



## CITY COUNCIL MEETING AGENDA January 19, 2023

Mark Ammel, Mayor  
Karen Moore, Mayor Pro Tem  
Ronald J. Beauchamp, Council Member  
Tyler DuBord, Council Member  
Todd Flath, Council Member

Jim McNeil, Interim City Manager  
Phil DeMay, City Clerk

City Council Chambers located at: City Hall – 410 Ludington Street – Room C101 – Escanaba, MI 49829

The Council has adopted a policy to use a Consent Agenda, when appropriate. All items with an asterisk (\*) are considered routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council Member or citizen so requests, in which event, the item will be removed from the General Order of Business and considered in its normal sequence on the Agenda.

### Regular Meeting

**Thursday, January 19, 2023, at 7:00 p.m.**

CALL TO ORDER

ROLL CALL

INVOCATION/PLEDGE OF ALLEGIANCE

APPROVAL/CORRECTION(S) TO MINUTES – Regular Meeting – January 5, 2023  
Work Session – January 10, 2023

APPROVAL/ADJUSTMENTS TO THE AGENDA

CONFLICT OF INTEREST DECLARATION(S)

BRIEF PUBLIC COMMENT(S)

PUBLIC HEARINGS

**1. Public Hearing – Citizen Participation – 2023-24 Fiscal Year Budget Preparation.**

**Explanation:** Each year, Council holds public hearings to facilitate input from citizens for the upcoming FY2023-24 fiscal year budget. This is the first of five (5) scheduled public hearings.

**2. Public Hearing – Condemnation Located at 1620 9<sup>th</sup> Avenue South – Code Compliance Department – Public Safety.**

**Explanation:** Administration is requesting condemnation of the home at 1620 9<sup>th</sup> Avenue South due to lack of maintenance and repair and is unfit for human habitation.

### UNFINISHED BUSINESS

**1. Discussion – City Manager Position – Council/Manager.**

### NEW BUSINESS

**1. Presentation – Audit – City Controller.**

**Explanation:** Annette Eustice of the audit firm Rehmann will give a presentation of the 06/30/2022 audit.

**2. Approval – Resolution to Adopt the Updated Delta County Hazard Mitigation Plan. – City Manager.**

**Explanation:** The CUPPAD Regional Planning Commission is seeking Council approval of a resolution to adopt the updated Hazard Mitigation Plan for Delta County. After receiving input from local municipalities, the plan was adopted by FEMA, Region V, U.S. Department of Homeland Security and adopted by the County Board of Commissioners. Since the City of Escanaba was part of the planning process, FEMA is requesting adoption of the plan by the local units of government. This Hazard Mitigation Plan assesses risks and evaluates the community's vulnerability from potential hazards. By adopting the plan, the City will be eligible to apply for funding through the full complement of Hazard Mitigation Assistance Grants offered by the State of Michigan and Federal government.

**3. Approval – Energy Optimization Program - Electric.**

**Explanation:** Administration is seeking approval for the 2023 Energy Optimization Program in the amount of \$150,000. This is a budgeted item. The Electrical Advisory Committee supports and recommends this program.

**4. Approval – Request to Use City Land for History Garden – Manager.**

**Explanation:** Administration is seeking Council input on a request from Enhance Escanaba to design and construct/plant a history garden on the unused area of sand point, east of the water plant.

**5. Approval – Engagement Agreement for City Attorney – Manager.**

**Explanation:** Administration is seeking City Council approval of an engagement agreement appointing Foster Swift as the City Attorney. This requires Council approval in accordance with the City purchasing policy.

**6. Closed Session – Discuss a Written Legal Opinion – Attorney.**

**Explanation:** Pursuant to MCL 15.268(h) a closed session is proposed to discuss with the public body's attorney a memorandum of advice as permitted under section 8(h) of the OMA – "to consider material exempt from discussion or disclosure by state or federal statute."

APPOINTMENTS

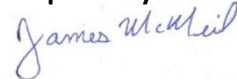
BOARD, COMMISSION, AND COMMITTEE REPORTS

GENERAL PUBLIC COMMENT

ANNOUNCEMENTS

ADJOURNMENT

**Respectfully Submitted**



**Jim McNeil**

**Interim City Manager**



**CITY COUNCIL**  
**MEETING AGENDA - ADDENDUM**  
January 19, 2023

Mark Ammel, Mayor  
Karen Moore, Mayor Pro Tem  
Ronald J. Beauchamp, Council Member  
Tyler DuBord, Council Member  
Todd Flath, Council Member

Jim McNeil, Interim City Manager  
Phil DeMay, City Clerk

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Regular Meeting - Addendum

**Thursday, January 19, 2023, at 7:00 p.m.**

**NEW BUSINESS**

- 7. First Reading of Ordinance No. 1273, An Ordinance Imposing Temporary Moratorium on Medical and Adult-Use Marihuana Establishment Applications, Approvals, and Licenses, and Setting the Date of Thursday, February 2, 2023, for the Second Reading, Public Hearing, and Adoption – Manager.**

**Explanation:** Administration is requesting City Council to consider this the first reading of Ordinance No. 1273, Ordinance Imposing Temporary Moratorium on Medical and Adult-Use Marihuana Establishment Applications, Approvals, and Licenses. Administration is requesting that the City Council set February 2, 2023, for the second reading, public hearing, and adoption of Ordinance No. 1273.

**Respectfully Submitted**

A handwritten signature in blue ink that reads "James McNeil".

**Jim McNeil**  
**Interim City Manager**

**OFFICIAL PROCEEDINGS  
CITY COUNCIL  
CITY OF ESCANABA, MICHIGAN  
Regular Council Meeting  
Thursday, January 5, 2023**

The meeting was called to order by the Honorable Mayor Mark Ammel at 7:00 p.m. in the Council Chambers of City Hall located at 410 Ludington Street.

Present: Mayor Mark Ammel, Council Members, Ronald J. Beauchamp, Tyler DuBord, Todd Flath, and Karen Moore

Absent: None

Also Present: Interim City Manager Jim McNeil, City Clerk Phil DeMay, Department Heads, media, and members of the public.

City Clerk DeMay led Council in the Pledge of Allegiance.

Flath moved, DuBord seconded, **CARRIED UNANIMOUSLY**, to approve Regular Meeting minutes from December 15, 2022, as submitted.

**ADJUSTMENTS TO THE AGENDA**

Flath moved, DuBord seconded, **CARRIED UNANIMOUSLY**, to approve the City Council Agenda as submitted.

**CONFLICT OF INTEREST DECLARATION** – None

**BRIEF PUBLIC COMMENT** – None

**PUBLIC HEARINGS**

**PH-1 Second Reading, Public Hearing and Adoption of Ordinance No. 1272, An Ordinance to Amend Section 401.4 of the Zoning Ordinance as Codified Under Appendix A of the Code of Ordinances.**

Administration requested the City Council to consider approval and adoption of Ordinance No. 1272, An Ordinance to Amend Section 401.4 of the Zoning Ordinance as Codified under Appendix A of the Code of Ordinances - Rezoning parcels adjacent to the North 30th Street corridor from "F-Light Manufacturing District" to "E-Commercial District."

This being a public hearing, Mayor Ammel asked for public comment.

Hearing no public comment, Mayor Ammel then closed the public hearing.

