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2023R-00112

AIDAN K MCKINDLES
REGISTER OF DEEDS
MARQUETTE COUNTY, MI
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RECORDED ON
01/04/2023 04:08 PM
PAGES: 8

GNT ① 8

DEED OF PUBLIC UTILITY EASEMENT
(WATER AND STORM SEWER AND SANITARY SEWER UTILITY)
(FORMER MARQUETTE MALL SITE)

This **Deed of Public Utility Easement** ("Deed") is made December 29, 2022, by Dagenais Real Estate, Inc. (servient estate), a Michigan corporation, whose address is 1505 North Lincoln Road, Escanaba, MI 49829 ("Owner"), and **City of Marquette** (dominant estate), a Michigan municipal corporation whose address is 300 West Baraga Avenue, Marquette, Michigan 48108 ("City").

RECITALS

A. Owner is the sole owner of the following real property located in City of Marquette:

A parcel of land being part of the North Half (N 1/2) of the Northeast Quarter (NE 1/4), Section 21, T48N-R25W, City of Marquette, Marquette County, Michigan described as: Commencing at the Northeast corner of Section 21; thence N89°50'07"W, 1578.15 feet along the North line of Section 21; thence S00°09'53"W, 898.95 feet to the Point of Beginning "A"; thence S66°10'11"E, 177.43 feet; thence S63°13'21"E, 182.97 feet; thence N26°46'39"E, 29.96 feet; thence S63°13'21"E, 161.06 feet to the West right of way line of Wilson Street; thence S01°05'02"W, 221.28 feet along the West right of way line of Wilson Street to the North right of way line of Washington Street extended; thence N89°20'11"W, 674.26 feet along the North right of way line of Washington Street extended; thence N25°18'26"E, 457.25 feet to the Point of Beginning "A" and containing 4.4201 acres and subject to restrictions, reservations, rights of way and easements of record.

(the "Property"). Owner has the right to grant the easement(s) and dedicate the improvement(s) as set forth in this Deed.

B. Owner has constructed certain water, storm sewer and sanitary sewer mains and appurtenances for public utility services to be provided by the City to the Property in accordance with plans and specifications approved by the City.

C. Owner wishes to grant to the City easements for construction, maintenance, inspection, repair and replacement of the water, storm sewer and sanitary sewer mains and appurtenances over, across, under and within those portions of the Property as described on the legal description attached as Exhibit

A ("Easement Parcel") and shown on the sketch attached as Exhibit A and to dedicate to the City for public purposes the water, storm sewer and sanitary sewer mains and appurtenances located within the Easement Parcel.

D. The water, storm sewer and sanitary sewer mains and appurtenances will also serve Parcel B, C, D, E, and F, as depicted on the Exhibit A. An additional easement from the owners of Parcel B and D, is required for that portion of the water, storm sewer and sanitary sewer mains and appurtenances that travels over Parcel B and D. Upon the execution of the additional easements, the easements shall be a continuous easement as depicted on the attached Exhibit A.

Accordingly, the Owner grants the following Easement under the terms specified below:

GRANT OF EASEMENT: Owner grants, for NO CONSIDERATION, to the City and its successors and assigns a perpetual easement over, across, under and within the Easement Parcel for purposes of construction, maintenance, inspection, repair and replacement of the water, storm sewer and sanitary sewer mains and appurtenances located within the Easement Parcel together with the right of access, ingress and egress over and across the Property and within the Easement Parcel for purposes of such construction, maintenance, inspection, repair and replacement of such water, storm sewer and sanitary sewer mains and appurtenances ("Easements").

DEDICATION: Owner hereby dedicates to the City for public purposes the water, storm sewer and sanitary sewer mains and appurtenances located within the Easement Parcel as public utilities. The Owner, or its successors, transferees or assigns, shall be solely liable and responsible for any and all costs, expenses, repair or replacement arising out of or related to the defect in or faulty construction of the water, storm sewer and sanitary sewer mains and appurtenances, including construction not in accordance with the approved plans and specifications or arising from improper use of the water, storm sewer and sanitary sewer mains and appurtenances or the Easement Parcel by Owner or its agents, contractors, employees, guests, invitees, successors or assigns.

