Customer requests relocation of any segment of TCL&P's System Routes, the Customer shall pay for such relocation if TCL&P does relocate the segment.
- 11.03 **Substitution by TCL&P:** Upon not less than ninety (90) days written notice from TCL&P to Customer, TCL&P may, at its option, subject to Customer's prior written approval (which approval shall not be unreasonably withheld, conditioned, or delayed) substitute for the Customer Fibers, an equal number of alternate fibers of like or better quality within the TCL&P System Route or portion thereof; provided that in such event, such substitution (i) shall be in accordance with Customer's applicable specifications and operating procedures; (ii) shall be effected at the sole cost of TCL&P, including without limitation, all disconnect and reconnect costs, fees and expenses; (iii) shall be tested in accordance with and shall satisfy the Acceptance Testing Procedures as set forth on Exhibit 3; and (iv) shall not unreasonably interrupt the operation or performance of Customer's network or business.
- 11.04 **Replacement:** In the event all or any part of the Customer Fibers shall require replacement during the Term of this Agreement, such replacement shall be made as soon as reasonably practicable at TCL&P's sole cost and expense; except, however, if the replacement of the Customer Fibers is required as a result of the negligence or intentional misconduct of Customer, TCL&P shall replace the Customer Fibers and Customer shall pay all Costs associated therewith.
- 11.05 **Condemnation:** In the event any portion of the TCL&P System Route, Customer Fibers, and/or the rights-of-way in or upon which they shall have been installed, become the subject of a condemnation proceeding which is not dismissed within one hundred eighty

(180) days of the date of filing of such proceeding and which could reasonably be expected to result in a taking by any Governmental Authority or other party cloaked with the power of eminent domain for public purpose or use, both parties shall be entitled, to the extent permitted under applicable law, to participate in any condemnation proceedings to seek to obtain compensation by separate awards for the economic value of their respective interests in the portion of the TCL&P System and/or Customer Fibers subject to such condemnation. TCL&P shall notify Customer as soon as practicable of receipt of any notice of any condemnation proceeding filed against the TCL&P System, Customer Fibers or rights-of-way in or upon which the TCL&P System or Customer Fibers have been installed. TCL&P agrees not to sell the Customer Fibers and or the rights-of-way to such acquiring agency or Governmental Authority or other party in lieu of condemnation without ten (10) business days prior written notice to Customer.

ARTICLE XII TITLE AND TAXES

- 12.01 **Beneficial Ownership:** Unless prohibited by law, TCL&P and Customer acknowledge and agree that Customer shall be treated for accounting and federal and all applicable state tax purposes as the exclusive beneficial owner of the Customer Fibers. Except as otherwise required by law, TCL&P and Customer shall file (or cause to be filed with respect to any consolidated returns) their respective tax returns and other returns and reports for their respective Taxes on such basis, and shall not take any positions inconsistent therewith.
- 12.02 **TCL&P Title:** TCL&P shall have undivided, absolute legal title to and ownership in the TCL&P System and the Customer Fibers except as provided herein.
- 12.03 **Taxes:** Customer shall be responsible for, and shall timely pay, any and all taxes imposed that are associated with Customer's use or purchase of the services, or any other transaction hereunder, including, but not limited to, any sales, use, federal excise or similar taxes, franchise fees, right-of-way fees, license fees and surcharges. All such taxes and fees shall be stated separately on Customer's invoices. To the extent Customer claims exemption from any tax or fee, Customer must provide a valid exemption certificate, or such taxes and fees shall be due and payable to TCL&P by the Due Date. Customer agrees to pay and to hold TCL&P harmless from and against any penalty, interest, additional tax, or other charge that may be levied or assessed as a result of a delay or failure of Customer, for any reason, to pay any tax or fee charged to Customer by TCL&P.

ARTICLE XIII REPRESENTATIONS AND WARRANTIES

- 13.01 **Requisite Authority:** Each Party represents and warrants that: (i) it has the power and authority to enter into, execute, and deliver this Agreement; (ii) it has taken all requisite

corporate action to approve the execution, delivery and performance of this Agreement; (iii) this Agreement constitutes a legal, valid and binding obligation enforceable against such party in accordance with its terms, subject to bankruptcy, insolvency, creditor's rights and general equitable principles; (iv) it shall not commit a breach of any other agreement as a result of executing this Agreement or as a result of the obligations imposed upon it hereunder; and (v) its execution of and performance under this Agreement shall not violate any applicable existing regulations, rules, statutes or court orders of any Governmental Authority.

- 13.02 **No Pending Claims:** Each Party represents and warrants to the other that there are no pending, or to the knowledge of such Party, threatened actions, suits, claims, condemnations or other proceedings (i) which would materially and adversely affect the Customer Fibers being delivered hereunder by TCL&P, the TCL&P System, or the ability of either Party to consummate the transactions and perform the obligations contemplated hereby, (ii) which would result in any charge being levied against, or lien assessed on the Customer Fibers being delivered by TCL&P hereunder which lien would materially and adversely affect TCL&P's ownership or Customer's use of the Customer Fibers, or (iii) in which either Party is or will be a party by reason of either Party's interests in the Customer Fibers.
- 13.03 **Required Insurance:** Each Party represents and warrants that it has obtained and shall maintain throughout the Term of this Agreement, and shall require any of its subcontractors (if any) to obtain and maintain throughout the Term of this Agreement such insurance policies and coverage as set forth in Article XVI.
- 13.04 **No Broker:** Each party represents to the other that it has not retained any broker, finder, investment banker or other similar Person who is entitled to any brokerage fee, finder's fee or other similar fee or commission in connection with transactions described in this Agreement.
- 13.05 **Notification:** Each Party shall promptly notify the other Party of any matters pertaining to, or the occurrence (or impending occurrence) of, any event of which it is aware that could give rise to any damage or impending damage to or loss of the TCL&P System or Customer Fibers.
- 13.06 **Cooperation:** Customer and TCL&P agree to cooperate with and support each other in complying with the requirements applicable to their respective rights and obligations, including Authorizations hereunder by any Governmental Authority.
- 13.07 **Workmanship:** TCL&P represents and warrants that the Customer Fibers will be designed, engineered, installed and constructed substantially in accordance with the terms and provisions of this Agreement, any and all applicable building, construction and safety codes, as well as any and all other applicable Authorizations. Customer shall notify

TCL&P in writing of its discovery of a deviation from the specifications set forth herein, within thirty (30) days of such discovery, and the construction or installation of the affected Customer Fibers shall be repaired to such specifications by TCL&P at TCL&P's sole cost and expense except to the extent that such deviation is the result of Customer's acts or omissions. Notwithstanding the foregoing, in the event that Customer discovers a deviation from the plans for construction or installation of the TCL&P System which may materially adversely affect the operation or performance of the Customer Fibers, then Customer shall have a period of ninety (90) days after Customer's discovery of such defect within which to notify TCL&P, and the construction or installation of the affected portion of the Customer Fibers shall be repaired to such specification at TCL&P's sole cost and expense except to the extent that such deviation is the result of Customer's acts or omissions. If TCL&P is unable to remediate any such deviation, TCL&P shall coordinate substitution with Customer as set forth in Section 11.03 herein.

13.08 **Manufacturer's Warranty:** If there is an interruption, impairment in, defect in or failure of the Customer Fibers to perform in accordance with the applicable Cable vendor's or manufacturer's specifications with respect to the Customer Fibers, TCL&P shall, upon Customer's request, assign to Customer the particular Cable vendor's or manufacturer's warranty. In the event any maintenance or repairs to the TCL&P System are required as a result of a breach of any warranty made by any manufacturers, contractors, or vendors, unless Customer shall elect to pursue such remedies itself, which Customer shall have the right to do at its sole discretion, TCL&P shall pursue at its own cost and expense all remedies against such manufacturers, contractors or vendors on behalf of Customer, and TCL&P shall reimburse Customer's costs for any maintenance and repairs Customer has incurred as a result of any such breach of warranty.

13.09 **EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, TCL&P MAKES NO WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE CUSTOMER FIBERS OR THE TCL&P'S SYSTEM, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ALL SUCH WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED.**

ARTICLE XIV INDEMNIFICATION

14.01 **Indemnification.** Customer shall indemnify and hold TCL&P harmless from and against any Claims, including attorney fees, incurred as a result of actual or alleged libel, slander, or infringement of intellectual property rights arising out of Customer's use of the fibers; Customer's violation or alleged violation of any law or regulation; or the malfunction or failure of any equipment or facility provided by Customer, its agents, employees or suppliers.

- 14.02 **Notice:** Customer agrees to promptly provide TCL&P with notice of any claim or threatened claim that may result in an indemnification obligation hereunder pursuant to Section 11 of the Agreement.
- 14.03 **Failure To Indemnify:** Customer expressly recognizes and agrees that its obligation to indemnify, defend, protect and save harmless is not a material obligation to the continuing performance of its other obligations, if any, hereunder. In the event that a party shall fail for any reason to so indemnify, protect and save the other harmless, the injured party hereby expressly recognizes that its sole remedy in such event shall be the right to bring legal proceedings against the other party for its damages as a result of the other party's said failure to indemnify, defend, protect and save harmless. The obligations shall survive the expiration or termination of this Agreement.
- 14.04 **Immunity:** Notwithstanding the above provisions to the extent TCL&P or the Customer enjoy statutory or common-law governmental immunity or other immunity, nothing contained in this Agreement intends to waive that immunity.

ARTICLE XV
LIMITATION OF LIABILITY

- 15.01 **Limitations:** Neither party shall be liable to the other for any indirect, incidental, punitive, exemplary, special or consequential damages (including without limitation damages related to lost profits, toll fraud, loss of use, and loss of data, or failure to realize savings or benefits) arising under this agreement, even if advised of the possibility of such loss. The total aggregate liability of TCL&P, its suppliers, licensors, affiliates, directors, officers, and/or employees under or in connection with this agreement will be limited to proven direct damages not to exceed amounts actually paid by customer during the three-month period immediately preceding the date of the circumstances giving rise to the first claim for damages under this agreement.
- 15.02 **No third party beneficiaries.** There are no third-party beneficiaries to this Agreement.