**PH-1** "By Council Member DuBord, seconded by Council Member Flath;

**Resolved**, That Ordinance No. 1272, An Ordinance to Amend Section 401.4 of the Zoning Ordinance as Codified under Appendix A of the Code of Ordinances - Rezoning parcels adjacent to the North 30th Street corridor from “F-Light Manufacturing District” to “E-Commercial District, given its public hearing at this meeting, be and is hereby adopted and that it be published in accordance with the requirements of the City Charter."

Herewith Ordinance No. 1272 adopted by title:

**"AN ORDINANCE TO AMEND SECTION 401.4 OF THE ZONING ORDINANCE AS CODIFIED UNDER APPENDIX A OF THE CODE OF ORDINANCES."**

Full text in Ordinance Record “M”.

Upon a call of the roll, the vote was as follows:

Ayes: DuBord, Flath, Moore, Mayor Ammel

Nays: Beauchamp

**RESOLUTION DECLARED ADOPTED.”**

## **UNFINISHED BUSINESS**

### **UB-1 Discussion – City Manager Position – Council/Manager.**

Moore moved, DuBord seconded, to hire Jim McNeil as the permanent City Manager contingent on contract negotiation.

*After further discussion Council Member DuBord rescinded his support of Council Member Moore’s motion. With a lack of support to the motion it dies on the floor.*

**UB-1** Flath moved, Beauchamp seconded, to open up the City Manager position to all city employees interested with a deadline of January 11, 2023, to apply. Also, set a date of January 18, 2023, at 6:00pm in Council Chambers for a special meeting to conduct interviews of those who are interested in the City Manager position.

Upon a call of the roll, the vote was as follows:

Ayes: Flath, Beauchamp, DuBord, Mayor Ammel

Nays: Moore

**MOTION CARRIED.**

## **NEW BUSINESS**

### **NB-1 Approval – Scheduling of Public Hearings – 2023/24 Fiscal Year Budget**

**Preparation – Citizen Participation.**

Each year, the City Council holds public hearings to facilitate input from citizens for the upcoming fiscal year budget. Administration sought Council approval to schedule the first of three (3) public hearings for January 19, 2023. Additionally, Administration sought City Council approval to schedule additional public hearings for February 16, 2023, and March 16, 2023.

**NB-1** DuBord moved, Beauchamp seconded, **CARRIED UNANIMOUSLY**, to schedule public hearings for January 19, 2023, February 16, 2023, and March 16, 2023, for citizen input on the 2023/24 Fiscal Year Budget and adopted the 2023/24 Budget/Capital Improvement Plan Calendar.

**APPOINTMENT(S) TO CITY BOARDS, COMMISSIONS, AND COMMITTEES** – None

**BOARD, COMMISSION, AND COMMITTEE REPORTS**

Council Members reviewed City Board and Commission meetings each attended since the last City Council Meeting.

**GENERAL PUBLIC COMMENT** – None

**ANNOUNCEMENTS**

- Mayor Ammel wished everyone a Happy New Year.

Hearing no further public comment Beauchamp moved, the Council adjourned at 7:31 p.m.

Respectfully submitted

Phil DeMay  
City Clerk

Approved: \_\_\_\_\_  
Mark Ammel, Mayor

**OFFICIAL PROCEEDINGS  
CITY COUNCIL  
CITY OF ESCANABA, MICHIGAN  
Work Session Meeting  
Tuesday, January 10, 2023**

Pursuit to a special meeting notice posted January 3, 2023, the meeting was called to order by the Honorable Mayor Mark Ammel at 3:00 p.m.

Present: Mayor Mark Ammel, Council Members, Ronald J. Beauchamp, Tyler DuBord, Todd Flath, and Karen Moore

Absent: None

Also Present: Interim City Manager Jim McNeil, City Clerk Phil DeMay, Department Heads, media, and members of the public.

**ADJUSTMENTS TO THE AGENDA**

Flath moved, DuBord seconded, **CARRIED UNANIMOUSLY**, to approve the City Council Agenda as submitted.

**CONFLICT OF INTEREST DECLARATION** – None

**NEW BUSINESS**

**NB-1 Discussion – 2023-24 Operating Budget Preparation.**

Administration led a discussion concerning the upcoming 2023-24 operating budget and sought Council input on items the Council as a whole would like to see considered for inclusion in the budget. Additionally, the various departments updated the Council on budgetary opportunities and challenges for the upcoming year.

- Interim City Manager McNeil provided a general review of the overall budget and expectations regarding Revenue Sharing, Tax Revenues, and State Personal Property Tax.
- City Controller Melissa Becotte discussed the revenue sharing picture; No major equipment purchases. The rest of the Controller's budget will be "normal" for this year's budget;
- City Treasurer/HR Administrator Kim Gustafson discussed BSA software and possibility of Utility payment kiosks;
- Water/Wastewater Superintendent Jeff Lampi updated Council on the current and future status of his departments. Lampi discussed construction projects, water treatment project, maintenance costs, staffing update, equipment purchases, grant opportunities, applications for loans, future problems, and discussed capital improvement increases. Mr. Lampi gave a handout and breakdown of proposed expenditures;

City Council Minutes  
January 10, 2023 – cont.

- Public Safety Director Robert LaMarche updated Council on retiring employees and new hires. Also, discussed budget items such as training, staffing, new body and dash cameras, building maintenance, and continue the conversation of a new ladder truck;
- Planning and Zoning Administrator Tyler Anthony discussed zoning updates, possible fee increases, and budget update;
- City Library Director Carolyn Stacey discussed budget items including penal fines, staffing, technology needs, outreach program, operating costs, and grants. Also gave an update on mobile outreach vehicle;
- Electric Superintendent Gerald Pirkola discussed capital and operating budget, projects, SCADA upgrade, power contract and rates, compacity, bucket truck update, AMI installation, cold storage garage, pole testing, and tree trimming;
- City Recreation Director Kimberly Peterson reviewed Recreation budget, projects and equipment, and SPARK grant update;
- Public Works Superintendent Wendy Tavvola discussed equipment purchase, staffing update, building maintenance, fuel station replacement or upgrade, grants, Salt Dome update, sidewalks, woodchipper, garbage trucks, and radio system upgrade;
- City Clerk/IT Administrator Phil DeMay discussed the upcoming elections. Possible election in May and a City Council election in November 2023. Would like to purchase a collapsible precinct tabulator bin for precinct 2. Discussed the replacement of the van that was purchased in 1998. There are no major purchases in the Clerk's Office other than training for City Clerk and Deputy Clerk. DeMay discussed the current technology projects and discussed updating the City Meraki firewall license (\$10,000), Key fob install on selected doors at City Hall, security system overhaul. Additional camera in council chambers;
- City Assessor James McNeil discussed the preparation of the 2023 tax base; it is expected to remain stable. There are no major additions or subtractions to the Assessor or Board of Review budgets;
- Downtown Development Authority Director Craig Woerpel discussed storefronts in downtown Escanaba, RRC update, marketing and promotions, new logo for the DDA, and events update;
- Harbor Master Shane Sanville was not present.

**GENERAL PUBLIC COMMENT** – None

**ANNOUNCEMENTS** – None



City Council Minutes  
January 10, 2023 – cont.

Hearing no further public comment, Flath moved, DuBord seconded, the Council adjourned at 4:41 p.m.

