CITY OF BURTON

BURTON CITY COUNCIL MEETING

FEBRUARY 6, 2023

MINUTES

Council Chambers | **Regular Meeting** | **7:00 PM**

4303 S. CENTER ROAD
BURTON, MI 48519

This meeting was opened by President Steven Heffner at 7:00 PM.

A. INVOCATION LED BY: VICE PRESIDENT, TOM MARTINBIANCO

B. THE PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA IS LED BY: VICE PRESIDENT, TOM MARTINBIANCO

C. ROLL CALL

Attendee Name	Title	Status	Arrived
Tom Martinbianco	Vice President	Present	
Steven Heffner	President	Present	
Vaughn Smith	Councilman	Present	
Gregory Fenner	Councilman	Present	
Christina Conley	Councilwoman	Present	
Greg Hull	Councilman	Present	
Christina Hickson	Councilwoman	Present	

D. APPROVAL OF AGENDA

1. Motion Approve the Agenda with the Addition of Item #10 Approve and authorize the Professional Service Agreement to Provide Consulting Services Between the City of Burton and Retail Strategies upon Approval of the City Attorney.

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Vaughn Smith, Councilman
SECONDER:	Tom Martinbianco, Vice President
AYES:	Martinbianco, Heffner, Smith, Fenner, Conley, Hull, Hickson

E. STAFF PRESENT

Duane Haskins, Mayor
Racheal Boggs, City Clerk
Charles Abbey, DPW Director/HR
Brian Ross, Police Chief
Kirk Wilkinson, Fire Chief

F. APPROVAL OF MINUTES

1. City Council - Retail Committee - Jan 19, 2023 6:00 PM

RESULT:	**ACCEPTED [UNANIMOUS]**
MOVER:	Christina Hickson, Councilwoman
SECONDER:	Tom Martinbianco, Vice President
AYES:	Martinbianco, Heffner, Smith, Fenner, Conley, Hull, Hickson

2. City Council - Regular Meeting - Jan 19, 2023 7:00 PM

RESULT:	**ACCEPTED [UNANIMOUS]**
MOVER:	Christina Hickson, Councilwoman
SECONDER:	Tom Martinbianco, Vice President
AYES:	Martinbianco, Heffner, Smith, Fenner, Conley, Hull, Hickson

G. ADMINISTRATIVE REPORTS

Mayor Haskins gave a report on the following:

- The new Peak system for minutes and agendas is up and running. For previous meetings done with IQM2, there is a hyperlink on the website. The link was not working at first, but it is fixed now. You can go to the Clerk's Office on the website and hover over meetings, minutes & agendas to access it.
- We had some complaints about the fire on Audrey Street. The owner of the property is having a dispute with the insurance company. The insurance company did issue us a $13,000.00 retainer, so if the rehab does not move forward, we have the money to cover it.
- Atherton and Bentley Schools were approved for a 3-year grant for a liaison officer. It is a 50/50 match. The Bentley Superintendent did approach us about covering the cost of two months of the officers wages while school is shut down. We are looking into it.

Mr. Heffner stated he received phone call and asked for more information about a fire that station#3 couldn't respond to and station#2 went out and was stopped by a train.

Chief Wilkinson stated we are short man power at every station during the day shift. If one station gets a call for a fire, I automatically request the other station to be sent. Station#2 responded in an excellent time and did not get stopped by the train. Because of the area, I also requested Genesee and Davison Township to respond and they did. We had adequate coverage, response time was excellent, and the fire was contained to a small area of the house.

Mr. Heffner stated he would like to rename the Retail Committee to the Economic Development Committee.

H. COMMITTEE REPORTS

Mr. Smith asked the Attorney to review the Retail Strategies Contract.

Attorney Doyle stated it is mostly a boiler plate contact. I made notes that I shared with Mr. Smith and I spoke with the Attorney for Retail Strategies to clarify some issues. They sent me a new draft of the agreement that addressed a few of my concerns but not all of them. The city needs to be aware that they cannot guarantee anything. They cannot guarantee a certain business or a certain number of businesses will come to the city. They can only guarantee that they will recruit businesses for the targeted zones, contact a minimum of 30 retailers, restaurants, brokers or developers. My concerns were that we had access to the

research and research product. This company does all of that through Base Camp where they upload the information including research, analysis, and reports. We will have access to this until the contract is terminated. They recommended, and I agree that only two people, the mayor and a council member should have access to this information. This was changed in the contract on page 2, section 4B. There was nothing in the contract about liability, so that was changed in paragraph 9I. The use of the city name and logo was changed in the contract. There were no other concerns. I would recommend approval with these changes.

