



CITY COUNCIL MEETING AGENDA

December 7, 2023

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

James R. McNeil, City Manager
Phil DeMay, City Clerk
Laura J. Genovich, City Attorney

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, December 7, 2023, at 7:00 p.m.

CALL TO ORDER

ROLL CALL

INVOCATION/PLEDGE OF ALLEGIANCE

APPROVAL/CORRECTION(S) TO MINUTES – Special Meeting – November 13, 2023

Regular Meeting – November 16, 2023

APPROVAL/ADJUSTMENTS TO THE AGENDA

CONFLICT OF INTEREST DECLARATION(S)

BRIEF PUBLIC COMMENT(S)

PUBLIC HEARINGS – None

UNFINISHED BUSINESS – None

NEW BUSINESS

1. Approval - 2024 City Council Meeting Dates – Manager.

Explanation: Administration is seeking City Council approval of the 2024 regular Annual Council Meeting schedule.

2. First Reading of Ordinance No. 1286, An Ordinance to Allow for the Keeping of Chickens and Ducks Within the City, and Setting the Date of Thursday, December 21, 2023, for the Second Reading, Public Hearing, and Adoption – Planning & Zoning.

Explanation: Administration is requesting the City Council to consider this the first reading of Ordinance No. 1286, An Ordinance to Allow for the Keeping of Chickens and Ducks Within the City. Administration is requesting that the City Council set December 21, 2023, for the second reading, public hearing adoption of Ordinance No. 1286.

3. Approval – Agreement for the State and Local Cybersecurity Grant Program.

Explanation: Administration is seeking City Council approval for a Local Consent Agreement to apply for funding for Cybersecurity Assessments and for Incident Response Planning and Training Activities. Funding for grant opportunities were set aside in 2022 and are being dispersed over the next several years.

4. Approval – Forestry Truck – Public Works.

Explanation: Public Works is seeking City Council approval to purchase a 2015 75'(foot reach) F750 Urban Forestry Bucket Truck for \$83,000 from M and M Equipment, Battle Creek, MI.

5. Approval – Resolution 23-25 – Highline Internet METRO Act Application – Manager.

Explanation: Administration is requesting City Council approval of a resolution approving a METRO Act application for Highline Internet.

APPOINTMENTS

BOARD, COMMISSION, AND COMMITTEE REPORTS

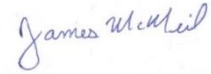
GENERAL PUBLIC COMMENT

Agenda – December 7, 2022

ANNOUNCEMENTS

ADJOURNMENT

Respectfully Submitted,

A handwritten signature in blue ink that reads "James McNeil". The signature is written in a cursive, flowing style.

James R. McNeil
City Manager

**City of Escanaba
Special Council Meeting
Monday, November 13, 2023**

Pursuant to Section 5, Chapter II, of the City Charter, and special meeting notice posted on November 8, 2023, the Council of the City of Escanaba convened in special session in the Council Chambers of City Hall located at 410 Ludington Street, Room C101 at 7:30 p.m. on the above named date for the purpose of reorganization. City Clerk Phil DeMay, opened the meeting and called the roll.

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

Absent: None

Also Present: Members of the audience and media.

ADJUSTMENTS TO THE AGENDA

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

NEW BUSINESS

NB-1 Oath of Office to newly elected Council Members.

City Clerk Phil DeMay administered the oaths of office to newly elected Council Members Tyler DuBord and Karen Moore.

NB-2 Selection of Mayor.

Chapter II, Section 5 of the City Charter stated that following each municipal election the Council, shall elect, by ballot, one of its members Mayor, who shall be the presiding officer and executive head of the City, and perform such other duties as are, or may be imposed or authorized by the laws of the state or the City Charter.

Council Member Flath placed in nomination the name of Council Member Ammel for Mayor.

City Clerk DeMay called for any further nominations for Mayor.

City Clerk DeMay called for any further nominations for Mayor.

No further nominations for Mayor were heard.

Without objections, nominations for Mayor were closed.

NB-2 Council Members cast the following votes for Council Member Ammel to serve as Mayor for the City of Escanaba.

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

Ayes: Moore, Beauchamp, DuBord, Flath, Ammel

Nays: None

NOMINATION CARRIED.

At that time, since Council Member Ammel received a majority vote for Mayor, City Clerk DeMay presented the gavel to Mayor Ammel who then presided over the meeting.

NB-3 Selection of Mayor Pro-Tem.

Chapter II, Section 5 of the City Charter states that following each municipal election the Council, shall elect, by ballot, one of its members Mayor Pro Tem, who, during the absence or disability of the Mayor to perform his duties, shall act in the name and instead of the Mayor, and shall, during the time of such absence or disability exercise all the duties and possess all the powers of the Mayor.

Mayor Ammel called for nominations for Mayor Pro Tem.

Council Member Flath placed in nomination the name of Council Member Moore for Mayor Pro Tem.

Mayor Ammel called for any further nominations for Mayor Pro Tem.

Council Member DuBord placed in nomination the name of Council Member DuBord for Mayor Pro Tem.

Mayor Ammel called for any further nominations for Mayor Pro Tem.

None were heard.

Without objections, nominations for Mayor Pro Tem were closed.

NB-3 Council Members cast the following votes for Council Member Moore to serve as Mayor Pro Tem for the City of Escanaba.

Ayes: Flath, Moore, Mayor Ammel

Nays: DuBord, Beauchamp

NOMINATION CARRIED.

NB-4 Appointments to Board of Equalization and Review.

The Board of Review hears appeals from all property owners who feel their property tax has been inaccurately assessed and has the power to make the appropriate corrections in the tax roll. The Board of Review consists of the Mayor and four tax-paying electors of the City. City Clerk DeMay advised the current members Dennis J. Pearson, Judith Schroeder, and Jason Neumeier wished to be reappointed.

NB-4 DuBord moved, Moore seconded, **CARRIED UNANIMOUSLY**, to reappoint Dennis J. Pearson, Judith Schroeder, Jason Neumeier, and Mayor Ammel to the Board of Equalization and Review.

NB-5 Selection of Boards and Commission Liaison Assignments.

Mayor Ammel, with consensus of Council, continued with the current Council liaisons to Boards and Commissions of the City. The purpose of the liaison program was to ensure maintain effective communications between the Council and Boards and Commissions.

- Council Member DuBord to the Board of Library Trustees;
- Council Member Flath to the Brownfield Redevelopment Authority;
- Council Member Beauchamp to the Defined Benefit Retirement Plan Board;
- Council Member Beauchamp to the Electrical Advisory Committee;
- Council Member Moore to the Harbor Advisory Committee;
- Council Member Moore to the Historic District Commission;
- Council Member DuBord to the Housing Commission;
- Council Member Beauchamp to the Planning Commission;
- Council Member DuBord to the Public Safety Retirement Board;
- Council Member Moore to the Recreation Advisory Board;
- Council Member Ammel to the Traffic Safety Advisory Committee;
- Council Member Beauchamp to the Zoning Board of Appeals;
- Council Member Flath to the Delta County Solid Waste Management Authority;
- Council Member Flath to the 911 Authority.

GENERAL PUBLIC COMMENT – None

ANNOUNCEMENTS

- City Clerk DeMay said that the election went very well with no issues. Thanked his election inspectors along with Deputy Clerk Weissert.
- Council Member Moore encouraged more people to turn out for all elections.
- Escanaba High School production “Big Fish” opens Friday, Saturday, Monday, and Tuesday at 7:30pm. Sunday at 2:30pm. Tickets are available for purchase at the High School office and Babaloons.

City Council Minutes
November 13, 2023 – cont.

Hearing no further Council business or public comment, Flath moved, Moore seconded, the Council adjourned at 7:42 p.m.

Respectfully submitted,

Phil DeMay
City Clerk

Approved: _____
Mark Ammel, Mayor

**OFFICIAL PROCEEDINGS
CITY COUNCIL
CITY OF ESCANABA, MICHIGAN
Regular Council Meeting
Thursday, November 16, 2023**

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

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

Absent: Mayor Mark Ammel

Also Present: City Manager James R. McNeil, Deputy City Clerk Tammy Weissert, Department Heads, media, and members of the public.

Deputy City Clerk Weissert led Council in the Pledge of Allegiance.

Beauchamp moved, DuBord seconded, **CARRIED UNANIMOUSLY**, to excuse Mayor Ammel's absence.

Flath moved, DuBord seconded, **CARRIED UNANIMOUSLY**, to approve Regular Meeting minutes from November 2, 2023, 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

- Charles Lindquist, President of the Delta County Historical Society – Discussed the proposed bar and restaurant near the Escanaba Harbor.
- Tyler DuBord, General Manager of the House of Ludington - Discussed the proposed bar and restaurant near the Escanaba Harbor.

PUBLIC HEARINGS

PH-1 Second Reading, Public Hearing and Adoption of Ordinance No. 1284, An Ordinance to Amend Chapter 26 – Taxation of the Code of Ordinances of the City of Escanaba - Manager.

Administration requested City Council to consider approval and adoption of Ordinance No. 1284, An Ordinance to Amend Chapter 26 – Taxation of the Code of Ordinances

of the City of Escanaba – Meadowbrook Apartments.

This being a public hearing, Mayor Pro Tem Moore asked for public comment.

Hearing no public comment, Mayor Pro Tem Moore then closed the public hearing.

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

Resolved, That Ordinance No. 1284, An Ordinance to Amend Chapter 26 – Taxation of the Code of Ordinances of the City of Escanaba – Meadowbrook Apartments, 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. 1284 adopted by title:

**" AN ORDINANCE TO AMEND CHAPTER 26 – TAXATION
OF THE CODE OF ORDINANCES OF THE CITY OF ESCANABA "**

Full text in Ordinance Record “M”.

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

Ayes: DuBord, Flath, Moore, Beauchamp
Nays: None
Absent: Mayor Ammel

RESOLUTION DECLARED ADOPTED.”

PH-2 Second Reading, Public Hearing and Adoption of Ordinance No. 1285, An Ordinance to Amend Chapter 26 – Taxation of the Code of Ordinances of the City of Escanaba - Manager.

Administration requested City Council to consider approval and adoption of Ordinance No. 1285, An Ordinance to Amend Chapter 26 – Taxation of the Code of Ordinances of the City of Escanaba – Willow Grove Townhomes.