Respectfully submitted,

Phil DeMay  
City Clerk

Approved: \_\_\_\_\_  
Mark Ammel, Mayor

Agenda Item: NB-1  
Date: 01-19-2023

## City Council Agenda Item Request

Date: 12/12/2022

Name: Melissa Becotte

Department: City Controller

Item: Audit Presentation

Meeting date requested: 1/19/2023

Explanation for request:

Annette Eustice of the audit firm Rehmann will give a presentation of the 06/30/2022 audit.

Agenda Item: NB-2  
Date: 01-19-2023

## City Council Agenda Item Request

Date: 1/10/2023

Name: James McNeil

Department: City Manager

Item: Resolution to Adopt the Updated Delta County Hazard Mitigation Plan

Meeting date requested: 1/19/2023

Explanation for request:

The CUPPAD Regional Planning Commission is seeking Council approval of a resolution to adopt the updated Hazard Mitigation Plan for Delta County. After receiving input from local municipalities, the plan was adopted by FEMA, Region V, U.S. Department of Homeland Security and adopted by the County Board of Commissioners. Since the City of Escanaba was part of the planning process, FEMA is requesting adoption of the plan by the local units of government. This Hazard Mitigation Plan assesses risks and evaluates the community's vulnerability from potential hazards. By adopting the plan, the City will be eligible to apply for funding through the full complement of Hazard Mitigation Assistance Grants offered by the State of Michigan and Federal government.



*Central Upper Peninsula Planning and Development*

2950 College Ave. Escanaba, MI • Phone: 906-786-9234 • [www.cuppad.org](http://www.cuppad.org)

January 9, 2023

Delta County Township Boards, City Councils, and Village Officials,

Delta County received a grant through the Homeland Security Division, Michigan State Police to update and prepare Hazard Mitigation Plans for four counties in the central UP: Alger, Delta, Menominee, and Schoolcraft. Delta County contracted with staff of the CUPPAD Regional Commission to assist the four counties in preparing the updated Hazard Mitigation Plans.

CUPPAD staff met and worked with the County Emergency Management Coordinator and the Delta County Local Emergency Preparedness Committee (LEPC) in drafting the plan. As part of the planning process we received input from the municipalities in the county and we thank you for your assistance. A copy of the final plan is available on the CUPPAD website, [www.cuppad.org/plans-documents](http://www.cuppad.org/plans-documents).

The Plan has been reviewed by the Michigan State Police Homeland Security Division and has been found to meet the requirements for a multi-jurisdictional hazard mitigation plan. FEMA has reviewed the Plan and deemed it Approvable Pending Adoption by Delta County and its local units of government.

As the Plan represents multiple jurisdictions in Delta County, FEMA requests that your community passes a resolution adopting the Hazard Mitigation Plan. By adopting the Plan, Delta County and your community would be eligible to apply for funding through the full complement of Hazard Mitigation Assistance Grants to implement the mitigation actions identified in the Plan.

On behalf of Delta County, please consider adopting the 2023 Delta County Hazard Mitigation Plan Update. Enclosed for consideration at your next board meeting is drafted wording for a resolution of adoption. A copy of the meeting minutes and signed, certified resolution will serve as documentation to be forwarded to FEMA. Please return a copy of these to Ryan Carrig, at the address above or by email to [rcarrig@cuppad.org](mailto:rcarrig@cuppad.org).

Please contact me should you have any questions.

Sincerely,

Ryan Carrig  
Associate Planner

## **RESOLUTION 23-01**

### **Resolution of the Adoption of the 2023 Delta County Hazard Mitigation Plan**

**WHEREAS**, hazard mitigation is defined as any action taken before, during, or after a disaster or emergency to permanently eliminate or reduce the long-term risk to human life and property; and

**WHEREAS**, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, is the federal law that creates the framework for state, local, tribal and territorial governments to engage in hazard mitigation planning to receive certain types of non-emergency disaster assistance; and

**WHEREAS**, FEMA manages the Hazard Mitigation Grant Program which provides funding to state, local, tribal and territorial governments so they can develop hazard mitigation plans and rebuild in a way that reduces, or mitigates, future disaster losses in their communities; and

**WHEREAS**, the Federal Government, the State of Michigan, Delta County, and the Escanaba City Council all recognize the importance of preventing or lessening the damage and impact of disasters and emergencies through hazard mitigation; and

**WHEREAS**, the City of Escanaba has a unique role to play in coordinating the hazard mitigation activities of federal and state and local governments by identifying local county hazards; and assisting in possible mitigation efforts; and

**WHEREAS**, the 2023 Delta County Hazard Mitigation Plan identifies mitigation goals and actions to eliminate or reduce long-term risk to people and property in City of Escanaba from the impacts of future hazards and disasters; and

**WHEREAS**, adoption by the Escanaba City Council demonstrates their commitment to hazard mitigation and achieving the goals outlined in the 2023 Delta County Hazard Mitigation Plan.

**NOW THEREFORE, BE IT RESOLVED** the Escanaba City Council adopts the 2023 Delta County Hazard Mitigation Plan.

Agenda Item: NB-3  
Date: 01-19-2023

## City Council Agenda Item Request

Date: January 12, 2023

Name: Gerald Pirkola

Department: Electric Department

Item: Approval - Energy Optimization Program

Meeting date requested: January 19, 2023

Explanation for request:

Administration is seeking approval for the 2023 Energy Optimization Program in the amount of \$150,000. This is a budgeted item. The Electrical Advisory Committee supports and recommends this program.



# City of Escanaba

## Commercial & Industrial Energy Optimization Program 2023 Incentive Application

**Ready to start your project? Follow these 3 simple steps.**

### Step #1: Request Pre-Approval

Pre-Approval is not necessary, however it is recommended to ensure that your project is eligible and to reserve funds. If your project has already been completed, move to Step #3. For Pre-Approval, please submit:

1. The Pre-Approval Agreement (found on page 2 of this application), completed and signed.
2. Completed the worksheets on page 4 and 5 of this application that are applicable to your project.
3. Itemized quote/proposal with model numbers from your contractor or supplier.
4. New product specification sheets.

All Projects are subject to inspection before and/or after work is performed.

### Step #2: Complete Your Project

If your project meets the pre-approval criteria, you will be notified that funds have been reserved. Following the specifications listed in this application, install your equipment within 6 months. Due to limited funds, applications that are not completed within 6 months from the date of pre-approval are subject to cancellation.

### Step #3: Get Your Cash Incentive

Once your project is complete, you must submit:

1. The Payment Approval Agreement (found on page 3 of this application), completed and signed.
2. The worksheets on pages 4 and 5 of this application.
3. The itemized invoice(s) for materials and any applicable external labor costs, including the following:
  - Contractor's name and contact information
  - Customer's name and contact information
  - Date of invoice
  - Line item cost for each product
  - Quantities of each product
  - Complete product model numbers
  - Labor (and other) expenses listed separately from product costs
  - Total invoice amount

**To submit your documents, either mail or hand deliver to:**

**City of Escanaba Electric Dept  
1711 Sheridan Road  
Escanaba, MI 49829**

**OR**

**Email to:**  
[cityelectric@escanaba.org](mailto:cityelectric@escanaba.org)

**Have Questions?**

**Call 906-786-0061**



## 2023 Energy Optimization Commercial & Industrial Program Pre-Approval Agreement

### Pre-Approval Agreement – Step #1

Please complete and submit this page, along with the appropriate worksheet(s) and quotes with model numbers from your contractor. If you plan to install the equipment yourself, please submit a quote/proposal for the cost of the equipment from a supplier or distributor. If your project meets the pre-approval criteria, you will be notified that funds have been reserved. You can then proceed with completing your project as described in Step #2 on page 1 of this application.

