

EXHIBIT 1



STATE OF MICHIGAN
RUTH JOHNSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

June 28, 2013

Ronald M. Redick
Haring Township
900 Monroe Ave NW
Grand Rapids, MI 49503

RE: Conditional transfer of property

Dear Mr. Redick:

This letter serves to acknowledge the Office of the Great Seal's receipt on June 10, 2013 of the filing of the conditional transfer of property pursuant to Public Act 425 of 1984, as amended, from Clam Lake Township to Haring Township. The receipt date is the effective date of this boundary change. This filing is designated as Job Number 13-408.

All property descriptions for any boundary changes are reviewed by the Michigan Department of Transportation (MDOT), and then published annually in the Michigan Public and Local Acts manual. If any property description is found inaccurate by MDOT, this office will contact you at that time and request a corrected description, which will not impact the effective date of the boundary change.

*****No further acknowledgment will be sent*****

Sincerely,

Michele Martin, Technician
Office of the Great Seal
517-241-1832

cc: Clam Lake Township Clerk
Wexford County Clerk
Michigan Department of Labor and Economic Growth, State Boundary Commission
Michigan Department of Labor and Economic Growth, Liquor Control Commission
Michigan Department of Labor and Economic Growth, Office of Land Survey and Remonumentation
Michigan Department of Technology, Management and Budget, Center for Shared Solutions & Technology Partnerships
Michigan Department of Treasury, Office of Revenue and Tax Analysis
Michigan Department of Transportation, Bureau of Transportation Planning
U.S. Bureau of the Census
Office of the Great Seal Job Number: 13-408

JUL - 1 2013

Townships
Wexford County

In the matter of the conditional transfer of certain property located in Clam Lake Township to Haring Township. Conditionally transferred in accordance with the provisions of Public Act 425 of 1984, as amended the following described property:

Part of the North fractional 1/2 of Section 2 and the West 1/2 of the Northwest fractional 1/4 of Section 1, Township 21 North, Range 9 West, Clam Lake Township, Wexford County, Michigan, more fully described as follows:

Beginning at the Northwest Corner of said Section 2; thence Easterly along the North line of said Section 2 to the North 1/4 Corner of said section; thence continuing Easterly along said North line of Section 2 to the Northeast Corner of said section; thence Easterly along the North line of said Section 1 to the Northeast Corner of said West 1/2 of the Northwest fractional 1/4 of Section 1; thence Southerly along the East line of said West 1/2 of the Northwest fractional 1/4 to the East - West 1/4 line of said Section 1; thence Westerly along said East - West 1/4 line to the 1/4 Corner common to said Sections 1 and 2; thence Westerly along the East - West 1/4 line of said Section 2 to the Center 1/4 Corner of said section; thence continuing Westerly along said East - West 1/4 line to the West right-of-way line of U.S. Highway 131; thence Northerly and Northwesterly along said right-of-way line to the South line of the North 836.10 feet of the Northwest fractional 1/4 of said Section 2; thence Westerly along said South line to the West line of said Section 2; thence Northerly along said West section line to the Point of Beginning.

13-408

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AGREEMENT FOR CONDITIONAL TRANSFER

This Agreement is entered into by and between the Charter Township of Haring, a Michigan charter township, 515 Bell Avenue, Cadillac, Michigan 49601 (hereinafter referred to as "Haring") and the Township of Clam Lake, a Michigan general law township, 8809 East M-115, Cadillac, Michigan 49601-9786 (hereinafter referred to as "Clam Lake"), effective as of June 10, 2013.

WHEREAS, Haring and Clam Lake are local units as that term is defined by Public Act 425 of 1984, as amended, MCL 124.21, *et seq* ("Act 425");

WHEREAS, Haring is organized under the Charter Township Act, Public Act 359 of 1947, as amended, MCL 42.1, *et seq*;

WHEREAS, Clam Lake is organized under Chapter 16, Revised Statutes of 1846, MCL 41.1, *et seq*;

WHEREAS, properties within Haring and Clam Lake are currently used for residential, commercial and industrial purposes, or are proposed for future residential, commercial or industrial uses;

WHEREAS, Haring owns and operates a public water supply system that has capacity to serve the current and reasonably anticipated users within Haring, and also a number of users within Clam Lake, provided that Clam Lake property owners need those services;

WHEREAS, Haring and Clam Lake currently receive wastewater treatment services under separate agreements with the City of Cadillac (the "City"), but Haring has undertaken a project to construct its own wastewater treatment plant ("WWTP"), which is designed to have capacity to treat wastewater from users within current and reasonably anticipated service districts in Haring, and also users within certain areas of Clam Lake, provided that Clam Lake properties need those services;

WHEREAS, the Haring WWTP is expected to be completed, operational, and receiving wastewater for treatment in the spring of 2015;

WHEREAS, Haring and Clam Lake recognize that the existing and future water and wastewater needs of both townships will benefit from the townships' mutual cooperation;

WHEREAS, the territory legally described in attached Exhibit A and depicted on the map attached as Exhibit B (hereinafter referred to as the "Transferred Area") is partially developed for residential housing;

WHEREAS, the owners of the portion of the Transferred Area that has not yet been developed have represented that they intend to develop the property, but that they need municipal wastewater treatment and public water supply services in order to develop the property;

WHEREAS, when the undeveloped portion of the Transferred Area is developed, Haring is currently in a better position than Clam Lake to provide that portion of the property with municipal wastewater treatment and public water supply services, because those services can be extended to the property from the Haring WWTP by the spring of 2015, but Clam Lake does not currently own or operate a wastewater treatment system or public water supply;

WHEREAS, when the undeveloped portion of the Transferred Area is developed, Haring is currently in a better position to reasonably regulate the development, for the reason that Haring has adopted and placed into effect zoning regulations for the entire Township of Haring, and Clam Lake is instead subject to County zoning, rather than having its own zoning ordinance;

WHEREAS, pursuant to Act 425, the Township Boards of Haring and Clam Lake held a joint public hearing on May 8, 2013 regarding this Agreement, notice of which was given in the manner required by law; and,

WHEREAS, the Haring Charter Township Board and the Clam Lake Township Board have each decided, by majority vote of the members duly elected and serving on each respective body, to enter into this Agreement and have authorized their respective representatives to execute this Agreement on their behalf.

NOW, THEREFORE, it is hereby agreed as follows:

**ARTICLE I
CONDITIONAL TRANSFER**

1. Factors Considered

Prior to the execution of this Agreement, Haring and Clam Lake have considered numerous factors including, but not limited to, the following:

- a. density and composition of population;
- b. land area and uses;
- c. topography and natural boundaries;
- d. assessed valuation;
- e. drainage and soil erosion;
- f. both proposed and possible future commercial and industrial development and growth;
- g. residential development and growth;
- h. the need for organized community services; the present cost and adequacy of governmental services, the future need of those services and the ability to provide those services;
- i. the practical effect of transferring property from one township to another including the impact on taxes and tax rates in relation to the benefits expected to accrue from the transfer;
- j. the general effect upon local units involved and the relationship of such an agreement to established city, village, township, county or regional land use plans.

2. Conditional Transfer of Property

The territory legally described in attached Exhibit A and depicted on the map attached as Exhibit B shall be known as the "Transferred Area." From the effective date of this Agreement until the Termination Date of the Conditional Transfer (the "Duration of the Conditional Transfer"), the Transferred Area shall be conditionally transferred for all purposes from the jurisdiction of Clam Lake to the jurisdiction of Haring.

3. Economic Development Project

The Transferred Area is currently used, in part, for existing residential housing, and the balance is currently undeveloped. The Transferred Area is proposed for the implementation of an economic development project under Act 425, with said economic development project consisting of two aspects, as follows: (a) the construction of a mixed-use, commercial/residential development that is designed and constructed in accordance with principles of planned unit development (as described further in Article I, Paragraph 6 of this Agreement), in order to balance the property owners' desire for commercial use with the need to protect the interests of surrounding residential property owners; and, (b) the provision of public wastewater services and public water supply services to the Transferred Area, so as to foster the new mixed-use development and to provide for the protection of the environment, including, but not limited to, protection of ground water and surface water on and below the Transferred Area.

4. Governmental Services and Authority

(a) For the Duration of the Conditional Transfer, Haring shall provide the Transferred Area all municipal facilities and services afforded to property owners within Haring, to the extent that such services are available, and shall have the same local governmental authority

within the Transferred Area as in the balance of Haring. In addition, Haring shall promptly provide public wastewater services and public water services to the newly-developed portion of the Transferred Area following the receipt by Haring of one or more certified resolutions duly adopted by the Clam Lake Township Board directing that the necessary infrastructure to effect the provision of such wastewater services and/or public water services be constructed (such infrastructure to be referred to as the “Transferred Area Wastewater and Water Infrastructure”), subject to the express conditions: (i) that Clam Lake shall be solely responsible for payment and financing of all allocable costs associated with extending such services to the Transferred Area by the construction of the Transferred Area Wastewater and Water Infrastructure, including, but not limited to, the costs of design, bidding, construction, permitting, easement acquisition (if needed), legal services, bonding, and all other costs of extending wastewater and water infrastructure to the Transferred Area; and (ii) that the obligation of Haring to provide public wastewater services is subject to the completion of construction and availability of the Haring WWTP for the receipt of wastewater for treatment in accordance with applicable law.

(b) After public wastewater services have been extended to the Transferred Area from Haring, the townships agree to mutually cooperate in exploring the extension of Haring public wastewater services to other areas of Clam Lake, subject to the availability of those services. In furtherance of this mutual cooperation, Haring agrees to promptly provide, in accordance with the provisions of this subparagraph (b), public wastewater services to the area designated as “Phase I” of the Clam Lake Downtown Development Authority (“DDA”) District on the map attached hereto as Exhibit C, upon Clam Lake’s request, as evidenced by a certified resolution adopted by the Clam Lake Township Board, if capacity is available in the Haring WWTP and related collection

infrastructure to accommodate the projected wastewater flow from this area, at the time Clam Lake's request is made. The determination of whether capacity is available shall be made by Haring, in its sole discretion, based on factors such as, but not limited to, (i) the then-current wastewater flows into the Haring WWTP, Haring collection infrastructure and the wastewater portion of the Transferred Area Wastewater and Water Infrastructure (the "Transferred Area Wastewater Infrastructure"); (ii) the anticipated and reasonably projected future wastewater flows into the Haring WWTP and Haring collection infrastructure, from Haring lands, over the following ten (10) years; (iii) any commitments that Haring has made to third-parties, by contract or otherwise, for the provision of wastewater treatment services; (iv) the limitations of the NPDES permit for the Haring WWTP; and (v) the anticipated flow and strength of wastewater from Clam Lake. If Haring determines, in its sole discretion, that capacity is not available to serve Phase I of the Clam Lake DDA District, the townships agree to mutually cooperate in determining whether it is feasible to expand the capacity of the Haring WWTP, the Haring collection infrastructure and/or the Transferred Area Wastewater Infrastructure, as the case may be, to accommodate Clam Lake's request for additional service. If the townships mutually agree that the capacity of the Haring WWTP, the Haring collection infrastructure and/or the Transferred Area Wastewater Infrastructure, as the case may be, can and should be expanded to accommodate Clam Lake's request for service to Phase I of the DDA District, Clam Lake shall be responsible for paying all costs, including financing, associated with the creation of the additional capacity, or if Haring decides to create additional capacity in excess of that needed by Clam Lake, Clam Lake shall be responsible for payment of its proportional share of the costs incurred to expand the capacity of the WWTP, the Haring collection system infrastructure and the Transferred Area Wastewater Infrastructure, as the case may be, as determined by the percentage of

capacity created for Clam Lake in relation to the total amount of new additional capacity being created. If wastewater services are extended to Phase I of the Clam Lake DDA District, Clam Lake shall be solely responsible for financing and payment of all costs associated with extending collection infrastructure and related appurtenances from the Transferred Area to Phase I of the DDA District (the “DDA District Wastewater Infrastructure”), including, but not limited to, the costs of design, bidding, construction, permitting, easement acquisition, legal services, bonding, and all other costs of extending wastewater infrastructure to Phase I of the Clam Lake DDA District. Haring’s obligation to provide wastewater services to Phase I of the Clam Lake DDA District is conditioned upon Clam Lake entering an intermunicipal agreement with Haring with respect to the wastewater services to be provided by Haring, with said agreement having the minimum terms described in Article I, Paragraph 17.b of this Agreement, it being understood and agreed that such minimum terms applicable to the Transferred Area Wastewater and Water Infrastructure shall also apply to the DDA District Wastewater Infrastructure.

5. Ordinance Enforcement

For the Duration of the Conditional Transfer, the Transferred Area shall be subject to the enforcement of Haring ordinances, codes, rules and regulations in effect or subsequently amended.

6. Zoning and Building

a. The Transferred Area is currently zoned by Wexford County as Forest-Recreational (F-R), and is being used, in part, for residential purposes. The existing F-R zoning of the Transferred Area shall remain in effect only until Haring can amend its zoning ordinance to accomplish the following:

1. The following described portions of the Transferred Area that are already developed for residential housing shall be zoned in a Haring zoning district that is comparable to the existing County zoning and existing land use:

The West 1/2 of the Northwest fractional 1/4 of Section 1, Township 21 North, Range 9 West, Clam Lake Township, Wexford County, Michigan.

And also the North 386 Feet of the Northeast fractional 1/4 of Section 2, Township 21 North, Range 9 West, Clam Lake Township, Wexford County, Michigan, but only with respect to the lots or parcels within this area that are already developed for residential housing.

2. The balance of the Transferred Area that is currently undeveloped shall be rezoned, upon application of the property owner(s), to a planned unit development ("PUD") district that permits mixed commercial/residential use; provided, however, that Haring shall not consider a PUD rezoning application for this portion of the Transferred Area until (i) it has adopted provisions in its zoning ordinance that allow mixed-use commercial/residential PUDs, and which require that such PUDs comply with the following minimum requirements, and (ii) the property owner(s) have submitted an application that complies with the following minimum requirements:

MINIMUM PUD DEVELOPMENT REGULATIONS

I. General Requirements.

- A. Commercial uses shall comprise not more than 60% of the developed land area, exclusive of open space.
- B. The density of development in the residential phase of the PUD shall not be more than 4 units/acre. Multifamily buildings shall be permitted, but they shall be designed and constructed to avoid excessive length and box-like appearance and to have varied architectural features.

- C. Commercial uses shall be physically separated from adjacent residential uses (both existing residential uses and those included within the PUD) by means of a berm and buffer zone of undeveloped or landscaped open space that is of significant size, width and height, so as to visibly screen the commercial uses from the residential uses, and so as to ensure that noises from the commercial phase do not interfere with the peace, quiet and enjoyment of the residential uses. The open space used to buffer the commercial and residential uses shall comprise not less than 10% of the total land area included in the PUD plan.
- D. The development shall be served by public wastewater and public water supply systems.

II. Architecture

- A. All proposed commercial buildings shall utilize quality architecture to ensure a building is compatible with surrounding uses, protects the investment of adjacent landowners, blends harmoniously with the natural features and promotes a high quality image to those living in and traveling through the township.
- B. The applicant is required to submit and present architectural concepts and alternatives at a study session with the Planning Commission to receive comments on compliance with the architectural guidelines prior to preparations of detailed design drawings.

- C. Building designs shall be reviewed by the Planning Commission as a part of site plan review under the following criteria:
1. Commercial buildings shall possess architectural variety.
 2. Commercial buildings shall be consistent with the scale and proportion of existing structures in the surrounding area.
 3. For commercial buildings, a minimum of eighty percent (80%) of the exterior finish material of all building facades (excluding the roof) visible from the public street, private street, parking lot or adjacent residentially zoned land, exclusive of window areas, shall consist of facing brick, cut stone, split face block fluted block scored block, native, field stone, cast stone or wood with an opaque or semi-transparent stain, or bleaching oil. Any other block or building material not specifically listed may be reviewed and approved by the Planning Commission if the material is compatible with surrounding uses, protects the investment of adjacent landowners, blends harmoniously with the natural features and promotes a high quality image to those living in and travelling through the Township.
 4. Exterior Insulation and Finishing Systems (EIFS) material shall not be the primary building material. The remaining maximum twenty (20) percent of the façade may utilize other

material for architectural detailing such as fiberglass reinforced concrete, polymer plastic (fypon) or EIFS. The Planning Commission may permit other materials for facades not visible from a public street that are adequately screened from adjoining land uses.

5. Front building facades for commercial buildings shall provide a minimum 15% glass window but shall not exceed 80% glass. Calculations are exclusive of the roof area.
6. Building materials and colors shall be related to and harmonious with the surrounding area.
7. Roof shape and materials shall be architecturally compatible with adjacent buildings and enhance the predominant streetscape. Subtle colors shall be used for roofing material. Metal roofs shall only be permitted if compatible with the overall character of the building, and architectural elements are used to significantly reduce the roof mass when viewed from the street.
8. Commercial buildings shall provide architectural features, details, and ornaments such as archways, colonnades, cornices, peaked rooflines or towers.
9. Building walls (both commercial and residential) over 100 feet in length shall be broken up with items such as varying

rooflines, varying building lines, recesses, projections, wall insets, arcades, windows, architectural accents, bands of complementary building materials and trees.

10. Commercial building entrances shall utilize windows, canopies, and/or awnings, provide unity of scale, texture, and color and provide a sense of place.
11. Rooftop equipment shall be illustrated on the plans and shall be screened from view by parapet walls or other architectural elements that complement the overall building design.
12. Commercial building rear facades shall be constructed to a finished quality comparable to the front façade where visible to a public street or residential district or use.
13. Overhead canopies for gas stations or other uses shall be designed to be compatible with the architectural characteristics of the principal building such as peaked roofs, shingles, support structures that match or simulate materials of the principal building, lighting fixtures fully recessed into the canopy and in neutral colors.
14. Exterior neon lighting, or interior neon lighting that is visible from the exterior, is prohibited.
15. The commercial portion of the mixed use PUD shall complement the overall PUD plan and the commercial

buildings therein shall have an architecture and appearance that are reasonably compatible with the buildings in the residential portion of the PUD.

16. Loading docks, refuse accumulation areas, truck maneuvering area and other utility or service areas shall be appropriately screened from view by landscaping, berms or other effective means.

III. Landscaping and Overall Site Design

Landscaping and design elements of the PUD plan shall comply with the following requirements:

- A. Plants that have been identified as invasive or potentially invasive plants in the region shall not be used for any landscaping purposes.
- B. The overall design shall promote the impression of a natural landscape.
- C. Where practical, existing trees that are in good health and above three inches in caliper along the frontage and within the site shall be preserved.
- D. Landscaping shall be provided along walls to reduce the visual impact of building mass as viewed from the street.
- E. Retention, detention and the overall stormwater system shall be designed to use “best management practices” and create the appearance of a natural pond or feature including gentle (5:1) or

varying side slopes, irregular shapes, water tolerant grasses and seed mixes at the bottom of the pond/basin; appropriate flowers, shrubs and grasses along the banks based on environment (wet, dry, sedimentation basin v. pond) to improve views, filter runoff and enhance wildlife habitat.

F. *Parking Lots*. The following landscaping requirements shall apply to parking lots:

1. Parking lots, or any parts thereof, which are located in the front yard or which are adjacent to or visible from within 20 feet of any public right-of-way, shall have perimeter landscaping, between the parking lot and right-of-way, as follows:
2. The perimeter landscaping shall include a landscaped area measuring at least ten feet in width.
3. The landscaped area shall include at least one tree, measuring at least eight feet in height at the time of planting, for every 30 feet, or fraction thereof, of street frontage of the parking lot.
4. The landscaped area shall also include a continuous screen, measuring at least thirty-six inches in height above the street grade, consisting of a hedge, berm, brick wall, or combination thereof. The Planning Commission may determine the

location of the screen so that it does not cause a traffic hazard, vision obstruction or other hazard to public safety.

5. For parking lots of over 100 spaces or 30,000 square feet, the interior of the parking lot shall have one square foot of landscaped area for each 15 square feet of paved area. The following requirements shall apply to the interior landscaped areas:

- a. Traffic islands shall be located to improve traffic flow and views.
- b. Traffic islands shall have a minimum width of 18 feet and a minimum area of 150 square feet.
- c. Details on traffic islands shall be provided on the PUD site plan, including radii, dimensions, adjacent parking space depth, ground cover and any lighting or irrigation.
- d. There shall be at least one deciduous tree for each 150 square feet, or fraction thereof, of interior landscaped area. Around each tree, there shall be an open land area of at least 75 square feet, with a minimum diameter of four feet at the tree trunk.
- e. All interior landscaped areas of a parking lot shall be designed as "bio-retention" areas, to facilitate the

treatment and ground absorption of stormwater runoff using a combination of microbial soil process, infiltration, evaporation, and appropriate plantings.

- G. Loading and service bay doors shall not face a public street. Such doors shall be in the rear of the site. Where this is not practical, location on the side may be permitted provided additional walls and landscaping are provided, and/or such areas are recessed, to minimize the negative visual impact.
- H. Generally, curbs must be used throughout the parking lot and paved areas. The Planning Commission may grant an exception upon finding that overall stormwater disposition will be enhanced.
- I. The outdoor display of items for sale shall not be permitted.
- J. Fences, if proposed, must be shown on the site plan, including details on materials and color. Fences shall be durable and decorative in nature. Chain link fences shall only be approved for a location not generally visible to the public or dwelling unit occupants. Any visible segments of fence will be vinyl coated with additional landscaping provided to screen the view.
- K. A minimum 35 foot greenbelt is required along state highways, such as M-55, as measured from the edge of the highway right-of-way. Said greenbelt shall be landscaped and planted in accordance with this Chapter, except for approved driveways.

- L. Buildings shall be set back a minimum of 100 feet from the right-of-way for state highways, such as M-55.

IV. Commercial Lighting

- A. All exterior lighting shall be within fully-shielded fixtures, so that no light may escape above the horizontal plane. The wattage of any single lamp fixture shall not exceed 320 watts.
- B. Lighting mounted onto poles or any structures intended primarily for mounting of lighting shall not exceed a mounting height of 40% of the horizontal distance of the light pole from the property line, nor a maximum height of 30 feet, whichever is lower.
- C. No lighting on any site shall cause or create obtrusive light, or light which protrudes onto any adjacent or nearby residential property.

V. Other

The PUD plan shall be reviewed in accordance with, and shall otherwise comply with, the PUD regulations of the Haring Township Zoning Ordinance, to the extent that those regulations are not inconsistent with the above minimum requirements.

Where the above regulations are more stringent, the more stringent regulations shall apply.

- b. Haring will use reasonable efforts to adopt the above-described zoning provisions for the Transferred area within one year of the effective date of this Agreement, so that the property owner(s) of the undeveloped portion of the Transferred Area are able to make application to

Haring for PUD approval reasonably in advance of the date when public wastewater and public water are scheduled to be extended to the Transferred Area, in the spring of 2015.

c. After such amendments to the Haring zoning ordinance, and for the Duration of the Conditional Transfer, the Transferred Area shall be subject to Haring's Zoning Ordinance and building codes as then in effect or as subsequently amended.

7. Assessing and Taxation

For the Duration of the Conditional Transfer, the Transferred Area shall be deemed to be within Haring's corporate limits and jurisdiction for all purposes of assessing and taxation, including but not limited to *ad valorem* real and personal property taxes, specific taxes, payments in lieu of taxes, and tax abatements, as provided by law.

8. Special Assessments

For the Duration of the Conditional Transfer, the Transferred Area shall be subject to Haring's jurisdiction for all purposes of special assessments. Clam Lake states and represents that there are no special assessment districts currently in place within the Transferred Area.

9. Charges for Governmental Services

For the Duration of the Conditional Transfer, the Transferred Area, except as provided in the second sentence of this Paragraph 9, shall be subject to the same fees, rates and charges for governmental services provided by Haring to other properties within the jurisdiction of Haring. The parties understand and agree that connection, use and other fees, rates and charges for wastewater services and public water services for properties receiving such services in the Transferred Area may be based in part on the cost of the Transferred Area Wastewater and Water Infrastructure and, that

accordingly such fees, rates and charges may differ in amount from fees, rates and charges applicable to Haring wastewater and public water customers located in other portions of Haring.

10. Liens

For the Duration of the Conditional Transfer, all liens provided by Township Ordinance or State Law pertaining to the provision of services and the enforcement of special assessments and *ad valorem* real and personal property taxes shall have the same force and effect with respect to the Transferred Area as to other property within the corporate limits of Haring.

11. Voting

For the Duration of the Conditional Transfer, any qualified person residing within the Transferred Area shall be deemed to be qualified as an elector of Haring and shall be entitled to vote in all elections as a qualified elector of Haring.

12. Limitation on Annexation

For the Duration of the Conditional Transfer, the Transferred Area shall only be subject to the method of transfer included in this Agreement; no other method of annexation or transfer shall take place for any portion of the Transferred Area. In the event that any petitions for annexation are filed for any portion of the Transferred Area, Haring and Clam Lake agree to actively oppose such petitions by, at a minimum, stating their opposition in writing, requesting in writing that such petitions be dismissed and denied, and refraining from providing any direct or indirect assistance or support to the petitioners.

13. Taxes and Other Revenues

For the Duration of the Conditional Transfer, all taxes, revenue sharing and other revenues of any source or kind received by Haring due to or from the Transferred Area, or due to or from any

activities conducted, use, occupation or population on or within the Transferred Area, shall be retained solely by Haring and shall not be shared with Clam Lake.

14. Duration of the Conditional Transfer

The Conditional Transfer shall be in effect only from the Effective Date of this Agreement until the Termination Date of the Conditional Transfer.

15. Effective Date

The Effective Date of this Agreement shall be the date first listed above.

16. Termination Date of the Conditional Transfer

The Conditional Transfer shall be terminated on the earliest date below:

- a. On the date that is twenty (20) years after the Effective Date of this Agreement;
- b. On a date that is mutually agreed in writing by the parties;
- c. On the date that this Conditional Transfer is rejected in a referendum election of the residents of a local governmental unit that is party to this Agreement as permitted by Act 425; or
- d. By operation of law should a tribunal of competent jurisdiction order the termination or invalidity of this Agreement.

17. Jurisdiction after Termination

a. Immediately following the Duration of the Conditional Transfer, without any further agreement or writing, the Transferred Area shall automatically and permanently return to the jurisdiction of Clam Lake for all purposes, and thereafter shall no longer be within the jurisdiction of Haring for any purposes. Upon return of the Transferred Area to Clam Lake, the Transferred Area

shall be subject to Clam Lake's Zoning Ordinance and building codes as then in effect or as subsequently amended.

b. Pursuant to Article I, Paragraph 4 of this Agreement, Haring will provide public wastewater service and public water supply service to the newly-developed portion of the Transferred Area by the construction of the Transferred Area Wastewater and Water Infrastructure from the Haring public wastewater and public water supply systems (each a "Utility System" and together, the "Utility Systems"). Effective upon the Termination Date of the Conditional Transfer in accordance with Article I, Paragraph 16, Clam Lake agrees to enter into an intermunicipal agreement with Haring with respect to the services provided by Haring from the Utility Systems to the Transferred Area. This intermunicipal agreement shall contain mutually agreeable provisions, which, at minimum, shall: (1) provide for the consent by Clam Lake to the use of the public rights-of-way in Clam Lake by Haring for purposes of the Transferred Area Wastewater and Water Infrastructure; (2) provide for the consent by Clam Lake to the installation, construction, extension, improvement, operation, maintenance, repair and replacement of all Transferred Area Wastewater and Water Infrastructure by Haring within Clam Lake; (3) provide for the ownership by Haring of that portion of the Transferred Area Wastewater and Water Infrastructure located within Haring and the ownership by Clam Lake of that portion of the Transferred Area Wastewater and Water Infrastructure located within the Transferred Area or Clam Lake; (4) provide appropriate provisions for the extension and improvement of the Utility System infrastructure or the Transferred Area Wastewater and Water Infrastructure which serves Clam Lake, whether such infrastructure is located within or without Clam Lake; (5) provide that Utility System customers located in Clam Lake shall pay to Haring fees, rates and charges for services rendered by the Utility Systems; (6) provide for the

adoption by Clam Lake of Utility System ordinances providing for matters pertinent to the connection to, the use of and rates and charges payable with respect to the Utility Systems within Clam Lake, with such Clam Lake ordinances being (i) subject to the prior review and approval by Haring and (ii) not less restrictive than similar ordinances in effect in Haring; (7) provide for the billing and collection of Utility System fees, rates and charges to customers of the Utility Systems located in Clam Lake and appropriate provisions for the collection of delinquent fees, rates and charges; (8) provide for Clam Lake to place, in the manner provided by law, delinquent Utility System fees, rates and charges, upon certification by Haring, on the Clam Lake Township tax roll and, upon collection of the same, to pay the collected amounts to Haring; (9) provide for the adoption and implementation of appropriate notice and claim procedures provided by Act 222 of the Public Acts of Michigan of 2001, as amended; and (10) provide for insurance coverage with regard to the Utility Systems, the Transferred Area Wastewater and Water Infrastructure, and the use thereof. Haring and Clam Lake agree that the term of such intermunicipal agreement shall, to the extent permitted by law, extend for a period of time that, at minimum, is co-extensive with the terms of the then outstanding bonded or contractual indebtedness of (1) Haring with respect to the Utility Systems which serve the Transferred Area, and (2) Clam Lake with respect to the Transferred Area Wastewater and Water Infrastructure. Clam Lake agrees to provide all necessary assurances requested by Haring to satisfy requirements of Haring's lenders with regard to the Utility Systems, including entering into any required supplemental service agreements. Haring agrees to provide all necessary assurances requested by Clam Lake to satisfy requirements of Clam Lake's lenders with regard to the Utility Systems and the Transferred Area Wastewater and Water Infrastructure. If requested by Haring, separate intermunicipal agreements shall be negotiated for wastewater service

and public water supply service. Haring and Clam Lake agree to negotiate the intermunicipal agreement(s) required by the terms of this paragraph in good faith and to commence such negotiations not less than six (6) months prior to the Termination Date of the Conditional Transfer.

ARTICLE II ENTIRE AGREEMENT

This Agreement constitutes the entire agreement of the parties and may not be modified or amended except by the written consent of the parties.

The parties acknowledge and agree that one or more amendments to the provisions of this Agreement, including without limitation Article I Paragraph 13 relating to Taxes and Other Revenue, may be necessary and appropriate to enable Haring to provide wastewater services and public water services to the Transferred Area and to enable Clam Lake to pay and finance the cost of the Transferred Area Wastewater and Water Infrastructure and providing wastewater services and public water services to the Transferred Area, and, accordingly, each party agrees to negotiate in good faith one or more amendments to this Agreement proposed as necessary or appropriate by the other party for the foregoing purposes.

ARTICLE III GOVERNING LAW

This Agreement shall be construed in accordance with the laws of the State of Michigan. The parties hereby consent to the jurisdiction and venue in the Circuit Court for the County of Wexford with respect to all complaints, claims, demands, or other issues related to or arising from this Agreement. In the event of a dispute between the parties arising under this Agreement, this Agreement shall be enforced by either party in an action commenced in Wexford County, Michigan, and under Michigan law.

**ARTICLE IV
NON-ASSIGNMENT**

No party to this Agreement shall assign any of its rights, duties or obligations hereunder without the written consent of all parties.

**ARTICLE V
SEVERABILITY**

In the event that any provision of this Agreement is held to be unenforceable for any reason, such holding shall not affect the viability and enforceability of the remainder of this Agreement.

**ARTICLE VI
FILING**

In accordance with Act 425, this Agreement shall be filed with the Wexford County Clerk and the Secretary of State Office of the Great Seal.

**ARTICLE VII
BINDING EFFECT**

This Agreement is binding upon the parties hereto, their successors and their assigns.

**ARTICLE VIII
NOTICES**

Any notice, demand, or communication required, permitted or desired to be given under this Agreement shall be deemed effectively given when personally delivered or mailed by first class or certified mail addressed to the then acting officials follows:

If to Haring:

Township Supervisor
Charter Township of Haring
515 Bell Avenue
Cadillac, Michigan 49601

If to Clam Lake:

Township Supervisor
Clam Lake Township
8809 East M-115
Cadillac, Michigan 49601-9786

The parties may, by written notice, designate any further or different addresses to which subsequent notices, demands, or communications may be given.

**ARTICLE IX
MODIFICATION**

No party to this Agreement may unilaterally modify this Agreement. There are no third party beneficiaries to this Agreement and none are intended.

**ARTICLE X
CONTINUING RESPONSIBILITIES FOR INDIVIDUAL LIABILITIES**

Haring and Clam Lake shall each be responsible for such liabilities as may be incurred through their respective provision of governmental services and other performances of this Agreement and each shall respond to and provide for such liabilities on the same basis as Haring and Clam Lake do generally, except as set forth in Article XII of this Agreement.

**ARTICLE XI
EMPLOYEES**

Haring shall be solely responsible for the manner of employing, engaging, compensating, transferring or discharging any employees, independent contractors or other personnel with respect to the governmental services Haring shall provide under this Agreement. Clam Lake shall be solely responsible for the manner of employing, engaging, compensating, transferring or discharging any employees, independent contractors or other personnel with respect to the governmental services Clam Lake shall provide under this Agreement.

**ARTICLE XII
REIMBURSEMENT AND INDEMNIFICATION**

1. Clam Lake agrees to reimburse Haring for any and all costs and expenses, including without limitation actual attorney fees, which Haring incurs prior to execution of this Agreement for the Agreement's review, preparation, hearing and notice.