This being a public hearing, Mayor Pro Tem Moore asked for public comment.

Hearing no public comment, Mayor Pro Tem Moore then closed the public hearing.

PH-2 “By Council Member DuBord, seconded by Council Member Beauchamp;

Resolved, That Ordinance No. 1285, An Ordinance to Amend Chapter 26 – Taxation of the Code of Ordinances of the City of Escanaba – Willow Grove Townhomes, 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. 1285 adopted by title:

**" AN ORDINANCE TO AMEND CHAPTER 26 – TAXATION
OF THE CODE OF ORDINANCES OF THE CITY OF ESCANABA "**

Full text in Ordinance Record "M".

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

Ayes: DuBord, Beauchamp, Moore, Flath
Nays: None
Absent: Mayor Ammel

RESOLUTION DECLARED ADOPTED."

UNFINISHED BUSINESS – None

NEW BUSINESS

NB-1 Approval – Stump Grinding Bid – Public Works.

Administration requested City Council approval to hire Dombrowski Tree Service for removal, restoration, and seed for 45 stumps with \$31.50 for restoration for the Stump Grinding bid. This was a budgeted item for the current amount of stumps.

NB-1 DuBord moved, Flath seconded, to approve to hire Dombrowski Tree Service for removal, restoration, and seed for 45 stumps with \$31.50 for restoration for the Stump Grinding bid.

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

Ayes: DuBord, Flath, Moore, Beauchamp
Nays: None
Absent: Mayor Ammel

MOTION CARRIED.

NB-2 Approval – Request for Proposal (RFP) Restaurant at Harbor - Manager.

The Harbor Advisory Committee requested City Council approval of an RFP for the operation and lease of a restaurant at the Escanaba Harbor. If approved by the City Council, administration would solicit proposals in accordance with the RFP.

NB-2 Flath moved, Beauchamp seconded, to approve of an RFP for the operation and lease of a restaurant at the Escanaba Harbor.

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

Ayes: Flath, Beauchamp, Moore, DuBord

Nays: None
Absent: Mayor Ammel

MOTION CARRIED.

APPOINTMENT(S) TO CITY BOARDS, COMMISSIONS, AND COMMITTEES

City Manager, with Council Consensus made the following appointment:

Sue Beckon appointed to the Defined Benefit Retirement Plan Board, indefinite term.

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

- Go see the play at the Escanaba High School this weekend.
- Happy Thanksgiving and good luck deer hunting.

Hearing no further public comment, DuBord moved, Beauchamp seconded, the Council adjourned at 7:22 p.m.

Respectfully submitted,

Tammy Weissert
Deputy City Clerk

Approved: _____
Karen Moore, Mayor Pro Tem

Agenda Item: NB-1
Date: 12-7-2023

City Council Agenda Item Request

Date: 11/20/2023

Name: James McNeil

Department: Manager

Item: 2024 City Council Meeting Dates

Meeting date requested: 12/07/2023

Explanation for request:

Administration is seeking City Council approval of the 2024 regular Annual Council Meeting schedule.



COUNTY OF DELTA

STATE OF MICHIGAN

Notice Regular Public Meetings City Council

PLEASE TAKE NOTICE that the regular meetings of the City Council of the City of Escanaba, County of Delta, State of Michigan, are scheduled at 7:00 p.m. in Room C101, the Council Chambers of the City Hall, 410 Ludington Street, in the City of Escanaba, MI, the first and third Thursday of every month as listed below:

2024	2025	2026
January 4 & 18, 2024	January 2 & 16, 2025	January 1 & 15, 2026
February 1 & 15, 2024	February 6 & 20, 2025	February 5 & 19, 2026
March 7 & 21, 2024	March 6 & 20, 2025	March 5 & 19, 2026
April 4 & 18, 2024	April 3 & 17, 2025	April 2 & 16, 2026
May 2 & 16, 2024	May 1 & 15, 2025	May 7 & 21, 2026
June 6 & 20, 2024	June 5 & 19, 2025	June 4 & 18, 2026
July 4 & 18, 2024	July 3 & 17, 2025	July 2 & 16, 2026
August 1 & 15, 2024	August 7 & 21, 2025	August 6 & 20, 2026
September 5 & 19, 2024	September 4 & 18, 2025	September 3 & 17, 2026
October 3 & 17, 2024	October 2 & 16, 2025	October 1 & 15, 2026
November 7 & 21, 2024	November 6 & 20, 2025	November 5 & 19, 2026
December 5 & 19, 2024	December 4 & 18, 2025	December 3 & 17, 2026

Notice is given in accordance with Act 267 of the 1976 Public Acts of the State of Michigan and Chapter II, Section 5, of the Escanaba City Charter. The City of Escanaba will provide necessary, reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities at the meeting/hearing upon five (5) days notice to the City of Escanaba. Individuals with disabilities requiring auxiliary aids or services should contact the City of Escanaba by writing or calling the below named City Clerk. Public notice will be given regarding any changes in the above meeting dates. Minutes of all Council Meetings are available at the City Clerk's Office, City Hall, 410 Ludington Street. Phone (906) 786-1194.

Phil DeMay
City Clerk

Agenda Item: NB-2
Date: 12-07-2023

City Council Agenda Item Request

Date: 11-13-2023

Name: Tyler Anthony

Department: Planning & Zoning

Item: City Code / Zoning Text Amendment - Chickens and Ducks

Meeting date requested: 12-7-2023

Explanation for request:

At their regular meeting on November 9, the Planning Commission approved the zoning-specific portion of a draft amendment to the City Code of Ordinances. The title of this draft amendment is: "An Ordinance to Allow for the Keeping of Chickens and Ducks Within the City".

The Planning Commission only has authority over Chapter II of the attached draft, which amends the Zoning Code. Chapter I of the draft, which amends portions of Chapter 5 of the City Code, is under the sole discretion of the City Council.

"The city council, upon recommendation from the planning commission, shall either schedule a public hearing or deny the [zoning text amendment]. ... If determined necessary, the city council may refer the amendment proposal back to the planning commission for further consideration. The city council shall approve or deny the amendment based upon its consideration of the criteria in sec. 103.4.3" (Zoning Code sec. 103.4.2).



**CITY OF ESCANABA PLANNING COMMISSION
RESOLUTION No. 23-01**

**RESOLUTION TO RECOMMEND THAT THE CITY COUNCIL
CONSIDER AND ADOPT A RECOMMENDED ORDINANCE**

Whereas, The Michigan Zoning Enabling Act (MCL 125.3101 et seq.), hereinafter “the Act”, codified the laws regarding development & use of land, zoning districts & ordinances, and the powers & duties of certain officials;

Whereas, The Act provides that a zoning ordinance, where adopted, may be amended by the legislative body of a local unit of government as described in the Act (MCL 125.3401), and that such amendments may be recommended by a zoning commission in accordance with the Act;

Whereas, The Escanaba City Council, hereinafter “the City Council”, is this local unit of government’s legislative body, and the City of Escanaba Planning Commission, hereinafter “the Commission”, functions as this local unit of government’s zoning commission pursuant to the Act;

Whereas, The Commission, in cooperation with its staff, drafted a proposed ordinance, and that part of said proposed ordinance constituted an amendment to the City of Escanaba’s adopted zoning ordinance; and

Whereas, The Commission held a first public hearing on 12 October 2023 on the proposed ordinance in satisfaction of the Act, and held a second public hearing on 9 November 2023, approving said proposed ordinance on the same; therefore, be it

RESOLVED, That the Commission hereby recommends that the City Council consider and adopt the proposed ordinance titled “An Ordinance to Allow for the Keeping of Chickens and Ducks Within the City” as approved by the Commission; and be it further

RESOLVED, That the Commission shall transmit the proposed ordinance and a summary of comments received at both public hearings held on said proposed ordinance to the City Council.

Yes: Connor, Webber, Hellerman, Harris, Nelson, Reynolds, Sadowski;

No: None;

Abstained: None;

Absent: None;

RESOLUTION PASSED.

I, James Hellermann, Chair of the City of Escanaba Planning Commission, do hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the Planning Commission of the City of Escanaba, County of Delta, State of Michigan, at the regular meeting held on 9 November 2023.


James Hellermann, Chair
City of Escanaba Planning Commission



**MEMORANDUM****To:** City Council**Date:** November 13, 2023**From:** Planning Commission**Subject:** Administration & Enforcement –
Chickens and Ducks Ordinance

As a first supplement to the Planning Commission's recommendation of a draft amendment on the noted subject, a brief description of administration and enforcement shall be provided. In short, the animals will be controlled by a three-point approach: permits, licensing, and enforcement. If the proposed ordinance were to pass, the following procedures would be either created as new, or they would be conducted within existing frameworks.

- First, a person must get a zoning permit from the Planning & Zoning Department. This covers only the enclosure and ensures the safety & environmental health of the animals. In some cases, this will require the Planning Commission's approval, and in all cases, animals must be kept in a safe enclosure. This procedure fits into existing frameworks.
- Then, they must get a license from the Clerk's office, which is good for one year. Licenses only ensure that a person may keep the animals, and that they have an enclosure which has indeed been granted a zoning permit. Each license can be renewed on an annual basis. This will be a new procedure.
- Finally, the person must not cause any public nuisances or commit any zoning violations due to the animals. This activity would be managed through Code Enforcement. If a person does cause a nuisance or violate the zoning code, their license cannot be renewed, and the person will not be able to keep the animals anymore. This will need some accommodation to fit into existing frameworks.

The draft also sets guidelines for health, safety, & sanitation, and for enclosures. Roosters will not be allowed, nor will commercial slaughter or egg sales from home flocks be allowed. Total number of chickens and ducks allowed per enclosure is limited at six each.

On ducks, the Muscovy duck (*Cairina moschata*) is a popular domestic species, but it has become a problem in warmer regions of the country. Because of this, the USFWS listed the ducks as invasive and restricts their sale and transfer. With that in mind, Muscovies will not be allowed.

TA

**Mission Statement**

Enhancing the enjoyment and livability of our community by providing quality municipal services.

