

**BOARD OF COMMISSIONERS MEETING**

Ty Wessell, Chairman

**NOTICE OF MEETING**

The Regular Session of the Leelanau County Board of Commissioners will be held on Tuesday, May 16, 2023, at 7:00 p.m., in the Commissioner Meeting Room, Leelanau County Government Center, Suttons Bay, Michigan

**A live streaming of this meeting will be available for viewing via the following link –**  
[https://www.youtube.com/channel/UCNQTgIgcTedF2qB8floC1GQ?view\\_as=subscriber](https://www.youtube.com/channel/UCNQTgIgcTedF2qB8floC1GQ?view_as=subscriber)

There are two ways to provide public comment during the meeting – you can attend in-person, or email your comments prior to the meeting to [clerk@leelanau.gov](mailto:clerk@leelanau.gov)

*(Please silence any unnecessary cellular/electronic devices)*

*(Proceedings of the meeting are being recorded and are not the official record of the meeting; the formally approved/accepted written copy of the minutes will be the official record of the meeting.)*

**TENTATIVE AGENDA**

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**MOMENT OF SILENCE/PRIVATE PRAYER**

**ROLL CALL**

**APPROVAL OF BOARD MINUTES**

**APPROVAL OF AGENDA / LATE ADDITIONS OR DELETIONS**

**PUBLIC COMMENT (3 Minutes)**

**COMMISSIONER COMMENTS**

**COMMUNICATIONS, PROCLAMATIONS, PRESENTATIONS**

**CONSENT AGENDA ITEMS**

1. Sheriff’s Office – Acceptance of DNR (Department of Natural Resources) Marine Safety Grant.
2. Leelanau Township Tower – Engineering Study Recommendation, Machin Engineering.
3. Equalization – Approval of Leelanau County L-4029 Tax Rate Request.
4. Solid Waste Council – GFL Amendment #1 to Recycling Services Agreement.
5. Monumentation/Remonumentation –
  - a. Renewal of Peer Group Agreements:
    - i. Grand Traverse Surveying, Holmberg Land Survey, and O’Non Land Surveying.
    - ii. Leelanau Land Surveying.
6. Senior Services –
  - a. Approval of Records Retention Schedule and Disposal.
  - b. Agreement Renewal, RLK Investments, Inc., d/b/a ComfortKeepers.
7. Parks and Recreation Commission – Approval of Annual Fish Purchase, Laggis Fish Farms, Inc.
8. Administration – Grand Traverse Band of Ottawa and Chippewa Indians 2% Allocation Requests, First Cycle – Parks & Recreation Commission/YouthWorks – Invasive Species Mitigation, \$22,000.00.

**ACTION ITEMS**

9. **Late Addition Request #1** – Out of State Travel, Equalization GIS Analyst Robert Herman, San Diego, CA. 2
10. Thirteenth Circuit Court – Approval of Resolution #2023-xx, FY 2024 MDOC Grant.\* 3
11. Children’s Advocacy Resolution – Women’s Resource Center.\* 4-5
12. Leelanau Township Tower –
  - a. Cherryland Electric Agreement Review/Recommendation. 6-27
  - b. Landowner Agreement Review/Recommendation. 28-44
13. Monumentation/Remonumentation – Acceptance of State of Michigan Monumentation Grant. 45-58
14. Local Units of Government – Approval of Floodplain Resolutions/Intergovernmental Agreements.\* 59-65
15. Leland Dam Authority – Budgetary Discussion.
16. Administration –
  - a. Grand Traverse Band of Ottawa and Chippewa Indians 2% Allocation Requests, First Cycle – Board of Commissioners, LCHPS (Leelanau County Historical Preservation Society), Poor Farm Barn, *under separate cover*.
17. Per Diem Discussion (*under separate cover*) –
  - a. Review/Potential Approval of:
    - i. Inclusive List of Commissioner Per Diem Assignments.
    - ii. Potential Policy and Board Rules of Order and Procedure Updates.
  - b. Potential Approval of MAC (Michigan Association of Counties) Conference/Committee Per Diem Requests:
    - i. Per Diem for MAC Agriculture & Tourism Committee (Commissioner Allgaier).
    - ii. Per Diem for MAC Conference (Commissioner Allgaier | Commissioners).
  - c. Per Diem for NMCA (Northern Michigan Counties Association) Delegate (Commissioner Allgaier).

**REVIEW OF FINANCIALS**

**COMMITTEE REPORTS, RECOMMENDATIONS, AND RESOLUTIONS**

**SPECIAL REPORTS BY STAFF, COMMISSIONERS, AND AFFILIATED AGENCIES**

**PUBLIC COMMENT (5 Minutes)**

**COMMISSIONER COMMENTS**

**APPROVAL OF FINANCIALS:**

- Amendments & Transfers
- Claims and Accounts
- Post Audit

**ADJOURNMENT**

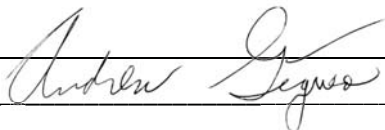
*\*Requires a Roll Call Vote*

# Late Addition #1

## EXECUTIVE DOCUMENT SUMMARY

Department: <u>Equalization</u>	<b>Submittal Dates</b>
Contact Person: <u>Andrew Giguere</u>	<input checked="" type="checkbox"/> Select Meeting Type: <u>Regular Session</u>
Telephone Number: <u>231-256-9823</u>	Date of Meeting: <u>05/16/2023</u>
<b>Financial/Source Selection Method</b>	Vendor: <u>ESRI</u>
<input type="checkbox"/> Select One: <u>Select One</u>	Address/ <u>380 New York St</u>
<input checked="" type="checkbox"/> Other: <u>Out of State Travel - ESRI Conference</u>	Phone: <u>Redlands, CA 92373</u>
<input checked="" type="checkbox"/> Account No.: <u>101-475225-860</u>	
<input type="checkbox"/> CIP Project?	
<input type="checkbox"/> If Grant, Match Account No.:	<b>Description:</b> <u>Out-of-State Travel</u>
Budgeted Amount: <u>\$2,275</u> Contracted Amount: _____	
<b>Document Description</b>	
<input type="checkbox"/> Request to Waive Board Policy on Bid Requirements	<input type="checkbox"/> Department Head/Elected Official Authorization
<p>The Leelanau County Equalization Department seeks approval to send GIS Analyst Robert Herman to the 2023 ESRI User Conference to be held in San Diego, California July 10th - July 14th.</p> <p>The conference registration free is normally \$2,075 but has been waived. Hotel accommodations are estimated at \$200 per night for 5 nights (\$1,000). There will also be expenses related to meals at a rate of \$55 per day (\$275). The cost estimate for a two-way plane ticket to San Diego, CA is \$1,000. Costs associated with airfare, ground travel, accommodations and food will come out of the Equalization Department's travel account.</p> <p>The ESRI User Conference was NOT included in the proposed 2023 budget, but this opportunity has arisen because ESRI has offered to waive the conference registration cost of \$2,075.</p> <p>Rob Herman states:</p> <p>"Our new ESRI account manager for local governments, Christian Freed, was very flattering about our GIS web presence, and he is offering me complimentary registration for the preeminent mapping conference in the world. It's a \$2,075 value that they are willing to waive for me, and therefore it seems foolish to pass on this great opportunity. Christian had this to say about our GIS website:</p> <p style="padding-left: 40px;">'I work with many local governments your size across the state, and I can say without a shadow of a doubt that Leelanau's GIS webpage is one of the cleanest, most well-presented that I've come across. To be completely honest, I think your county could be an example to other similar local governments.'"</p> <p>Estimated Expenses: Conference fees for one (1) individual: \$0, waived 5 night hotel stay: \$1,000 Airfare - The costs fluctuate, but we estimate approximately \$1,000 for a round trip plane ticket. Additional expenses for food (\$55/day): \$275</p> <p>I move that the Board of Commissioners approve travel for GIS Analyst Rob Herman to attend the ESRI User Conference July 10 - 14 in San Deigo, CA, with funds to come from the Equalization Department's Budget (101-475225-860).</p>	

Department Approval: \_\_\_\_\_

Date: 05/12/2023

**BOARD OF COMMISSIONERS**

**Jamie Kramer**, District #1  
**James S. O'Rourke**, District #2  
**Douglas Rexroat**, District #3  
**Ty Wessell**, District #4  
**Kama Ross**, District #5  
**Gwenne Allgaier**, District #6  
**Melinda C. Lautner**, District #7



**Deborah Allen**, County Administrator

Leelanau County Government Center  
8527 E. Government Center Drive, Suite #101  
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(231) 256-9711 ♦ (866) 256-9711 toll free  
(231) 256-0120 fax  
www.leelanau.gov ♦ [dallen@leelanau.gov](mailto:dallen@leelanau.gov)

**Leelanau County Resolution #2023-\_\_\_\_**  
**13<sup>th</sup> Circuit Court Community Corrections Grant Application to MDOC for FY 2024**

**WHEREAS**, on May 16, 2023, the Leelanau County Board of Commissioners approved submission of the yearly Plans and Services Grant Application to the Department of Corrections, Office of Community Corrections; and,

**WHEREAS**, the grant is for one year starting with October 1, 2023, in the amount of \$321,000.00; and,

**WHEREAS**, now, the application requires approval from the Leelanau County Board of Commissioners to continue funding for the next fiscal year with no changes or amendments.

**NOW, THEREFORE, BE IT RESOLVED** by this Board of Commissioners, that Leelanau County approves the submission of the 13<sup>th</sup> Circuit Court Community Corrections FY2024 Grant Application to Michigan Department of Corrections/Office of Community Corrections, as presented.

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**Leelanau County Resolution #2023-\_\_\_\_\_**

**Resolution by the Leelanau County Board of Commissioners in Support  
of the Women's Resource Center's Resolution Requesting the Governor  
and the State Legislature to Reject Funding Cuts and Prioritize Sustainable  
State Funding for Domestic Violence and Sexual Assault Services**

**WHEREAS**, since 1975, the Women's Resource Center for the Grand Traverse Area (WRC) has been protecting, sheltering, and empowering people impacted by domestic and sexual violence, and is the only provider of domestic and sexual violence services in Benzie, Grand Traverse, Kalkaska, and Leelanau counties; and

**WHEREAS**, the WRC provides an invaluable service to the Leelanau County community through free and confidential counseling, emergency shelter, transitional housing, advocacy, education, and a 24-hour emergency helpline for survivors of domestic and sexual violence; and

**WHEREAS**, the WRC has experienced a significant increase in demand for its services in recent years, and a decrease in available federal funding necessary to support its facilities and staff, which has placed a financial strain on its ability to continue to meet the community's needs; and

**WHEREAS**, the WRC expects there to be cuts to Crime Victim's Rights funding for this upcoming fiscal year, which would severely impact the WRC's ability to provide supportive client service, crisis line operations, legal assistance, housing services, and intervention programs, and could also result in a reduction in the number of shelters for persons in need; and

**WHEREAS**, the anticipated reduction in funding would limit the WRC's ability to maintain current staffing levels and meet the increasing needs of those it serves; and

**WHEREAS**, on March 22, 2023, the WRC Board of Directors adopted a Resolution urging the Governor, the State Legislature, the MDHHS Director, and Michigan's two U.S. Senators to reject deep funding cuts to domestic violence and sexual assault service providers in upcoming years, and to ask the State of Michigan to make these vital services a priority for State General Fund and General Purpose funding, thereby maximizing state dollars to receive Federal matching funds.

**NOW, THEREFORE, BE IT RESOLVED**, the Leelanau County Board of Commissioners hereby declares its support for the Women's Resource Center for the Grand Traverse Area and its March 22, 2023, Resolution urging the Governor and the Michigan Legislature to reject deep funding cuts to domestic violence and sexual assault service providers in upcoming years, and to ask the State of Michigan to make these vital services a priority for State General Fund and General Purpose funding, thereby maximizing state dollars to receive Federal matching funds.

**BE IT FURTHER RESOLVED**, that a copy of this Resolution be sent to Governor Gretchen Whitmer, Michigan Department of Health and Human Services Director Elizabeth Hertel, State Representative Jack O'Malley, U.S. Senator Debbie Stabenow, and U.S. Senator Gary Peters.

# EXECUTIVE DOCUMENT SUMMARY

Department: <u>Emergency Mgt./911</u> Contact Person: <u>Matt Ansorge</u> Telephone No.: <u>(231) 256-8775</u>	<b>Submittal Dates</b> <input checked="" type="checkbox"/> Executive Board Session  <u>05/09/2023</u>
<b>Source Selection Method</b>	<b>VENDOR:</b> <u>Cherryland Electric Cooperative</u>  Address/ <u>5930 US-31</u> <u>Grawn, MI 49637</u> Phone: <u>(231) 486-9200</u>
<input checked="" type="checkbox"/> Negotiated <input type="checkbox"/> Other: _____ Account Number _____ (Funds to come from): _____	

Budgeted Amount: _____	\$ 0.00	Contracted Amount: _____	\$0.00
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Document Description	
<input type="checkbox"/> Select One	<input checked="" type="checkbox"/> Other <u>Partnership Agreement</u>

**Request to Waive Board Policy on Bid Requirements**

The Leelanau County Board of Commissioners and Leelanau Township Board have expressed interest in expanding cellular and broadband capabilities in Leelanau Township. Early on in the exploration of this project, Cherryland Electric expressed interest to become a partner since a tower in this area of Leelanau County fit into their new business model.

The County Board of Commissioners empowered then County Administrator, Chet Janik, and I to pursue this tower project. We met several times with representatives from Cherryland Electric. Through these discussions we were able to define the objectives on each side of this partnership. Based on the results of our discussions, I have tasked our legal counsel to draft an agreement between Cherryland Electric and Leelanau County to establish a partnership for the Leelanau Township Tower project.

In exchange for free tower space on County-owned towers, Cherryland Electric has agreed to contribute up to 40% of the total cost of constructing the new Leelanau Township Tower, not to exceed \$200,000.00. Cherryland Electric will receive a 25-year lease on the towers. Their equipment loading is very minimal and they will be subject to tower assessment fees and lease amendments should they seek to increase their loading in the future.

This has been a very pleasant aspect of the Leelanau Township Tower project. Cherryland Electric is committed to a long-term partnership with Leelanau County and both sides aim to benefit greatly from the completion of this project.

**Suggested Recommendation:** I move to recommend that the County Board of Commissioners to approve the Tower Space Lease Agreement for Cherryland Electric Cooperative at the Central Tower, Government Center Tower, Omena Tower, and the proposed Leelanau Township Tower and authorize the County Board Chairman to sign the Agreement, pending approval from Corporate Counsel. +

Department Head Approval:  Matt Ansorge  
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Date: 04/27/2023

**TOWER SPACE LEASE AGREEMENT**

**THIS TOWER SPACE LEASE AGREEMENT** ("Lease") is executed this \_\_\_\_ day of \_\_\_\_\_, 2023 (the "Effective Date"), by and between, **COUNTY OF LEELANAU**, a Municipal Corporation and political subdivision of the State of Michigan whose mailing address is 8527 E. Government Center Dr., Suite 101, Suttons Bay, MI 49682 (the Lessor, hereinafter referred to as the "County") and **CHERRYLAND ELECTRIC COOPERATIVE, a Michigan nonprofit corporation** with offices located at 5930 US-31, Grawn, MI 49637 (hereinafter referred to as "Lessee").

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**RECITALS:**

**WHEREAS**, the County owns towers, capable of supporting antenna(s) and transmission line(s) and properties for installation and maintenance of equipment shelters, including those located at 1095 South Pit Road, Leland, Michigan 49654, at 8520 East Government Center Drive, Suttons Bay, Michigan 49682, and at 11750 East Davis Road, Northport, Michigan 49670 (hereafter, "Existing Towers"), and intends to construct a new tower to be located at 11015 N. Kitchen Rd., Northport, MI 49670 (hereafter, "Leelanau Township Tower"); hereinafter sometimes collectively referred to as "Towers", and

**WHEREAS**, Lessee desires to lease space on the Towers for the installation, operation, and maintenance of antenna(s), transmitter(s), cable(s), transmission line(s), wires, conduits, piping, electrical and utility lines, and other related equipment and appurtenances ("Equipment") to receive and transmit signals; and

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**WHEREAS**, Lessee represents that it shall, prior to installation of its Equipment, obtain in effect all necessary Government Approvals (defined below) to receive and transmit signals from each Tower's location; and shall make such Government Approvals available for review by the County upon request; and

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**WHEREAS**, the County agrees to lease space on the Towers for Equipment and on the ground in equipment shelters owned by the County pursuant to the terms and conditions of this Lease.

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**NOW THEREFORE**, in consideration of the terms and mutual promises herein contained and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, **THE COUNTY AND LESSEE AGREE AS FOLLOWS:**

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**1. Property:** The County hereby grants Lessee the right to install, maintain, operate and remove Lessee's Equipment on the Leelanau Township Tower and real property owned by the County at the tower site, located at 11015 N. Kitchen Rd., Northport, MI 49670, situated in the State of Michigan and County of Leelanau, and on the Existing Towers and real property located at 1095 South Pit Road, Leland, Michigan 49654, at 8520 East Government Center Drive, Suttons Bay, Michigan 49682, and at 11750 East Davis Road, Northport, Michigan 49670 ("Property" or "Properties") together with non-exclusive easements for seven (7) days a week, twenty four (24) hours a day ingress, egress and the use or installation of utilities, including, but not limited to, electric, telephone, cable, or fiber utility sources to the Towers and Properties during the Term (defined below). The legal descriptions of the Existing Towers and the Leelanau Township Tower are attached as Exhibit 1 and incorporated by reference into this Lease and made a part hereof.