MAINTENANCE OF THE EASEMENT PARCEL: Neither Owner nor its successors, transferees or assigns shall construct any buildings or improvements nor place any trees on the Easement Parcel nor make any change to the grade or surface of the Easement Parcel without prior written consent by the City. Owner may continue use of the Easement Parcel for purposes that do not interfere with City's rights and uses under this Easement, and shall be entitled to re-surface, repair, restore, and replace areas to keep them in their current condition. Any expansion or change in use by the Owner upon the Easement Parcel shall require the City's prior written approval.

FURTHER EASEMENTS: Owner shall not grant any further easements within the Easement Parcel nor alter, repair or modify the water, storm sewer or sanitary sewer mains or appurtenances within the Easement Parcel without prior written consent by the City.

INDEMNIFICATION: Owner shall indemnify and hold City harmless from and against any and all claims, liabilities or damages arising out of or related to construction of the water, storm sewer and sanitary sewer mains or appurtenances by Owner or its agents, contractors, consultants, engineers and employees. Provided, however, the Owner shall not be obligated to indemnify and hold the City harmless from any

claims, liabilities or damages that arise solely out of the City's failure to properly maintain, inspect, repair, and replace the water main, storm sewer or sanitary sewer and appurtenances.

ADDITIONAL DOCUMENTS: The Owner agrees to execute, acknowledge and deliver such other instruments, documents or agreements (in customary form, reasonably acceptable to the City) as shall be reasonably necessary in order to fully bring into effect the intent and purpose of this Deed. These documents may include as-built drawings, revised easement exhibits, and televising reports for the storm and sanitary sewers.

BINDING EFFECT: The easement and dedication granted pursuant to this Deed shall run with the land and the benefits and burdens of this Deed shall inure to the benefit of and be binding upon the parties and their respective successors, transferees and assigns. The Owner also agrees that the City may modify this Deed to the extent that it does not substantially impair the rights of the Owner or its successors. The Owner, or its successors shall not revoke this Deed, without the prior written approval of the City and Dagenais Real Estate, Inc.

TRANSFER TAX: This DEED OF PUBLIC UTILITY EASEMENT is exempt from real estate transfer taxation under the provisions of MCL 207.505(a) and MCL 207.526(a).

Dated this 29th day of December, 2022.

By:
Its:

Paul D. Dagenais
Paul Dagenais
President

STATE OF MICHIGAN)
COUNTY OF DELTA)

On the 29th day of December, 2022, before me, a Notary Public, in and for said County, personally appeared Dagenais Real Estate, Inc., by Paul Dagenais, to me known to be the same person described in and who executed the within instrument, who acknowledged the same to be its free act and deed.

Jenni Nummela
Jenni Nummela, Notary Public

State of Michigan, County of Delta

My commission expires: 10-26-2025

Acting in the County of Delta

Drafted by:

Patrick C. Greeley

KENDRICKS, BORDEAU, KEEFE,

SEAVOY & REILLY, P.C.

128 W. Spring Street

Marquette, MI 49855

(906) 226-2543

PART OF PARCELS A, B AND D, BEING PART OF THE N 1/2 OF NE
1/4, SECTION 21, T48N-R25W, CITY OF MARQUETTE,
MARQUETTE COUNTY, MICHIGAN