ARTICLE XVI
INSURANCE

- 16.01 **Required Coverage:** Each Party shall, at its own expense, secure and maintain in force, throughout the Term, general liability insurance, such that the total available limits to all insured will not be less than three million dollars (\$3,000,000.00) in respect of injuries to or death in any one person in any one occurrence and not less than five million dollars (\$5,000,000.00) in respect of injuries to or death of any number of persons aggregated over the policy year and not less than three million dollars (\$3,000,000.00) in respect to damage to or loss of use of property in any one occurrence, and worker's compensation and employer's liability insurance as required by the laws of all applicable Governmental

Authorities. Such insurance may be provided in a policy or policies, primary and excess, including the so-called umbrella or catastrophe forms. The undertaking with respect to insurance shall not relieve either Party of its obligations hereunder. In addition, each Party shall comply with the insurance requirements in any underlying Authorizations (provided that such Party has knowledge of such requirements.)

- 16.02 **Failure To Maintain:** In the event any Party fails to maintain the required insurance coverage and a claim is made or suffered, the party failing to provide such coverage shall indemnify and hold harmless the other Party from any and all claims for which the required insurance would have provided coverage.

ARTICLE XVII FORCE MAJEURE

- 17.01 **Event of Force Majeure:** Neither Party shall be liable for any delay or failure in performance of any part of this Agreement to the extent such delay or failure in performance of any part of this Agreement to the extent such delay or failure is the result of a cause outside of the Party's reasonable control (an event of Force Majeure), including but not limited to, the following: fire, flood, explosion, accident, war, strike, embargo, governmental requirement, inability to obtain governmental authorizations or permits, civil or military authority, Act of God, inability to secure necessary materials, labor or transportation, acts or omissions of a common carrier, warehouseman, or other third Party. Any such delay or failure shall excuse the Party claiming a Force Majeure event from performance of its obligations that are directly affected by such Force Majeure condition, until the Force Majeure condition ceases and the term shall be extended by the length of the suspension.

ARTICLE XVIII DEFAULT AND TERMINATION

- 18.01 **Customer Default:** If the Customer fails to observe and perform the material terms and provisions of this Agreement, TCL&P may terminate or suspend the Services provided hereunder. In addition, subject to Article XV, TCL&P may pursue any legal remedies it may have under applicable law or equity.
- 18.02 **TCL&P Default:** If TCL&P fails to observe and perform the material terms and provisions of this Agreement, Customer may terminate this Agreement. In addition, subject to Article XV, Customer may pursue any legal remedies it may have under law or equity.

ARTICLE XIX
GOVERNING LAW

19.01 **Governing Law:** The law of the State of Michigan shall apply to this Agreement.

ARTICLE XX
VENUE

20.01 **Venue.** All meetings, hearings and actions to resolve the dispute shall be in Grand Traverse County.

ARTICLE XXI
ASSIGNMENT

21.01 **Assignment:** Neither Party may assign this Agreement without the written consent of the other Party (which consent shall not be unreasonably conditioned, withheld or delayed); provided however that a Party may assign its rights and obligations hereunder without the consent of the other Party by providing thirty (30) days prior written notice to the other Party when the assignment is to one of the following (i) to any Affiliate ; (ii) pursuant to any sale or transfer of all or substantially all the business; or (iii) pursuant to any financing, merger, or reorganization. Any proposed assignee of Customer must at a minimum meet all TCL&P credit standards then in place and Customer shall be and remain liable for the performance of its obligations under this Agreement. This Agreement and each of the Parties' respective rights and obligations hereunder, shall be binding upon and shall inure to the benefit of the Parties hereto and each of their respective permitted successors and assigns. Any and all increased payments or fees, charges, costs, expenses or regulatory approvals, franchises, permits, orders, consents and rights-of-way either by contract, franchise or some other agreement, and all other rights necessary to be obtained by TCL&P in order to provide Services hereunder, which result from any permitted assignment or transfer of this Agreement by a Party, shall be paid by the assigning Party.

21.02 **Security Interests:** Except to the extent such assignment is prohibited by any Authorization relevant to this Agreement, the Parties shall also have the right to assign this Agreement and their respective rights under this Agreement as collateral for indebtedness incurred by such Party in favor of bondholders, a bank or other institutional creditor, if such assignment is part of a grant of a security interest in additional assets of such Party.

21.03 **No Prohibition On TCL&P's Business:** Nothing contained in this Article shall be deemed or construed to prohibit TCL&P from selling, transferring, leasing, licensing, granting rights of use or entering into similar agreements or arrangements with other

Persons respecting any fibers (other than the Customer Fibers) and conduit constituting part of the TCL&P System.

ARTICLE XXII
NOTICES

22.01 **Notices:** All notices required or permitted to be given hereunder in writing shall, unless expressly provided otherwise, be in writing, properly addressed, postage pre-paid and delivered by hand, facsimile, certified or registered mail, or overnight courier. A notice will be deemed effective as indicated: (i) if in writing and delivered in person or by overnight courier, on the date it is delivered; (ii) if sent by facsimile transmission, on the date that transmission is received in legible form by a responsible employee of the recipient; or (iii) if sent by certified or registered mail (airmail, if overseas) or the equivalent (return receipt requested), on the date that mail is delivered or its delivery is attempted; unless, in each case, the date of that delivery (or attempted delivery) or that receipt, as applicable, is not a business day or that communication is delivered (or attempted) or received, as applicable, after the close of business in the location of the recipient on a business day, in which case that communication shall be deemed given and effective on the first following day that is a business day. A Party may change its address by providing notice thereof in accordance with this Section.

22.02 **Addresses:** All notices or other communications which are required or permitted herein shall be addressed as follows:

If to Customer:

Attn:	Don Sheehan, IT Director	Grand Traverse County
Fax:	(231) 922-4636	400 Boardman Avenue
Tel:	(231) 922-4787	Traverse City, MI 49684

With a copy to:

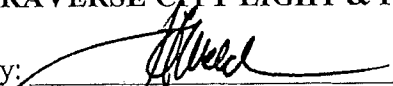
Attn:	County Administrator
Fax:	
Tel:	(231) 922-4780

If to TCL&P:

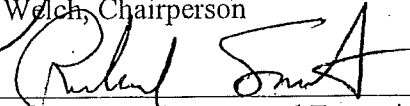
TRAVERSE CITY LIGHT & POWER DEPARTMENT
1131 Hastings Street
Traverse City, MI 49686
Attn: Executive Director
Fax: (231) 922-4638
Tel: (231) 932-4559

IN WITNESS WHEREOF, TCL&P and Customer have executed this Agreement as of the date first above written.

TRAVERSE CITY LIGHT & POWER DEPARTMENT

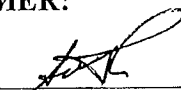
By: 

John Welch, Chairperson

By: 

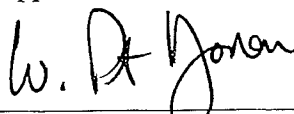
Richard Smith, Secretary and Executive Director

CUSTOMER:

By: 

Sonny Wheelock, Chairman of the Board of
Grand Traverse County Commissioners

Approved as to Form:



W. Peter Doren
General Counsel

GRAND TRAVERSE COUNTY
EXHIBIT 1

Leased Fiber Count	Site	Address
2	Governmental Center	400 Boardman Ave.
2	Civic Center	1125 West Civic Cntr. Dr.
2	Front Street	520 West Front Street
2	Health Services	2325 Garfield Rd.
2	Law Enforcement Center	859 Woodmere
2	Public Service	2650 LaFranier Rd.

Total of 6 Sites.

GRAND TRAVERSE COUNTY
EXHIBIT 2
ERU FEE AND RECURRING CHARGE

I. Fees.

A. ERU Fee.

(1) Years 1-5 – Initial Term

- (a) \$3,300.00 per month (\$39,600.00 per year) for 6 Sites at \$550 per month (\$6,600 per year) per Site.**
- (b) Existing Fees for T1 services, up to \$300.00 per Site, can be subtracted from the monthly ERU Fee until the end of the existing contract for the T1 service or cancellation of the T1 contract. Copies of the monthly billing information must be supplied by the customer for the T1 circuits.**
- (c) The monthly ERU Fee shall commence for each Site as of the month of the Acceptance Date for that Site.**

B. Recurring Charge.

Included in the ERU Fee.

II. Renewal Escalation.

The ERU Fee and/or the Recurring Charge may be increased at the beginning of a Renewal Term by the increase, if any, in the Consumer Price Index - All Urban Consumers (CPI-U, U.S. City Average), published by the United States Department of Labor, Bureau of Labor Statistics (1982-84 = 100), for the original twelve (12) month period of the prior term. 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 ERU Fee or the Recurring Charge.

III. Invoices.

The ERU Fee and/or Recurring Charge shall be invoiced in advance by TCL&P monthly during the Term, and any Renewal Term thereafter, and shall be paid within thirty (30) days after the date of the invoice ("Due Date"). Any sums not paid on the Due Date shall bear interest at an annualized rate of twelve percent (12%). In the event Customer disputes all or a portion of an invoice, Customer shall notify TCL&P in writing of the nature and amount of the dispute on or before the Due Date and shall pay the undisputed portion of the invoice on or before the Due Date. The Parties will work together in good faith to resolve properly noticed disputes. In addition to any other rights and remedies under this Agreement, failure to make any payment when due hereunder shall be a default.

GRAND TRAVERSE COUNTY

EXHIBIT 3

Acceptance Testing Procedure

Acceptance of the fiber system is based upon the Power (Insertion) Loss Testing on the fiber system on a Span-by-Span basis. TCL&P verifies that all fibers have one-to-one continuity on the new cable both at the fiber level and the pigtail level. In addition, TCL&P visually inspects fiber color codes and buffer tube color at each end of a Span. Fiber Testing will be from the final TCL&P Demarcation points. A report of the test data for proof of compliance of each fiber on a span by span basis will be supplied to Customer.

FOR THE LIGHT & POWER BOARD MEETING OF OCTOBER 8, 2013



TRAVERSE CITY
LIGHT & POWER

To: Light and Power Board
From: Karla Myers-Beman, Controller *KMB*
Date: September 30, 2013
Subject: Repeal of Light and Power Board Policies

After review of the Light and Power Department board approved policies, staff is recommending the following policies to be repealed as they are no longer applicable to current operations.

1. **Bayside Power Plant Roof Access Policy:** Bayside Power Plant is no longer in operation.
2. **Cogeneration Facilities Policy:** This policy is obsolete and superseded with the net metering policy approved July 27, 2010.
3. **Electric Utility Customer Credit Policy** – Security deposits are determined based on charter language with additional guidance from the customer service policy adopted by the Light and Power Board in May 2007.

The policies are included for your review.