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2. **Premises:** The County agrees to provide space inside the County shelters on the Properties for Lessee to house equipment, and the County agrees to provide space on each Tower at a height approved by the County for Lessee to mount its Equipment for Lessee's wireless transmitting purposes. It is agreed that Lessee, or a contractor retained by Lessee, shall be authorized to mount the Equipment in a position and manner mutually agreeable to the County and Lessee on each Tower and inside the County's shelter on the ground; provided, however, that the County shall not unreasonably withhold or delay its agreement on the position and manner of Lessee's Equipment installation or storage. The specific Equipment which Lessee may install at each tower site is more fully set forth in Exhibit 2, incorporated by reference into this Lease and made a part hereof. The Equipment shall be used exclusively for noncommercial utility communications. The Lessee shall be responsible for maintaining its Equipment on the Towers and its equipment inside the shelters in good operating condition. Lessee may upgrade, replace, repair, add, or otherwise modify its Equipment throughout the Term, as required; provided, however, that if any such modification changes space or loading requirements, Lessee shall obtain the County's prior written consent to such modifications, not to be unreasonably withheld or delayed. Throughout the Term, the County shall be responsible for maintaining the Towers and associated property controlled by the County.

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Deleted: The County Dispatch shall monitor the Lessee's personnel 800MHz emergency button activations on the Michigan Public Safety Communications System.

Deleted: The County hereby grants Lessee access to the Properties for the purpose of installing the Equipment on the Towers and Equipment inside the ground shelter. Thereafter, Lessee shall be provided access for maintenance and repair of Lessee's Equipment.

Deleted: The County hereby grants permission to Lessee to install, maintain and operate the Equipment. Lessee reserves the right to replace the aforementioned Equipment with similar and comparable equipment provided said replacement does not increase the weight load on the Towers.

Lessee shall fully comply with all County policies and procedures pertaining to security requirements covering the Towers. Installing signs or advertising by Lessee on the Towers or Properties is absolutely prohibited, provided, however, that Lessee is allowed to install any signage mandated by the FCC or any other government agency. It is understood and agreed that there is no guarantee or warranty whatsoever by the County concerning the performance or coverage resulting from Lessee's use of the Towers and associated facilities. Upon three hundred sixty five (365) days written notice to Lessee, the County reserves the right to require Lessee to relocate its Equipment, and Lessee agrees to relocate said Equipment at Lessee's expense to a mutually agreed new tower location, provided that said relocation does not substantially change or interfere with the operation of the relocated Equipment or otherwise result in interference with Lessee's business operations, and provided further that the County's sole purpose in requesting Lessee to move its Equipment is for a material bona fide public safety purpose.

3. **Leelanau Township Tower:** For the Leelanau Township Tower, Lessee shall provide underground electrical service extension to the County provided electric meter stanchion, at Lessee's sole cost. The County shall pay ongoing metered electric charges at the tower site.

Deleted: electric power lines to the tower site to power the County's <500W base station unit. Lessee shall provide power to the tower site payable by the County

4. **Term:**

(a) This Lease shall be effective as of the Effective Date. The initial term of this Lease (the "Initial Term") shall commence on the Commencement Date and shall expire on the Expiration Date. The "Commencement Date" shall be the later of: (i) the first (1st) day of the month next following the Effective Date; or (ii) the first (1st) day of the month next following the date Lessee has received all necessary Governmental Approvals. The "Expiration Date" shall be the day immediately preceding the twenty-fifth (25<sup>th</sup>) anniversary of the Commencement Date.

Deleted: The Term of this Lease shall be for a period of twenty-five (25) years commencing on the first day of the month following the date in which it has been executed by the representatives of both the County and Lessee, (the "Commencement Date") and expiring on the twenty-fifth anniversary of the Commencement Date (the "Termination Date") unless terminated earlier as provided in Sections 9, 14 or 17 of this Lease.

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(b) Upon the expiration of the Initial Term, this Lease shall automatically renew for additional successive one (1) year terms (each, an "Extension Term" and, together the "Extension Terms") unless either party provides written notice of nonrenewal at least one hundred

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twenty (120) days prior to the end of the then-current term. The Initial Term and Extension Terms shall be collectively referred to herein as the "Term".

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**5. Rent and Tower Assessment Fee:** Lessee shall not pay any rent to the County for its access and use of the Existing Towers and the Leelanau Township Tower. Rather, in lieu of rent, Lessee shall contribute 40% of the Leelanau Township Tower construction contract, in an amount up to but not to exceed \$200,000.00 (the "Tower Development Fee"). Lessee shall have no ownership interest in the Leelanau Township Tower or its associated Property. The Tower Development Fee shall be paid, as a reimbursement, to the County as draws paid to the Leelanau Township Tower construction contractor and in turn invoiced to Lessee, Net 15.

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In addition to the construction cost remitted by Lessee in lieu of rent required in this Section 5, the Lessee shall also reimburse the County the total actual cost(s) the County incurs for any Tower Assessments (defined below) conducted pursuant to "conditions precedent (e)" set forth in Section 8 of this Lease, but in no event more than \$5,000 per Tower Assessment.

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**6. Rental Documentation:** Within fifteen (15) days of obtaining an interest in any of the Property or this Lease, any assignee(s), transferee(s) or other successor(s) in interest of the County shall provide to Lessee documentation reasonably satisfactory to Lessee evidencing their interest in and right to receive payments under this Lease, including without limitation: (i) documentation, acceptable to Lessee in Lessee's reasonable discretion, evidencing their good and sufficient title to and/or interest in the Property and right to receive rental payment and other benefits hereunder; (ii) a complete and fully executed Internal Revenue Service Form W-9, or equivalent, in a form acceptable to Lessee, for any party to whom rental payments are to be made pursuant to this Lease; and (iii) other documentation requested by Lessee in Lessee's reasonable discretion (collectively, "Rental Documentation"). From time to time during the Term of this Lease and within thirty (30) days of a written request from Lessee, any assignee(s) or transferee(s) of the County shall agree to provide updated Rental Documentation in a form reasonably acceptable to Lessee. Delivery of Rental Documentation to Lessee by any assignee(s), transferee(s) or other successor(s) in interest of the County shall be a prerequisite for the payment of any rent by Lessee to such party and notwithstanding anything to the contrary herein, Lessee shall have no obligation to make any rental payments to any assignee(s), transferee(s) or other successor(s) in interest of County until Rental Documentation has been supplied to Lessee as provided herein.

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**7. Taxes:** Lessee shall pay any taxes levied on Lessee's personal property located or installed on the Towers and Properties. The Equipment shall remain Lessee's personal property even though it may be attached or affixed to the Towers or Properties. County and Lessee agree that personal property of the Lessee shall not be considered fixtures. Lessee shall have the right, at its sole option and at its sole cost and expense, to appeal, challenge, or seek modification of any tax assessment or billing for which Lessee is wholly or partly responsible for payment.

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**8. Conditions Precedent:** The following are conditions precedent to the commencement and/or the continuation of this Lease:

- (a) Lessee, at its own expense, shall secure appropriate licenses and approvals required for its intended use of the Towers and Properties from the Federal Communications Commission, the Federal Aviation Administration and any other federal, state or local regulatory authority having jurisdiction over Lessee's proposed use of the Towers and Properties (collectively, "Governmental Approvals"). In the event that any of such

applications for such Governmental Approvals should be rejected or any approval issued to Lessee is cancelled, expires, lapses, or is otherwise withdrawn or terminated by governmental authority, then either the County or Lessee may terminate this Lease as provided in Section 9. The County, however, may not terminate this Agreement based on the grounds set forth in this sub-section, if the Lessee re-applies and/or appeals within sixty (60) calendar days of the application rejection or the loss of the required governmental license or approval;

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- (b) Lessee may, at its own expense, obtain a title report or commitment for a title policy from a title insurance company of its choice. If, in the opinion of Lessee such title report shows any defects of title or liens or encumbrances which adversely affect Lessee's use of the Towers and/or Properties or its ability to obtain financing, Lessee shall have the right to terminate this Lease as provided in Section 9;
- (c) Lessee may, at its own expense, have the Properties surveyed and to have structural tower studies, radio frequency engineering and other engineering analyses performed. In the event that any defects are shown by the survey or the engineering analyses, which in the opinion of Lessee may adversely affect Lessee's use of the Towers and/or Properties, Lessee shall have the right to terminate this Lease upon written notice to the County as provided in Section 9;
- (d) Lessee may, at its own expense, have an environmental assessment of the Properties performed by an environmental consulting firm of its choice. If the environmental assessment reveals that the Property is contaminated with Hazardous Materials, as that term is hereinafter defined, and Lessee, its employees, agents, or contractors did not cause such contamination, Lessee may terminate this Lease as authorized in Section 9;
- (e) County, at Lessee's expense, but not to exceed \$5,000 per assessment has conducted a structural analysis of each Tower("Tower Assessment") to determine if the Tower's structure can safely bear the weight of the Equipment Lessee intends to place on the Tower and has determined from the assessment's findings that the Tower can safely bear the additional weight. Fees from an independent tower consultant hired by the County will also be part of the Tower Assessment fee. A Tower Assessment shall also be required before the Lessee places new or additional equipment and materials on the Tower that increases the overall weight of the Lessee's Equipment on the Tower. Placement of any equipment and materials on the Tower without a prior Tower Assessment and approval by the County shall be a material breach of this Lease; and
- (f) If Lessee determines in its sole discretion that a Tower located at a Property is not commercially viable, Lessee may terminate this Lease as authorized in Section 9.

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**9. Termination:** Upon any failure of Lessee to pay any sum due the County, or to perform any material obligation required by this Lease, and failure to cure such obligation within sixty (60) calendar days of receipt of written notice by County, or if Lessee does not have or for any reason ceases to have, in effect any Government Approval required for the operation of the Equipment on the Towers (unless Lessee re-applies for such license or approval within ninety (90) calendar days), or if Lessee becomes adjudicated as bankrupt or if bankruptcy proceedings are initiated by Lessee or its creditors without a subsequent dismissal thereof within one hundred twenty (120) calendar

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days, or for reasons related to the structural capacity of the Towers, provided that the structural capacity issues are not due to the County adding other users on the Towers after the date of this Lease and further provided the Lessee has been given the opportunity to remedy such structural issue as it relates to Lessee's use of the Towers and Lessee has been either unable to do so or has chosen not to undertake such remedy within sixty (60) calendar days of receiving notice of the structural issue(s), the County may terminate Lessee's rights under this Lease by giving not less than ninety (90) calendar days prior written notification by certified U.S. mail, return receipt requested, to Lessee at the address set forth in Section 16.

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Lessee may terminate this Lease upon the occurrence of any of the events set forth in Section 8, or if the Tower or Property becomes undesirable due to irresolvable signal interference. To exercise its rights to terminate this Lease the Lessee must provide the County with not less than thirty (30) calendar days prior written notice, sent to the County by certified U.S. Mail, return receipt requested, to the County's address set forth in Section 16. Such notice shall specify the reason for the termination.

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Upon termination of this Lease by either the County or Lessee as authorized in this Section 9 Lessee shall pay the County all sums due as of the effective date of termination. The Lessee shall fully remove its Equipment and any other property from the Towers and Properties within forty-five (45) calendar days after the effective date of termination, or within such longer period of time as may be mutually agreed upon in writing by the County and Lessee. If Lessee fails to remove its Equipment and property within the required time period, the County may do so and bill the cost of its removal and storage to the Lessee, which bill shall be paid by Lessee within thirty (30) calendar days of Lessee's receipt of the bill. In the event Lessee fails to remove its Equipment in a timely manner, the County shall not be responsible for any loss or damage to Lessee's Equipment and property resulting from its removal from the County's Towers and Properties or during storage. If Lessee fails to recover its Equipment and property within thirty (30) calendar days after it was placed in storage the County may sell or otherwise dispose of the same.

Should the County terminate this Lease prior to the expiration of the Initial Lease Term for any reason other than Lessee's material default under this Lease, the County shall extend this Lease to any other available County owned tower sites necessary to provide similar radio frequency propagation coverage are for the Lessee's service locations.

**10. Insurance Requirements:** The Lessee at all times during the Term, including any extension thereof and any hold over period, in which the Lessee continues to occupy the Towers and Properties covered by the Lease, that at a minimum meet the requirements of the Leelanau County Board of Commissioners' Policy on "Insurance Requirements", and any amendments made thereto over this Lease's term. A copy of said Board of Commissioners' Policy is attached to this Lease labeled Exhibit 3. The attached Exhibit 3 is incorporated by reference into this Lease and made a part hereof.

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The parties hereby waive and release any and all rights of action for negligence against the other which may hereafter arise on account of damage to the Tower or to the Property, resulting from any fire, or other casualty of the kind covered by standard fire insurance policies with extended coverage, regardless of whether or not, or in what amounts, such insurance is now or hereafter carried by the parties, or either of them. These waivers and releases shall apply between the parties and they shall also apply to any claims under or through either party as a result of any asserted right

of subrogation. All such policies of insurance obtained by either party concerning the Tower or the Property shall waive the insurer's right of subrogation against the other party.

**11. Utilities:** Lessee is responsible for their own communications back hauls. Lessee may connect to County's electrical panels at all tower sites. Lessee electrical demands shall be less than 500W, or Lessee shall reimburse the County for any excess electrical consumption charges, or Lessee will be permitted to install a separate utility meter. County grants to Lessee and the local utility company, as appropriate, any easement reasonably required in order to provide utility service to Lessee's equipment.

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Deleted: paying for the electricity consumed and all other utilities Lessee uses in its operations, including Lessee's generator support and phone service.

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**12. Environmental Compliance:** The County represents and warrants to the best of its knowledge that (i) the Properties, as of the date of this Lease, are free of Hazardous Materials, including asbestos-containing materials and lead paint, and (ii) the Properties have never been subject to any contamination or hazardous conditions resulting in any environmental investigation, inquiry or remediation. Lessee agrees that it will not use, generate, store or dispose of any Hazardous Material on, under, about or within the Properties in violation of any law or regulation. The County acknowledges that Lessee may use a permanent emergency back-up generator at the Tower locations, lead-acid batteries and may also use a fire suppression system within a shelter solely occupied by Lessee. The use of these systems will not constitute a violation of this Section. The County and Lessee agree that each will be responsible for compliance with any and all applicable government laws, rules, statutes, regulations, codes, ordinances, or principles of common law regulating or imposing standards of liability or standards of conduct with regard to protection of the public, environment, and to worker health and safety, as may now or at any time hereafter be in effect, to the extent such apply to that party's activity conducted in or on the Property.

Subject to the warranty provision in this Section 12, and to the extent permitted by applicable law, Lessee shall be solely liable and agrees to indemnify and hold the County harmless from any act of negligence or intentional contamination, spill, accidental discharge, or nuisance to the Properties caused by Lessee, or its agents, as a result of the placement, storage or disposal of any dangerous, toxic or hazardous substances on the Properties. Lessee's responsibility for the same shall extend beyond the Term of this Lease, provided the contamination, spill, accidental discharge, or nuisance was caused by Lessee.

"Hazardous Material" means any material or substance that is or has the characteristic of being hazardous, toxic, ignitable, reactive or corrosive, as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601, *et seq.*; the Hazardous Materials Transportation Act, 49 U.S.C. § 1801, *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, *et seq.*; all corresponding and related State of Michigan and local statutes, ordinances and regulations; and in any other applicable environmental law, regulation or ordinance now existing or hereinafter enacted.

The indemnification responsibilities set forth in this Section 12 specifically include, but are not limited to, reasonable costs, expenses and fees incurred in connection with any investigation of Properties conditions or any clean-up, remediation, removal or restoration work required by any governmental authority. The provisions of this Section 12 will survive the expiration or termination of this Lease.

In the event Lessee becomes aware of any hazardous materials on the Properties, or any environmental, health or safety condition or matter relating to the Properties that was not brought onto the Properties or caused by Lessee, that, in Lessee's sole determination, renders the condition

of the Premises or Properties unsuitable for Lessee's use, or if Lessee believes that the leasing or continued leasing of the Premises would expose Lessee to undue risks of liability to a government agency or third party, Lessee will have the right, in addition to any other rights it may have in law or in equity, to terminate this Lease upon written notice to the County.

**13. Radio Frequency Exposure Safety:**

- (a) Lessee, represents and warrants and shall cause its employees and tower contractors to represent and warrant, that it and they are fully aware of and knowledgeable about the inherent dangers of working on or near towers, rooftops, or other wireless communication sites that are "live", i.e., that are actively receiving and/or transmitting radio signals that may create radio frequency radiation ("RFR") hereinafter "Live Sites".
- (b) Lessee shall ensure that only those Lessee employees or agents or its contractor's employees or agents who make the representation set forth in subsection (a), and who have satisfactorily completed RFR safety training in accordance with FCC OET 65, the most current applicable updates in OSHA regulations and guidelines, and commonly recognized industry practices, may enter a Live Site or perform work on a Live Site. The County shall have no responsibility whatsoever to monitor access to the Live Site, or to monitor the performance of work on such Live Sites, by Lessee or its contractors, employees or agents or to verify training of the same.
- (c) The presence at, or performance of any work on a Live Site by any of Lessee or its contractor's employees or agents who have not made the above representations, shall constitute a breach of this Lease. In the event of such breach, the Lessee shall be liable to the County for any liability, damages, and costs incurred by the County as a result of said breach.