Name of Business		Phone	Email	
Mailing Address		City	State	ZIP Code
Installation Address (If Different than Above)		City	State	ZIP Code
Annual Hours of Operation	City of Escanaba Electric Account Number		Taxpayer ID # (SSN/FEIN or Payee)	
Building Use (Please Check One): <input type="radio"/> Office <input type="radio"/> Retail <input type="radio"/> Warehouse <input type="radio"/> Restaurant <input type="radio"/> Grocery Store/Supermarket <input type="radio"/> Manufacturing <input type="radio"/> Lodging <input type="radio"/> School (K-12) <input type="radio"/> School (College) <input type="radio"/> Healthcare Facility <input type="radio"/> Other/Miscellaneous				
Name of Supplier/Distributor		Contact Name		
Name of Installing Contractor		Contact Name		
Address		City	State	ZIP Code
Contractor Phone		Contractor Email		
Certifications and Signature I hereby certify that: The information contained in this application is accurate and complete. All rules of this incentive application have been followed. I have read and understand the Terms and Conditions included with this document. I agree to verification of equipment installation which may include a site inspection by an utility representative. I understand that I am not allowed to receive more than one incentive from this program on any piece of equipment. I hereby agree to indemnify, hold harmless and release the utility from any actions or claims in regard to the installation, operation and disposal of equipment (and related materials) covered herein, including liability from any incidental or consequential damages.				
Customer Signature			Date Submitted	
Print Customer Name			Estimated Completion Date	

*You can submit your  
documents one of two ways...*

**City of Escanaba  
Electric Department  
1711 Sheridan Road  
Escanaba, MI 49829**

**EMAIL:**  
[cityelectric@escanaba.org](mailto:cityelectric@escanaba.org)





## 2023 Energy Optimization Commercial & Industrial Program Payment Approval Agreement

### Payment Approval Agreement – Step #3

Please complete and submit this page along with your itemized invoice(s) and pages 4 and 5 of this application.

Name of Business			
Total Project Cost	Total Incentives Requested		Pre-Approval Incentive Amount (If Applicable)
Mailing Address	City	State	ZIP Code
Installation Address (If Different than Above)	City	State	ZIP Code
Print Name	Date	Installation Completion Date	
<b>Certifications and Signature</b> I certify that I am an eligible City of Escanaba electric utility customer and that the efficiency measures in this application were installed in this facility. I certify that I have read and complied with the Terms and Conditions of this application. By submitting this application, I understand that this facility may be inspected by employees or contractors/subcontractors of City of Escanaba to verify installation of any and all measures applied for in this application and that the project follows all program guidelines.			
Customer Signature			

**OPTIONAL:** Complete section below **ONLY** if incentive is to be paid to a third-party other than the customer.

Make Payable To	Contact Name	Contact Phone	
Mailing Address	City	State	ZIP Code
Taxpayer ID # (FEIN or Payee)	Tax Status (Please Check One): <input type="radio"/> Corporation <input type="radio"/> Tax Exempt <input type="radio"/> Individual <input type="radio"/> Other:		
Print Name	Date		
<b>Certifications and Signature</b> I am authorizing the payment of the incentive to the third party named above, and I understand that I will not be receiving the incentive payment. I also understand that my release to a third party does not exempt me from the program requirements outlined in the Terms and Conditions.			
Customer Signature			
I certify that I have read and complied with the Terms and Conditions of this application.			
Third Party Rebate Recipient Signature			

*You can submit your  
documents one of two ways...*

City of Escanaba  
Electric Department  
1711 Sheridan Road  
Escanaba, MI 49829

EMAIL:  
[cityelectric@escanaba.org](mailto:cityelectric@escanaba.org)



## 2023 Energy Optimization Commercial & Industrial Program

Equipment Specifications & Documentation Requirements

Energy Optimization Incentives

Capped at \$7,500 Per Customer

Lighting	Qualifications	Quantity	Incentive	Total Incentive
LED Replacement Screw in Bulbs-Small	150W or Less Incandescent Equivalent		\$2.00/ Bulb	
LED Replacement Screw in Bulbs-Medium	151 to 500W Incandescent Equivalent		\$5.00/ Bulb	
LED Replacement Screw in Bulbs-Large	501W or Greater Incandescent Equivalent		\$10.00/ Bulb	
LED Replacement Tubes- Small	4 Ft or Less		\$5.00/ Tube	
LED Replacement Tubes- Large	Greater than 4 Ft		\$10.00/ Tube	
LED Interior Fixture	Energy Star on DLC Listed. Per Actual Fixture Watt Rating		\$0.50/ W	
LED Outdoor Fixture	Energy Star or DLC Listed. Per Actual Fixture Watt Rating.		\$0.60/W	
Room Lighting Occupancy Sensor	Turns Lights Off When Room is Unoccupied		\$25/ Room	
LED Exit Sign			\$5/ Sign	

HVAC Equipment	Qualifications	Quantity	Incentive	Total Incentive
Variable Frequency Drives on HVAC Equipment	Installed on Equipment Currently Without VFDs		\$75/HP	
AC Air-Source Heat Pump			\$50/ Ton	
Ground Source Heat Pump			\$50/ Ton	
HVAC Chiller Replacement			\$40/ Ton	
ECM Condenser Fan Motor	Replace Non- ECM Motor		\$75/ Ton	
Commercial Heat Pump Water Heater			\$500	

Other Motorized Equipment Compressors, Fans, Etc.	Qualifications	Quantity	Incentive	Total Incentive
Variable Frequency Drives	Installed on Equipment Currently Without VFDS		\$75/ HP	
Soft Starters	Installed on Equipment Currently Without Soft Starters		\$20/ HP	
ECM Motor	Replace Non-ECM Motor		\$75/ HP	

Commercial Kitchen Equipment	Qualifications	Quantity	Incentive	Total Incentive
Electric Steam Cooker	Energy Star		\$300/ Pan	
Commercial Refrigerator	Energy Star		\$100/ Pan	
Commercial Freezer	Energy Star		\$100/ Unit	
Commercial Ice Machine	Energy Star		\$100/ Unit	
Commercial Electric Fryer	Energy Star		\$100/ Unit	
Hot Holding Cabinets	Energy Star		\$100/ Unit	
Commercial Dishwasher	Energy Star		\$300/ Unit	

You can submit your documents one of two ways...