**MEMORANDUM****To:** City Council**Date:** November 13, 2023**From:** Planning Commission**Subject:** Summary of Public Hearing Comments –
Chickens and Ducks Ordinance

As a supplement to the Planning Commission's recommendation of a draft amendment on the noted subject, please see the below list of summarized comments. These comments were made both in-person and by writing at the Planning Commission's two public hearings held at on October 12th and November 9th. Forwarding a summary of each comment, such as is done by this memo, is considered a best practice when amending a zoning ordinance per MSU Extension materials.

Comments are grouped into two categories: first, those that opposed the draft amendment; second, those that supported the draft amendment. Otherwise, they are listed in no order.

Opposed – 6 comments.

Patricia & Charles Derouin, residents of Escanaba, wrote for the October 12th hearing. They moved to the city to avoid farm animals. They did not want to hear the noise they make, nor the smell they produce. They fear that predators & vermin will become an issue.

Better Giovenco, resident of Escanaba, wrote for the October 12th hearing. She lived on a farm during her formative years, and she was absolutely against allowing poultry in the city. She raised concerns about keeping them properly fenced and housed, and how predators could become an issue. She was most concerned about the waste that would accumulate, questioning how this would be dealt with in a sanitary way. She referenced the geese that flock to our area yearly and how much of a mess they make. She felt that farms and the country are a more appropriate place for chickens and ducks.

Joyce Anderson, resident of Escanaba, wrote for both hearings. She felt proud to live in Escanaba, working hard to maintain her home and property. She was also raised in a rural area and felt that zoning and ordinances were lacking. She mentioned a friend who lives in Bark River with chickens who faces all sorts of issues regarding vermin and predators. She feared that the smell would become an issue, since global warming is causing people to have their windows open for longer. She was also concerned about Avian Influenza and the knowledge/resources of the inexperienced hobby farmer to deal with it. Tourism was another concern, as she felt people would not visit or move here because of chickens.

Daniel Blevins & Melissa Miller, residents of Escanaba, wrote for the November 9th hearing. They listed the following reasons for why they felt it was a bad idea to keep poultry in city limits: (1) Public nuisance complaints including noise, smell, and the cost to the City to deal with

**Mission Statement**

Enhancing the enjoyment and livability of our community by providing quality municipal services.

the complaints; (2) The abandonment or killing of unwanted chickens by careless or overwhelmed owners; (3) Exposure to wildlife and predators; (4) Overburdening of shelters and rescue groups who they worry will get the surrendered, abandoned, or seized animals; (5) Lack of specialized veterinary care in the area; (6) Diseases and sickness to the chickens and the public; (6) [sic] The killing of male chicks and the exploitation of hens for egg laying. What would happen to male chicks? They referred to this as a cruel cycle or chick killing based on their sex.

Dennis & Carolyn Wilbee, residents of Escanaba, wrote for the November 9th hearing. They had reached out to a relative and veterinarian, John Parker, DVM, about raising chickens within city limits and shared his answers: (1) Avian flu was a concern for birds and people; (2) He wondered if netting would be required for open enclosures to protect from birds of prey; (3) Felt that chickens as a service animal was a “no” [Note: this was a response to comments made by another member of the public.]; (4) Was concerned as to what constituted to a “pile” of waste, and how much waste would be allowed. Concerned it would create “crazy bad odors”.

Supported – 10 comments

Susan Corwin, resident of Escanaba, spoke at both hearings. She believed that small livestock like chickens and ducks are beneficial to children and helps them learn. She worked with 4H and has seen this value firsthand. She also felt they would be extremely helpful for neurodivergent children, adding that 4H membership would grow with this amendment’s passage. She also felt that excess meat and eggs could be donated to local food banks.

Kelli van Ginhoven, resident of Escanaba, wrote for the October 12th hearing. She wrote as a long-time duck & chicken owner on their “fine attributes”. She believed that chickens and ducks provide stress relief, are an excellent source of protein and food, and that they can debug lawns in a safe and non-toxic manner. She also mentioned that ducks and chickens cause very little disruption if they are safely secured in their coop or run every day, and that they can be fenced in if needed. She also noted that she keeps her house in Schaffer because her family owns chickens and ducks, and they cannot bring them into the city at this time.

Irma Boudreau, resident of Escanaba, wrote for the October 12th hearing. She did not have a problem with citizens having poultry in town. She did feel that roosters should not be allowed and that a limit on the total number of allowed chickens should be imposed.

Elizabeth Gulotty, resident of Escanaba, wrote for the October 12th hearing. She recommended the following: (1) Yearly renewal seems excessive; perhaps every two years instead; (2) Less onerous path for meat chickens; (3) Prohibition on use of attached garage or connection to attached garage seems unnecessary unless there is a fire or nuisance issue; (4) She agrees with the ban on roosters; (5) Required s.f. per bird seems excessive; (6) Portion of ordinance addressing excrement is vague, she would like more clarity and consistency, but finds it acceptable for the enforcement official to use their discretion on the matter; (7) Address biosecurity and public health concerns.

Katrina Willette, resident of Wells Township, spoke at the November 9th hearing. She indicated that her 17-year-old son is autistic, and his health was greatly assisted by chicken keeping. Her family was originally from the Boise, Idaho area, where chicken keeping is allowed. She saw first-hand how keeping chickens helped her son by having a daily routine and responsibilities for the chickens. She also noted that, because he was taking care of chickens, her son became more interested in taking care of himself. She then noticed a decline in self-care when they moved to the Escanaba area and could not have chickens. She agreed with the rooster prohibition, but questioned if the City could refuse her ability to keep chickens if a doctor approved chickens as service animals.

Dr. Toskhan Cooper, resident of Escanaba, spoke at the November 9th hearing. He explained that both farm-fresh and home-raised eggs are found to be more nutritious than store-bought. They are proven to contribute to a healthier body and immune system, and they taste better. He corrected a few statements he had seen and heard in opposition to the proposed amendment. Regarding avian flu, he noted that much of that illness is only seen in chickens kept in factory farm conditions. He also felt that environmental impacts were reduced by having backyard chickens. The eggs from these chickens do not have to be refrigerated or transported, thus creating less pollutants and using less electricity. Kitchen waste is also reduced as chickens will eat most food scraps and their own waste can be used as compost. In reference to the odor issue, he quipped that if the smell bothered a person, perhaps they should not reside in a town with a paper mill or pot shops. He concluded by saying that he would like to allow his daughter to learn about animals in this unique way.

Carla Welsh, resident of Escanaba, spoke at the November 9th hearing. She wished to keep chickens to provide healthy food for her family, and to show her daughter and other children the value of hard work & respect for life. She also noted that she lives in an area with multiple dogs who tend to bark often, sometimes lasting for a few hours. She felt that the sound of chickens clucking could not be as loud as the barking. She also felt that if a person maintains a coop where smells would be at offensive levels, and that if a person did not maintain that coop, then the City should have the right to revoke their permit. She added that she would like to see permits be available for low-to-no cost for those who are constrained by food prices.

Mike Segorski, resident of Escanaba, spoke at the November 9th hearing. He had been a life-long farmer at heart, being raised on a farm, and he missed having chickens. He noted his concern for the cost of permits & licenses, and she felt that reducing the cost for those in need was a good idea.

Ann Fix, resident of Escanaba, spoke at the November 9th hearing. She explained that she does organic gardening and grows most of her food in her own backyard in the City. She explained that chicken excrement, composted properly, was fantastic for gardening.

CHAPTER 1 – GENERAL PROVISIONS

Section 103 – Changes and Amendments

103.4 Amendment Review Procedures

...

103.4.3 Standards of Review for Amendments

In considering any petition for an amendment to the text of this Ordinance or to the Official Zoning Map, the Planning Commission and City Council shall consider the following criteria that apply to the application in making findings, recommendations, and a decision. The Planning Commission and City Council may also take into account other factors or considerations that are applicable to the application but are not listed below.

...

103.4.3.2 Text Amendments to Change or Add Regulations or Standards

The following questions shall be considered:

- A. Does the proposed rule, change, or addition help reinforce the Master Plan?
- B. Is the proposed rule, change, or addition in keeping with the spirit and intent of the ordinance, and with the objectives of valid public purposes?
- C. What is the problem or issue that the change is intended to address? Can this be accomplished in another more appropriate fashion? Is it a new response to new problems not addressed in the zoning ordinance?
- D. Is the proposed text change easily administered and enforced?

ORDINANCE NO. 1286

AN ORDINANCE TO ALLOW FOR THE KEEPING
OF CHICKENS AND DUCKS WITHIN THE CITY

THE CITY OF ESCANABA HEREBY ORDAINS:

CHAPTER I

The City of Escanaba Code of Ordinances, Chapter 5, is amended as follows, with deletions in strikethrough text and additions in bold text:

Article I. General

...

Section 5-2 Keeping and feeding of certain animals prohibited.

No person shall keep or feed any of the following animals within city limits:

- Seagulls.
- Canada Geese.

Article II. Livestock and Poultry

Section 5-4.3 Keeping and feeding of livestock or poultry prohibited-restricted.

