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2023R-03156

AIDAN K MCKINDLES

REGISTER OF DEEDS

MARQUETTE COUNTY, MI

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04/12/2023 04:40 PM

PAGES: 10

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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 March 31, 2023, by **Dagenais Real Estate, Inc.** (servient estate), a Michigan banking corporation, whose address is 1505 North Lincoln Road, Escanaba, MI 49829 ("Dagenais"), **First Bank, Upper Michigan** (servient estate), a Michigan corporation, whose address is 1400 Delta Avenue, Gladstone, MI 49837 ("First Bank"), and **City of Marquette** (dominant estate), a Michigan municipal corporation whose address is 300 West Baraga Avenue, Marquette, Michigan 48108 ("City").

RECITALS

A. Dagenais 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 "B"; thence S25°18'26"W, 457.25 feet to the North right of way line of Washington Street extended; thence N89°20'11"W, 380.75 feet along the North right of way line; thence N00°32'59"E, 872.49 feet to the South right of way line of Highway US-41 /M-28; thence N86°21 '19"E, 234. 77 feet along the South right of way line to a curve on the South right of way line; thence 123.99 feet along the South right of way on a curve to the right, having a Delta angle of 02°02'28", a Radius of 3480.82 feet, and a Chord bearing S64°28'18"E, 123.99 feet; thence S63°27'04"E, 31.28 feet along the South right of way line; thence S26°47'02"W, 279.65 feet; thence S63°12'58"E, 358.09 feet to the Point of Beginning "B" and containing 8.2534 acres and subject to restrictions, reservations, rights of way and easements of record.

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

B. First Bank 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, 1308.06 feet along the North line of Section 21 to the East 1/16 line of Section 21; thence S01°05'02"W, 656.69 feet along the East 1/16

line of Section 21; thence N88°54'58"W, 119.38 feet to the North right of way line of Highway US-41 and Highway M-28 and the Point of Beginning 1; thence S26°47'02"W, 280.39 feet; thence N66°10'11"W, 15.41 feet; thence N63°12'58"W, 358.09 feet; thence N26°47'02"E, 279.65 feet to the North right of way line of Highway US-41 and Highway M-28; thence S63°27'04"E, 373.48 feet along the North right of way line of Highway US-41 and Highway M-28 to the Point of Beginning 1 and containing 2.4041 acres and subject to restrictions, reservations, rights of way and easements of record, AND subject to 30 feet wide access easements over the East 30 feet and the West 30 feet of the above described parcel, AND subject to a "No Build" Zone as outlined in the lease agreement for the Dollar Tree store.

(the "First Bank Property", together with the Dagenais Property, the "Properties"). First Bank has the right to grant the easement(s) and dedicate the improvement(s) as set forth in this Deed.

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

D. Dagenais and First Bank wish 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 Properties 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.

E. The water, storm sewer and sanitary sewer mains and appurtenances will also serve Parcel A, C, E, and F, as depicted on Exhibit A. An additional easement from the owner was previously granted by Dagenais for Parcel A, at the Marquette County Register of Deeds, 2023R-00112, and is required for that portion of the water, storm sewer and sanitary sewer mains and appurtenances that travel over Parcel A (the "Parcel A Easement"). Upon the execution of this easement, the easement shall be a continuous easement as depicted on the attached Exhibit A. **NOTE: The easement contained in the Parcel A Easement and this Deed of Public Utility Easement are different with respect to the Dagenais Parcel (Parcel B). This Deed of Public Utility Easement reflects the as-built location of the water main. More specifically, an additional easement was required over the northwest portion of the Dagenais Parcel (Parcel B). The easement description as to Parcel A is the same in the Parcel A Easement and this Deed of Public Utility Easement.**

Accordingly, Dagenais and First Bank grant the following Easement under the terms specified below:

GRANT OF EASEMENT: Dagenais and First Bank grant, 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 ("Easement").