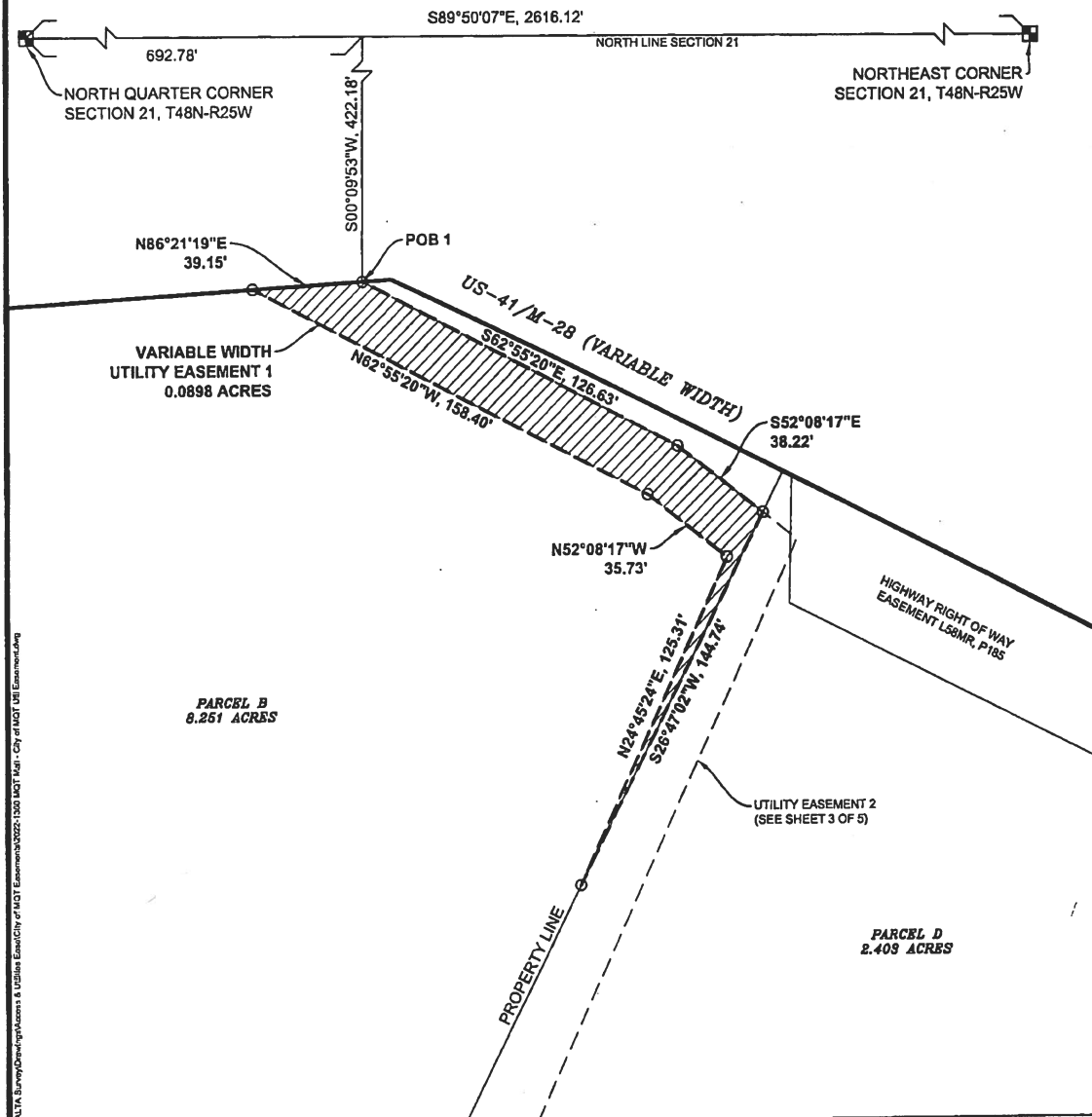


ESCANABA, MICHIGAN PHOENIX, ARIZONA MARSHALL, MICHIGAN SUPERIOR, WISCONSIN

A circular professional seal for a surveyor in the State of Michigan. The outer ring contains the text "STATE OF MICHIGAN" at the top and "LICENSED PROFESSIONAL SURVEYOR" at the bottom, separated by two stars. The center of the seal contains the name "STACEY JAMES BLUSE" and the license number "License No. 4001050429".