- ~~a) Two (2) years from April 5, 1990, n~~No person, partnership, or corporation shall own, keep, harbor, or have custody over any livestock ~~or any poultry~~ within the city limits ~~except~~ **unless the person is licensed in accordance with section 5-4. Further, the keeping of such livestock shall be** in conformance with **sections 5-3(a) through 5-3(h)** and relevant sections of the zoning code.
- a) Livestock shall be kept in good health with emphasis on practicing preventive veterinary medicine. In the case of livestock illness, the owner or custodian shall pursue all reasonable measures to remedy such illness. Any owner or custodian who discovers or suspects or has reason to believe that an animal is either affected by a reportable disease or contaminated with a toxic substance shall immediately report this to the Michigan Department of Agriculture and Rural Development.
- b) The slaughter of livestock for commercial purposes is prohibited, except for personal and custom slaughters. Such slaughters shall be in accordance with the Humane Slaughter of Livestock Act (MCL 287.551 et. seq.). The sale of eggs produced by kept livestock is prohibited. In the event that any livestock ~~and/or poultry~~ dies within the city, the owner or person in possession of the same shall within twelve (12) hours thereafter cause the carcass to be removed beyond the city limits or bury the same so that the entire carcass shall be covered within earth of not less than three (3) feet in depth above such carcass.
- c) No owner or custodian of any livestock ~~or poultry~~ shall permit such livestock ~~or poultry~~ to run at large within the city limits.
- d) No person shall drive, ride, or lead any livestock ~~or poultry~~ on or along any public property without the expressed written consent of the city manager, or on private property without the expressed written consent of the **property** owner ~~of said private property~~.
- e) ~~Except as permitted by the zoning code, n~~No livestock ~~or poultry~~ shall be kept in any pen, corral, place of confinement, ~~or shelter/,~~ **or** building unless located on property which includes the residence of the owner or lessor of the property ~~so as to provide twenty-four-hour supervision of said livestock and/or poultry~~. **If the owner or custodian of the livestock is not the property owner, they shall have obtained written permission from the property owner.**
- f) ~~No person shall feed livestock or poultry except in compliance with the ordinances and zoning code of the city.~~ **Livestock shall be fed daily and have free access to clean water. Containers shall be designed and placed to avoid injuring or drowning such livestock, or fecal contamination by the same. Feed for livestock shall be kept in sheltered metal containers with secured lids which keep such feed clean, dry, and protected from access by wild birds, deer, rodents, and insects.**

- g) "Livestock" means **any animal customarily kept by humans for profit or other productive purposes, including but not limited to** horses, stallions, colts, geldings, mares, sheep, rams, lambs, bulls, bullocks, steers, heifers, cows, calves, mules, jacks, jennets, burros, goats, kids and swine, and any fur bearing animals being raised in captivity, **chickens, game fowl, and domestic pigeons. This definition does not include domestic dogs or cats.**
- h) ~~"Poultry" means any chickens, turkeys, ducks, game birds, sea gulls, or pigeons.~~ **Livestock enclosures shall be kept sanitary and free from soiled bedding and accumulations of excrement. Such enclosures shall be cleaned at least once every seven days. Offensive odors shall not be detectable beyond the property line. Waste shall be composted or disposed of properly as required by local waste management authorities. Stockpiling of more than 14 days of waste materials accumulation on the property is prohibited.**

Section 5-4 Administering of licenses.

Any person wishing to keep livestock within the City shall first obtain a license from the City Clerk or designee thereof. A fee shall be charged for each license which generally covers the administrative costs of issuance. The issuance of such licenses shall be in accordance with sections 5-4(a) through 5-4(c).

- a) The licensee shall have obtained a zoning permit from the Planning & Zoning Department before issuance.
- b) Licenses shall be limited to one year, but they may be renewed on an annual basis. Such a renewal shall be made if the licensee has not violated relevant sections of the city code or zoning code, and if they have not caused a public nuisance. Renewals shall be subject to the same fee as an initial license.
- c) Under no circumstances shall a license be transferred to another person. If the subject property is transferred, the license shall become void. The licensee may seek to obtain a new license.

CHAPTER II

*The City of Escanaba Code of Ordinances, Appendix A, also known as the Zoning Code, is amended as follows, with deletions in strikethrough text and additions in **bold** text:*

Section 111 – General Definitions

...

Livestock Enclosure means a building designed and built for the enclosure of animals.

...

Section 1808 – Sketch Plans Required

The following uses, buildings, and structures shall require only a sketch plan as approved by the Zoning Administrator:

- A. Construction, alteration, or addition of/to a single family, two-family or multiple family dwelling with three (3) to four (4) residential dwelling or accessory structures.
- B. Building additions of twenty percent (20%) or less of the existing building not to exceed five thousand (5,000) square feet for buildings requiring site plan approval, provided that no more than four additional parking spaces will be required or provided. Measurements shall be made based on gross floor area of the ground floor area.
- C. Building additions up to 5,000 square feet that do not modify any other site characteristics such as parking, traffic circulation and drainage.
- D. Manufactured Housing Community.
- E. All parking lots or additions thereto containing five (5) or more spaces.
- F. Garages, accessory structures, and similar uses.
- G. Livestock enclosures.**

...

Section 1810 – Sketch Plan ~~Public Hearing~~ Referrals, Notices

1810.1 General Referrals. No public hearing shall be required for sketch plan approvals. The Zoning Administrator shall have the authority to approve sketch plans. The Zoning

Administrator may refer the matter to the Planning Commission if in his/her opinion the Planning Commission should be consulted.

1810.2 Notice. Certain sketch plans are required to have notice made in accordance with sections 1810.2.1 through 1810.2.4. The sketch plans requiring such notice are as follows:

a) Livestock enclosures.

1810.2.1 Process. Within ten business days of an application and fee being submitted, written notice shall be given to the following:

- a) The owners of property that is the subject of the request;
- b) All persons to whom real property is assessed within 300 feet of the property that is the subject of the request; and
- c) The occupants of all structures within 300 feet of the subject property, regardless of whether the property or structure is located in the zoning jurisdiction.

1810.2.2 Delivery. The notice is considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States postal service or other public or private delivery service. If the name of the occupant is not known, the term "occupant" may be used for the intended recipient of the notice.

1810.2.3 Requirements. A notice under this section shall do all of the following:

- a) Describe the nature of the request.
- b) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
- c) Indicate when and where written comments will be received concerning the request.

1810.2.4 Objection, Referral. If any written objection is received within twenty-one calendar days of the notice's mailing date, then the permit shall be referred to the Planning Commission for review. No public hearing shall be required.

...

Section 1903 – Applicability

1903.1 General. The requirements of this chapter shall apply to the following: ~~all buildings, structures, and uses unless stated otherwise.~~ However, this chapter shall not apply to sign structures.

- ~~A. All multi-family buildings containing five (5) or more dwelling units;~~
- ~~B. Building conversions from a commercial use to any other use on Ludington Street between Lincoln Road and 2nd Street;~~
- ~~C. All principal nonresidential buildings or structures permitted in any residential district;~~
- ~~D. Communication towers;~~
- ~~E. All Commercial buildings and uses;~~
- ~~F. All Special Land Use requests;~~
- ~~G. All Residential Planned Unit Developments;~~
- ~~H. All Planned Commercial Developments;~~
- ~~I. All Special Planned District Developments;~~
- ~~J. All Light Manufacturing District Building and Uses;~~
- ~~K. All Industrial Park District Building and Uses;~~
- ~~L. All Heavy Manufacturing District Building and Uses; and~~
- ~~M. All Local Business District Building and Uses.~~

1903.2 Incentives for Better Design and Creativity. Excellence in design and planning which may be achieved through appropriate innovation and imaginative concepts is encouraged. To accomplish this, alternative compliance may be proposed to the Escanaba Planning Commission in achieving appearance standard goals, provided that such change will produce a more logical and attractive use of property, in that it will be beneficial rather than detrimental to the surrounding area and the community. Proposed design alternatives acceptable under this process must not represent a waiver of requirements: the alternatives must meet or exceed the "spirit" of the law.

Section 1904 – Standard Requirements

...

1904.2 Incentives for Better Design and Creativity. Excellence in design and planning, which may be achieved through appropriate innovation and imaginative concepts, is encouraged. To accomplish this, alternative compliance may be proposed to the Planning Commission in achieving appearance standard goals. Such alternative compliance must produce a more logical and attractive use of property, in that it will be beneficial rather than detrimental to the surrounding area and the community. Proposed design alternatives acceptable under this process must not represent a waiver of requirements; alternatives must meet or exceed the “spirit” of the law.

...

Section 1917 – Keeping of Livestock

1917.1 Livestock Enclosures. Livestock shall be kept in an enclosure in accordance with sections 1917.1.1 through 1917.1.5.

1917.1.1 Attachment to Dwellings Prohibited. Livestock enclosures shall not be contained within, or attached to, a dwelling, or a garage attached to a dwelling.

1917.1. 2 Setbacks and Distancing. Livestock enclosures shall follow the same setback and distancing requirements as an accessory structure in the same zoning district. However, no such enclosure shall be closer than 20 feet to a dwelling on an adjacent property.

1917.1. 3 Quality of Construction. All livestock enclosures shall be fully enclosed, sheltered from the elements, and built to prevent vermin from entering. Further, all such enclosures shall be built to discourage intrusion by commonly known predators of the livestock.

1917.1.4 Stormwater Runoff or Discharge. No runoff from livestock enclosures or affected areas shall be allowed to leave the property, nor be discharged into a storm sewer system.

1917.1.5 Runs. For certain types of livestock, areas outside enclosures may be partially enclosed as runs. These runs shall be built to keep the livestock from running at large beyond the property. Runs may be constructed to provide for rotation of used area, allowing for the resting and restoration of vegetation of one half while the other half is in use.

1917.2 Allowed Livestock and Poultry. Types of livestock which may be kept in the City shall be limited. Allowed types of livestock shall be in accordance with sections 1917.2.1 through 1917.2.2.

1917.2.1 Chickens. Chickens may be kept in the City, with a valid permit, in accordance with the following restrictions:

- a) The property’s primary use is one of the following:
 - i. One-family dwelling
 - ii. Two-family dwelling
 - iii. Primary school
 - iv. Secondary school
- b) The number of animals is limited to six per property.
- c) None of the animals may be a male or rooster.
- d) Enclosures shall provide at least four (4) square feet of usable area per animal.
- e) Enclosures shall contain nesting boxes, feed, water, and perches which are two to four inches (2” - 4”) in width and provide ten inches (10”) of length per animal.
- f) Runs shall be included which provide the following useable area per animal at minimum:
 - i. Forty-four (44) square feet for egg-laying hens.
 - ii. Twenty-two (22) square feet for meat-bearing chickens.

1917.2.2 Ducks. Ducks may be kept in the City, with a valid permit, in accordance with the following restrictions:

- a) The property’s primary use is one of the following:
 - i. One-family dwelling
 - ii. Two-family dwelling
 - iii. Primary school

- iv. Secondary school
- b) The number of animals is limited to six per property.
- c) None of the animals may be a muscovy duck (*Cairina moschata*).
- d) Enclosures shall provide at least five (5) square feet of usable area per animal.
- e) Enclosures shall contain nesting boxes, feed, and water.
- f) Runs shall be included which provide the following useable area per animal at minimum:
 - i. Ten (10) square feet for all ducks.

CHAPTER III
SAVINGS CLAUSE

If any section, subsection, sentence, clause, or phrase of this Ordinance is held to be unconstitutional, such decision shall not affect the validity of the remainder of this Ordinance.

The City Council hereby declares that it would have passed this Ordinance, section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

CHAPTER IV
CONFLICTING ORDINANCES REPEALING CLAUSE

All Ordinances or parts thereof in conflict with this Ordinance are hereby repealed.