DEDICATION: Dagenais and First Bank hereby dedicate to the City for public purposes the water, storm sewer and sanitary sewer mains and appurtenances located within the Easement Parcel as public utilities. Dagenais, 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. Dagenais and First Bank or their successors, transferees or assigns, shall be solely liable and responsible for any and all costs, expenses, repair or replacement arising from improper use of the water, storm sewer and sanitary sewer mains and appurtenances or the Easement Parcel by Dagenais and First Bank or their agents, contractors, employees, guests, invitees, successors or assigns, respectively.

MAINTENANCE OF THE EASEMENT PARCEL: Neither Dagenais and First Bank nor their 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. Dagenais and First Bank 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 Dagenais and/or First Bank upon the Easement Parcel shall require the City's prior written approval.

FURTHER EASEMENTS: Dagenais and First Bank 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: Dagenais or its successors, transferees, or assigns 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 Dagenais or its agents, contractors, consultants, engineers and employees. Provided, however, the Dagenais 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.

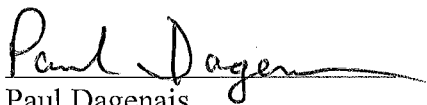
ADDITIONAL DOCUMENTS: Dagenais and First Bank and their successors, transferees, or assigns agree to execute, acknowledge and deliver such other instruments, documents or agreements (in customary form, reasonably acceptable to the City) as shall be reasonably necessary in order to fully bring into effect 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. Dagenais and First Bank or their successors, transferees, or assigns also agree that the City may modify this Deed to the extent that it does not substantially impair the rights of Dagenais and First Bank or their successors, transferees, or assigns. Dagenais and First Bank or their successors, transferees, or assigns, 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).

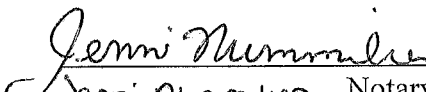
Dated this 31 day of March, 2023.

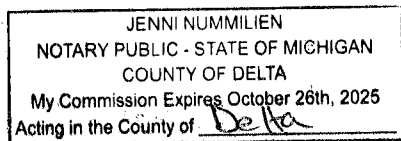
DAGENAIS REAL ESTATE, INC.


By: Paul Dagenais
Its: President


STATE OF MICHIGAN)
COUNTY OF DELTA)

On the 31 day of March, 2023, 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 Nummilien, Notary Public
State of Michigan, County of Delta
My commission expires: October 26th 2025
Acting in the County of Delta

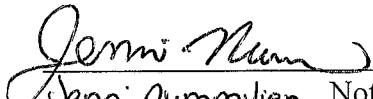


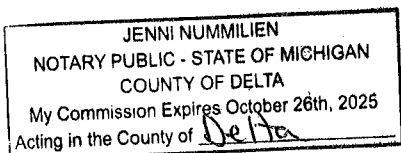
FIRST BANK, UPPER MICHIGAN


By: Todd D. Maki
Its: President/CEO

STATE OF MICHIGAN)
COUNTY OF DELTA)

On the 31 day of March, 2023, before me, a Notary Public, in and for said County, personally appeared First Bank, Upper Michigan, by Todd D. Maki, 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 Nummilien, Notary Public
State of Michigan, County of Delta
My commission expires: October 26th 2025
Acting in the County of Delta



Drafted by:

Patrick C. Greeley
KENDRICKS BORDEAU, P.C.
128 W. Spring Street
Marquette, MI 49855
(906) 226-2543

EASEMENT EXHIBIT A

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 - (affects Parcel B)

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, 154.79 feet; thence S83°28'07"W, 40.81 feet; thence N68°05'17"W, 9.04 feet to the North right of way line of Highway US-41 and the North line of Parcel B; thence N86°21'19"E, 84.97 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 0.0928 acres and subject to restrictions, reservations, rights of way and easements of record.