EASEMENT EXHIBIT

PART OF PARCELS A, B AND D, BEING PART OF THE N 1/2 OF NE 1/4, SECTION 21, T48N-R25W, CITY OF MARQUETTE, MARQUETTE COUNTY, MICHIGAN



P:\2022\2022-1360-Dagenais-Map-1-MET-ALTA-Survey-Drawing\Map-1-MET-ALTA-Survey-Drawing.dwg



830 WEST WASHINGTON STREET
MARQUETTE, MICHIGAN 49855
(906)228-5125

ESCANABA, MICHIGAN PHOENIX, ARIZONA MARSHALL, MICHIGAN SUPERIOR, WISCONSIN

SCALE: 1"= 50'	CLIENT: DAGENAIS ENTERPRISES
APPROVED BY: SDK	JOB NO.: 2022-1360
DRAWN BY: SJB	DATE: 12/22/2022

NORTH
BEARING BASIS: NAD 83 (2011) MICHIGAN STATE PLANE NORTH (2111)
SEC. TWP. RANGE 21 48N 25W
MUNICIPALITY: CITY OF MARQUETTE
ENCROACHMENTS: NONE
SHEET 2 OF 5

TRIMEDIA ENVIRONMENTAL AND ENGINEERING, LLC

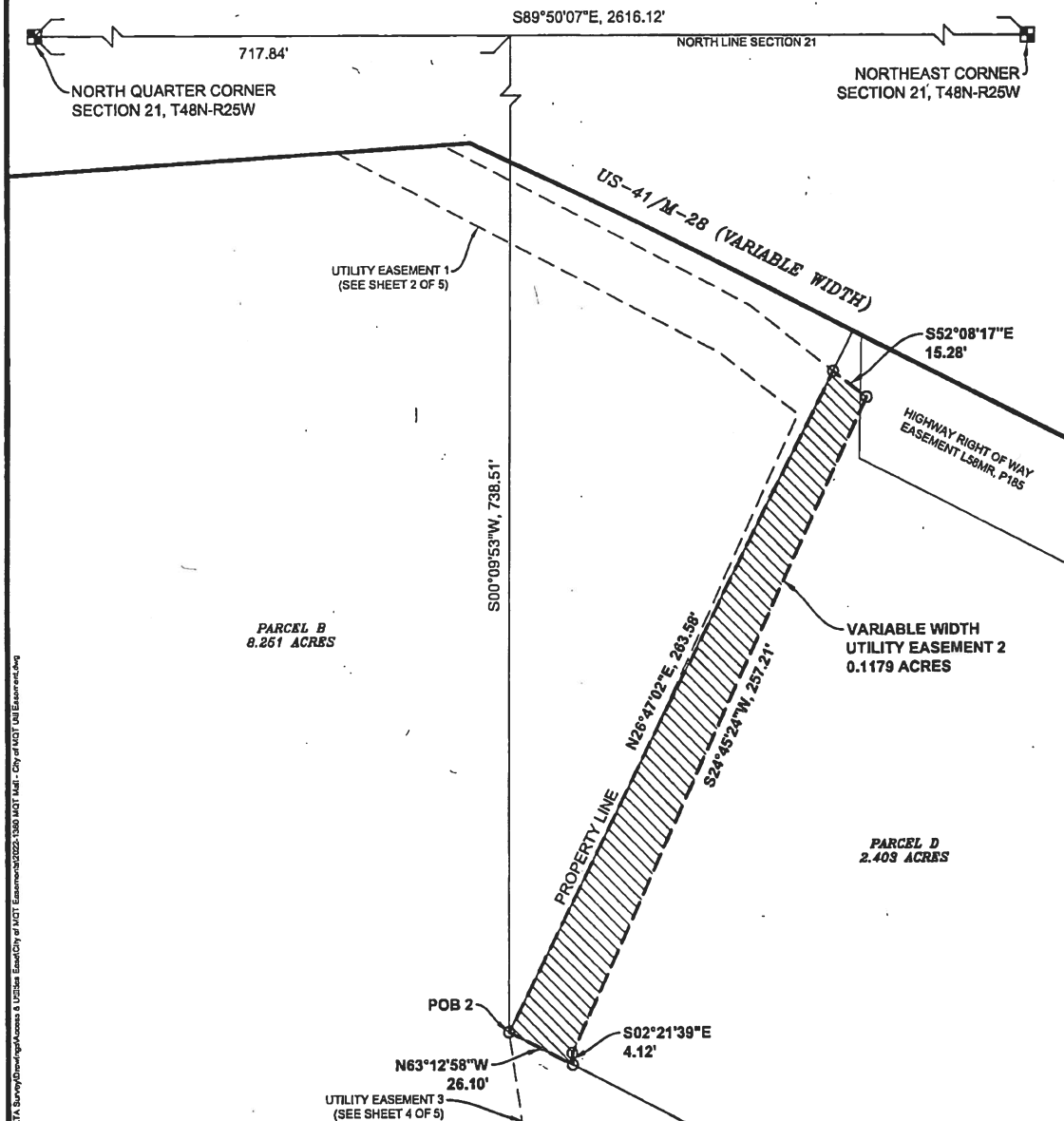
BY: Stacey J. Bluse
Stacey J. Bluse, P.S. No. 4001050429