City of Escanaba  
Electric Department  
1711 Sheridan Road  
Escanaba, MI 49829

EMAIL:  
[cityelectric@escanaba.org](mailto:cityelectric@escanaba.org)

## 2023 Energy Optimization Commercial & Industrial Program

Equipment Specifications & Documentation Requirements

Energy Optimization Incentives

Capped at \$7,500 Per Customer

Commercial Refrigeration	Qualifications	Quantity	Incentive	Total Incentive
LED Grocery Case Lighting			\$40/ Door	
Motion Sensor for LED Case Lighting			\$10/ Door	
ECM Motor- Walk- In/ Case Cooler/ Freezer	Replace Non-ECM Motor		\$75/ HP	
Anti- Sweat Heater Controls	Relative Humidity Controls for Anti-Sweat Heaters		\$80/ Door	

Custom Energy Reduction Incentive	Qualifications	Quantity	Incentive	Total Incentive
Custom Energy Reduction Incentive	Must Reduce Energy Use for a Specific Piece of Equipment or Process. Contact the Electric Department to discuss and calculate custom incentives.		\$0.10/kwh Reduced	

EV Chargers	Qualifications	Quantity	Incentive	Total Incentive
Level 2 EV Charger			\$250/ Charger	
DC Fast Charger	Chargers that Reduce Output When Charging More Than One Vehicle are Considered One Charger.		\$1000/ Charger	

Total Incentives:	\$
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### GENERAL PROGRAM RULES

This offer is valid only for City of Escanaba commercial and industrial electric customers whose accounts are current. Offer is good for a limited time while funds are available on a first-come, first-served basis. City of Escanaba reserves the right to withdraw or change this offer without notice. Incentives may not exceed purchase price. Ineligible incentive requests are subject to denial or repayment to program.

*You can submit your documents one of two ways...*

**City of Escanaba  
Electric Department  
1711 Sheridan Road  
Escanaba, MI 49829**

**EMAIL:**  
[cityelectric@escanaba.org](mailto:cityelectric@escanaba.org)



## 2023 Energy Optimization Commercial & Industrial Program

### Terms and Conditions

### Terms and Conditions

1. Eligibility: These incentives are offered by the City of Escanaba to commercial and industrial electric customers installing energy efficient equipment only. For questions regarding eligibility, call 906-786-0061.
2. Incentive Offer: Applicant has 6 months from the date of the acceptance letter to complete the proposed project. Applications that are not completed within 6 months are subject to cancellation. Additionally, invoice(s) related to the equipment upgrade must be submitted to the City of Escanaba within 90 calendar days of installation (completion). Please keep a copy for your records. Incentives are calculated based on prescriptive incentive rates and shall not exceed the total cost of equipment, labor, and other associated project costs.
3. Project Documentation Requirements: Customer will have to provide the City of Escanaba with the documentation as listed in the instructions (page 1). If the Customer does not provide the required project documents to the City of Escanaba, the project may be disqualified from the program.
4. Energy Efficiency Improvement Qualifications: Increased energy efficiency resulting from peak shaving, demand limiting, or operating schedule changes does not qualify. To qualify, equipment must have a planned minimum usage of 1,500 hours per year. If Customer's equipment does not meet required usage hours per year, an incentive cannot be offered. If Customer has questions or concerns about above qualifications, Customer may contact the City of Escanaba at 906-786-0061 to discuss.
5. Incentive Limit: Prescriptive and Custom project applications may receive or cumulate a maximum of \$7,500 combined per customer name and/or business entity each calendar year. Incentive limit is subject to change without notice. Incentives for measures can be up to 100% for Prescriptive projects and 50% for Custom projects of the total project cost of a specific measure but shall not exceed the incentives for each measure on the application Worksheet(s).
6. Compliance:
  - a. All projects must comply with applicable federal, state and local laws.
  - b. All equipment must be new or retrofitted with new components.
  - c. The purchase and installation of used equipment is not eligible for incentives. Existing equipment must be removed and/or permanently disconnected.
  - d. Equipment must meet specification requirements as defined in application Worksheets and Equipment Guidelines.
7. Payment: Approved Final Applications will receive payment within approximately 4 weeks of signed payment approval. Incomplete applications may delay payments or result in denial of application approval. The City of Escanaba reserves the right to refuse payment and disqualify customer from participating in the program if the Customer or their contractor violates any program Terms and Conditions.
8. Inspection: City of Escanaba staff or its designated contractor may conduct inspection(s) of the project site to survey existing conditions and/or newly installed equipment.
9. Program Discretion: Incentives are available on a first-come, first-served basis. Incentive amounts and offerings are subject to change and/or termination without notice at the discretion of the City of Escanaba.
10. Disclaimers: The City of Escanaba:
  - a. does not endorse any particular manufacturer, product, labor or system design by offering this program;
  - b. is not responsible for any tax liability imposed on the customer as a result of the payment of incentives. The City of Escanaba is tax exempt;
  - c. does not expressly or implicitly warrant the performance of installed equipment or contractor's quality of work (contact your contractor for detailed warranties);
  - d. is not responsible for the proper disposal/recycling of any waste generated as a result of this project;
  - e. is not liable for any damage caused by the installation of the equipment and/or for any damage caused by the malfunction of the installed equipment.
11. Indemnification: Customer shall, to the fullest extent permitted by law, indemnify and hold harmless the City of Escanaba, and their officers, agents and employees harmless from and against all losses and litigation expenses arising out of or resulting from the performance of work hereunder and caused, in whole or part, by any act or omission of Contractor. The City of Escanaba shall further be entitled to all cost (which include both internal and external) incurred in the process of enforcing this or any other provision under this agreement. This provision is not intended and is not to be construed as a waiver of the defense of governmental immunity otherwise available nor is it intended to grant third party beneficiary status to any person or entity.
12. Governing Law: This agreement is construed in accordance with Michigan law, without regard to conflict of laws, provisions, and venue is in the county in which the municipality resides.



## **CITY OF ESCANABA**

### **Residential Energy Optimization Program**

### **2023 Incentive Application**

**Ready to start your project? Follow these 3 simple steps.**

#### **Step #1: Make Sure Your Project is Eligible**

Check the specifications listed in this application and/or speak with the City of Escanaba Electric Department by calling 906-786-0061 to make sure your project is eligible for Energy Optimization incentives.

All equipment must be new and installed or operated in a residential dwelling whose electric service is provided by the City of Escanaba.

#### **Step #2: Complete Your Project**

Install your new, energy-efficient equipment following the specifications listed in this application.

#### **Step #3: Apply for Your Cash Incentive**

Once your project is complete, it's time to request your cash incentive. You must submit:

1. A completed and signed application.
2. Itemized invoice(s) for contractor-installed equipment, including installation date, costs for equipment installed and installation labor.
3. For ENERGY STAR® products/equipment, the ENERGY STAR® logo and a copy of invoice/receipt.
4. For HVAC or Water Heating, the AHRI Certificate (required to verify efficiency).
5. For all other items just send in a copy of the invoice/receipt.
6. Your completed application and the required materials listed above must be received within 60 days of purchase and/or installation.
7. To submit your documents, either mail, email or hand deliver to:

**City of Escanaba Utility Office**  
**410 Ludington Street**  
**Escanaba, MI 49829**

**OR**

**Email to:**  
**cityelectric@escanaba.org**

**Have Questions?**

**Call 906-786-0061**



## 2023 Energy Optimization Residential Program

### Customer Information

#### Customer Information

Customer Name	Phone	Email	
Mailing Address	City	State	ZIP Code
Installation Address (If Different than Above)	City	State	ZIP Code
City of Escanaba Electric Account Number	Fuel type for space heating: <input type="checkbox"/> Natural Gas <input type="checkbox"/> Electric <input type="checkbox"/> LP(Propane) <input type="checkbox"/> Oil		
Name of Installing Contractor for HVAC and EV	Contractor Name		
Address	City	State	ZIP Code
Contractor Phone	Contractor Email		
<b>Certifications and Signature</b> I hereby certify that: The information contained in this application is accurate and complete. All rules of this incentive program have been followed. I have read and understand the Terms and Conditions included with this document. I agree to verification of equipment installation which may include a site inspection by a City of Escanaba representative. I understand that I am not allowed to receive more than one incentive from this program for any one piece of equipment. I hereby agree to indemnify, hold harmless and release the City of Escanaba from any actions or claims in regard to the installation, operation and disposal of equipment (and related materials) covered herein, including liability from any incidental or consequential damages. I understand that my submittal of the requested information is for the sole purpose of my program participation. I further understand that this information will be treated as confidential to the extent permitted by law.			
Customer Signature	Print Name	Date Submitted	