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**14. Interference:**

- (a) Lessee shall erect, construct, and operate its equipment and property on the Towers and Properties in a manner that will not cause interference to the County or any other lessees or licensees of the Towers and Properties, provided that the rights or installations of such other lessees or licensees predate the installation of Lessee's property and equipment. All operations by Lessee shall be in compliance with all FCC requirements. In the event any after-installed Lessee's equipment causes such interference, and after County has notified Lessee in writing of such interference, Lessee shall immediately take all commercially reasonable steps to correct and eliminate the interference, including but not limited to, powering down such equipment and later powering up such equipment for intermittent testing only. If, despite Lessee's attempts to correct such interference, Lessee has not successfully eliminated such interference within sixty (60) calendar days, then the County shall have the option to terminate this Lease, in which event Lessee shall, immediately upon notice of such termination, completely cease to operate its equipment. Lessee shall thereafter remove Lessee's equipment from the Tower and equipment shelter from the Property within such reasonable period of time as shall be determined by the parties not to exceed forty-five (45) calendar days and the County shall refund to the Lessee, pro-rata, any unearned rent paid in advance.

- (b) Subsequent to the installation of Lessee's Equipment, the County shall not permit its other lessees or licensees to install new equipment on the Towers and Properties or property contiguous thereto owned or controlled by the County if such equipment causes interference with Lessee's operations as of the date in which such new equipment is or would be installed on the Towers and Properties. If such interference occurs, the County agrees to require such lessee or licensee to take all commercially reasonable steps, including but not limited to, powering down such equipment and later powering up such equipment for intermittent testing only. The County shall reserve the option to terminate its lease with the lessee or licensee owning or controlling the equipment causing the interference if the lessee or licensee fails to cure the interference within sixty (60) days of the date that the interference started.
- (c) Nothing contained in this Lease shall be construed to prohibit the County from permitting additional lessees or licenses from erecting, constructing, or operating any equipment on the Towers and Properties in addition to Lessee's facilities provided that such additional equipment does not result in a breach of Section 14(b) of this Lease and or does not disturb the directional pattern of Lessee's normal signal.

**15. Maintenance:** The County shall, at its sole cost and expense and at all times during the term of this Lease, keep the Towers and Properties in good repair and safe condition. It is, however, expressly understood and agreed that the Lessee shall be responsible for payment of the cost of any repairs to the Towers and Properties of damage thereto caused by the Lessee, its employees, contractors or agents.

**16. Notices:** All notices or demands by or from the County to Lessee or Lessee to the County shall be in writing and mailed, postage prepaid, by certified or registered U.S. Mail, return receipt requested. Such notices or demands shall be mailed to the other party at the following address:

Lessor:  
LEELANAU COUNTY  
Leelanau County Government Center  
8527 E. Government Center Dr., Suite 101  
Suttons Bay, MI 49682  
Telephone: (231) 256-9711

Lessee:  
CHERRYLAND ELECTRIC COOPERATIVE  
5930 US-31  
Grawn, MI 49637  
Telephone: (231) 486-9200

With a copy (which shall not constitute notice to):  
KUHN ROGERS PLC  
4033 Eastern Shy Dr.  
Traverse City, MI 49684  
Telephone: (231) 947-7900  
Attention: Gregory L. Jenkins

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17. **Damage to Tower; Condemnation:** In the event the Tower is damaged, the County will, at its cost and expense, repair, rebuild, or restore the Tower to the same condition as it was in prior to such damage; provided, however, that if the Tower is totally destroyed or damaged to the extent that it cannot be restored within forty five (45) days from the date of such damage or destruction, either the County or Lessee may terminate this Lease by giving written notice of such termination to the other. In the event of any condemnation of the Property, this Agreement shall terminate as of the date such condemnation becomes effective with the same force and effect as though the termination date set forth in such notice were the date originally set as the expiration date of the Agreement and the Parties shall equitably adjust all payments due under this Agreement as of such termination date.

18. **Warranty of Title:** The County warrants that (i) it has the full right, power, and authority to execute this Lease; (ii) it has good and marketable fee simple title to the Properties and the Easement free and clear of any liens, encumbrances or mortgages; and (iii) the Properties each constitute a legal lot that may be leased without the need for any subdivision or platting approval.

19. **Access to the Leased Premises:** County agrees that Lessee shall have access to the Towers and Properties at all times for the purpose of installing and maintaining the Lessee's Equipment. County shall provide Lessee with County's emergency contact information, in the event that Lessee requires urgent access to the Towers. County shall furnish Lessee with necessary means of access for the purpose of ingress and egress to the Properties. It is agreed, however, that only authorized engineers, employees or properly authorized contractor of Lessee or persons under their direct supervision will be permitted to enter the Property. Lessee, to the extent authorized in this Section 19, shall have access to the Towers and Properties twenty-four (24) hours per day and seven (7) days per week.

20. **Sick, Injured or Dead Birds:** Lessee agrees to notify the County within twenty-four (24) hours should any sick, injured, or dead bird be found on the Towers or Properties by the employees, contractor, or person acting as Lessee's agent.

21. **Assignment:** This Lease may not be subleased, sold, assigned or transferred without the prior express written consent of the County. No changes of stock ownership, partnership interest or control of Lessee or transfer upon partnership or corporate dissolution of Lessee shall constitute an assignment hereunder. Any sublease, license or assignment of this Lease that is entered into by the County or Lessee shall be subject to the provisions of this Lease.

22. **Successors and Assigns:** This Lease shall run with the Properties and shall be binding upon and inure to the benefit of the parties, their respective heirs, successors, personal representatives and assigns.

23. **Indemnification:** Lessee shall indemnify, defend and hold the County harmless from and against all claims or actions for loss of life or bodily injury, personal injury, and/or damage to property that arise out of Lessee's use of the Leased Premises, to the extent that such loss of life, bodily injury, personal injury, or property damage is proximately caused, by the negligence or willful misconduct of Lessee, its officers, agents, contractors, or employees. The duties described in this Section 23 shall survive termination of this Lease.

It is expressly understood and agreed that Lessee's indemnification and hold harmless responsibilities under this Section 23 shall not be limited to or by the insurance coverage obtained and/or maintained by Lessee pursuant to this Lease.

**24. Miscellaneous:**

- (a) Entire Agreement and Amendments. This Lease constitutes the entire agreement and understanding of the County and Lessee, and supersedes all offers, negotiations and other agreements. There are no representations or understandings of any kind not set forth herein. Any amendments to this Lease must be in writing and executed by the authorized representatives of the County and Lessee.
- (b) Real Estate Brokers. If either the County or Lessee is represented by a real estate broker in this transaction, that party shall be fully responsible for any fees due such broker and shall hold the other party harmless from any claims for commission by such broker.
- (c) Execution of Documents Protecting Lessee's Rights. The County agrees to cooperate with Lessee in executing any documents necessary to protect Lessee's rights under this Lease or their use of the Tower and Property and to take any further action which Lessee may reasonably require as to affect the intent of this Lease.
- (d) Applicable Law and Venue. This Lease shall be subject to and construed in accordance with the laws of the State of Michigan, without regard to any Michigan choice of law rules that would apply the law of any other jurisdiction to the extent not inconsistent with or pre-empted by federal law.

The County and Lessee agree that any legal or equitable action arising out of or relating to this Lease shall be in Michigan Courts whose jurisdiction and venue shall be established in accordance with the statutes and court rules in the State of Michigan. In the event any action regarding or arising out of this Lease is brought in or moved to a Federal Court, it is agreed that the venue for such action shall be the Federal Judicial District of Michigan, Western District, Southern Division. Lessee waives any objections to Michigan Courts and the Federal District Court named in this Section 24(d), such as lack of jurisdiction or forum non-conveniens.

- (e) Void or Invalid Terms. If any term of this Lease is found to be void or invalid, such invalidity shall not affect the remaining terms of this Lease, which shall continue in full force and effect. Where the deletion of the invalid or unenforceable clause or provision would result in the illegality and/or unenforceability of this Lease, this Lease shall be considered to have terminated as of the date in which the clause or provision was rendered invalid or unenforceable.
- (f) Lessee's Evaluation of Towers and Properties. The County shall cooperate with Lessee's efforts to evaluate the Towers and Properties and to comply with governmental regulations affecting Lessee's use of the Towers and Properties.
- (g) Liens. Lessee within thirty (30) days from receiving notice of filing, shall discharge all construction or mechanics' liens filed against the Towers and/or Properties because of any work done or claimed to have been done on Lessee's behalf or for any materials



furnished to or claimed to have been furnished to Lessee. The bonding of such a lien by a reputable casualty or insurance company reasonably satisfactory to the County shall be deemed to be the equivalent of the discharge of any such lien. Lessee shall indemnify and hold the County harmless from any costs incurred by the County, including court costs and reasonable attorney fees, in connection with any lien described in this subsection (g).

- (h) Title to Equipment and Removal of Lessee's Property upon Lease's Termination. Title to Lessee's Equipment and equipment shelter on the Towers and/or Properties shall be and remain vested in Lessee. Upon expiration or termination of this Lease, Lessee shall remove all of its Equipment owned by it from the Towers, equipment shelters and Properties within forty-five (45) calendar days of the effective date of expiration or termination. If any damage is done to the Towers, equipment shelters, or property of the County or that of the other lessees or licensees using the Towers/Properties, as a result of the removal of Lessee's Equipment, the Lessee will be billed for the costs and expenses of repair. If Lessee's Equipment is not removed, the County shall have the right, without any liability, as authorized in Section 9, to remove, store and dispose of such equipment and property and bill the Lessee the costs and expenses the County incurred.
- (i) Discrimination Prohibited. The County and Lessee shall comply with the current Leelanau County Board of Commissioners Equal Employment Opportunity Policy which provides for equal employment opportunities to qualified persons without regard to race, creed, color, sex, age, religion, national origin, marital status, height, weight, or disability as required by law. It is further agreed, as required by law, that the County and Lessee shall not discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment or any matter directly or indirectly related to employment because of race, creed, color, sex, age, religion, national origin, marital status, height, weight, or disability that is unrelated to the individual's ability to perform the duties of a particular job or position. Breach of this subsection (i) shall be a material breach of this Lease.
- (j) Waivers. No failure or delay on the part of either the County or Lessee in exercising any right, power or privilege under this Lease shall operate as a waiver thereof, nor shall a single or partial exercise of any right, power or privilege preclude any other or further exercise of any other right, power or privilege.
- (k) Severability. Whenever possible, each provision of this Lease shall be interpreted in such manner as to be effective and valid under applicable law, but if any such provision of this Lease is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Lease; and the Parties shall negotiate in good faith to replace such prohibited or invalid provision with the intent of preserving the original business intent thereof.
- (l) Binding Effect. The provisions of this Lease shall be binding upon and shall inure to the benefit of the respective heirs, representatives, successors, and assigns of the parties hereto.

(m) Counterparts. This Lease may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute on and the same instrument.

**25. Rights Upon Sale:** Should the County, at any time during the Term, decide (i) to sell or transfer all or any part of the Properties or the Towers to a purchaser other than Lessee, or (ii) to grant to a third party by easement or other legal instrument an interest in and to that portion of the Towers and/or Properties occupied by Lessee, or a large portion thereof, for the purpose of operating and maintaining communications facilities or the management thereof, such sale or grant of an easement or interest therein shall be under and subject to this Lease and any such purchaser or transferee shall recognize Lessee's rights herein under the terms of this Lease. To the extent that County grants to a third party by easement or other legal instrument an interest in and to that portion of the Towers and/or Properties occupied by Lessee, for the purpose of operating and maintaining communications facilities or the management thereof and in conjunction therewith, and assigns the Lease to said third party, County shall be released from its obligations to Lessee, under this Lease, and Lessee, shall have the right to look to the third party for the full performance of the Lease. County agrees to provide Lessee prompt written notice of any such sale, grant or assignment described in this Section 25.

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**26. Recording:** The County and Lessee agree to execute a Memorandum of Lease that Tenant may record, at Lessee's sole cost and expense, with the appropriate register of deeds. Any lease date set forth in the Memorandum of Lease shall be for recording purposes only and shall not establish a date for commencement of either the Term or rental payments.

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**IN WITNESS WHEREOF**, The County and Lessee have executed this Tower Space Lease Agreement as of the date and year first above written.

**LESSOR:**  
**The County of Leelanau, a Michigan**  
**Municipal Corporation**

\_\_\_\_\_  
Witness                      Date

By: \_\_\_\_\_  
Ty Wessell  
Chairman, Board of Commissioners  
SS/TIN# 38-6004865  
County Government Center  
8527 E. Government Center Dr., Suite 101  
Suttons Bay, Michigan 49682  
Telephone No: (231) 256-9711

\_\_\_\_\_  
Witness                      Date

Date: \_\_\_\_\_



**Exhibit 1**

**Description of Lessor's Land**

**Central Tower**

A parcel of land situated in Section 33, Township 30 north, Range 12 West Township of Leland, County of Leelanau, State of Michigan, to wit:

COM NW COR SEC 33 TH N 89 DEG 17' 45" 3 525.85 FT TH S 0 DEG 36' 15" E 668.37 FT M/L TO EXISTING SURVEY LN THE S 89 DEG 00' 30" W 525.85 FT TOW LN SEC 33 TH N 0 DEG 36' 15" W 668.37 FT ALG W LN SEC 33 TO POB ALSO COM SE COR SEC 28 AS POB TH N 00 DEG 26' 15" W 160 FT TH N 89 DEG 06' 00" E 525.85 FT TH S 0 DEG 26' 15" E 160 FT TH S 89 DEG 17' 45" W 525.85 FT TO POB EXC PRT LYING WLY C/L HWY TOGETHER WITH EASEMENT SECS 28 & 33 T30N R12W;

and

N ½ OF THE NE ¼ & SE ¼ OF NE ¼ SEC 32 T30N R12W.



**Omena Tower**

A parcel of land situated in Section 22, Township 31 North, Range 11 West of Township of Leelanau, County of Leelanau, State of Michigan, to wit:

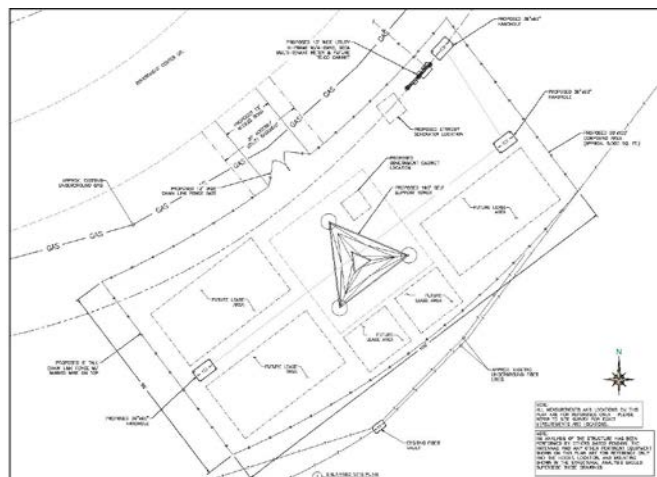
PT SE ¼ SEC 22 COM AT E ¼ COR TH S 89 DEG 38' 32" W 840.40 FT TO POB TH CONT S 89 DEG 38' 32" W 532.4 FT TH S 00 DEG 21' 28" E 900 FT TH N 89 DEG 38' 32" 532.4 FT TH N 00 DEG 21' 28" W 900 FT TO POB SEC 22 T31N R11W A M/L



**Government Center Tower**

A parcel of land situated in Section 19, Township 30 North, Range 11 West of Township of Suttons Bay, County of Leelanau, State of Michigan, to wit:

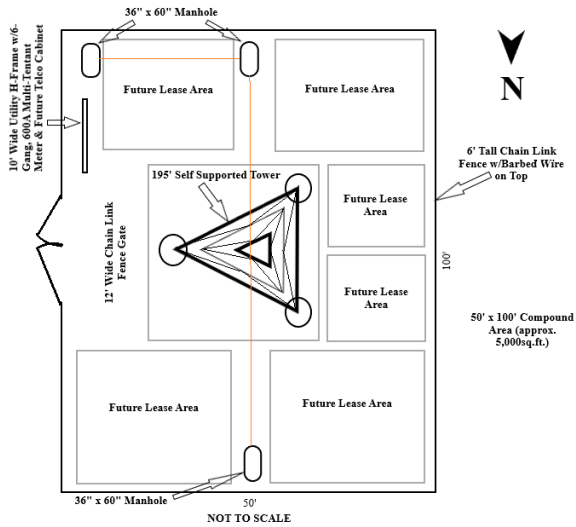
ALL LAND LYING N & W OF LAKE LEELANAU & SUTTONS BAY HIGHWAY IN NE ¼ OF NW ¼ OF SEC 19 ALSO ALL LAND LYING N & W OF LAKE LEELANAU & SUTTONS BAY HIGHWAY IN NW ¼ OF NE ¼ SEC 19 T30N R11W 46 A.



