

Operating and Maintenance Agreement between The City of Marquette and the Downtown Development Authority for the Downtown Development Authority District

This agreement, made as of the 2nd day of Oct 2023, by and between the City of Marquette (the City), and the Downtown Development Authority (DDA).

WHEREAS, the City of Marquette has an interest in supporting and promoting the enhancement and viability of the Downtown District; and,

WHEREAS, the DDA by legislation (Act 197, Public Acts of Michigan of 1975 and ratified by Marquette City Ordinance Number 298, 1976), is charged with the responsibility for both economic development and the correction and prevention of deterioration in the Downtown District; and,

WHEREAS, cultivating a positive image and impression of downtown is fundamental to the continued health and vitality of the Downtown District; and as part of that process the DDA has an interest in providing the optimum use of parking facilities within the Downtown District while providing a safe, secure and aesthetically pleasing downtown.

NOW, THEREFORE, in consideration of the mutual obligations herein stated it is mutually agreed by and between both parties as follows:

Article I - Operating Policies

Section 1.1 Property Defined

The DDA District in this agreement will be considered to be that as defined by the City of Marquette establishing and designating the boundaries of the Downtown District.

DDA District property includes sidewalks, pedestrian linkages, Marquette Commons and parking facilities.

Parking facilities are specified in Exhibit A and B of this agreement and shall include the Bluff Street Parking Structure; the structure, attached elevator and stair towers, pedestrian ways and the adjacent alleys should be considered as one; the Pier Lot and Baraga Street extension parking lot and access road; and any other future lots to be agreed upon mutually by both parties.

Section 1.2 Accounting Services

The DDA will provide all administrative functions to collect rents for the parking lots and metered street parking as defined in Section 1.1. All fiscal, accounting and reporting procedures shall be in compliance with Generally Accepted Accounting Principles and as required by the City of Marquette and the State of Michigan. The DDA will include actual revenue generated by parking operations as a component of the annual report submitted to the City Commission. All revenues obtained through parking rentals shall be applied toward operations, maintenance and replacement expenses and for no other purpose.

Section 1.3 Budget

The DDA shall prepare an annual budget for the operation and maintenance of all parking lots, and other areas of the district as defined in this agreement. The budget will be submitted to the City Commission for approval prior to the beginning of each fiscal year.

Section 1.4 Parking Space Rental

The DDA will be the point of public contact for space rental and collection of fees and will advertise the availability of spaces in all parking facilities.

Section 1.5 Enforcement

The DDA shall determine the parking regulation, rental rates and number of parking spaces. The DDA shall submit regulations to the City for proper action to allow enforcement. The City will enforce parking regulations, and the City will retain such fines as generated.

Article II - Term of the Agreement

Section 2.1 Terms

This agreement shall be in effect on the date first mentioned herein and shall remain in effect through Sept. 30, 2028.

Section 2.2 Option to Renew

The City does hereby grant to the DDA the right and the option to renew this agreement, contingent upon acceptance by the DDA and the City Commission, and subject to the following terms and conditions:

- A) That this agreement is in force and effect, and has not been cancelled or terminated;

- B) That an annual performance evaluation will be made by the City Manager or designee to ensure that no default in the performance of any terms, covenants, and conditions herein contained exists on the DDA's part at the time of renewal;
- C) That written notice of the DDA's desire to exercise the option to renew this agreement be given in writing to the City Manager not later than sixty (60) days prior to the expiration of the term of this agreement;
- D) That the renewal agreement shall supersede in all respects this agreement. The terms of the renewal agreement, which may differ from the terms of this agreement, are subject to negotiation between the parties and approval by the City Commission and the DDA Board.

Section 2.3 Consideration

In consideration, the DDA will retain the following revenues for the period Oct. 1, 2023 - September 30, 2028:

- 100% of all parking meter revenues.
- 100% of all parking space rentals.

Article III - Operation of the Parking Facilities

Section 3.1 Parking Management

The DDA agrees to manage and operate the parking facilities in a professional and businesslike manner, and on a non-discriminatory basis consistent with the provisions of this agreement.