#### Complete section below only if rebate will be paid to the Contractor or Landlord

Payee Legal Name (as shown on income tax return):	Payee Business Name (if different than payee legal name):		
Payee Legal Address:	City:	State:	ZIP:
Mail Check to: <input type="checkbox"/> Payee Legal Address <input type="checkbox"/> Job Site Address <input type="checkbox"/> Alternate Address (complete below):			
Alternate Pay Address (optional):	City:	State:	ZIP:
Payee Federal Tax Classification (check ONE only): <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Sole Proprietor/Individual <input type="checkbox"/> LLC <input type="checkbox"/> Other tax exempt organization or gov't agency			
Payee Taxpayer Identification Number (TIN) (Must match payee legal name above): FEIN #: _____ - _____			
Payee Signature:	Print Name:	Title:	Date:

#### For Internal Use Only

Date Received	Post Inspection	Incentive Approval	Date Approval
	Post Inspection Required? <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	



## 2023 Energy Optimization Residential Program Equipment Specifications & Documentation Requirements

### Incentive Worksheet

Lighting	Qualifications/ Limits	Quantity	Incentive	Total Incentive
LED Bulbs	ENERGY STAR, Limit 12		\$2.00	
LED Interior or Exterior Fixture	ENERGY STAR, Limit 12		\$10.00	
LED Tube Replacement	Replace Fluorescent Tubes, Limit 12		\$5.00	

Appliances	Qualifications/ Limits	Quantity	Incentive	Total Incentive
Refrigerator	ENERGY STAR, Limit 1		\$50.00	
Freezer, Chest or Upright	ENERGY STAR, Limit 1		\$50.00	
Portable Dehumidifier	ENERGY STAR, Limit 2		\$30.00	
Whole Home Dehumidifier	ENERGY STAR, Limit 1		\$100.00	
Room Air Conditioner	ENERGY STAR, Limit 4		\$30.00	
Room Air Purifier	ENERGY STAR, Limit 2		\$30.00	
TV	ENERGY STAR, Limit 2		\$40.00	
Induction Stove	ENERGY STAR, Limit 1		\$100.00	
Dish Washer	ENERGY STAR, Limit 1		\$40.00	
Clothes Washer	ENERGY STAR, Limit 1		\$50.00	
Electric Clothes Dryer	ENERGY STAR, Limit 1		\$50.00	
Heat Pump Clothes Dryer	ENERGY STAR, Limit 1		\$100.00	

HVAC & Water Heaters	Qualifications/ Limits	Quantity	Incentive	Total Incentive
Electric Water Heater	ENERGY STAR, Limit 1		\$50.00	
Heat Pump Water Heater	ENERGY STAR, Limit 1		\$200.00	
Heat Pump Home Heat	ENERGY STAR, Limit 1		\$400.00	
Efficient Furnace Blower Motor	ECM Blower Motor, Limit 1		\$75.00	
Central Air	ENERGY STAR, Limit 1		\$200.00	
Central Air Source Heat Pump	ENERGY STAR, Limit 1		\$400.00	
Mini-Split Heat Pump System	ENERGY STAR, Multi-Room Limit 1		\$300.00	
WIFI Thermostat	ENERGY STAR, Limit 2		\$50.00	

EV Charger	Level 2, 240V, Limit 1	Quantity	Incentive	Total Incentive
Charger Manufacturer:	Charger Model:		\$250.00	
EV Charger Equipment Cost:	EV Charger Installation Cost:			
EV Make:	EV Model/ Year:			

Total Incentives: \$

### GENERAL PROGRAM RULES

This offer is valid only for City of Escanaba residential electric customers whose accounts are current. Offer is good for a limited time while funds are available on a first-come, first-served basis. City of Escanaba reserves the right to withdraw or change this offer without notice. Incentives may not exceed purchase price. Ineligible incentive requests are subject to denial or repayment to program.

Agenda Item: NB-4  
Date: 01-19-2023

## City Council Agenda Item Request

Date: 12/12/2022

Name: James McNeil

Department: Manager

Item: Request to Use City Land for History Garden

Meeting date requested: 1/19/2023

Explanation for request:

Administration is seeking Council input on a request from Enhance Escanaba to design and construct/plant a history garden on the unused area of sand point, east of the water plant.



Enhance Escanaba would like to design and construct/plant a history garden on the unused area of sand point, east of the water plant. The area is approximately 200' X 120'.

It is unsuitable for permanent structure development because of the location of the intake pipe for the water plant. The area would be filled with historic artifacts based on the history of Escanaba. Trains, ships, ore, and wood would be the featured subjects. Mr. Lampi said this will not interfere with the water plant and there is support from the Historical Society.

Pledges for artifacts have already been made by the Canadian National railway, North Shore Marine, and ore boat contacts with many more possibilities in the works. This project would not be started until 2024 because of the ongoing construction at the water plant. Enhance Escanaba will be applying for grant money to complete this project.

The garden would be a self-guided history tour of Escanaba which would be a wonderful addition to educating citizens and visitors about our rich history. This garden will be designed to be low maintenance with no additional requirements from Escanaba Public works and no cost to the city of Escanaba.



Agenda Item: NB-5  
Date: 01-19-2023

## City Council Agenda Item Request

Date:

Name: James McNeil

Department: Manager

Item: Approval - Engagement Agreement for City Attorney

Meeting date requested: 1/19/2023

Explanation for request:

Administration is seeking City Council approval of an engagement agreement appointing Foster Swift as the City Attorney. This requires Council approval in accordance with the City purchasing policy.

**Lansing**

313 S. Washington Square  
Lansing MI 48933

**Detroit**

333 W. Fort Street – Suite 1400  
Detroit MI 48226

Walter S. Foster  
1878-1961  
Richard B. Foster  
1908-1996  
Theodore W. Swift  
1928-2000  
John L. Collins  
1926-2001  
  
Webb A. Smith - *Retired*  
  
Scott A. Storey  
Charles A. Janssen  
Charles E. Barbieri  
Scott L. Mandel  
Michael D. Sanders

Brent A. Titus  
Brian G. Goodenough  
Matt G. Hrebec  
Deanna Swisher  
Thomas R. Meagher  
Douglas A. Mielock  
Scott A. Chernich  
Paul J. Millenbach  
Dirk H. Beckwith  
Brian J. Renaud  
Lynwood P. VandenBosch  
Lawrence Korolewicz  
James B. Doezeema  
Anne M. Seurnyck  
Michael D. Homier  
Scott H. Hogan

**Southfield**

28411 Northwestern Highway – Suite 500  
Southfield MI 48034

**Holland**

151 Central Avenue – Suite 260  
Holland MI 49423

Richard C. Kraus  
Benjamin J. Price  
Michael R. Blum  
Jonathan J. David  
Andrew C. Vredenburg  
Julie I. Fershtman  
Todd W. Hoppe  
Jennifer B. Van Regenmorter  
Thomas R. TerMaat  
Frederick D. Dilley  
David R. Russell  
Joel C. Farrar  
Laura J. Genovitch  
Karl W. Butterer, Jr.  
Mindi M. Johnson  
Ray H. Littleton, II