Staff recommends approval of the repeal of the above policies. This item is appearing on the consent calendar as it is deemed a non-controversial housekeeping matter. Approval of this item on the Consent Calendar means you agree with the staff's recommendation.

If any member of the Board or the public wishes to discuss this matter, other than clarifying questions, it should be placed on the agenda as an item under "items removed from the consent calendar."

If after Board discussion you agree with staff's recommendation the following motion would be appropriate:

MOVED BY _____, **SECONDED BY** _____,

**THAT THE BOARD REPEALS THE BAYSIDE POWER PLANT ROOF ACCESS
POLICY, COGENERATION FACILITIES POLICY, AND THE ELECTRIC UTILITY
CUSTOMER CREDIT POLICY.**

Light and Power Department
City of Traverse City, MI
Adopted: July 27, 1988
Amended: June 14, 1998

BAYSIDE POWER PLANT ROOF ACCESS POLICY

Access to the Power Plant roof is allowed for authorized Light and Power employees who are knowledgeable of the plant's operations.

Under certain circumstances, members of the news media or other individuals with special purposes may request access to the plant roof. In these cases, the individuals will be allowed access—but must be accompanied to the roof by a knowledgeable employee who will instruct them on the appropriate safety measures.

Jeffery W. Feldt

Jeffery W. Feldt
Executive Director and Secretary
Traverse City Light and Power Board

Light and Power Department
City of Traverse City, MI
Adopted: June 11, 1980

COGENERATION FACILITIES POLICY

WHEREAS, the Traverse City Light and Power Board on September 26, 1979 established that it was the Board's desire to maintain local generation capability if feasible and that this generating capability could include heating, multi-fueled plants, cogeneration, etc; and

WHEREAS, the Traverse City Light and Power Board effective June 1, 1980 adopted an auxiliary power provision in its Residential Electric Rates establishing a backup power provision for and a power buy back provision from any residential cogenerating customer; and

WHEREAS, the Federal Energy Regulatory Commission through its recent implementation of Section 210 of the 1978 Public Utility Regulatory Policy Act requires utilities to pay any cogenerating customers for surplus power at a rate based on the utilities' avoided cost and further recognizing that the Act encourages cogeneration in the use of waste, biomass or renewable resources as compared to the use of fossil fuels; and

WHEREAS, the Traverse City Light and Power Board recognizes that there may be built within its service area such future cogeneration facilities which could provide excess energy useful for the public's benefit in the form of electricity or heat;

NOW, THEREFORE, BE IT RESOLVED that the Traverse City Light and Power Board henceforth does encourage and invite any potential cogenerating customer to approach the Light and Power Department requesting assistance in determining the feasibility of any proposed cogeneration project.

William Strom

William Strom
Executive Director and Secretary
Traverse City Light and Power Board

ELECTRIC UTILITY CUSTOMER CREDIT POLICY

New or existing customers who desire electric service from Traverse City Light and Power will be subject to the following policy and to a credit investigation prior to the "turn on".

- I. **Application Form:** Upon receiving a request for electric service from new customers, the attached form will be filled out by the Customer Service Department and immediately given to the Collection Department. Spouse's name and social security number is requested to ensure that the correct credit history is investigated. Applicant need not supply this information; however, if it is not supplied, applicant risks a mismatch on checking credit worthiness which means a deposit may be required.

- II. **Credit History:** Upon receiving the "Turn On" application, the Collection Department investigates the last two years' credit history as follows:
 1. Review City customer computer file for payment history on previous City utility service, if any. If six (6) months or more of history exists, a credit worthiness determination can be made based on this; if not, proceed with one of the next two options.
 2. For residential applicants, a credit report will be obtained from the Credit Bureau of Traverse City Decwriter System, or other system available at the time.
 3. For proprietorship, partnership, or corporation, call the Credit Bureau of Traverse City or other service bureau available at the time, and request credit history.
 4. The above three (3) procedures will be performed periodically for existing customers who meet the criteria in Section III, "Security Deposit".

- III. **Security Deposit:** A security deposit will be required from residential customers; and either a security deposit, letter of credit, or other collateral will be required from commercial and industrial customers if the results of the credit investigation show:
 1. That there is or was an outstanding bill or portion thereof which was not paid for more than sixty (60) days after the due date; or
 2. That the customer has paid late more than 35% of the time.

If the results of the credit investigation show no credit history, a deposit, letter of credit, or other collateral will also be required.

A deposit shall be calculated as follows:

Residential Rate R -

\$50 deposit, Light and Power Administration may change this deposit requirement by amending this policy.

Commercial Rates GS, GSO, W, WH -

The Collection Department will estimate two (2) months of billing based on similar, existing electric customers unless the customer presents reliable estimates of kW demand and kWh energy usage.

Primary Service Rate P -

The Collection Department will obtain the expected kW demand and kWh energy from the Light and Power Administration and estimate two (2) months of billing.

After determining the need and amount of deposit, the Collection Department will record any required deposit amount on the "Turn On" application, initial it, and return it to the Customer Service Department. This will be done the same day the applicant requests service. If a deposit is required, the deposit must be received by the Customer Service Department prior to the actual "turn on".

If there are extenuating circumstances, the applicant requesting service may request special consideration from the Executive Director. All requests shall be in writing signed by the applicant specifying reasons for the special consideration.

IV. **Return of and Interest on Deposit:** After a year of electric service, a customer will have the deposit returned as a credit towards future electric bills if:

1. There has been no outstanding bill or portion thereof which has not been paid for more than thirty (30) days after the due date.
2. The customer has not paid late more than 35% of the time.
3. The customer has no credit history.

If customer late payments exceed either of these limits, the deposit will be held and new determinations will be made at six-month intervals.

After a "shutoff", any deposit and cumulative interest will be applied to the final billing and the remainder sent to the customer. For any customer to resume service after a "shutoff", the deposit requirement in Section III will apply.

If a customer properly terminates service and has no outstanding utility bills, a security deposit held for that service will be promptly returned.

Any deposit over \$50 held six (6) months or longer will receive 4% annual interest, payable semi-annually.

Thomas W. Richards

Thomas W. Richards
Executive Director and Secretary
Traverse City Light and Power Board

FOR THE LIGHT & POWER BOARD MEETING OF OCTOBER 8, 2013



TRAVERSE CITY
LIGHT & POWER

To: Light and Power Board
From: Karla Myers-Beman, Controller *KMB*
Date: September 30, 2013
Subject: Customer Refund Request

In August 2013, staff found a billing error on Todd Lotterbeck's utility account (323065-119146, 830 Cottageview Dr. Ste 305). It was discovered the account was incorrectly set up on a commercial rate instead of a residential rate.

In accordance with the Billing Adjustment for Customers Policy, "If there is a billing or metering error, the utility shall refund or credit the amount of the overcharge. The utility is not required to adjust, refund, or credit an overcharge for more than three years immediately preceding discovery of the error. Any refunds over three years require Board approval." Staff credited the account \$1,106.94, in accordance with the policy, the amount of difference in rates for three years.

Staff received a phone call from the customer the week of September 23, 2013 requesting a refund from inception of the account, which would be an additional 53 months of billings subject to the rate differences. The refund net of the credit already issued calculates out to \$ 1,126.96.

In accordance with the Billing Adjustment for Customers Policy, staff is bringing this to the Board for approval. Staff concurs with the customer request for the additional refund as they had no control over what rate they were placed on when they called for initial set up of the account. The customer's request is included for your review.

Staff recommends approval of the refund. This item is appearing on the consent calendar as it is deemed by staff to be a non-controversial item. Approval of this item on the Consent Calendar means you agree with the staff's recommendation.

If any member of the Board or the public wishes to discuss this matter, other than clarifying questions, it should be placed on the agenda as an item under "items removed from the consent calendar."

(RECOMMENDED MOTION ON FOLLOWING PAGE)

FOR THE LIGHT & POWER BOARD MEETING OF OCTOBER 8, 2013

If after Board discussion you agree with staff's recommendation the following motion would be appropriate:

MOVED BY _____, SECONDED BY _____,

**THAT THE BOARD APPROVES A REFUND TO TODD SLOTTERBECK IN THE
AMOUNT OF \$1,126.96.**

Karla Myers-Beman

From: Victoria Slotterbeck <vslotterbeck@sbcglobal.net>
Sent: Monday, September 23, 2013 12:27 PM
To: Karla Myers-Beman
Subject: Refund for Residential not commercial Account

To whom it may concern, we started paying in this account back in February of 2006 and just found out last month that we have been paying under the wrong term. We were supposed to be charged a residential fee not a commercial fee. We were given our money back from 2010 to current however we are hoping and praying that we get all the extra money we have paid since 2006. Please understand that we had no ideal this was happening, we bought the property and thought because it was a condo in a historical building you where charging that high of an amount? I do recall calling and trying to find out why but per the office they show no record. I hope your company understands and sends us 4 years of over payments.

Thank you
Todd and Victoria Slotterbeck


Sent from my iPad

On Sep 20, 2013, at 1:10 PM, Karla Myers-Beman <kmyersbe@tclp.org> wrote:

Karla A. Myers-Beman
Controller
Traverse City Light and Power
kmyersbe@tclp.org
Phone: 231.932.4560
Fax: 231.922.4638



TRAVERSE CITY
LIGHT & POWER

To: Light & Power Board
From: Tim Arends, Executive Director 
Date: October 2, 2013
Subject: Project Reauthorization Request – Pine Street - Overhead to Underground Distribution

In June of 2012 the TCL&P Board approved a project authorization request for the conversion of distribution circuits along Pine and State Streets from overhead to underground. The original project included an additional circuit out of Hall Street Substation to the alley between Front and State Street to support the load growth in the downtown area. In addition, the project included undergrounding the circuit that runs parallel to the Boardman River (south bank) on the property more commonly known as the Bus Depot Property (now the future site of Uptown Development.) to State Street.

Completed to-date are the conduit installations along Pine and State Streets for the distribution circuits and a future streetscape lighting circuit that was installed in conjunction with the City's upgrade of State & Pine Streets last fall. The completion of this project is contingent on a pedestrian bridge being constructed over the north branch of the Boardman River behind J&S Hamburg; the current overhead and new electric circuit will be placed under the bridge. The Board will be presented a very preliminary schematic of that project. Tim Lodge, City Engineer, or Rob Bacigalupi, Interim DDA Director, may be on hand to give an update on its progress.