**Leelanau Township Tower**

A parcel of land situated in Section 27, Township 32 North, Range 11 West, in the Township of Leelanau, County of Leelanau, State of Michigan, to wit:

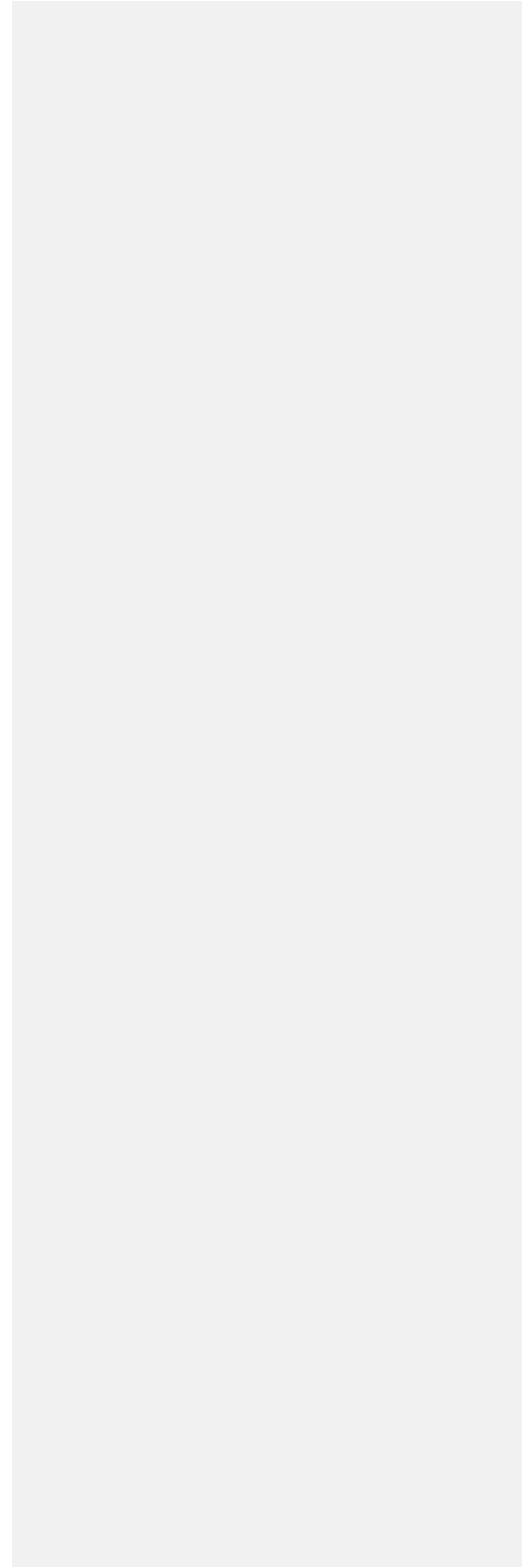
SW ¼ OF SW ¼ SEC 27 EXC COM SW COR SD SEC TH E 1164.25 FT TO POB TH E 199.35 FT TO C/L KITCHEN RD TH ALG SD C/L N 00 DEG 38 E 324.38 FT TH W 199.35 FT TH S 00 DEC 38' W 324.38 FT TO POB ALSO EXC COM SW COR SD SW ¼ OF SW ¼ TH N 209 FT TH E 110 FT TH S 209 FT TH W 110 FT TO POB SEC 27 T32N R11W 37.8 A M/L.



**Exhibit 2**

The specific Equipment which Lessee may install at each tower site is:

- (a) DB589-Y Omni Antenna w/2" mounting brackets, and
- (b) M400B2 Equipment cabinet





**Exhibit 3**

**LEELANAU COUNTY  
BOARD POLICY**

GENERAL SUBJECT: Administration/General Policy No. **13**  
(County Administrator)

SPECIFIC SUBJECT: Insurance Requirements Policy  
Adopted: 04/17/1990  
Revised: 02/15/1994  
Revised: 05/21/2013  
Revised: 12/19/2017

APPLIES TO: All Leelanau County Employees and Elected Officials.

PURPOSE: The Leelanau County Board of Commissioners hereby establishes a policy on insurance requirements for contractors, vendors, individuals, and/or organizations receiving monies from Leelanau County. The purpose of these requirements is to assure that the parties referenced above are accepting appropriate responsibility for insuring their own operations, and that they are not unduly exposing Leelanau County taxpayers to liability and/or loss.

The Contractor, and any and all of their subcontractors, shall not commence any work until they have met the insurance requirements outlined in this policy. All coverage shall be with insurance companies licensed and admitted to do business in the State of Michigan. All coverages shall be with insurance carriers acceptable to Leelanau County and have a minimum A.M. Best Company ([www.ambest.com](http://www.ambest.com)) Insurance Report rating of not less than A or A- (Excellent).

1. Workers' Compensation Insurance: The Contractor shall procure and maintain during the life of the contract, Workers' Compensation Insurance, including Employers' Liability Coverage, in accordance with all applicable statutes of the State of Michigan. Workers' Compensation and Employers' Liability Insurance are required if the party hires one or more persons or currently has employees. If a party currently does not have any employees, and is a sole proprietor, an affidavit must be filed with the County Clerk stating that the party currently has no employees and will not hire any while working for Leelanau County as a contractor or a subcontractor, etc. If a party currently does not have any employees and is incorporated (Inc.) or a limited liability corporation (LLC), they must file a Notice of Exclusion, WC-337, with the State of Michigan and then provide a copy of the State-approved document to the County Clerk.
2. Contractor's Tools & Equipment: The Contractor shall be responsible for insuring all its tools, equipment and materials which it may leave at the Project's work site. The County shall not be responsible for any loss or damage to the Contractor's tools, equipment and materials.

3. Professional Liability (Errors and Omissions) Insurance: [For contracts for professional services, e.g., Architect, Engineers, Doctors, Dentist, etc.] The Contractor shall possess Professional Liability Insurance (errors and omissions) with limits of not less than \$1,000,000.00 per occurrence or claim. If the Professional Liability Insurance is on a claims-made basis, the Contractor shall purchase extended reporting period “tail” coverage for a minimum of three (3) years after termination of the Agreement.
4. Commercial General Liability Insurance: The Contractor shall procure and maintain during the life of their contract, Commercial General Liability Insurance on an “Occurrence Basis” with limits of liability not less than \$1,000,000.00 per occurrence and aggregate combined single limit, Personal Injury, Bodily Injury, and Property Damage. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; (D) Broad Form General Liability Extensions or equivalent; (E) Deletion of all Explosion, Collapse, and Underground (XCU) Exclusions, if applicable.
5. Motor Vehicle Liability: The Contractor shall procure and maintain during the life of their contract Motor Vehicle Liability Insurance, including Michigan No-Fault Coverage, with limits of liability not less than \$1,000,000.00 per occurrence combined single limit, Bodily Injury, and Property Damage. Coverage shall include all owned vehicles, all non- owned vehicles, and all hired vehicles.
6. Deductibles: The Contractor shall be responsible for paying all deductibles in its insurance coverages.
7. Additional Insured: Commercial General Liability and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating that the following shall be **Additional Insureds**: Leelanau County, all elected and appointed officials, all employees and volunteers, all boards, commissions, and/or authorities and board members, including employees and volunteers thereof. The Contractor’s insurance coverages shall be primary to the Additional Insureds and not contributing with any other insurance or similar protection available to the Additional Insureds, regardless of whether said other available coverage be primary, contributing or excess.
8. Cancellation Notice: Workers’ Compensation Insurance, Commercial General Liability Insurance, and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following: “It is understood and agreed that Thirty (30) days Advance Written Notice of Cancellation, Non-Renewal, Reduction, and/or Material Change shall be sent to the office of the Leelanau County Administrator.

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9. Owners' and Contractors' Protective Liability: [For Contracts for Construction or Large Repair or Maintenance Projects such as road work, sewer work or building projects] The Contractor shall procure and maintain during the life of the contract, a separate Owners' and Contractors' Protective Liability Policy with limits of liability not less than \$1,000,000.00 per occurrence and aggregate combined single limit, Personal Injury, Bodily Injury, and Property Damage. Leelanau County shall be "Named Insured" on said coverage. Thirty (30) day Notice of Cancellation shall apply to this policy.

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10. Proof of Insurance Coverage: The Contractor shall provide Leelanau County at the time that the contracts are returned by him/her for execution, A "Certificate of Liability Insurance," on Accord Form #25, with the necessary coverages included, as listed below:

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- a. Certificate of Insurance for Workers' Compensation Insurance;
- b. Certificate of Insurance for Commercial General Liability Insurance;
- c. Certificate of Insurance for Vehicle Liability Insurance;
- d. Certificate of Insurance for Professional Liability Insurance on Projects where such insurance is required.
- e. Original Policy, or original Binder pending issuance of policy, for Owners' & Contractors' Protective Liability Insurance, where such insurance is required.
- f. If so requested, Certified Copies of all policies mentioned above will be furnished.

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11. If any of the above coverages expire during the term of the contract, the Contractor shall deliver renewal certificates and/or policies to the Leelanau County Administrator at least ten (10) days prior to the expiration date.

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Failure to comply with these insurance requirements could result in the termination of a contract or delay in receipt of funds. Questions regarding the scope of applicability of this policy may be directed to the Leelanau County Administrator.

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**LEELANAU TOWNSHIP TOWER  
LAND LEASE AGREEMENT**

**BETWEEN**

**COUNTY OF LEELANAU**

**AND**

**BRIAN E. MITCHELL AND KELLY A. MITCHELL**

**TERM:**

**JANUARY 1, 2023 TO DECEMBER 31, 2072**

**(WITH ONE FIFTY YEAR RENEWAL OPTION)**

**TABLE OF CONTENTS**

<u><b>Article</b></u>	<u><b>Page #</b></u>
<b>I. The Property</b> .....	<b>1</b>
1.1 Description of Leased Premises.....	1
1.2 Description of Common Areas.....	1
<b>II. Term, Renewal and Holding Over and Termination</b> .....	<b>2</b>
2.1 Lease Term.....	2
2.2 Renewal and Holding.....	2
2.3 Holding Over.....	2
2.4 Termination.....	2
2.5 Restoration.....	2
<b>III. Authorized Use of Leased Premises</b> .....	<b>2</b>
3.1 Authorized Use.....	2
<b>IV. Revenue Sharing and Taxes</b> .....	<b>3</b>
4.1 Revenue Sharing.....	3
4.2 Maintenance and Costs.....	3
4.3 Rent Checks.....	3
4.4 Taxes and Assessments.....	3
<b>V. Restrictions on Usage of Leased Premises</b> .....	<b>4</b>
5.1 County Compliance with the Law.....	4
5.2 Common Areas.....	4
5.3 Environmental Compliance.....	4
<b>VI. Insurance</b> .....	<b>4</b>
6.1 County’s Insurance.....	4
6.2 Certificates of Insurance.....	4
<b>VII. Utilities</b> .....	<b>5</b>
7.1 Responsibility for Utilities.....	5
<b>VIII. Maintenance and Repairs</b> .....	<b>4</b>
8.1 Lessor’s Maintenance and Repairs Responsibilities.....	5
8.2 County’s Maintenance and Repairs Responsibilities.....	5
8.3 Co-locators’ Maintenance and Repairs Responsibilities.....	5
<b>IX. Signage</b> .....	<b>5</b>
9.1 County’s Sign.....	5
<b>X. Right of Entry</b> .....	<b>5</b>
10.1 Lessor’s Right of Entry.....	5

**XI. Assignment of Lease or Subleasing ..... 5**  
11.1 Assignment of Subleasing by County ..... 5  
11.2 Assignment by Lessor ..... 5

**XII. Casualty..... 6**  
12.1 Damage/Destruction of Leased Premises..... 6

**XIII. Applicable Law, Compliance with the Law, Venue, and Nondiscrimination ..... 6**  
13.1 Leased Premises and Common Areas in Compliance with Law ..... 6  
13.2 Applicable Law and Venue ..... 6  
13.3 Nondiscrimination..... 6

**XIV. Eminent Domain ..... 7**  
14.1 Taking of Entire Leased Premises..... 7  
14.2 Partial Taking of Leased Premises with Termination ..... 7

**XV. Warranties ..... 7**  
15.1 Warranties Regarding Leased Premises..... 7  
15.2 Covenant of Quiet Enjoyment..... 7

**XVI. Default ..... 7**  
16.1 County’s Default and Lessor’s Right of Re-Entry ..... 7  
16.2 Lessor’s Default ..... 8  
16.3 Removal of Property ..... 8

**XVII. Furniture, Fixtures, or Appliances Belonging to County..... 8**  
17.1 County’s Fixtures ..... 8

**XVIII. Subordination ..... 9**  
18.1 Subordination ..... 9  
18.2 Lease Continuation After Subordination ..... 9

**XIX. Addresses for Revenue Sharing and Notices ..... 9**  
19.1 Addresses for Payment and Notices..... 9  
19.2 Addresses ..... 9

**XX. Definitions ..... 9**  
20.1 Meaning and Use of Terms ..... 9

**XXI. Binding Effect ..... 10**  
21.1 Binding Effect of Lease ..... 10

**XXII. Miscellaneous..... 10**  
22.1 Waivers ..... 10  
22.2 Amendments ..... 10  
22.3 Relationship of Parties ..... 10  
22.4 Mutuality of Lease Drafting..... 10  
22.5 Purpose of Article and Section Titles..... 10

22.6 Complete Lease ..... 10  
22.7 Invalid/Unenforceable Provisions ..... 10  
22.8 Certification of Authority to Sign Lease ..... 10

EXHIBIT A – Description of Property

**LEELANAU TOWNSHIP TOWER LAND LEASE AGREEMENT**

**THIS LAND LEASE AGREEMENT** (hereinafter referred to as the “Lease”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by and between the **COUNTY OF LEELANAU**, a municipal corporation and political subdivision of the State of Michigan (hereinafter referred to as the “County”) and **BRIAN E. MITCHELL AND KELLY A. MITCHELL** (hereinafter referred to as “Lessor”).

**WTINESSETH:**

**WHEREAS**, the County has the authority to enter into leases in order to obtain space on which to construct and maintain communication towers; and,

**WHEREAS**, Lessor owns property located in Section 27, off N. Kitchen Rd., in Leelanau Township, Leelanau County, Michigan 49670, ~~this~~that is suitable for construction and maintenance of a communications tower and ~~antenna~~antennas; and,

**WHEREAS**, the County desires to lease a section of Lessor’s property described above for the construction and maintenance of a communication tower ~~and antenna~~, ~~antennas~~ and ~~ground equipment shelters~~ both for the County’s use and that of third parties leasing space on the tower from the County (hereinafter referred to as “Co-locators”); and,

**WHEREAS**, Lessor agrees to lease said space to the County for such purpose subject to the following terms and conditions.

**NOW THEREFORE**, ~~the parties~~for and in consideration of the ~~leasing by Lessor to the County and the taking by County from Lessor of the premises~~mutual covenants hereinafter ~~described and in further consideration of the obligations of each party to the other hereby undertaken, covenant and agree~~contained, **IT IS HEREBY AGREED** as follows:

**ARTICLE I  
THE PROPERTY**

**1.1 Description of LeaseLeased Premises.** In consideration of the sharing of revenue from ~~Co-~~Co-locators leasing space on the County’s tower as set forth in Section 4.1 of this Lease, Lessor hereby leases to the County property located in Section 27, off N. Kitchen Rd., in Leelanau Township, Leelanau County, Michigan, 49670. The description of the property being leased is more fully set forth in the attached Exhibit A (hereinafter referred to as the “Leased Premises”).

**1.2 Description of Common Areas.** The property leased to the County includes use of all “common areas” together with all rights, privileges, easements, and appurtenances that in any way pertain to the Leased Premises. Common areas include all easements necessary to the County and ~~Co-~~Co-locators who lease space on the County’s tower and their representatives and contractors to have free and unobstructed ingress and egress across Lessor’s property to the nearest public road. Such easements shall also be provided for all utilities required by the County and ~~Co-~~Co-locators at the Leased Premises.



**ARTICLE II  
TERM, RENEWAL AND HOLDING OVER AND TERMINATION**

**2.1 Lease Term.** The term of this Lease shall be for fifty (50) years, commencing on January 1, 2023 and ending on December 31, 2072.

**2.2 Renewal.** If this Lease is still in effect at the end of the initial term and County desires to renew, County shall have the option to renew this Lease for one (1) additional term of up to but not exceeding fifty (50) years. If the County elects to exercise its option to renew this Lease, it shall do so by giving Lessor at least thirty (30) **calendar** days written notice prior to the expiration of the initial term **that it is exercising its option** to extend the term of this Lease for another specified period which shall not exceed fifty (50) years. The same terms and conditions of this Lease shall apply to the extended term.

**2.3 Holding Over.** If the County remains in possession of the Lease Premises after the expiration or termination of the initial or extended term of this Lease and without signing a new Lease or an amendment extending the term of this Lease, such holding over by the County shall constitute a tenancy from month-to-month. Such month-to-month tenancy may be terminated by either the Lessor or the County upon thirty (30) days prior written notice to the other party. During such a hold over period, this Lease shall continue at the same rental rate and upon the same conditions, except as to term, as was in effect at the time of expiration of this Lease’s term or any extension thereof.

**2.4 Termination.** Notwithstanding any other provision in this Lease to the contrary, the County may terminate this Lease at any time upon not less than sixty (60) **calendar** days **prior** written notice to Lessor if either of the following events occur:

- A. The County makes the determination that it no longer requires use of the tower constructed on the Leased Premises or that of any replacement tower at the same site.
- B. The tower, due to any cause or reason, is damaged or destroyed and the County elects not to repair or replace the tower.

In the event of termination of this Lease at the end of its original or extended term or as set forth in this Section 2.4, the County shall remove from the Leased Premises the tower, all parts thereof and facilities constructed on the Leased Premises unless some other arrangements are mutually agreed upon in writing by the County and Lessor. The County shall also upon termination pay Lessor such sums as may be due and owing Lessor pursuant to Section 4.1 as of, but not exceeding, the effective date of termination.

**2.5 Restoration.** In the event this Lease is terminated, the County shall restore the premises to its original condition including regrading the surface to bring it to a “Like-Kind” condition as vacant land with all structures installed and constructed by the County removed.