CHAPTER V
EFFECTIVE DATE

This Ordinance shall be in full force and effect ten (10) days after its passage and publication.

APPROVED:

APPROVED:

Laura Genovich, City Attorney

Mark Ammel, Mayor

Ordinance No. 1286

ATTEST:

Date Approved: _____

Date Published: _____

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, State of Michigan, at a regular meeting held on _____. Said meeting was conducted, with public notice given, pursuant to and in full compliance with the Open Meetings Act, being MCL 15.261 et seq. Further, said ordinance was published in the Daily Press, a newspaper of general circulation in the City of Escanaba on _____. The minutes of said meeting were kept and will be or have been made available as required by said Act.

Phil DeMay, City Clerk

Agenda Item: NB-3
Date: 12-07-2023

City Council Agenda Item Request

Date: 11/30/23

Name: Kim Peterson

Department: City Departments

Item: Approval of an Agreement for the State and Local Cybersecurity Grant Program

Meeting date requested: 12/07/23

Explanation for request:

Administration is seeking City Council approval for a Local Consent Agreement to apply for funding for Cybersecurity Assessments and for Incident Response Planning and Training Activities. Funding for grant opportunities were set aside in 2022 and are being dispersed over the next several years.

Fiscal Year 2022 State and Local Cybersecurity Grant Program
Local Consent Agreement

I, _____ (printed name), the duly-appointed authorized agent on behalf of _____ (the "Local Governmental Entity"), located at _____ (address) hereby **expressly consent** to the State of Michigan's State Administrative Agency (SAA), the Michigan State Police / Emergency Management & Homeland Security Division, undertaking the following acts in accordance with the State and Local Cybersecurity Grant Program (SLCGP) for Fiscal Year (FY) 2022, Funding Opportunity Number DHS-22-137-000-01, as authorized by Section 2220A of the Homeland Security Act of 2002, as amended (Pub. L. No. 107-296) (6 U.S.C. § 665g):

1. Retain \$4,775,415.00 in SLCGP funds for FY 2022 at the State level; and
2. Utilize \$4,775,415.00 in SLCGP funds for FY 2022 as follows:
 - a. 2.1% | \$100,000 for Enhancing State of Michigan Cybersecurity Plan;
 - b. 5% | \$238,770.00 for management and administration costs for the SAA.

Select the options you are interested in receiving | At least one option MUST be selected

- ☐ c. 55.58% | \$2,640,000 for Endpoint Detection and Response Software licenses, to be provided to local and rural entities in Michigan at no cost to the local and rural entities;
- ☒ d. 28.82% | \$1,376,645 for Cybersecurity Assessments, for local and rural entities in Michigan at no cost to the local and rural entities;
- ☒ e. 8.80% | \$420,000 for Incident Response Planning and Training Activities, for local and rural entities in Michigan at no cost to the local and rural entities

This consent is given because it is in the best interest of the Local Governmental Entity and is provided without duress or fear of reprisal. This consent is only effective for the Fiscal Year (FY) 2022 SLCGP Funds.

Based off the needs of this program these funding amounts may change.



Fiscal Year 2022 State and Local Cybersecurity Grant Program
Local Consent Agreement

Official Certification

The individual or officer signing this grant agreement certifies by their signature that they are authorized to sign this grant agreement on behalf of the organization they represent.

Signed, on _____ day, _____ month, and _____ year, in
_____ SLTT entity in the State of Michigan.

(Signature)

(Printed Name)

(Title)

Contact DTMB-CIP-SLCGP@michigan.gov for questions or assistance completing this form.

Submit the completed form here:

<https://app.smartsheet.com/b/form/2803dca94b7b444a8f1813ba709bc38b>

City Council Agenda Item Request

Date: 11-30-23

Name: Kent Dubord

Department: Public Works

Item: Forestry Truck

Meeting date requested: 12-7-23

Explanation for request:

Public Works is looking to purchase a 2015 75'(foot reach) F750 Urban Forestry Bucket Truck for \$83,000. The truck is from M and M Equipment in Battle Creek, MI. This is a two in one vehicle with combining a bucket truck and chipper truck into one more useful piece of equipment. The vehicle has 37,000 miles on it. It is an automatic with a Cummins 6.7L Diesel engine.

Public Works Bucket Truck was a 1995 and it failed inspection. Therefore, was no longer serviceable and got sold in the auction this year. The current chipper truck is a 1993 dump truck that is used for leaves and snow haul as well. Without this truck we will have to rely on a 30 year old truck while having to reassemble the tailgate and reinstall the screens in order to use the chipper. The current bucket truck DPW is using is Electricals and we are planning to give back to the department once a long-term plan is in place.

We have cut down over 220 trees this year. In previous years from 2016-2021 we had cut down 220 trees in those five years combined. We plan to continue moving in the right direction with the right equipment. Between tree maintenance and other trees that still have to come down a multi-use piece of equipment would be the most efficient way to complete the work. This is an unbudgeted item, but there is money available for the purchase.

TL





Agenda Item: NB-5
Date: 12-07-2023

City Council Agenda Item Request

Date: 11/30/2023

Name: James McNeil

Department:

Item: Resolution - Highline Internet METRO Act Application

Meeting date requested: 12/7/2023

Explanation for request:

Administration is requesting City Council approval of a resolution approving a METRO Act application for Highline Internet.

**CITY OF ESCANABA
DELTA COUNTY
STATE OF MICHIGAN**

**RESOLUTION NO. 23-25
RESOLUTION TO APPROVE HIGHLINE INTERNET'S METRO ACT PERMIT**

At a meeting of the City Council of the City of Escanaba, Delta County, State of Michigan, on the 7th day of December, 2023 at 7:00 p.m., Local Time.

PRESENT: _____

ABSENT: _____

The following resolution was offered by _____ and supported by _____.

The City of Escanaba hereby resolves:

WHEREAS, ITC Broadband Operating LLC, d/b/a Highline Internet ("Highline") desires to construct a part of its telecommunications facilities, specifically fiber optic telecommunications, within the City of Escanaba's ("City") right-of-ways; and

WHEREAS, pursuant to the Metropolitan Extension Telecommunications Rights-of- Way Oversight Act, Public Act 48 of 2002 ("METRO Act"), a provider using or seeking to use public right-of-ways for its facilities must obtain a permit from the City; and

WHEREAS, Highline has submitted a completed application for a METRO Act permit for facilities it plans to construct and install in the City's right-of ways; and

WHEREAS, Highline has chosen to utilize the MPSC Approved Unilateral Permit Form, which generally provides a five (5) year term.

NOW, THEREFORE, the City Council of the City of Escanaba, Delta County, resolves as follows:

1. The City resolves to approve Highline's METRO Act unilateral permit in the form attached as Exhibit A to this Resolution, and such approval is subject to all terms and conditions set forth in the Permit, the City Code of Ordinances, and this Resolution.
2. The approval is conditioned upon Highline obtaining the necessary construction or engineering permits from any state, county, or City agency, including but not limited to the Road Commission for Delta County; naming and maintaining the City of Escanaba as an additional insured on all insurance policies and keeping the City updated with certificates of insurance evidencing such coverage related to any project ongoing or arising from this Permit; and providing

Phil DeMay, City Clerk
City of Escanaba, County of Delta

EXHIBIT A

**METRO Act
Unilateral Form
Revised 12/06/02**

**RIGHT-OF-WAY
TELECOMMUNICATIONS PERMIT**

This permit issued this 7th day of December, 2023 by City of Escanaba.

1 Definitions

- 1.1 Date of Issuance shall mean the date set forth above.
- 1.2 Manager shall mean Municipality's [Mayor/Manager/Supervisor/Village President] or his or her designee.
- 1.3 METRO Act shall mean the Metropolitan Extension Telecommunications Right-of Way oversight Act, Act No. 48 of the Public Acts of 2002, as amended.
- 1.4 Municipality shall mean City of Escanaba, a Michigan municipal corporation.
- 1.5 Permit shall mean this document.
- 1.6 Permittee shall mean LLC organized under the laws of the State of Delaware whose address is 2222 N. Lincoln Rd., Escanaba, MI 49829.
- 1.7 Public Right-of-Way shall mean the area on, below, or above a public roadway, highway, street, alley, easement, or waterway, to the extent Municipality has the ability to grant the rights set forth herein. Public Right-of-Way does not include a federal, state, or private right-of-way.
- 1.8 Telecommunications Facilities or Facilities shall mean the Permittee's equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes, and sheaths, which are used to or can generate, receive, transmit, carry, amplify or provide telecommunication services or signals. Telecommunication Facilities or Facilities do not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally licensed commercial mobile service as defined in Section 332(d) of Part I of Title III of the Communications Act of 1934, Chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, and service provided by any wireless, two-way communications device.
- 1.9 Term shall have the meaning set forth in Part 7.

2 Grant

- 2.1 Municipality hereby issues a permit under the METRO Act to Permittee for access to and ongoing use of the Public Right-of-Way identified on Exhibit A to construct, install and maintain Telecommunication Facilities on the terms set forth herein.
- 2.1.1 Exhibit A may be modified by Manager upon written request by Permittee.
- 2.1.2 Any decision of Manager on a request by Permittee for a modification may be appealed by Permittee to Municipality's legislative body.
- 2.2 Overlapping. Permittee shall not allow the wires or any other facilities of a third party to be overlapped to the Telecommunication Facilities without Municipality's prior written consent. Municipality's right to withhold written consent is subject to the authority of the Michigan Public Service Commission under Section 361 of the Michigan Telecommunications Act, MCL § 484.2361.
- 2.3 Nonexclusive. The rights granted by this Permit are nonexclusive. Municipality reserves the right to approve, at any time, additional permits for access to and ongoing usage of the Public Right-of-Way by telecommunications providers and to enter into agreements for use of the Public Right-of-Way with and grant franchises for use of the Public Right-of-Way to telecommunications providers, cable companies, utilities and other providers.