2. Clam Lake agrees to reimburse Haring for any and all costs and expenses, including without limitation actual attorney fees, which Haring incurs to adopt and implement the new zoning

regulations described in Article I, Paragraph 6 of the Agreement, including the costs and expenses to review any zoning application submitted under the new mixed-use PUD regulations.

3. Clam Lake agrees to reimburse Haring for any and all costs and expenses, including without limitation actual attorney fees, which Haring incurs to return jurisdiction of the Transferred Area to Clam Lake upon the termination of the Conditional Transfer under this Agreement, or upon any other event causing the termination or invalidation of this Agreement.

4. Clam Lake agrees, to the extent permitted by law, to indemnify and hold harmless Haring from any and all claims for damages, costs, expenses, fees (including without limitation actual attorney fees), liabilities and all other forms of monetary relief, whether legal or equitable in nature, arising in any way from the execution and implementation of this Agreement, including, without limitation, claims that might arise from the zoning or rezoning of the Transferred Area or the provision of public sanitary sewer and/or public water supply service to the Transferred Area. Clam Lake further agrees to reimburse Haring for all costs, expenses and actual attorney fees Haring incurs, whether in administrative or judicial proceedings, involving the execution and implementation of this Agreement, including, without limitation, (a) proceedings before the State Boundary Commission involving the validity of this Agreement and/or annexation of the Transferred Area, (b) judicial proceedings involving the validity of this Agreement and/or annexation of the Transferred Area, or (c) administrative or judicial proceedings relating, in any way, to the zoning or rezoning of the Transferred Area. Haring may submit such reimbursable expenses, to the extent they are incurred, to Clam Lake on a monthly basis. Clam Lake shall pay Haring within 45 days following receipt of a written request for reimbursement from Haring. In the event that Clam Lake fails to indemnify and hold Haring harmless or fails to pay reimbursable expenses within the required 45 day

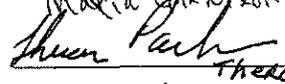
period, Haring may commence an action in the Wexford County Circuit Court for recovery of the unpaid amount(s) and/or to otherwise enforce Clam Lake's indemnity/hold harmless obligations under this provision. If Haring prevails in such an action, whether in whole or in part, Clam Lake shall be required to pay Haring all costs, expenses and actual attorney fees Haring incurred in the action. The Haring Township Board retains its right to select its own legal counsel to represent Haring in any and all of the foregoing matters, including, without limitation, proceedings that might arise from the zoning or rezoning of the Transferred Area. The obligations of this Article shall survive the termination of the Agreement and shall be binding on the parties, even if this Agreement is otherwise adjudged, whether in administrative or judicial proceedings, to be invalid for the purpose of satisfying the requirements of Act 425.

IN WITNESS WHEREOF the parties hereto have caused this instrument to be effective on the day and year first above written.

IN THE PRESENCE OF

CHARTER TOWNSHIP OF HARING

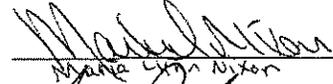


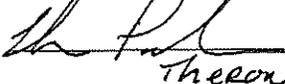
Maria Lynn Nixon


Theron Parker

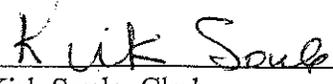
By: 

Robert Scarbrough, Supervisor



Maria Lynn Nixon


Theron Parker

By: 

Kirk Soule, Clerk

[signatures continue on next page]

IN THE PRESENCE OF

RG Ryan Howell
Ronald M. Redick
Ronald M. Redick

TOWNSHIP OF CLAM LAKE

By: Dale Rosser
Dale Rosser, Supervisor

IN THE PRESENCE OF

TOWNSHIP OF CLAM LAKE

Sharon Zukrajsek
Sharon Zukrajsek
Gayla Finstrom
 Gayla Finstrom

~~XXXXXXXXXXXX~~

By: Delores Peterson
 Delores Peterson, Clerk

EXHIBIT A

LEGAL DESCRIPTION OF TRANSFERRED AREA

Part of the North fractional 1/2 of Section 2 and the West 1/2 of the Northwest fractional 1/4 of Section 1, Township 21 North, Range 9 West, Clam Lake Township, Wexford County, Michigan, more fully described as follows:

Beginning at the Northwest Corner of said Section 2; thence Easterly along the North line of said Section 2 to the North 1/4 Corner of said section; thence continuing Easterly along said North line of Section 2 to the Northeast Corner of said section; thence Easterly along the North line of said Section 1 to the Northeast Corner of said West 1/2 of the Northwest fractional 1/4 of Section 1; thence Southerly along the East line of said West 1/2 of the Northwest fractional 1/4 to the East – West 1/4 line of said Section 1; thence Westerly along said East – West 1/4 line to the 1/4 Corner common to said Sections 1 and 2; thence Westerly along the East – West 1/4 line of said Section 2 to the Center 1/4 Corner of said section; thence continuing Westerly along said East – West 1/4 line to the West right-of-way line of U.S. Highway 131; thence Northerly and Northwesterly along said right-of-way line to the South line of the North 836.10 feet of the Northwest fractional 1/4 of said Section 2; thence Westerly along said South line to the West line of said Section 2; thence Northerly along said West section line to the Point of Beginning.

EXHIBIT B
MAP OF TRANSFERRED AREA
(next page)

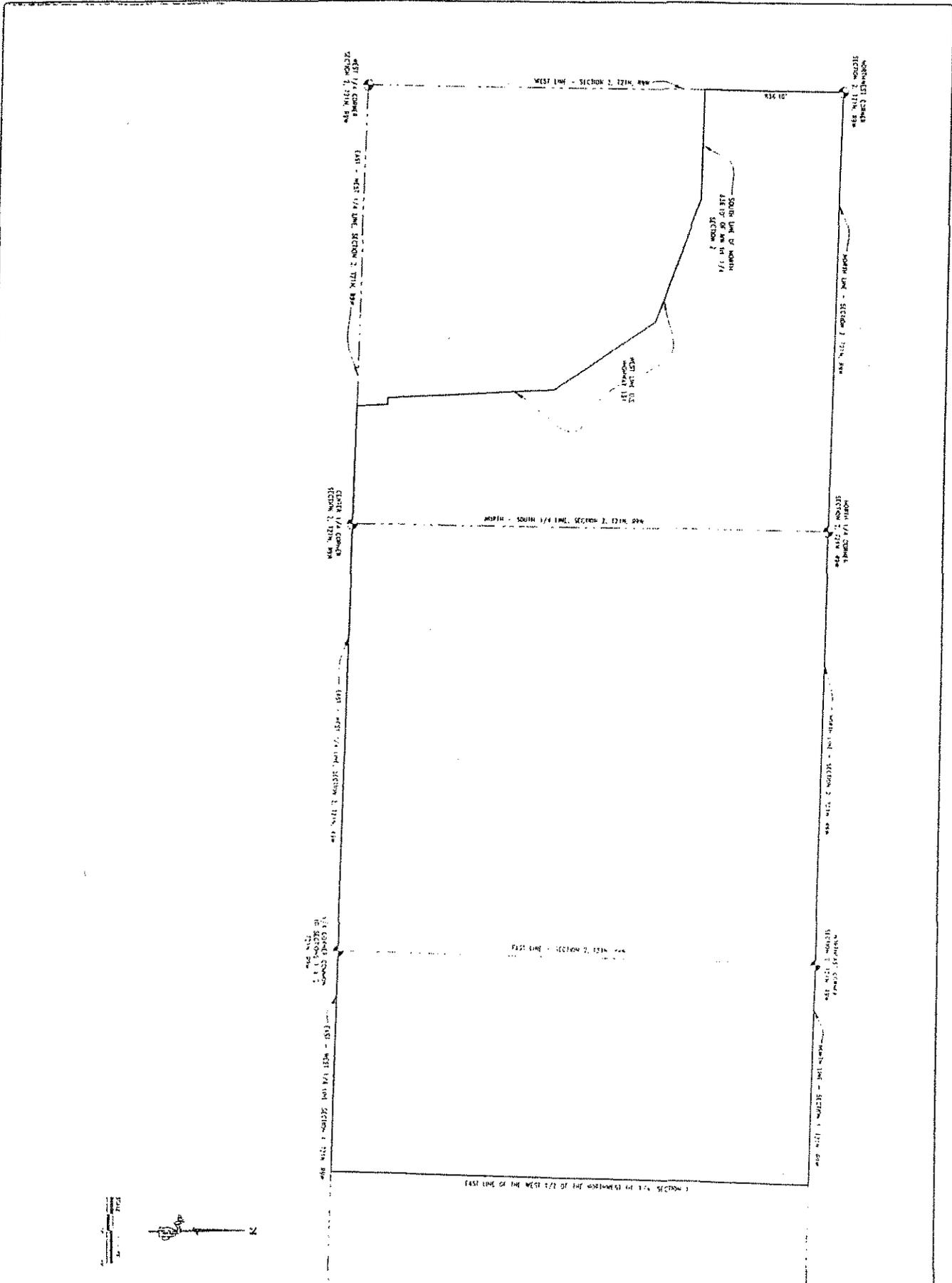
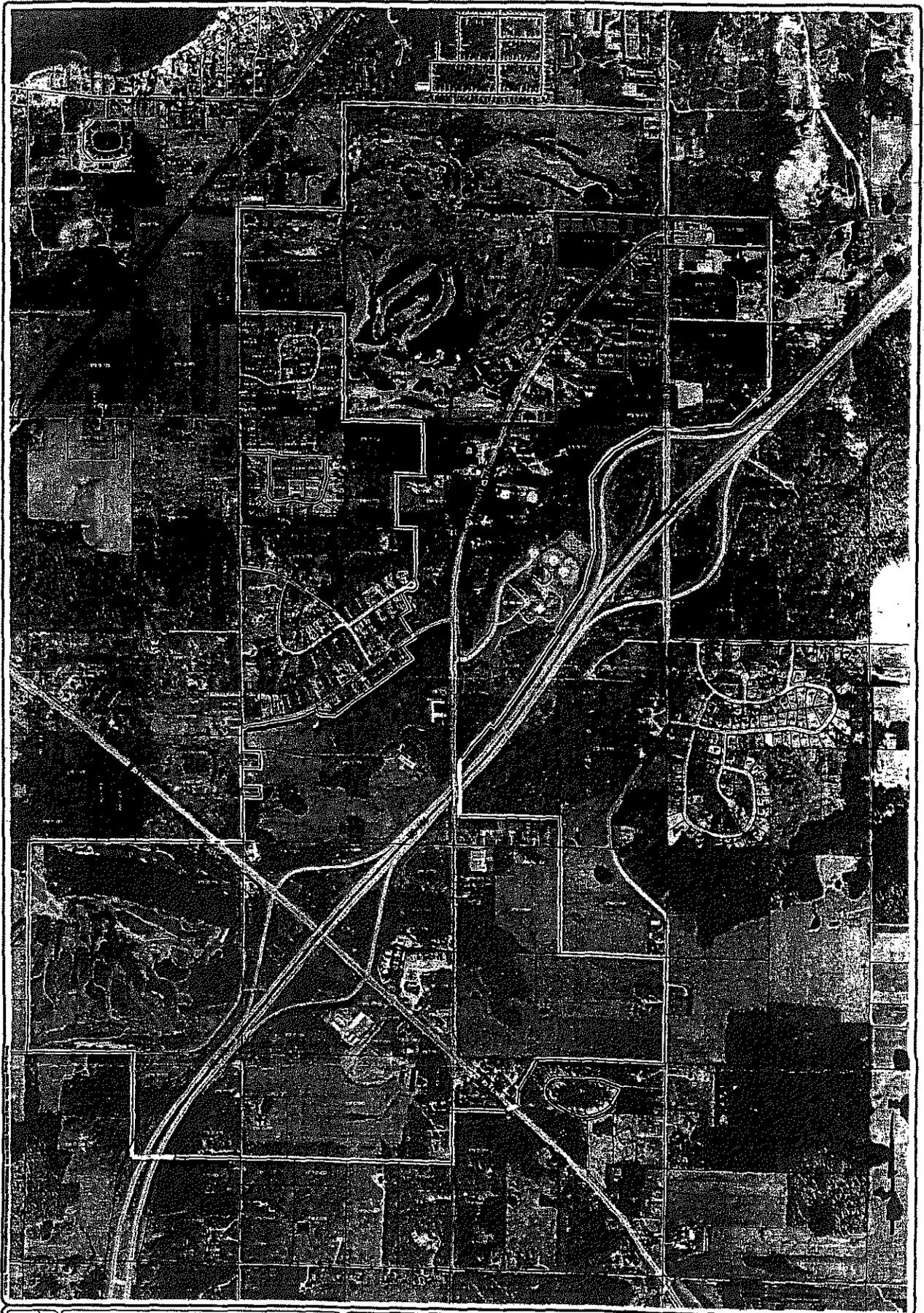


EXHIBIT C

MAP OF PHASE I OF THE CLAM LAKE DDA DISTRICT

(next page)



	Sewer Service Area Exhibit A-1 Clam Lake Township	Location:	Date:	Drawn By:	Plot Date:	Revision:	By:	
		CLAM LAKE TOWNSHIP, WESTERN COUNTY, MICHIGAN	05/21/2013	JI				
		Scale:	1" = 500'					Prepared by: Checked by: Drawn by: Date:

EXHIBIT 2

RECEIVED
MICHIGAN DEPT OF STATE
2013 OCT 21 PM 1:24
OFFICE OF THE GREAT SEAL

FIRST AMENDMENT TO AGREEMENT FOR CONDITIONAL TRANSFER

This First Amendment to Agreement for Conditional Transfer (“Amended Agreement”) is entered into by and between the Charter Township of Haring, a Michigan charter township, 515 Bell Avenue, Cadillac, Michigan 49601 (hereinafter referred to as “Haring”) and the Township of Clam Lake, a Michigan general law township, 8809 East M-115, Cadillac, Michigan 49601-9786 (hereinafter referred to as “Clam Lake”), effective as of October 21, 2013.

WHEREAS, on May 8, 2013, Haring and Clam Lake approved an Agreement for Conditional Transfer (the “Agreement”), pursuant to Public Act 425 of 1984, MCL 124.21, *et seq.* (“Act 425”), providing for the conditional transfer of the lands described at Exhibit A (the “Transferred Area”) from Clam Lake to Haring;

WHEREAS, the Agreement became effective on June 10, 2013, following execution of the Agreement by the Supervisors and Clerks of Clam Lake and Haring, and upon the filing of the Agreement with the Wexford County Clerk and Secretary of State;

WHEREAS, Article I, Section 6.a.2 of the Agreement includes certain minimum PUD development regulations that may be applied to the undeveloped portion of the Transferred Area, upon application of the owners of the undeveloped portion of the Transferred Area;

WHEREAS, subsequent to June 10, 2013, Haring has undergone the legislative process of considering and approving an alternative version of the minimum PUD development regulations (Exhibit B), including consideration of the alternate version by the Planning Commission,

Recd
10/21/13
10:55 AM
V. K. H. B. M.

FIRST AMENDMENT TO AGREEMENT FOR CONDITIONAL TRANSFER

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WHEREAS, the Agreement became effective on June 10, 2013, following execution of the Agreement by the Supervisors and Clerks of Clam Lake and Haring, and upon the filing of the Agreement with the Wexford County Clerk and Secretary of State;

WHEREAS, Article I, Section 6.a.2 of the Agreement includes certain minimum PUD development regulations that may be applied to the undeveloped portion of the Transferred Area, upon application of the owners of the undeveloped portion of the Transferred Area;

WHEREAS, subsequent to June 10, 2013, Haring has undergone the legislative process of considering and approving an alternative version of the minimum PUD development regulations (Exhibit B), including consideration of the alternate version by the Planning Commission,

conducting a Planning Commission public hearing on the alternate version on August 20, 2013, Planning Commission approval of the alternate version, approval of the alternate version by the Township Board, upon first reading, on August 26, 2013, and adoption of the alternate version by the Township Board, upon second reading, on September 9, 2013;

WHEREAS, Haring and Clam Lake desire to amend Article I, Section 6.a.2 of the Agreement by replacing the existing version of the minimum PUD development regulations with the alternate version of the minimum PUD development regulations (Exhibit B), as those regulations have been legislatively approved by the Haring Charter Township Board;

WHEREAS, pursuant to Act 425, the Township Board of Haring held a public hearing on September 9, 2013 regarding this Amended Agreement, notice of which was given in the manner required by law; and,

WHEREAS, pursuant to Act 425, the Township Board of Clam Lake held a public hearing on September 18, 2013 regarding this Amended Agreement, notice of which was given in the manner required by law; and,

WHEREAS, the Haring Charter Township Board and the Clam Lake Township Board have each decided, by majority vote of the members duly elected and serving on each respective body, to enter into this Amended Agreement, and have authorized their respective representatives to execute this Amended Agreement on their behalf.

NOW, THEREFORE, it is hereby agreed as follows:

Section 1. Alternate Minimum PUD Development Regulations. Article I, Section 6.a.2 of the Agreement is hereby amended by deleting the minimum PUD development regulations stated therein, and by replacing them with the alternative version of minimum PUD development regulations included at Exhibit B of this Amended Agreement.

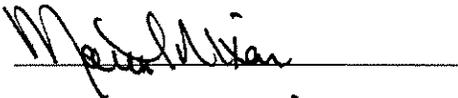
Section 2. Filing: Effective Date. In accordance with Act 425, this Amended Agreement shall be filed with the Wexford County Clerk and the Secretary of State Office of the Great Seal. The Amended Agreement shall become effective immediately upon such filing.

IN THE PRESENCE OF

CHARTER TOWNSHIP OF HARING

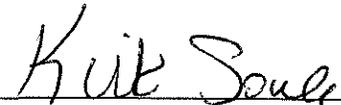


Ronald M. Redick



Maria Lynn Nixon

By: 
Robert Scarbrough, Supervisor

By: 
Kirk Soule, Clerk

[signatures continue on next page]

IN THE PRESENCE OF

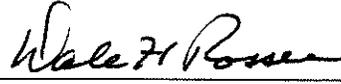


Ronald M. Redick



LARRY W PAYNE

TOWNSHIP OF CLAM LAKE

By: 

Dale Rosser, Supervisor

By: 

Delores Peterson, Clerk

EXHIBIT A

LEGAL DESCRIPTION OF TRANSFERRED AREA

Part of the North fractional 1/2 of Section 2 and the West 1/2 of the Northwest fractional 1/4 of Section 1, Township 21 North, Range 9 West, Clam Lake Township, Wexford County, Michigan, more fully described as follows:

Beginning at the Northwest Corner of said Section 2; thence Easterly along the North line of said Section 2 to the North 1/4 Corner of said section; thence continuing Easterly along said North line of Section 2 to the Northeast Corner of said section; thence Easterly along the North line of said Section 1 to the Northeast Corner of said West 1/2 of the Northwest fractional 1/4 of Section 1; thence Southerly along the East line of said West 1/2 of the Northwest fractional 1/4 to the East – West 1/4 line of said Section 1; thence Westerly along said East – West 1/4 line to the 1/4 Corner common to said Sections 1 and 2; thence Westerly along the East – West 1/4 line of said Section 2 to the Center 1/4 Corner of said section; thence continuing Westerly along said East – West 1/4 line to the West right-of-way line of U.S. Highway 131; thence Northerly and Northwesterly along said right-of-way line to the South line of the North 836.10 feet of the Northwest fractional 1/4 of said Section 2; thence Westerly along said South line to the West line of said Section 2; thence Northerly along said West section line to the Point of Beginning.

EXHIBIT B

ALTERNATE VERSION OF MINIMUM PUD DEVELOPMENT REGULATIONS

**ORDINANCE NO. 13-__
AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CHARTER
TOWNSHIP OF HARING**

[Mixed-Use Commercial/Residential Planned Unit Development Regulations]

Section 1. PUD District Regulation Table. Section 305 of the Zoning Ordinance of the Charter Township of Haring is hereby amended so as to amend the “PUD” Planned Unit Development District Regulation Table by the inclusion of item No. 4 under the heading “Uses Permitted By Right,” which shall read in its entirety as follows:

4. Mixed-use commercial/residential PUDs may contain only those uses specified by Section 422.3(b).

Section 2. Mixed-Use Commercial/Residential PUD Regulations. Chapter 4 of the Zoning Ordinance of the Charter Township of Haring is hereby amended by the addition of Section 422 thereto, which shall read in its entirety as follows:

SECTION 422. MIXED-USE COMMERCIAL/RESIDENTIAL PUDs

1. **Purpose.** The purposes of the regulations stated in this Section 422 are as follows:
 - a) To allow for limited commercial development in areas where, because of the nearby presence of federal or state highways, or major thoroughfares, there is a demand for commercial use, but due to the close proximity of established residential areas, there is a need to ensure that the commercial development is designed and constructed in a manner that is protective of surrounding residential populations.
 - b) To provide architectural and site design standards in order to promote harmonious development in the Township.
 - c) To preserve woodlands, view sheds and other natural features within the Township, to the extent practicable.

2. **Findings.** The Township finds that the standards of this Section 422 are necessary to promote the health, safety and welfare of the Township and its residents, based on the following findings:

- a) Design standards are important safety and aesthetic considerations for the Township's future image and the citizens' quality of life.
- b) Architectural guidelines are necessary to ensure building design is consistent with the intended character of the area.
- c) Commercial growth and development put an increased demand upon natural resources. The protection of natural resources is a matter of paramount public concern, as provided by Article IV, Section 52 of the State of Michigan Constitution and the Michigan Environmental Protection Act of 1970, MCL 324.1701, *et seq.*

3. **Mixed-Use Commercial/Residential PUD Regulations.**

- a) Mixed-use commercial/residential PUDs are permitted in the Township only in accordance with the provisions of this Section 422.
- b) Permitted Uses. Uses that may be approved within a mixed-use commercial/residential PUD shall include the following:
 - 1) Any use permitted by right in the "C" General Commercial Zoning District.
 - 2) The following uses that are permitted by special land use in the "C" General Commercial Zoning District:
 - i) Churches and religious institutions.
 - ii) Veterinary clinics and kennels.
 - iii) Bars and nightclubs (not including "sexually oriented businesses").
 - 3) Any use permitted by right or by special land use permit in the "R" Residential Zoning District, except that "transitional/shelter housing" shall not be permitted.
- c) General Requirements.
 - 1) Commercial uses shall comprise not more than 60% of the developed land area, exclusive of open space.
 - 2) The density of development in the residential phase of the PUD shall not be more than 4 units/acre. Multifamily

buildings shall be designed and constructed to avoid excessive length and box-like appearance and to have varied architectural features.

- 3) Commercial uses shall be physically separated from adjacent residential uses (both existing residential uses and those included within the PUD) by means of a berm and buffer zone of undeveloped or landscaped open space that is of significant size, width and height, so as to visibly screen the commercial uses from the residential uses, and so as to ensure that noises from the commercial phase do not interfere with the peace, quiet and enjoyment of the residential uses. The open space used to buffer the commercial and residential uses shall comprise not less than 10% of the total land area included in the PUD plan.
- 4) The development shall be served by public wastewater and public water supply systems.

d) Architecture

- 1) All proposed commercial buildings shall utilize quality architecture to ensure a building is compatible with surrounding uses, protects the investment of adjacent landowners, blends harmoniously with the natural features and promotes a high quality image to those living in and traveling through the Township.
- 2) The applicant is required to submit and present architectural concepts and alternatives at a study session with the Planning Commission to receive comments on compliance with the architectural guidelines prior to preparations of detailed design drawings.
- 3) Building designs shall be reviewed by the Planning Commission as a part of final plan review under the following criteria:
 - i) Commercial buildings shall possess architectural variety.
 - ii) Commercial buildings shall be consistent with the scale and proportion of existing structures in the surrounding area.
 - iii) For commercial buildings, a minimum of eighty percent (80%) of the exterior finish material of all

front building facades (excluding the roof) visible from the public street, private street, parking lot or adjacent residentially zoned land, exclusive of window areas, shall consist of facing brick, cut stone, split face block, fluted block, scored block, native, field stone, cast stone or wood with an opaque or semi-transparent stain, or bleaching oil. Any other block or building material not specifically listed may be reviewed and approved by the Planning Commission if the material is compatible with surrounding uses, protects the investment of adjacent landowners, blends harmoniously with the natural features and promotes a high quality image to those living in and traveling through the Township.

- iv) Exterior Insulation and Finishing Systems (EIFS) material shall not be the primary building material. The remaining maximum twenty (20) percent of the facade may utilize other material for architectural detailing such as fiberglass reinforced concrete, polymer plastic (fypon) or EIFS. The Planning Commission may permit other materials for facades not visible from a public street that are adequately screened from adjoining land uses.
- v) Front building facades for commercial buildings shall provide a minimum 15% glass window but shall not exceed 80% glass. Calculations are exclusive of the roof area. The Planning Commission may allow a lower percentage of glass windows where it has been demonstrated that industry-recognized safety or security practices for the use being proposed mandate a lower percentage of glass windows.
- vi) Building materials and colors shall be related to and harmonious with the surrounding area.
- vii) Roof shape and materials shall be architecturally compatible with adjacent buildings and enhance the predominant streetscape. Subtle colors shall be used for roofing material. Metal roofs shall only be permitted if compatible with the overall character of the building, and architectural elements are used to significantly reduce the roof mass when viewed from the street.

- viii) Commercial buildings shall provide architectural features, details, and ornaments such as archways, colonnades, cornices, peaked rooflines or towers.
- ix) Building walls (both commercial and residential) over 100 feet in length shall be broken up with items such as varying rooflines, varying building lines, recesses, projections, wall insets, arcades, windows, architectural accents, bands of complementary building materials and trees.
- x) Commercial building entrances shall utilize windows, canopies, and/or awnings, provide unity of scale, texture, and color and provide a sense of place.
- xi) Rooftop equipment shall be illustrated on the plans and shall be screened from view by parapet walls or other architectural elements that complement the overall building design.
- xii) Commercial building rear facades shall be constructed to a finished quality that is comparable to the front facade where visible to a public street or residential district or use, but strict adherence to the percentage requirements for finish materials and window glass, as stated in subsections (iii) and (v), shall not be required. This subsection shall not apply to a building rear façade that is viewable only from highway U.S.-131, and which is not otherwise viewable from a residential district or use.
- xiii) Overhead canopies for gas stations or other uses shall be designed to be compatible with the architectural characteristics of the principal building such as peaked roofs, shingles, support structures that match or simulate materials of the principal building, lighting fixtures fully recessed into the canopy and in neutral colors.
- xiv) Exterior neon, LCD or LED lights (including such interior lights that are clearly visible from the exterior) are generally prohibited, except that they may be used only as architectural detail, they must be complementary to the overall design of the building, and they must be specifically found by the Planning Commission to be compatible with surrounding

properties. Such lighting shall be indicated on the building elevation and allowed only as part of site plan approval. The provisions of this subsection do not apply to small interior neon, LCD or LED signs that are used to communicate directional or operational information such as “exit”, “open” and “closed.”

- xv) The commercial portion of the mixed-use PUD shall complement the overall PUD plan and the commercial buildings therein shall have an architecture and appearance that are reasonably compatible with the buildings in the residential portion of the PUD.
- xvi) Loading docks, refuse accumulation areas, truck maneuvering area and other utility or service areas shall be appropriately screened from view by landscaping, berms or other effective means.

e) Landscaping and Overall Site Design

Landscaping and design elements of the PUD plan shall comply with the following requirements:

- 1) Plants that have been identified as invasive or potentially invasive plants in the region shall not be used for any landscaping purposes.
- 2) The overall design shall promote the impression of a natural landscape.
- 3) Landscaping shall be provided along walls to reduce the visual impact of building mass as viewed from the street.
- 4) Retention, detention and the overall stormwater system shall be designed to use “best management practices” and create the appearance of a natural pond or feature including gentle (5:1) or varying side slopes, irregular shapes, water tolerant grasses and seed mixes at the bottom of the pond/basin; appropriate flowers, shrubs and grasses along the banks based on environment (wet, dry, sedimentation basin v. pond) to improve views, filter runoff and enhance wildlife habitat.
- 6) *Parking Lots*. The following landscaping requirements shall apply to parking lots:

- i) Parking lots, or any parts thereof, which are located in the front yard or which are adjacent to or visible from within 20 feet of any public right-of-way (excepting the highway U.S.-131 right-of-way) shall have perimeter landscaping, between the parking lot and right-of-way, as follows:
 - A. The perimeter landscaping shall include a landscaped area measuring at least ten feet in width.
 - B. The landscaped area shall include at least one tree, measuring at least eight feet in height at the time of planting, for every 30 feet, or fraction thereof, of street frontage of the parking lot.
 - C. The landscaped area shall also include a continuous screen, measuring at least thirty-six inches in height above the street grade, consisting of a hedge, berm, brick wall, or combination thereof. The Planning Commission may determine the location of the screen so that it does not cause a traffic hazard, vision obstruction or other hazard to public safety.

- ii) For parking lots of over 100 spaces or 30,000 square feet, the interior of the parking lot shall have one square foot of landscaped area for each 15 square feet of paved area. The following requirements shall apply to the interior landscaped areas:
 - A. Traffic islands shall be located to improve traffic flow and views.
 - B. Traffic islands shall have a minimum width of 18 feet and a minimum area of 150 square feet.
 - C. Details on traffic islands shall be provided on the PUD site plan, including radii, dimensions, adjacent parking space depth, ground cover and any lighting or irrigation.

- D. There shall be at least one deciduous tree for each 150 square feet, or fraction thereof, of interior landscaped area. Around each tree, there shall be an open land area of at least 75 square feet, with a minimum diameter of four feet at the tree trunk.
 - E. All interior landscaped areas of a parking lot shall be designed as “bio-retention” areas, to facilitate the treatment and ground absorption of stormwater runoff using a combination of microbial soil process, infiltration, evaporation, and appropriate plantings.
- 7) Loading and service bay doors shall not face a public street. Such doors shall be in the rear of the site. Where this is not practical, location on the side may be permitted provided additional walls and landscaping are provided, and/or such areas are recessed, to minimize the negative visual impact. This subsection shall not apply to a loading or service bay door that is viewable only from highway U.S.-131, and which is not otherwise viewable from a residential district or use.
 - 8) Generally, curbs must be used throughout the parking lot and paved areas. The Planning Commission may grant an exception upon finding that overall stormwater disposition will be enhanced, that snow removal will be facilitated, or that there will be other beneficial improvements to the overall site design.
 - 9) *Outdoor Storage.* The following requirements shall apply to outdoor storage:
 - i) The outdoor display of items for sale, whether a few items or on a large-scale basis, such as motor vehicle sales establishments, shall be arranged in a neat and orderly fashion of rows and columns. All outdoor display items for sale shall be setback from the frontage road right-of-way so as to be located, at a minimum, inside of the greenbelt required by subsection (11), below, and a minimum of twenty (20) feet from any side property line.
 - ii) The outdoor storage of other items, such as vehicles, equipment and extra supplies, shall be performed by

placing the items in a fenced and screened area, to the side or rear of the principal building on the premises.

- 10) Fences, if proposed, must be shown on the site plan, including details on materials and color. Fences shall be durable and decorative in nature. Chain link fences shall only be approved for a location not generally visible to the public or dwelling unit occupants. Any visible segments of fence will be vinyl coated with additional landscaping provided to screen the view.
- 11) A minimum 35 foot greenbelt is required along state highways and other major thoroughfares (excluding highway U.S.-131), as measured from the edge of the highway or road right-of-way. Said greenbelt shall be landscaped and planted in accordance with Section 422.3(e)(6)(i)B and C, except for approved driveways.
- 12) Buildings shall be set back a minimum of 100 feet from the right-of-way for state highways and other major thoroughfares, excepting the highway U.S.-131 right-of-way.

f) Commercial Lighting

- 1) All exterior lighting shall be within fully-shielded fixtures, so that no light may escape above the horizontal plane. The wattage of any single lamp fixture shall not exceed 320 watts.
- 2) Lighting mounted onto poles or any structures intended primarily for mounting of lighting shall not exceed a mounting height of 40% of the horizontal distance of the light pole from the property line, nor a maximum height of 30 feet, whichever is lower.
- 3) No lighting on any site shall cause or create obtrusive light, or light which protrudes onto any adjacent or nearby residential property.

g) Other

The PUD plan for a mixed-use commercial/residential PUD shall be reviewed in accordance with, and shall otherwise comply with, the PUD regulations of this Ordinance, as stated in Sections 401 through 420, to the extent that those regulations are not inconsistent with the above minimum requirements. Where the regulations of this Section 422 are more stringent, the more stringent regulations shall apply.

Section 3. Site Plan Review; Landscape Maintenance. Section 206.3 of the Zoning

Ordinance of the Charter Township of Haring is hereby amended by the addition of subsection e)

thereto, which shall read in its entirety as follows:

- e) Whenever landscaping or a landscaping plan is required as part of site plan review for any use (including a planned unit development), it shall be a condition of approval that all landscaping plants shall be healthy when planted and thereafter maintained, in perpetuity, in accordance with their natural growth patterns. Withered, diseased or dead plants shall be replaced within a reasonable amount of time, but not longer than one growing season.

EXHIBIT 3

**STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
STATE BOUNDARY COMMISSION**

In the matter of:	Docket No.	11-AP-2
The proposed annexation of land in Clam Lake Township to the City of Cadillac, Wexford County	Agency No.	BCC-1008
	Agency:	Bureau of Construction Codes
	Case Type:	Annexation Petition

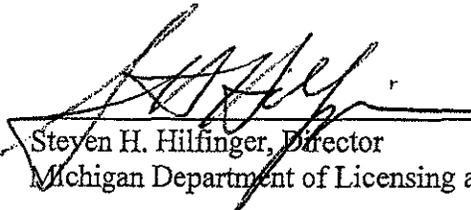
Issued and entered
This 3rd day of Oct, 2012
by Steven H. Hilfinger, Director
Department of Licensing and Regulatory Affairs

FINAL DECISION AND ORDER

IT IS ORDERED THAT the proposed annexation of territory in Clam Lake Township, as described in Attachment A, to the City of Cadillac is denied.