Since the original project was authorized, there is now a project called Uptown Development that will provide for mixed use buildings and clean up a now contaminated site at Pine and State Streets. Included in your packet is information on this development. Due to the very high contamination cleanup costs, the developers will need to utilize a Brownfield Plan to make it financially feasible. Jean Derenzy of Grand Traverse County will be at the meeting to give a brief overview of the Brownfield Plan options and update the Board on actions of the City Commission and the DDA in regards to this project. Also, she will explain how TCL&P's re-authorization of the Pine Street Overhead to Underground project are crucial to the success of the Brownfield Plan. In addition, Mr. Mike Wills, Uptown Developer, will be at the meeting to present the project to the Board.

In reviewing this project with all parties, it was determined that there is an opportunity to extend the boardwalk along the southern portion of the Uptown Development, create access (public easement) through the development for the public, and ultimately create

FOR THE LIGHT & POWER BOARD MEETING OF OCTOBER 8, 2013

a public walkway from the south bend of the Boardman River, across the new pedestrian bridge all the way to Garland Street. In order to accommodate the development, the city will be upgrading its water/sewer utilities in the new easement area, and TCL&P is being asked to underground the electric circuit in this same easement.

Due to the nature of the project and considering the ultimate goal of the city is to create a passage from one part of town to the other, I am recommending that TCL&P take this opportunity to underground the circuit that runs over the river to not only eliminate the electric circuit that is currently over the river, but to avoid creating an impediment to the goal of having a public access to a new boardwalk. When the project is fully developed the opportunity to move this circuit under the river may no longer exist.

Attached is an updated project authorization request for your consideration. There were some cost savings in the first two phases of conduit installation. The net impact to the budget is estimated to be a \$421K increase. Staff is recommending the Board approve the project re-authorization request as being in the best interests of the community. Michael McGeehan of GRP Engineering will also be at the meeting to help answer any questions the Board or public may have.

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

**MOVED BY _____, SECONDED BY _____,
THAT THE LIGHT AND POWER BOARD RE-AUTHORIZES THE PINE STREET –
OVERHEAD TO UNDERGROUND DISTRIBUTION PROJECT AS PRESENTED TO
INCLUDE UNDERGROUNDING AN EXISTING OVERHEAD DISTRIBUTION CIRCUIT
THROUGH THE UPTOWN DEVELOPMENT AND UNDER THE BOARDMAN RIVER TO
HANNAH PARK.**

**Pine Street – Overhead to Underground
Distribution Conversion
PROJECT RE-AUTHORIZATION REQUEST
PAR# 2012-4**



Date of Board Presentation/Consideration: October 8, 2013

Budgeted in Capital Plan: Yes **CIP:** \$1,000,000

Objective:

Target Completion date of November 1, 2013 for conduit installation only. Date for installation of underground cable and removal of overhead facilities December 31, 2014 TBD, but likely to occur in 2014.

Project Description:

The project generally consists of the conversion of 13.8kV distribution lines from overhead to underground along Pine Street with a bore under the Boardman River to Hannah Park and - underground an overhead circuit that runs parallel along the Boardman River to State Street from Pine to behind the post office. In 2012, the focus will be to install a 13.8kv distribution conduit system in coordination with the CITY Pine Street and State Street project areas.

Also, a limited amount of street light/decorative lighting conduit would be installed. The city is not planning on installing a “streetscape” project and will be installing new sidewalk only with no new low level lighting or brick pavers. (Note: this was completed in 2012)

In 2014³, when the planned pedestrian bridge is being constructed across the Boardman River (per DDA memo) behind J&S Hamburg, further conduit would be installed to extend the conduit system north across the Boardman River (under the bridge) and tie into existing facilities behind Hall Street Substation.

Once the conduit system is fully connected, the underground cable can be installed and put into service. Only then can the overhead facilities be removed. Installation of the 13.8kV cable and overhead removals is schedule likely to occur in 2014, pending the completion of the planned pedestrian bridge.

The major distribution equipment consists of padmount switchgear and transformers, one approximately two new distribution riser poles, conduit, manholes, and various size electric cables.

**Pine Street – Overhead to Underground
Distribution Conversion
PROJECT **RE-AUTHORIZATION** REQUEST
PAR# 2012-4**



Project Purpose and Necessity ~~(Problem We Are Solving)~~:

The major purpose is for the conversion of overhead to underground distribution facilities. Project need and timing is based on the city's Pine/State Street project planned to begin after Labor Day 2012, and construction of the pedestrian bridge (201~~43~~) across the Boardman River. Conduit installation would be coordinated with these CITY projects.

Project Benefits:

The overhead to underground conversion of distribution facilities will:

- coordinate with CITY projects
- eliminate portions of the overhead distribution poles and wire
- continue to support existing and future load growth in a critical section of TCL&P's service area

Other Alternatives:

None viable for the additional circuit needed for reliability purposes as the conversion involves critical distribution circuits exiting Hall Street Substation. Circuit routing is confined to existing Street right-of-way. Routing is impacted by the physical location of Hall Street Substation, the Boardman River, and routing of the existing distribution grid. Undergrounding south of the Front Street alley is not required for reliability purposes; however, it is recommended for the benefit of the community.

Timing of Project ~~(Why Now)~~ :-:

This project has been in the capital plan for several years, awaiting on coordination with CITY projects. CITY projects involved include the Pine/State Street project (Fall 2012) and the pedestrian bridge across the Boardman River (201~~43~~ project). Conduit installation would begin in the Fall 2012 and continue through portions of 201~~43~~ in order to coordinate with CITY projects.

**Pine Street – Overhead to Underground
Distribution Conversion
PROJECT RE-AUTHORIZATION REQUEST
PAR# 2012-4**



Project Timeline and Expenditures: ~~(REVISED)~~SEE ATTACHED BUDGET DETAIL

Critical Items:

The most critical item in this project is the ability to obtain easements on private and City property for the installation of conduit, manholes and equipment. TCL&P has prepared draft easement requirements and will work through the CITY and others in order to secure areas required for equipment placement. *(Note: All non-city owned property easements have been acquired.)*

This is a preliminary cost estimate. The cost estimates do not include any low level lighting fixtures or concrete bases as a “streetscape” is not planned. The conduit associated with the low level lighting would be available for future use.

There is no allowance for environmental investigation or to mitigate environmental conditions should they be encountered during construction.

Funding associated with the pedestrian bridge to be ~~determined~~*provided by others.*

Material costs, particularly for electrical cable are subject to raw material market prices (copper) *which have increased since original project approval.* Some of the engineering and material costs or Board approvals may get shifted in the schedule.

The construction coordination with the CITY’s project will reduce the amount of time TCL&P (contractor) will have for conduit installation. This may increase contractor construction costs or the project scope. *(Note: Coordinating with the city and favorable bid from Elmer’s caused this portion of the project to come in under budget projections.)*

Financing Method:

Cash from TCL&P fund balance as planned for. Bonding will not be required.

Additional Revenues:

Additional revenues will be based on any future load growth that may occur in the downtown area that would be served from the distribution grid being impacted.

Pine Street – Overhead to Underground
Distribution Conversion
PROJECT **RE-AUTHORIZATION** REQUEST
PAR# 2012-4



Impact on O&M Expenses:

Existing labor force will perform normal monthly maintenance and connect new or upgraded customer service requests. On a year by year basis normal O&M is minimal. Once the underground cable begins to experience failures ~~then~~ cable replacement costs will become more significant, as will replacement of aging major padmount switchgear.

Staff Recommendation:

Staff recommends L&P Board approval of the installation of conduit system, underground cable installation and removal of overhead facilities with the timing based upon coordination with related CITY projects.

Attachments:

Updated drawings of the project area.
Comparison of original and revised budget estimates.

**Traverse City Light & Power
Pine & State Street Underground
Project Cost Summary**

2012 Distribution Conduit Installation (Completed)

Conduit installation for primary (13.8kV) electrical system on Pine & State Streets from Front Street to Union Street. Work completed in 2012.

Item	TCL&P Original Budget	Revised Budget	Comments
Conduit	\$22,000	\$28,188	
Manholes	\$18,000	\$9,882	
Handholes & Box Pads	\$12,000	\$12,287	
Construction Contract	\$153,000	\$152,399	Contract Complete (Elmers)
Survey/Easements	\$30,000	\$51,993 **	
Construction Subtotal	\$235,000	\$254,749	
Engineering Design	\$68,000	\$51,000	
Construction Inspections	\$45,000	\$25,424	
Contingency (15%)	\$35,000	\$0	Phase Complete
2012 Conduit Installation Total	\$383,000	\$331,173	
Difference		\$51,827	Favorable

(Note: If underground is not complete by 12/31/2014 an additional \$10K is due on a negotiated easement)**

2012 Streetscape Conduit Installation (Completed)

Conduit installation for streetscape lighting and receptacle system on Pine & State Streets from Front Street to Union Street. Work completed in 2012.

Item	TCL&P Original Budget	Revised Budget	Comments
Conduit	\$8,000	\$4,974	
Handholes	\$6,000	\$10,412	
Construction Contract	\$78,000	\$26,152	Conduit Est. Includes Foundations
Construction Subtotal	\$92,000	\$41,538	
Engineering Design	\$9,000	\$9,000	
Construction Inspections	\$5,000	\$5,000	
Contingency (15%)	\$14,000	\$0	Phase Complete
2012 Streetscape Conduit Total	\$120,000	\$55,538	
Difference		\$64,462	Favorable

**Traverse City Light & Power
Pine & State Street Underground
Project Cost Summary**

2013 Distribution Conduit Installation

Conduit installation for primary (13.8kV) electrical system running north from Front Street across the proposed pedestrian bridge to the Hall Street Substation parking lot. Work originally scheduled for 2013.

Item	TCL&P Original Budget	Revised Budget	Comments
Conduit	\$11,000	\$11,000	
Handholes & Box Pads	\$6,000	\$15,290	Includes two manholes from 2012
Construction Contract	\$70,000	\$70,000	
Construction Subtotal	\$87,000	\$96,290	
Construction Inspections	\$20,000	\$29,000	
Contingency (15%)	\$13,000	\$13,000	
2013 Conduit Installation Total	\$120,000	\$138,290	
Difference		(\$18,290) Unfavorable	

2014 Electrical Cable & Equipment Installation

Electrical cable, equipment and terminations, plus removal of the overhead system from the Hall Street Substation parking lot, along Pine and State Streets to Union. Work originally scheduled for 2014.