3 Contacts, Maps and Plans

- 3.1 Permittee Contacts. The names, addresses and the like for engineering and construction related information for Permittee and its Telecommunication Facilities are as follows:
- 3.1.1 The address, e-mail address, phone number and contact person (title or name) at Permittee's local office (in or near Municipality) is
Bruce Moore, CEO-Highline-Midwest Region, Email: bruce.moore@highlinefast.com,
Address: 2222 N. Lincoln Rd., Escanaba, MI. 49829, Phone Number: (906) 869-3334
- 3.1.2 If Permittee's engineering drawings, as-built plans and related records for the Telecommunication Facilities will not be located at the preceding local office, the location address, phone number and contact person (title or department) for them is Aaron Burbey, VP of Operations, Email: aaron.burbey@highlinefast.com
Address: 2222 N. Lincoln Rd., Escanaba, MI. 49829
Phone Number: (906) 869-3334
- 3.1.3 The name, title, address, e-mail address and telephone numbers of Permittee's engineering contact person(s) with responsibility for the design, plans and construction of the Telecommunication Facilities is

Aaron Burbey, VP of Operations, Email: aaron.burbey@highlinefast.com
Address: 2222 N. Lincoln Rd., Escanaba, MI. 49829
Phone Number: (906) 869-3334

- 3.1.4 The address, phone number and contact person (title or department) at Permittee's home office/regional office with responsibility for engineering and construction related aspects of the Telecommunication Facilities is
Aaron Burl.ley, VP of Operations, Email: aaron.burbey@highlinefast.com
Address: 2222 N. Lincoln Rd., Escanaba, MI. 49829; Phone Number: (906) 869-3334
- 3.1.5 Permittee shall at all times provide Manager with the phone number at which a live representative of Permittee (not voice mail) can be reached 24 hours a day, seven (7) days a week, in the event of a public emergency.
- 3.1.6 Permittee shall immediately notify Municipality in writing as set forth in Part 12 of any inaccuracies or changes in the preceding information.
- 3.2 Route Maps. Within ninety (90) days after the substantial completion of new Facilities in a Municipality, a provider shall submit route maps showing the location of the Telecommunication Facilities to both the Michigan Public Service Commission and to the Municipality, as required under Section 6(7) of the METRO Act, MCLA 484.31.06(7).
- 3.3 As-Built Records. Permittee, without expense to Municipality, shall, upon forty-eight (48) hours notice, give Municipality access to all "as-built" maps, records, plans and specifications showing the Telecommunication Facilities or portions thereof in the Public Right-of-Way. Upon request by Municipality, Permittee shall inform Municipality as soon as reasonably possible of any changes from previously supplied maps, records, or plans and shall mark up maps provided by Municipality so as to show the location of the Telecommunication Facilities.

4 Use of Public Right-of-Way

- 4.1 No Burden on Public Right-of-Way. Permittee, its contractors, subcontractors, and the Telecommunication Facilities shall not unduly burden or interfere with the present or future use of any of the Public Right-of-Way. Permittee's aerial cables and wires shall be suspended so as to not endanger or injure persons or property in or about the Public Right-of-Way. If Municipality reasonably determines that any portion of the Telecommunication Facilities constitutes an undue burden or interference, due to changed circumstances, Permittee, at its sole expense, shall modify the Telecommunication Facilities or take such other actions as Municipality may determine is in the public interest to remove or alleviate the burden, and Permittee shall do so within a reasonable time period. Municipality will attempt to require all occupants of a pole or conduit whose facilities are a burden to remove or alleviate the burden concurrently.
- 4.2 No Priority. This Permit does not establish any priority of use of the Public Right-of-Way by Permittee over any present or future permittees or parties having

agreements with Municipality or franchises for such use. In the event of any dispute as to the priority of use of the Public Right-of-Way, the first priority shall be to the public generally, the second priority to Municipality, the third priority to the State of Michigan and its political subdivisions in the performance of their various functions, and thereafter as between other permit, agreement or franchise holders, as determined by Municipality in the exercise of its powers, including the police power and other powers reserved to and conferred on it by the State of Michigan.

- 4.3 Restoration of Property. Permittee, its contractors and subcontractors shall immediately (subject to seasonal work restrictions) restore, at Permittee's sole expense, in a manner approved by Municipality, any portion of the Public Right-of-Way that is in any way disturbed, damaged, or injured by the construction, installation, operation, maintenance or removal of the Telecommunication Facilities to a reasonably equivalent (or, at Permittee's option, better) condition as that which existed prior to the disturbance. In the event that Permittee, its contractors or subcontractors fail to make such repair within a reasonable time, Municipality may make the repair and Permittee shall pay the costs Municipality incurred for such repair.
- 4.4 Marking. Permittee shall mark the Telecommunication Facilities as follows: Aerial portions of the Telecommunication Facilities shall be marked with a marker on Permittee's lines on alternate poles which shall state Permittee's name and provide a toll-free number to call for assistance. Direct buried underground portions of the Telecommunication Facilities shall have (1) a conducting wire placed in the ground at least several inches above Permittee's cable (if such cable is nonconductive); (2) at least several inches above that, a continuous colored tape with a statement to the effect that there is buried cable beneath; and (3) stakes or other appropriate above ground markers with Permittee's name and a toll-free number indicating that there is buried telephone cable below. Bored underground portions of the Telecommunication Facilities shall have a conducting wire at the same depth as the cable and shall not be required to provide the continuous colored tape. Portions of the Telecommunication Facilities located in conduit, including conduit of others used by Permittee, shall be marked at its entrance into and exit from each manhole and handhole with Permittee's name and a toll-free telephone number.
- 4.5 Tree Trimming. Permittee may trim trees upon and overhanging the Public Right-of-Way so as to prevent the branches of such trees from coming into contact with the Telecommunication Facilities, consistent with any standards adopted by Municipality. Permittee shall dispose of all trimmed materials. Permittee shall minimize the trimming of trees to that essential to maintain the integrity of the Telecommunication Facilities. Except in emergencies, all trimming of trees in the Public Right-of-Way shall have the advance approval of Manager.

- 4.6 Installation and Maintenance. The construction and installation of the Telecommunication Facilities shall be performed pursuant to plans approved by Municipality. The open cut of any Public Right-of-Way shall be coordinated with the Manager or his designee. Permittee shall install and maintain the Telecommunication Facilities in a reasonably safe condition. If the existing poles in the Public Right-of-Way are overburdened or unavailable for Permittee's use, or the facilities of all users of the poles are required to go underground then Permittee shall, at its expense, place such portion of its Telecommunication Facilities underground, unless Municipality approves an alternate location. Permittee may perform maintenance on the Telecommunication Facilities without prior approval of Municipality, provided that Permittee shall obtain any and all permits required by Municipality in the event that any maintenance will disturb or block vehicular traffic or are otherwise required by Municipality.
- 4.7 Pavement Cut Coordination. Permittee shall coordinate its construction and all other work in the Public Right-of-Way with Municipality's program for street construction and rebuilding (collectively "Street Construction") and its program for street repaving and resurfacing (except seal coating and patching) (collectively, "Street Resurfacing").
- 4.7.1 The goals of such coordination shall be to encourage Permittee to conduct all work in the Public Right-of-Way in conjunction with or immediately prior to any Street Construction or Street Resurfacing planned by Municipality.
- 4.8 Compliance with Laws. Permittee shall comply with all laws, statutes, ordinances, rules and regulations regarding the construction, installation, and maintenance of its Telecommunication Facilities, whether federal, state or local, now in force or which hereafter may be promulgated. Before any installation is commenced, Permittee shall secure all necessary permits, licenses and approvals from Municipality or other governmental entity as may be required by law, including, without limitation, all utility line permits and highway permits. Permittee shall comply in all respects with applicable codes and industry standards, including but not limited to the National Electrical Safety Code (latest edition adopted by Michigan Public Service Commission) and the National Electric Code (latest edition). Permittee shall comply with all zoning and land use ordinances and historic preservation ordinances as may exist or may hereafter be amended.
- 4.9 Street Vacation. If Municipality vacates or consents to the vacation of Public Right-of-Way within its jurisdiction, and such vacation necessitates the removal and relocation of Permittee's Facilities in the vacated Public Right-of-Way, Permittee shall, as a condition of this Permit, consent to the vacation and remove its Facilities at its sole cost and expense when ordered to do so by Municipality or

a court of competent jurisdiction. Permittee shall relocate its Facilities to such alternate route as Municipality, applying reasonable engineering standards, shall specify.

- 4.10 Relocation. If Municipality requests Permittee to relocate, protect, support, disconnect, or remove its Facilities because of street or utility work, or other public projects, Permittee shall relocate, protect, support, disconnect, or remove its Facilities, at its sole cost and expense, including where necessary to such alternate route as Municipality, applying reasonable engineering standards, shall specify. The work shall be completed within a reasonable time period.
- 4.11 Public Emergency. Municipality shall have the right to sever, disrupt, dig-up or otherwise destroy Facilities of Permittee if such action is necessary because of a public emergency. If reasonable to do so under the circumstances, Municipality will attempt to provide notice to Permittee. Public emergency shall be any condition which poses an immediate threat to life, health, or property caused by any natural or man-made disaster, including, but not limited to, storms, floods, fire, accidents, explosions, water main breaks, hazardous material spills, etc. Permittee shall be responsible for repair at its sole cost and expense of any of its Facilities damaged pursuant to any such action taken by Municipality.
- 4.12 Miss Dig. If eligible to join, Permittee shall subscribe to and be a member of "MISS DIG," the association of utilities formed pursuant to Act 53 of the Public Acts of 1974, as amended, MCL § 460.701 et seq., and shall conduct its business in conformance with the statutory provisions and regulations promulgated thereunder.
- 4.13 Underground Relocation. If Permittee has its Facilities on poles of Consumers Energy, Detroit Edison or another electric or telecommunications provider and Consumers Energy, Detroit Edison or such other electric or telecommunications provider relocates its system underground, then Permittee shall relocate its Facilities underground in the same location at Permittee's sole cost and expense.
- 4.14 Identification. All personnel of Permittee and its contractors or subcontractors who have as part of their normal duties contact with the general public shall wear on their clothing a clearly visible identification card bearing Permittee's name, their name and photograph. Permittee shall account for all identification cards at all times. Every service vehicle of Permittee and its contractors or subcontractors shall be clearly identified as such to the public, such as by a magnetic sign with Permittee's name and telephone number.