Jack L. Van Coevering  
Anna K. Gibson  
Nicholas M. Oertel  
Alicia W. Birach  
Adam A. Fadly  
Michael J. Liddane  
Ryan E. Lamb  
Clifford L. Hammond  
Matthew S. Fedor  
Andrea Badalucco  
Stefania Gismondi  
Leslie A. Abdo  
Julie L. Hamlet  
Michael C. Zahrt  
Mark T. Koerner  
Warren H. Krueger, III

Taylor A. Gast  
Rachel G. Olney  
Tyler J. Olney  
Mark J. DeLuca  
Stephen W. Smith  
Sarah J. Gabis  
Amanda Afton Martin  
Steven J. Tjapkes  
Jacquelyn A. Dupler  
Daniel S. Zick  
Scott R. Forbush  
Alexander S. Rusek  
Benjamin R. Judd  
Thomas K. Dillon  
Robert A. Hamor  
Michael A. Cassar

**Grand Rapids**

1700 E. Beltline NE – Suite 200  
Grand Rapids MI 49525

**St. Joseph**

800 Ship Street – Suite 105  
St. Joseph MI 49085

Hilary J. McDaniel Stafford  
Emily R. Wisniewski  
Amanda J. Dernovshek  
Brandon M. H. Schumacher  
Cody A. Mott  
Alaina M. Nelson  
Joseph B. Gale  
Sydney T. Steele  
Kathrine A. Ruttkofsky  
Anthony M. Dalimonte  
Jim W. Scales  
Benjamin C. Dilley  
Toi J. Thomas  
Nicholas J. Stock, II  
Keith T. Brown

**Writer's Direct Phone:** 616.726.2238

**Fax:** 616.726.6813

**Reply To:** Grand Rapids

**Email:** lgenovitch@fosterswift.com

January 13, 2023

James McNeil  
Interim City Manager  
410 Ludington Street  
Escanaba, MI 49829

Re: City Attorney – Engagement Agreement

Dear Jim:

I am pleased that the City has decided to appoint me and Foster Swift (“Firm”) as the City Attorney of the City of Escanaba. It is customary in the legal profession to formalize a relationship between an attorney and client through an engagement letter. This engagement letter is intended to meet the requirements of the City’s Charter (Chapter II, Sections 20-23) and the Escanaba City Code. This engagement letter will serve as an agreement about the nature and scope of our relationship with the City and, when signed, acknowledges the City’s understanding of the details of our representation.

I will serve as the City Attorney for an indefinite term commencing upon the approval of this engagement agreement, and will be responsible for all legal matters assigned by the City. As you know, other attorneys at the Firm may, from time to time, assist in representing the legal interests of the City. Other attorneys at the Firm working on legal matters for the City will be assistant city attorneys working under my direction.

We understand that attendance at meetings is required under the City Charter. We believe this requirement can be legally satisfied through appearance via video conference (such as Zoom or Microsoft Teams). I will plan to attend regular City Council meetings (and special meetings upon request) via video conference. If I am unavailable to attend a particular meeting, I will do my best to ensure that an assistant city attorney from the Firm attends in my place.

City of Escanaba

January 13, 2023

Page 2

Our services to the City will be billed on the basis of hourly rates for the time incurred. The hourly rate for general municipal services provided to the City will be capped at \$275 per hour. Pre-existing matters that the Firm is handling on behalf of the City – including any property tax appeals – will continue to be billed at the rates set forth in the engagement agreements for those appeals and may be billed at a higher hourly rate. The Firm is also able to assist as bond counsel. The rate/compensation for bond counsel services, if needed, will be set by a separate agreement.

The hourly rate for legal services we provide to the City will remain in effect until December 31, 2024, after which the Firm may adjust its rate annually, but not by more than 5% unless otherwise agreed to by the City and the Firm. The City will also be billed for photocopies and other out-of-pocket expenses by the Firm on the City's behalf. The costs and attorney fees will be billed monthly. Our invoices will be sent by e-mail, unless you direct us to send them in some other fashion. If an invoice is not timely paid, a late charge may be added to any portion not paid within thirty (30) days. The late charge will be computed at the rate of .58% per month (7% annual) starting thirty (30) days after the date of the invoice.

Based on the information you have provided, the Firm believes that its representation of the City complies with the Michigan Rules of Professional Conduct. However, if we determine that a conflict of interest arises during this engagement, the Firm may take appropriate steps to remedy the conflict, including withdrawal.

Our responsibility in representing the City is, of course, to do so in a manner that is consistent with the customary professional practices and requirements for handling the City's legal matters. In turn, we will need the City's full and timely cooperation. This will likely include providing us with various materials relating to the matters for which the City is utilizing our services. Further, the City agrees that our work may be authorized and directed by any individual, officer or agent of the City, unless the City advises us to the contrary in writing.

The Firm will pursue the City's legal matters conscientiously and without delay, but with regard for the Firm's workload and the nature of the legal system. The Firm will keep the City reasonably informed about the status of this matter and welcomes requests for information.

We intend to establish a mutually rewarding and enduring relationship with the City as its legal counsel. Nevertheless, the City is free to terminate our services at any time by written notice to us to that effect. We may also terminate our services to the City, by written notice to the City to that effect, if the City unreasonably fails to cooperate with us, if our monthly statements are not paid in a timely manner, or if we determine that our continued representation of the City would violate the rules of professional responsibility applicable to lawyers or would otherwise be impractical.

If the City terminates our representation, the Firm will return to the City any original materials in the Firm's files that belong to the City. The Firm will dispose of its files (including the Firm's work product) related to City matters as it sees fit.

City of Escanaba  
January 13, 2023  
Page 3

This engagement letter is intended to govern all of the legal services that we may render to the City (other than pre-existing matters for which separate engagement agreements exist) unless and until the Firm and the City mutually agree in writing to a different arrangement with respect to providing our legal services to the City.

Should you have any questions, please do not hesitate to call us. If the City agrees with the above, please execute this engagement letter at the bottom on behalf of the City. We look forward to serving the City.

Very truly yours,

FOSTER SWIFT COLLINS & SMITH, P.C.

*/s/ Laura J. Genovich*

Laura J. Genovich

AGREED:

CITY OF ESCANABA

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

Dated: \_\_\_\_\_

**Email Address for Invoices:**

\_\_\_\_\_

**Additional Terms of Engagement**

**Scope of Engagement:**

Our engagement is on behalf of the parties expressly named in our agreement. As way of example, our representation of an entity does not include a representation of the interests of the individuals that are directors, shareholders, or officers of that entity.

**Cooperation:**

You agree to fully, accurately, and truthfully disclose to us all facts that may be relevant to the matter or that we may otherwise request to keep us apprised of developments relating to the matter. You agree to cooperate fully with us in all matters related to the preparation and presentation of your claims. We will be relying on the completeness and accuracy of the information you provide when we perform our services.

**No Promise or Guarantee of Results:**

You agree that we have made no promises or guarantees regarding the outcome of your case. Either at the beginning or during the course of our representation, we may express our opinions or beliefs concerning the matter or various courses of action and the results that might be anticipated. Any such statement made by any attorney, employee, or agent of our firm is intended to be an expression of opinion only, based on information available to us at the time, and must not be construed by you as a promise or guarantee of any particular result. In addition, the advice and communications we render on your behalf are not intended to be disseminated to or relied on by any other parties without our prior written consent.