LEGAL DESCRIPTION - UTILITY EASEMENT #2 - (affects Parcel D)

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 - (affects Parcels A and B)

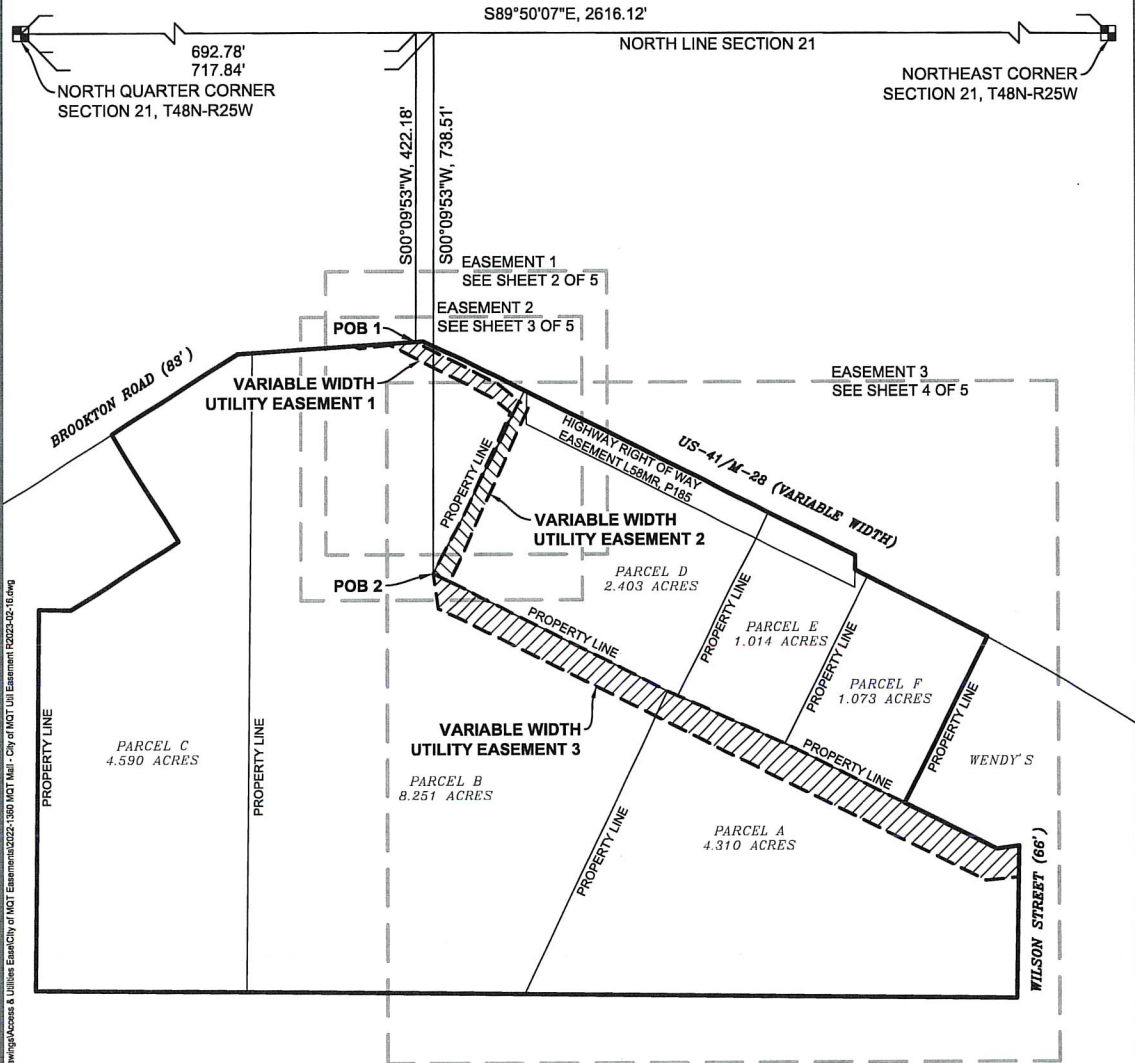
A variable width utility easement across part of Parcels A and B, being part of the North Half (N 1/2) of the Northeast Quarter (NE 1/4), Section 21, T48N-R25W, City of Marquette, Marquette County, Michigan described as:
Commencing at the North Quarter corner of Section 21; thence S89°50'07"E, 717.84 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.