IT IS ORDERED THAT the Summary of Proceedings, Findings of Fact and Conclusions of Law, and the Order to deny the annexation of territory in Clam Lake Township to the City of Cadillac, as described in Attachment B, shall be effective on the date signed below by the Director of the Department of Licensing and Regulatory Affairs (Lara).

IT IS FURTHER ORDERED THAT the State Boundary Commission shall transmit a copy of this Order with the Summary of Proceedings, Findings of Fact and Conclusions of Law to the clerks of Clam Lake Township, the City of Cadillac, the County of Wexford, and to the Secretary of State.



Steven H. Hilfinger, Director
Michigan Department of Licensing and Regulatory Affairs

10-3-12

Date

ATTACHMENT 'A'

ANNEXATION PETITION BY OWNERS OF AT LEAST 75% OF THE LAND

PART III

The territory proposed for annexation to the City of Cadillac is legally described as follows:

Description of proposed Annexed Area:

Part of the NW fractional 1/4 and part of the NE fractional 1/4, Section 2, T21N, R9W, Clam Lake Township, Wexford County, Michigan, described as: Beginning at the N 1/4 corner of said Section 2; thence S89°07'47"E 1314.49 feet along the North line of said NE fractional 1/4; thence S00°57'32"W 368.00 feet along the East line of the West 1/2 of said NE fractional 1/4; thence S89°07'47"E 108.56 feet; thence N01°24'56"E 100.00 feet along the West line of the East 1203 feet of said NE fractional 1/4; thence S89°07'47"E 116.00 feet; thence S01°24'56"W 100.00 feet; thence S89°07'47"E 103.33 feet; thence S01°04'24"W 15.00 feet; thence S89°07'47"E 327.89 feet along the South line of the North 383 feet of said NE fractional 1/4; thence S01°11'25"W 118.53 feet to the centerline of a MichCon Gas line easement; thence S17°58'43"E 859.13 feet and S11°17'05"E 1658.18 feet along said centerline to a point on the South line of said NE fractional 1/4 which is N88°40'29"W 5.38 feet from the E 1/4 corner of said Section 2; thence N88°40'29"W 2576.84 feet along the South line of said NE fractional 1/4 to the center of Section 2; thence N88°42'27"W 705.93 feet along the South line of the NW fractional 1/4, Section 2 to the Westerly line of Highway US 131; thence N02°10'26"W 191.40 feet along said Westerly line; thence S87°49'49"W 40.76 feet and N03°10'21"W 1023.48 feet and N33°50'59"W 739.99 feet and N70°00'30"W 780.55 feet along said Westerly line to the South line of the North 836.1 feet of said NW fractional 1/4; thence N89°07'52"W 652.19 feet along said South line to the West line of said NW fractional 1/4; thence N00°26'38"E 836.10 feet along said West line to the NW corner of said Section 2; thence S89°07'52"E 2627.41 feet along the North line of said NW fractional 1/4 to the place of beginning.

Contains 241.31 acres.

Dept. of Energy, Labor & Economic Growth
FILED

JUN 03 2011 11 AP 2 1

STATE BOUNDARY COMMISSION

ATTACHMENT 'B'

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
STATE BOUNDARY COMMISSION

In the matter of:

State Boundary Commission
Docket #11-AP-2

The proposed annexation of land
in Clam Lake Township to the City of Cadillac,
Wexford County.

SUMMARY OF PROCEEDINGS,
FINDINGS OF FACT AND CONCLUSIONS OF LAW

SUMMARY OF PROCEEDINGS

1. On June 3, 2011, a petition was filed with the State Boundary Commission by TeriDee, L.L.C. requesting the annexation of land in Clam Lake Township to the City of Cadillac. The map and legal description of the area proposed for annexation are included as Exhibit A.
2. On November 17, 2011, the State Boundary Commission found by a vote of 4-0 that the annexation petition was legally sufficient and scheduled a public hearing to be held on January 9, 2012.
3. On January 9, 2012, the Commission held a public hearing at the Cadillac City Hall. At the meeting, the Commission heard comment from the involved parties and the public on the merits of the proposed annexation and the 425 Agreement. Following the hearing, a 30-day public comment period was opened and expired February 8, 2012. Following the 30-day public comment period, a 7-day rebuttal period opened March 12, 2012 and expired March 19, 2012.
4. On June 13, 2012, the State Boundary Commission unanimously voted to recommend to the Director of the Department of Licensing and Regulatory Affairs that he find the 1984 PA 425, Conditional Transfer Agreement between the Charter Township of Haring and Clam Lake Township that was filed with the Michigan Secretary of State on October 20, 2011 invalid. The Commission believes that the 425 Agreement was created solely as a means to bar the annexation and not as a means of promoting economic development.

5. On June 13, 2012, the State Boundary Commission voted 3-2 to recommend to the Director of the Department of Licensing and Regulatory Affairs that he deny the petition for annexation.
6. On August 8, 2012, the Commission voted unanimously to adopt the draft Minutes for the June 13, 2012 meeting reflecting the Commissioners decisions on this case, and the draft Summary of Proceedings, Findings of Fact, and Conclusions of Law recommending that the Director of the Department of Licensing and Regulatory Affairs sign an order denying the proposed annexation of land in Clam Lake Township to the City of Cadillac.

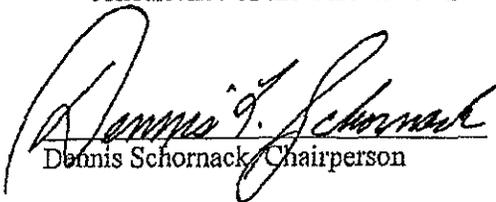
FINDINGS OF FACT

1. The proposed area for annexation is located at the interchange of state highway M-55 and US-131, a federal, limited access, interstate highway. It is located adjacent to the easterly boundary of the City of Cadillac and along the northerly boundary of Clam Lake Township. State highway M-55 traverses the common boundary between Clam Lake Township to its south and the Charter Township of Haring to its north.
2. The City of Cadillac has public services, i.e., water and sanitary sewer services, within one-quarter of a mile from the proposed annexation area. According to the documents filed, the request for annexation was initiated to facilitate an economic development project within the area to be annexed. The economic development project, however, cannot come to fruition without connection to public services, and the City of Cadillac is able to provide the needed services in the immediate future.
3. The 1984 PA 425 Conditional Transfer Agreement included the area of the proposed annexation, plus additional lands, in Clam Lake Township, east of and adjacent to the proposed annexation area. A copy of the 425 Agreement is included as Exhibit B. In the 425 Agreement, the Charter Township of Haring indicates that they can provide Clam Lake Township with the needed public services, i.e., water and sanitary sewer services; however, their nearest existing services are approximately 3 miles from the proposed area for annexation.
4. The portion of the proposed annexation area designated for an economic development project is currently zoned "Forest/Recreational" according to the current Wexford County Zoning Map and pursuant to the current "Wexford County Comprehensive Plan" dated May 19, 2004.
5. The portion of the proposed annexation area designated for an economic development project has been denied the required rezoning in 1998 by the Clam Lake Township Board of Commissioners and again in 2008 by a vote of the citizens of Clam Lake Township.
6. The Commission found that the 425 Agreement was invalid because it was not being used to promote economic development. Their determination was based on the following:

- a. No clearly defined economic development project is named.
- b. Clam Lake Township received no benefit from the agreement, i.e., there is no revenue sharing included.
- c. Copies of emails obtained by the petitioner through a Freedom of Information Act request and provided to the Commission between Clam Lake Township and the Charter Township of Haring discuss the 425 Agreement as a means to deny the Commission jurisdiction over the proposed annexation.
- d. Concern over the Charter Township of Haring's ability to effectively and economically provide the defined public services. No cost study was proven to analyze the differential of connecting the area to public services from the Charter Township of Haring versus connecting to services from the City of Cadillac.
- e. The timing of the 425 Agreement. The agreement was executed more than three months after the annexation request was filed.

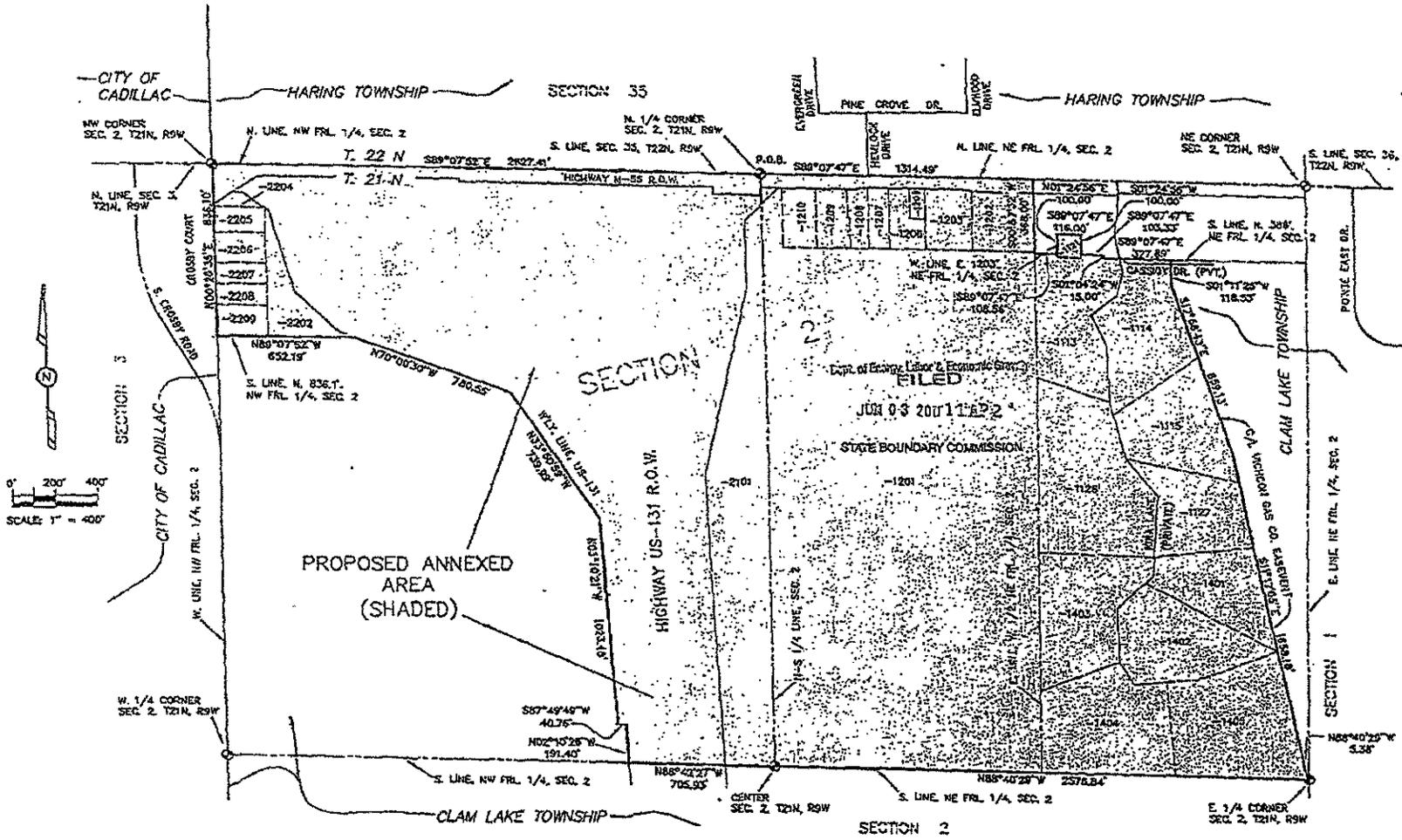
CONCLUSIONS OF LAW

1. The State Boundary Commission has considered the requirements in section 9 of 1968 PA 191, MCL 123.1009 and has come to the conclusion that these criteria support the majority vote of the Commission. The Commission recommends that in the case of Docket# 11-AP-2, Petition for Annexation of Territory in Clam Lake Township to the City of Cadillac, Wexford County, be denied by the Director of the Department of Licensing and Regulatory Affairs.
2. Pursuant to Executive Reorganization Order 1996-2, this denial is contingent on the concurrence of the Director of the Department of Licensing and Regulatory Affairs.


Dennis Schornack, Chairperson

8/8/12
Date

EXHIBIT A



PROPERTY OWNED BY PETITIONER	
PPN (PREFIX = 2109-02 FOR ALL PARCELS)	AREA
-1113, -1114, -1115, -1121, -1126, -1127, -1201, -1203, -1204, -1207, -1208, -1209, -1210, -1401, -1402, -1403, -1404, -1405, -2101, -2202, -2204	140.49 AC.
PROPERTY NOT OWNED BY PETITIONER	
PPN (PREFIX = 2109-02 FOR ALL PARCELS)	AREA
MDOT PARCELS -2101, -2202, -2204	15.98 AC.
R.O.W US-131	72.16 AC.
R.O.W M-55	6.27 AC.
OTHER PARCELS -1202, -1206, -2205, -2206, -2207, -2208, -2209	6.41 AC.
	241.31 ACRES TOTAL

PART I

CLAM LAKE TOWNSHIP
CITY OF CADILLAC
T.21 N. - R.9 W.
WEXFORD COUNTY, MICHIGAN

ANNEXATION PETITION BY OWNERS OF AT LEAST 75% OF THE LAND

PART III

The territory proposed for annexation to the City of Cadillac is legally described as follows:

Description of proposed Annexed Area:

Part of the NW fractional 1/4 and part of the NE fractional 1/4, Section 2, T21N, R9W, Clam Lake Township, Wexford County, Michigan, described as: Beginning at the N 1/4 corner of said Section 2; thence S89°07'47"E 1314.49 feet along the North line of said NE fractional 1/4; thence S00°57'32"W 368.00 feet along the East line of the West 1/2 of said NE fractional 1/4; thence S89°07'47"E 108.56 feet; thence N01°24'58"E 100.00 feet along the West line of the East 1/2 of said NE fractional 1/4; thence S89°07'47"E 116.00 feet; thence S01°24'56"W 100.00 feet; thence S89°07'47"E 103.33 feet; thence S01°04'24"W 15.00 feet; thence S89°07'47"E 327.89 feet along the South line of the North 383 feet of said NE fractional 1/4; thence S01°11'25"W 118.53 feet to the centerline of a MichCon Gas line easement; thence S17°58'43"E 859.13 feet and S11°17'05"E 1658.18 feet along said centerline to a point on the South line of said NE fractional 1/4 which is N88°40'29"W 5.38 feet from the E 1/4 corner of said Section 2; thence N88°40'29"W 2576.84 feet along the South line of said NE fractional 1/4 to the center of Section 2; thence N88°42'27"W 705.93 feet along the South line of the NW fractional 1/4, Section 2 to the Westerly line of Highway US 131; thence N02°10'26"W 191.40 feet along said Westerly line; thence S87°49'49"W 40.76 feet and N03°10'21"W 1023.48 feet and N33°50'59"W 739.99 feet and N70°00'30"W 780.55 feet along said Westerly line to the South line of the North 836.1 feet of said NW fractional 1/4; thence N89°07'52"W 652.19 feet along said South line to the West line of said NW fractional 1/4; thence N00°26'38"E 836.10 feet along said West line to the NW corner of said Section 2; thence S89°07'52"E 2627.41 feet along the North line of said NW fractional 1/4 to the place of beginning.

Contains 241.31 acres.

Dept. of Energy, Labor & Economic Growth
FILED

JUN 03 2011 11 AP 2 '1

STATE BOUNDARY COMMISSION

EXHIBIT B



STATE OF MICHIGAN
RUTH JOHNSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

October 24, 2011

William Fahey
4151 Okemos Road
Okemos, MI 48864

RE: Conditional transfer of property

Dear Mr. Fahey:

This letter serves to acknowledge the Office of the Great Seal's receipt on October 20, 2011 of the filing of the conditional transfer of property pursuant to Public Act 425 of 1984 amended, from Clam Lake Township to the Haring Township. The receipt date is the effective date of this boundary change. This filing is designated as Job Number 11-412.

All property descriptions for any boundary changes are reviewed by the Michigan Department of Transportation (MDOT), and then published annually in the Michigan Public and Local Acts manual. If any property description is found inaccurate by MDOT, this office will contact you at that time and request a corrected description, which will not impact the effective date of the boundary change.

*****No further acknowledgment will be sent*****

Sincerely,

Michele Martin, Technician
Office of the Great Seal
517-241-1829

cc: Clam Township Clerk
Haring Township Clerk
Wexford County Clerk
Michigan Department of Labor and Economic Growth, State Boundary Commission
Michigan Department of Labor and Economic Growth, Liquor Control Commission
Michigan Department of Labor and Economic Growth, Office of Land Survey and Remonumentation
Michigan Department of Information Technology, Center for Geographic Information
Michigan Department of Treasury, Office of Revenue and Tax Analysis
Michigan Department of Transportation, Bureau of Transportation Planning
U.S. Bureau of the Census
Office of the Great Seal Job Number: 11-412

RECEIVED
DEPT. OF LABOR & ECONOMIC GROWTH
OCT 27 2011
STATE BOUNDARY COMMISSION

Job Number: 11-412

Townships
Wexford County

In the matter of the conditional transfer of certain property located in Clam Lake Township to Haring Township. Conditionally transferred in accordance with the provisions of Public Act 425 of 1984, as amended the following described property:

Beginning at the Northwest Corner of said Section 2; thence Easterly along the North line of said Section 2 to the North 1/4 Corner of said section; thence continuing Easterly along said North line of Section 2 to the Northeast Corner of said section; thence Easterly along the North line of said Section 1 to the Northeast Corner of said West 1/2 of the Northwest fractional 1/4 of Section 1; thence Southerly along the East line of said West 1/2 of the Northwest fractional 1/4 to the East - West 1/4 line of said Section 1; thence Westerly along said East - West 1/4 line to the 1/4 Corner common to said Sections 1 and 2; thence Westerly along the East - West 1/4 line of said Section 2 to the Center 1/4 Corner of said section; thence continuing Westerly along said East - West 1/4 line to the West right-of-way line of U.S. Highway 131; thence Northerly and Northwesterly along said right-of-way line to the South line of the North 836.10 feet of the Northwest fractional 1/4 of said Section 2; thence Westerly along said South line to the West line of said Section 2; thence Northerly along said West section line to the Point of Beginning.

AGREEMENT FOR CONDITIONAL TRANSFER

This Agreement is entered into by and between the Charter Township of Haring, a Michigan charter township, 515 Bell Avenue, Cadillac, Michigan 49601 (hereinafter referred to as "Haring") and the Township of Clam Lake, a Michigan general law township, 8809 East M-115, Cadillac, Michigan 49601-9786 (hereinafter referred to as "Clam Lake"), effective as of October 19, 2011.

WHEREAS, Haring and Clam Lake are local units as that term is defined by Public Act 425 of 1984, as amended, MCL 124.21, *et seq* ("Act 425"), and

WHEREAS, Haring is organized under the Charter Township Act, Public Act 359 of 1947, as amended, MCL 42.1, *et seq*, and

WHEREAS, Clam Lake is organized under Chapter 16, Revised Statutes of 1846, MCL 41.1, *et seq*, and

WHEREAS, properties within Haring and Clam Lake are currently used for residential, commercial and industrial purposes, or are proposed for future residential, commercial or industrial uses, and

WHEREAS, Haring and Clam Lake currently receive wastewater treatment services under agreements with the City of Cadillac (the "City"), but the City has announced that it will cease to provide wastewater treatment services to properties within Haring and Clam Lake after 2017, when the current wastewater treatment agreements with the City expire, and

WHEREAS, through litigation with the City, Haring has obtained the right to purchase an additional 121,000 gpd of wastewater treatment capacity in the City's wastewater treatment plant, and

WHEREAS, in anticipation of the cessation of City wastewater treatment service in 2017,

Haring is currently pursuing a number of options for future wastewater treatment, including, among others, pending litigation in the Michigan Supreme Court to extend the period during which it may continue to receive wastewater treatment service through the City's wastewater treatment plant, and the construction and operation of a new Haring wastewater treatment plant, and

WHEREAS, Haring and Clam Lake recognize that the existing and future wastewater needs of both townships will benefit from the townships' mutual cooperation, and

WHEREAS, the territory legally described in attached Exhibit A and depicted on the map attached as Exhibit B (hereinafter referred to as the "Transferred Area") is partially developed for residential housing and is proposed under the Wexford County Zoning Ordinance and Master Plan to be developed for additional residential housing, and

WHEREAS, the owners of the portion of the Transferred Area that has not yet developed for residential housing have suggested that they may need municipal wastewater treatment service in order to develop that property, and

WHEREAS, if the portion of the Transferred Area that has not yet been developed for residential housing does need municipal wastewater treatment service for some reason, Haring is currently in a better position than Clam Lake to provide that service, since Haring has a contract right to purchase additional wastewater treatment capacity from the City, and

WHEREAS, pursuant to Act 425, the Township Boards of Haring and Clam Lake held a joint public hearing on September 19, 2011, regarding this Agreement, notice of which was given in the manner required by law, and

WHEREAS, the Haring Charter Township Board and the Clam Lake Township Board have each decided, by majority vote of the members duly elected and serving on each respective body, to

enter into this Agreement and have authorized their respective representatives to execute this Agreement on their behalf.

NOW, THEREFORE, it is hereby agreed as follows:

**ARTICLE I
CONDITIONAL TRANSFER**

1. Factors Considered.

Prior to the execution of this Agreement, Haring and Clam Lake have considered numerous factors including, but not limited to, the following:

- a. density and composition of population;
- b. land area and uses;
- c. topography and natural boundaries;
- d. assessed valuation;
- e. drainage and soil erosion;
- f. both proposed and possible future commercial and industrial development and growth;
- g. residential development and growth;
- h. the need for organized community services; the present cost and adequacy of governmental services, the future need of those services and the ability to provide those services;
- i. the practical effect of transferring property from one township to another including the impact on taxes and tax rates in relation to the benefits expected to accrue from the transfer;
- j. the general effect upon local units involved and the relationship of such an agreement to established city, village, township, county or regional land use plans.

2. Conditional Transfer of Property

The territory legally described in attached Exhibit A and depicted on the map attached as Exhibit B shall be known as the "Transferred Area." From the effective date of this Agreement until the Termination Date of the Conditional Transfer (the "Duration of the Conditional Transfer"), the Transferred Area shall be conditionally transferred for all purposes from the jurisdiction of Clam

Lake to the jurisdiction of Haring.

3. Economic Development Project

The Transferred area is currently used for existing residential housing, and is proposed for the development of additional residential housing as an economic development project under Act 425. In addition, this Agreement provides for wastewater infrastructure and services for the protection of the environment, including, but not limited to ground water or surface water, as an economic development project under Act 425.

4. Governmental Services and Authority

For the Duration of the Conditional Transfer, Haring shall provide the Transferred Area all municipal facilities and services afforded to property owners within Haring, to the extent that such services are available, and shall have the same local governmental authority within the Transferred Area as in the balance of Haring; provided, however, that wastewater and/or public water services shall be provided to the Transferred Area only if it is determined, in the discretion of the Haring Township Board, that such services are needed and can be reasonably and cost-effectively provided to the Transferred Area.

5. Ordinance Enforcement

For the Duration of the Conditional Transfer, the Transferred Area shall be subject to the enforcement of Haring ordinances, codes, rules and regulations in effect or subsequently amended.

6. Zoning and Building

The Transferred Area is currently zoned by Wexford County for residential use. The existing residential zoning of the Transferred Area shall remain in effect only until Haring can amend its zoning ordinance to incorporate the Transferred Area as designated for residential housing under the

Haring Township Zoning Ordinance. After such amendment, and for the Duration of the Conditional Transfer, the Transferred Area shall be subject to Haring's Zoning Ordinance and building codes as then in effect or as subsequently amended.

7. Assessing and Taxation

For the Duration of the Conditional Transfer, the Transferred Area shall be deemed to be within Haring's corporate limits and jurisdiction for all purposes of assessing and taxation, including but not limited to *ad valorem* real and personal property taxes, specific taxes, payments in lieu of taxes, and tax abatements, as provided by law.

8. Special Assessments

For the Duration of the Conditional Transfer, the Transferred Area shall be subject to Haring's jurisdiction for all purposes of special assessments. Clam Lake states and represents that there are no special assessment districts currently in place within the Transferred Area.

9. Charges for Governmental Services

For the Duration of the Conditional Transfer, the Transferred Area shall be subject to the same rates and charges for governmental services as provided to other properties within the jurisdiction of Haring.

10. Liens

For the Duration of the Conditional Transfer, all liens provided by Township Ordinance or State Law pertaining to the provision of services and the enforcement of special assessments and *ad valorem* real and personal property taxes shall have the same force and effect with respect to the Transferred Area as to other property within the corporate limits of Haring.

11. Voting

For the Duration of the Conditional Transfer, any qualified person residing within the Transferred Area shall be deemed to be qualified as an elector of Haring and shall be entitled to vote in all elections as a qualified elector of Haring.

12. Limitation on Annexation

For the Duration of the Conditional Transfer, the Transferred Area shall only be subject to the method of transfer included in this Agreement; no other method of annexation or transfer shall take place for any portion of the Transferred Area. In the event that any petitions for annexation are filed for any portion of the Transferred Area, Haring and Clam Lake agree to actively oppose such petitions by, at a minimum, stating their opposition in writing, requesting in writing that such petitions be dismissed and denied, and refraining from providing any direct or indirect assistance or support to the petitioners.

13. Taxes and Other Revenues

For the Duration of the Conditional Transfer, all taxes, revenue sharing and other revenues of any source or kind received by Haring due to or from the Transferred Area, or due to or from any activities conducted, use, occupation or population on the Transferred Area, shall be retained solely by Haring and shall not be shared with Clam Lake.

14. Duration of the Conditional Transfer

The Conditional Transfer shall be in effect only from the Effective Date of this Agreement until the Termination Date of the Conditional Transfer.

15. Effective Date

The Effective Date of this Agreement shall be the date first listed above.

16. Termination Date of the Conditional Transfer

The Conditional Transfer shall be terminated on the earliest date below:

- a. on the date that is ten (10) years after the Effective Date of this Agreement;
- b. on the date that is mutually agreed in writing by the parties;
- c. on the date that this Conditional Transfer is rejected in a referendum election of the residents of a local governmental unit that is party to this Agreement as permitted by Act 42S; or
- d. by operation of law should a tribunal of competent jurisdiction order the termination or invalidity of this Agreement.

17. Jurisdiction after Termination

a. Immediately following the Duration of the Conditional Transfer, without any further agreement or writing, the Transferred Area shall automatically and permanently return to the jurisdiction of Clam Lake for all purposes, and thereafter shall no longer be within the jurisdiction of Haring for any purposes.

b. If, during the Duration of the Conditional Transfer, Haring provides either public wastewater service or public water supply service to the Transferred Area, from a Haring public wastewater or public water supply system (each a "Utility System" and together, the "Utility Systems"), or both, then effective upon the Termination Date of the Conditional Transfer in accordance with Article I, Paragraph 16, Clam Lake agrees to enter into an intermunicipal agreement with Haring with respect to the services provided by Haring from either or both Utility Systems to the Transferred Area. This intermunicipal agreement shall contain mutually agreeable provisions, which, at minimum, shall: (1) provide for the consent by Clam Lake to the use of the public rights-

of-way in Clam Lake by Haring for purposes of the Utility Systems; (2) provide for the consent by Clam Lake to the installation, construction, extension, improvement, operation, maintenance, repair and replacement of all Utility System infrastructure by Haring within Clam Lake; (3) provide for the ownership of the Utility Systems by Haring; (4) provide appropriate provisions for the extension and improvement of the Utility System infrastructure which serves Clam Lake, whether such infrastructure is located within or without Clam Lake; (5) provide that Utility System customers located in Clam Lake shall pay to Haring fees, rates and charges for services rendered by the Utility Systems; (6) provide for the adoption by Clam Lake of Utility System ordinances providing for matters pertinent to the connection to, the use of and rates and charges payable with respect to the Utility Systems within Clam Lake, with such Clam Lake ordinances being (i) subject to the prior review and approval by Haring and (ii) not less restrictive than similar ordinances in effect in Haring; (7) provide for the billing and collection of Utility System fees, rates and charges to customers of the Utility Systems located in Clam Lake and appropriate provisions for the collection of delinquent fees, rates and charges; (8) provide for Clam Lake to place, in the manner provided by law, delinquent Utility System fees, rates and charges, upon certification by Haring, on the Clam Lake Township tax roll and, upon collection of the same, to pay the collected amounts to Haring; (9) provide for the adoption and implementation of appropriate notice and claim procedures provided by Act 222 of the Public Acts of Michigan of 2001, as amended; and (10) provide for insurance coverage with regard to the Utility Systems and the use thereof. Haring and Clam Lake agree that the term of such intermunicipal agreement shall, to the extent permitted by law, extend for a period of time that, at minimum, is co-extensive with the terms of the then outstanding bonded or contractual indebtedness of Haring which pertains to the Utility Systems which serve the Transferred

Area. Clam Lake agrees to provide all necessary assurances requested by Haring to satisfy requirements of Haring's lenders with regard to the Utility Systems, including entering into any required supplemental service agreements. If requested by Haring, separate intermunicipal agreements shall be negotiated for wastewater service and public water supply service. Haring and Clam Lake agree to negotiate the intermunicipal agreement(s) required by the terms of this paragraph in good faith and to commence such negotiations not less than six (6) months prior to the Termination Date of the Conditional Transfer.

**ARTICLE II
ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement of the parties and may not be modified or amended except by the written consent of the parties.

**ARTICLE III
GOVERNING LAW**

This Agreement shall be construed in accordance with the laws of the State of Michigan. The parties hereby consent to the jurisdiction and venue in the Circuit Court for the County of Wexford with respect to all complaints, claims, demands, or other issues related to or arising from this Agreement. In the event of a dispute between the parties arising under this Agreement, this Agreement shall be enforced by either party in an action commenced in Wexford County, Michigan, and under Michigan law.

**ARTICLE IV
NON-ASSIGNMENT**

No party to this Agreement shall assign any of its rights, duties or obligations hereunder without the written consent of all parties.

**ARTICLE V
SEVERABILITY**

In the event that any provision of this Agreement is held to be unenforceable for any reason, such holding shall not affect the viability and enforceability of the remainder of this Agreement.

**ARTICLE VI
FILING**

In accordance with Act 425, this Agreement shall be filed with the Wexford County Clerk and the Secretary of State Office of the Great Seal.

**ARTICLE VII
BINDING EFFECT**

This Agreement is binding upon the parties hereto, their successors and their assigns.

**ARTICLE VIII
NOTICES**

Any notice, demand, or communication required, permitted or desired to be given under this Agreement shall be deemed effectively given when personally delivered or mailed by first class or certified mail addressed to the then acting officials follows:

Township Supervisor
Charter Township of Haring
515 Bell Avenue
Cadillac, Michigan 49601

Township Supervisor
Clam Lake Township
8809 East M-115
Cadillac, Michigan 49601-9786

The parties may, by written notice, designate any further or different addresses to which subsequent notices, demands, or communications may be given.

**ARTICLE IX
MODIFICATION**

No party to this Agreement may unilaterally modify this Agreement. There are no third party beneficiaries to this Agreement and none are intended.

**ARTICLE X
CONTINUING RESPONSIBILITIES FOR INDIVIDUAL LIABILITIES**

Haring and Clam Lake shall each be responsible for such liabilities as may be incurred through their respective provision of governmental services and other performances of this Agreement and each shall respond to and provide for such liabilities on the same basis as Haring and Clam Lake do generally, except as set forth in Article XII of this Agreement.

**ARTICLE XI
EMPLOYEES**

Haring shall be solely responsible for the manner of employing, engaging, compensating, transferring or discharging any employees, independent contractors or other personnel with respect to the governmental services Haring shall provide under this Agreement, Clam Lake shall be solely responsible for the manner of employing, engaging, compensating, transferring or discharging any employees, independent contractors or other personnel with respect to the governmental services Clam Lake shall provide under this Agreement.

**ARTICLE XII
REIMBURSEMENT AND INDEMNIFICATION**

1. Clam Lake agrees to reimburse Haring for any and all costs and expenses, including without limitation actual attorney fees, which Haring incurs prior to execution of this Agreement for the Agreement's review, preparation, hearing and notice.
2. Clam Lake agrees to reimburse Haring for any and all costs and expenses, including

without limitation actual attorney fees, which Haring incurs to return jurisdiction of the Transferred Area to Clam Lake upon the termination of the Conditional Transfer under this Agreement.