**Consultations with Internal and Outside Counsel to the Firm:**

We represent a large number of clients on a wide variety of complex matters. In the course of our representation, we may consult with the firm's internal counsel with expertise in legal ethics issues and in the past have considered such consultations to be attorney-client privileged. Recent court rulings have indicated that in some circumstances such consultations may not be deemed privileged. Our firm believes that expert advice and analysis regarding legal ethics issues would positively benefit our clients.

You agree that if we determine during the course of the representation that it is either necessary or appropriate to consult with our firm's internal counsel or outside counsel to the firm, we have your consent to do so and that our representation of you shall not, thereby, waive any attorney-client privilege.

**E-mail Policy:**

Our firm's attorneys, employees, and agents may utilize e-mail for communications in this matter unless you notify us, in writing, not to use this means of communication. Unless you request in writing that we encrypt out-going e-mail and we have agreed in writing to reasonable and mutually acceptable protocols, documents sent to you by e-mail will not be encrypted.

Our firm expends reasonable efforts to exclude any virus or other defect that might affect any computer or IT system from our e-mails and electronic documents. We do not accept liability for any loss or damage resulting from the use of commercial software, or the receipt or use of electronic communications from us containing a virus or defect that was not created by us.

**Circular 230 Notices:**

Congress has passed legislation imposing reporting requirements and penalties, which the IRS has implemented by amending Circular 230 and setting forth various rules about written tax advice. As a result, you may notice that we will often have a Circular 230 statement on written communications about reliance on what you receive.

**Attorney's Lien:**

All payments by way of recovery, award, judgment, or settlement to you from third parties shall be made jointly payable to you and us. If you obtain a monetary judgment or award, we shall have a lien on the proceeds to the extent of any of our unpaid fees, disbursements, or other charges.

**Relationship Term:**

When we have completed the specific professional legal services agreed to in this engagement, our attorney-client relationship shall end, regardless of the date you are billed or pay for our services.

Any agreement to provide non-professional services (facilities use, file storage, copies of old client files) does not revive the attorney-client relationship. The newsletters, e-mails, or other publications that we may occasionally send to you containing general updates on areas of the law of interest to you do not revive an attorney-client relationship.

**Future Representation:**

If our attorney-client relationship has ended, we have no obligation to represent you in connection with related matters unless we have agreed to do so in writing in our engagement agreement. Regardless of whether we are representing you in other matters, we have no duty to accept new engagements from you unless mutually agreed.



Agenda Item: NB-6  
Date: 01-19-2023

## City Council Agenda Item Request

Date: 1/13/2023

Name: James McNeil

Department: Manager

Item: Closed Session - Discuss a Written Legal Opinion

Meeting date requested: 1/19/2023

Explanation for request:

Pursuant to MCL 15.268(h) a closed session is proposed to discuss with the public body's attorney a memorandum of advice as permitted under section 8(h) of the OMA – "to consider material exempt from discussion or disclosure by state or federal statute."

Agenda Item: NB-7  
Date: 01-19-2023

## City Council Agenda Item Request

Date: 1/16/2023

Name: James McNeil

Department: Manager

Item: First Reading of Ordinance No. 1273, An Ordinance Imposing Temporary Moratori

Meeting date requested: 1/19/2023

Explanation for request:

Based on concerns that have arisen during the first several months of the licensing and approval process, the City Planning Commission wishes to consider recommending amendments to the zoning regulations for medical marihuana facilities and adult-use marihuana establishments in the City, including the permissible locations for these land uses. The City Planning Commission may also recommend that the City Council consider amendments to Ordinance No. 1269.

**CITY OF ESCANABA  
ORDINANCE NO. 1273**

**ORDINANCE IMPOSING TEMPORARY MORATORIUM ON MEDICAL AND  
ADULT-USE MARIHUANA ESTABLISHMENT  
APPLICATIONS, APPROVALS, AND LICENSES**

**THE CITY OF ESCANABA ORDAINS:**

**Section 1. Definitions.**

The terms used in this Ordinance have the meanings set forth in Ordinance Nos. 1269 and 1271.

**Section 2. Purpose and Findings.**

- A. The City of Escanaba adopted Ordinance No. 1269, Ordinance Authorizing and Regulating Medical and Adult-Use Marihuana Establishments, and Ordinance No. 1271, Ordinance Amending Zoning Ordinance Authorizing and Regulating Medical and Adult-Use Marihuana Establishments, on September 15, 2022.
- B. Based on concerns that have arisen during the first several months of the licensing and approval process, the City Planning Commission wishes to consider recommending amendments to the zoning regulations for medical marihuana facilities and adult-use marihuana establishments in the City, including the permissible locations for these land uses. The City Planning Commission may also recommend that the City Council consider amendments to Ordinance No. 1269.
- C. No medical or adult-use marihuana establishments have received final authorization from the City.
- D. The City is authorized by law to adopt a temporary moratorium on approvals for particular land uses or developments. See *Tahoe-Sierra Pres Council, Inc v Tahoe Reg'l Planning Agency*, 535 US 302, 338 (2002) (recognizing that moratoria are “used widely among land-use planners to preserve the status quo while formulating a more permanent development strategy” and that moratoria are “an essential tool of successful development”).
- E. Imposing a temporary moratorium on marihuana establishment applications and approvals is reasonable and necessary to allow the Planning Commission and City Council sufficient time to explore, analyze, research, and develop any appropriate amendments to the City’s Code of Ordinances and Zoning Ordinance related to medical marihuana facilities and adult-use marihuana establishments.

**Section 3. Moratorium.**

A moratorium is hereby imposed on the acceptance or processing of applications for medical marihuana facilities or adult-use establishments (including special land use permit applications) and on the issuance of permits, licenses, or approvals for any medical marihuana facility or adult-use marihuana establishment in the City.

**Section 4. Term of Moratorium.**

This moratorium remains in effect for **three months** following the effective date of this Ordinance. Before the moratorium expires, the City Council may, by resolution, extend the moratorium for up to three additional months. If an extension is adopted, the City will publish notice of the extension.

**Section 5. Validity and Severability.**

Should any portion of this Ordinance be found invalid for any reason, such holding will not affect the validity of the remaining portions of this Ordinance.

**Section 7.     Effective Date.**

This Ordinance is effective 10 days after publication.

**Section 8.     Repeal.**

This Ordinance does **not** repeal Ordinance No. 1269 or 1271.

APPROVED:

APPROVED:

\_\_\_\_\_  
**Laura Genovich**  
City Attorney

\_\_\_\_\_  
**Mark Ammel**  
Mayor

Ordinance No. 1273

Date Approved: (Month) (Date), 2023

Attest

Date Published: (Month) (Date), 2023

\_\_\_\_\_  
**Phil DeMay**  
City Clerk

I hereby certify that the foregoing constitutes a true and complete copy of an ordinance duly adopted by the City Council of the City of Escanaba, County of Delta, Michigan at a Regular Meeting held on the (date) day of (Month), 2023 and was published in the Daily Press, a newspaper of general circulation in the City of Escanaba on (Day), (Month) (Date), 2023, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

\_\_\_\_\_  
**Phil DeMay**  
City Clerk