Item	TCL&P Original Budget	Revised Budget	Comments
15kV Cable	\$240,000	\$315,000	
Switchgear & Cabinets	\$110,000	\$120,000	\$28,600 of swgr purchased in 2012
Transformers	\$16,000	\$17,000	
Elbows, Terminations & Indicators	\$54,000	\$66,000	
Construction Contract	\$240,000	\$240,000	Includes Temp OH Relocation.
Construction Subtotal	\$660,000	\$758,000	
Engineering Design	\$24,000	\$35,000	
Construction Inspections	\$32,000	\$37,000	
Contingency (15%)	\$100,000	\$100,000	
2014 Electrical Installation Total	\$816,000	\$930,000	
Difference		(\$114,000) Unfavorable	

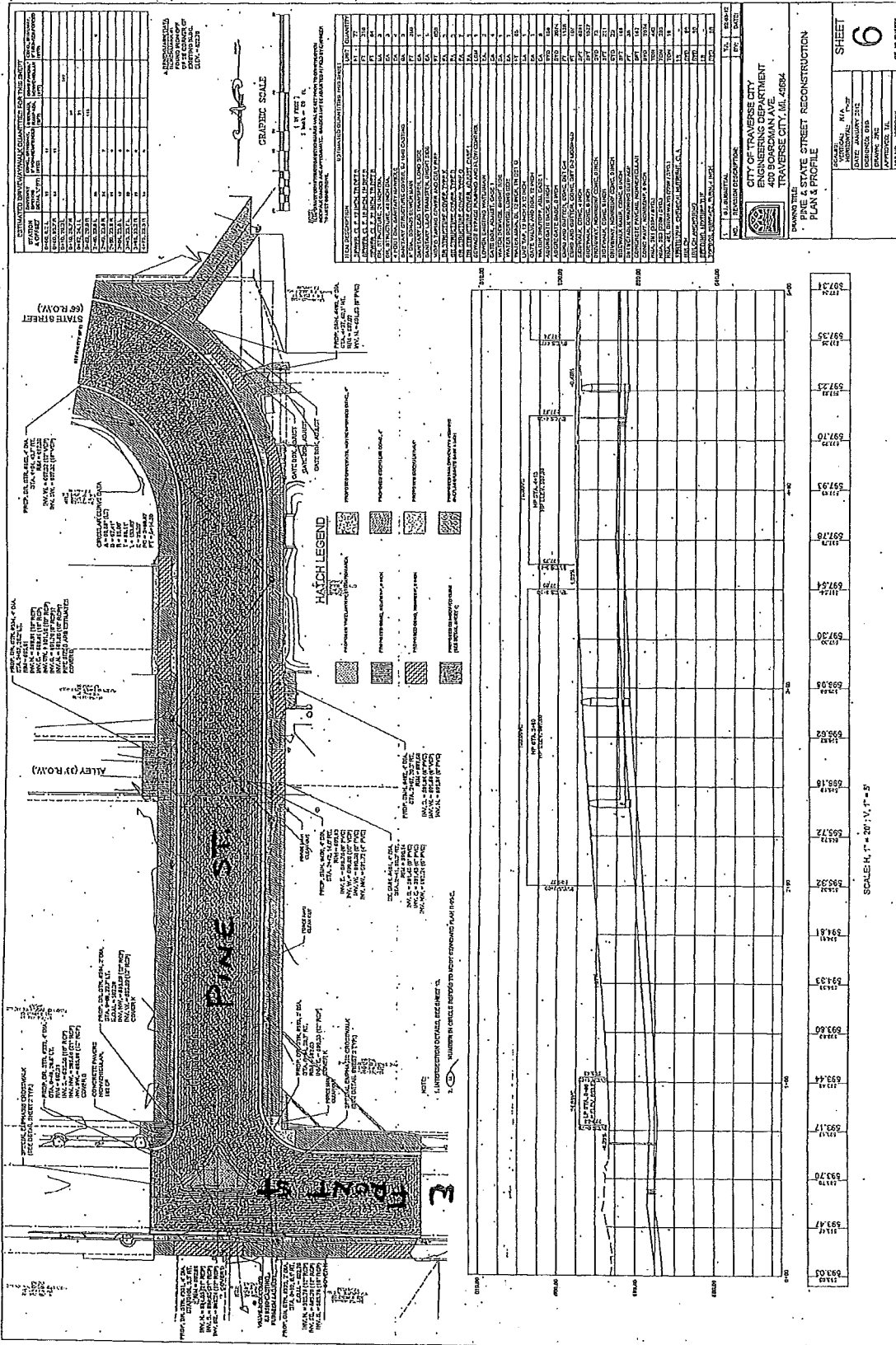
Project Total	\$1,439,000	\$1,455,001
Difference		(\$16,001) Unfavorable

**Traverse City Light & Power
Pine & State Street Underground
Project Cost Summary**

Uptown Development & South River Crossing Bore

Item	Estimated Cost	Comments
Uptown Development Relocation	\$154,000	
South River Crossing / Bore	\$142,000	
Construction Subtotal	\$296,000	
Engineering Design	\$45,000	
Construction Inspections	\$20,000	
Contingency (15%)	\$44,000	
Uptown Develop. & River Bore Total	\$405,000	

Original Project Total	\$1,439,000	\$1,860,001	Revised Project Total
Difference		(\$421,001)	



CITY PROJECT AREA
1 of 3

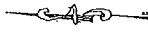
HATCH LEGEND

- CONCRETE
- ASPHALT
- GRAVEL
- SAND
- EARTH
- WATER
- VEGETATION
- UTILITY

ITEM	DESCRIPTION	DATE	BY
1	PREPARED BY		
2	DESIGNED BY		
3	CHECKED BY		
4	APPROVED BY		
5	DATE		
6	PROJECT NO.		
7	SHEET NO.		
8	TOTAL SHEETS		
9	SCALE		
10	PROJECT NAME		
11	PROJECT LOCATION		
12	PROJECT OWNER		
13	PROJECT ENGINEER		
14	PROJECT ARCHITECT		
15	PROJECT CONTRACTOR		
16	PROJECT SUBCONTRACTOR		
17	PROJECT CONSULTANT		
18	PROJECT SPECIALIST		
19	PROJECT MATERIALS		
20	PROJECT EQUIPMENT		
21	PROJECT LABOR		
22	PROJECT BIDDING		
23	PROJECT CONTRACT		
24	PROJECT SCHEDULE		
25	PROJECT BUDGET		
26	PROJECT RISK		
27	PROJECT COMPLIANCE		
28	PROJECT DOCUMENTATION		
29	PROJECT COMMUNICATION		
30	PROJECT CLOSURE		

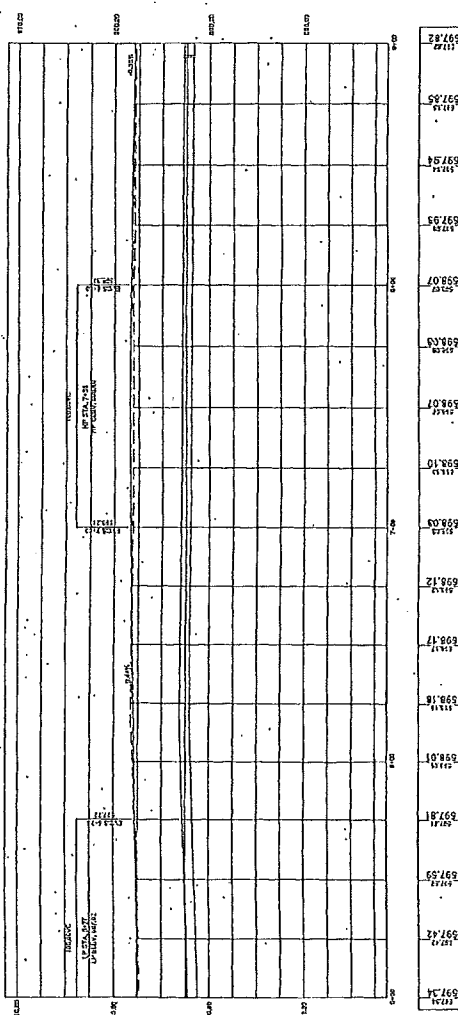
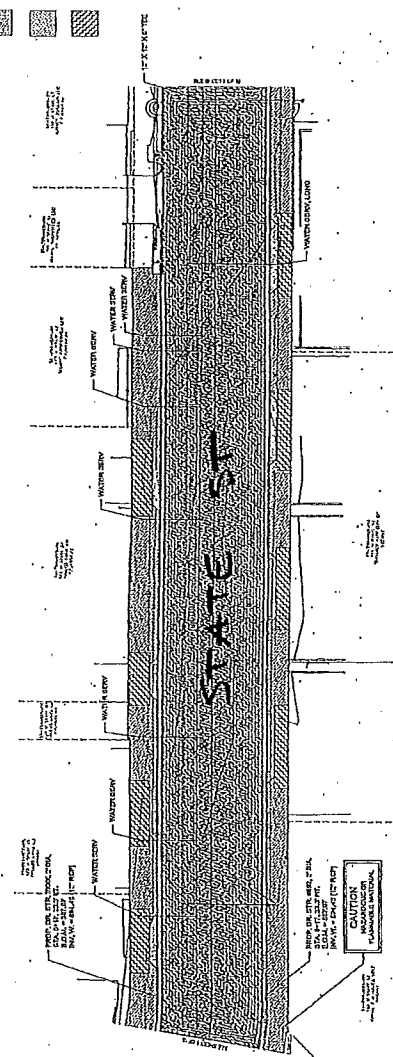
ESTIMATED DIMENSIONS	ESTIMATED QUANTITIES	ESTIMATED COSTS
1	100	1000
2	200	2000
3	300	3000
4	400	4000
5	500	5000
6	600	6000
7	700	7000
8	800	8000
9	900	9000
10	1000	10000
11	1100	11000
12	1200	12000
13	1300	13000
14	1400	14000
15	1500	15000
16	1600	16000
17	1700	17000
18	1800	18000
19	1900	19000
20	2000	20000

NOTES:
1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
2. ALL MATERIALS SHALL BE AS SPECIFIED IN THE SPECIFICATIONS.
3. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE CITY OF TRAVERSE CITY STANDARDS AND SPECIFICATIONS.
4. ALL UTILITIES SHALL BE DEPTH MARKED AND PROTECTED.
5. ALL EROSION CONTROL MEASURES SHALL BE INSTALLED AND MAINTAINED THROUGHOUT CONSTRUCTION.