DATE: 12/22/2022



EASEMENT EXHIBIT

PART OF PARCELS A, B AND D, BEING PART OF THE N 1/2 OF NE
1/4, SECTION 21, T48N-R25W, CITY OF MARQUETTE,
MARQUETTE COUNTY, MICHIGAN



P:\2022\2022-1360 Dagenais - MDT ALTA Survey\Drawings\Access & Utilities Easement\MDT Easement\2022-1360 MDT M&E - City of Marquette.dwg



TRIMEDIA
ENVIRONMENTAL & ENGINEERING

830 WEST WASHINGTON STREET
MARQUETTE, MICHIGAN 49855
(906)228-5125

ESCANABA, MICHIGAN PHOENIX, ARIZONA MARSHALL, MICHIGAN SUPERIOR, WISCONSIN

SCALE: 1"= 50'

APPROVED BY: SDK

DRAWN BY: SJB

CLIENT: DAGENAI ENTERPRISES

JOB NO.: 2022-1360

DATE: 12/22/2022



NORTH

BEARING BASIS:
NAD 83 (2011)
MICHIGAN STATE
PLANE NORTH (2111)

SEC. TWP. RANGE
21 48N 25W

MUNICIPALITY:
CITY OF
MARQUETTE

ENCROACHMENTS:
NONE

SHEET 3 OF 5

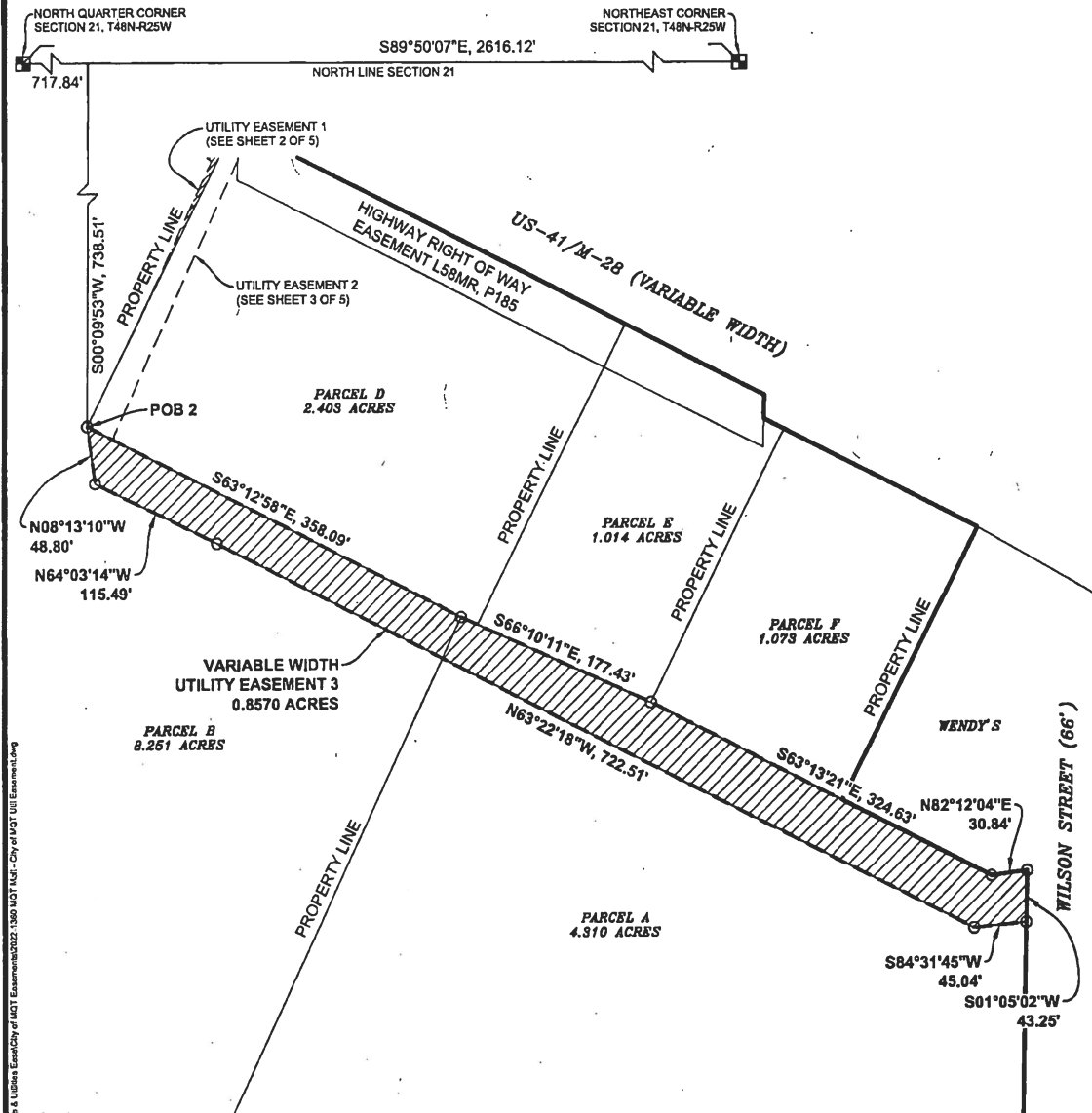
TRIMEDIA ENVIRONMENTAL AND ENGINEERING, LLC