The DDA will assume operational management for parking facilities within the Downtown District to include administration, establishment of parking rates, number of spaces and other such functions necessary to effectively manage the parking system within the district; however, this shall not include any already-existing agreements to which the City is party.

The DDA shall submit suggested changes to regulations, rates and rules to the City Manager for approval to allow for proper enforcement.

Article IV - Maintenance and Repair

Section 4.1 Infrastructure Maintenance

It is understood that over time appurtenances of the right-of-way including pavement, curbing, sidewalks and utilities will deteriorate and need to be replaced. All such reconstruction projects shall be part of a Capital

Improvement Plan (CIP) for the DDA district. The DDA shall submit their six-year CIP to the City for incorporation into the City's CIP. The DDA and City shall have input for this planning process per the City Capital Improvement Plan Policy. The City and/or DDA may engage with the public and outside consultants for the planning and conceptual design of said projects. All design of said projects shall be completed by the City Engineering Department unless special circumstances such as availability or specialized design dictate otherwise. Said designs shall not be altered without the written consent of the City Engineer or his/her designee. All projects are subject to the City planning and bidding process which will be carried out by the City Engineering Department. Additionally, the following terms shall apply to all right-of-way reconstruction projects:

- a. The City Arborist shall advance a street tree plan based upon adopted planning documents and urban forestry principles that will be adhered to.
- b. The cost of the Engineering Design shall be paid by the City unless design dictates otherwise.
- c. The cost of constructing the projects shall be divided into standard street reconstruction work and enhancement work. Standard items shall include but are not limited to sidewalk, curbing, and pavement. Enhancement items shall include but are not limited to trees and tree grates, fountains, litter barrels, benches, bike racks and stamped or colored concrete. In cases where a standard item is being enhanced the City shall pay the cost of the standard item and the DDA shall pay the difference for the enhancement. The cost of design shall be paid by the City unless design and construction dictate otherwise.
- d. Exceptions:
 - i. All water, storm water and sanitary sewer design and construction will be the responsibility of the City.
 - ii. All regulatory and warning traffic signing will be the responsibility of the City. Informational signing will be placed by the City and paid for by the party requesting the signage.
 - iii. All off-street and on-street traffic markings for parking shall be the financial responsibility of the DDA. The markings may be placed by the Public Works Department or contracted out.

Section 4.2 Parking Facilities Maintenance

The DDA assumes the full and sole responsibility for the condition, repair, maintenance and operation of all facilities pursuant to this agreement including all fixtures, and all electrical, mechanical, drainage, landscaping and pavement and other systems. The DDA will be responsible for services which

include, but may not be limited to, snow plowing, ice control, snow removal, sweeping, debris removal, signage, pavement markings and pavement maintenance. The DDA will assume the responsibility of parking lot resurfacing or reconstruction for all lots and ramps owned by the City and managed by the DDA.

The DDA shall be responsible for the operation and maintenance of all parking meters and associated infrastructure.

Section 4.3 Sidewalks and Pedestrian Linkages

The DDA will provide maintenance functions for all sidewalks and pedestrian linkages within the defined boundaries of the DDA District, as not otherwise provided for by written agreement. Specific services will include all snow removal, sweeping and debris collection/removal, except as outlined in Section 4.7.

Section 4.4 Repairs and Replacements

Upon receipt of notice from the City that it reasonably deems repairs or replacements to the parking facilities necessary to fulfill the obligations of the DDA under this agreement, and specifying in detail the kind of, extent of and timing of such repairs or delays, the DDA shall cause the same to be accomplished.

Section 4.5 Alterations

The DDA shall have the right to make non-structural additions, modifications, deletions and improvements to the parking facilities. The cost of such alterations shall be paid by the DDA. The DDA shall not make any structural alterations, modifications or additions to the Parking Structure without prior consent of the City.