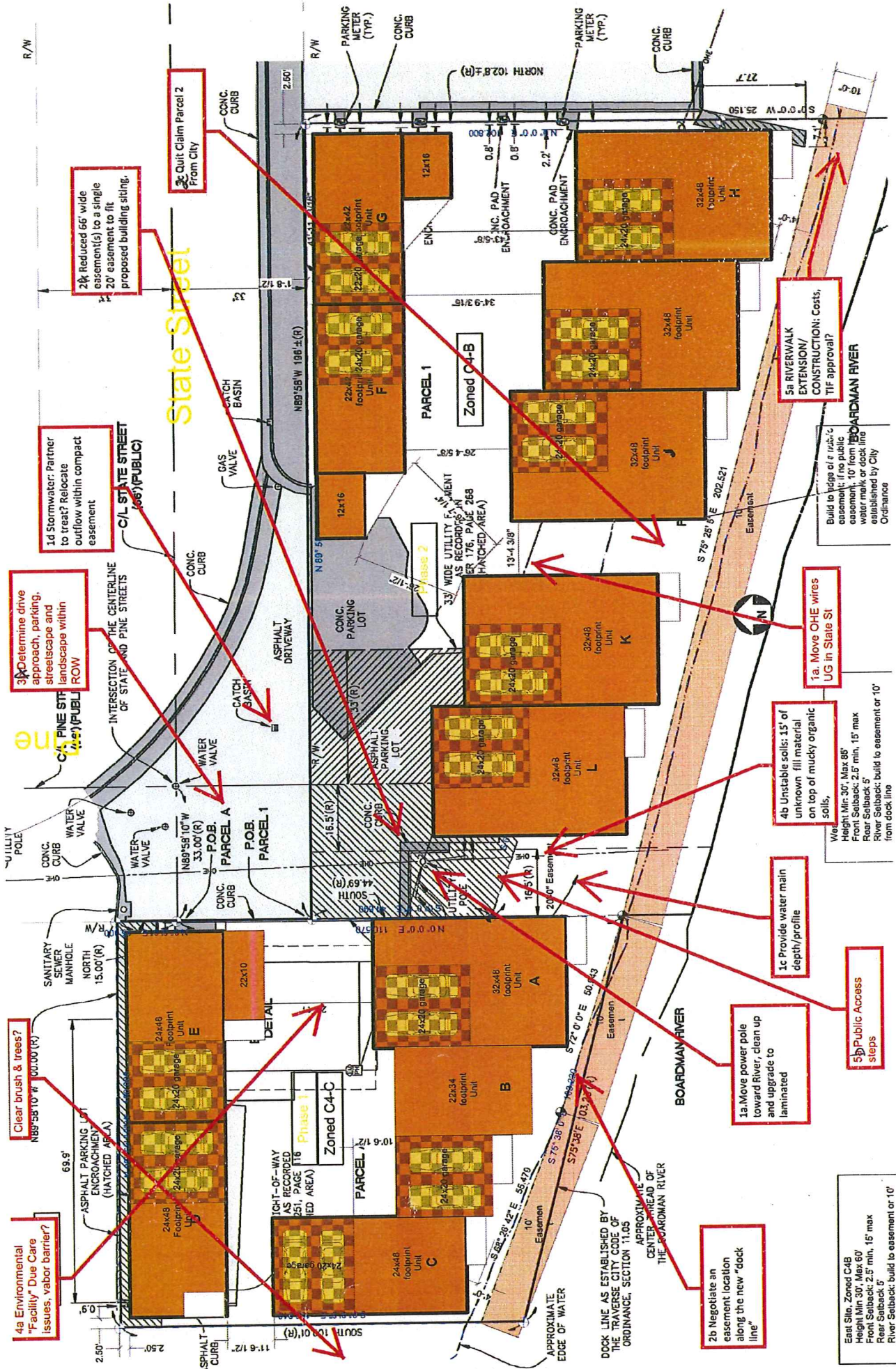
GRAPHIC SCALE
1" = 100'

PROJECT NO.	100000
SHEET NO.	7
TOTAL SHEETS	10
DATE	JANUARY 2015
PROJECT NAME	PINE & STATE STREET RECONSTRUCTION
PROJECT LOCATION	TRAVERSE CITY, MI
PROJECT OWNER	CITY OF TRAVERSE CITY
PROJECT ENGINEER	ENGINEERING DEPARTMENT
PROJECT ARCHITECT	100 BONDWAY AVE
PROJECT CONTRACTOR	TRAVERSE CITY, MI 49884



SCALE: H=1"=20', V=1"=5'

CITY PROJECT AREA
2 of 3



4a Environmental "Facility" Due Care Issues, labor barrier?

Clear brush & trees? N89°58'10" W 100.00' (R)

3) Determine drive approach, parking, streetscape and landscape within ROW

1d Stormwater: Partner to treat? Relocate outflow within compact easement

2) Reduced 66' wide easement(s) to a single 20' easement to fit proposed building string.

3) Quit Claim Parcel 2 From City

5a RIVERWALK EXTENSION/ CONSTRUCTION: Costs, TIF approval?

2b Negotiate an easement location along the new "dock line"

1a. Move power pole and upgrade to laminated

1c Provide water main depth/profile

4b Unstable soils: 15' of unknown fill material on top of mucky organic soils.

1a. Move CHE wires UG in State St

Build to edge of easement, if no public easement, 10' from Boardman River water mark or dock line established by City Ordinance

5b) Public Access steps

Final Site, Zoned C4-B
Height Min: 30', Max: 60'
Front Setback: 2.5' min, 15' max
Rear Setback: 5'

5b) Public Access steps

1c Provide water main depth/profile

4b Unstable soils: 15' of unknown fill material on top of mucky organic soils.

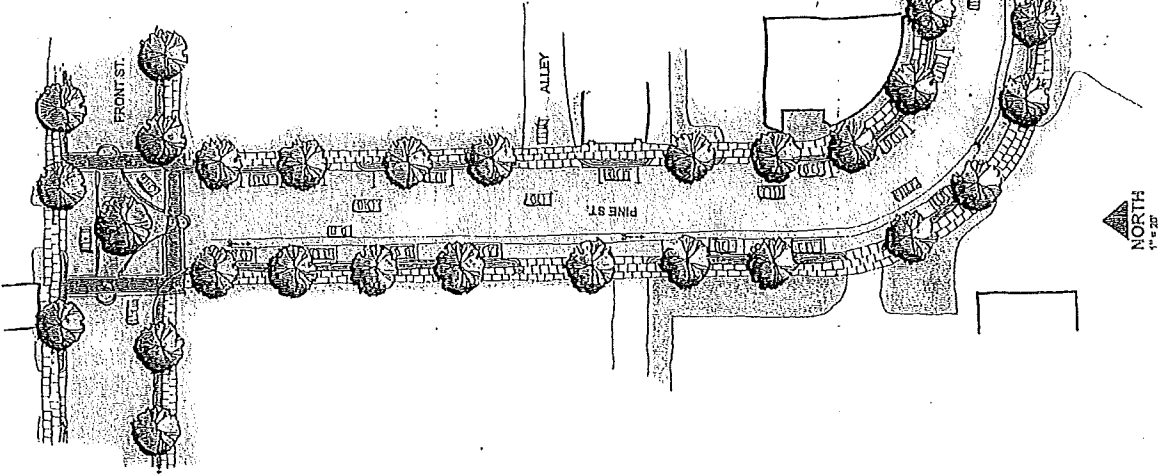
1a. Move CHE wires UG in State St

Build to edge of easement, if no public easement, 10' from Boardman River water mark or dock line established by City Ordinance

5a RIVERWALK EXTENSION/ CONSTRUCTION: Costs, TIF approval?

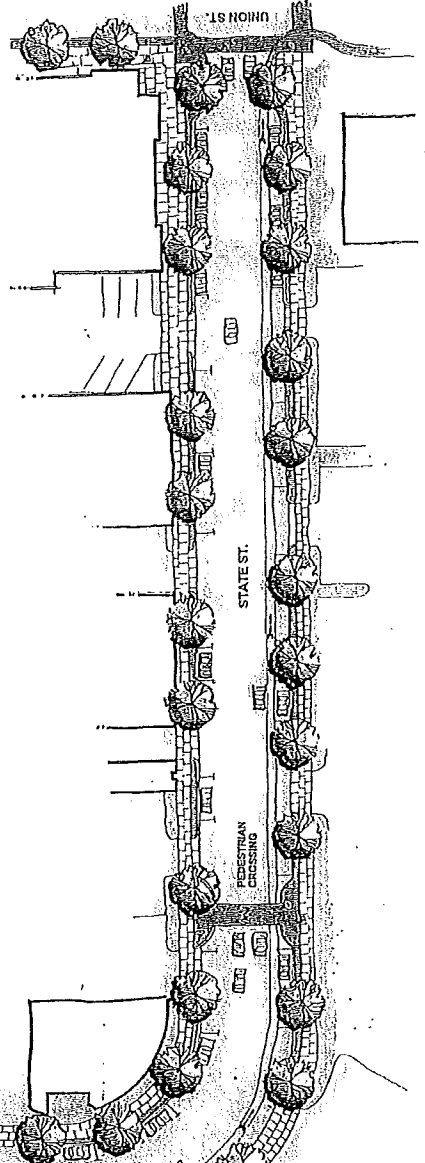
2b Negotiate an easement location along the new "dock line"

Final Site, Zoned C4-B
Height Min: 30', Max: 60'
Front Setback: 2.5' min, 15' max
Rear Setback: 5'



This streetscape plan is NOT included
 in the CITY's 2012 Pine and State Street
 Project

STREETSCAPE CONCEPTUAL PLAN
 PINE AND STATE STREET
 (Future ?)



Uptown— Riverfront Living

On the Boardman River in the Heart of Traverse City

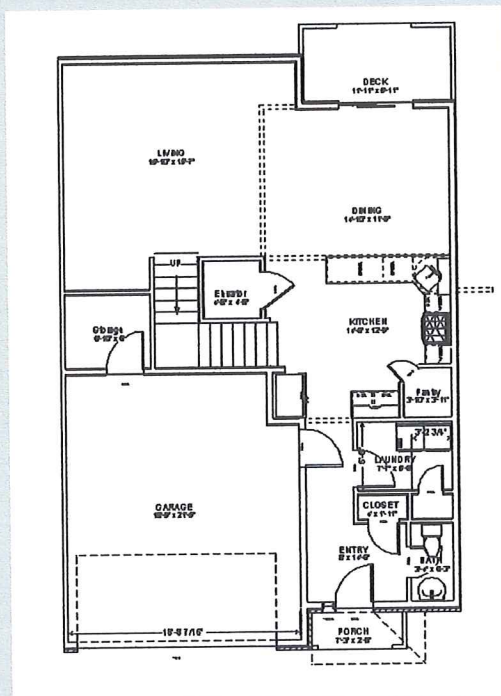
Luxury Condominiums

Aspirations of living on the water usually come with the realization that living close to nature means living far from town. What if there were a place right downtown where you could sit on your deck overlooking the Boardman River? Where you could trade stressful time stuck in traffic for therapeutic time spent watching fish rise and swim in the currents and eddies. Or, take in the entertainment, dining and cultural activities available in your downtown neighborhood.