P:\2022\2022-1360 Dagenais - MGT ALTA Survey\Drawings\Access & Utilities\BlankCity of MGT Easement\2022-1360 MGT Mail - City of MGT Util Easement R2023-02-16.dwg

 NORTH		TRIMEDIA ENVIRONMENTAL AND ENGINEERING, LLC	
		BY: <u>Stacey J. Bluse</u> Stacey J. Bluse, P.S. No. 4001050429	
		DATE: <u>02/16/2023</u>	
 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	
ENCROACHMENTS: NONE			
SCALE: NA	CLIENT: DAGENAIS ENTERPRISES		
APPROVED BY: SDK	JOB NO.: 2022-1360		
DRAWN BY: SJB	DATE: 02/16/2023	SHEET 5 OF 5	

EASEMENT EXHIBIT B

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:\022-2022-1360 Dagenais - MGT ALTA Survey\Drawings\Access & Utility Easement\0222-1360 MGT Mail - City of MGT - Util Easement 12023-02-16.dwg



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

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

SCALE: 1"= 200'	CLIENT:DAGENAIS ENTERPRISES
APPROVED BY: SDK	JOB NO.: 2022-1360
DRAWN BY: SJB	DATE: 02/16/2023



TRIMEDIA ENVIRONMENTAL AND ENGINEERING, LLC
BY: *Stacey J. Bluse*
Stacey J. Bluse, P.S. No. 4001050429
DATE: 02/16/2023

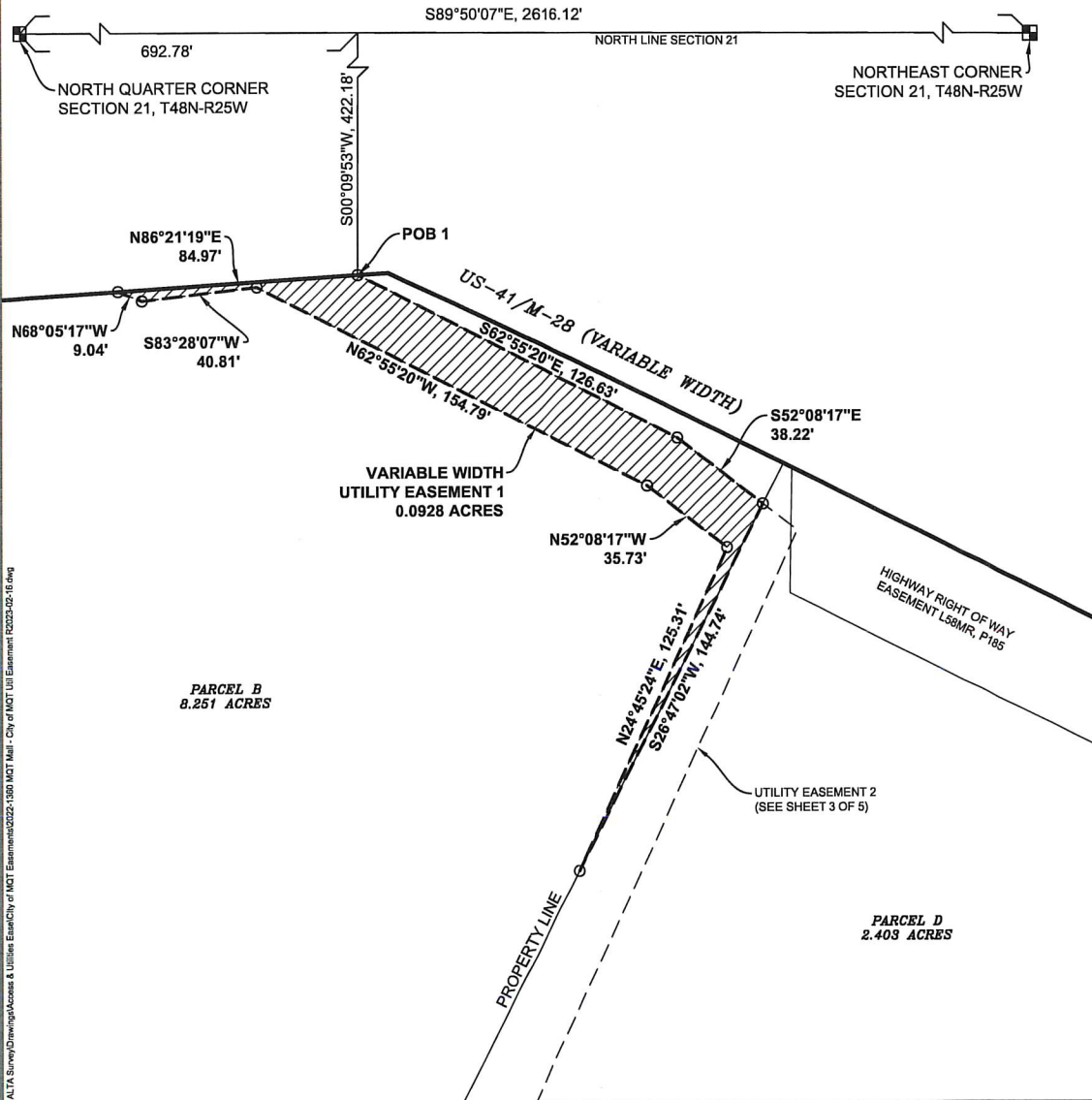
BEARING BASIS:
NAD 83 (2011)
MICHIGAN STATE
PLANE NORTH (2111)
SEC. TWP. RANGE
21 48N 25W
MUNICIPALITY:
CITY OF
MARQUETTE