Section 4.6 Equipment Maintenance and Cost of Fuel

The City may provide maintenance services to DDA equipment and shall bill the DDA for the actual costs thereof. The City may provide fuel to the DDA and shall bill the DDA for the actual cost thereof plus operation, maintenance and replacement surcharge as defined in separate fuel agreement.

Section 4.7 Snow Plowing and Snow Hauling of Streets and Parking Lots/Ramps

The City will provide snow plowing of all City streets. The DDA or its contractor will provide all snow plowing of all parking lots owned by the City or the DDA. The City will provide reasonable snow hauling from public streets and sidewalks within the district at dates to be determined by the Director of Public Works and the DDA Executive Director.

Section 4.8 Green Spaces

The DDA will provide maintenance, mowing, trimming, planting and care of all green spaces, shrubs and irrigation systems within the district, as not otherwise provided for by written agreement.

Section 4.9 Signage

The City will provide sign and sign post installation, repair, replacement and removal in the district, in accordance with City of Marquette and MUTCD specifications for traffic & parking, whether regulatory, directional or informational. The DDA will be charged actual costs for those services. The DDA may perform its own maintenance to informational signing located outside of the right-of-way. The DDA shall be responsible for all installation, repair, replacement and removal of parking meters. The DDA will provide the installation and removal of holiday decorations and banners for community events.

Article V - General

Section 5.1 Insurance

The DDA has insurance coverage through the Michigan Municipal League Liability & Property Pool (Contract No. MML166320100) in coverage and amounts acceptable to the City, which the DDA shall maintain in force and effect throughout the term of this agreement.

Section 5.2 Compliance with Laws

The DDA shall promptly comply with all laws, ordinances, orders, rules, regulations and requirements of all federal, state and local governmental authorities, boards, and commissions and departments thereof, which are applicable to the maintenance, operation, use and occupancy of the parking facilities.

Section 5.3 Assignment and Subletting

This agreement shall not be assigned, nor any sublease entered into by the DDA, without the prior written consent of the City, which may be refused at any time, for any reason.

Section 5.4 Payment

The DDA Executive Director and the City's Director of Public Works may work cooperatively to determine the terms and reimbursement for services not included in this agreement. This may include, but is not limited to, snow hauling, snow plowing of sidewalks/lots/ramps, and other maintenance items. Payment may include actual costs and/or in-kind services, as agreed by both parties.

All services rendered by either party shall be invoiced on a monthly basis with payment in full being due no later than 45 days of the date of invoice.

Section 5.5 Termination

In the event either party is in material default of this agreement, and said default continues without being cured by the defaulting party for a period of 10 days after receiving written notice of the default, the non-defaulting party may terminate this agreement effective upon providing written notice of termination. In the event of termination of this agreement by default or expiration of the term, the DDA shall turn over to the City all books and records, or funds, if applicable, which it holds under this agreement and the City shall be responsible only for paying a prorated portion of the fees owed, if any, only for the services actually performed. Nothing in this agreement shall prohibit or restrict the City from exercising all lawful rights, such as the right to immediate and complete possession and control of the district at any time.

Section 5.6 Execution

The parties hereto have caused this agreement to be executed by their duly authorized representatives.

IN WITNESS WHEREOF, the parties have executed this document on the date set forth above.