**ARTICLE III  
AUTHORIZED USE OF LEASED PREMISES**

**3.1 Authorized Use.** The County, at no cost to Lessor, shall construct a communications tower with antennas, brackets, feedlines, ice bridge and communications equipment shelters on the Leased Premises. The County is authorized to place and maintain security fencing and gates around the Leased

Premises. The County may place and operate such County equipment on the tower and in the shelters that the County deems necessary for the County's communications needs, including but not limited to communication with law enforcement, fire and EMS units. The County is also authorized to lease tower and ground space to ~~ee~~Co-locators in order to recoup the costs for the tower's construction and maintenance. All agreements with ~~ee~~Co-locators shall be between the County and the ~~ee~~Co-locators.

**ARTICLE IV  
REVENUE SHARING AND TAXES**

**4.1 Revenue Sharing.** Revenue sharing shall become due to the Lessor only when the County has ~~ee~~Co-locators on the County's tower in the Leased Premises and is collecting rent from said ~~ee~~Co-locators. When the tower has ~~ee~~Co-locators paying rent, the payments made by the ~~ee~~Co-locators shall first be used to cover the annual maintenance costs of the tower and grounds. After deducting the maintenance costs the County shall annually pay the Lessor as rent for the Leased Premises fifty percent (50%) of the remaining ~~ee~~Co-locator revenue with the other fifty percent (50%) being retained by the County. The County's annual payments to the Lessor shall be made no later than March 1<sup>st</sup> of each year following a year in which the County receives payments from ~~ee~~Co-locators that exceed the annual maintenance costs.

**4.2 Maintenance and Costs.** The County shall annually provide Lessor with an accounting of maintenance costs of the tower and grounds at the Leased Premises to be deducted from ~~ee~~Co-locator revenue before determining the County's and Lessor's shares. Maintenance shall include, but is not limited to, all tower repairs, painting, replacing lights, ice removal, maintaining grounds (i.e., mowing, snow removal, landscaping repairs), maintaining or replacing gates and security fencing around the Leased Premises. Maintenance costs shall not include any of the construction costs incurred by the County in the construction of the new tower and any related accessories or improvements including any buildings, fencing, security gates, and the like.

**4.3 Rent Checks.** All checks to Lessor for payment of its share of ~~ee~~Co-locator revenues shall be made payable to Brian E. Mitchell and Kelly A. Mitchell and shall be payable by personal delivery to Lessor or by depositing same in the United States mail, postage prepaid thereon, and mailed to such place as Lessor may designate from time to time in writing, the initial address being:

Brian E. Mitchell and Kelly A. Mitchell  
P.O. Box 414  
Northport, MI 49670

**4.4 Taxes and Assessments.**

- A. **Real Estate Taxes.** Lessor shall timely pay, on or before the last day on which payment may be made without penalty or interest, all taxes, assessments and other government impositions and charges, extraordinary as well as ordinary, foreseen and unforeseen, charged, assessed or becoming due during the lease term upon the Leased Premises and all appurtenances thereto and real estate fixtures thereon.
- B. **County's Tax Exemption Status and Payment of Taxes.** The County as a municipal corporation and political subdivision of the State of Michigan has tax exempt status. County shall, however, be responsible for any taxes on County's property or activities from which it is not exempt.

- C. Proof of Payment. The party liable for payment of taxes under this Lease shall, upon request of the other, within twenty-one (21) **calendar** days after the time provided above for payment, provide the other party with satisfactory evidence of payment thereof.

**ARTICLE V  
RESTRICTIONS ON USAGE OF LEASED PREMISES**

**5.1 County Compliance with the Law.** County shall comply with all Federal, State and local laws, ordinances, and regulations applicable to the County’s use of the Leased Premises.

**5.2 Common Areas.** Lessor shall not change the common areas in any manner which would, in County’s reasonable opinion, significantly adversely affect the County’s use of the Leased Premises for its intended purpose or adversely affect accessibility to or identity of the Leased Premises without County’s consent.

**5.3 Environmental Compliance.** The County agrees that it will not use, generate, store or dispose of any Hazardous Materials on, under, about or within the Leased Premises in violation of any law or regulation and will require the same of ~~ee~~Co-locators on the tower. The County and ~~ee~~Co-locators on the tower may use permanent emergency back-up generator(s) on the Leased Premises. Back-up lead-acid batteries and fire suppression system(s) may also be used on the Leased Premises. The use of these systems shall not constitute a violation of this paragraph.

The County shall solely be liable for any act of negligent or intentional contamination, spill, accidental discharge, or nuisance to the Lease Premises directly caused by the County, or its employees or agents, as a result of the County’s placement, storage or disposal of any dangerous, toxic or hazardous substances on the Leased Premises. Each ~~ee~~Co-locator on the tower shall likewise be liable for any act or negligent or intentional contamination, spill, accidental discharge, or nuisance to the Leased Premises caused by ~~ee~~Co-locator, or its employees or agents, as a result of the ~~ee~~Co-locator’s placement, storage or disposal of any dangerous, toxic or hazardous substances on the Leased Premises. The responsibilities of the County and the ~~ee~~Co-locators on the tower that are set forth in this Section 5.3 shall extend beyond the term(s) of this Lease provided the contamination, spill, accidental discharge, or nuisance can be directly associated with the County’s or a specific ~~ee~~Co-locator’s use of the Leased Premises.

**ARTICLE VI  
INSURANCE**

**6.1 County’s Insurance.** The County shall maintain ownership of the tower constructed on the Leased Premises and shall maintain property and liability insurance on the Leased Premises and the tower and structures located thereon covering personal injury, bodily injury and property damage. ~~The County shall have Lessor added as an Additional Insured on the County’s insurance to the extent of liability or property damages arises from the Leased Premises that is not the fault of Lessor or that of its officers, employees or agents.~~The County may maintain this insurance through a self-insured program such as one administered by the Michigan Municipal Management Authority (MMRMA).

**6.2 Certificates of Insurance.** The County shall provide Lessor with certificates of insurance or certificates of coverage evidencing the insurance required by ~~the~~this Article VI and shall require the insurer to provide Lessor, the certificate holder, with not less than thirty (30) **calendar** days’ notice prior to reduction, cancellation or termination of any of the insurance coverages listed on the certificate.

**ARTICLE VII  
UTILITIES**

**7.1 Responsibility for Utilities.** The County and the tower's ~~ee~~Co-locators shall be responsible for obtaining, maintaining and paying utilities used in the Leased Premises. All utilities shall be installed underground.

**ARTICLE VIII  
MAINTENANCE AND REPAIRS**

**8.1 Lessor's Maintenance and Repairs Responsibilities.** The Lessor shall at its own expense be responsible for maintaining and repairing all parts of the common areas which shall include, but not be limited to, driveways (i.e., entrances and exits).

**8.2 County's Maintenance and Repairs Responsibilities.** The County shall be responsible for maintaining the tower and other County structures in the Leased Premises and the security fencing and gates surrounding the Leased Premises.

**8.3 Co-locators' Maintenance and Repairs Responsibilities.** Co-locators shall be responsible for maintaining all property (owned or leased) it places on the tower or keeps on the Leased Premises.

**ARTICLE IX  
SIGNAGE**

**9.1 County's Sign.** The County shall, at its own expense, install such signs at the entrance/exits and interior of the Leased Premises as it deems necessary for its use of the ~~Lease~~Leased Premises.

**ARTICLE X  
RIGHT OF ENTRY**

**10.1 Lessor's Right ~~if~~of Entry.** The Lessor and Lessor's agents and representatives shall not have a right to enter the Leased Premises which shall be a secured area. Lessor, however, may request entry by giving the County not less than twenty-four (24) hours' notice and making arrangements with the County for a County employee escort. The Lessor's officers, employees or agents may not enter the Leased Premises unless they are at all times in the company of a County-provided escort.

**ARTICLE XI  
ASSIGNMENT OF LEASE OR SUBLEASING**

**11.1 Assignment or Subleasing by County.** The County may not assign this Lease without Lessor's prior written consent. The County may, however, lease space on the tower and on the grounds of the Leased Premises to ~~ee~~Co-locators.

**11.2 Assignment by Lessor.** The Lessor shall have the right to assign its interest in the Leased Premises and/or the property of which the Leased Premises is a part, or to assign from time to time

the whole or any part of the Lessor's share of the revenue ~~sharing at any time parable hereunder~~ raised from the tower's Co-locators' rental payments. Such assignment shall be effective as to the County upon delivery of written notice by Lessor to the County of such assignment. As a condition of such an assignment, the assignee must agree to comply with all the terms and conditions of this Lease.

**ARTICLE XII  
CASUALTY**

**12.1 Damage/Destruction of Leased Premises.** If the Leased Premises or the tower constructed thereon are damaged or destroyed in whole or in part so as to render it untenable for the use set forth in Section 3.1, the County may terminate this Lease effective immediately upon delivery of written notice of termination to the Lessor. In the event of such termination, the County shall be liable for revenue sharing only up to the date of delivery of the notice of termination. Such election to terminate this Lease must be made within ninety (90) days of the date the damage or destruction occurred. If the County does not elect to terminate this Lease in accordance with this section, the revenue sharing provided for herein shall abate until the Leased Premises have been repaired by the County and the tower's ~~Co-~~Co-locators have resumed use thereof. If only a portion of the Leased Premises is damaged or destroyed and the Lease is not terminated and the County continues to use the undamaged portion, the County shall pay Lessor its share of any revenue collected from ~~Co-~~Co-locators as set forth in Section 4.1.

**ARTICLE XIII  
APPLICABLE LAW, COMPLIANCE WITH THE LAW, VENUE, AND NONDISCRIMINATION**

**13.1 Leased Premises and Common Areas in Compliance with Law.** It is a condition of this Lease that the Leased Premises and the common areas shall be, and remain at all times, in full compliance with all applicable Federal, State and local laws, ordinances, codes, licensing requirements, rules and regulations commensurate with the County's intended use set forth in Section 3.1. It is further a condition of this Lease that the County shall use the Leased Premises and perform its responsibilities under this Lease in compliance with all applicable Federal, State and local laws, ordinances, codes, licensing requirements, rules and regulations.

**13.2 Applicable Law and Venue.** This Lease shall be governed by and construed according to the laws of the State of Michigan. ~~The venue for,~~ without regard to any Michigan choice of laws rules that would apply the ~~bringing of law~~ of any other jurisdiction to the extent not inconsistent with or pre-empted by federal law.

The Lessor and County agree that any legal or ~~equity actions under~~ equitable action arising out of or related to this Lease shall be in Michigan Courts whose jurisdiction and venue is established in accordance with the statutes ~~and/or court rules~~ of the State of Michigan ~~and/or Michigan Court Rules~~. In the event any action ~~is brought under~~ regarding or arising out of this Lease is brought in or ~~is~~ moved to Federal Court, the venue for such action shall be the Federal Judicial District of Michigan, Western District, Southern Division.

**13.3 Nondiscrimination.** The parties to this Lease, as required by law, shall not discriminate against a person to be served or an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, sexual orientation, gender identity or expression, familial status, disability or genetic information that is ~~related~~unrelated to the individual's ability to perform the duties of a particular job or position, height, weight, martial status or political affiliation.

Breach of this Section 13.3 shall be considered to be a material breach of this Lease.

**ARTICLE XIV  
EMINENT DOMAIN**

**14.1 Taking of Entire Leased Premises.** In the event all of the Leased Premises shall be taken or expropriated by a public or quasi-public authority, this Lease shall terminate as of the date the County shall be deprived of the physical possession thereof, and all awards with respect to the tower, structures and fencing on the Lease Premises shall become sole property of the County. All awards for the Lease Premises' land shall be the sole property of the Lessor.

**14.2 Partial Taking of Leased Premises with Termination.** In the event of partial taking of the Leased Premises by a public or quasi-public authority, the County may elect to terminate its obligations under this Lease. Said election shall be made within thirty (30) days from and after the date Lessor has delivered to County complete plans of the expropriating authority as to such expropriation. If County shall elect to terminate its obligations under this provision, the election shall take effect, and all the County's obligations shall terminate, on the date of the County's dispossession of the subject portion by the expropriating authority, unless Lessor and County otherwise agree to a different effective date.

**ARTICLE XV  
WARRANTIES**

**15.1 Warranties Regarding Leased Premises.** The Lessor hereby warrants that the Lessor holds good title to the Leased Premises. The Lessor also warrants that the premises leased to the County conform with all zoning requirements, i.e., that the County may use the premises for the purpose described in Section 3.1 without contravening local ordinances, or the County may, after proper notice, cancel this Lease should it appear that the County's intended use is or would be in violation of local zoning ordinances. The County may, after proper notice, cancel this Lease should it be discovered that the Leased Premises and/or the property of which the Leased Premises are a part are in violation of zoning ordinances or other laws, ordinances, codes, rules or regulations, and such violations may jeopardize the safety and health of the County's employees and ~~co~~Co-locators. The Lessor warrants that it has the lawful right to make this Lease for the term set forth in Sections 2.1 and 2.2 and that the Lessor will put the County in complete and exclusive possession of the Leased Premises. In the event the County is not given full possession of the Leased Premises at commencement of this Lease or is dispossessed at any time during the term of this ~~Pease~~Lease, the County may, at its option, either cancel this Lease or require Lessor, at the Lessor's expense, to proceed with all diligence to obtain possession of the Leased Premises and to tender the same to the County.

**15.2 Covenant of Quiet Enjoyment.** The Lessor further covenants that if the County shall ~~pat~~pay the rent and perform all covenants and agreements of this Lease to be performed by the County, the County shall, during the term of this Lease, freely, peaceably and quietly occupy and enjoy the full possession of the Leased Premises, and the tenements, hereditaments and appurtenances thereto belonging and the rights and privileges herein granted, without molestation or hindrance. If, at any time during the term of this Lease, the right of the Lessor to lease the premises shall fail, the County, in addition to its other

remedies at law or in equity, shall have the option to terminate this Lease without any liability whatsoever, ~~except~~ **except Lessor's share of the tower's Co-locators'** revenue accrued to the date of the termination.

**ARTICLE XVI  
DEFAULT**

**16.1 County's Default and Lessor's Right of Re-Entry.** The Lessor, its heirs, representatives, successors or assigns may, in accordance with the laws of the State of Michigan, upon thirty (30) **calendar** days prior written notice to the County, or such longer notice period as required by State law, re-enter into and repossess the Leased Premises and require the County to move out in the event any of the following occur:

- A. Any revenue sharing payments are due and unpaid for more than forty ~~five (45)~~ (40) **calendar** days after their due date **that is set forth in Section 4.1 of this Lease.**
- B. The County fails to cure any default in its responsibilities under this Lease within ~~sixty (60)~~ **one hundred twenty (120) calendar** days of receipt of written notice from the Lessor of such default and a demand to cure the same, **or such longer period of time as may be mutually agreed upon in writing by both parties.**
- C. The Leased Premises are abandoned or vacated for a period longer than sixty (60) consecutive days.

In the event the Lessor, its representatives or assigns re-enter and repossess the Leased Premises pursuant to this ~~section~~ **Section 16.1**, this Lease shall terminate and the County shall be liable to the Lessor only for those revenue **sharing** payments due and owing as of the date of re-entry and repossession.

**16.2 Lessor's Default.** In the event the Lessor is in breach of any provision contained in this Lease and said breach is not cured within sixty (60) **calendar** days after Lessor's receipt of notice of the breach from the County or such longer period of time as the Lessor and County may mutually agree upon, the County may withhold payments due the Lessor until the default is cured and/or exercise any other remedies it has in law and/or equity including, but not limited to, terminating this Lease effective immediately upon delivery of written notice to the Lessor. If the default is such as to constitute a serious hazard to the safety of the Leased Premises, to the County's personnel or property, ~~clients~~ **Co-locators**, or members of the public, the County, without delivery of prior notice of the breach and opportunity to cure, may terminate this Lease effective immediately upon delivery of written notice to the Lessor.

**16.3 Removal of Property.** In the event this Lease is terminated due to default by either the County or Lessor, the County and the ~~ee~~ **Co-locators** on the tower shall remove their property from the Leased Premises within a reasonable time after the effective date of termination. The property to be removed by the County shall be construed to be a period of not less than one hundred ~~twenty (120)~~ **eighty (180)** days after the effective date of termination. The County shall restore the premises to its original condition including ~~regarding~~ **regrade** the surface to bring it to a "Like-Kind" condition as vacated land with all structures installed and constructed by the County removed.

**ARTICLE XVII  
FURNITURE, FIXTURES, OR APPLIANCES BELONGING TO COUNTY**

**17.1 County's Fixtures.** Any fixtures and the like, belonging to and installed by the County in the Leased Premises, including, but not limited to, the tower and equipment shelters, prior to or during the term of this Lease, shall be and remain the property of the County. The County shall have the right to remove its property at any time ~~provided the removal.~~ If the County fails to remove its property from the Leased Premises within one hundred ~~twenty (120)~~**eighty (180)** days after the termination of this Lease, the Lessor, after providing the County with prior written notice may remove and store the County's property at the County's expense.

**ARTICLE XVIII  
SUBORDINATION**

**18.1 Subordination.** This Lease shall be subject to and subordinate to the lien of any mortgage which may at any time hereafter be or become a lien on the Leased Premises. The County shall at all times hereafter, on demand, execute any instruments, releases, or other documents that may be required by any mortgagee for the purpose of subjecting and subordinating this Lease to the lien of any such mortgage.