ENCROACHMENTS:
NONE
SHEET 1 OF 5



EASEMENT EXHIBIT B

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:\00220225-1360 Dagenais - MGT ALTA Survey\Drawings\Access & Utilities\Easement\2022-1360 MGT Mail - City of MGT Util Easement 12023-05-16.dwg



TRIMEDIA ENVIRONMENTAL AND ENGINEERING, LLC

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

DATE: 02/16/2023



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

ENCROACHMENTS:
NONE

SHEET 2 OF 5

SCALE: 1"= 50'

APPROVED BY: SDK

DRAWN BY: SJB

CLIENT: DAGENAIS ENTERPRISES

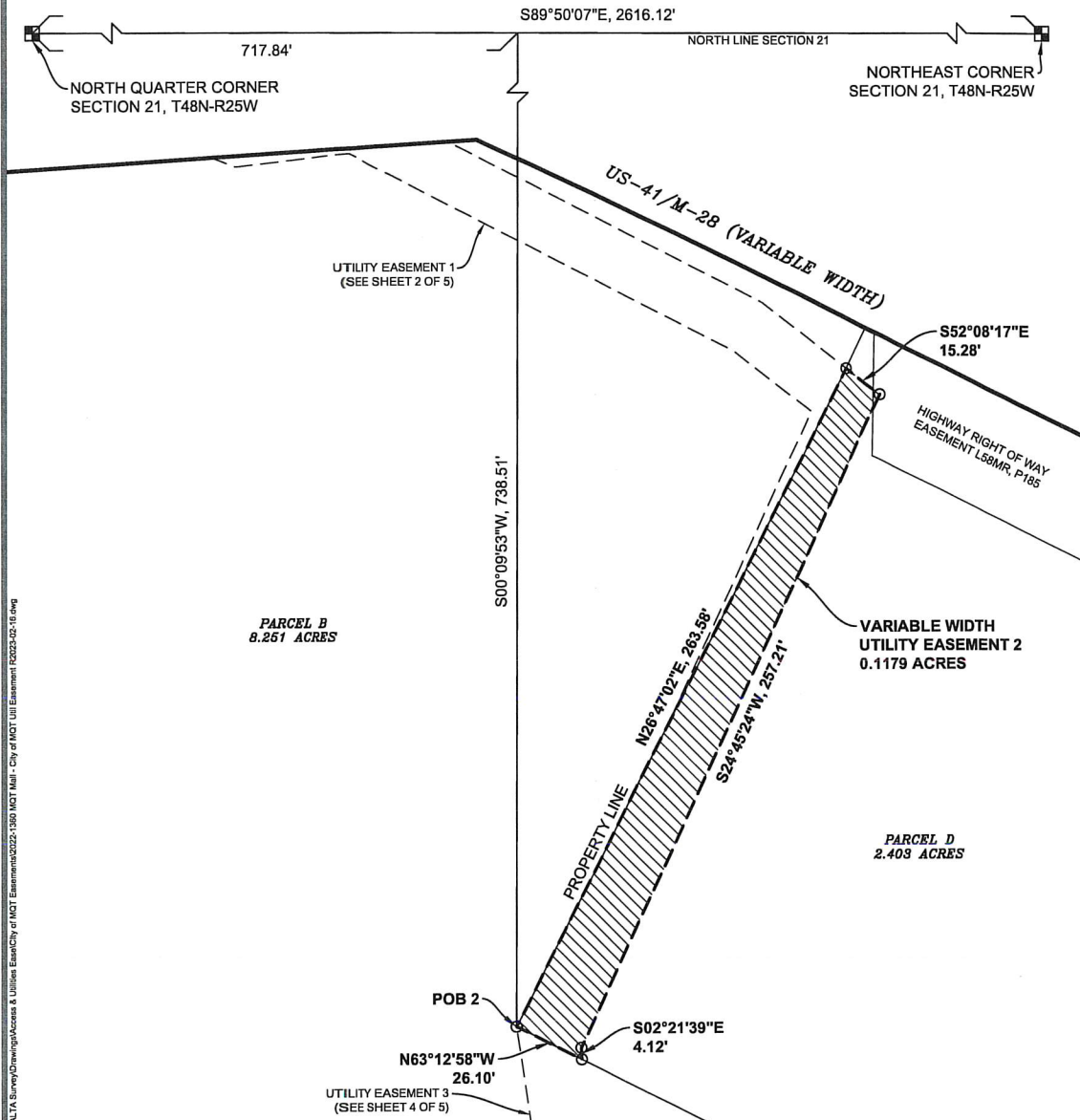
JOB NO.: 2022-1360

DATE: 02/16/2023



EASEMENT EXHIBIT B

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\2022-1360 MDT Mill - City of MDT Util Easement 10203-02-10.dwg



NORTH

TRIMEDIA ENVIRONMENTAL AND ENGINEERING, LLC

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

DATE: 02/16/2023



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

ENCROACHMENTS:
NONE

SHEET 3 OF 5



SCALE: 1"= 50'