CITY OF MARQUETTE

By: Cody O. Mayer 9/29/23
Cody O. Mayer, Mayor Date

By: Kyle Whitney 10/2/23
Kyle Whitney, Clerk Date

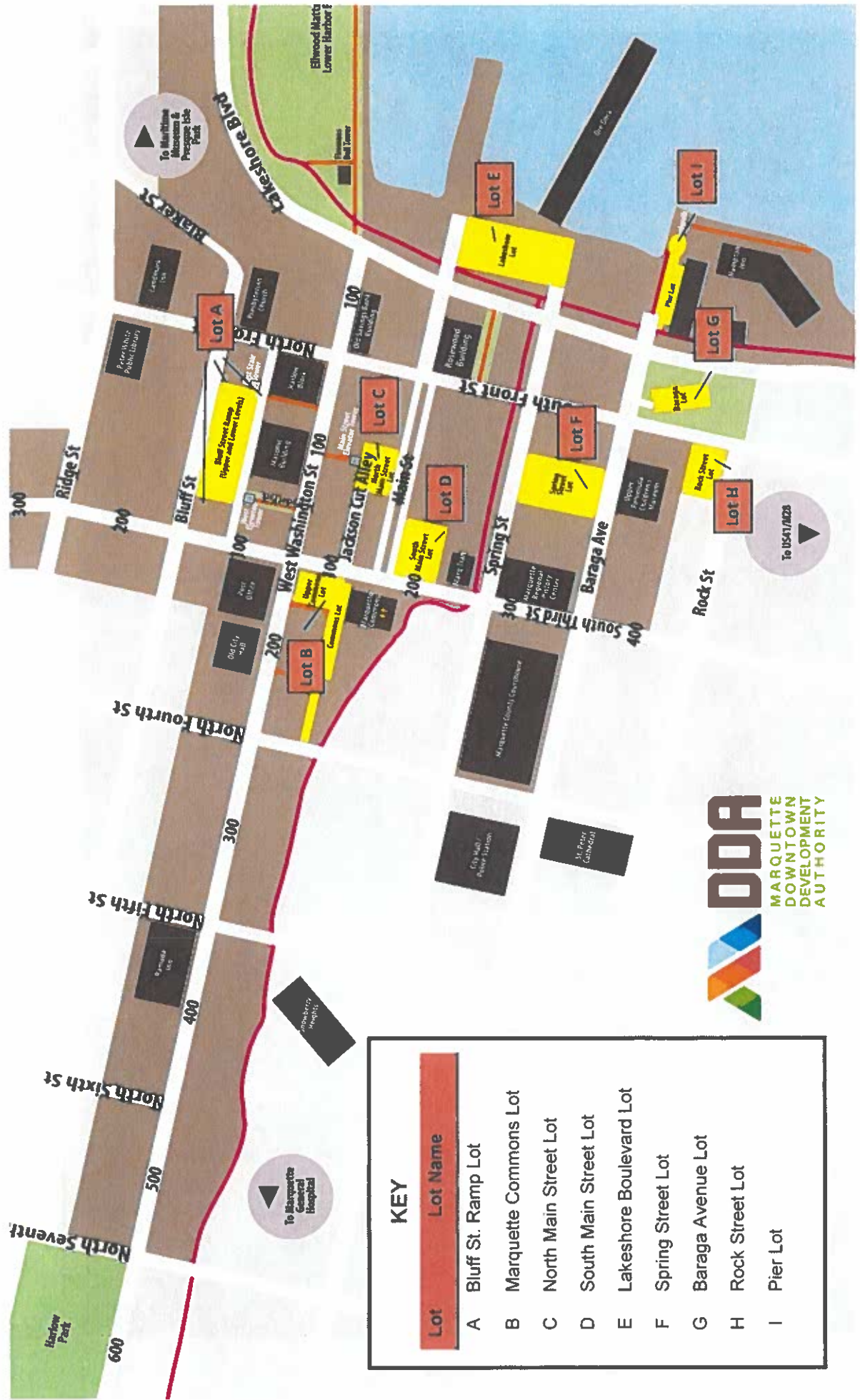
**DOWNTOWN DEVELOPMENT AUTHORITY
OF THE CITY OF MARQUETTE**