**18.2 Lease Continuation After Subordination.** Notwithstanding Section 18.1, the County's possession of the Leased Premises under this Lease shall continue and not be disturbed by any mortgagee, trustee under a trust deed, owner, or holder of a note secured by a mortgage or trust deed now existing or later placed on the Leased Premises and/or property of which it is a part.

**ARTICLE XIX  
ADDRESSES FOR REVENUE SHARING AND NOTICES**

**19.1 Addresses for Payment and Notices.** Each provision of this Lease or of any applicable governmental laws, ordinances, regulations, and other requirements with reference to the sending, mailing or delivery of any notice or the making of any payment by the County to Lessor shall be deemed to be complied with if it is delivered to the address specified in Section 19.2 of this Lease, or such other location as **Lessor directs in** written notice ~~of is given to the County.~~

If not delivered personally, any notice shall be deemed to be delivered if deposited in the United States mail, postage prepaid certified mail, return receipt requested, and addressed to the address indicated in Section 19.2.

**19.2 Address.** The address for sending revenue sharing payments and notices to Lessor shall be as follows:

Brian E. Mitchell and Kelly A. Mitchell  
P.O. Box 414  
Northport, MI 49670

The address for sending of notices to the County shall be as follows:

Leelanau County Administrator's Office  
8527 E. Government Center Drive, Suite 101  
Suttons Bay, MI 49682



**ARTICLE XX  
DEFINITIONS**

**20.1 Meaning and Usage of Terms.** Words of any gender used in this Lease shall be construed to include all other genders; (i.e. male, female or non-binary), words in the singular shall be held to include the plural and vice versa, unless the context otherwise requires. The definitions of the terms used in this Lease shall have their common meaning unless some specific meaning is given by this Lease in which case the specific meaning shall prevail.

**ARTICLE XXI  
BINDING EFFECT**

**21.1 Binding Effect of Lease.** This Lease shall run with the property described in the attached Exhibit A. The terms, provisions, covenants and conditions in this Lease shall inure to the benefit of and be binding upon Lessor and County and their respective heirs, legal representatives, successors, and assigns, except as otherwise expressly provided.

**ARTICLE XXII  
MISCELLANEOUS PROVISIONS**

**22.1 Waivers.** No failure or delay on the part of either of the parties to this Lease in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall a single or partial exercise of any right, power or privilege preclude any other or further exercise of any other right, power or privilege.

**22.2 Amendments.** Modifications, amendments, or waivers of any provision of this Lease may be made only by the mutual consent of the parties hereto, set forth in writing and signed by both parties' authorized representatives.

**22.3 Relationship of Parties.** Nothing contained in this Lease shall be deemed construed, or implied as creating the relationship of principal and agent, partnership, joint venture or any other relationship between the parties hereto, other than the relationship of Lessor and ~~County~~ Lessee.

**22.4 Mutuality of Lease Drafting.** This Lease has been negotiated between the Lessor and County and shall be deemed to have been mutually drafted.

**22.5 Purpose of Article and Section Titles.** The titles of the articles and sections set forth in this Lease are inserted for the convenience of reference only and shall be disregarded when construing or interpreting any of the provisions of this Lease.

**22.6 Complete Lease.** This Lease and the attached Exhibit A contain all the terms and conditions agreed upon by the parties hereto. No other agreements, oral or otherwise, regarding the subject matter of this Lease or any part thereto shall have any validity or bind any of the parties hereto.

**22.7 Invalid/Unenforceable Provisions.** If any clause or provision of this Lease is rendered invalid or unenforceable because of any State or Federal statute, regulation or ruling by any

tribunal of competent jurisdiction, that clause or provision shall be null and void, and ~~any such invalidity or unenforceability of this Lease, this Lease shall be considered to have terminated as of the date in which the clause or provision was rendered invalid or unenforceable~~ considered to be deleted and not affecting the validity or enforceability of the remainder of this Lease.

**22.8 Certification of Authority to Sign Lease.** The people signing on behalf of the parties hereto certify by their signatures that they are duly authorized to sign this Lease on behalf of said parties and that this Lease has been authorized by said parties.

IN WITNESS THEREOF,  
The County and Brian E. Mitchell and Kelly A. Mitchell have executed this Tower Land Lease Agreement on the day and year stated below.

THE COUNTY OF LEELANAU,  
AND KELLY A. ~~Mitchell~~MITCHELL  
A Michigan municipal corporation

~~Brian~~BRIAN E. ~~Mitchell and Kelly~~MITCHELL

By: Ty Wessell  
Its: Chairman, Board of Commissioners  
SS/TIM # 38-6004865  
8527 E. Government Center Drive, Suite 101  
Suttons Bay, MI 49682

By: Brian E. Mitchell

By: Kelly A. Mitchell

\_\_\_\_\_  
Witness Signature                      Date

\_\_\_\_\_  
Witness Signature                      Date

\_\_\_\_\_  
Printed name of witness

\_\_\_\_\_  
Printed name of witness

STATE OF MICHIGAN

)ss.

COUNTY OF LEELANAU

On this \_ day of \_\_\_\_\_, 2023, before me personally appeared Ty Wessell, to me known and known to be, who being duly sworn, did depose and say that he is the Chairman of the Board of Commissioners for Leelanau County, a Municipal Corporation and described in and which executed the foregoing instrument, and that he signed his name.

\_\_\_\_\_  
\_\_\_\_\_, Notary Public  
\_\_\_\_\_  
County, Michigan  
Acting in \_\_\_\_\_ County, Michigan  
My Commission Expires: \_\_\_\_\_

STATE OF MICHIGAN

)ss.

COUNTY OF LEELANAU

On this \_ day of \_\_\_\_\_, 2023, before me personal appeared Brian Mitchell and Kelly Mitchell, to me known and known to be, who being duly sworn, did depose and say that (s)he is Brian E. Mitchell and Kelly A. Mitchell as described in and which executed the foregoing instrument, and that he signed his name.

\_\_\_\_\_  
\_\_\_\_\_, Notary Public  
\_\_\_\_\_  
County, Michigan  
Acting in \_\_\_\_\_ County, Michigan  
My Commission Expires: \_\_\_\_\_

APPROVED AS TO FORM FOR COUNTY OF LEELANAU:  
COHL, STOKER & TOSKEY, P.C.  
By: ROBERT D. TOWNSEND  
On: May 2, 2023

**EXHIBIT A  
DESCRIPTION OF PROPERTY**

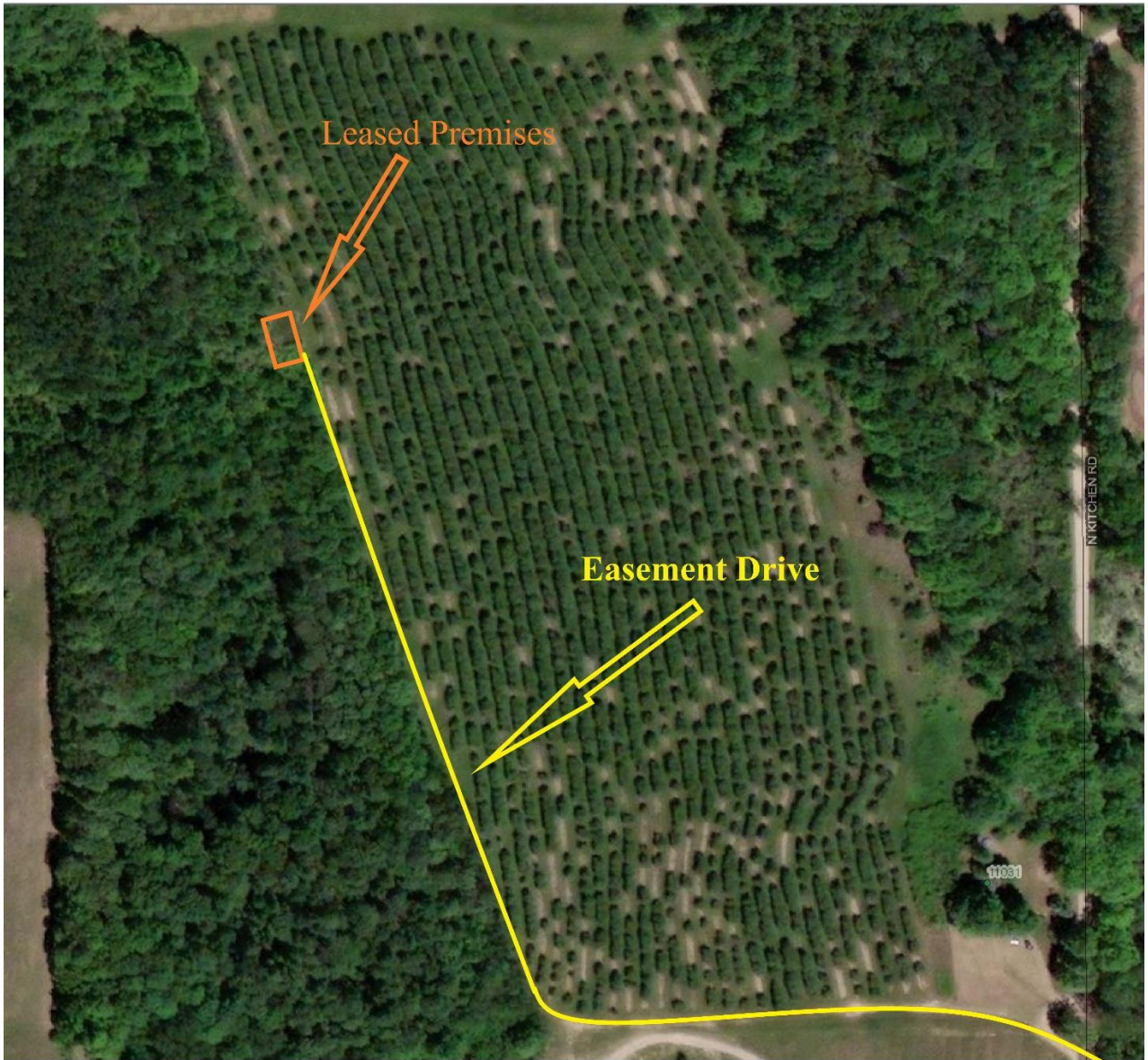
**Lease Area:**

Part of the Northwest ¼ of the Southwest ¼ of Section 27, Township 32, Range 11 West, Leelanau Township, Leelanau County, Michigan

**Parent Property Description:**

Part of the Southwest ¼ of Section 27, Township 32 North, Range 11 West, Leelanau Township, Leelanau County, Michigan, more fully described as follows:

Commencing at the Southwest ¼ of said Section 27; thence along the East 1,164.25ft to point of beginning; thence East 199.35ft to centerline of Kitchen Road; thence along said centerline N00 38E 324.38ft; thence West 199.35ft; thence S00 38W 324.38ft to point of beginning, containing 37.8 acres of land more or less.





GRANT BETWEEN  
THE STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
AND  
**LEELANAU COUNTY**

GRANTEE/ADDRESS:

Trudy Galla  
County of Leelanau  
8527 E. Government Center Dr., Ste. 108  
Suttons Bay, MI 49682

STATE GRANT ADMINISTRATOR/ADDRESS:

Nicholas J. Clever, P.S., Director  
Office of Land Survey and Remonumentation  
Department of Licensing and Regulatory Affairs  
P.O. Box 30254  
Lansing, MI 48909  
Phone: (517) 241-6321  
Email: clevern@michigan.gov

GRANT PERIOD:

From: **01-01-2023** To: **12-31-2023**

TOTAL AUTHORIZED BUDGET: **\$40,273.00**

SIGMA Vendor ID: CV0048032  
SIGMA Payment Address Code: 037

ACCOUNTING TEMPLATE: 6415137T001

## **GRANT AGREEMENT**

Grant No. **BCC 23-45** from the Department of Licensing and Regulatory Affairs (Grantor) to **Leelanau County** (Grantee), is entered into pursuant to the State Survey and Remonumentation Act, 1990 PA 345 (SSRA) and is subject to the terms and conditions of this Agreement (Agreement).

### **1.0 Statement of Purpose**

A Grant is offered annually to the Grantee in accordance with the requirements of the SSRA. Grantee is only entitled to funds through the Grant if Grantee complies with the provisions of this Agreement.

In accordance with the terms and conditions of this agreement, Grantor will reimburse the eligible expenses incurred by the Grantee to carry out the annual work program set forth and approved by the Grantor.

### **1.1 Statement of Work**

The Grant is conditioned on the completion of three components:

- The Grant Agreement.
- The Grant Application.
- The Grant Completion Report.

The Grantee agrees to undertake, perform, and complete the project in the following manner:

1. The Grantee electronically submits a Grant Application using a form provided by OLSR by emailing [bccolsr@michigan.gov](mailto:bccolsr@michigan.gov) no later than 11:59pm on December 31 before the grant year. See MCL 54.274(1)(a) and Section 1.2 of this Agreement. OLSR will not approve a Grant Application for payment until the following are met:
  - a. The Grant Agreement has been approved and electronically signed by the Grantee.
  - b. The Grant Application was received before the statutory deadline.
  - c. The Grant Application outlines how funds will be expended, and a list of the corners expected to be completed and conforming with the approved County plan. See MCL 54.274 (1)(b). The Application must be submitted on the proper form provided by OLSR.
  - d. The Grant Completion Report for the previous grant year has been received and acknowledged by OLSR, and all Land Corner Recordation Certificates (LCRC) are entered by the Grantee. See MCL 54.274 (1)(b).
2. OLSR emails the approved Grant Application and the Grant Agreement to LARA Finance and Administrative Services Director, or their designee, for review and electronic signature. Once approved and signed, LARA will email the Grant Agreement and approved Grant Application to the specified grantee for electronic signature. Instructions for the use of the electronic signature software can be requested by email to [bccolsr@michigan.gov](mailto:bccolsr@michigan.gov).

3. The Grantee will electronically submit a Grant Completion Report at the conclusion of the Grant year or when granted funds are used by emailing the proper form to [bccolr@michigan.gov](mailto:bccolr@michigan.gov). See Section 1.4 of this Grant Agreement. There is no firm deadline for the Grant Completion Report. However, as noted above in Section 1.1.2 of this Grant Agreement, initial payment for the following grant year will not be made until the Grant Completion Report is electronically submitted to, and approved by, OLSR. OLSR will not approve a Grant Completion Report for payment until the following are met:
  - a. The Grant Completion Report is signed by the County Grant Administrator.
  - b. All LCRCs completed under the Grant and all walk-ins are entered into Accela by the county.
  - c. Copies of all invoices paid by the county for the grant year are scanned and included with the Grant Completion Report. Any amount shown on the Grant Completion Report must be justified with invoices. These invoices include:
    - i. Any supplies and material needed for the physical monuments.
    - ii. Any professional fees for contract surveyors, which outline
      1. the specific corners included in the invoice
      2. tasks included if not paid a lump sum
      3. other fees must be identified
    - iii. A narrative is needed to provide reasons why
      1. corners proposed were not done during this contract year
      2. any corners paid from invoices are not included with an LCRC

## **1.2 Detailed Budget**

- A. This Agreement does not commit the State of Michigan (State) or the Department of Licensing and Regulatory Affairs (LARA) to release any funds or approve requests for additional funds at any time.
- B. If applicable, travel expenses will not be reimbursed at rates greater than the State Travel Rates issued by the Department of Technology, Management and Budget for Classified and Unclassified Employees without the prior written consent of the Grant Administrator. Only Standard mileage rates will be reimbursed.
- C. The Grant Application includes the Budget. The Grantee agrees that all funds shown in the Grant Application are to be spent as detailed in the Grant Application.
- D. Changes in the Budget of less than 5 percent of the total line item amount do not require prior written approval, but the Grantee must provide notice to the Grant Administrator.
- E. Changes in the Budget equal to or greater than 5 percent of the total line item amount will be allowed only upon prior review and written approval by the State Grant Administrator. A formal grant amendment must be signed by both the Grantor and Grantee.



### 1.3 Payment Schedule

- A. The maximum amount of grant assistance offered is **\$40,273.00**. An initial payment of **\$16,109.20** (40 percent of the State Grant Amount) shall be made to the Grantee upon submittal of the previous Grant Year Completion Report and all required documentation to the State Grant Administrator as explained in Section 1.1.
- B. Progress payments up to a total of 85 percent of the Total Authorized Budget may be made upon submission of a Grantee request indicating the grant funds received, project expenditures incurred, and objectives completed to date, as well as backup documentation for all expenditures. Backup documentation must include a printout of the 245 grant account, invoice copies, and a payroll printout for any county costs supported with the grant and be maintained for audit purposes in order to comply with this Agreement.
- C. Payment of the final 15 percent of the grant amount shall be made after completion of the project and after the State Grant Administrator has received and approved the Completion Report and supporting documentation as specified in this Agreement.

1984 PA 279 states that the State shall take all steps necessary to assure that payment for goods or services is mailed within 45 days after receipt of the goods or services, a complete invoice for goods or services, or a complete contract for goods or services, whichever is later.

### 1.4 Program Performance - Monitoring, Reporting and Documentation

- A. Monitoring. The Grantee shall monitor performance to assure that time schedules are being met and projected work by time period is being accomplished and provide a status report to the State Grant Administrator upon request.
- B. Reporting (see **1.4.C. for documentation requirements**):
  - 1. The Grantee **may submit** to the State Grant Administrator a Progress Report as soon as July 1 of the grant year but no later than September 30 of the grant year with backup documentation for work completed and expenditures incurred during the reporting period
  - 2. The Grantee **must submit** to the State Grant Administrator a Grant Completion Report as explained above. There is no firm deadline for the Grant Completion Report to be submitted, but no funds will be released for the next year until the Grant Completion Report is received by OLSR.
- C. Documentation. Backup documentation must include the following, as applicable:
  - 1. A written narrative of the total work accomplished during the grant year, including an explanation for any additional work completed that was not specified in the approved Grant Application, any work not completed that was specified in the approved Grant Application, and any changes in an approved line item of the budget approved in Grant Application (submit for **Grant Completion Report only**).