3. Clam Lake agrees, to the extent permitted by law, to indemnify and hold harmless Haring from any and all claims for damages, costs, expenses, fees, liabilities and all other forms of monetary relief, whether legal or equitable in nature, arising in any way from the execution and implementation of this Agreement, including, without limitation, claims that might arise from the zoning or rezoning of the Transferred Area or the provision or the proposed provision of public sanitary sewer and/or public water supply service to the Transferred Area. Clam Lake further agrees to reimburse Haring for all costs, expenses and actual attorney fees Haring incurs, whether in administrative or judicial proceedings, involving the execution and implementation of this Agreement, including, without limitation, (a) proceedings before the State Boundary Commission involving the validity of this Agreement and/or annexation of the Transferred Area, (b) judicial proceedings involving the validity of this Agreement and/or annexation of the Transferred Area, or (c) administrative or judicial proceedings relating, in any way, to the zoning or rezoning of the Transferred Area. Haring may submit such reimbursable expenses, to the extent they are incurred, to Clam Lake on a monthly basis. Clam Lake shall pay Haring within 45 days following receipt of a written request for reimbursement from Haring. In the event that Clam Lake fails to indemnify and hold Haring harmless or fails to pay reimbursable expenses within the required 45 day period, Haring may commence an action in the Wexford County Circuit Court for recovery of the unpaid amount(s) and/or to otherwise enforce Clam Lake's indemnify/hold harmless obligations under this provision. If Haring prevails in such an action, whether in whole or in part, Clam Lake shall be required to pay Haring all costs, expenses and actual attorney fees Haring incurred in the action. The Haring

Township Board retains its right to select its own legal counsel to represent Haring in any and all of the foregoing matters, including, without limitation, proceedings that might arise from the zoning or rezoning of the Transferred Area. The obligations of this Article shall survive the termination of the Agreement and shall be binding on the parties, even if this Agreement is otherwise adjudged, whether in administrative or judicial proceedings, to be invalid for the purpose of satisfying the requirements of Act 425.

IN WITNESS WHEREOF the parties hereto have caused this instrument to be effective on the day and year first above written.

IN THE PRESENCE OF

Will K. Fabry
William K. Fabry
Maria L. Nixon
Maria L. Nixon
Will K. Fabry
Maria L. Nixon

CHARTER TOWNSHIP OF HARING

By: Robert Scarbrough
Robert Scarbrough, Supervisor

By: Kirk Soule
Kirk Soule, Clerk

IN THE PRESENCE OF

Will K. Fabry
William K. Fabry
Maria L. Nixon
Maria L. Nixon
Will K. Fabry
Maria L. Nixon

TOWNSHIP OF CLAM LAKE

By: Dale Rosser
Dale Rosser, Supervisor

By: Delores Peterson
Delores Peterson, Clerk

EXHIBIT A

LEGAL DESCRIPTION OF TRANSFERRED AREA

Part of the North fractional 1/2 of Section 2 and the West 1/2 of the Northwest fractional 1/4 of Section 1, Township 21 North, Range 9 West, Clam Lake Township, Wexford County, Michigan, more fully described as follows:

Beginning at the Northwest Corner of said Section 2; thence Easterly along the North line of said Section 2 to the North 1/4 Corner of said section; thence continuing Easterly along said North line of Section 2 to the Northeast Corner of said section; thence Easterly along the North line of said Section 1 to the Northeast Corner of said West 1/2 of the Northwest fractional 1/4 of Section 1; thence Southerly along the East line of said West 1/2 of the Northwest fractional 1/4 to the East - West 1/4 line of said Section 1; thence Westerly along said East - West 1/4 line to the 1/4 Corner common to said Sections 1 and 2; thence Westerly along the East - West 1/4 line of said Section 2 to the Center 1/4 Corner of said section; thence continuing Westerly along said East - West 1/4 line to the West right-of-way line of U.S. Highway 131; thence Northerly and Northwesterly along said right-of-way line to the South line of the North 836.10 feet of the Northwest fractional 1/4 of said Section 2; thence Westerly along said South line to the West line of said Section 2; thence Northerly along said West section line to the Point of Beginning.

EXHIBIT B

MAP OF TRANSFERRED AREA

EXHIBIT 4

JPMorgan Chase Bank, N.A.
Global Trade Services
131 South Dearborn, 5th Floor
Mail Code: IL1-0236
Chicago, IL 60603-5506

APR 26, 2011
OUR L/C NO.: L5LS-484180
APPLICANT REF. NO.: 1432

APPLICANT:
WAL-MART REAL ESTATE BUSINESS TRUST
1301 SE 10TH ST
BENTONVILLE, AR 72716-0655

BENEFICIARY:
CHARTER TOWNSHIP OF HARING
515 BELL AVENUE
CADILLAC, MICHINGAN 49601

**RE: IRREVOCABLE LETTER OF CREDIT NO. L5LS-484180;
FOR CONSTRUCTION OF HARING CHARTER TOWNSHIP WASTE
WATER TREATMENT PLANT**

EXPIRY DATE: MAY 2, 2012

AMOUNT: USD1,000,000.00

LADIES AND GENTLEMEN:

WE HEREBY ISSUE OUR IRREVOCABLE LETTER OF CREDIT NO. L5LS-484180 IN YOUR FAVOR, FOR THE ACOOUNT OF WAL-MART REAL ESTATE BUSINESS TRUST, A DELAWAR STATUTORY TRUST, WHOSE ADDRESS IS 1301 S.E. 10TH ST, BENTONVILLE, AR 72712-0655. ("WAL-MART"), FOR A SUM NOT EXCEEDING ONE MILLION AND 00/100 UNITED STATES DOLLARS (USD1,000,000.00), AVAILABLE BY PAYMENT AGAINST PRESENTATION OF BENEFICIARY'S DATED STATEMENT, SIGNED BY THE SUPERVISOR OR CLERK OF THE TOWNSHIP, STATING EITHER OF THE FOLLOWING OPTIONS:

1. "THE CHARTER TOWNSHIP OF HARING ('TOWNSHIP') HEREBY DRAWS UNDER JPMORGAN CHASE BANK, N.A., LETTER OF CREDIT NO. L5LS-484180 IN THE AMOUNT OF USD _____. THE UNDERSIGNED HEREBY CERTIFIES THAT THE TOWNSHIP HAS INCURRED EXPENSES DESCRIBED IN SECTIONS 5.F.I OR 5.F.II OF THE SANITARY SEWER CONNECTIN AND SERVICE AGREEMENT, DATED MAY 2, 2011 BETWEEN IARING CHARTER TOWNSHIP AND WAL-MART REAL ESTATE BUSINESS TRUST ('AGREEMENT') IN THE AMOUNT OF _____ DOLLARS (USD _____), WHICH REMAIN UNPAID. THIS DRAW IS MADE IN ACCORDANCE WITH SECTION 5.F.VI OR 5.F.VII OF THE AGREEMENT."

JPMorgan Chase Bank, N.A.
Global Trade Services
131 South Dearborn, 5th Floor
Mail Code: IL1-0236
Chicago, IL 60603-5506

APR 26, 2011
OUR L/C NO.: L5LS-484180
APPLICANT REF. NO.: 1432

OR,

2. "THE CHARTER TOWNSHIP OF HARING (THE 'TOWNSHIP') HAS RECEIVED FROM JPMORGAN CHASE BANK, N.A. WRITTEN NOTICE, PROVIDED IN ACCORANCE WITH THE TERMS OF LETTER OF CREDIT NO. L5LS-484180, THAT JPMORGAN CHASE BANK, N.A. HAS ELECTED NOT THE EXTEND LETTER OF CREDIT NO. L5LS-484180 FOR A SUBSQENT YEAR AND WAL-MART REAL ESTATE BUSINESS TRUST ('WAL-MART') HAS FAILED TO PROVIDE THE TOWNSHIP, WITH REASONABLE PROMPTNESS, WITH WHAT THE TOWNSHIP CONSIDERS, IN ITS SOLE DISCRETION, TO BE A STAISFACTORY REPLACEMENT LETTER OF CREDIT. THE DRAW HEREUNDER IS USD _____. THIS DRAW IS MADE IN ACCORDANCE WITH SECTION 5.F.VIII AND 5.F.IX OF THE SANITARY SEWER CONNECTION AND SERVICE AGREEMENT, DATED MAY 2, 2011 BETWEEN THE TOWNSHIP AND WAL-MART."

UNDER EITHER OPTION 1 OR 2, THE AMOUNT OF THE DRAW MAY BE IN ANY AMOUNT, UP TO THE FULL REMAINING BALANCE OF THIS LETTER OF CREDIT.

ALL DOCUMENTS DRAWN UNDER THIS LETTER OF CREDIT MUST BE MARKED "DRAWN UNDER LETTER OF CREDIT NO. L5LS-484180."

ANY AMENDMENT TO THE TERMS OF THIS LETTER OF CREDIT MUST BE IN WRITING UNDER AUTHORIZED SIGNATURE OF JPMORGAN CHASE BANK, N.A.

PARTIAL DRAWINGS ARE PERMITTED.

THIS LETTER OF CREDIT EXPIRES ON MAY 2, 2012.

HOWEVER IT IS A CONDTION OF THIS LETTER OF CREDIT THAT IT SHALL BE AUTOMATICALLY EXTENDED WITHOUT AMENDMENT FOR ADDITIONAL 12 MONTH PERIODS FROM THE PRESENT OR EACH FUTURE EXPIRATION DATE, UNLESS AT LEAST SIXTY (60) DAYS PRIOR TO THE THEN CURRENT EXPIRY DATE WE SEND NOTICE IN WRITING TO YOU VIA OVERNIGHT COURIER SERVICE OR REGISTERED MAIL, RETURN RECEIPT REQUESTED AT THE ABOVE ADDRESS, THAT WE ELECT NOT TO AUTOMATICALLY EXTENDED THIS LETTER OF CREDIT. HOWEVER IN NO EVENT WILL THIS LETTER CREDIT BE EXTENDED BEYOND THE FINAL EXPIRATION DATE OF MAY 2, 2018.



JPMorgan Chase Bank, N.A.
Global Trade Services
131 South Dearborn, 5th Floor
Mail Code: IL1-0236
Chicago, IL 60603-5506

APR 26, 2011
OUR L/C NO.: L5LS-484180
APPLICANT REF. NO.: 1432

EXCEPT SO FAR AS OTHERWISE EXPRESSLY STATED HERIN, THIS LETTER OF CREDIT IS SUBJECT TO THE 2007 REVISION OF THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS, INTERNATIONAL CHAMBER OF COMMERCE (PUBLICATION NO. 600) .

WE ENGAGE WITH YOU THAT EACH DRAW UNDER AND IN COMPLIANCE WITH THE TERMS AND CONDITIONS OF THIS LETTER OF CREDIT WILL BE DULY HONORED IF PRESENTED TO THE BANK'S STANBY LC DEPARTMENT AT 333 S. GRAND AVE, SUITE 3600, LOS ANGELES, CA 90071, ON OR BEFORE THE EXPIRY DATE SET FORTH ABOVE OR ANY EXTENSION THEREOF IN THE MANNER SET FORTH ABOVE.



AUTHORIZED SIGNATURE

Agnes Martinez
Assistant Vice President

EXHIBIT 5



United States Department of Agriculture
Rural Development
Traverse City Area Office

July 30, 2012

James White
Mika, Meyers, Beckett & Jones PLC
900 Monroe Avenue, N.W.
Grand Rapids, MI 49503-1423

RE: Charter Township of Haring—WWTP & Collection Improvements

Dear Mr. White:

Enclosed is your Bond Counsel package for the loan obligation.

The \$2,931,000 loan was obligated at 2.750% with a term of 40 years and a grant for \$595,000.

The current Rural Utilities Service (RUS) Instruction pertaining to preparation of Bonds and Bond Transcript Documents may be found at this web address:
<http://www.usda.gov/rus/water/regs/1780.pdf>

We will utilize electronic funds transfers (ACH) for loan and grant draws.

Ordinances, bonds, opinions and other appropriate documents must only include the name "United States of America" and not particular Agency names.

Bond Ordinances for RUS borrowers are not to contain provisions for defeasance while the Government holds the bonds. You should include a provision that prohibits defeasance. We would like to review a draft copy of the Bond Ordinance.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Blake H. Smith".

Blake H. Smith
Area Specialist

Enclosures



United States Department of Agriculture
Rural Development
Traverse City Area Office

July 12, 2012

Robert Scarbrough, Supervisor
Charter Township of Haring
515 Bell Ave.
Cadillac, MI 49601

SUBJECT: Sewer Project
Loan \$ 2,931,000; 2.75 % Intermediate Interest Rate; 40 Years
Grant \$ 595,000

Dear Mr. Scarbrough:

This letter establishes conditions which must be understood and agreed to by you before further consideration may be given to your application. The loan and grant will be administered on behalf of the Rural Utilities Service (RUS) by the State and Area staff of USDA, Rural Development. Any changes in project cost, source of funds, scope of services or any other significant changes in the project or applicant, must be reported to an approved by USDA, Rural Development, by written amendment to this letter. If significant changes are made without obtaining such approval, Rural Development may discontinue processing of the application.

This letter does not constitute loan and grant approval, nor does it ensure that funds are or will be available for the project.

The interest rate will be the lower of the rate in effect at the time of loan approval or the time of loan closing. The loan will be considered approved on the date a signed copy of Form RD 1940-1, "Request for Obligation of Funds", is mailed to you.

Please complete, sign and return the following forms if you agree to meet these conditions and desire that further consideration be given to your application:

Form RD 1942-46, "Letter of Intent to Meet Conditions,"
Form RD 1940-1, "Request for Obligation of Funds,"

Within 180 days of this letter, you must meet all of the conditions set forth which can be met prior to calling for construction bids. If you have not done so, Rural Development reserves the right to discontinue the processing of your application.

The conditions referred to above are as follows:

Project Budget – Funding from all sources has been budgeted for the estimated project cost of \$4,593,000. The project, as described is the approved Preliminary Engineering Report, is as follows:

1501 Cass Street • Suite A • Traverse City, MI 49684
Phone: (231) 941-0951 • Fax: (231) 929-7890 • TDD: (800) 649-3777 • Web: <http://www.rurdev.usda.gov/mi>

Committed to the future of rural communities.

"USDA is an equal opportunity provider, employer and lender."
To file a complaint of discrimination write USDA, Director, Office of Civil Rights
1400 Independence Avenue, SW, Washington, DC 20250-9410 or call (800) 795-3272 (voice) or (800) 795-3275 (TDD)

Haring Township – Sewer Project

The selected alternative was the oxidation ditch with surface water discharge as it has the lowest present worth cost. The proposed project includes: disconnection from the Cadillac collection system and redirection of sewage flow to a main pump station at Bell and Hanthorn which will convey sewage to the new treatment plant; a short run of gravity sewer on Fillmore Street; and an oxidation ditch treatment plant with appurtenances. The proposed project budget is summarized below:

Construction Costs	\$ 3,358,000
Admin/Legal/Land/Misc.	\$ 155,000
Contingencies	\$ 351,000
Engineering & RPR	\$ 662,000
Total:	\$ 4,526,000

If, during the design engineering phase, the scope of the project is revised, the Preliminary Engineering Report will need to be also revised with the following items:

1. Revised project budget
2. Addendum to the Preliminary Engineering Report with narrative outlining revisions

Your funding needs will be reassessed if there are changes in project costs after bids are received. Obligated loan or grant funds not needed to complete the proposed project will be deobligated. Any reduction will be applied to grant funds first. An "Amended Letter of Conditions" will be issued for any revised project budget.

Project Funds - Project funding is planned from the following sources:

Rural Utilities Service Loan:	\$2,931,000
Rural Utilities Service Grant:	\$ 595,000
Applicant (Wal-Mart) Contribution	\$1,000,000

Any changes in funding sources following obligation of RUS funds must be reported to the processing official. Prior to advertisement for construction bids, you must provide evidence of applicant contributions and approval of other funding sources. This evidence should include a copy of the commitment letter.

Disbursement of Funds –Any applicant contribution will be considered as the first funds expended. An agreement should be reached with all other funding sources on how funds are to be disbursed before the start of construction. RUS loan funds will be used prior to the use of RUS grant funds.

You must establish a separate construction account, with an acceptable financial institution or depository that meets the requirements of 31 CFR Part 202. All project funds will be deposited into this account. Financial institutions or depositories accepting deposits of public funds and providing other financial agency services to the Federal Government are required to pledge adequate, acceptable securities as collateral. All funds in the account will be secured by a collateral pledge equaling at least 100% of the highest amount of funds expected to be deposited in the constructions account at any one time. Additional guidance on collateral acceptability and valuation are available at Treasury's Bureau of the public debt website at www.publicdebt.treas.gov.

Any Agency grant funds not disbursed immediately upon receipt must be deposited in an interest bearing account except as follows:

1. Federal grant awards (includes all federal funding sources) are less than \$120,000 per year.

Haring Township – Sewer Project

2. The best available interest bearing account would not be expected to earn in excess of \$100 per year will be submitted to the Agency at least quarterly as required in 7CFR3016.
3. The depository would require a minimum balance so high that it would not be feasible.

Security – The loan will be secured by a Revenue Bond as authorized under ACT 94 of PA 1933, as amended. The bond will be fully registered as to both principal and interest in the name of the “United States of America Acting through the Department of Agriculture”.

The bond and any ordinance or resolution relating thereto must not contain any provision in conflict with the RD Loan Resolution, applicable regulations, and law. In particular, there must be no defeasance or refinancing clause in conflict with the graduation requirements of 7 USC 1983 (c).

Additional security requirements are contained in RUS Bulletin 1780-12, “Water or Waste System Grant Agreement” and RUS Bulletin 1780-27, “Loan Resolution (Public Bodies)”.

Qualified Status under Section 303(3) of Public Act 34 of 2011 – Prior to bidding, you and/or your bond counsel must verify that “Qualified Status” has been obtained or is ready to file an application with the Local Audit and Finance Division, Michigan Department of Treasury.

Loan Repayment – Your loan will be scheduled for repayment over a period of **40 years at the interest rate of 2.75%**. The first interest payment will be scheduled no later than six months from the bond closing date.

The interest during construction will not be capitalized. Principal repayment will not be deferred.

The interest rate will be the lower of the rate in effect at the time of loan approval or the time of loan closing, whichever is less, unless you choose otherwise.

You will be required to complete RD-3550-28, “Authorization Agreement for Preauthorized Payments” for all new and existing indebtedness to the Agency. Your loan payment will be electronically debited from your designated bank account on the day your payment is due.

Reserves – Reserves must be properly budgeted to maintain the financial viability and sustainability of any operation. Reserves are important to fund unanticipated emergency maintenance and repairs, and assist with debt service thru a debt service reserve should the need arise. Reserves can also be established and maintained for the anticipated and expected expenses including but not limited to operation and maintenance and customer deposits.

The annual bond reserve requirement is determined to be **\$122,000**. This will accumulate at the rate of one-tenth of one annual payment per year until the balance is equal to **\$12,200**.

The annual Repair, Replacement and Improvement (RRI) reserve requirement is determined to be **\$24,800**.

When the Bond Reserve Fund is fully funded the entire **\$37,000** annual requirement must be deposited in the RRI Fund for the life of the loan.

Users – This letter of conditions is based upon you providing evidence or a certification that there will be at least 23 residential users and 191 commercial users on the system when construction has been completed. Rural Development funding commitment is based on providing service to a total of 214 users. Before the Agency can agree to the project being advertised for construction bids, you must provide evidence or a

Haring Township – Sewer Project

certification that the total required number of users are currently using the system or signed up to use the system.

Mandatory Hookups: If relying on mandatory connection requirements, you must provide evidence of the ordinance and a certification attesting to the number of users that will be required to connect to the proposed system prior to advertisement for construction bids.

Effective Collection Policy: The facility needs to be operated on a sound business plan. You will be required to develop an “Effective Collection Policy,” which can be included in a “Rate Ordinance,” which will address accounts not paid in full within a specified number of days after the date of billing. The plan should include appropriate late fees, specified timeframes for disconnection of service, and reconnection fees.

Proposed Operating Budget and User Rate Analysis - You must maintain a rate schedule that provides adequate income to meet the minimum requirements for operation and maintenance, debt service, and reserves. You will be required to submit a copy of your proposed annual operating budget and rate analysis to the Agency which supports the proposed loan repayment prior to the Agency giving you written authorization to proceed with the bidding phase. The operating budget should be based on a typical year cash flow after completion of the construction phase. Form RD 442-7 - “Operating Budget” attached or similar form may be utilized for this purpose. The rate analysis will be required to show the number of users, their average consumption based on a twelve month consecutive average, and rate structure to support the necessary revenue to make the operating budget cash flow. It is expected that O&M will change over each successive year and user rates will need to be adjusted on a regular basis.

Assistance is available from technical assistance resources to help you evaluate and complete a rate analysis on your system. This assistance is available free to your organization. If you are interested please contact our office for phone numbers and contacts of these organizations

Insurance and Bonding Requirements - Prior to loan closing or start of construction, whichever occurs first, you must acquire the types of insurance and bond coverage shown below. The use of deductibles may be allowed providing you have the financial resources to cover potential claims requiring payment of the deductible. The Agency strongly recommends that you have your engineer, attorney, and insurance provider(s) review proposed types and amounts of coverage, including any exclusions and deductible provisions. It is your responsibility and not that of the Agency to assure that adequate insurance and fidelity or employee dishonesty bond coverage is maintained.

1. **General Liability Insurance** – Include vehicular coverage.
2. **Workers’ Compensation** - In accordance with appropriate State laws.
3. **Position Fidelity Bond(s)** - All positions occupied by persons entrusted with the receipt and/or disbursement of funds must be bonded. You should have each position bonded in an amount equal to the maximum amount of funds to be under the control of that position at any one time. The coverage may be increased during construction of this project based on the anticipated monthly advances. The minimum coverage acceptable to the Agency will be for each position to be bonded for an amount at least equal to one annual installment on your Agency loan(s). The amount of coverage should be discussed and approved by the Agency. Form RD 440-24, “Position Fidelity Bond” may be used for this purpose.
4. **National Flood Insurance** - If the project involves acquisition or construction in designated special flood or mudslide prone areas, you must purchase a flood insurance policy at the time of loan closing.
5. **Real Property Insurance** – Fire and extended coverage will normally be maintained on all structures except reservoirs, pipelines and other structures if such structures are not normally

Haring Township – Sewer Project

insured and subsurface lift stations except for the value of electrical and pumping equipment. Prior to the acceptance of the facility from the contractor(s), you must obtain real property insurance (fire and extended coverage) on all facilities identified above.

System Management Agreements – If the project or system will be managed or operated by someone other than the applicant, a management agreement must be approved by Rural Development. A draft, unsigned agreement must contain items listed in RUS Bulletin 1780-8 “Minimum Suggested Contents of Management Agreements” and be submitted to Rural Development for concurrence prior to execution of contract.

Accounting Services - You may be required to obtain the services of an independent licensed Certified Public Accountant (CPA). When permitted by state statutes or with the approval of the Agency, a state or Federal auditor may perform the audit in lieu of a CPA.

Audit Agreement - You must enter into a written audit agreement with the auditor and submit a copy to the Agency prior to advertisement of bids. The audit agreement may include terms and conditions that the borrower and auditor deem appropriate; however, the agreement should include the type of audit or financial statements to be completed, the time frame in which the audit or financial statements will be completed, what type of reports will be generated from the services provided and how irregularities will be reported. Prior to the advertisement for bids, your accountant must certify to you and the Agency that the accounts and records as required by your bond resolution/ordinance have been established and are operational.

Audit Requirements - The following management data will be required from you on an annual basis and be submitted to the Agency as specified below:

1. A borrower that expends more than the current threshold in federal financial assistance per fiscal year shall submit an audit performed in accordance with the requirements of OMB Circular A-133. As described above, the total federal funds expended from all sources shall be used to determine federal financial assistance expended. Projects financed with interim financing are considered federal expenditures.
2. A borrower that expends less than the current threshold in Federal financial assistance per fiscal year and an outstanding Agency loan balance of \$1,000,000 or more shall submit an audit performed in accordance with Generally Accepted Government Auditing Standards, (GAGAS).
3. A borrower that expends less than the current threshold in Federal financial assistance per fiscal year and has an outstanding Agency loan balance of less than \$1,000,000 may submit a management report, which includes at a minimum a Balance Sheet and an Income and Expense Statement.

Annual Budget and Projected Cash Flow - Thirty days prior to the beginning of each fiscal year, you will be required to submit an annual budget and projected cash flow to this office. With the submission of the annual budget, you will be required to provide a current rate schedule, a current listing of the Board or Council Members and their terms.

Quarterly Reports – Quarterly management reports will be required until the processing office waives the required reports. You may use RD form 442-2 or other similar format. The area office will notify you in writing when the Quarterly reports are no longer required.

Property Rights - Prior to advertisement for construction bids, you must furnish satisfactory evidence that you have or can obtain adequate continuous and valid control over the lands and rights-of-ways needed for

Haring Township – Sewer Project

the project. Acquisitions of necessary land and rights must be accomplished in accordance with the Uniform Relocation and Real Property Acquisition Act. Such evidence of control over the lands and rights must be in the following form:

Right-of-Ways - A right-of-way map will be required showing clearly the location of all lands and right-of-ways needed for the project. The map must designate public and private lands and rights and the appropriate legal ownership thereof. A certification and legal opinion relative to title to right-of-ways and easements is required. Form RD 442-22, "Opinion of Counsel Relative to Rights-of-Way", and Form RD 442-21, "Right-of-Way Certificate" is to be used. These forms may contain a few exceptions such as properties that must be condemned; however, prior to the start of construction or loan closing, whichever occurs first, new forms must be provided which do not provide for any exceptions.

Preliminary Title Work – All title opinions and/or title commitments should be coordinated with the color-coded right-of-way map.

1. (Preliminary Title Opinions) Form MI RD 1927-9, "Preliminary Title Opinion" along with copies of deeds, contracts or options for any lands needed other than rights-of-way, may be used for each property currently owned or to be acquired. The title search period must cover a minimum of 40 years, be unqualified, and not contain any restrictions, including reverter clauses, which will adversely affect the system.
(Title Commitments) A title insurance commitment will be required on all real estate now owned and property to be acquired in connection with this project. Title insurance commitments must be owner's policies and equal the value of the property as improved. The commitment will name the borrower as the proposed insured. Any exceptions must be reviewed by the attorney, who must provide certification that the exceptions will not adversely affect the operation and maintenance of the facility.
2. (Final Title Opinion) Form MI RD 1927-10, "Final Title Opinion" - On the day of loan closing, your attorney must furnish a separate final title opinion on all existing land(s) and those to be acquired on the day of loan closing.
(Final Title Policy) – At or immediately after loan closing, a Title Insurance Policy showing no exceptions that would adversely affect the use of the real property in connection with the proposed project must be provided.

Engineering Services – The Agency must approve any agreements and modifications to agreements for professional engineering services. The agreement for engineering services should consist of the Engineers Joint Contract Documents Committee (EJCDC) documents as indicated in RUS Bulletin 1780-26, "Guidance for the Use of EJCDC Documents on Water and Waste Projects with RUS Financial Assistance" or other approved form of agreement. The engineer must also provide Form AD-1048 "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion – Lower Tier Covered Transactions."

Resident Inspector(s) – Full-time inspection is required unless a written exception is made by the Agency upon your written request. This service is to be provided by the consulting engineer or other arrangements as approved by the Agency. Prior to the pre-construction conference, a resume of qualifications of the resident inspector(s) will be submitted to the owner and Agency for review and approval. The owner will provide a letter of acceptance for all proposed observers to the engineer and Agency. The resident inspector(s) must attend the pre-construction conference.

Restrictions on Lobbying

Haring Township – Sewer Project

In order to comply with Section 319 of Public Law 101-121 which prohibits applicants and recipients of Federal contracts, grants and loans from using Federal appropriated funds for lobbying, the Federal Government in connection with the award of a specific contract, grant or loan, the **Applicant**, and all contractors and subcontractors must:

1. Execute the attached Certification for Contracts, Grants, and Loans.
2. Complete Standard Form LLL, "Disclosure of Lobbying Activities", if they have made, or agreed to make payment, using funds other than Federal appropriated funds, to influence or attempt to influence a decision in connection with the contract.
3. The Certification (and, if appropriate, the Disclosure) must be provided to USDA, Rural Development.

Environmental Requirements

Mitigation - At the conclusion of the proposal's environmental review process, no adverse actions were identified that would require mitigation measures for this proposed project.

Project Modifications – The project as proposed has been evaluated to be consistent with all applicable environmental requirements. If the project or any project element deviates from or is modified from the original approved project, additional environmental review may be required.

Vulnerability Assessments (VA) and Emergency Response Plans (ERP) – The Agency requires all financed water and wastewater systems to have a vulnerability assessment (VA) and an emergency response plan (ERP) in place. New water or wastewater systems must provide a certification that an ERP is complete prior to the start of operations. A certification that a VA is complete must be submitted within one year of the start of operations. Borrowers with existing systems must provide a certification that a VA and ERP are completed prior to bid authorization. Technical assistance is available in preparing these documents at no cost to you.

Permits – The owner, contractor or responsible party will be required to obtain all required permits for the project prior to advertisement for construction bids. A narrative opinion from your attorney concerning all permits, certificates, licenses and other items necessary to show that all legal requirements can be met and stating how they will be met.

Contract Documents, Final Plans and Specifications

The contract documents should consist of the EJCDC Construction Contract Documents as indicated in RUS Bulletin 1780-26 or other approved form of agreement.

The contract documents, final plans, and specifications must comply with RUS Instruction 1780, Subpart C – Planning, Designing, Bidding, Contracting, Construction and Inspections and be submitted to the Agency for approval prior to advertisement for bids.

The use of any procurement method other than competitive bidding must be requested in writing and approved by the Agency.

The Agency requires a pre-construction conference, pre-final, final, and warranty inspection.

The Agency requires prior agency concurrence with all Change Orders, Invoices, and Payment Estimates.

Haring Township – Sewer Project

Graduation - By accepting this loan, you are also agreeing to refinance (graduate) the unpaid loan balance in whole, or in part, upon request of the Government. If at any time the Agency determines your entity is able to obtain a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms, you will be requested to refinance.

Central Contractor Registration and Universal Identifier Requirements – Requirement for Central Contractor Registration (CCR)

You as the recipient must maintain the currency of your information in the CCR until you submit the final financial report required under this award and all grants funds under this award have been disbursed or de-obligated, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term. Recipients can register on-line at (<https://www.bpn.gov/ccr/>).

You as the recipient may not make a sub-award to an entity unless the entity has provided its Data Universal Numbering System (DUNS) number to you. Sub-recipients with sub-awards of \$25,000 or more must also have and maintain a current CCR registration.

Recipient Reporting. You as the recipient must report each first tier sub-awards of \$25,000 or more in non-Recovery Act funds to <http://www.fsr.gov> no later than the end of the month following the month the obligation was made. As part of your registration profile at <http://www.ccr.gov>, you must report the total compensation of the 5 most highly compensated executives (if the award was \$25,000 or more, 80% or more of annual gross revenues subject to Transparency Act, and \$25 Million of annual gross revenues subject to Transparency Act) by end of month following month in which award was made. This requirement also pertains to sub-recipients (if the award was \$25,000 or more, 80% or more of annual gross revenues subject to Transparency Act, and \$25 Million of annual gross revenues subject to Transparency Act).

Applicable State Statutes and Requirements – Evidence must also be provided indicating your system has a licensed operator, meeting State requirements, will be available prior to the system becoming operational or a suitable supervisory agreement with a licensed operator is in effect.

Civil Rights & Equal Opportunity - You should be aware of and will be required to comply with other federal statute requirements including but not limited to:

1. **Section 504 of the Rehabilitation Act of 1973** – Under section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), no handicapped individual in the United States shall, solely by reason of their handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Agency financial assistance.
2. **Civil Rights Act of 1964** – All borrowers are subject to, and facilities must be operated in accordance with, title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*) and subpart E of part 1901 of this title, particularly as it relates to conducting and reporting of compliance reviews. Recipients shall post in offices and include on all materials [print and non-print (brochures, pamphlets, newspaper advertisements, news releases, outreach letters, letterhead, audio, video, internet and etc.))] used for public information, education and distribution the following nondiscrimination statement (long version).

“In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, age, disability, religion, sex and familial status. (Not all prohibited bases apply to all programs).

Haring Township – Sewer Project

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410 or call (800) 795-3272 (voice) or (202) 720-5964 (TDD)."

If materials have limited space thereby preventing the inclusion of the nondiscrimination statement (long version), recipients shall, at minimum use in print size no smaller than the text the following short version,

"This institution is an equal opportunity provider and employer."

3. The Americans with Disabilities Act (ADA) of 1990 – This Act (42 U.S.C. 12101 et seq.) prohibits discrimination on the basis of disability in employment, State and local government services, public transportation, public accommodations, facilities, and telecommunications. Title II of the Act applies to facilities operated by State and local public entities which provides services, programs and activities. Title III of the Act applies to facilities owned, leased, or operated by private entities which accommodate the public.
4. Age Discrimination Act of 1975 – This Act (42 U.S.C. 6101 et seq.) provides that no person in the United States shall on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Bid Authorization - Once all the conditions outlined in this letter have been met, the Agency may authorize you to advertise the project for construction bids. Such advertisement must be in accordance with appropriate State statutes. Immediately after bid opening you must provide the Agency with the following:

1. Bid tabulation
2. Consulting engineer's evaluation of bids and award of contract recommendation to the owner
3. Your recommendations for contract awards.
4. Revised project budget including bid award amounts.

If the Agency agrees that the construction bids received are acceptable, adequate funds are available to cover the total project costs, and all the administrative conditions of loan approval have been satisfied, loan closing instructions will be issued to you setting forth any further requirements that must be met before a Notice of Award may be issued.

Cost Overruns – Cost overruns exceeding 20% of the development cost at time of loan or grant approval or where the scope of the original purpose has changed will compete for funds with all other applications on hand as of that date. Cost overruns must be due to high bids or unexpected construction problems that cannot be reduced by negotiations, redesign, use of bid alternatives, rebidding or other means prior to consideration by the Agency for subsequent funding. Such requests will be contingent on the availability of funds.