BY: Stacey J. Bluse
Stacey J. Bluse, P.S. No. 4001050429

DATE: 12/22/2022



PART OF PARCELS A, B AND D, BEING PART OF THE N 1/2 OF NE
1/4, SECTION 21, T48N-R25W, CITY OF MARQUETTE,
MARQUETTE COUNTY, MICHIGAN



NORTH

TRIMEDIA ENVIRONMENTAL AND ENGINEERING, LLC

BY: Stacey J. Bluse
Stacey J. Bluse, P.S. No. 4001050429

DATE: 12/22/2022



TRIMEDIA
ENVIRONMENTAL & ENGINEERING

830 WEST WASHINGTON STREET
MARQUETTE, MICHIGAN 49855
(906)228-5125

ESCANABA, MICHIGAN PHOENIX, ARIZONA MARSHALL, MICHIGAN SUPERIOR, WISCONSIN

BEARING BASIS:
NAD 83 (2011)
MICHIGAN STATE
PLANE NORTH (2111)

MUNICIPALITY:
CITY OF
MARQUETTE

ENCROACHMENTS:

NONE

'SHEET 4 OF 5

SCALE: 1"= 120'

CLIENT:DAGENAIS ENTERPRISES

APPROVED BY: SDK

JOB NO.: 2022-1360

DRAWN BY: SJB

DATE: 12/22/2022



EASEMENT EXHIBIT

PART OF PARCELS A, B AND D, BEING PART OF THE N 1/2 OF NE
1/4, SECTION 21, T48N-R25W, CITY OF MARQUETTE,
MARQUETTE COUNTY, MICHIGAN

LEGAL DESCRIPTION - UTILITY EASEMENT #1

A variable width utility easement across part of Parcel B, being part of the North Half (N 1/2) of the Northeast Quarter (NE 1/4), Section 21, T48N-R25W, City of Marquette, Marquette County, Michigan described as:
Commencing at the North Quarter corner of Section 21; thence S89°50'07"E, 692.78 feet along the North line of Section 21; thence S00°09'53"W, 422.18 feet to the North right of way line of Highway US-41, the North line of Parcel B and the Point of Beginning 1; thence S62°55'20"E, 126.63 feet; thence S52°08'17"E, 38.22 feet to the East line of Parcel B; thence S26°47'02"W, 144.74 feet along the East line of Parcel B; thence N24°45'24"E, 125.31 feet; thence N52°08'17"W, 35.73 feet; thence N62°55'20"W, 158.40 feet to the North right of way line of Highway US-41 and the North line of Parcel B; thence N86°21'19"E, 39.15 feet along the North right of way line of Highway US-41 and the North line of Parcel B to the Point of Beginning 1 and containing 0.0898 acres and subject to restrictions, reservations, rights of way and easements of record.