5 Indemnification

- 5.1 Indemnity. Permittee shall defend, indemnify, protect, and hold harmless Municipality, its officers, agents, employees, elected and appointed officials,

departments, boards, and commissions from any and all claims, losses, liabilities, causes of action, demands, judgments, decrees, proceedings, and expenses of any nature (collectively "claim" for this Part 5) (including, without limitation, attorneys' fees) arising out of or resulting from the acts or omissions of Permittee, its officers, agents, employees, contractors, successors, or assigns, but only to the extent such acts or omissions are related to the Permittee's use of or installation of facilities in the Public Right-of-Way and only to the extent of the fault or responsibility of Permittee, its officers, agents, employees, contractors, successors and assigns.

- 5.2 Notice, Cooperation. Municipality will notify Permittee promptly in writing of any such claim and the method and means proposed by Municipality for defending or satisfying such claim. Municipality will cooperate with Permittee in every reasonable way to facilitate the defense of any such claim. Municipality will consult with Permittee respecting the defense and satisfaction of such claim, including the selection and direction of legal counsel.
- 5.3 Settlement. Municipality will not settle any claim subject to indemnification under this Part 5 without the advance written consent of Permittee, which consent shall not be unreasonably withheld. Permittee shall have the right to defend or settle, at its own expense, any claim against Municipality for which Permittee is responsible hereunder.

6 Insurance

- 6.1 Coverage Required. Prior to beginning any construction in or installation of the Telecommunication Facilities in the Public Right-of-Way, Permittee shall obtain insurance as set forth below and file certificates evidencing same with Municipality. Such insurance shall be maintained in full force and effect until the end of the Term. In the alternative, Permittee may satisfy this requirement through a program of self-insurance, acceptable to Municipality, by providing reasonable evidence of its financial resources to Municipality. Municipality's acceptance of such self-insurance shall not be unreasonably withheld.
 - 6.1.1 Commercial general liability insurance, including Completed Operations Liability, Independent Contractors Liability, Contractual Liability coverage, railroad protective coverage and coverage for property damage from perils of explosion, collapse or damage to underground utilities, commonly known as XCU coverage, in an amount not less than Five Million Dollars (\$5,000,000).
 - 6.1.2 Liability insurance for sudden and accidental environmental contamination with minimum limits of Five Hundred Thousand Dollars (\$500,000) and providing coverage for claims discovered within three (3) years after the term of the policy.

- 6.1.3 Automobile liability insurance in an amount not less than One Million Dollars (\$1,000,000).
- 6.1.4 Workers' compensation and employer's liability insurance with statutory limits, and any applicable Federal insurance of a similar nature.
- 6.1.5 The coverage amounts set forth above may be met by a combination of underlying (primary) and umbrella policies so long as in combination the limits equal or exceed those stated. If more than one insurance policy is purchased to provide the coverage amounts set forth above, then all policies providing coverage limits excess to the primary policy shall provide drop down coverage to the first dollar of coverage and other contractual obligations of the primary policy, should the primary policy carrier not be able to perform any of its contractual obligations or not be collectible for any of its coverages for any reason during the Term, or (when longer) for as long as coverage could have been available pursuant to the terms and conditions of the primary policy.
- 6.2 Additional Insured. Municipality shall be named as an additional insured on all policies (other than worker's compensation and employer's liability). All insurance policies shall provide that they shall not be canceled, modified or not renewed unless the insurance carrier provides thirty (30) days prior written notice to Municipality. Permittee shall annually provide Municipality with a certificate of insurance evidencing such coverage. All insurance policies (other than environmental contamination, workers' compensation and employer's liability insurance) shall be written on an occurrence basis and not on a claims made basis.
- 6.3 Qualified Insurers. All insurance shall be issued by insurance carriers licensed to do business by the State of Michigan or by surplus line carriers on the Michigan Insurance Commission approved list of companies qualified to do business in Michigan. All insurance and surplus line carriers shall be rated A+ or better by A.M. Best Company.
- 6.4 Deductibles. If the insurance policies required by this Part 6 are written with retainages or deductibles in excess of \$50,000, they shall be approved by Manager in advance in writing. Permittee shall indemnify and save harmless Municipality from and against the payment of any deductible and from the payment of any premium on any insurance policy required to be furnished hereunder.
- 6.5 Contractors. Permittee's contractors and subcontractors working in the Public Right-of-Way shall carry in full force and effect commercial general liability, environmental contamination liability, automobile liability and workers' compensation and employer liability insurance which complies with all terms of this Part 6. In the alternative, Permittee, at its expense, may provide such

coverages for any or all its contractors or subcontractors (such as by adding them to Permittee's policies).

- 6.6 Insurance Primary. Permittee's insurance coverage shall be primary insurance with respect to Municipality, its officers, agents, employees, elected and appointed officials, departments, boards, and commissions (collectively "them"). Any insurance or self-insurance maintained by any of them shall be in excess of Permittee's insurance and shall not contribute to it (where "insurance or self-insurance maintained by any of them" includes any contract or agreement providing any type of indemnification or defense obligation provided to, or for the benefit of them, from any source, and includes any self-insurance program or policy, or self-insured retention or deductible by, for or on behalf of them).

. 7 Term

- 7.1 Term. The term ("Term") of this Permit shall be until the earlier of:

- 7.1.1 ____ [five years or less] from the Date of Issuance; or
- 7.1.2 When the Telecommunication Facilities has not been used to provide telecommunications services for a period of one hundred and eighty (180) days by Permittee or a successor or an assignee of Permittee; or
- 7.1.3 When Permittee, at its election and with or without cause, delivers written notice of termination to Municipality at least one-hundred and eighty (180) days prior to the date of such termination; or
- 7.1.4 Upon either Permittee or Municipality giving written notice to the other of the occurrence or existence of a default by the other party under Sections 4.8, 6, 8 or 9 of this Permit and such defaulting party failing to cure, or commence good faith efforts to cure, such default within sixty (60) days (or such shorter period of time provided elsewhere in this Permit) after delivery of such notice; or
- 7.1.5 Unless Manager grants a written extension, one year from the Date of Issuance if prior thereto Permittee has not started the construction and installation of the Telecommunication Facilities within the Public Right-of-Way and two years from the Date of Issuance if by such time construction and installation of the Telecommunication Facilities is not complete.

8 Performance Bond or Letter of Credit

- 8.1 Municipal Requirement. Municipality may require Permittee to post a bond (or letter of credit) as provided in Section 15(3) of the METRO Act, as amended

[MCL § 484.3115(3)].

9 Fees

9.1 Establishment; Reservation. The METRO Act shall control the establishment of right-of-way fees. The parties reserve their respective rights regarding the nature and amount of any fees which may be charged by Municipality in connection with the Public Right-of-Way.

10 Removal

I 0.1 Removal; Underground. As soon as practicable after the Term, Permittee or its successors and assigns shall remove any underground cable or other portions of the Telecommunication Facilities from the Public Right-of-Way which has been installed in such a manner that it can be removed without trenching or other opening of the Public Right-of-Way. Permittee shall not remove any underground cable or other portions of the Telecommunication Facilities which requires trenching or other opening of the Public Right-of-Way except with the prior written approval of Manager. All removals shall be at Permittee's sole cost and expense.

10.1.1 For purposes of this Part I 0, "cable" means any wire, coaxial cable, fiber optic cable, feed wire or pull wire.

I 0.2 Removal; Above Ground. As soon as practicable after the Term, Permittee, or its successor or assigns at its sole cost and expense, shall, unless waived in writing by Manager, remove from the Public Right-of-Way all above ground elements of its Telecommunication Facilities, including but not limited to poles, pedestal mounted terminal boxes, and lines attached to or suspended from poles.

10.3 Schedule. The schedule and timing of removal shall be subject to approval by Manager. Unless extended by Manager, removal shall be completed not later than twelve (12) months following the Term. Portions of the Telecommunication Facilities in the Public Right-of-Way which are not removed within such time period shall be deemed abandoned and, at the option of Municipality exercised by written notice to Permittee as set forth in Part 12, title to the portions described in such notice shall vest in Municipality.

11 Assignment. Permittee may assign or transfer its rights under this Permit, or the persons or entities controlling Permittee may change, in whole or in part, voluntarily, involuntarily, or by operation of law, including by merger or consolidation, change in the ownership or control of Permittee's business, or by other means, subject to the following:

11.1 No such transfer or assignment or change in the control of Permittee shall be

effective under this Permit, without Municipality's prior approval (not to be unreasonably withheld), during the time period from the Date of Issuance until the completion of the construction of the Telecommunication Facilities in those portions of the Public Right-of-Way identified on Exhibit A.

- 11.2 After the completion of such construction, Permittee must provide notice to Municipality of such transfer, assignment or change in control no later than thirty (30) days after such occurrence; provided, however,

11.2.1 Any transferee or assignee of this Permit shall be qualified to perform under its terms and conditions and comply with applicable law; shall be subject to the obligations of this Permit, including responsibility for any defaults which occurred prior to the transfer or assignment; shall supply Municipality with the information required under Section 3.1; and shall comply with any updated insurance and performance bond requirements under Sections 6 and 8 respectively, which Municipality reasonably deems necessary, and

11.2.2 In the event of a change in control, it shall not be to an entity lacking the qualifications to assure Permittee's ability to perform under the terms and conditions of this Permit and comply with applicable law; and Permittee shall comply with any updated insurance and performance bond requirements under Sections 6 and 8 respectively, which Municipality reasonably deems necessary.

- 11.3 Permittee may grant a security interest in this Permit, its rights thereunder or the Telecommunication Facilities at any time without notifying Municipality.

12 Notices

- 12.1 Notices. All notices under this Permit shall be given as follows:

12.1.1 If to Municipality, to [address], with a copy to [address].

12.1.2 If to Permittee, to [address], with a copy to [address].

- 12.2 Change of Address. Permittee and Municipality may change its address or personnel for the receipt of notices at any time by giving notice thereof to the other as set forth above.

13 Other items

- 13.1 No Cable, OVS. This Permit does not authorize Permittee to provide commercial cable type services to the public, such as "cable service" or the services of an "open video system operator" (as such terms are defined in the Federal

Communications Act of 1934 and implementing regulations, currently 47 U.S.C. §§ 522 (6), 573 and 47 CFR § 76.1500).