Use of Remaining Funds – When the [water/sewer] project is substantially complete and it appears that there will be remaining loan and/or grant funds after all approved costs are paid, it is the policy of Rural Development (§1780.45(f)) to close out the project as follows:

1. Remaining funds may be used for eligible loan or grant purposes as approved in the Preliminary Engineering Report and subsequent addendums, provided the use will not result in major changes to the facility(s) and the purpose of the loan and grant remains the same.
2. RUS loan funds that are not needed will be applied as an extra payment on the RUS indebtedness unless other disposition is required by bond ordinance, resolution, or State statute.

Haring Township – Sewer Project

3. RUS grant funds not expended for authorized purposes will be cancelled within 30 days of project completion. Prior to actual cancellation, you and your attorney and engineer will be notified of the Agency's intent to cancel the remaining funds and given appropriate appeal rights.

We look forward to continue working with you to complete this project and if you have any questions please contact Blake Smith, Area Specialist at 1-800-944-8119 or by e-mail at blake.smith@mi.usda.gov.

Sincerely yours,

Shelly Fuller
Area Director
USDA, Rural Development
Attachments

cc: Community Programs S/O
Corey Wiggins (email)
James White (email)
Doug Coates (email)

EXHIBIT 6

**CHARTER TOWNSHIP OF HARING
COUNTY OF WEXFORD, MICHIGAN**

Resolution 2013-03

**RESOLUTION TO PURCHASE, ACQUIRE AND CONSTRUCT IMPROVEMENTS TO
THE CHARTER TOWNSHIP OF HARING SANITARY SEWER SYSTEM AND TO
AUTHORIZE PUBLICATION
OF NOTICE OF INTENT TO ISSUE REVENUE BONDS**

At a special meeting of the Township Board of the Charter Township of Haring, held at the Township Hall, 515 Bell Avenue, Cadillac, Michigan, on the 19th day of March, 2013, at 6:00 p.m., Local Time.

PRESENT: Members: Fagerman, Wilkinson, Soule, Scarbrough, Whetstone, Baldwin, McCain

ABSENT: Members: None

The following resolution was offered by Member Fagerman and supported by Member Whetstone:

WHEREAS, this Township Board hereby determines that it is necessary for the public health, safety and welfare of the Charter Township of Haring (the "Township") to issue and sell revenue bonds pursuant to Act 94 of the Public Acts of Michigan of 1933, as amended ("Act 94") to pay part of the cost of improvements to the Township's existing sanitary sewer system (the "System") consisting of the construction of a new wastewater treatment facility, the improvement of certain existing sanitary sewer collection system facilities, the construction of new sanitary sewer collection system facilities, and related appurtenances, improvements and interests in land (the "Project"); and

WHEREAS, the current estimated cost of the Project, including engineering, construction, legal, financial and contingency costs is \$4,526,000; and

WHEREAS, the Township has received an offer of funding assistance from the United States Department of Agriculture - Rural Development to pay a portion of the cost of the Project comprised of a long-term low-interest loan to be evidenced by the proposed revenue bonds under Act 94 in a not to exceed amount of \$2,931,000 and a grant in a not-to-exceed amount of \$595,000; and

WHEREAS, the remaining cost of the Project in the amount of \$1,000,000 shall be paid by a Letter of Credit provided to the Township by Wal-Mart; and

WHEREAS, it is necessary to publish a Notice of Intent to Issue Revenue Bonds pursuant to Section 33 of Act 94.

NOW, THEREFORE, BE IT HEREBY RESOLVED:

1. The Township hereby determines to purchase, acquire and construct the Project and to pay for part of said costs by the issuance of revenue bonds in one or more series pursuant to Act 94 in the maximum principal amount of \$2,931,000.

2. A Notice of Intent to Issue Revenue Bonds shall be published in accordance with Section 33 of Act 94 in the *Cadillac News*, a newspaper of general circulation in the Township and determined to be the newspaper reaching the largest number of persons to whom said Notice is directed, which Notice shall be substantially in the form attached hereto as Exhibit A.

3. The Township Board does hereby determine that the foregoing form of Notice of Intent to Issue Revenue Bonds and the manner of publication directed is the method best calculated to give notice to the System's users and the Township's taxpayers and electors of this Township's intent to issue the bonds, the maximum amount of bonds to be issued, the purpose of the bonds, the security for the bonds, and the right of referendum relating thereto, and such other information as the Township Board determines necessary to adequately inform Township electors of the nature of the Project and the proposed bonds.

4. All resolutions or portions thereof inconsistent with the provisions of this resolution are hereby rescinded.

YEAS: Members: Fagerman, Wilkinson, Soule, Scarbrough, Whetstone, Baldwin, McCain

NAYS: Members: None

ABSENT: Members: None

RESOLUTION DECLARED ADOPTED.



Kirk Soule, Clerk
Charter Township of Haring

STATE OF MICHIGAN)
) ss.
COUNTY OF WEXFORD)

I, Kirk Soule, the duly qualified and acting Clerk of the Charter Township of Haring, Wexford County, Michigan (the "Township") do hereby certify that the foregoing is a true and complete copy of a resolution adopted by the Township Board at a special meeting held on the 19th day of March, 2013, the original of which is on file in my office. Public notice of said meeting was given pursuant to and in compliance with Act No. 267, Public Acts of Michigan, 1976, as amended, including in the case of a special or rescheduled meeting, notice by publication or posting at least eighteen (18) hours prior to the time set for the meeting.

IN WITNESS WHEREOF, I have hereto affixed my official signature this 19 day of March, 2013.



Kirk Soule, Clerk
Charter Township of Haring

EXHIBIT A

NOTICE TO ELECTORS AND TAXPAYERS OF THE CHARTER TOWNSHIP OF HARING OF THE TOWNSHIP'S INTENT TO ISSUE REVENUE BONDS AND THE RIGHT OF REFERENDUM RELATING THERETO

PLEASE TAKE NOTICE THAT THE CHARTER TOWNSHIP OF HARING intends to issue Revenue Bonds in a maximum amount not to exceed \$2,931,000.

PURPOSE

The Bonds shall be issued for the purpose of defraying all or part of the cost of the purchase, acquisition and construction of improvements to the Township's existing Sanitary Sewer System (the "System") consisting of the construction of a new wastewater treatment facility, the improvement of certain existing sanitary sewer collection system facilities, the construction of new sanitary sewer collection system facilities, and related appurtenances, improvements and interests in land.

ESTIMATED PROJECT COST

The total estimated cost of the proposed sewer project is \$4,526,000. The Township has received an offer of funding assistance from the United States Department of Agriculture - Rural Development to pay a portion of the cost of the Project comprised of a long-term low-interest loan to be evidenced by the proposed revenue bonds under Act 94 of the Public Acts of Michigan of 1933, as amended, in a not to exceed amount of \$2,931,000 and a grant in a not-to-exceed amount of \$595,000. The remaining cost of the sewer project in the amount of \$1,000,000 shall be paid by a Letter of Credit provided to the Township by Wal-Mart.

MAXIMUM AMOUNT AND TERMS OF REPAYMENT

The Bonds of this issue shall be issued in one or more series in a maximum aggregate amount not to exceed \$2,931,000, shall mature serially with interest on the unpaid balance at a rate which shall not exceed the maximum rate of interest allowed by law and which is currently expected to be 2.75% per annum and shall be repaid over a term not to exceed the maximum term permitted by law. The Bonds shall be issued pursuant to Act 94.

SOURCE OF PAYMENT OF REVENUE BONDS

The principal of and interest on the Revenue Bonds shall be payable solely from the revenues received by the Township from the operation of the Township Sanitary Sewer System. The revenues will be derived from rates and charges billed to the users of the System, a schedule of which is presently on file in the office of the Township Clerk. Said rates and charges may be revised from time to time to provide sufficient revenues to provide for the expenses of operating and maintaining the System, to pay the principal of and interest on the proposed bonds and to pay other obligations of the System.

The Revenue Bonds will NOT be secured by the Township's Full Faith and Credit and will NOT be a General Obligation of the Township.

RIGHT OF REFERENDUM

THE REVENUE BONDS WILL BE ISSUED WITHOUT A VOTE OF THE ELECTORS APPROVING THE BONDS, UNLESS, WITHIN 45 DAYS FROM THE DATE OF PUBLICATION OF THIS NOTICE OF INTENT, A PETITION, SIGNED BY NOT LESS THAN 10% OF THE REGISTERED ELECTORS RESIDING WITHIN THE LIMITS OF THE CHARTER TOWNSHIP OF HARING, SHALL HAVE BEEN FILED WITH THE TOWNSHIP CLERK REQUESTING A REFERENDUM UPON THE QUESTION OF THE ISSUANCE OF THE BONDS. IF PETITIONS ARE SO FILED, THE REVENUE BONDS SHALL NOT BE ISSUED UNTIL APPROVED BY THE VOTE OF A MAJORITY OF THE ELECTORS OF THE TOWNSHIP QUALIFIED TO VOTE AND VOTING ON THE REVENUE BONDS AT A GENERAL OR SPECIAL ELECTION.

This Notice is published pursuant to the requirements of Section 33 of Act 94 of the Public Acts of Michigan of 1933, as amended, and was approved by the Township Board of the Charter Township of Haring on _____, 2013.

Kirk Soule
Township Clerk
Charter Township of Haring

PROOF of PUBLICATION

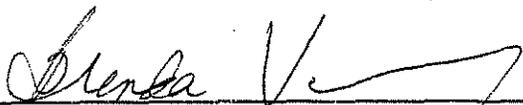
STATE OF MICHIGAN }
County of Wexford } SS.

Sandra Smith of Cadillac News, a paper published in the County of Wexford and circulated in the Counties of Wexford, Missaukee, Osceola, and Lake; being duly sworn, deposed and says she is a Business Leader of said newspaper and that the annexed notice has been duly published in said paper once and that publication thereof was on the 26th day of March A.D. 2013.



Sandra Smith

Subscribed and sworn to before me this 26th day of March A.D. 2013.



Brenda Vanderhoef, Notary Public, State of Michigan
County of Osceola, Acting in County of Wexford
My commission expires: December 16, 2017

**NOTICE TO ELECTORS AND TAXPAYERS OF THE
CHARTER TOWNSHIP OF HARING OF THE TOWNSHIP'S
INTENT TO ISSUE REVENUE BONDS AND THE
RIGHT OF REFERENDUM RELATING THERETO**

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The Revenue Bonds will NOT be secured by the Township's Full Faith and Credit and will NOT be a General Obligation of the Township.

RIGHT OF REFERENDUM

THE REVENUE BONDS WILL BE ISSUED WITHOUT A VOTE OF THE ELECTORS APPROVING THE BONDS, UNLESS, WITHIN 45 DAYS FROM THE DATE OF PUBLICATION OF THIS NOTICE OF INTENT, A PETITION, SIGNED BY NOT LESS THAN 10% OF THE REGISTERED ELECTORS RESIDING WITHIN THE LIMITS OF THE CHARTER TOWNSHIP OF HARING, SHALL HAVE BEEN FILED WITH THE TOWNSHIP CLERK REQUESTING A REFERENDUM UPON THE QUESTION OF THE ISSUANCE OF THE BONDS. IF PETITIONS ARE SO FILED, THE REVENUE BONDS SHALL NOT BE ISSUED UNTIL APPROVED BY THE VOTE OF A MAJORITY OF THE ELECTORS OF THE TOWNSHIP QUALIFIED TO VOTE AND VOTING ON THE REVENUE BONDS AT A GENERAL OR SPECIAL ELECTION.

This Notice is published pursuant to the requirements of Section 33 of Act 94 of the Public Acts of Michigan of 1933, as amended, and was approved by the Township Board of the Charter Township of Haring on March 19, 2013.

Kirk Soule
Township Clerk
Charter Township of Haring

**NO REFERENDUM CERTIFICATE
RE: REVENUE BONDS**

I, Kirk Soule, Clerk for the Charter Township of Haring (the "Township"), do hereby certify and recite as follows:

1. I am the duly elected and qualified Clerk of the Township.
2. I am familiar with the books and records of the Township.

3. Pursuant to a resolution adopted by the Township Board on March 19, 2013, a Notice to Electors and Taxpayers of the Charter Township of Haring of the Township's Intent to Issue Revenue Bonds and the Right of Referendum Relating Thereto for the purpose of defraying all or part of the cost of the purchase, acquisition and construction of improvements to the Township's existing Sanitary Sewer System consisting of the construction of a new wastewater treatment facility, the improvement of certain existing sanitary sewer collection system facilities, the construction of new sanitary sewer collection system facilities, and related appurtenances, improvements and interests in land (the "Project") was published in *The Cadillac News*, a newspaper of general circulation in the Township, on Tuesday, March 26, 2013.

4. No petition requesting referendum upon the question of the issuance of the revenue bonds for the Project was filed with me, as Township Clerk, within the forty-five (45) days immediately following such publication.

Dated: 5-28, 2013



Kirk Soule, Clerk
Charter Township of Haring

EXHIBIT 7

PERMIT NO. MI0059076

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY



**AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM**

In compliance with the provisions of the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1251 *et seq.*) (the "Federal Act"), Michigan Act 451, Public Acts of 1994, as amended (the "Michigan Act"), Parts 31 and 41, and Michigan Executive Order 2011-1,

Haring Charter Township
515 Bell Avenue
Cadillac, Michigan 49601

is authorized to discharge from the **Haring Township Wastewater Treatment Plant** located at

South of County Road 34 and East of U.S. Route 131
Haring Township, Wexford County, Michigan

designated as **Haring Twp WWTP**

to the receiving water named the Clam River in accordance with effluent limitations, monitoring requirements, and other conditions set forth in this permit.

This permit is based on a complete application submitted on October 10, 2012.

This permit for a new use takes immediate effect on the date of issuance. The provisions of this permit are severable. After notice and opportunity for a hearing, this permit may be modified, suspended, or revoked in whole or in part during its term in accordance with applicable laws and rules.

This permit and the authorization to discharge shall expire at midnight, **October 1, 2017**. In order to receive authorization to discharge beyond the date of expiration, the permittee shall submit an application which contains such information, forms, and fees as are required by the Department of Environmental Quality (Department) by **April 4, 2017**.

Issued: July 22, 2013



Phillip Argiroff, Chief
Permits Section
Water Resources Division

PERMIT FEE REQUIREMENTS

In accordance with Section 324.3120 of the Michigan Act, the permittee shall make payment of an annual permit fee to the Department for each October 1 the permit is in effect regardless of occurrence of discharge. The permittee shall submit the fee in response to the Department's annual notice. The fee shall be postmarked by January 15 for notices mailed by December 1. The fee is due no later than 45 days after receiving the notice for notices mailed after December 1.

Annual Permit Fee Classification: Municipal Minor, less than 1 MGD (IP)

In accordance with Section 324.3132 of the Michigan Act, the permittee shall make payment of an annual biosolids land application fee to the Department if the permittee land applies biosolids. In response to the Department's annual notice, the permittee shall submit the fee, which shall be postmarked no later than January 31 of each year.

ANTIDegradation

The Department has determined that the permittee's Antidegradation Demonstration, based on information required by Subrule (4) of R323.1098, shows that lowering of water quality is necessary to support the identified important social and economic development in the area. This determination is solely for purposes of satisfying state water quality regulations and is not intended to supplant local requirements, including land use or zoning laws. It is not, and should not be construed as, a finding by the Department that the proposed development meets local requirements or ordinances.

CONTACT INFORMATION

Unless specified otherwise, all contact with the Department required by this permit shall be made to the Cadillac District Supervisor of the Water Resources Division. The Cadillac District Office is located at 120 West Chapin Street, Cadillac, Michigan 49601-2158, Telephone: 231-876-4474, Fax: 231-775-1511.

CONTESTED CASE INFORMATION

Any person to whom this permit is not acceptable may file a sworn petition with the Michigan Administrative Hearing System within the Michigan Department of Licensing and Regulatory Affairs, c/o the Michigan Department of Environmental Quality, setting forth the conditions of the permit which are being challenged and specifying the grounds for the challenge. The Department of Licensing and Regulatory Affairs may reject any petition filed more than 60 days after issuance as being untimely.

PART I

Section A. Limitations and Monitoring Requirements

1. Final Effluent Limitations, Monitoring Point 001A

During the period beginning on the effective date of this permit and lasting until the expiration date of this permit, the permittee is authorized to discharge treated municipal wastewater from Monitoring Point 001A through Outfall 001. Outfall 001 discharges to Clam River. Such discharge shall be limited and monitored by the permittee as specified below.

<u>Parameter</u>	<u>Maximum Limits for Quantity or Loading</u>				<u>Maximum Limits for Quality or Concentration</u>				<u>Monitoring Frequency</u>	<u>Sample Type</u>
	<u>Monthly</u>	<u>7-Day</u>	<u>Daily</u>	<u>Units</u>	<u>Monthly</u>	<u>7-Day</u>	<u>Daily</u>	<u>Units</u>		
Flow	(report)	—	(report)	MGD	—	—	—	—	Daily	Report Total Daily Flow
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)	28	45	—	lbs/day	25	—	40	mg/l	5×Weekly	24-Hr Composite
Total Suspended Solids	34	51	—	lbs/day	30	45	—	mg/l	5×Weekly	24-Hr Composite
Ammonia Nitrogen (as N)	—	—	—	lbs/day	(report)	—	—	mg/l	5×Weekly	24-Hr Composite
Total Phosphorus (as P)										
May 1 – March 31	0.56	—	—	lbs/day	0.5	—	—	mg/l	5×Weekly	24-Hr Composite
April 1 - 30	0.73	—	—	lbs/day	0.65	—	—	mg/l	5×Weekly	24-Hr Composite
Total Copper	—	—	0.04	lbs/day	—	—	39	µg/l	Weekly	24-Hr Composite
Total Zinc	—	—	0.54	lbs/day	—	—	480	µg/l	Weekly	24-Hr Composite
Fecal Coliform Bacteria	—	—	—	—	200	400	—	ct/100 ml	5×Weekly	Grab
					Minimum Monthly					
CBOD ₅ Minimum % Removal	—	—	—	—	85	—	—	%	Monthly	Calculation
Total Suspended Solids Minimum % Removal	—	—	—	—	85	—	—	%	Monthly	Calculation
					Minimum Daily		Maximum Daily			
pH	—	—	—	—	6.5	—	9.0	S.U.	5×Weekly	Grab
Dissolved Oxygen	—	—	—	—	3.0	—	—	mg/l	5×Weekly	Grab

The following design flow was used in determining the above limitations, but is not to be considered a limitation or actual capacity: 0.135 MGD

PART I**Section A. Limitations and Monitoring Requirements**

- a. **Narrative Standard**
The receiving water shall contain no turbidity, color, oil films, floating solids, foams, settleable solids, or deposits as a result of this discharge in unnatural quantities which are or may become injurious to any designated use.
- b. **Sampling Locations**
Samples for CBOD₅, Total Suspended Solids, Ammonia Nitrogen and Total Phosphorus shall be taken prior to disinfection. Samples for Dissolved Oxygen, Fecal Coliform Bacteria, Total Residual Chlorine and pH shall be taken after disinfection. The Department may approve alternate sampling locations which are demonstrated by the permittee to be representative of the effluent.
- c. **Ultraviolet Disinfection**
It is understood that ultraviolet light will be used to achieve compliance with the fecal coliform limitations. If disinfection other than ultraviolet light will be used, the permittee shall notify the Department in accordance with Part II.C.12. - Changes in Facility Operations.
- d. **Percent Removal Requirements**
These requirements shall be calculated based on the monthly (30-day) effluent CBOD₅ and Total Suspended Solids concentrations and the monthly influent concentrations for approximately the same period.
- e. **Analytical Methods for Total Copper and Total Zinc**
The sampling procedures, preservation and handling, and analytical protocol for compliance monitoring for total copper and total zinc shall be in accordance with approved EPA Methods. Upon approval of the Department, the permittee may use alternate analytical methods (for parameters with methods specified in 40 CFR 136, the alternate methods are restricted to those listed in 40 CFR 136).
- f. **Monitoring Frequency Reduction for Total Copper and Total Zinc**
After the submittal of 12 months of data, the permittee may request, in writing, Department approval of a reduction in monitoring frequency for total copper and total zinc. This request shall contain an explanation as to why the reduced monitoring is appropriate. Upon receipt of written approval and consistent with such approval, the permittee may reduce the monitoring frequency indicated in Part I.A.1 of this permit. The monitoring frequency for total copper and total zinc shall not be reduced to less than annual. The Department may revoke the approval for reduced monitoring at any time upon notification to the permittee.

2. Untreated or Partially Treated Sewage Discharge Reporting and Testing Requirements

In accordance with Section 324.3112a of the Michigan Act, if untreated sewage, including sanitary sewer overflows (SSO) and combined sewer overflows (CSO), or partially treated sewage is directly or indirectly discharged from a sewer system onto land or into the waters of the state, the entity responsible for the sewer system shall immediately, but not more than 24 hours after the discharge begins, notify, by telephone, the Department, local health departments, a daily newspaper of general circulation in the county in which the permittee is located, and a daily newspaper of general circulation in the county or counties in which the municipalities whose waters may be affected by the discharge are located that the discharge is occurring.

The permittee shall also annually contact municipalities, including the superintendent of a public drinking water supply with potentially affected intakes, whose waters may be affected by the permittee's discharge of combined sewage, and if those municipalities wish to be notified in the same manner as specified above, the permittee shall provide such notification. Such notification shall also include a daily newspaper in the county of the affected municipality.

At the conclusion of the discharge, written notification shall be submitted in accordance with and on the "Report of Discharge Form" available via the internet at: <http://www.deq.state.mi.us/csosso/>, or, alternatively for combined sewer overflow discharges, in accordance with notification procedures approved by the Department.

PART I**Section A. Limitations and Monitoring Requirements**

In addition, in accordance with Section 324.3112a of the Michigan Act, each time a discharge of untreated sewage or partially treated sewage occurs, the permittee shall test the affected waters for *Escherichia coli* to assess the risk to the public health as a result of the discharge and shall provide the test results to the affected local county health departments and to the Department. The testing shall be done at locations specified by each affected local county health department but shall not exceed 10 tests for each separate discharge event. The affected local county health department may waive this testing requirement, if it determines that such testing is not needed to assess the risk to the public health as a result of the discharge event. The results of this testing shall be submitted with the written notification required above, or, if the results are not yet available, submit them as soon as they become available. This testing is not required, if the testing has been waived by the local health department, or if the discharge(s) did not affect surface waters.

Permittees accepting sanitary or municipal sewage from other sewage collection systems are encouraged to notify the owners of those systems of the above reporting and testing requirements.

3. Facility Contact

The "Facility Contact" was specified in the application. The permittee may replace the facility contact at any time, and shall notify the Department in writing within 10 days after replacement (including the name, address and telephone number of the new facility contact).

- a. The facility contact shall be (or a duly authorized representative of this person):
 - for a corporation, a principal executive officer of at least the level of vice president, or a designated representative, if the representative is responsible for the overall operation of the facility from which the discharge described in the permit application or other NPDES form originates,
 - for a partnership, a general partner,
 - for a sole proprietorship, the proprietor, or
 - for a municipal, state, or other public facility, either a principal executive officer, the mayor, village president, city or village manager or other duly authorized employee.
- b. A person is a duly authorized representative only if:
 - the authorization is made in writing to the Department by a person described in paragraph a. of this section; and
 - the authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the facility (a duly authorized representative may thus be either a named individual or any individual occupying a named position).

Nothing in this section obviates the permittee from properly submitting reports and forms as required by law.

PART I**Section A. Limitations and Monitoring Requirements****4. Monthly Operating Reports**

Part 41 of Act 451 of 1994 as amended, specifically Section 324.4106 and associated Rule 299.2953, requires that the permittee file with the Department, on forms prescribed by the Department, reports showing the effectiveness of the treatment facility operation and the quantity and quality of liquid wastes discharged into waters of the state.

Within thirty (30) days of the effective date of this permit, the permittee shall submit to the Department a treatment facility monitoring program to meet this requirement. Upon approval by the Department the permittee shall implement the treatment facility monitoring program. The reporting forms and guidance are available on the DEQ web site at http://www.michigan.gov/deq/0,1607,7-135-3313_44117--,00.html. The permittee may use alternative operating forms if they are consistent with the approved monitoring program. These forms shall be maintained on site and shall be provided to the Department for review upon request. These treatment facility monitoring records shall be maintained for a minimum of three years.

Section B. Schedule of Compliance**1. Schedule of Compliance Not Required**

This section (Section B: Schedule of Compliance) is not needed for this permit.

PART I**Section C. Industrial Waste Pretreatment Program****1. Michigan Industrial Pretreatment Program**

The permittee shall develop and implement a Michigan Industrial Pretreatment Program (MIPP) that enables the permittee to detect violations and enforce federal, state, and local standards for the protection of the wastewater treatment works, its operation, worker health and safety, and the aquatic environment. This program is required under the authority of the Michigan Act and Rules 323.2301 through 323.2317 of the Michigan Administrative Code (Part 23 Rules).

a. MIPP Development

On or before April 1, 2014, the permittee shall submit to the Department for approval all documents required for the implementation of an MIPP which comply with the Part 23 Rules. At a minimum, the submittal shall include:

- 1) the results of a user survey which identifies all nondomestic users of the waste collection system. This submittal shall designate those nondomestic users which meet the definition of a significant industrial user (see Part II.A.). For nondomestic users the following information shall be included:
 - a) the user's name and mailing address which shall include both the local facility address and the main office address, if different;
 - b) the principal enterprise(s) of the user; the product(s) produced and raw material(s) processed; the facility's production rate(s); and the Standard Industrial Classification (SIC) code(s);
 - c) the quantity of process wastewater discharged daily and an indication of whether the discharge is intermittent or continuous;
 - d) a description of any pretreatment provided prior to discharge to the waste collection system; and
 - e) a description of the wastewater characteristics in terms of pollutant parameters and concentrations.
- 2) documents that will provide the legal authority necessary for the implementation and enforcement of an MIPP throughout the service area. The legal authority may be contained in a statute, ordinance, regulations, or agreements in which the permittee is authorized to enact, enter into, or implement, and which is authorized by state law. The legal authority shall enable the permittee to carry out the activities specified in Rule 323.2306(a). In addition, the legal authority shall enable the permittee to prohibit discharges throughout the service area that:
 - a) cause, in whole or in part, the permittee's failure to comply with any condition of this permit or the Michigan Act;
 - b) restrict, in whole or in part, the permittee's management of biosolids;
 - c) cause, in whole or in part, operational problems at the treatment facility or in its collection system;
 - d) violate any of the general or specific prohibitions identified in Rule 323.2303(1) and (2);
 - e) violate categorical standards identified in Rule 323.2311; or
 - f) violate local limits established in accordance with Rule 323.2303(4).
- 3) procedures which describe, in sufficient detail, program commitments that will ensure compliance with the requirements of the Part 23 Rules throughout the service area. At a minimum, the procedures shall enable the permittee to conduct the activities specified in Rule 323.2306(c).

PART I

Section C. Industrial Waste Pretreatment Program

- 4) a detailed description of the permit which will be used by the permittee to apply applicable pretreatment standards and requirements to nondomestic users throughout the service area. At a minimum, the permit shall contain the conditions specified in Rule 323.2306(a)(iii).
- 5) an enforcement response plan as required by Rule 323.2306(g), which describes, in sufficient detail, program commitments which will enable the enforcement of the MIPP throughout the service area.
- 6) a description of the resources to maintain, at a minimum, the following:
 - a) an adequate revenue structure for effective implementation of the MIPP;
 - b) adequate staffing levels for effective implementation of the MIPP; and
 - c) necessary equipment for effective implementation of the MIPP.
- 7) local limits designed to prevent types of discharges that are listed as prohibitions in item 2), above. Local limits shall be based on data that is representative of actual conditions demonstrated in a maximum allowable headworks loading analysis.

b. MIPP Implementation and Enforcement

The permittee shall implement and enforce the approved MIPP within one month after written approval from the Department. Upon its approval, the approved MIPP becomes an enforceable requirement of this permit. At a minimum, implementation and enforcement of the approved MIPP shall include the following:

- 1) complying with the Part 23 Rules and the approved MIPP;
- 2) maintaining a list of nondomestic users that meet the criteria of a significant industrial user as defined in Rule 323.2302(cc).
- 3) developing and maintaining, for a minimum of three (3) years, all records and information necessary to determine nondomestic user compliance with the Part 23 Rules and the approved MIPP. This period of retention shall be extended during the course of any unresolved enforcement action or litigation regarding a nondomestic user or when requested by the Department or the United States Environmental Protection Agency. All of the aforementioned records and information shall be made available upon request for inspection and copying by the Department and the United States Environmental Protection Agency.
- 4) evaluating the approved MIPP for compliance with the Part 23 Rules. Based on an evaluation, the permittee shall propose to the Department all necessary changes or modifications to the approved MIPP no later than the next Industrial Pretreatment Program Annual Report due date (see item 5) below).
- 5) on or before April 1 of each year, submitting to the Department an Industrial Pretreatment Program (IPP) Annual Report as required by Rule 323.2310(8) on the status of program implementation and enforcement activities. The reporting period shall begin on January 1 and end on December 31. At a minimum, the IPP Annual Report shall contain the following items:
 - a) additions, deletions, and any other modifications to the permittee's previously submitted nondomestic user inventory (Rule 323.2306(c)(i));
 - b) additions, deletions, and any other modifications to the permittee's approved significant industrial user list (Rule 323.2306(h));

PART I**Section C. Industrial Waste Pretreatment Program**

- c) a listing of significant Industrial users which were not inspected by the permittee at least once during the reporting period or at the frequency committed to in the approved MIPP;
 - d) a listing of significant Industrial users which were not sampled for all required pollutants by the permittee at least once during the reporting period or at the frequency committed to in the approved MIPP;
 - e) a listing of significant Industrial users without an effective unexpired permit at any time during the reporting period;
 - f) a listing of categorical Industrial users in significant noncompliance (SNC) indicating which SNC criteria as defined in Rule 323.2302(dd)(i)-(viii) were violated during the reporting period;
 - g) proof of publication of all categorical industrial users in significant noncompliance in the largest daily newspaper in the municipality in which the permittee is located;
 - h) a summary of the enforcement activities undertaken by the permittee during the report period. This summary shall include:
 - (1) a listing of nondomestic users which were the subject of an enforcement action;
 - (2) the nature of the violation;
 - (3) the enforcement action taken and the date the action was taken; and
 - (4) whether the nondomestic user returned to compliance by the end of the reporting period (include date nondomestic user returned to compliance).
 - i) a listing of Significant Industrial Users who during the reporting period did not submit pretreatment reports in accordance with requirements specified in their permit;
 - j) a listing of significant Industrial users who during the reporting period did not self-monitor in accordance with requirements specified in their permit;
 - k) a summary of results of all the sampling and analyses performed of the wastewater treatment plant's influent, effluent, and biosolids conducted in accordance with approved methods during the reporting period. The summary shall include the monthly average, daily maximum, quantification level, and number of samples analyzed for each pollutant. At a minimum, the results of analyses for all locally limited parameters for at least one monitoring event that tests influent, effluent and biosolids during the reporting period shall be submitted with each report, unless otherwise required by the Department. Sample collection shall be at intervals sufficient to provide pollutant removal rates, unless the pollutant is not measurable; and
 - l) any other relevant information as requested by the Department.
- c. **Modifications to the Approved MIPP**
Upon approval from the Department, modifications to the approved MIPP in accordance with Rule 323.2309 are incorporated as enforceable requirements of this permit.
- 1) The Department may require modifications to the approved MIPP which are necessary to ensure compliance with the Part 23 Rules in accordance with Rule 323.2309.
 - 2) The permittee shall not implement changes or modifications to the approved MIPP without notification to the Department.

PART I**Section D. Residuals Management Program****1. Residuals Management Program for Land Application of Biosolids**

A permittee seeking authorization to land apply bulk biosolids or prepare bulk biosolids for land application shall develop and submit a Residuals Management Program (RMP) to the Department (see Part I.D.1.e) for approval. Effective upon Department approval of the permittee's RMP, the permittee is authorized to land apply bulk biosolids or prepare bulk biosolids for land application in accordance with the requirements established in R323.2401 through R323.2418 of the Michigan Administrative Code (Part 24 Rules) which can be obtained via the internet (<http://www.michigan.gov/deq/> and on the left side of the screen click on Water, Biosolids & Industrial Pretreatment, Biosolids, then click on Biosolids Laws and Rules Information which is under the Laws & Rules banner in the center of the screen). The permittee's approved RMP, and any approved modifications thereto, are enforceable requirements of this permit. Incineration, landfilling and other residual disposal activities shall be conducted in accordance with Part II.D.7. of this permit.

a. RMP Approval and Implementation

A permittee seeking approval of an RMP shall submit the RMP to the Department (see Part I.D.1.e) at least 180 days prior to the land application of biosolids. The permittee may utilize the RMP Electronic Form which can be obtained via the internet (<http://www.michigan.gov/deq/> and on the left side of the screen click on Water, Biosolids & Industrial Pretreatment, Biosolids then click on RMP Electronic Form which is under the Downloads banner in the center of the screen) or obtain detailed requirements from the Department. The RMP shall become effective and shall be implemented by the permittee upon written approval by the Department.

b. Annual Report

On or before October 30 of each year, the permittee shall submit an annual report to the Biosolids Program, Water Resources Division, Department of Environmental Quality, P.O. Box 30458, Lansing, MI 48909-7958 for the previous fiscal year of October 1 through September 30. At a minimum, the report shall contain:

1) a certification that current residuals management practices are in accordance with the approved RMP, or a proposal for modification to the approved RMP; and

2) a completed Biosolids Annual Report Form which can be obtained via the Internet (<http://www.michigan.gov/deq/> and on the left side of the screen click on Water, Biosolids & Industrial Pretreatment, Biosolids then click on Biosolids Annual Report Form which is under the Downloads banner in the center of the screen) or from the Department.

c. Modifications to the Approved RMP

Prior to implementation of modifications to the RMP, the permittee shall submit proposed modifications to the Department (see Part I.D.1.e.) for approval. The approved modification shall become effective upon the date of approval. Upon written notification, the Department may impose additional requirements and/or limitations to the approved RMP as necessary to protect public health and the environment from any adverse effect of a pollutant in the biosolids.

d. Recordkeeping

Records required by the Part 24 Rules shall be kept for a minimum of five years. However, the records documenting cumulative loading for sites subject to cumulative pollutant loading rates shall be kept as long as the site receives biosolids.

e. Contact Information

RMP related submittals to the Department shall be to the Cadillac District Supervisor of the Water Resources Division. The Cadillac District Office is located at 120 West Chapin Street, Cadillac, Michigan 49601-2158, Telephone: 231-876-4474, Fax: 231-775-1511.