2. A narrative of any coordinated efforts with other organizations to complete the project (submit for Grant **Completion Report only**).
3. Invoices:
  - a. An invoice from all Peer Review Group members, each surveyor or any other service provider for all services provided to the Grantee under this Agreement, and other supplies and purchases, as outlined in the approved Grant Application (submit for **Progress Report and Grant Completion Report**).
  - b. A detailed breakdown and backup documentation for any county costs charged to the program as outlined in the approved Grant Application (submit for **Progress Report and Grant Completion Report**).
4. General Ledger: The County Treasurer's print-out of the State Survey and Remonumentation grant account or equivalent ledger providing a detailed history of each transaction occurring within the account, including all payroll, indirect and/or overhead expenses. If not itemized in the ledger, a salary and fringe benefits breakdown must also be submitted for all administrative staff (submit for **Progress Report and Grant Completion Report**).
5. A recorded LCRC prepared in compliance with the Corner Recordation Act 1970 PA 74 (CRA) and SSRA for each corner shall be submitted through the Accela Citizen Access (ACA) portal. The LCRC shall include geodetic coordinate values for each corner recorded, signed by the county representative and reflect the date of the peer review group meeting at which the corner was reviewed. The county representative will notify the State Grant Administrator when all the contract corners are entered through ACA for the grant year.

## **PART II - GENERAL PROVISIONS**

### **2.1 Project Changes**

Grantee must obtain prior written approval for project changes from the Grant Administrator. **See Section 1.2. Detailed Budget.**

### **2.2 Delegation**

Grantee may not delegate any of its obligations under the Grant without the prior written approval of the State. Grantee must notify the State at least 90 calendar days before the proposed delegation and provide the State any information it requests to determine whether the delegation is in its best interest. If approved, Grantee must: (a) be the sole point of contact regarding all project matters, including payment and charges for all Grant Activities; (b) make all payments to the subgrantee; and (c) incorporate the terms and conditions contained in this Grant in any subgrant with a subgrantee. Grantee remains responsible for the completion of the Grant Activities, compliance with the terms of this Grant,

and the acts and omissions of the subgrantee. The State, in its sole discretion, may require the replacement of any subgrantee.

### **2.3 Project Income**

To the extent that it can be determined that interest was earned on advances of funds, such interest shall be remitted to the Grantor. All other program income shall either be added to the project budget and used to further eligible program objectives or deducted from the total program budget for the purpose of determining the amount of reimbursable costs. The final determination shall be made by the Grant Administrator.

### **2.4 Share-in-savings**

The Grantor expects to share in any cost savings realized by the Grantee. Therefore, final Grantee reimbursement will be based on actual expenditures. Exceptions to this requirement must be approved in writing by the Grant Administrator.

### **2.5 Order of Spending**

Unless otherwise required, Grantee shall expend funds in the following order: (1) private or local funds, (2) federal funds, and (3) state funds. Grantee is responsible for securing any required matching funds from sources other than the State.

### **2.6 Purchase of Equipment**

The purchase of equipment not specifically listed in the Grant Application must have prior written approval of the Grant Administrator. Equipment is defined as non-expendable personal property having a useful life of more than one year. In its request for approval of the State Grant Administrator, Grantee must include the following: (1) a definition of the specific equipment Grantee wishes to purchase; (2) an explanation for why the equipment is necessary to complete the Statement of Work; (3) an explanation of why Grantee could not complete the Statement of Work by renting comparable equipment rather than purchasing it; (4) the anticipated life of the equipment; (5) the amount of anticipated maintenance fees required to maintain the equipment and the length of time those fees will need to be paid; (6) whether Grantee intends to pay maintenance fees using current and/or future grant awards; (7) explanation of any housing requirements for the equipment; (8) whether Grantee intends to rent out to a third party; (9) and the agreement by Grantee that, if it rents or sells the equipment, Grantee will remit any and all rental or sale proceeds to the State.

### **2.7 Accounting**

The Grantee shall adhere to the Generally Accepted Accounting Principles and shall maintain records which will allow, at a minimum, for the comparison of actual outlays with budgeted amounts. The Grantee's overall financial management system must ensure effective control over and accountability for all funds received. Accounting records must be supported by source documentation including, but not limited to, balance sheets, general ledgers, time sheets and invoices. The expenditure of state funds shall be reported by line item and compared to the Budget.

### **2.8 Records Maintenance, Inspection, Examination, and Audit**

The State or its designee may audit Grantee to verify compliance with this Grant. Grantee must retain and provide to the State or its designee upon request, all financial and accounting records related to the Grant through the term of the Grant and for 7 years after the latter of termination, expiration, or final payment under this Grant or any extension (“Audit Period”). If an audit, litigation, or other action involving the records is initiated before the end of the Audit Period, Grantee must retain the records until all issues are resolved.

Within 10 calendar days of providing notice, the State and its authorized representatives or designees have the right to enter and inspect Grantee's premises or any other places where Grant Activities are being performed, and examine, copy, and audit all records related to this Grant. Grantee must cooperate and provide reasonable assistance. If any financial errors are revealed, the amount in error must be reflected as a credit or debit on subsequent invoices until the amount is paid or refunded. Any remaining balance at the end of the Grant must be paid or refunded within 45 calendar days.

This Section applies to Grantee, any parent, affiliate, or subsidiary organization of Grantee, and any subgrantee that performs Grant Activities in connection with this Grant.

If the Grantee is a governmental or non-profit organization and expends the minimum level specified in OMB Uniform Guidance (\$750,000 as of December 26, 2013) or more in total federal funds in its fiscal year, then Grantee is required to submit an Audit Report to the Federal Audit Clearinghouse (FAC) as required in 200.36.

## **2.9 Competitive Bidding**

The Grantee agrees that all procurement transactions involving the use of state funds shall be conducted in a manner that provides maximum open and free competition. When competitive selection is not feasible or practical, the Grantee agrees to obtain the written approval of the Grant Administrator before making a sole source selection. Sole source contracts should be negotiated to the extent that such negotiation is possible.

The Grantee agrees that all procurement of Professional Services will be conducted using Quality Based Selection (QBS). The Grantee may use QBS scores to assign work based on complexity.

## **3.0 Liability**

The State is not liable for any costs incurred by the Grantee before the start date or after the end date of this Agreement. Liability of the State is limited to the terms and conditions of this Agreement and the grant amount.

### **3.1 Reserved**

### **3.2 Safety**

The Grantee, and all subgrantees are responsible for ensuring that all precautions are exercised at all times for the protection of persons and property. Safety provisions of all Applicable Laws and building and construction codes shall be observed. The Grantee, and every subgrantee are responsible for compliance with all federal, state and local laws and regulations in any manner affecting the work or performance of this Agreement and shall at all times carefully observe and comply with all rules,

ordinances, and regulations. The Grantee, and all subgrantees shall secure all necessary certificates and permits from municipal or other public authorities as may be required in connection with the performance of this Agreement.

### **3.3 General Indemnification**

Inasmuch as each party to this grant is a governmental entity of the State of Michigan, each party to this grant must seek its own legal representation and bear its own costs, including judgments, in any litigation which may arise from the performance of this grant. It is specifically understood and agreed that neither party will indemnify the other party in such litigation.

### **3.4 Termination**

#### **A. Termination for Cause**

The State may terminate this Grant for cause, in whole or in part, if Grantee, as determined by the State: (a) endangers the value, integrity, or security of any location, data, or personnel; (b) becomes insolvent, petitions for bankruptcy court proceedings, or has an involuntary bankruptcy proceeding filed against it by any creditor; (c) engages in any conduct that may expose the State to liability; (d) breaches any of its material duties or obligations; or (e) fails to cure a breach within the time stated in a notice of breach. Any reference to specific breaches being material breaches within this Grant will not be construed to mean that other breaches are not material.

If the State terminates this Grant under this Section, the State will issue a termination notice specifying whether Grantee must: (a) cease performance immediately, or (b) continue to perform for a specified period. If it is later determined that Grantee was not in breach of the Grant, the termination will be deemed to have been a Termination for Convenience, effective as of the same date, and the rights and obligations of the parties will be limited to those provided in Subsection B, Termination for Convenience.

The State will only pay for amounts due to Grantee for Grant Activities accepted by the State on or before the date of termination, subject to the State's right to set off any amounts owed by the Grantee for the State's reasonable costs in terminating this Grant. The Grantee must pay all reasonable costs incurred by the State in terminating this Grant for cause, including administrative costs, attorneys' fees, court costs, transition costs, and any costs the State incurs to procure the Grant Activities from other sources.

#### **B. Termination for Convenience**

The State may immediately terminate this Grant in whole or in part without penalty and for any reason, including but not limited to, appropriation or budget shortfalls. If the State terminates this Grant for convenience, the State will pay all reasonable costs, as determined by the State, for State approved Grant Responsibilities.

### **3.5 Conflicts and Ethics**

Grantee will uphold high ethical standards and is prohibited from: (a) holding or acquiring an interest that would conflict with this Grant; (b) doing anything that creates an appearance of impropriety with

respect to the award or performance of the Grant; (c) attempting to influence or appearing to influence any State employee by the direct or indirect offer of anything of value; or (d) paying or agreeing to pay any person, other than employees and consultants working for Grantee, any consideration contingent upon the award of the Grant. Grantee must immediately notify the State of any violation or potential violation of these standards. This Section applies to Grantee, any parent, affiliate, or subsidiary organization of Grantee, and any subgrantee that performs Grant Activities in connection with this Grant.

### **3.6 Non-Discrimination**

Under the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, et seq., and the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, et seq., Grantee and its subgrantees agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, marital status, partisan considerations, or a disability or genetic information that is unrelated to the person's ability to perform the duties of a particular job or position. Breach of this covenant is a material breach of this Grant.

### **3.7 Unfair Labor Practices**

Under MCL 423.324, the State may void any Grant with a Grantee or subgrantee who appears on the Unfair Labor Practice register compiled under MCL 423.322.

### **3.8 Force Majeure**

Neither party will be in breach of this Grant because of any failure arising from any disaster or acts of god that are beyond their control and without their fault or negligence. Each party will use commercially reasonable efforts to resume performance. Grantee will not be relieved of a breach or delay caused by its subgrantees. If immediate performance is necessary to ensure public health and safety, the State may immediately Grant with a third party.

### **3.9 Media Releases**

News releases (including promotional literature and commercial advertisements) pertaining to the Grant or project to which it relates must not be made without prior written State approval, and then only in accordance with the explicit written instructions of the State.

### **4.0 Website Incorporation**

The State is not bound by any content on Grantee's website unless expressly incorporated directly into this Grant.

### **4.1 Certification Regarding Debarment**

The Grantee certifies, by signature to this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Agreement by any federal or State department or agency. If the Grantee is unable to certify to any portion of this statement, the Grantee shall attach an explanation to this Agreement.

## **4.2 Illegal Influence**

The Grantee certifies, to the best of his or her knowledge and belief that:

- A. No federal appropriated funds have been paid nor will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan or cooperative agreement.
- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this grant, the Grantee shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The Grantee shall require that the language of this certification be included in the award documents for all grants or subcontracts and that all subrecipients shall certify and disclose accordingly.

The State has relied upon this certification as a material representation. Submission of this certification is a prerequisite for entering into this Agreement imposed by 31 USC § 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Grantee certifies, to the best of his or her knowledge and belief that no state funds have been paid nor will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of any State agency, a member of the Legislature, or an employee of a member of the Legislature in connection with the awarding of any state contract, the making of any state grant, the making of any state loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any state contract, grant, loan or cooperative agreement.

## **4.3 Governing Law**

This Grant is governed, construed, and enforced in accordance with Michigan law. Grantee consents to venue in Ingham County, and waives any objections, such as lack of personal jurisdiction or forum non conveniens.

## **4.4 Compliance with Laws**

Grantee must comply with all federal, state and local laws, rules and regulations.

Grantee is required to possess in order to perform under this Grant.

#### **4.5 Disclosure of Litigation, or Other Proceeding**

Grantee must notify the State within 14 calendar days of receiving notice of any litigation, investigation, arbitration, or other proceeding (collectively, "Proceeding") involving Grantee, a subgrantee, or an officer or director of Grantee or subgrantee, that arises during the term of the Grant, including: (a) a criminal Proceeding; (b) a parole or probation Proceeding; (c) a Proceeding under the Sarbanes-Oxley Act; (d) a civil Proceeding involving: (1) a claim that might reasonably be expected to adversely affect Grantee's viability or financial stability; or (2) a governmental or public entity's claim or written allegation of fraud; or (e) a Proceeding involving any license that Grantee is required to possess in order to perform under this Grant.

#### **4.6 Assignment**

Grantee may not assign this Grant to any other party without the prior approval of the State. Upon notice to Grantee, the State, in its sole discretion, may assign in whole or in part, its rights or responsibilities under this Grant to any other party. If the State determines that a novation of the Grant to a third party is necessary, Grantee will agree to the novation, provide all necessary documentation and signatures, and continue to perform, with the third party, its obligations under the Grant.

#### **4.7 Entire Grant and Modification**

This Grant is the entire agreement and replaces all previous agreements between the parties for the Grant Activities. This Grant may not be amended except by signed agreement between the parties.

#### **4.8 Grantee Relationship**

Grantee assumes all rights, obligations and liabilities set forth in this Grant. Grantee, its employees, and agents will not be considered employees of the State. No partnership or joint venture relationship is created by virtue of this Grant. Grantee, and not the State, is responsible for the payment of wages, benefits and taxes of Grantee's employees and any subgrantees. Prior performance does not modify Grantee's status as an independent Grantee.

#### **4.9 Dispute Resolution**

The parties will endeavor to resolve any Grant dispute in accordance with this provision. The dispute will be referred to the parties' respective Grant Administrators or Program Managers. Such referral must include a description of the issues and all supporting documentation. The parties must submit the dispute to a senior executive if unable to resolve the dispute within 15 business days. The parties will continue performing while a dispute is being resolved, unless the dispute precludes performance. A dispute involving payment does not preclude performance.

Litigation to resolve the dispute will not be instituted until after the dispute has been elevated to the parties' senior executive and either concludes that resolution is unlikely or fails to respond within 15 business days. The parties are not prohibited from instituting formal proceedings: (a) to avoid the expiration of statute of limitations period; (b) to preserve a superior position with respect to creditors; or (c) where a party makes a determination that a temporary restraining order or other injunctive relief is the only adequate remedy. This Section does not limit the State's right to terminate the Grant.

#### **5.0 Severability**



If any part of this Grant is held invalid or unenforceable, by any court of competent jurisdiction, that part will be deemed deleted from this Grant and the severed part will be replaced by agreed upon language that achieves the same or similar objectives. The remaining Grant will continue in full force and effect.

## **5.1 Waiver**

Failure to enforce any provision of this Grant will not constitute a waiver.

## 5.2 Signatories

The signatories warrant that they are empowered to enter into this Agreement and agree to be bound by it.

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Anshu Varma, Division Director  
Procurement & Administration Division  
Bureau of Finance and Administrative Services  
Department of Licensing and Regulatory Affairs  
State of Michigan

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Date

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Trudy Galla  
County Grant Administrator  
County of Leelanau

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Date

GRANT NO. **BCC 23-45**



## LEELANAU COUNTY DEPARTMENT OF BUILDING SAFETY

8527 E. Government Center Dr. Suite 109  
Suttons Bay, MI 49682  
Phone (231) 256-9806 FAX (231) 256-8333  
E-mail: [buildingsafety@leelanau.gov](mailto:buildingsafety@leelanau.gov)  
Website: [leelanau.gov](http://leelanau.gov)

Date: May 11, 2023

To: Leelanau County Board of Commissioners

From: Amber Weber, Building Official

Subject: Flood Plain Resolutions/Intergovernmental Agreement

The Federal Emergency Management Agency (FEMA) initiates studies and restudies of flood hazards in communities across the country each year. This is done for the creation and revision of community flood hazard maps.

It is my understanding that the local township and village officials have been working with Matthew Occhipinti from the Department of Environment, Great Lakes and Energy to amend and adopt their Flood Plain Ordinances to reflect the new study and maps.

This was last done in 2018 and at that time the county and local municipalities also entered into an Intergovernmental Agreement. Part of the required documentation to be submitted to FEMA is the Michigan Community Resolution and Intergovernmental Agreement. This resolution is an agreement between the townships and villages and my department. My department is the enforcing agency for the State of Michigan Building Code as it relates to construction within a flood plain.

This agreement is signed by two officials at the township and village level, usually the Supervisor and Clerk. It then also needs to be signed by an official at the county level and a witness, usually the Chairman of the Board and a member from the County Clerk's office.

The deadline to have this submitted to FEMA is June 7, 2023, as this is when the new maps will go into effect. Matthew Occhipinti is coordinating the submission of these final documents to FEMA as he is the NFIP Coordinator/Flood Plain Engineer.

Additional documentation and resources regarding flood plains, including maps can be found at: [msc.fema.gov](http://msc.fema.gov)

If you have any questions, please contact my office at (231) 256-9806.