Now, imagine being freed from the drudgery of lawn mowing, snow removal and other maintenance tasks, leaving more time for recreation and relaxation!

We've just described luxury condominium living at Uptown, designed with all the features you would expect in an upscale home with energy-saving construction and carefree exteriors that are easy on your budget and your time.

Kayaking or fishing, anyone?
Then, cocktails and dinner.



Preliminary Main Level, Typical Unit

Now taking reservations for Phase 1

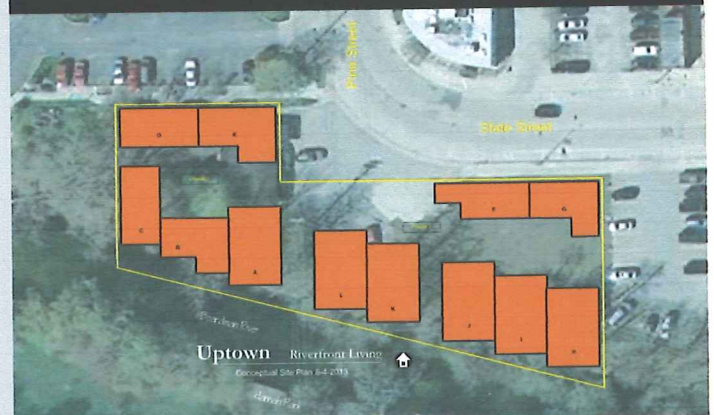
Starting at **\$635,000**



PRIVATE ELEVATOR, 2 CAR GARAGE

4 Bedrooms, 3-1/2 baths, Office/Den, Family Room, 2 Decks, Copious Storage, 2 Car Garage, 2500 sf-3200sf

JUST 5 UNIQUE UNITS AVAILABLE IN PHASE 1



Location

Uptown is located in the heart of Traverse City on the north side of the Boardman River at the east end of State Street at the corner of Pine.



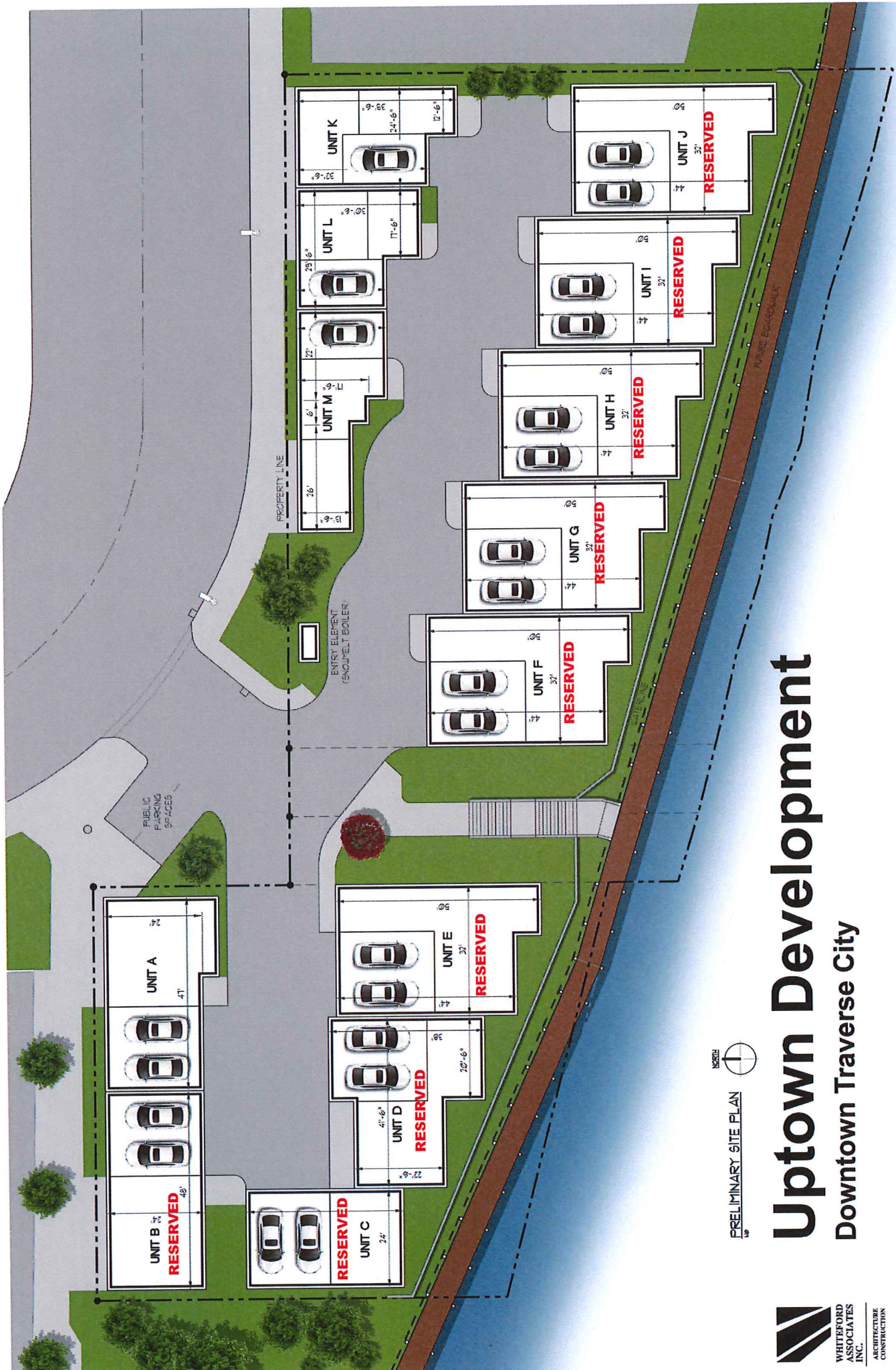
CALL Barb Cooper 231-218-0303
E-mail Barb@BarbCooper.net

Tim Burden 231-218-4983
E-mail: timburden@gmail.com
Mike Wills 231-922-3000
E-Mail: Mike@MikeWills.net
MidTownTraverse.com

MIDTOWN DEVELOPMENT, INC.

June 6, 2013 Prices & Specifications Subject to change without notice.





15
 PRELIMINARY SITE PLAN
 NORTH

Uptown Development

Downtown Traverse City

Uptown Development



UPTOWN - RIVERFRONT LIVING
PRELIMINARY CONCEPT SKETCH
PHASE I 6/14/2013

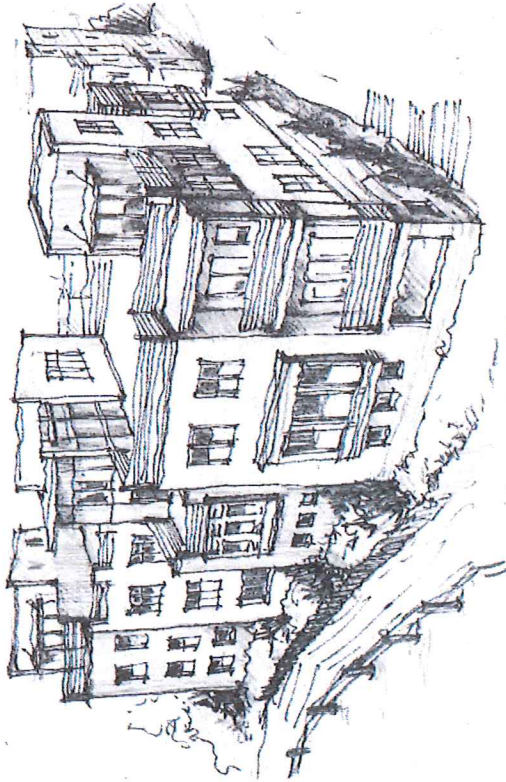


Project Summary

- Properties under-utilized for 21 years: 133 & 141 West State
- Redevelopment includes up to 13 live-work units
- Provide public access to Boardman River
- \$ 10.6 Million investment – including Brownfield costs
 - ✓ Without MDEQ Grant investment exceeds \$ 11.6 Million

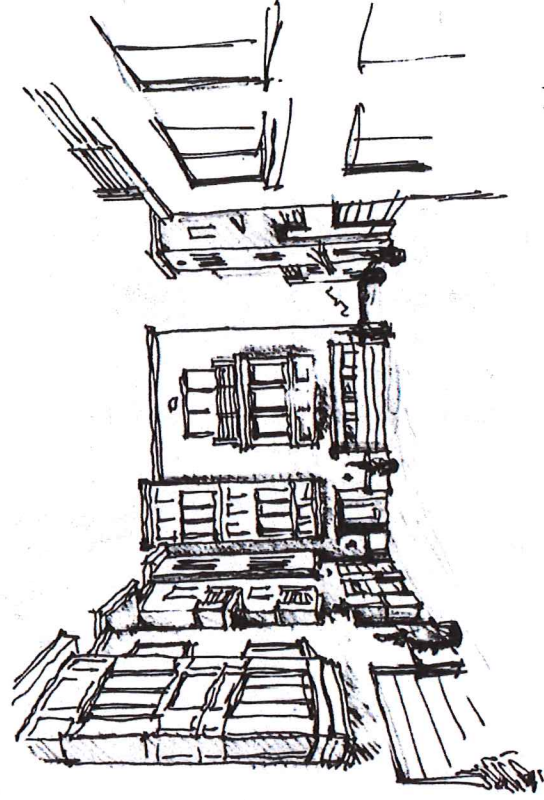
Uptown Riverfront Living

- 2 Car Garages
- Private Elevators
- Expansive Decks and Roof-Top Gardens
- Views of the River and Heritage Park
- Custom Designed to size and lifestyle
- Flexible within the footprint
- Family retreat- up to 80'



UPTOWN RIVER SIDE
CONCEPT A 6-13-2013

- Unfinished walk-out half basement
- Sound-proof party walls
- Snow-Melt motor court
- Affordable Association Fees



VIEW WEST PHASE 1 COURTYARD, LOOKING WEST 6/21/13



TRAVERSE CITY
LIGHT & POWER

To: Light & Power Board
From: Tim Arends, Executive Director (JA)
Date: October 3, 2013
Subject: Parsons Road Transmission Line Bid Award

At its August 27, 2013 meeting the Board approved an Amendment to the Joint Use of Poles Agreement between the City of Traverse City and Consumers Power Company ("Consumers") for the purposes of allowing for TCL&P to install a transmission circuit from the new East Hammond Substation to the Parsons Substation which is expected to be in service by the end of the year or early next year.