PART II

Part II may include terms and /or conditions not applicable to discharges covered under this permit.

Section A. Definitions

Acute toxic unit (TU_A) means $100/LC_{50}$ where the LC_{50} is determined from a whole effluent toxicity (WET) test which produces a result that is statistically or graphically estimated to be lethal to 50% of the test organisms.

Bioaccumulative chemical of concern (BCC) means a chemical which, upon entering the surface waters, by itself or as its toxic transformation product, accumulates in aquatic organisms by a human health bioaccumulation factor of more than 1000 after considering metabolism and other physiochemical properties that might enhance or inhibit bioaccumulation. The human health bioaccumulation factor shall be derived according to R 323.1057(5). Chemicals with half-lives of less than 8 weeks in the water column, sediment, and biota are not BCCs. The minimum bioaccumulation concentration factor (BAF) information needed to define an organic chemical as a BCC is either a field-measured BAF or a BAF derived using the biota-sediment accumulation factor (BSAF) methodology. The minimum BAF information needed to define an inorganic chemical as a BCC, including an organometal, is either a field-measured BAF or a laboratory-measured bioconcentration factor (BCF). The BCCs to which these rules apply are identified in Table 5 of R 323.1057 of the Water Quality Standards.

Biosolids are the solid, semisolid, or liquid residues generated during the treatment of sanitary sewage or domestic sewage in a treatment works. This includes, but is not limited to, scum or solids removed in primary, secondary, or advanced wastewater treatment processes and a derivative of the removed scum or solids.

Bulk biosolids means biosolids that are not sold or given away in a bag or other container for application to a lawn or home garden.

Certificate of Coverage (COC) is a document, issued by the Department, which authorizes a discharge under a general permit.

Chronic toxic unit (TU_C) means $100/MATC$ or $100/IC_{25}$, where the maximum acceptable toxicant concentration (MATC) and IC_{25} are expressed as a percent effluent in the test medium.

Class B Biosolids refers to material that has met the Class B pathogen reduction requirements or equivalent treatment by a Process to Significantly Reduce Pathogens (PSRP) in accordance with the Part 24 Rules. Processes include aerobic digestion, composting, anaerobic digestion, lime stabilization and air drying.

Daily concentration is the sum of the concentrations of the individual samples of a parameter divided by the number of samples taken during any calendar day. If the parameter concentration in any sample is less than the quantification limit, regard that value as zero when calculating the daily concentration. The daily concentration will be used to determine compliance with any maximum and minimum daily concentration limitations (except for pH and dissolved oxygen). When required by the permit, report the maximum calculated daily concentration for the month in the "MAXIMUM" column under "QUALITY OR CONCENTRATION" on the Discharge Monitoring Reports (DMRs).

For pH, report the maximum value of any individual sample taken during the month in the "MAXIMUM" column under "QUALITY OR CONCENTRATION" on the DMRs and the minimum value of any individual sample taken during the month in the "MINIMUM" column under "QUALITY OR CONCENTRATION" on the DMRs. For dissolved oxygen, report the minimum concentration of any individual sample in the "MINIMUM" column under "QUALITY OR CONCENTRATION" on the DMRs.

Daily loading is the total discharge by weight of a parameter discharged during any calendar day. This value is calculated by multiplying the daily concentration by the total daily flow and by the appropriate conversion factor. The daily loading will be used to determine compliance with any maximum daily loading limitations. When required by the permit, report the maximum calculated daily loading for the month in the "MAXIMUM" column under "QUANTITY OR LOADING" on the DMRs.

Department means the Michigan Department of Environmental Quality.

PART II

Section A. Definitions

Detection Level means the lowest concentration or amount of the target analyte that can be determined to be different from zero by a single measurement at a stated level of probability.

Discharge Event is a discrete occurrence during which effluent is discharged to the surface water up to 10 days of a consecutive 14 day period.

EC₅₀ means a statistically or graphically estimated concentration that is expected to cause 1 or more specified effects in 50% of a group of organisms under specified conditions.

Fecal coliform bacteria monthly is the geometric mean of the samples collected during a discharge event. Days with no discharge shall not be used to determine the value. The calculated monthly value will be used to determine compliance with the maximum monthly fecal coliform bacteria limitations. When required by the permit, report the calculated monthly value in the "AVERAGE" column under "QUALITY OR CONCENTRATION" on the DMR. If the period in which the discharge event occurred was partially in each of two months, the monthly value shall be reported on the DMR of the month in which the last day of discharge occurred.

Fecal coliform bacteria 7-day is the geometric mean of the samples collected in any 7-day period during a discharge event. The calculated 7-day value will be used to determine compliance with the maximum 7-day fecal coliform bacteria limitations. Days with no discharge shall not be used to determine the value. When required by the permit, report the maximum calculated 7-day concentration for the month in the "MAXIMUM" column under "QUALITY OR CONCENTRATION" on the DMRs. If the seven day period was partially in each of two months, the value shall be reported on the DMR of the month in which the last day of discharge occurred.

Flow Proportioned sample is a composite sample with the sample volume proportional to the effluent flow.

Grab sample is a single sample taken at neither a set time nor flow.

Geometric Mean is the average of the logarithmic values of a base 10 data set, converted back to a base 10 number.

IC₂₅ means the toxicant concentration that would cause a 25% reduction in a nonquantal biological measurement for the test population.

Interference is a discharge which, alone or in conjunction with a discharge or discharges from other sources, both: 1) inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and 2) therefore, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or, of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act. [This definition does not apply to sample matrix interference.]

Land Application means spraying or spreading biosolids or a biosolids derivative onto the land surface, injecting below the land surface, or incorporating into the soil so that the biosolids or biosolids derivative can either condition the soil or fertilize crops or vegetation grown in the soil.

LC₅₀ means a statistically or graphically estimated concentration that is expected to be lethal to 50% of a group of organisms under specified conditions.

Maximum acceptable toxicant concentration (MATC) means the concentration obtained by calculating the geometric mean of the lower and upper chronic limits from a chronic test. A lower chronic limit is the highest tested concentration that did not cause the occurrence of a specific adverse effect. An upper chronic limit is the lowest tested concentration which did cause the occurrence of a specific adverse effect and above which all tested concentrations caused such an occurrence.

PART II**Section A. Definitions**

MGD means million gallons per day.

Monthly monitoring frequency refers to a calendar month. When required by this permit, an analytical result, reading, value or observation must be reported for that period if a discharge occurs during that period.

Monthly concentration is the sum of the daily concentrations determined during a discharge event divided by the number of daily concentrations determined. The calculated monthly concentration will be used to determine compliance with any maximum monthly concentration limitations. Days with no discharge shall not be used to determine the value. When required by the permit, report the calculated monthly concentration in the "AVERAGE" column under "QUALITY OR CONCENTRATION" on the DMR. If the seven day period was partially in each of two months, the monthly average shall be reported on the DMR of the month in which the last day of discharge occurred.

For minimum percent removal requirements, the monthly influent concentration and the monthly effluent concentration shall be determined. The calculated monthly percent removal, which is equal to 100 times the quantity [1 minus the quantity (monthly effluent concentration divided by the monthly influent concentration)], shall be reported in the "MINIMUM" column under "QUALITY OR CONCENTRATION" on the DMRs.

Monthly loading is the sum of the daily loadings of a parameter divided by the number of daily loadings determined during a discharge event. The calculated monthly loading will be used to determine compliance with any maximum monthly loading limitations. Days with no discharge shall not be used to determine the value. When required by the permit, report the calculated monthly loading in the "AVERAGE" column under "QUANTITY OR LOADING" on the DMR. If the seven day period was partially in each of two months, the monthly average shall be reported on the DMR of the month in which the last day of discharge occurred.

National Pretreatment Standards are the regulations promulgated by or to be promulgated by the Federal Environmental Protection Agency pursuant to Section 307(b) and (c) of the Federal Act. The standards establish nationwide limits for specific industrial categories for discharge to a POTW.

No observed adverse effect level (NOAEL) means the highest tested dose or concentration of a substance which results in no observed adverse effect in exposed test organisms where higher doses or concentrations result in an adverse effect.

Noncontact Cooling Water is water used for cooling which does not come into direct contact with any raw material, intermediate product, by-product, waste product or finished product.

Nondomestic user is any discharger to a POTW that discharges wastes other than or in addition to water-carried wastes from toilet, kitchen, laundry, bathing or other facilities used for household purposes.

Partially treated sewage is any sewage, sewage and storm water, or sewage and wastewater, from domestic or industrial sources that is treated to a level less than that required by the permittee's National Pollutant Discharge Elimination System permit, or that is not treated to national secondary treatment standards for wastewater, including discharges to surface waters from retention treatment facilities.

Pretreatment is reducing the amount of pollutants, eliminating pollutants, or altering the nature of pollutant properties to a less harmful state prior to discharge into a public sewer. The reduction or alteration can be by physical, chemical, or biological processes, process changes, or by other means. Dilution is not considered pretreatment unless expressly authorized by an applicable National Pretreatment Standard for a particular industrial category.

POTW is a publicly owned treatment works.

Quantification level means the measurement of the concentration of a contaminant obtained by using a specified laboratory procedure calculated at a specified concentration above the detection level. It is considered the lowest concentration at which a particular contaminant can be quantitatively measured using a specified laboratory procedure for monitoring of the contaminant.

PART II**Section A. Definitions**

Quarterly monitoring frequency refers to a three month period, defined as January through March, April through June, July through September, and October through December. When required by this permit, an analytical result, reading, value or observation must be reported for that period if a discharge occurs during that period.

Regional Administrator is the Region 5 Administrator, U.S. EPA, located at R-19J, 77 W. Jackson Blvd., Chicago, Illinois 60604.

Significant industrial user is a nondomestic user that: 1) is subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N; or 2) discharges an average of 25,000 gallons per day or more of process wastewater to a POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the permittee as defined in 40 CFR 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's treatment plant operation or violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)).

Significant Materials Significant Materials means any material which could degrade or impair water quality, including but not limited to: raw materials; fuels; solvents, detergents, and plastic pellets; finished materials such as metallic products; hazardous substances designated under Section 101(14) of Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (see 40 CFR 372.65); any chemical the facility is required to report pursuant to Section 313 of Emergency Planning and Community Right-to-Know Act (EPCRA); polluting materials as identified under the Part 5 Rules (Rules 324.2001 through 324.2009 of the Michigan Administrative Code); Hazardous Wastes as defined in Part 111 of the Michigan Act; fertilizers; pesticides; and waste products such as ashes, slag, and sludge that have the potential to be released with storm water discharges.

Stoichiometric means the quantity of a reagent calculated to be necessary and sufficient for a given chemical reaction.

Tier I value means a value for aquatic life, human health or wildlife calculated under R 323.1057 of the Water Quality Standards using a tier I toxicity database.

Tier II value means a value for aquatic life, human health or wildlife calculated under R 323.1057 of the Water Quality Standards using a tier II toxicity database.

Total Maximum Daily Loads (TMDLs) are required by the Federal Act for waterbodies that do not meet Water Quality Standards. TMDLs represent the maximum daily load of a pollutant that a waterbody can assimilate and meet Water Quality Standards and an allocation of that load among point sources, nonpoint sources, and a margin of safety.

Toxicity Reduction Evaluation (TRE) means a site-specific study conducted in a stepwise process designed to identify the causative agents of effluent toxicity, isolate the sources of toxicity, evaluate the effectiveness of toxicity control options, and then confirm the reduction in effluent toxicity.

Water Quality Standards means the Part 4 Water Quality Standards promulgated pursuant to Part 31 of Act No. 451 of the Public Acts of 1994, as amended, being Rules 323.1041 through 323.1117 of the Michigan Administrative Code.

Weekly monitoring frequency refers to a calendar week which begins on Sunday and ends on Saturday. When required by this permit, an analytical result, reading, value or observation must be reported for that period if a discharge occurs during that period.

Yearly monitoring frequency refers to a calendar year beginning on January 1 and ending on December 31. When required by this permit, an analytical result, reading, value or observation must be reported for that period if a discharge occurs during that period.

PART II**Section A. Definitions**

24-Hour Composite sample is a flow proportioned composite sample consisting of hourly or more frequent portions that are taken over a 24-hour period.

3-Portion Composite sample is a sample consisting of three equal volume grab samples collected at equal intervals over an 8-hour period.

7-day concentration is the sum of the daily concentrations determined during any 7 days of discharge during a discharge event divided by the number of daily concentrations determined. If the number of days of the discharge event is less than 7 days the number of actual days of discharge shall be used for the calculation. The calculated 7-day concentration will be used to determine compliance with any maximum 7-day concentration limitations. When required by the permit, report the maximum calculated 7-day concentration for the month in the "MAXIMUM" column under "QUALITY OR CONCENTRATION" on the DMR. If the seven day period was partially in each of two months, the value shall be reported on the DMR of the month in which the last day of discharge occurred.

7-day loading is the sum of the daily loadings of a parameter divided by the number of daily loadings determined during any 7 consecutive days. If the number of days of the discharge event is less than 7 days the number of actual days of discharge shall be used for the calculation. The calculated 7-day loading will be used to determine compliance with any maximum 7-day loading limitations. When required by the permit, report the maximum calculated 7-day loading for the month in the "MAXIMUM" column under "QUANTITY OR LOADING" on the DMR. If the seven day period in which the discharge event occurred was partially in each of two months, the value shall be reported on the DMR of the month in which the last day of discharge occurred.

PART II**Section B. Monitoring Procedures****1. Representative Samples**

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge.

2. Test Procedures

Test procedures for the analysis of pollutants shall conform to regulations promulgated pursuant to Section 304(h) of the Federal Act (40 CFR Part 136 - Guidelines Establishing Test Procedures for the Analysis of Pollutants), unless specified otherwise in this permit. Test procedures used shall be sufficiently sensitive to determine compliance with applicable effluent limitations. Requests to use test procedures not promulgated under 40 CFR Part 136 for pollutant monitoring required by this permit shall be made in accordance with the Alternate Test Procedures regulations specified in 40 CFR 136.4. These requests shall be submitted to the Chief of the Permits Section, Water Resources Division, Michigan Department of Environmental Quality, P.O. Box 30273, Lansing, Michigan, 48909-7773. The permittee may use such procedures upon approval.

The permittee shall periodically calibrate and perform maintenance procedures on all analytical instrumentation at intervals to ensure accuracy of measurements. The calibration and maintenance shall be performed as part of the permittee's laboratory Quality Control/Quality Assurance program.

3. Instrumentation

The permittee shall periodically calibrate and perform maintenance procedures on all monitoring instrumentation at intervals to ensure accuracy of measurements.

4. Recording Results

For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information: 1) the exact place, date, and time of measurement or sampling; 2) the person(s) who performed the measurement or sample collection; 3) the dates the analyses were performed; 4) the person(s) who performed the analyses; 5) the analytical techniques or methods used; 6) the date of and person responsible for equipment calibration; and 7) the results of all required analyses.

5. Records Retention

All records and information resulting from the monitoring activities required by this permit including all records of analyses performed and calibration and maintenance of instrumentation and recordings from continuous monitoring instrumentation shall be retained for a minimum of three (3) years, or longer if requested by the Regional Administrator or the Department.

PART II

Section C. Reporting Requirements

1. Start-up Notification

If the permittee will not discharge during the first 60 days following the effective date of this permit, the permittee shall notify the Department within 14 days following the effective date of this permit, and then 60 days prior to the commencement of the discharge.

2. Submittal Requirements for Self-Monitoring Data

Part 31 of Act 451 of 1994, as amended, specifically Section 324.3110(3) and Rule 323.2155(2) of Part 21 allows the Department to specify the forms to be utilized for reporting the required self-monitoring data. Unless instructed on the effluent limitations page to conduct "Retained Self Monitoring" the permittee shall submit self-monitoring data via the Department's Electronic Environmental Discharge Monitoring Reporting (e2-DMR) system.

The permittee shall utilize the information provided on the e2-Reporting website @ <https://secure1.state.mi.us/e2rs/> to access and submit the electronic forms. Both monthly summary and daily data shall be submitted to the department no later than the **20th day of the month** following each month of the authorized discharge period(s). The permittee may be allowed to submit the electronic forms after this date if the Department has granted an extension to the submittal date.

3. Retained Self-Monitoring Requirements

If instructed on the effluent limits page to conduct retained self-monitoring, the permittee shall maintain a year-to-date log of retained self-monitoring results and, upon request, provide such log for inspection to the staff of the Water Resources Division, Michigan Department of Environmental Quality. Retained self-monitoring results are public information and shall be promptly provided to the public upon request.

The permittee shall certify, in writing, to the Department, on or before January 10th of each year, that: 1) all retained self-monitoring requirements have been complied with and a year-to-date log has been maintained; and 2) the application on which this permit is based still accurately describes the discharge. With this annual certification, the permittee shall submit a summary of the previous years monitoring data. The summary shall include maximum values for samples to be reported as daily maximums and/or monthly maximums and minimum values for any daily minimum samples.

4. Additional Monitoring by Permittee

If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved analytical methods as specified above, the results of such monitoring shall be included in the calculation and reporting of the values required in the Discharge Monitoring Report. Such increased frequency shall also be indicated.

Monitoring required pursuant to Part 41 of the Michigan Act or Rule 35 of the Mobile Home Park Commission Act (Act 96 of the Public Acts of 1987) for assurance of proper facility operation shall be submitted as required by the Department.

5. Compliance Dates Notification

Within 14 days of every compliance date specified in this permit, the permittee shall submit a written notification to the Department indicating whether or not the particular requirement was accomplished. If the requirement was not accomplished, the notification shall include an explanation of the failure to accomplish the requirement, actions taken or planned by the permittee to correct the situation, and an estimate of when the requirement will be accomplished. If a written report is required to be submitted by a specified date and the permittee accomplishes this, a separate written notification is not required.

PART II

Section C. Reporting Requirements

6. Noncompliance Notification

Compliance with all applicable requirements set forth in the Federal Act, Parts 31 and 41 of the Michigan Act, and related regulations and rules is required. All instances of noncompliance shall be reported as follows:

- a. 24-hour reporting - Any noncompliance which may endanger health or the environment (including maximum and/or minimum daily concentration discharge limitation exceedances) shall be reported, verbally, within 24 hours from the time the permittee becomes aware of the noncompliance. A written submission shall also be provided within five (5) days.
- b. other reporting - The permittee shall report, in writing, all other instances of noncompliance not described in a. above at the time monitoring reports are submitted; or, in the case of retained self-monitoring, within five (5) days from the time the permittee becomes aware of the noncompliance.

Written reporting shall include: 1) a description of the discharge and cause of noncompliance; and 2) the period of noncompliance, including exact dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and the steps taken to reduce, eliminate and prevent recurrence of the noncomplying discharge.

7. Spill Notification

The permittee shall immediately report any release of any polluting material which occurs to the surface waters or groundwaters of the state, unless the permittee has determined that the release is not in excess of the threshold reporting quantities specified in the Part 5 Rules (Rules 324.2001 through 324.2009 of the Michigan Administrative Code), by calling the Department at the number indicated on the second page of this permit, or if the notice is provided after regular working hours call the Department's 24-hour Pollution Emergency Alerting System telephone number, 1-800-292-4706 (calls from out-of-state dial 1-517-373-7660).

Within ten (10) days of the release, the permittee shall submit to the Department a full written explanation as to the cause of the release, the discovery of the release, response (clean-up and/or recovery) measures taken, and preventative measures taken or a schedule for completion of measures to be taken to prevent reoccurrence of similar releases.

8. Upset Noncompliance Notification

If a process "upset" (defined as an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee) has occurred, the permittee who wishes to establish the affirmative defense of upset, shall notify the Department by telephone within 24-hours of becoming aware of such conditions; and within five (5) days, provide in writing, the following information:

- a. that an upset occurred and that the permittee can identify the specific cause(s) of the upset;
- b. that the permitted wastewater treatment facility was, at the time, being properly operated; and
- c. that the permittee has specified and taken action on all responsible steps to minimize or correct any adverse impact in the environment resulting from noncompliance with this permit.

In any enforcement proceedings, the permittee, seeking to establish the occurrence of an upset, has the burden of proof.

PART II**Section C. Reporting Requirements****9. Bypass Prohibition and Notification**

- a. Bypass Prohibition - Bypass is prohibited unless:
- 1) bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - 2) there were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass; and
 - 3) the permittee submitted notices as required under 9.b. or 9.c. below.
- b. Notice of Anticipated Bypass - If the permittee knows in advance of the need for a bypass, it shall submit prior notice to the Department, if possible at least ten (10) days before the date of the bypass, and provide information about the anticipated bypass as required by the Department. The Department may approve an anticipated bypass, after considering its adverse effects, if it will meet the three (3) conditions listed in 9.a. above.
- c. Notice of Unanticipated Bypass - The permittee shall submit notice to the Department of an unanticipated bypass by calling the Department at the number indicated on the second page of this permit (if the notice is provided after regular working hours, use the following number: 1-800-292-4706) as soon as possible, but no later than 24 hours from the time the permittee becomes aware of the circumstances.
- d. Written Report of Bypass - A written submission shall be provided within five (5) working days of commencing any bypass to the Department, and at additional times as directed by the Department. The written submission shall contain a description of the bypass and its cause; the period of bypass, including exact dates and times, and if the bypass has not been corrected, the anticipated time it is expected to continue; steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass; and other information as required by the Department.
- e. Bypass Not Exceeding Limitations - The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of 9.a., 9.b., 9.c., and 9.d., above. This provision does not relieve the permittee of any notification responsibilities under Part II.C.11. of this permit.
- f. Definitions
- 1) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.
 - 2) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

10. Bioaccumulative Chemicals of Concern (BCC)

Consistent with the requirements of Rules 323.1098 and 323.1215 of the Michigan Administrative Code, the permittee is prohibited from undertaking any action that would result in a lowering of water quality from an increased loading of a BCC unless an increased use request and antidegradation demonstration have been submitted and approved by the Department.

PART II**Section C. Reporting Requirements****11. Notification of Changes in Discharge**

The permittee shall notify the Department, in writing, within 10 days of knowing, or having reason to believe, that any activity or change has occurred or will occur which would result in the discharge of: 1) detectable levels of chemicals on the current Michigan Critical Materials Register, priority pollutants or hazardous substances set forth in 40 CFR 122.21, Appendix D, or the Pollutants of Initial Focus in the Great Lakes Water Quality Initiative specified in 40 CFR 132.6, Table 6, which were not acknowledged in the application or listed in the application at less than detectable levels; 2) detectable levels of any other chemical not listed in the application or listed at less than detection, for which the application specifically requested information; or 3) any chemical at levels greater than five times the average level reported in the complete application (see the first page of this permit for the date(s) the complete application was submitted). Any other monitoring results obtained as a requirement of this permit shall be reported in accordance with the compliance schedules.

12. Changes in Facility Operations

Any anticipated action or activity, including but not limited to facility expansion, production increases, or process modification, which will result in new or increased loadings of pollutants to the receiving waters must be reported to the Department by a) submission of an increased use request (application) and all information required under Rule 323.1098 (Antidegradation) of the Water Quality Standards or b) by notice if the following conditions are met: 1) the action or activity will not result in a change in the types of wastewater discharged or result in a greater quantity of wastewater than currently authorized by this permit; 2) the action or activity will not result in violations of the effluent limitations specified in this permit; 3) the action or activity is not prohibited by the requirements of Part II.C.10.; and 4) the action or activity will not require notification pursuant to Part II.C.11. Following such notice, the permit may be modified according to applicable laws and rules to specify and limit any pollutant not previously limited.

13. Transfer of Ownership or Control

In the event of any change in control or ownership of facilities from which the authorized discharge emanates, the permittee shall submit to the Department 30 days prior to the actual transfer of ownership or control a written agreement between the current permittee and the new permittee containing: 1) the legal name and address of the new owner; 2) a specific date for the effective transfer of permit responsibility, coverage and liability; and 3) a certification of the continuity of or any changes in operations, wastewater discharge, or wastewater treatment.

If the new permittee is proposing changes in operations, wastewater discharge, or wastewater treatment, the Department may propose modification of this permit in accordance with applicable laws and rules.

14. Operations and Maintenance Manual

Part 41 of Act 451 of 1994, as amended, specifically Section 324.4104 and associated Rule 299.2957, allow the Department to require an Operations and Maintenance (O&M) manual for the wastewater treatment facility. An up-to-date copy of the O&M manual shall be kept at the wastewater treatment facility. Upon request a copy of the O&M manual shall be provided to the Department. The Department may review the manual in whole or in part at their discretion and require modifications to it if portions are determined to be inadequate.

At a minimum, the O&M manual should include the following information: permit standards, description and operation information for all equipment, staffing information, laboratory requirements, record keeping requirements, maintenance plan for equipment, emergency operating plan, safety program information and copies of all pertinent forms, as-built plans, and manufacturer's manuals.

Certification of the existence and accuracy of the operations and maintenance manual is required to be submitted to the Department at least sixty days prior to startup of a new wastewater treatment plant. Submittal of re-certifications will also be required sixty days prior to start up of any substantial improvements or modifications made at the wastewater treatment plant.

PART II**Section D. Management Responsibilities****1. Duty to Comply**

All discharges authorized herein shall be consistent with the terms and conditions of this permit. The discharge of any pollutant identified in this permit more frequently than or at a level in excess of that authorized shall constitute a violation of the permit.

It is the duty of the permittee to comply with all the terms and conditions of this permit. Any noncompliance with the Effluent Limitations, Special Conditions, or terms of this permit constitutes a violation of the Michigan Act and/or the Federal Act and constitutes grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of an application for permit renewal.

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

2. Operator Certification

The permittee shall have the waste treatment facilities under direct supervision of an operator certified at the appropriate level for the facility certification by the Department, as required by Sections 3110 and 4104 of the Michigan Act. Permittees authorized to discharge storm water shall have the storm water treatment and/or control measures under direct supervision of a storm water operator certified by the Department, as required by Section 3110 of the Michigan Act.

3. Facilities Operation

The permittee shall, at all times, properly operate and maintain all treatment or control facilities or systems installed or used by the permittee to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance includes adequate laboratory controls and appropriate quality assurance procedures.

4. Power Failures

In order to maintain compliance with the effluent limitations of this permit and prevent unauthorized discharges, the permittee shall either:

- a. provide an alternative power source sufficient to operate facilities utilized by the permittee to maintain compliance with the effluent limitations and conditions of this permit; or
- b. upon the reduction, loss, or failure of one or more of the primary sources of power to facilities utilized by the permittee to maintain compliance with the effluent limitations and conditions of this permit, the permittee shall halt, reduce or otherwise control production and/or all discharge in order to maintain compliance with the effluent limitations and conditions of this permit.

5. Adverse Impact

The permittee shall take all reasonable steps to minimize any adverse impact to the surface waters or groundwaters of the state resulting from noncompliance with any effluent limitation specified in this permit including, but not limited to, such accelerated or additional monitoring as necessary to determine the nature and impact of the discharge in noncompliance.

PART II**Section D. Management Responsibilities****6. Containment Facilities**

The permittee shall provide facilities for containment of any accidental losses of polluting materials in accordance with the requirements of the Part 5 Rules (Rules 324.2001 through 324.2009 of the Michigan Administrative Code). For a Publicly Owned Treatment Work (POTW), these facilities shall be approved under Part 41 of the Michigan Act.

7. Waste Treatment Residues

Residuals (i.e. solids, sludges, biosolids, filter backwash, scrubber water, ash, grit, or other pollutants or wastes) removed from or resulting from treatment or control of wastewaters, including those that are generated during treatment or left over after treatment or control has ceased, shall be disposed of in an environmentally compatible manner and according to applicable laws and rules. These laws may include, but are not limited to, the Michigan Act, Part 31 for protection of water resources, Part 55 for air pollution control, Part 111 for hazardous waste management, Part 115 for solid waste management, Part 121 for liquid industrial wastes, Part 301 for protection of inland lakes and streams, and Part 303 for wetlands protection. Such disposal shall not result in any unlawful pollution of the air, surface waters or groundwaters of the state.

8. Right of Entry

The permittee shall allow the Department, any agent appointed by the Department or the Regional Administrator, upon the presentation of credentials:

- a. to enter upon the permittee's premises where an effluent source is located or in which any records are required to be kept under the terms and conditions of this permit; and
- b. at reasonable times to have access to and copy any records required to be kept under the terms and conditions of this permit; to inspect process facilities, treatment works, monitoring methods and equipment regulated or required under this permit; and to sample any discharge of pollutants.

9. Availability of Reports

Except for data determined to be confidential under Section 308 of the Federal Act and Rule 2128 (Rule 323.2128 of the Michigan Administrative Code), all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department and the Regional Administrator. As required by the Federal Act, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in Section 309 of the Federal Act and Sections 3112, 3115, 4106 and 4110 of the Michigan Act.

PART II**Section E. Activities Not Authorized by This Permit****1. Discharge to the Groundwaters**

This permit does not authorize any discharge to the groundwaters. Such discharge may be authorized by a groundwater discharge permit issued pursuant to the Michigan Act.

2. POTW Construction

This permit does not authorize or approve the construction or modification of any physical structures or facilities at a POTW. Approval for the construction or modification of any physical structures or facilities at a POTW must be by permit issued under Part 41 of the Michigan Act.

3. Civil and Criminal Liability

Except as provided in permit conditions on "Bypass" (Part II.C.9. pursuant to 40 CFR 122.41(m)), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance, whether or not such noncompliance is due to factors beyond the permittee's control, such as accidents, equipment breakdowns, or labor disputes.

4. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee may be subject under Section 311 of the Federal Act except as are exempted by federal regulations.

5. State Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by Section 510 of the Federal Act.

6. Property Rights

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize violation of any federal, state or local laws or regulations, nor does it obviate the necessity of obtaining such permits, including any other Department of Environmental Quality permits, or approvals from other units of government as may be required by law.

EXHIBIT 8

City Policy



200 North Lake Street • Cadillac, Michigan 49601
231.753.0181 • fax 231.753.0755
www.cadillac-mi.net

City of Cadillac Position Statement: Extension of Water & Sewer Services

The City of Cadillac is often asked to state its position regarding the extension of water and sewer services beyond the City's corporate boundaries. The following position statement was developed to explain why the City will not extend water and sewer services if not in conjunction with annexation or some other form of tax revenue sharing, such as P.A. 425 agreements.

1. Due to the vast level of municipal services, the City of Cadillac levies a higher millage rate to support its operations than do the surrounding townships. In addition to water and sewer services, the City provides police and fire protection, public works, parks and recreation, and general City administration. These services are a product of density, or concentrated population and are all necessary as a package to support the long term growth and vitality of the City. It is unfair to allow surrounding entities to "cherry pick" only the most desirable services of local government -- they must share in the total cost of urban density. The "benefit" of density is low public utility costs, which most are agreeable to paying. The "cost" of density is more police and fire requirements, more code enforcement, as well as many other local services that the taxpayer must pay.
2. Similarly, it is often argued that outlying areas should be able to tap into City utilities by paying a rate that is more than that paid by City residents. Some have suggested that rates double those paid by City customers is fair. Again, it is the City's position that the additional rate that should be paid for water and sewer services is equal to the City's full millage rate, to cover not only City utilities, but all of the other services that are also required of a business in an urban area.
3. History has repeatedly shown that cities that have allowed "buy-in" into their utilities systems without annexation or other equity sharing arrangements have suffered in the long term. This is because the outlying areas are allowed to benefit from the greatest advantage of municipal organization, without paying for other necessary services (i.e., public safety, planning & zoning, etc.). Cities that have made this decision have stopped growing, because new economic development and growth migrates outside its borders where the millage rate is substantially less. Long term, this migration of economic development leads to a diminished tax base, which in turn results in diminished tax revenues and declining public infrastructure. Examples of cities that have suffered this fate include Detroit, Flint, Saginaw, and other older, urban areas with utility extension policies that do not recognize equity in taxation issues.

May 1, 2006



City Policy



Long Term Goals

Financial Planning

- Goal:** Annexation.
- Objective:** Accept petitions to annex into the City. Consider Act 425 agreements only when land stays in the City upon termination of agreement as allowed by the law. Safeguard financial integrity of the City by recapturing equity in taxation.
- Strategy:** City Manager and City Council.
- Status:** Over 200 acres of land added to the City in the past three years. New P.A. 425 agreement is in the initial stages of discussion.
-
- Goal:** Maintain General Fund Balance.
- Objective:** Examine all departments and focus on enhanced revenues and reduced expenditures.
- Strategy:** City Manager and Director of Finance.
- Status:** Maintain the working capital portion of the fund balance at 15% of the operating expenditures. 2004 was at 15% and 2005 is estimated to be 15%.

The Cadillac City Council discussed this list of short term and long term goals on November 7, 2005. This list of goals was adopted by the Cadillac City Council on November 23, 2005.