APPROVED BY: SDK

DRAWN BY: SJB

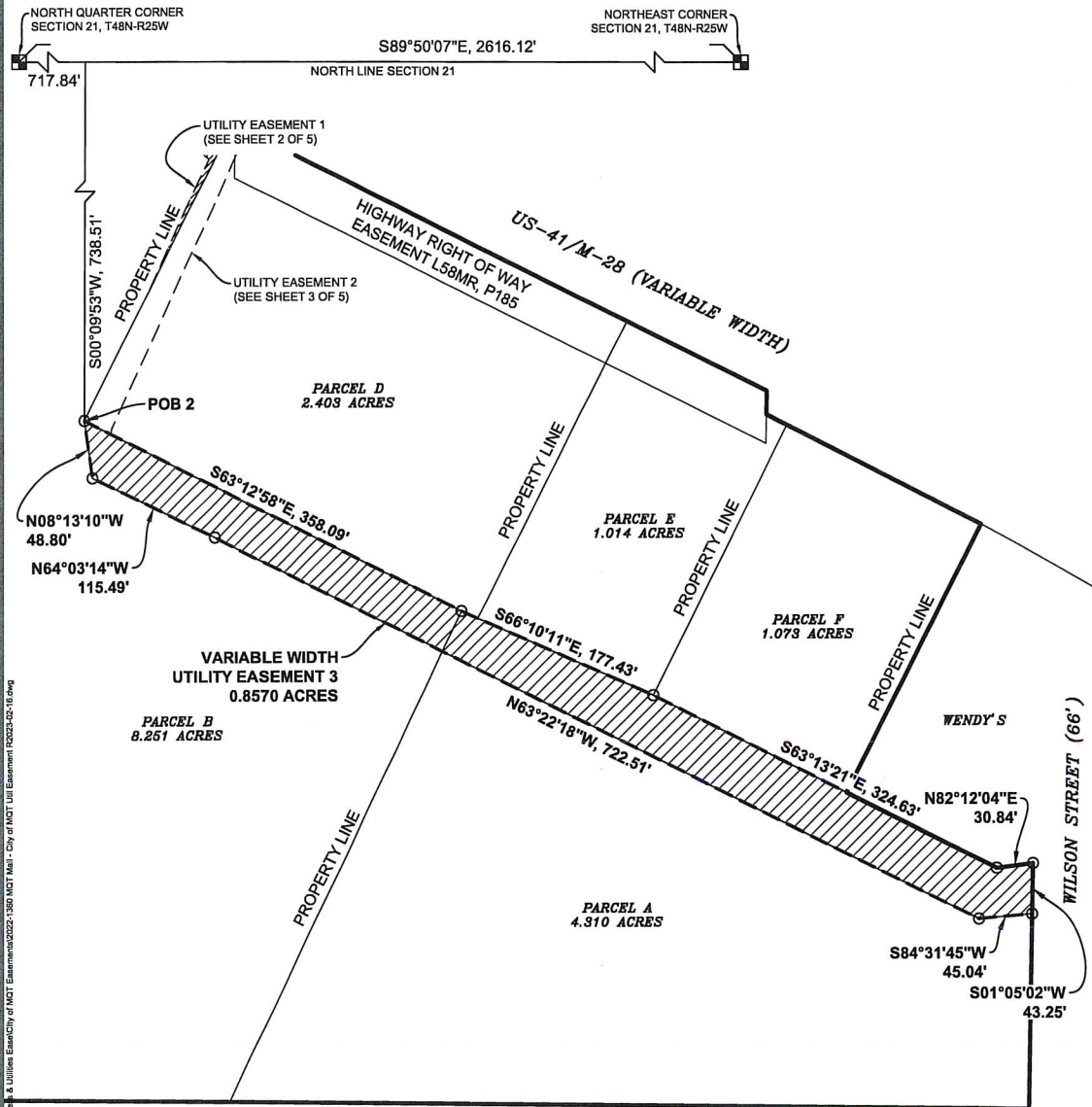
CLIENT: DAGENAIS ENTERPRISES

JOB NO.: 2022-1360

DATE: 02/16/2023

EASEMENT EXHIBIT B

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1/4, SECTION 21, T48N-R25W, CITY OF MARQUETTE,
MARQUETTE COUNTY, MICHIGAN



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<p>TRIMEDIA ENVIRONMENTAL & ENGINEERING</p> <p>830 WEST WASHINGTON STREET MARQUETTE, MICHIGAN 49855 (906)228-5125</p> <p>ESCANABA, MICHIGAN PHOENIX, ARIZONA MARSHALL, MICHIGAN SUPERIOR, WISCONSIN</p>		<p>NORTH</p>	TRIMEDIA ENVIRONMENTAL AND ENGINEERING, LLC BY: <u>Stacey J. Bluse</u> Stacey J. Bluse, P.S. No. 4001050429 DATE: 02/16/2023	
			BEARING BASIS: NAD 83 (2011) MICHIGAN STATE PLANE NORTH (2111) SEC. TWP. RANGE 21 48N 25W MUNICIPALITY: CITY OF MARQUETTE ENCROACHMENTS: NONE SHEET 4 OF 5	
SCALE: 1"= 120' APPROVED BY: SDK DRAWN BY: SJB		CLIENT: DAGENAIS ENTERPRISES JOB NO.: 2022-1360 DATE: 02/16/2023		