## OVERVIEW

# FLOOD HAZARD MAPPING UPDATES

The Federal Emergency Management Agency (FEMA) partners with Tribal nations, States, and communities through the Risk Mapping, Assessment, and Planning (Risk MAP) program to identify flood hazards, assess flood risks, and provide accurate data to guide stakeholders in taking effective mitigation actions that result in safer and more resilient communities. This data is incorporated into flood maps, known as Flood Insurance Rate Maps (FIRMs), that support the National Flood Insurance Program (NFIP) and provide the basis for community floodplain management regulations and flood insurance requirements.

Flood hazards are dynamic and can change frequently because of a variety of factors, including weather patterns, erosion, and new development. FEMA, through the Risk MAP program, works with communities to collect new or updated flood hazard data and periodically updates flood maps to reflect these changes.

### What Happens When A Flood Map Changes?

When a new map is issued or an effective map is revised, your mapped flood hazard, as well as building or insurance requirements, may change. An effective map is one that has been through the public review and appeal process and has been adopted as a regulatory FIRM. Therefore, it is important for users to check FEMA's Map Service Center (MSC) or the local community map repository for current, effective information.

### What May Affect or Change a Flood Map?

FIRM updates can occur in a variety of ways, including Flood Risk Projects, Physical Map Revisions (PMRs), and Letters of Map Revision (LOMRs). Letters of Map Amendment (LOMAs) and Letters of Map Revision Based on Fill (LOMR-Fs) can change flood hazard designations for specific structures or properties. Each of these processes is discussed in more detail in the table on page 2.

### Helpful Flood Map Information

What Goes into a Flood Map, an infographic, is available at <http://www.fema.gov/blog/2014-02-21/what-goes-flood-map-infographic>.

### Mapping Terminology

#### **Flood Insurance Rate Map (FIRM) –**

The official flood map that shows a community's different flood hazard areas. These may include high-hazard (Special Flood Hazard Areas), moderate- to low-hazard, and undetermined areas. Different flood insurance and building requirements apply to these flood hazard areas.

#### **Flood Insurance Study (FIS) Report –**

A compilation and presentation of flood hazard data and analysis for specific watercourses, lakes, and coastal flood hazard areas within a community.

#### **National Flood Hazard Layer (NFHL) –**

A digital database containing the flood hazard mapping information from FEMA's National Flood Insurance Program (NFIP).

#### **Letter of Final Determination (LFD) –**

A letter FEMA sends to local officials stating that the process of establishing new flood elevations is complete, and a new or updated FIRM will become effective in 6 months.

#### **Letter of Map Change (LOMC) –**

A general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter (LOMA, LOMR-F, LOMR).

#### **Map Service Center (MSC) –**

FEMA's official public source for flood hazard information produced in support of the NFIP.  
<http://msc.fema.gov>

#### **Special Flood Hazard Area (SFHA) –**

The area where the NFIP's minimum floodplain management regulations must be enforced by the community as a condition of NFIP participation, and the area where the mandatory flood insurance purchase requirement applies.

#### **Revalidation Letter –**

A letter identifying the previously issued LOMCs that are still valid after the FIRM has been revised.

### RISK MAPPING, ASSESSMENT, AND PLANNING PROGRAM (RISK MAP)

The Federal Emergency Management Agency's Risk MAP Program delivers quality data that increases public awareness and leads to action to reduce risk to life and property. Risk MAP is a nationwide program that works in collaboration with states, tribes, and local communities using best available science, rigorously vetted standards, and expert analysis to identify risk and promote mitigation action, resulting in safer, more resilient communities.

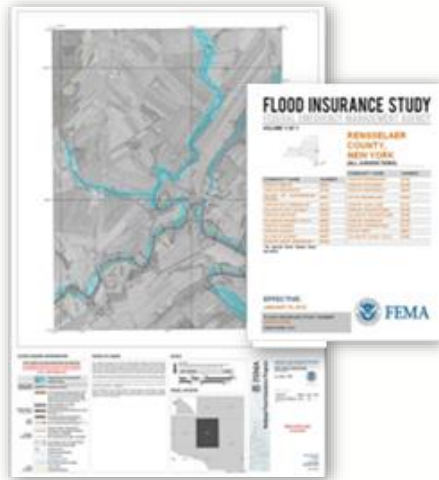
	Flood Risk Project	Physical Map Revision (PMR)	Letter of Map Revision (LOMR)	Letter of Map Revision Based on Fill (LOMR-F)	Letter of Map Amendment (LOMA)
<b>What is it?</b>	Projects implemented under the Risk MAP program to engage with communities and provide flood risk information. Most commonly, these projects are initiated to create new or updated flood maps.	An update to the FIRM to reflect the most current flood hazard data; this results in an update to a portion of a community's map panels.	An official revision to a FIRM that can reflect changes to the floodplains, Base Flood Elevations (BFEs), or regulatory floodways depicted on a community's FIRM. LOMRs most frequently reflect topographic changes and/or construction projects	A letter that provides an official determination on the flood zone for a property or structure that has been elevated by earthen fill to modify the SFHA.	A letter that provides an official determination on the relation of a property or structure to the SFHA. LOMAs are most frequently issued when a property has inadvertently been mapped within the floodplain, but is on naturally high ground.
<b>What is revised?</b>	Revises FIRM panels and FIS reports, or publishes new panels and reports for areas that were not previously mapped.	Physically revises and supersedes at least an entire FIRM panel and the FIS report.	Revises (normally a portion of) an existing FIRM panel (does not supersede the panel) and possibly portions of the FIS report.	Flood hazard designations for properties within an SFHA on a FIRM can be changed, and an effective FIRM can be amended, but the map is not physically changed unless the area is large enough to be reflected in future updates.	
<b>Is there an appeal* period?</b>	Yes, there is a 90-day appeal period for affected communities.		Yes, all LOMRs are subject to a 90-day appeal period when changes to BFEs, floodplain and/or floodway boundaries occur.	No.	
<b>What is the output?</b>	New or updated preliminary FIRM panel(s), LFD, final FIRM panel(s) and FIS report, and LOMC Revalidation Letter.	New or updated FIRM panel(s), FIS report, and LOMC Revalidation Letter.	A LOMR Determination Document that includes a revised area of a FIRM panel(s) and/or revised FIS report (flood profiles).	A LOMR-F Determination Document.	A LOMA Determination Document.
<b>When does it become effective?</b>	Six months after the Letter of Final Determination		A LOMR becomes effective 120 days after the date of the second local newspaper publication is issued, unless an appeal is submitted to FEMA.	On the date of the letter.	
<b>Where to find it?</b>	<ul style="list-style-type: none"> <li>Digital copies can be found on the MSC.</li> <li>Hard copies of community FIRM panels are available at the community's map repository.</li> </ul>		<ul style="list-style-type: none"> <li>Digital copies can be found on the MSC.</li> <li>Hard copies are mailed to the applicant and the community's map repository.</li> </ul>		
<b>What is uploaded to the MSC?</b>	Map panels, FIS report, and FIRM/NFHL database.	Map panel(s), FIS report, and FIRM/NFHL database.	A determination document, the revised portion of the map panel(s), and updated portions of the FIS report (profiles, tables, etc.) and NFHL database.	A determination document.	
<b>Where can it be found on the MSC?</b>	<i>On <a href="http://msc.fema.gov">http://msc.fema.gov</a>, after a 'Search for All Products' under a jurisdiction, the paths below will provide the corresponding items.</i>				
	<ul style="list-style-type: none"> <li>Effective and Pending Products&gt; FIRM Panels and FIS Reports</li> </ul>	<ul style="list-style-type: none"> <li>Effective and Pending Products&gt;FIRM Panels and FIS Reports</li> </ul>	<ul style="list-style-type: none"> <li>Effective and Pending Products&gt; LOMC&gt; LOMR</li> <li>Effective Products&gt;FIRM Panels&gt;click on the LOMC Button for a specific panel</li> </ul>	<ul style="list-style-type: none"> <li>Effective Products&gt;LOMC&gt;LOMA</li> <li>Effective Products&gt;FIRM Panels&gt;click on LOMC Button for a specific panel</li> </ul>	

\*Appeal Period Links:

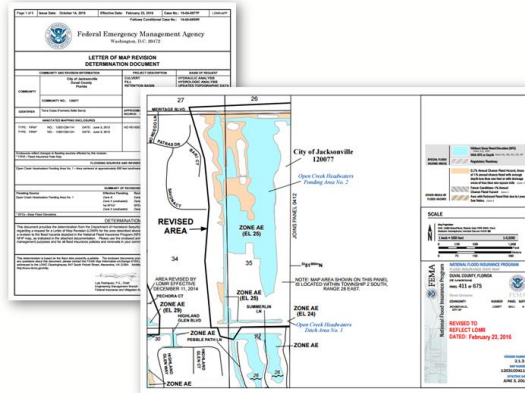
- [Criteria for appealing proposed changes in flood hazard information on FIRMs during the appeal period](#)
- [Flood Hazard Determination Notices for Preliminary Flood Insurance Studies, Physical Map Revisions, and Letters of Map Revision, including additional information on Flood Hazard Determination Notices and Appeal Periods](#)

## Sample Products

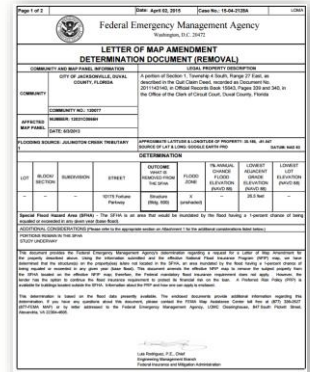
### FIRM and FIS report



### LOMR



### LOMA/LOMR-F



## Helpful Links

### Flood Risk Projects

- The Risk MAP Project Lifecycle for Flood Risk Projects: <https://www.fema.gov/risk-map-flood-risk-project-lifecycle>

### PMRs and LOMRs

- Flood Map Revision Processes: <https://www.fema.gov/flood-map-revision-processes>
- Application Information: <https://www.fema.gov/mt-2-application-forms-and-instructions>

### LOMAs and LOMR-Fs

- Letter of Map Amendment and Letter of Map Revision Based on Fill Processes: <https://www.fema.gov/letter-map-amendment-letter-map-revision-based-fill-process>
- Factsheet: How to Request a LOMA or LOMR-F: <https://www.fema.gov/media-library/assets/documents/19871>
- Application information: <https://www.fema.gov/mt-1-application-forms-instructions>
- Revalidation Letters for Letters of Map Change: [https://www.fema.gov/media-library-data/20130726-1840-25045-1194/understanding\\_soma\\_revalidation\\_letter.pdf](https://www.fema.gov/media-library-data/20130726-1840-25045-1194/understanding_soma_revalidation_letter.pdf)
- Online LOMC: <https://www.fema.gov/change-flood-zone-designation-online-letter-map-change>

## FEMA Map Information eXchange (FMIX)

### Contact a Map Specialist

- (877) FEMA MAP (1-877-336-2627)
- Hours of Operation: Monday through Friday, 8 a.m. through 6:30 p.m. eastern standard time (EST)
- Email: [FEMAMapSpecialist@riskmapcds.com](mailto:FEMAMapSpecialist@riskmapcds.com)

**MICHIGAN COMMUNITY RESOLUTION AND INTERGOVERNMENTAL**

**AGREEMENT TO MANAGE FLOODPLAIN DEVELOPMENT**

**FOR THE NATIONAL FLOOD INSURANCE PROGRAM**

**Community A** (NFIP community): \_\_\_\_\_ **Community/Entity B** (enforcing agency): \_\_\_\_\_

**WHEREAS**, Community A (*check the appropriate following box statement*)  currently participates  desires to participate in the Federal Emergency Management Agency's (FEMA) National Flood Insurance Program (NFIP) by complying with the program's applicable statutory and regulatory requirements for the purposes of significantly reducing flood hazards to persons, reducing property damage, reducing public expenditures, and providing for the availability of flood insurance and federal funds or loans within its community; and

**WHEREAS**, the NFIP requires that floodplain management regulations must be present and enforced in participating communities, and utilize the following definitions which also apply for the purposes of this resolution:

1. Flood or Flooding means:
  - a. A general and temporary condition of partial or complete inundation of normally dry land areas from: 1) the overflow of inland or tidal waters, 2) the unusual and rapid accumulation or runoff of surface waters from any source, 3) mudflows, and
  - b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding, as defined in paragraph (a)(1) of this definition.
2. Flood Hazard Boundary Map (FHBM) means an official map of a community, as may have been issued by the FEMA, where the boundaries of the areas of flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zone A, M, and/or E.
3. Floodplain means any land area susceptible to being inundated by water from any source (see definition of flooding).
4. Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.
5. Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power that provide standards for the purpose of flood damage prevention and reduction.
6. Structure means a walled and roofed building that is principally above ground, gas or liquid storage facility, as well as a mobile home or manufactured unit.

**WHEREAS**, the Stille-Derossett-Hale Single State Construction Code Act", Act No. 230 of the Public Acts of 1972, as amended, (construction code act), along with its authorization of the state construction code composed of the Michigan Residential Code and the Michigan Building Code [and its Appendices (specifically Appendix G)] contains floodplain development and management

regulations that comply with the FEMA NFIP minimum floodplain management criteria for flood prone areas as detailed in Title 44 of the Code of Federal Regulations (44 CFR), Section 60.3, and

**WHEREAS**, by the action dates of this document or an existing historical agreement dated [REDACTED], Community/Entity B affirms/agrees on behalf of Community A to function as the designated enforcing agency to discharge the responsibility of administering, applying, and enforcing the construction code act and the state construction code, specifically the Michigan Residential Code and the Michigan Building Code, and the Michigan Rehabilitation Code for Existing Buildings to all development within Community A's political boundaries, and

**WHEREAS**, Community A and Community/Entity B enforce floodplain regulations of the construction code act, and Community A wishes to ensure that the administration of that code complies with requirements of the NFIP, and

**NOW THEREFORE**, to maintain eligibility and continued participation in the NFIP,

1. Community A and Community/Entity B agree that Community/Entity B's officially designated enforcing agency for the construction code act, [REDACTED] (*community official/position title or name of other entity, agency, firm*), be directed to administer, apply, and enforce on Community A's behalf the floodplain management regulations as contained in the state construction code (including Appendix G) and to be consistent with those regulations, by:
  - a. Obtaining, reviewing, and reasonably utilizing flood elevation data available from federal, state, or other sources pending receipt of data from the FEMA to identify the flood hazard area, and areas with potential flooding, and
  - b. Ensuring that all permits necessary for development in floodplain areas have been issued, including a floodplain permit, approval, or letter of no authority from the Michigan Department of Environmental Quality under the floodplain regulatory provisions of Part 31, "Water Resources Protection," of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, and
  - c. Reviewing all permit applications to determine whether the proposed building sites will be reasonably safe from flooding. Where it is determined that a proposed building will be located in a flood hazard area or special flood hazard area, Community/Entity B shall implement the following applicable codes according to their terms:
    - i) All appropriate portions and specifically the floodplain management regulation portions and referenced codes and standards of the current Michigan Residential Code.
    - ii) All appropriate portions and specifically the floodplain management regulation portions and referenced codes and standards of the current Michigan Building Code.
    - iii) Appendix G of the current Michigan Building Code.
    - iv) All appropriate portions and specifically the floodplain management regulation portions and referenced codes and standards of the current Michigan Rehabilitation Code for Existing Buildings.
  - d. Reviewing all proposed subdivisions to determine whether such proposals are reasonably safe from flooding and to ensure compliance with all applicable floodplain management regulations.
  - e. Assisting in the delineation of flood hazard areas; provide information concerning uses and occupancy of the floodplain or flood-related erosion areas, maintain flood proofing and lowest floor construction records, and cooperate with other officials, agencies, and persons for floodplain management.
  - f. Advising FEMA of any changes in community boundaries, including appropriate maps, and



- g. Maintaining records of new structures and substantially improved structures concerning any certificates of floodproofing, lowest floor elevation, basements, floodproofing, and elevation to which structures have been floodproofed.
- 2. Community A and Community/Entity B assure the Federal Insurance Administrator (Administrator) that they intend to review, on an ongoing basis, all amended and revised FHBMs and Flood Insurance Rate Maps (FIRMs) and related supporting data and revisions thereof and revisions of 44 CFR, Part 60, Criteria for Land Management and Use, and to make such revisions in its floodplain management regulations as may be necessary to assure Community A's compliant participation in the program.
- 3. Community A further assures the Administrator that it will adopt the current effective FEMA Flood Insurance Study (FIS), FHBMs, and/or the FIRMs by reference within its Floodplain Management Map Adoption Ordinance or similarly binding ordinance documentation.

**FURTHER BE IT RESOLVED**, both communities declare their understanding that, until this resolution is rescinded or Community A makes other provision to enforce the construction code act:

- 1. Community/Entity B must administer and enforce the construction code act in accordance with the terms and the conditions contained herein, and
- 2. For Community A to continue its participation in the NFIP, the construction code act must be administered and enforced according to the conditions contained herein.

**Community A:** \_\_\_\_\_ Date Passed: \_\_\_\_\_  
 Officer Name: \_\_\_\_\_ Title: \_\_\_\_\_  
 Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
 Witness Name: \_\_\_\_\_ Title: \_\_\_\_\_  
 Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Community/Entity B:** \_\_\_\_\_ Date Passed: \_\_\_\_\_  
 Officer Name: \_\_\_\_\_ Title: \_\_\_\_\_  
 Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
 Witness Name: \_\_\_\_\_ Title: \_\_\_\_\_  
 Signature: \_\_\_\_\_ Date: \_\_\_\_\_