City Policy

INFRASTRUCTURE PLAN OBJECTIVES LAND USE/DEVELOPMENT--OBJECTIVES CITY OF CADILLAC

1	<p>The Plan shall incorporate by reference the official and current studies and plans of the City pursuant to:</p> <p>A) Wastewater Service B) Wastewater Treatment Plant Improvements C) Public Water Supply/Water Service D) Storm Sewer Study E) Wellhead Protection Study/Plan F) Other such studies and plans as provided for by the City of Cadillac Capital Improvements Program.</p> <p>Recommendations associated with the above reports including amendments thereto as accepted by the City Council shall serve as the basis for the development/extension of sewer and water service within the City.</p>
2	All existing City streets shall be paved. Future public streets shall be constructed to City standards, which shall include paving and, as necessary, curb and gutter.
3	All private streets shall be constructed to standards consistent with City policy.
4	The City shall encourage continued development of the Westford County Airport as well as the long-term establishment of a commercial air carrier capable of providing quality service at competitive rates.
5	The City shall continue to work with Westford County to develop a long-term plan for the management of recyclable wastes, including yard wastes and hazardous wastes.
6	In order to leverage local funds, the City shall encourage the use of creative financing techniques to fund infrastructure and economic development needs. Such techniques include, but are not limited to (1) industrial tax abatements, (2) tax increment/local development finance authorities, (3) state and federal grant and loan programs, and (4) special assessment/assessment district.
7	The provision of City infrastructure shall not be afforded to non-City localities (properties) unless said localities are served by agreement acceptable to the City or secured through annexation.

EXHIBIT 10

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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WEXFORD

THE CHARTER TOWNSHIP OF HARING
a Michigan Charter Township,

Plaintiff,

v

FILE NO: 13-24606-CH

THE CITY OF CADILLAC
a Michigan Municipal Corporation,

Defendant,

and

DONALD BOERSMA and GLORIA BOERSMA,
Individuals,

Necessary-Party Defendants.

-----/

SUMMARY DISPOSITION MOTIONS

BEFORE THE HONORABLE WILLIAM M. FAGERMAN, JUDGE

Cadillac, Michigan - Monday, July 1, 2013

APPEARANCES:

For the Plaintiff: MR. RONALD M. REDICK (P61122)
900 Monroe Avenue NW
Grand Rapids, Michigan 49503

For the Defendant: MR. MICHAEL D. HOMIER (P60318)
1700 East Beltline NE
Suite 200
Grand Rapids, Michigan 4 9525

REPORTED BY: Janet Kelly, CSR 2700
Certified Shorthand Reporter
437 East Division Street
Cadillac, Michigan 49601
(231)779-9490

1 the City enter into an agreement? I presume they
2 did, but I know that no waste was ever hauled to
3 the City's treatment facility. Period, didn't
4 happen.

5 Your Honor, with respect to this system,
6 the City under Act 425, an economic development
7 project, includes building of this system in the
8 first place. The City has before and likely will
9 continue to build infrastructure to attract
10 industry and commercial enterprises and
11 residential enterprises. It's done with the
12 City's Industrial Park all the time. This is not
13 unique. The only difference here is you got
14 somebody, namely the Township, coming out of the
15 woodwork the day after this May 5th deadline to
16 say, oh, you didn't construct a sewer.

17 Well what the heck is it then? The MDEQ
18 thought it was a sewer; they permitted it as such.
19 Yes, there are provisions of that that allow us to
20 haul that wastewater from that system to the
21 City's treatment facility; but we're not in any
22 way, shape, or form providing any less sewer
23 service there than we are to anybody connected to
24 the system. It's just a different means, that's
25 all.

1 Judge, sewer services; again, the
2 Township consistently refers to well you got to
3 build a sewer, got to build a sewer, got to build
4 a sewer; but they intentionally fail to mention
5 that there is a sewer there. There's a manhole,
6 there's 300 feet of pipe, and there's a lift
7 station there; that's all they have been arguing,
8 that you have to have an underground conduit.
9 What difference does it make whether it's
10 connected to the rest of the City's system or not
11 as long as it's capable and available of handling
12 wastewater discharge from that property, we have
13 complied with the plain and unambiguous terms of
14 the agreement.

15 Mr. Redick wants to caution the Court be
16 careful, it's going to be an issue. It's not an
17 issue; the parties can contract even under 425 for
18 whatever it is they want to contract for. So, for
19 example, in this case, the City is obligated to
20 provide police and fire protection for the
21 property. There's no specific method on how
22 they're supposed to do it. What's next; the
23 Township says well you should have -- you should
24 have dispatched two trucks instead of one? It's
25 the same ludicrous argument here.

EXHIBIT 11

RESOLUTION NO. 10 of 2013
TOWNSHIP OF CLAM LAKE
COUNTY OF WEXFORD
STATE OF MICHIGAN

RESOLUTION OF INTENT TO NEGOTIATE DEVELOPMENT AGREEMENT

Minutes of a regular meeting of the Township Board of the Township of Clam Lake, Michigan, held at the Township Hall, 8809 E. M-115, Cadillac, Michigan on the 9th day of October, 2013, at 7:00 p.m. Local Time.

PRESENT: Members: L. Payne, D. Rosser, S. Kitley, D. Mackey
D. Peterson

ABSENT: Members: none

The following preamble and resolution were offered by Member Kitley and supported by Member Mackey:

WHEREAS, the Charter Township of Haring ("Haring") and the Township of Clam Lake ("Clam Lake") are parties to that certain Agreement for Conditional Transfer dated as of June 10, 2013, as amended (the "Conditional Transfer Agreement") with respect to certain lands (the "Transferred Area") to be transferred from the jurisdiction of Clam Lake to the jurisdiction of Haring; and

WHEREAS, a certain portion of the Transferred Area is owned by TeriDee, LLC ("TeriDee, LLC"), a development company whose publicly-expressed goal is to develop a portion of the Transferred Area for commercial purposes (the "Proposed TeriDee Development"); and

WHEREAS, improvements to and extensions from existing and proposed water and sanitary sewer infrastructure located in and owned by Haring to the Proposed TeriDee

Development will be necessary for the Proposed TeriDee Development to proceed in accordance with the Conditional Transfer Agreement; and

WHEREAS, it is appropriate for this Township to express its intent with regard to the improvement and extension of the water and sanitary sewer infrastructure necessary to serve the Proposed TeriDee Development.

NOW, THEREFORE, BE IT HEREBY RESOLVED AS FOLLOWS:

1. It is the intent of this Township to have Haring make the infrastructure improvements and extensions necessary to serve the Proposed TeriDee Development pursuant to the terms of a development agreement between Haring, Clam Lake and TeriDee with such terms and conditions as shall be mutually acceptable to the parties and which shall provide, at a minimum, that the cost of the necessary infrastructure improvements and extensions shall be paid on behalf of Clam Lake and Haring by TeriDee by the deposit, into an escrow fund held by Haring Township, of amounts equal to (a) the preliminary design and related preliminary costs of said improvements and extensions and (b) the as-bid construction cost, together with related costs and a reasonable contingency allowance.

2. Following negotiation, the development agreement shall not be binding on this Township until approved by resolution of this Township Board.

3. All resolutions and parts of resolutions in conflict herewith shall be and the same are hereby rescinded.

YEAS: Members: D. Mochey, H. Rozser, L. Payne,
S. Kitley, D. Peterson

NAYS: Members: none

ABSTAIN: Members: none

RESOLUTION DECLARED ADOPTED.

Delores Peterson
Delores Peterson, Township Clerk

STATE OF MICHIGAN)
) ss.
COUNTY OF WEXFORD)

I, Delores Peterson, the duly qualified and acting Clerk of the Township of Clam Lake, Michigan, do hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the Township Board at a regular meeting thereof held on the 9th day of October, 2013, the original of which is on file in my office. Public notice of said meeting was given pursuant to and in compliance with Act No. 267, Public Acts of Michigan, 1976, as amended, including in the case of a special or rescheduled meeting, notice by publication or posting at least eighteen (18) hours prior to the time set for the meeting.

IN WITNESS WHEREOF, I have affixed my official signature this 9th day of October, 2013.

Delores Peterson
Delores Peterson, Township Clerk

EXHIBIT 9

CHARTER TOWNSHIP OF HARING
COUNTY OF WEXFORD, STATE OF MICHIGAN

Minutes of a special meeting of the Township Board of the Charter Township of Haring, County of Wexford, Michigan, held at the Clam Lake Township Hall, 8809 East M-115, Cadillac, Michigan, on the 8th of May, 2013, at 6:00 p.m. Local Time.

PRESENT: Members: Scarbrough, Soule, Whetstone, Fagerman, Wilkinson, Baldwin, McCain

ABSENT: Members: None

The following preamble and resolution were offered by Member Scarbrough and seconded by Member Whetstone.

RESOLUTION NO. 2013-04

**A RESOLUTION TO APPROVE AN AGREEMENT FOR
THE CONDITIONAL TRANSFER OF PROPERTY FROM CLAM LAKE TOWNSHIP
TO HARING CHARTER TOWNSHIP UNDER THE TERMS OF PUBLIC ACT 425
OF 1984, AS AMENDED, MCL 124.21, *ET SEQ.***

WHEREAS, the Township Board of the Charter Township of Haring and the Township Board of the Township of Clam Lake have considered a proposed Agreement for the Conditional Transfer of Property from Clam Lake Township to Haring Charter Township (the "Agreement"), under the terms of Act 425 of 1984, as amended, MCL 124.21, *et seq.* ("Act 425), involving the following described lands:

Part of the North fractional 1/2 of Section 2 and the West 1/2 of the Northwest fractional 1/4 of Section 1, Township 21 North, Range 9 West, Clam Lake Township, Wexford County, Michigan, more fully described as follows:

Beginning at the Northwest Corner of said Section 2; thence Easterly along the North line of said Section 2 to the North 1/4 Corner of said section; thence continuing Easterly along said North line of Section 2 to the Northeast Corner of said section; thence Easterly along the North line of said Section 1 to the Northeast Corner of said West 1/2 of the Northwest fractional 1/4 of Section 1; thence Southerly along the East line of said West 1/2 of the Northwest fractional 1/4 to the East - West 1/4 line of said Section 1; thence Westerly along said East - West 1/4 line to the 1/4 Corner common to said Sections 1 and 2; thence Westerly along the East - West 1/4 line of

said Section 2 to the Center 1/4 Corner of said section; thence continuing Westerly along said East – West 1/4 line to the West right-of-way line of U.S. Highway 131; thence Northerly and Northwesterly along said right-of-way line to the South line of the North 836.10 feet of the Northwest fractional 1/4 of said Section 2; thence Westerly along said South line to the West line of said Section 2; thence Northerly along said West section line to the Point of Beginning.

WHEREAS, the Township Board of the Charter Township of Haring has determined that it is advisable and in the best interests of the Township to enter the proposed Agreement; and

WHEREAS, pursuant to Act 425, the Township Boards of Haring Charter Township and Clam Lake Township held a joint public hearing on May 8, 2013, regarding the proposed Agreement, notice of which was given in the manner required by Act 425 and the Michigan Open Meetings Act, MCL 15.261, *et seq.*

NOW, THEREFORE, BE IT HEREBY RESOLVED AS FOLLOWS:

1. The Haring Charter Township Board hereby approves and authorizes the Township to enter into the Agreement, as attached at Exhibit A to this Resolution.
2. If, within 30 days following the public hearing held on May 8, 2013, a petition signed by 20% or more of the registered electors residing within the property to be transferred has not been filed with the Clerk of Clam Lake Township pursuant to Section 5(3) of Act 425, the Haring Charter Township Supervisor and Clerk are hereby authorized and directed to sign the Agreement, on behalf of Haring Charter Township.
3. Upon execution of the Agreement by the Supervisors and Clerks of Haring Charter Township and Clam Lake Township, and by not later than June 10, 2013, the Haring Charter Township Clerk is hereby authorized and directed to file a duplicate original of the Agreement with the Wexford County Clerk and with the Secretary of State, and to obtain a certified copy of the Agreement from the County Clerk on that same date.

AYES: 7

NAYS: 0

ABSENT: 0

RESOLUTION DECLARED ADOPTED.



 Kirk Soule
 Township Clerk

CERTIFICATION

I, the undersigned, the duly qualified and acting Clerk of the Charter Township of Haring, Wexford County, Michigan, do hereby certify that the foregoing is a true and complete copy of a resolution adopted by the Township at a special meeting on May 8, 2013, the original of which is on file in my office. Public notice of said meeting was given pursuant to and in compliance with Act No. 267, Public Acts of Michigan, 1986, as amended, including in the case of a special or rescheduled meeting, notice by publication or posting at least eighteen (18) hours prior to the time set for the meeting.

IN WITNESS WHEREOF, I have hereunto affixed my official signature on the 8th day of May, 2013.



 Kirk Soule
 Township Clerk

**TOWNSHIP OF CLAM LAKE
COUNTY OF WEXFORD, STATE OF MICHIGAN**

Minutes of a special meeting of the Township Board of the Township of Clam Lake, County of Wexford, Michigan, held at the Clam Lake Township Hall, 8809 East M-115, Cadillac, Michigan, on the 8th of May, 2013, at 6:00 p.m. Local Time.

PRESENT: Members: D. Rosser, J. Houston, L. Payne, D. Peterson, D. Mackey

ABSENT: Member: None

The following preamble and resolution were offered by Member Houston, and seconded by Member Payne

RESOLUTION NO. 2013-1

**A RESOLUTION TO APPROVE AN AGREEMENT FOR
THE CONDITIONAL TRANSFER OF PROPERTY FROM CLAM LAKE TOWNSHIP
TO HARING CHARTER TOWNSHIP UNDER THE TERMS OF PUBLIC ACT 425
OF 1984, AS AMENDED, MCL 124.21, *ET SEQ.***

WHEREAS, the Township Board of the Charter Township of Haring and the Township Board of the Township of Clam Lake have considered a proposed Agreement for the Conditional Transfer of Property from Clam Lake Township to Haring Charter Township (the "Agreement"), under the terms of Act 425 of 1984, as amended, MCL 124.21, *et seq.* ("Act 425"), involving the following described lands:

Part of the North fractional 1/2 of Section 2 and the West 1/2 of the Northwest fractional 1/4 of Section 1, Township 21 North, Range 9 West, Clam Lake Township, Wexford County, Michigan, more fully described as follows:

Beginning at the Northwest Corner of said Section 2; thence Easterly along the North line of said Section 2 to the North 1/4 Corner of said section; thence continuing Easterly along said North line of Section 2 to the Northeast Corner of said section; thence Easterly along the North line of said Section 1 to the Northeast Corner of said West 1/2 of the Northwest fractional 1/4 of Section 1; thence Southerly along the East line of said West 1/2 of the Northwest fractional 1/4 to the East - West 1/4 line of said Section 1; thence Westerly along said East - West 1/4 line to the 1/4 Corner common to said Sections 1 and 2; thence Westerly along the East - West 1/4 line of

said Section 2 to the Center 1/4 Corner of said section; thence continuing Westerly along said East – West 1/4 line to the West right-of-way line of U.S. Highway 131; thence Northerly and Northwesterly along said right-of-way line to the South line of the North 836.10 feet of the Northwest fractional 1/4 of said Section 2; thence Westerly along said South line to the West line of said Section 2; thence Northerly along said West section line to the Point of Beginning.

WHEREAS, the Township Board of the Township of Clam Lake has determined that it is advisable and in the best interests of the Township to enter the proposed Agreement; and

WHEREAS, pursuant to Act 425, the Township Boards of Haring Charter Township and Clam Lake Township held a joint public hearing on May 8, 2013, regarding the proposed Agreement, notice of which was given in the manner required by Act 425 and the Michigan Open Meetings Act, MCL 15.261, *et seq.*

NOW, THEREFORE, BE IT HEREBY RESOLVED AS FOLLOWS:

1. The Clam Lake Township Board hereby approves and authorizes the Township to enter into the Agreement, as attached at Exhibit A to this Resolution.

2. If, within 30 days following the public hearing held on May 8, 2013, a petition signed by 20% or more of the registered electors residing within the property to be transferred has not been filed with the Clerk of Clam Lake Township pursuant to Section 5(3) of Act 425, the Clam Lake Township Supervisor and Clerk are hereby authorized and directed to sign the Agreement, on behalf of Clam Lake Township.

3. Upon execution of the Agreement by the Supervisors and Clerks of Haring Charter Township and Clam Lake Township, and by not later than June 10, 2013, the Clam Lake Township Clerk is hereby authorized and directed to file a duplicate original of the Agreement with the Wexford County Clerk and with the Secretary of State, and to obtain a certified copy of the Agreement from the County Clerk on that same date.

AYES : Payne, Rosser, Houston, Mackey, Peterson

NAYS: None

ABSENT: None

RESOLUTION DECLARED ADOPTED.



Delores Peterson
Township Clerk

CERTIFICATION

I, the undersigned, the duly qualified and acting Clerk of the Township of Clam Lake, Wexford County, Michigan, do hereby certify that the foregoing is a true and complete copy of a resolution adopted by the Township at a special meeting on May 8, 2013, the original of which is on file in my office. Public notice of said meeting was given pursuant to and in compliance with Act No. 267, Public Acts of Michigan, 1986, as amended, including in the case of a special or rescheduled meeting, notice by publication or posting at least eighteen (18) hours prior to the time set for the meeting.

IN WITNESS WHEREOF, I have hereunto affixed my official signature on the 8th day of May, 2013.



Delores Peterson
Township Clerk

EXHIBIT 12

RESOLUTION NO. 2013-14
CHARTER TOWNSHIP OF HARING
COUNTY OF WEXFORD
STATE OF MICHIGAN

RESOLUTION OF INTENT TO NEGOTIATE DEVELOPMENT AGREEMENT

Minutes of a regular meeting of the Township Board of the Charter Township of Haring, Michigan, held at the Township Hall, 515 Bell Avenue, Cadillac, Michigan on the 14th day of October, 2013, at 6:00 p.m. Local Time.

PRESENT: Members: Scarbrough, McCain, Soule, Baldwin, Fagerman, Wilkinson, And Whetstone.

ABSENT: Members: None

The following preamble and resolution were offered by Member Whetstone and supported by Member Baldwin:

WHEREAS, the Charter Township of Haring (“Haring”) and the Township of Clam Lake (“Clam Lake”) are parties to that certain Agreement for Conditional Transfer dated as of June 10, 2013, as amended (the “Conditional Transfer Agreement”) with respect to certain lands (the “Transferred Area”) to be transferred from the jurisdiction of Clam Lake to the jurisdiction of Haring; and

WHEREAS, a certain portion of the Transferred Area is owned by TeriDee, LLC (“TeriDee, LLC”), a development company whose publicly-expressed goal is to develop a portion of the Transferred Area for commercial purposes (the “Proposed TeriDee Development”); and

WHEREAS, improvements to and extensions from existing and proposed water and sanitary sewer infrastructure located in and owned by Haring to the Proposed TeriDee

Development will be necessary for the Proposed TeriDee Development to proceed in accordance with the Conditional Transfer Agreement; and

WHEREAS, it is appropriate for this Township to express its intent with regard to the improvement and extension of the water and sanitary sewer infrastructure necessary to serve the Proposed TeriDee Development.

NOW, THEREFORE, BE IT HEREBY RESOLVED AS FOLLOWS:

1. It is the intent of this Township to make the infrastructure improvements and extensions necessary to serve the Proposed TeriDee Development pursuant to the terms of a development agreement between Haring, Clam Lake and TeriDee with such terms and conditions as shall be mutually acceptable to the parties and which shall provide, at a minimum, that the cost of the necessary infrastructure improvements and extensions shall be paid on behalf of Clam Lake and Haring by TeriDee by the deposit, into an escrow fund held by this Township, of amounts equal to (a) the preliminary design and related preliminary costs of said improvements and extensions and (b) the as-bid construction cost, together with related costs and a reasonable contingency allowance.

2. Following negotiation, the development agreement shall not be binding on this Township until approved by resolution of this Township Board.

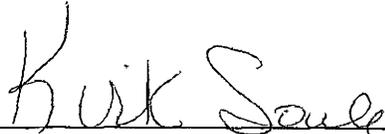
3. All resolutions and parts of resolutions in conflict herewith shall be and the same are hereby rescinded.

YEAS: Members: Scarbrough, McCain, Soule, Baldwin, Fagerman, Wilkinson, And Whetstone.

NAYS: Members: None

ABSTAIN: Members: None

RESOLUTION DECLARED ADOPTED.

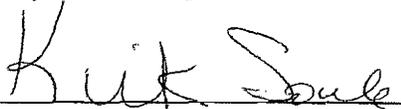


Kirk Soule, Township Clerk

STATE OF MICHIGAN)
) ss.
COUNTY OF WEXFORD)

I, Kirk Soule, the duly qualified and acting Clerk of the Charter Township of Haring, Michigan, do hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the Township Board at a regular meeting thereof held on the 14th day of October, 2013, the original of which is on file in my office. Public notice of said meeting was given pursuant to and in compliance with Act No. 267, Public Acts of Michigan, 1976, as amended, including in the case of a special or rescheduled meeting, notice by publication or posting at least eighteen (18) hours prior to the time set for the meeting.

IN WITNESS WHEREOF, I have affixed my official signature this 14 day of October, 2013.

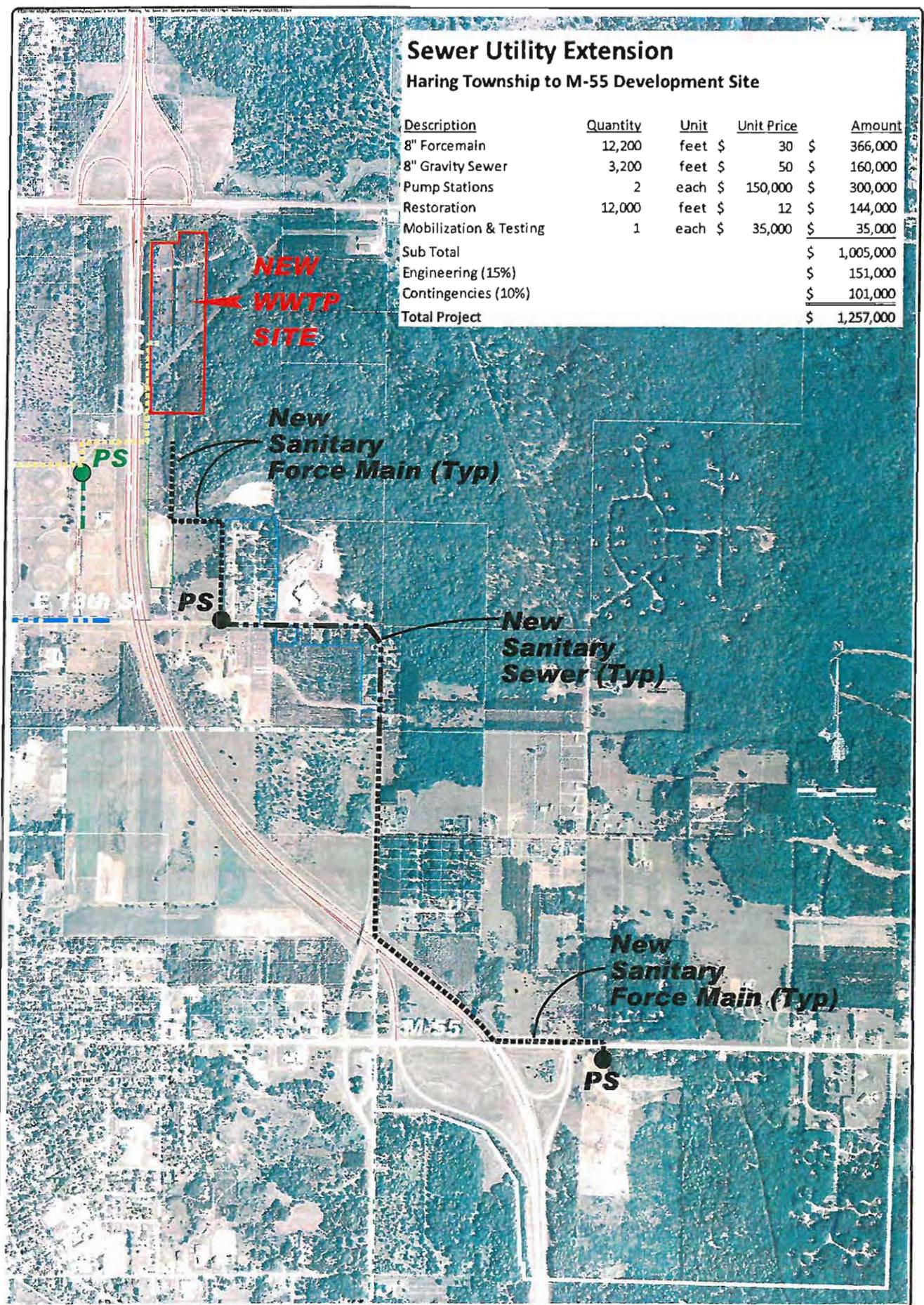


Kirk Soule, Township Clerk

EXHIBIT 13

Sewer Utility Extension Haring Township to M-55 Development Site

Description	Quantity	Unit	Unit Price	Amount
8" Forcemain	12,200	feet	\$ 30	\$ 366,000
8" Gravity Sewer	3,200	feet	\$ 50	\$ 160,000
Pump Stations	2	each	\$ 150,000	\$ 300,000
Restoration	12,000	feet	\$ 12	\$ 144,000
Mobilization & Testing	1	each	\$ 35,000	\$ 35,000
Sub Total				\$ 1,005,000
Engineering (15%)				\$ 151,000
Contingencies (10%)				\$ 101,000
Total Project				\$ 1,257,000



STATE OF MICHIGAN
DEPARTMENT OF LICENSING & REGULATORY AFFAIRS
STATE BOUNDARY COMMISSION

In the Matter of the Petition to Annex
Territory in Clam Lake Township
to the City of Cadillac, Wexford County

Docket No. 13-AP-2

AFFIDAVIT OF DOUGLAS A. COATES, P.E.

I, Douglas A. Coates, being sworn, say that:

1. I am the Township Engineer for the Charter Township of Haring. Attached to this affidavit is a copy of my curriculum vitae, and a copy of my Professional Engineers license.

2. I am familiar with the June 10, 2013 Act 425 Agreement between Haring Charter Township and Clam Lake Township, through which the Transferred Area was transferred from the jurisdiction of Clam Lake Township to the jurisdiction of Haring Charter Township, for all purposes.

3. In particular, I am familiar with the terms of the Act 425 Agreement which require Haring Township to provide public wastewater services and public water services to the Transferred Area.

4. Haring Township is able to fulfill its contractual requirement to provide public water services to the Transferred Area. The Haring public water system has existing capacity and pressure to serve the reasonably expected public water needs of the Transferred Area, when it is developed in accordance with the requirements of the Act 425 Agreement.

5. Haring Township will be able to fulfill its contractual requirement to provide public wastewater services to the Transferred Area, through the use of the new Haring wastewater treatment

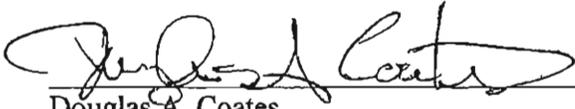
plant (“WWTP”), the construction of which is being publicly bid in November, 2013. The Haring WWTP and related Township collection infrastructure will have capacity to serve the reasonably expected wastewater needs of the Transferred Area, when it is developed in accordance with the requirements of the Act 425 Agreement.

6. The following are some of the principal steps that have already been completed, or which are scheduled to occur in the near future, in order to ensure that the Haring WWTP is completed and available to accept wastewater from the Transferred Area in Spring-Summer of 2015:

Purchase of WWTP property:	November, 2006
Clearing of WWTP property:	November, 2012
Obtain RD Letter of Funding Conditions	July 12, 2012
Obtain NPDES permit from MDEQ:	July 22, 2013
Obtain all construction permits:	November, 2013
Obtain Rural Development approval to bid:	November, 2013
Advertise for construction bids:	November, 2013
Obtain construction bids:	December, 2013
Tentative award of construction contracts:	December, 2013
Close Rural Development Loan:	January, 2014
Execute contracts/pre-construction meeting:	February, 2014
Commence WWTP construction:	March, 2014

7. I make this affidavit based upon my personal knowledge, and if sworn as a witness I am competent to testify to the truth of the averments contained in this affidavit.

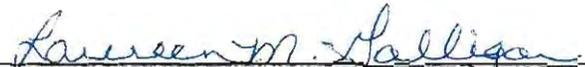
[signature on next page]



Douglas A. Coates

STATE OF MICHIGAN)
) ss
COUNTY OF WEXFORD)

Subscribed and sworn to by Douglas A. Coates before me this ____ day of November, 2013,
in Grand Traverse County, Michigan.



Notary Public
~~Grand Traverse~~ County, Michigan
Acting in Grand Traverse County, Michigan
My Commission Expires: 11.3.2018

CURRICULUM VITAE

DOUGLAS A. COATES, P.E.

Position: Principal and Director of Civil Engineering,
Gosling Czubak Engineering Sciences, Inc.

Education: B.S., Civil Engineering, Water Resources Specialty
Michigan Technological University, 1982

Professional Registration: Michigan (#33155), 1986

Affiliations: Member and Past President, Northern Chapter
– Michigan Society of Professional Engineers
Member, Water Environment Federation
Member, Michigan Water Environment Association
Member, Michigan Rural Water Association

Professional Employment Summary:

1985 to Present - Gosling Czubak Engineering Sciences, Inc.
Duties and responsibilities have increased from resident engineer and project engineer to Project Manager and Director of Civil Engineering for a variety of municipal water supply and wastewater related projects. Mr. Coates has been responsible for the planning, design, specification preparation, permitting and construction engineering of municipal water and wastewater treatment facilities, and collection systems throughout northern Michigan.

1983 to 1985 - Progressive Engineering, Grand Rapids, Michigan.
Project Engineer for sanitary sewer systems such as conventional gravity systems, pumping stations, pressurized STEP systems, & small diameter gravity sewer. Designed wastewater stabilization lagoons and subsurface soil absorption treatment facilities.

Municipal Wastewater Treatment Experience

Project Manager for several municipal wastewater treatment facility design, construction, and operations assistance. A small example of some of this experience includes:

- **City of Traverse City** - Designed four separate improvement projects to this 8.5 MGD activated sludge wastewater treatment plant.
- **Village of Suttons Bay** – Planned and Designed a new activated sludge, extended aeration wastewater treatment system to treat up to 0.37 MGD.
- **Betsie Lake Utilities Authority** – Designed several expansions and upgrades to a 0.6 MGD wastewater treatment plant serving the Frankfort and Elberta, Michigan communities.
- **City of Big Rapids** – Designed several improvement projects to this 2.4 MGD activated sludge wastewater treatment plant.

- **Leland Township** – Lagoon and drainfield system. Provided the Township with an overall analysis of the facility design and operations. Developed and implemented a plan to rehabilitate failed drainfield systems.
- **Harbor Springs** - Designed a new 1.3 MGD activated sludge treatment facility to replace an existing lagoon system
- **Village of Kalkaska** - Designed a new 0.6 MGD extended aeration activated sludge treatment facility (oxidation ditch) to replace an existing lagoon system
- **Village of Kingsley** – Preliminary engineering design and planning of a 0.2 MGD SBR treatment facility to replace an existing lagoon system.
- **Houghton Lake Sewer Authority** – Design and construction administration of a 1.0 MGD upgrade to an existing lagoon system. Features include aerated lagoons, storage lagoons, sand filtration, flood irrigation, and natural wetland treatment.

Municipal Wastewater Collection Systems

Project Manager for numerous municipal wastewater collection and pumping facility design projects. Relative experience includes:

- **Bear Creek Township** – Sewer System Master Planning. Analyzed capacity of existing infrastructure, projected future needs, develop a 20 year plan to increase service capacity.
- **Bear Creek Township** – Pump controls and instrumentation upgrades to the main lift station, including installation of a new by-pass pumping structure and above ground electrical and controls.
- **City of Traverse City** – New pumps and controls for the main lift station and a secondary lift station.
- **City of Big Rapids** – Pump station rehabilitation projects, construction of a new interceptor trunk line, including an inverted siphon crossing of the Muskegon River.
- **Village of Suttons Bay** – Collection system extensions and Infiltration and Inflow evaluations
- **Village of Beulah** – Pump station upgrades, by-pass pumping structure, and Infiltration and Inflow investigation and repair.

Municipal Water Distribution Experience

Project Manager for several municipal water supply and distribution system design, construction, and operations assistance. A small example of some of this experience includes:

- **Village of Kalkaska** – Designed new municipal well, wellhouse, and control system
- **Village of Suttons Bay** – Conducted fire hydrant flow tests for system hydraulic modeling. Designed water distribution piping network to supply water from a new ground storage tank.
- **Village of Ellsworth** – Designed a complete water system for the community, including new wells, wellhouse, elevated storage tank, and piping network. The project included two pressure districts and pressure equalizing valves.

RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

A1623806

CORPORATIONS, SECURITIES & COMMERCIAL LICENSING BUREAU
PROFESSIONAL ENGINEER
LICENSE



DOUGLAS ARTHUR COATES
10629 LAKESHORE RD
WILLIAMSBURG MI 49690

PERMANENT I.D. NO.

6201033155

EXPIRATION DATE

10/31/2015

AUDIT NO.

2736986

THIS DOCUMENT IS DULY ISSUED
UNDER THE LAWS OF THE STATE
OF MICHIGAN.