As conditioned in the Amendment, because TCL&P is being granted use of Consumers existing high voltage line for its purposes, the Board approved the rebuild of TCL&P's distribution line from the Parsons Substation to Airport Access Road (approximately ½ mile) for increased reliability to Consumers customers. Other than the cost of replacing TCL&P's conductor on this line segment, Consumers will fully reimburse TCL&P for the cost of the rebuild.

Attached is a letter from GRP Engineering ("GRP"- TCL&P's contract engineering firm) with their recommendation of awarding a contract to low bidder Kent Power, Inc. in the amount of \$200,038.75. Also included is a bid tabulation sheet for your reference. GRP will be in attendance at your meeting to answer any specific question you may have. Staff concurs with GRP's recommendation and recommends the Board's approval.

If after Board discussion you agree with staff's recommendation the following motion would be appropriate:

MOVED BY _____, SECONDED BY _____,

THAT THE BOARD AUTHORIZES THE CHAIRMAN AND SECRETARY TO EXECUTE A CONTRACT WITH KENT POWER, INC. FOR THE PARSONS ROAD TRANSMISSION LINE PROJECT IN THE AMOUNT OF \$200,038.75; SUBJECT TO APPROVAL AS TO SUBSTANCE BY THE EXECUTIVE DIRECTOR AND AS TO FORM BY GENERAL COUNSEL; AND FURTHER AUTHORIZES THE EXECUTIVE DIRECTOR TO ADMINISTER AMENDMENTS AND CHANGE ORDERS THAT ARE IN THE BEST INTEREST OF TRAVERSE CITY LIGHT & POWER.

October 2, 2013
13-0595.01

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

**RE: Parsons Road Transmission Line
Contractor Bid Recommendation**

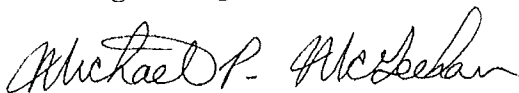
Dear Tim:

GRP Engineering, Inc. has completed our evaluation of the bids submitted to Traverse City Light & Power (TCL&P) on October 2, 2013 for the Parsons Road Transmission Line project. Of the five contractors solicited for bids, four (4) bids were received. Kent Power, Inc. submitted the low bid for the project in the amount of \$200,038.75. Kent Power, Inc. submitted a complete and conforming bid. A complete bid tabulation is attached to this letter.

This project will be reimbursed by Consumers Energy to TCL&P with the exception of transmission conductor replacement. The estimated cost for replacement of TCL&P 69kV conductor was \$58,000. Total cost for conductor replacement based on Kent Power's bid plus material costs is \$44,378. GRP Engineering, Inc. recommends TCL&P accept the low bid from Kent Power, Inc. in the amount of \$200,038.78 and complete replacement of the 69kV transmission line conductor.

Please contact me should you have any additional questions regarding this evaluation and recommendation.

Sincerely,
GRP Engineering, Inc.



Michael P. McGeehan, P.E.
Project Manager

Enclosures

cc: Consumers Energy
Mr. Brad Rickert
TCL&P
Mr. Tom Olney

BID TABULATION

OWNER:
TRAVERSE CITY LIGHT & POWER
 1131 HASTINGS STREET
 TRAVERSE CITY, MI 49686

PARSONS ROAD TRANSMISSION LINE

ENGINEER:
GRP ENGINEERING, INC.
 459 BAY STREET
 PETOSKEY, MI 49770

BIDDERS	BID SECURITY	TOTAL CONTRACTOR BASE BID PRICE	OWNER-FURNISHED MATERIAL	TOTAL PROJECT COST	REMARKS
CC Power P.O. Box 2028 Kalkaska, MI 49646	10% Bond	\$233,691.00	\$233,000.00	\$466,691.00	
The Hydaker-Wheatlake Company 420 N. Roth Street Reed City, MI 49677	10% Bond	\$209,195.30	\$233,000.00	\$442,195.30	
Kent Power 90 Spring St Kent City, MI 49330	10% Bond	\$200,038.75	\$233,000.00	\$433,038.75	
Michels Power 1775 E Shady Lane Neenah, WI 54956					No Bid
Newkirk Electric, Inc. 1875 Roberts Street Muskegon, MI 49442	10% Bond	\$294,062.35	\$233,000.00	\$527,062.35	

This is to certify that at 10:00a.m., local time on Wednesday, October 2, 2013, the bids tabulated herein were publicly opened and read.


GRP Engineering, Inc.

By: 
 Michael P. McGeehan, P.E.

FOR THE LIGHT & POWER BOARD MEETING OF OCTOBER 8, 2013



TRAVERSE CITY
LIGHT & POWER

To: Light & Power Board
From: Tim Arends, Executive Director 
Date: October 3, 2013
Subject: East Hammond Substation 69kV Line Bid Award

At its August 27, 2013 meeting the Board approved an Amendment to the Joint Use of Poles Agreement between the City of Traverse City and Consumers Power Company (“Consumers”) for the purposes of allowing for TCL&P to install a transmission circuit from the new East Hammond Substation to the Parsons Substation, which is expected to be in service by the end of the year or early next year.

This phase of the project has two parts. TCL&P received bids for its 69kV transmission circuit that will be attached to Consumers poles from East Hammond Substation to Parsons Substation. In addition, the bid includes a pole line along the access road from Four Mile Road into the substation. Because the construction project is being done jointly with Consumers they too received bids for their owned portion of the project (which most of the cost will be reimbursed to them by TCL&P, per agreement).

TCL&P’s bids were submitted to Consumers after opening for their evaluation of the entire cost of the project in order to select the lowest bidder and ultimately to have only one contractor doing the construction. Attached is a letter from GRP Engineering (“GRP”- TCL&P’s contract engineering firm) with their recommendation of awarding a contract to bidder Kent Power, Inc. in the amount of \$484,356.20. Also included is a bid tabulation sheet of the TCL&P portion of the project for your reference. GRP will be in attendance at your meeting to answer any specific question you may have.

While it is unusual for staff to recommend the highest bidder, this is an unusual situation. TCL&P is jointly constructing a transmission line with another utility. Consumers’ policy is that it cannot make known the bid amounts it receives on projects, for various reasons; however, they have assured TCL&P that when combined Kent Power, Inc. was significantly lower in price for the entire job. Therefore, staff concurs with GRP’s recommendation and recommends the Board’s approval.

If after Board discussion you agree with staff’s recommendation the following motion would be appropriate:

(RECOMMENDED MOTION ON FOLLOWING PAGE)

FOR THE LIGHT & POWER BOARD MEETING OF OCTOBER 8, 2013

MOVED BY _____, SECONDED BY _____,

THAT THE BOARD AUTHORIZES THE CHAIRMAN AND SECRETARY TO EXECUTE A CONTRACT WITH KENT POWER, INC. FOR THE EAST HAMMOND SUBSTATION 69KV LINE PROJECT IN THE AMOUNT OF \$484,356.20; SUBJECT TO APPROVAL AS TO SUBSTANCE BY THE EXECUTIVE DIRECTOR AND AS TO FORM BY GENERAL COUNSEL; AND FURTHER AUTHORIZES THE EXECUTIVE DIRECTOR TO ADMINISTER AMENDMENTS AND CHANGE ORDERS THAT ARE IN THE BEST INTEREST OF TRAVERSE CITY LIGHT & POWER.

October 3, 2013
11-0437.01

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

**RE: East Hammond Substation 69kV Line
Contractor Bid Recommendation**

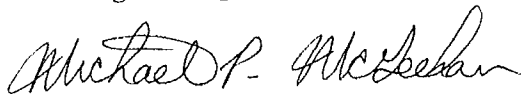
Dear Tim:

GRP Engineering, Inc. has completed our evaluation of the bids submitted to Traverse City Light & Power (TCL&P) on October 2, 2013 for their portion of the East Hammond Substation 69kV Line project. The work included in this bid includes installation of TCL&P insulators, conductor, optical ground wire, and the access drive transmission line. Pole replacement, guying, anchoring and associated distribution transfers were bid by Consumers Energy since this is a joint construction project. TCL&P will reimburse Consumers Energy for reconstruction for these costs.

Of the five contractors solicited for bids, four (4) bids were received. Kent Power, Inc. submitted the lowest total bid for this transmission line project when both bids to TCL&P and CE are summed. Even though Kent Power's bid is high for the TCL&P portion of the project, the combined bids to CE & TCL&P are significantly lower than the second low bidder. GRP Engineering, Inc. recommends TCL&P accept the bid from Kent Power, Inc. in the amount of \$484,356.20.

Please contact me should you have any additional questions regarding this evaluation and recommendation. A bid tabulation for the TCL&P bid portion of the project is attached to this letter.

Sincerely,
GRP Engineering, Inc.



Michael P. McGeehan, P.E.
Project Manager

Enclosures

cc: Consumers Energy
Mr. Brad Rickert
TCL&P
Mr. Tom Olney

BID TABULATION

OWNER:
TRAVERSE CITY LIGHT & POWER
 1131 HASTINGS STREET
 TRAVERSE CITY, MI 49686

EAST HAMMOND SUBSTATION 69kV LINE

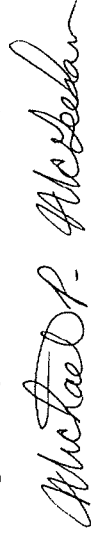
ENGINEER:
GRP ENGINEERING, INC.
 459 BAY STREET
 PETOSKEY, MI 49770

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Kent Power 90 Spring St Kent City, MI 49330	10% Bond	\$484,356.20	
Michels Power 1775 E Shady Lane Neenah, WI 54956			No Bid
Newkirk Electric, Inc. 1875 Roberts Street Muskegon, MI 49442			No Bid

This is to certify that at 10:00a.m., local time on Wednesday, October 2, 2013, the bids tabulated herein were publicly opened and read.

GRP Engineering, Inc.

By:



Michael P. McGeehan, P.E.