LEGAL DESCRIPTION - UTILITY EASEMENT #2

A variable width utility easement across part of Parcel D, being part of the North Half (N 1/2) of the Northeast Quarter (NE 1/4), Section 21, T48N-R25W, City of Marquette, Marquette County, Michigan described as:
Commencing at the North Quarter corner of Section 21; thence S89°50'07"E, 717.84 feet along the North line of Section 21; thence S00°09'53"W, 738.51 feet to the Southwest corner of Parcel D and the Point of Beginning 2; thence N26°47'02"E, 263.58 feet along the West line of Parcel D; thence S52°08'17"E, 15.28 feet; thence S24°45'24"W, 257.21 feet; thence S02°21'39"E, 4.12 feet to the South line of Parcel D; thence N63°12'58"W, 26.10 feet along the South line of Parcel D to the Point of Beginning 2 and containing 0.1179 acres and subject to restrictions, reservations, rights of way and easements of record.

LEGAL DESCRIPTION - UTILITY EASEMENT #3

A variable width utility easement across part of Parcels A and B, being part of the North Half (N 1/2) of the Northeast Quarter (NE 1/4), Section 21, T48N-R25W, City of Marquette, Marquette County, Michigan described as:
Commencing at the North Quarter corner of Section 21; thence S89°50'07"E, 717.84 feet along the North line of Section 21; thence S00°09'53"W, 738.51 feet to the North line of Parcel B and the Point of Beginning 2; thence S63°12'58"E, 358.09 feet along the North line of Parcel B to the Northwest corner of Parcel A; thence S66°10'11"E, 177.43 feet along the North line of Parcel A; thence S63°13'21"E, 324.63 feet along the North line of Parcel A; thence N82°12'04"E, 30.84 feet along the North line of Parcel A to the West right of way line of Wilson Street and the East line of Parcel A; thence S01°05'02"W, 43.25 feet along the West right of way line of Wilson Street and the East line of Parcel A; thence S84°31'45"W, 45.04 feet; thence N63°22'18"W, 722.51 feet; thence N64°03'14"W, 115.49 feet; thence N08°13'10"W, 48.80 feet to the Point of Beginning 2 and containing 0.8570 acres and subject to restrictions, reservations, rights of way and easements of record.

P02220222-1360 Dagenais - MDT ALTA Survey/Engineering/Access & Utility Easement/MDT Easement/2022-1360 MDT Map - City of MDT US Easement/Map

 TRIMEDIA ENVIRONMENTAL & ENGINEERING 830 WEST WASHINGTON STREET MARQUETTE, MICHIGAN 49855 (906)228-5125 ESCANABA, MICHIGAN PHOENIX, ARIZONA MARSHALL, MICHIGAN SUPERIOR, WISCONSIN		 NORTH	TRIMEDIA ENVIRONMENTAL AND ENGINEERING, LLC
			BY:  Stacey J. Bluse, P.S. No. 4001050429 DATE: 12/22/2022
 TRIMEDIA ENVIRONMENTAL & ENGINEERING 830 WEST WASHINGTON STREET MARQUETTE, MICHIGAN 49855 (906)228-5125 ESCANABA, MICHIGAN PHOENIX, ARIZONA MARSHALL, MICHIGAN SUPERIOR, WISCONSIN		BEARING BASIS: NAD 83 (2011) MICHIGAN STATE PLANE NORTH (2111)	
		SEC. TWP. RANGE 21 48N 25W MUNICIPALITY: CITY OF MARQUETTE	
SCALE: NA	CLIENT: DAGENAIS ENTERPRISES	ENCROACHMENTS: NONE	SHEET 5 OF 5
APPROVED BY: SDK	JOB NO.: 2022-1360		
DATE: 12/22/2022			