EXHIBIT 14

Water Utility Extension

Haring Township to M-55 Development Site

Description	Quantity	Unit	Unit Price	Amount
12" Watermain	12,250	feet	\$ 67	\$ 820,750
Restoration	9,500	feet	\$ 12	\$ 114,000
Mobilization & Testing	1	each	\$ 12,250	\$ 10,250
Sub Total				\$ 945,000
Engineering (15%)				\$ 142,000
Contingencies (10%)				\$ 95,000
Total Project				\$ 1,182,000

**NEW
WWTP
SITE**

E 17th St

M-55

**New
Watermain
(Typ)**



C
INDEX
10/22/2013
10/22/2013

Water Utility Extension
Haring Charter Township, Wexford County, MI

Date: 10/22/2013
Scale: 1" = 50'

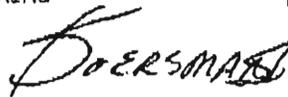
Drawn By: JH
Checked By: DAC

Plot Date: _____
Revised: _____
By: _____

Gosling Czubak
ENGINEERING & ARCHITECTURE, INC.
11000 Lakeside Ave. S.E.
Suite 200 • Grand Rapids, MI 49507-3023
Tel: 616-941-0000

Engineers
Surveyors
Geotechnical
Services
Landmarks
Architecture

EXHIBIT 15



ACT 425 AGREEMENT BETWEEN
HARING TOWNSHIP AND
THE CITY OF CADILLAC

THIS AGREEMENT is made as of the 5th day of May, 2003, by and between the CITY OF CADILLAC, a Michigan municipal corporation located in Wexford County, Michigan, with its principal offices at 200 Lake Street, Cadillac, Michigan 49601 (the "City"), and the TOWNSHIP OF HARING, a Michigan charter township located in Wexford County, Michigan, with its principal offices at 515 Bell Avenue, Cadillac, Michigan 49601 (the "Township").

RECITALS

1. Act No. 425 of the Public Acts of Michigan of 1984 ("Act 425"), a/k/a MCL 124.21, et seq., enables two local units of government to conditionally transfer property for a period of not more than fifty (50) years for the purpose of an economic development project, which conditional transfer must be controlled by a written contract agreed to by the affected local units.
2. A developer is undertaking an economic development project as defined in Act 425 on the land described in Exhibit A hereto and incorporated herein by reference which is presently located within the Township.
3. Each local unit must, according to Act 425, consider certain factors prior to entering into a contract pursuant to Act 425.
4. Among those factors to be considered, according to Act 425, are the Township's ability to provide organized community services to the property considered for transfer, and it appears certain the Township cannot provide a public water supply nor police protection services, while the City can do so, and the City also can provide sanitary sewer, fire protection and other community services.
5. Given the present and anticipated future population, population density, land uses, topography and development in the City and the Township, it seems the City will be most able to provide these services for the reasonably foreseeable future.

6. Pursuant to Act 425, the Cadillac City Council held a public hearing on May 5, 2003, and the Township Board held a public hearing on April 14, 2003, regarding this contract and the conditional transfer of property pursuant hereto.

7. The City Council and the Township Board have each decided, by a majority of the members elected and serving on each body, to enter into this Agreement.

8. Neither the City Council nor the Township Board adopted a Resolution calling for a referendum on the transfer to be made pursuant to this Agreement, there are no residences on the property to be transferred, and the owner(s) of the property have not requested a referendum.

NOW, THEREFORE, in exchange for the mutual representations, promises, covenants and other consideration made or referred to in this Agreement, the parties to this Agreement agree as follows:

ARTICLE I

TRANSFER AND EFFECT

1.1 Transfer of Property. The real property legally described on Exhibit A hereto (the "Transferred Area") shall be transferred from the Township and shall, except as specifically otherwise indicated herein, be considered to be within the jurisdiction of the City.

1.2 Municipal Services. All municipal services, including, without limitations, fire and police protection; sewer, water and refuse collection services; library, museum and other cultural facilities and services; snow plowing; road maintenance and repair; and other municipal facilities and services shall be provided by the City as if the Transferred Area were located in the City, and the Township shall have no obligation to provide such municipal services and facilities to the Transferred Area or its occupants.

1.3 Ordinances. The Transferred Area shall be treated as being within the City for the purpose of ordinances, rules or regulations and their enforcement, including, without limitation, those governing zoning, sewage use and pretreatment, etc.

1.4 Special Assessments. The Transferred Area shall be treated as being within the City for the purposes of special assessments, except to the extent such special assessments have already been made against the Transferred Area, in which case it shall be

considered to be remaining within the jurisdiction of the local unit having already made those special assessments for the purpose of collection of those special assessments.

1.5 Liens. Liens for special assessments, taxes and other purposes made against the Transferred Area by the Township shall remain in full force and effect just as if the Transferred Area were remaining within the jurisdiction of the Township. The parties are, however, unaware of any such liens. If special assessment liens exist, then the Township agrees to furnish the City with full information regarding such special assessments.

1.6 Taxes. Subject to the provisions of Section 3.1 of this Agreement, for the purpose of all taxation against the Transferred Area, it shall be considered as being within the jurisdiction of the City.

ARTICLE II

REPRESENTATION

2.1 Representation. Each party to this Agreement represents that prior to entering into this Agreement, and when formulating this Agreement, it considered the following factors:

(a) The composition of the population; population density; land area and land uses; assessed valuation; topography, natural boundaries and drainage basins; and the past and probable future growth, including population increase and business, commercial and industrial development in the Transferred Area; and considering the comparative data for the Township and the portion of the Township remaining after the transfer of the Transferred Area.

(b) The need for organized community services; the present cost and adequacy of governmental services in the Transferred Area; the probable future need for services in the Transferred Area; the practicability of supplying such services to the Transferred Area; the probable effect of the transfer and of alternative courses of action on the cost and adequacy of services in the Transferred Area and on the remaining portion of the Township; the probable change in taxes and tax rates to the Transferred Area in relation to the benefits expected to accrue from the transfer; and the financial ability of the City, which is responsible for services in the Transferred Area, to provide and maintain those services.

(c) The general effect upon the parties hereto of the transfer; and the relationship of the transfer to the City, the Township, the County of Wexford, or any regional land use plan.

ARTICLE III

SHARING OF REVENUES

3.1 Sharing of Taxes. Taxes on the Transferred Area, or paid by the occupants or employees of occupants of the Transferred Area, shall be shared by the parties hereto as follows:

(a) Property taxes. The Township shall annually receive from the City of Cadillac the 2 mills which are currently levied for Township operations. The mills are based on \$1.00 received for taxation for every \$1,000.00 of state taxable value of the real and personal property in the Transferred Area.

For purposes of this provision, "taxable value" shall be the taxable value established by Proposition A according to the laws of the State of Michigan on December 31, 2002 (for the 2003 tax year) and each subsequent December 31 (for each subsequent tax year). The City will make such assessment using valuation methods applicable at the time of the assessment. This amount shall be paid by the City to the township on or before September 1 of each year for fifty (50) years, beginning September 1, 2003, with the last such payment due on or before September 1, 2052.

(b) Manufactured home taxes. Any taxes received by the City as the result of manufactured homes being placed in the Transferred Area, will be shared by the parties according to its pro-rata share, based on a percentage determined by the Township millage divided by the City millage to create a pro-rata percentage which would be paid from the manufactured home payments.

(c) Other taxes. There will be no sharing of any other taxes.

3.2 Other Revenue. Other revenues collected from the Transferred Area, its occupants or employees of its occupants, including without limitation, special assessments (except as provided in Paragraph 1.4), water and sewer rates, fees and charges and other utilities and charges, shall not be shared by the parties.

4
COPY

3.3 Gifts. All gifts, grants, assistance funds, bequests or other funds from any private or public source given as a result of the Transferred Area, an activity performed upon the Transferred Area, the occupancy of the Transferred Area, or for any other reason arising from the existence or jurisdiction of the Transferred Area shall not be shared by the parties.

ARTICLE IV

LIABILITY, INDEMNIFICATION AND INSURANCE

4.1 Liability. Any liability which is incurred by either party, including, without limitation, fines, penalties, judgments, damages, settlements made in good faith, tax assessments or other costs charged against the party, as well as the cost of defending against such liability, including actual reasonable attorneys' fees incurred as a result of the transfer of the Transferred Area or the location of the Transferred Area within the jurisdiction of the City, shall be the responsibility of and shall be paid by the City, except to the extent that such liabilities or the costs of defending against them are incurred as a result of the affirmative acts of the Township.

4.2 Responsibility for Liabilities. In the case such liabilities, or the costs of defending against them, are incurred by the party not responsible for them, the other party shall reimburse the party not responsible for such liabilities, or costs of defending against them, within thirty (30) days of receiving a bill therefor.

4.3 Insurance. The City shall be responsible for carrying general liability, property damage and casualty insurance for all property of either party located within the Transferred Area. Each party shall be responsible for maintaining unemployment and workers' disability compensation insurance for any of its employees who may, at any time, work within the Transferred Area, and no existing employees of either of the parties hereto, or any future employees of either of the parties hereto, shall for any purposes, be or be construed to be employees of the other party, except as may be expressly provided in a written agreement between the parties.

ARTICLE V

TERM AND TERMINATION

5.1 Term. This Agreement shall terminate at 11:59 p.m. on January 31, 2053.

5.2 Effect of Termination at End of Term. Upon the termination of this Agreement, the Transferred Area shall, for all purposes, be within the jurisdiction of the City.

5.3 Possible Early Termination and Reversion: The City and Township agree that special provisions for termination and reversion shall exist on the following described portion of the Transferred Area:

That part of the South Half (S ½) of the Northeast Quarter (NE 1/4) and the Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4) lying East of U.S. 131 Freeway, all in Section 34, Township 22 North, Range 9 West, Haring Township, Wexford County, Michigan.

For the parcel described in this paragraph, City water and/or City sewer services must be provided no later than 10 years from the effective date of this agreement. In the event that City water and/or City sewer services are not provided within the 10 year term provided above, then the real estate described in this paragraph shall be automatically removed from the terms of this agreement and the jurisdiction for such real estate shall immediately revert to the Township.

ARTICLE VI

ENFORCEMENT

6.1 Enforcement. This Agreement may be enforced by application to the Circuit Court for the County of Wexford, State of Michigan, for a writ of mandamus or mandatory injunction, or by a suit for damages. In case of any such enforcement action, the prevailing party shall be entitled to collect from the losing party all of its costs, including its actual reasonable attorneys' fees incurred to investigate, bring and maintain that enforcement action. In addition, the Township shall be entitled, as a means of enforcement, to require the return of the Transferred Area to the jurisdiction of the Township, which shall occur upon a court order so providing.

ARTICLE VII

ZONING

7.1 Zoning. The parties acknowledge that through the development of an updated Master Plan by the City of Cadillac, it is contemplated mixed use planned unit development for the Transferred Area. Although such zoning is contemplated, it is not binding on the City. The City will agree to zone the Transferred Area according to its Master Plan as it exists from time to time.

ARTICLE VIII**MISCELLANEOUS**

8.1 Notices. Any notice, demand or communication required, permitted or desired to be given under this Agreement, shall be deemed effectively given when personally delivered or mailed by prepaid certified mail, return receipt requested, addressed to the addresses first given above. If to the City, it shall be addressed or delivered to the City Manager and, if to the Township, it shall be addressed or delivered to the Township Supervisor.

8.2 Governing Law. This Agreement has been executed and delivered in and shall be interpreted, construed and enforced pursuant to and in accordance with the laws of the State of Michigan. All duties and obligations of the parties created hereunder are performable in Wexford County, Michigan, and Wexford County, Michigan shall be the venue for any litigation, special proceedings or other proceeding between the parties that may be brought, or arise out of, in connection with, or by reason of this Agreement.

8.3 Assignment. No assignment of this Agreement or the rights and obligations under it shall be valid without the specific written consent of both parties.

8.4 Waiver of Breach. The waiver by either party of a breach or violation of any provision of this Agreement shall not operate as, or be construed to be, a waiver of any subsequent breach of the same or other provision.

8.5 Severability. In the event any provision of this Agreement is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of this Agreement, which shall remain in full force and effect and enforceable in accordance with its terms.

8.6 Articles and Other Headings. The articles and other headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

8.7 Copies. This Agreement and amendments thereto may be executed in multiple copies. Each copy shall be deemed an original, but all copies together shall constitute one and the same instrument.

COPY

COPY

Schedule A

The South Half (S ½) of the Northeast Quarter (NE 1/4); and the Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4), Section 34, Township 22 North, Range 9 West, Haring Township, containing 120 acres, more or less.

EXHIBIT 16

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WEXFORD

THE CHARTER TOWNSHIP OF HARING,
a Michigan Charter Township,

Plaintiff,

v

File No. 13-24606-CH

THE CITY OF CADILLAC, a Michigan
Municipal Corporation,

Defendant,

and

DONALD BOERSMA AND GLORIA
BOERSMA, individuals,

Necessary-Party Defendants.

OPINION AND ORDER
ON MOTIONS FOR SUMMARY DISPOSITION

Introduction

Plaintiff, the Charter Township of Haring (Haring), brings an action for declaratory relief and injunctive relief against defendant City of Cadillac (Cadillac) and defendants Donald Boersma and Gloria Boersma (Boersmas). The request for injunctive relief became moot upon stipulation of the parties to maintain the status quo with respect to certain improvements to the Boersmas' property that was the subject matter of the contract

dispute between Haring and Cadillac. The dispute exists between Haring and Cadillac. The Boersmas are necessary parties as a result of being the title holders to the property which is the subject of the jurisdictional dispute between Haring and Cadillac. Cadillac brings a motion for summary disposition pursuant to MCR 2.116(C)(10), and Haring brings a counter-motion for summary disposition pursuant to MCR 2.116(I)(2). The Boersmas joined in the motion brought by Cadillac and in opposition to the motion brought by Haring.

Statement of Facts

The dispute between Haring and Cadillac involves an Act 425 agreement bearing the date of May 5, 2003. The agreement describes a parcel of property to be transferred from Haring to Cadillac pursuant to Act 425 and the particular dispute involves early termination provision as to a particular described parcel which reads as follows:

"5.3 Possible Early Termination and Reversion: The City and Township agree that special provisions for termination and reversion shall exist on the following described portion of the Transferred Area:

That part of the South Half (S ½) of the Northeast Quarter (NE 1/4) and the Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4) lying East of U.S. 131 Freeway, all in Section 34, Township 22 North, Range 9 West, Haring Township, Wexford County, Michigan.

For the parcel described in this paragraph, City water and/or City sewer services must be provided no later than 10 years from the effective date of this agreement. In the event that City water and/or City sewer services are not provided within the 10 year term provided above, then the real estate described in this paragraph shall be automatically removed from the terms of this agreement and the jurisdiction for such real estate shall immediately revert to the Township."

Referencing the disputed property as the "Boersma Property", the parties have entered into a stipulation with respect to the amount of work that was completed within the 10 year time

period as follows:

"2. The improvements installed on the Boersma Property prior to May 6, 2013 are reflected on the two plans prepared by Stantec Consulting Michigan, Inc., entitled (a) "Civil Lift Station Plan and Profile and General Notes and Legend" (Drawing No. C-101, sheet 2 of 3), having a last revision date of February 15, 2013, and (b) "Process New Work Plan and Section" (Drawing No. P-401, sheet 3 of 3), having a last revision date of January 8, 2013 (collectively, the "Phase I Plans" [attached as **Exb. A**]), with said improvements being more particularly described as follows:

- a. A wet well structure (including the top, bottom, cylinder/walls, fillets, and access hatch);
- b. A manhole with two (2) 14-foot capped stubs of 8" PVC pipe, one exiting the manhole to the east and one exiting the manhole to the south;
- c. 300 feet of 8" PVC pipe that extends from the wet well structure, eastward to the manhole; and,
- d. An access/service driveway to the wet well structure.

(Collectively, the "Phase I Work").

3. The Phase I Work completed prior to May 6, 2013 does not include the installation of the interior operating components of the wet well structure, which are illustrated by the light, dotted lines on the Phase I Plans."

It is undisputed that what has been installed on the property is the first phase of collection of sewage from the property. Holding tanks are in place and manholes are available for

access to the holding tanks. The tanks could be pumped out and sewage transported for treatment by a truck. It is also undisputed that the holding tanks are not connected by a piping system that would permit the transportation of the sewage without the use of pumping and trucking to a sewage disposal plant owned by Cadillac. Each of the parties presents various documentation with respect to the interpretation of the contract from other ordinances, statutes, correspondence, and documentation. Each of those documents are provided in an attempt to interpret the contract term "City sewer services".

Discussion

Both Haring and Cadillac argue that the contract is unambiguous and should be interpreted in their favor. Each contends that the term "City sewer services" constitutes two separate and distinct things. Haring contends that City sewer services requires a transmission line from the property location to the Waste Water Treatment Plant in order for the same to constitute that service. Cadillac, on the other hand, contends that the placement of the initial holding tanks that will be part of a complete transmission method, constitutes City sewer services because sewage can be collected, transported by Cadillac, and processed by Cadillac even though it is done so by pumping and trucking. Both parties offer extrinsic evidence to support their interpretation of the contract.

If a contract has language which is unambiguous, Courts must interpret and enforce the contract as written because an unambiguous contract reflects the parties intent as a matter of law. However, if the contract language is ambiguous, extrinsic evidence can be presented to determine the intent of the parties. *Phillips v Homer (In re Smith Trust)*, 480 Mich 19, 745 NW2d 754 (2008). Here each of the parties to the contract give different

interpretation to the term "City sewer services". Haring asserts that the term involves connection of the property via underground piping to the Waste Water Treatment Plant. Cadillac interprets the language to mean collection of sewage at the location so that it can be transmitted, even by pumping and trucking to the Waste Water Treatment Plant. The term "City sewer services" is not defined in the contract and, therefore, the Courts may review the common meaning of the words. *Roy v Continental Insurance Company*, 473 Mich 457, 703 NW2d 23 (2005). The plain meaning of a word can be determined by looking to a recognized dictionary for a definition. *State Insurance Company v Freeman*, 432 Mich 656, 443 NW2d 734 (1989). Sewer is defined as an artificial, usually subterranean, conduit to carry off sewage and sometimes surface water (as from rainfall). Of necessity, a review of the definition of sewage reveals: refuse liquids or waste matter carried off by sewers. Conduit is defined as a natural or artificial channel through which something (as a fluid) is conveyed. Webster's New Collegiate Dictionary 1974.¹

A contract is ambiguous when it is facially inconsistent or its language can be reasonably interpreted in two or more ways. *Auto Club Group Insurance Company v Daniel*, 254 Mich App 1, 658 NW2d 193 (2002). It has been said that a contract term is ambiguous if it means different things to different people giving it reasonable interpretation. *Gortney v Norfolk and Western Railway Company*, 216 Mich App 535, 549 NW2d 612 (1996).

In the case before the Court, Haring interprets the requirement of "City sewer

¹ Webster's New World Dictionary 1994 (Large Print) defines sewer as: "underground drain for water and waste matter."

service" to be the transmission by a conduit to a Waste Water Treatment Plant, whereas Cadillac interprets the same as providing the collection, transportation, and disposal of the sewage even if the collection and transportation are by pumping and trucking. Clearly, the parties advocate different meaning to the terms used. Various methods are used to permit resolution of such ambiguity such as the common usage in a particular profession or industry based upon how persons in the profession or business usually interpret those terms. *Whittaker Corporation v Michigan Mutual Liability Company*, 58 Mich App 34, 227 NW2d 1 (1975).

Haring presents to the Court various items of extrinsic evidence that they believe resolves the ambiguity in their favor. Haring provides the following list of reasons why the Phase I work which has been completed on the property does not constitute a sewer within the intent of the parties to the contract, citing the following particulars:

- Phase I does not constitute a "sewer" under the City's own sewer ordinance.
- Phase I is not an operable "sewer" under State law.
- Phase I does not constitute a "sewer" under the common meaning of that term.
- The documentary evidence the City itself relies upon demonstrates that the Phase I Work cannot lawfully be used to provide sewer services.
- Phase I does not satisfy the parties' intent with regard to the provision of City sewer services to the Boersma property."

Cadillac, on the other hand, argues that the language is unambiguous and interprets "City Sewer Services" as meaning the collection, transportation, treatment and disposal of waste water. They further rely upon the fact that they have been provided a permit pursuant to the Natural Resources and Environmental Protection Act ("NREPA") MCL

324.4101(h) which provides a statutory definition of "sewerage system" as follows:

"a system of pipes and structures including pipes, channels, conduits, **manholes, pumping stations,** sewage or waste treatment works, diversion and regulatory devices, outfall structures, **and appurtenances, collectively or severally, actually used or intended for use by the public for the purpose of collecting , conveying, transporting, treating, or otherwise handling sanitary sewage** or other industrial liquid wastes that are capable of adversely affecting the public health." (Emphases added by Cadillac)

Cadillac contends that the above definition makes the portions that were installed on the subject property to be a sewer because the definition includes the components shown installed as a sewer within the definition of the Environmental Protection Act. Haring counters this proposition by referring to the permits issued by the MDEQ that indicate that the "Phase I" that has been completed does not permit the connection of those improvements to the City Waste Water Treatment System without additional approvals. Haring concedes that the permits would allow for the pumping and transportation by truck to the Waste Water Treatment Plant of the waste from the Boersma property.

The authorities referred to by Haring support the proposition that Cadillac's ordinances themselves do not recognize the facilities on the Boersma property as a sewer. They further rely upon a definition similar to that cited above that the common usage of a sewer involves the transmission of sewage by conduit, typically subterranean. Cadillac does not respond to that portion of the definition, but simply relies upon its definition of collection, transportation, treatment and disposal of sewage as constituting sewer service.

Cadillac further argues that the contract language is adequate in and of itself and had the parties intended that there be a connection via appropriate subterranean piping to the Waste Water Treatment Plant those terms could have been included in the contract.

They argue that collection, transportation, treatment and disposal of sewage by Cadillac constitutes a fulfillment of the requirement and, therefore, permits the property to remain subject to the 50 year limitation as opposed to the 10 year limitation contained in the agreement. However, it is well-settled that the intent of the party can be determined from recital of the purpose and intent in the contract as is the case here. *Acme Cut Stone Company v New Center Development Corporation*, 281 Mich 32, 274 NW2d 700 (1937). Here the recitals to the Act 425 Agreement provides, as required by statute, that its purpose is for economic development. Further, a recital contains the following:

“Among those factors to be considered, according to Act 425, are the Township’s ability to provide organized community services to the property considered for transfer, and it appears certain the Township cannot provide a public water supply nor police protection services, while the City can do so, and the City also can provide sanitary sewer, fire protection and other community services.”

Haring and Cadillac anticipated the uniqueness to the Boersma property that is the subject of this dispute. A certain portion of the property which was subject to the agreement was distinguished by provision 5.3 regarding possible early termination and reversion. That term of the contract anticipated that a portion of the property, which is located on the other side of Highway U.S. 131, may well not be developed within the 10 year time frame, and if it is not so developed, it should revert to Haring. The parties made a distinction that water and/or city sewer services must be provided within 10 years or the reversion would occur. That distinction must be recognized in terms of the possibility of the development of that property. Here, the facts are undisputed that the property is completely undeveloped and that the "Phase I" improvements made by the Cadillac with respect to collection of sewage were only completed recently before the 10 year deadline specified in the agreement.

A contract must be construed as a whole, so as to give each of its provisions the meaning intended by the parties. *Leon v Detroit Harvester Company*, 363 Mich 366, 109 NW2d 804 (1961). By reading each provision of the contract in the context of the whole, ambiguity may be avoided. *Arrow Sheet Metal Works, Inc. v Bryant & Detwiler Company*, 338 Mich 68, 61 NW2d 125 (1953). The goal must be to harmonize the contract as a whole by giving effect to each contractual clause. *Murphy v Sed-Roberts Agency, Inc*, 79 Mich App 1, 261 NW2d 198 (1977). In construing contracts, the Court may give effect to every word or phrase as far as practicable and avoid any interpretation that would render any part of the contract surplusage or nugatory. *Klapp v United Insurance Group Agency, Inc*. 468 Mich 459, 663 NW2d 447 (2003). In construing a contract, the Court must adopt the construction that will result in a reasonable, fair, and just contract as opposed to one that is unusual or extraordinary or produces unfair or unreasonable results. *Port Huron Area School District v Port Huron Education Association*, 120 Mich App 112, 327 NW2d 413 (1982). Michigan courts espouse the view that the best indication of the parties' intent is the language of the contract itself; courts must avoid the temptation to allow into the record extrinsic evidence of the parties' intention because this often leads interpretations that are contradictory and confusing. *Smith v Physicians Health Plan*, 444 Mich 743, 514 NW2d 150 (1994).²

A motion under MCR 2.116(C)(10) tests the factual sufficiency of the complaint. In evaluating a motion for summary disposition brought under this subsections, a trial court

²

Michigan Contract Law - May 2010 Update, Trentacosta, The Institute for Continuing Legal Education

considers affidavits, pleadings, depositions, admissions, and other evidence submitted by the parties, MCR 2.116(G)(5), in a light most favorable to the party opposing the motion. When the proffered evidence fails to establish a genuine issue regarding any material fact, the moving party is entitled to judgment as a matter of law. MCR 2.116(G)(4). The Court may not make factual findings or weigh witness credibility in deciding a motion for summary disposition. *Morris v Allstate Insurance Company*, 230 Mich App 361, 584 NW2d 340 (1998). Pursuant to MCR 2.116(I)(2) in reviewing a motion brought pursuant to (C)(10), a Court can render Judgment for the opposing party if it appears to the Court that such party is entitled to such a Judgment. *Oakland County Treasurer v Title Office Inc.*, 245 Mich App 196, 627 NW2d 317 (2001). Summary disposition may be granted when the issues raised are merely those of contract interpretation rather than a factual dispute. *Allstate Insurance Company v Freeman*, 432 Mich 656, 443 NW2d 734 (1989).

The Court is mindful of the rule that summary disposition is only appropriate in breach of contract claims where the Court may interpret a contract that is clear on its terms. If the terms are ambiguous, a factual development is necessary to determine the intent of the parties and summary disposition is inappropriate. *Michaels v Amway Corporation*, 206 Mich App 644, 522 NW2d 703 (1994). The question, therefore, presented is whether or not this Court should consider parole evidence in determining a motion pursuant to MCR 2.116(C)(10). Haring and Cadillac both assert that the contract is unambiguous and should be interpreted in their favor. The agreement also contains a so-called integration clause at paragraph 8.8 which reads as follows:

"8.8 Entire Agreement. This Agreement supersedes all previous or contemporaneous contracts and constitutes the entire agreement between the

parties. Neither party shall be entitled to benefits, other than those specified in this Agreement. No oral statements or prior or contemporaneous written material not specifically incorporated herein shall be of any force and effect, and no changes or additions hereto shall be recognized, unless incorporated herein by written amendment as provided herein, such amendment(s) to become effective on the date stipulated in such amendment(s). Both parties specifically acknowledge that, in entering into and executing this Agreement, they rely solely upon the representations and agreements contained in this Agreement and no others."

Such a clause as indicated above precludes the inclusion of parole evidence to modify the terms of the contract. *Central Transporting v Fruehauf Corporation*, 139 Mich App 536, 362 NW2d 832 (1984). As a result, the Court cannot look to other agreements or representations made in arriving at the contract, but must rely upon the contract itself. Here, Haring has requested the Court to declare that the actions of Cadillac do not constitute compliance with the provision of the City sewer services and to declare that the property reverts to Haring.

As a result of the above, the Court must analyze its interpretation of the contract language as presented. This specific language, the "City sewer services" as defined by the dictionary definition requires transmission by conduit of sewage. Here, it is clear that the services provided do not provide for the same. Also, the usage of that term by both parties involves the disposal of sewage by the use of a conduit system connected to the Waste Water Treatment Plant. The same is born out by the use that the parties have given to that word and their particular meaning of that word in ordinances and in practical application by Cadillac. Cadillac's assertion that the components installed at the present time are within the definition of "sewer" as it is defined by NREPA is not persuasive for the reason that all of those components require approval pursuant to that regulatory act. Equating that act to a City sewer service involving those components only is not logical.

The language of the contract clearly would indicate that City sewer services have not been provided as intended by the parties in their contract.

Further, the full reading of the contract involves the recitals which, consistent with Act 425, require economic development as the purpose for the agreement. The parties included in the contract a special provision reverting the subject property to Haring upon the expiration of 10 years unless certain conditions were met. Those conditions were the provisions of either City water or City sewer services which are typically necessary for economic development. The provision of those services requires the construction across divided highway U.S. 131 and was a reason for treating this parcel uniquely. Inclusion of such provisions in the contract helps clarify that it was anticipated that "City sewer services" should be interpreted as sewer services connected by conduit to the Waste Water Treatment Facility of Cadillac. The parties both having interpreted the contract as being unambiguous and having argued that the Court should render an Opinion as to the meaning of the contract, it is clear that the provision of existing services does not comply with the provision of "City Sewer Services". As a result, Haring's Motion for Summary Disposition pursuant to MCR 2.116(l) must be granted.

The Act 425 Agreement also contains an enforcement provision at paragraph 6.1 which reads as follows:

"6.1 Enforcement. This Agreement may be enforced by application to the Circuit Court for the County of Wexford, State of Michigan, for a writ of mandamus or mandatory injunction, or by a suit for damages. In case of any such enforcement action, the prevailing party shall be entitled to collect from the losing party all of its costs, including its actual reasonable attorneys' fees incurred to investigate, bring and maintain that enforcement action. In addition, the Township shall be entitled, as a means of enforcement, to require the return of the Transferred Area to the jurisdiction of the Township, which shall occur upon a court order so providing."

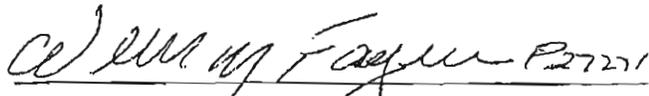
Haring is entitled to an Order of the return of the transferred area to the jurisdiction of Haring. Further, the parties have contracted for the inclusion of actual attorney fees in bringing action and as a result, Haring is entitled to actual, reasonable attorney fees. *Papo v Aglo Restaurants of San Jose, Inc*, 149 Mich App 285, 386 NW2d 177 (1986).

ORDER

IT IS HEREBY ORDERED that plaintiff's Motion for Summary Disposition pursuant to MCR 2.116(l) is granted.

IT IS FURTHER ORDERED that plaintiff shall submit appropriate documentation for assessment of reasonable attorney fees and any appropriate order necessary for transfer of the jurisdiction of the subject property consistent with the above ruling. The order for attorney fees and cost shall apply only to defendant Cadillac.

Dated: August 22, 2013



WILLIAM M. FAGERMAN
Circuit Judge

P27271

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WEXFORD

THE CHARTER TOWNSHIP OF HARING,
a Michigan Charter Township,

Plaintiff,

v
THE CITY OF CADILLAC, a Michigan
Municipal Corporation,

Defendant,

and,

DONALD BOERSMA AND GLORIA
BOERSMA, individuals,

Necessary-Party Defendants.

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Donald and Gloria Boersma
In pro per Necessary-Party Defendants
530 Holbrook Street
Cadillac, MI 49601
(231) 878-7594

At a session of said Court held in the Wexford County Circuit
Court, in the City of Cadillac, this 11th day of Oct.,
2013.

PRESENT: WILLIAM M. FAGERMAN
Circuit Court Judge

A TRUE COPY

11 October 2013
Clare J. Richardson
WEXFORD COUNTY CLERK
Lucinda Kalkbrenner
DEPUTY

WHEREAS, on August 22, 2013, the Court entered an Opinion and Order holding, *inter alia*, that Plaintiff's Motion for Summary Disposition Pursuant to MCR 2.116(I) is granted, and further holding that the Court will enter an appropriate order necessary for transferring the jurisdiction of the property described below (the "Subject Property") from the jurisdiction of the City of Cadillac to the jurisdiction of the Charter Township of Haring; and

WHEREAS, the Court considered a proposed form of Final Order in open Court on September 23, 2013, during which the Court heard arguments from the parties regarding the language of the Final Order, and the Court is otherwise advised in the premises.

NOW, THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED as follows:

1. Pursuant to Article V, Section 5.3 of the Act 425 Agreement between Haring Charter Township and the City of Cadillac, dated May 5, 2003, the following described lands are removed from the terms of said Act 425 Agreement, and the jurisdiction for such lands shall revert to the Charter Township of Haring, for all purposes, effective May 6, 2013:

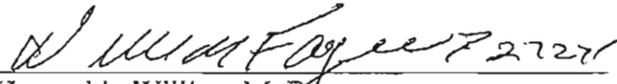
That part of the South Half (S 1/2) of the Northeast Quarter (NE 1/4) and the Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4) lying East of U.S. 131 Freeway, all in Section 34, Township 22 North, Range 9 West, Haring Township, Wexford County, Michigan [the "Subject Property"].

2. Plaintiff, the Charter Township of Haring, is hereby authorized and directed to file a true copy of this Order with the Wexford County Clerk, to document the removal of the Subject Property from the Act 425 Agreement and the transfer of the Subject Property into the jurisdiction of Haring Charter Township for all purposes.

3. Plaintiff, the Charter Township of Haring, is hereby authorized and directed to file a true copy of this Order with the Secretary of State, Office of the Great Seal, to document the removal of the Subject Property from the Act 425 Agreement and the transfer of the Subject Property into the jurisdiction of Haring Charter Township for all purposes.

4. The City of Cadillac shall execute all documents necessary to facilitate the return of the Subject Property to the jurisdiction of the Charter Township of Haring and the City's return to the Township of all records needed to completely transfer jurisdiction.

This is a final order that resolves the last pending claim and closes the case.


Honorable William M. Fagerman,
Circuit Court Judge