- 13.2 Effectiveness. This Permit shall become effective when Permittee has provided any insurance certificates and bonds required in Parts 6 and 8, and signed the acknowledgement of receipt, below.
- 13.3 Authority. This Permit satisfies the requirement for a permit under Section 5 of the METRO Act [MCL 484.3105].
- 13.4 Interpretation and Severability. The provisions of this Permit shall be liberally construed to protect and preserve the peace, health, safety and welfare of the public, and should any provision or section of this Permit be held unconstitutional, invalid, overbroad or otherwise unenforceable, such determination/holding shall not be construed as affecting the validity of any of the remaining conditions of this Permit. If any provision in this Permit is found to be partially overbroad, unenforceable, or invalid, Permittee and Municipality may nevertheless enforce such provision to the extent permitted under applicable law.
- 13.5 Governing Law. This Permit shall be governed by the laws of the State of Michigan.

[Municipality name]

By: _____

Its: _____

Date: _____

Acknowledgement of Receipt: Permittee acknowledges receipt of this Permit granted by Municipality.

[Permittee Name]

By: **/S**

Its: **OSP** **Project Manager**

Date:10/17/2023

EXHIBIT B

[Bond will be provided by the permitholder pursuant to the METRO Act in an amount equal to the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the permitholders access and use.]

**METRO Act Permit Application Form
Revised February 2, 2015**

City of Escanaba

Name of Local Unit of Government

**APPLICATION FOR
ACCESS TO AND ONGOING USE OF PUBLIC WAYS BY
TELECOMMUNICATIONS PROVIDERS
UNDER
METROPOLITAN EXTENSION TELECOMMUNICATIONS
RIGHTS-OF-WAY OVERSIGHT ACT
2002 PA 48
MCL SECTIONS 484.3101 TO 484.3120**

BY

ITC Broadband Operating LLC DBA Highline Internet

**[Name of Company]
("APPLICANT")**

Unfamiliar with METRO Act?--Assistance: Municipalities unfamiliar with Michigan Metropolitan Extension Telecommunications Rights-of-Way Oversight Act ("METRO Act") permits for telecommunications providers should seek assistance, such as by contacting the Telecommunications Division of the Michigan Public Service Commission at 517-284-8190 or via its web site at http://www.michigan.gov/mpsc/0,4639,7-159-16372_22707---,00.html.

45 Days to Act—Fines for Failure to Act: The METRO Act states that "A municipality shall approve or deny access under this section within 45 days from the date a provider files an application for a permit for access to a public right-of-way." MCL 484.3115(3). The Michigan Public Service Commission can impose fines of up to \$40,000 per day for violations of the METRO Act. It has imposed fines under the Michigan Telecommunications Act where it found providers or municipalities violated the statute.

Where to File: Applicants should file copies as follows [municipalities should adapt as appropriate—unless otherwise specified service should be as follows]:

-- Three (3) copies (one of which shall be marked and designated as the master copy) with the Clerk at [insert address].

410 Ludington Street, Escanaba, MI. 49829

City of Escanaba

Name of local unit of government

**APPLICATION FOR
ACCESS TO AND ONGOING USE OF PUBLIC WAYS BY
TELECOMMUNICATIONS PROVIDERS**

By
[Name of Company]
("APPLICANT")

This is an application pursuant to Sections 5 and 6 of the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, 2002 PA 48 (the "METRO Act") for access to and ongoing usage of the public right-of-way, including public roadways, highways, streets, alleys, easements, and waterways ("Public Ways") in the Municipality for a telecommunications system. The METRO Act states that "A municipality shall approve or deny access under this section within 45 days from the date a provider files an application for a permit for access to a public right-of-way." MCL 484.3115(3).

This application must be accompanied by a one-time application fee of \$500, unless the applicant is exempt from this requirement under Section 5(3) of the METRO Act, MCL 484.3105(3).

1 GENERAL INFORMATION:

1.1 Date: 10/17/2023

1.2 Applicant's legal name: ITC Broadband Operating LLC DBA Highline Internet
Mailing Address: 2222 N Lincoln Rd., Escanaba, MI 49829

Telephone Number: [REDACTED]
Fax Number: _____
Corporate website: www.highlinefast.com

Name and title of Applicant's local manager (and if different) contact person
regarding this application:

Vince Matthews, Permitter I

Mailing Address: [REDACTED]

Telephone Number:
Fax Number:
E-mail Address:

1.3 Type of Entity: (Check one of the following)

- ☐ Corporation
☐ General Partnership
☐ Limited Partnership
☒ Limited Liability Company
☐ Individual
☐ Other, please describe:

1.4 Assumed name for doing business, if any: ITC Broadband Operating LLC DBA Highline Internet

1.5 Description of Entity:

- 1.5.1 Jurisdiction of incorporation/formation;
1.5.2 Date of incorporation/formation;
1.5.3 If a subsidiary, name of ultimate parent company;
1.5.4 Chairperson, President/CEO, Secretary and Treasurer (and equivalent officials for non-corporate entities).

1.6 Attach copies of Applicant's most recent annual report (with state ID number) filed with the Michigan Department of Licensing and Regulatory Affairs and certificate of good standing with the State of Michigan. For entities in existence for less than one year and for non-corporate entities, provide equivalent information.

1.7 Is Applicant aware of any present or potential conflicts of interest between Applicant and Municipality? If yes, describe:

1.8 In the past three (3) years, has Applicant had a permit to install telecommunications facilities in the public right of way revoked by any Michigan municipality?

Circle: Yes ☒ No

If "yes," please describe the circumstances.

1.9 In the past three (3) years, has an adverse finding been made or an adverse final action been taken by any Michigan court or administrative body against Applicant under any law or regulation related to the following:

- 1.9.1 A felony; or

1.9.2 A revocation or suspension of any authorization (including cable franchises) to provide telecommunications or video programming services?

Circle: Yes ☒ No

If "yes," please attach a full description of the parties and matters involved, including an identification of the court or administrative body and any proceedings (by dates and file numbers, if applicable), and the disposition of such proceedings.

1.10 [If Applicant has been granted and currently holds a license to provide basic local exchange service, no financial information needs to be supplied.] If publicly held, provide Applicant's most recent financial statements. If financial statements of a parent company of Applicant (or other affiliate of Applicant) are provided in lieu of those of Applicant, please explain.

1.10.1 If privately held, and if Municipality requests the information within 10 days of the date of this Application, the Applicant and the Municipality should make arrangements for the Municipality to review the financial statements.

If no financial statements are provided, please explain and provide particulars.

2 DESCRIPTION OF PROJECT:

2.1 Provide a copy of authorizations, if applicable, Applicant holds to provide telecommunications services in Municipality. If no authorizations are applicable, please explain.

2.2 Describe in plain English how Municipality should describe to the public the telecommunications services to be provided by Applicant and the telecommunications facilities to be installed by Applicant in the Public Ways.

2.3 Attach route maps showing the location (including whether overhead or underground) of Applicant's existing and proposed facilities in the public right-of-way. To the extent known, please identify the side of the street on which the facilities will be located. (If construction approval is sought at this time, provide engineering drawings, if available, showing location and depth, if applicable, of facilities to be installed in the public right-of-way).

2.4 Please provide an anticipated or actual construction schedule.

2.5 Please list all organizations and entities which will have any ownership interest in the facilities proposed to be installed in the Public Ways.

2.6 Who will be responsible for maintaining the facilities Applicant places in the Public Ways and how are they to be promptly contacted? If Applicant's facilities are to be installed on or in existing facilities in the Public Ways of existing public utilities or incumbent

telecommunications providers, describe the facilities to be used, and provide verification of their consent to such usage by Applicant.

3 TELECOMMUNICATION PROVIDER ADMINISTRATIVE MATTERS:

Please provide the following or attach an appropriate exhibit.

- 3.1 Address of Applicant's nearest local office;
- 3.2 Location of all records and engineering drawings, if not at local office;
- 3.3 Names, titles, addresses, e-mail addresses and telephone numbers of contact person(s) for Applicant's engineer or engineers and their responsibilities for the telecommunications system;
- 3.4 Provide evidence of self-insurance or a certificate of insurance showing Applicant's insurance coverage, carrier and limits of liability for the following:
 - 3.4.1 Worker's compensation;
 - 3.4.2 Commercial general liability, including at least:
 - 3.4.2.1 Combined overall limits;
 - 3.4.2.2 Combined single limit for each occurrence of bodily injury;
 - 3.4.2.3 Personal injury;
 - 3.4.2.4 Property damage;
 - 3.4.2.5 Blanket contractual liability for written contracts, products, and completed operations;
 - 3.4.2.6 Independent contractor liability;
 - 3.4.2.7 For any non-aerial installations, coverage for property damage from perils of explosives, collapse, or damage to underground utilities (known as XCU coverage);
 - 3.4.2.8 Environmental contamination;
 - 3.4.3 Automobile liability covering all owned, hired, and non-owned vehicles used by Applicant, its employee, or agents.
- 3.5 Names of all anticipated contractors and subcontractors involved in the construction, maintenance and operation of Applicant's facilities in the Public Ways.

4 CERTIFICATION:

All the statements made in the application and attached exhibits are true and correct to the best of my knowledge and belief.

NAME OF ENTITY ("APPLICANT")

10/17/2023
Date

By: Jacob Stedman
Type or Print Name: Jacob Stedman

OSP Project Manager
Title

S:\metroapplicationform.doc

Metro Permit Application Section 1.5

1.5.1: The state of Delaware

1.5.2: December 18th, 2020

1.5.3: Aspire Networks 1

1.5.4: Chairperson: Cam Lanier

CEO: Bruce Moore

Secretary: Rob Mills

Treasurer: Rob Mills

Metro Permit Application Sections 2 and 3

2.1: See Attached.

2.2: The telecommunication service provided by Highline is a high-speed internet through a fiber network.

2.4: Construction plans to start on September 15th, 2023, and be completed by October 31st, 2023.

2.3: See Attached.

2.5: Aspire Networks 1, LLC dba Highline

2.6: Aspire Networks 1, LLC dba Highline

3.1: 2222 North Lincoln Rd Escanaba, MI 49829

3.3: Shannon Sink, Project Manager, P.O. Box 349 Buford, GA 30515, [REDACTED]
Main Office:(706) 654-2298 or Cell: [REDACTED] Responsibilities: Leads a team in designing a fiber network for broadband internet.

3.4: See Attached.

3.5: Contractor: Atlantic Engineering Group (AEG)