By: Nichole Durley-Rust 9/14/2023
Nichole Durley-Rust, Chair Date

By: Tara Laase-McKinney 9/14/2023
Tara Laase-McKinney, Executive Director

Date

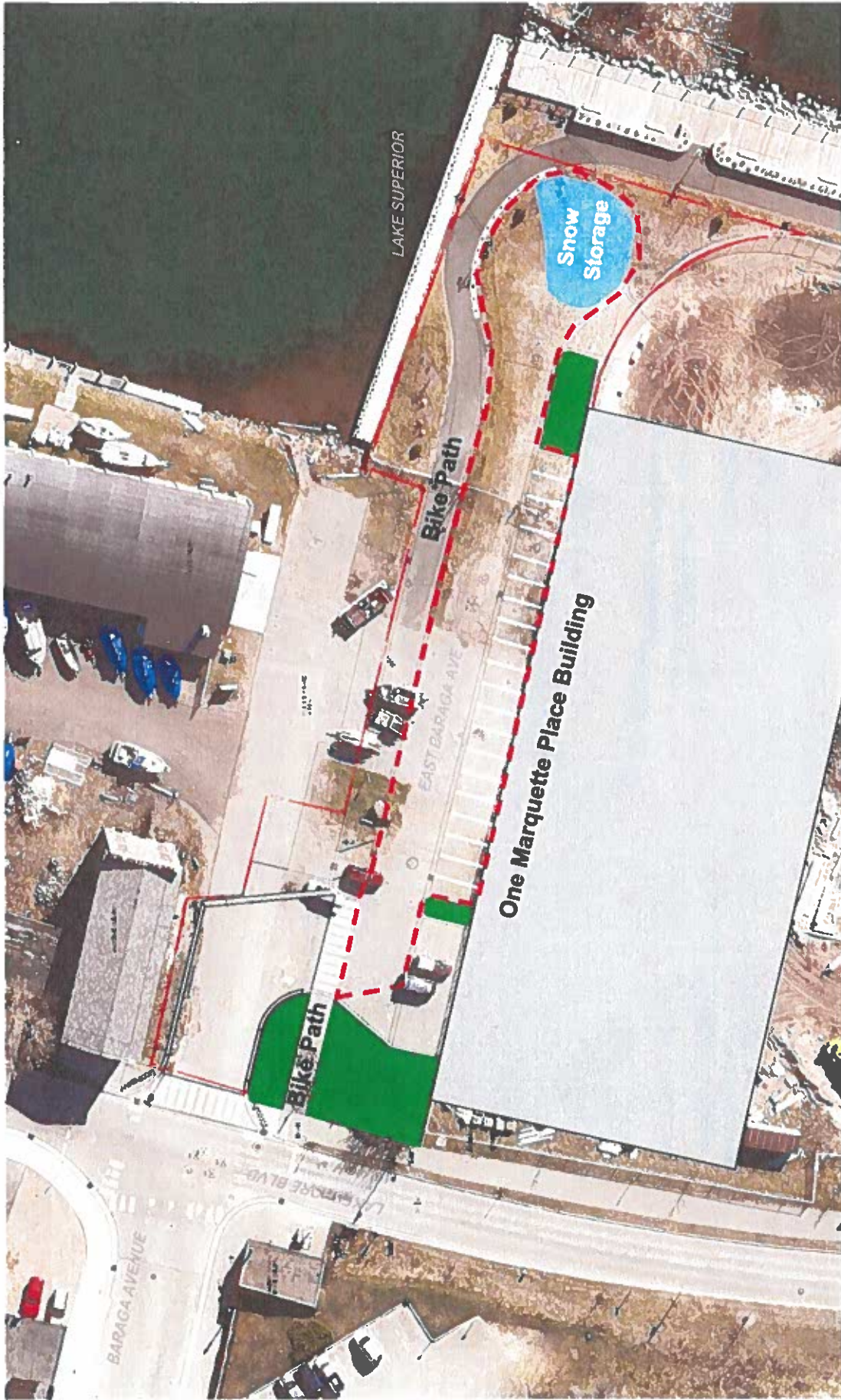
Exhibit A DDA Parking facilities



Lot	Lot Name
A	Bluff St. Ramp Lot
B	Marquette Commons Lot
C	North Main Street Lot
D	South Main Street Lot
E	Lakeshore Boulevard Lot
F	Spring Street Lot
G	Baraga Avenue Lot
H	Rock Street Lot
I	Pier Lot



Exhibit B



KEY

- Area to be cleared by snow removal contractor
- Green Green space
- Blue Snow Storage area