Mr. Heffner stated he believes access to Base Camp should only be shared with the mayor and the Committee Chair.

Mr. Fenner recommends letting the City Attorney finalize the contract before we vote on it. We don't need to rush it. Let's table this for 2 weeks and let the Attorney do her job first.

Discussion continued regarding the Retail Strategies Agreement.

Mr. Martinbianco stated there is a fire siren at the corner of Atherton and Belsay and I thought it was slated to be at Bristol and Belsay. What is the reason for that change?

Chief Wilkinson stated there is already one at Bristol and Belsay.

I. AUDIENCE PARTICIPATION

None.

J. COUNCIL DISCUSSION

Mr. Martinbianco stated we are coming up on budget year and it is my understanding that we will be searching for a new Controller. Can you explain that situation and how we will be addressing it?

Mayor Haskins stated that's about all I have on it. We are actively looking for a Controller.

Mr. Abbey stated we were given a two week notice and we are advertising the position. We have been in touch with Plante Moran for a back up plan. The departmental meetings begin next week.

K. COUNCIL ACTION

1. Approve and authorize the payment of Attorney Billing (Doyle) 1/11/23 to 1/31/23 in the amount of $6,201.00.

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Christina Conley, Councilwoman
SECONDER:	Christina Hickson, Councilwoman
AYES:	Martinbianco, Heffner, Smith, Fenner, Conley, Hull, Hickson

2. Approve and authorize the Mayor's appointment of Gregory Purzycki-Sova, G3358 S. Saginaw St., Burton, MI 48529 to the Downtown Development Authority, with a term ending December 2027.

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Gregory Fenner, Councilman
SECONDER:	Christina Hickson, Councilwoman
AYES:	Martinbianco, Heffner, Smith, Fenner, Conley, Hull, Hickson

3. Approve and authorize the re-appointment of Stephen M. Welch, 5272 White Pines, Grand Blanc, MI 48439 to City of Burton Zoning Board of Appeals, term serving February 2023 through February 2026.

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Greg Hull, Councilman
SECONDER:	Christina Hickson, Councilwoman
AYES:	Martinbianco, Heffner, Smith, Fenner, Conley, Hull, Hickson

4. Approve and authorize the re-appointment of Michaeline Ward-Terry, 2313 Pear Tree Dr., Burton, MI 48519 to the City of Burton Zoning Board of Appeals for term serving February 2023 through February 2026.

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Christina Conley, Councilwoman
SECONDER:	Vaughn Smith, Councilman
AYES:	Martinbianco, Heffner, Smith, Fenner, Conley, Hull, Hickson

5. Approve and authorize the increase of Masud Labor Law Group's hourly rate to $250.00 per hour effective March 1, 2023.

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Christina Conley, Councilwoman
SECONDER:	Vaughn Smith, Councilman
AYES:	Martinbianco, Heffner, Smith, Fenner, Conley, Hull, Hickson

6. Approve and authorize the Amy Street Capital Projects Shortfall Elimination Plan.

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Tom Martinbianco, Vice President
SECONDER:	Christina Conley, Councilwoman
AYES:	Martinbianco, Heffner, Smith, Fenner, Conley, Hull, Hickson

7. Approve and authorize the Mayor and City Clerk to execute a Contract with the Michigan Department of Transportation for hot mix asphalt cold mill and resurfacing Bristol Road from Fenton Road to Saginaw Street and including joint and crack repairs, storm sewer, concrete curb and gutter, sidewalk and ramps signing and pavement markings; and all together with necessary related work in the City of Burton, Genesee County (DPW project No. 21-002-P), MDOT Control Section STU 25000, Job number 207654CON, MDOT Contract Number 22-5595 at an estimated total cost of $1,660,805, of which the City of Burton's final cost will be approximately $335,361. and to authorize Amber Abbey, Street Administrator / Deputy DPW Director to digitally sign said contract on behalf of the City of Burton.

   Mr. Heffner asked if we will be closing a street or putting in a curb like we did on Columbine.

   Mr. Abbey said no.

   Mr. Fenner asked if the sidewalks run the entire length.

   Mr. Abbey said no, but it will now. The gaps will all be filled in with this project. We have to use up the portion of our non-motorized Act 51 money.

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Vaughn Smith, Councilman
SECONDER:	Christina Hickson, Councilwoman
AYES:	Martinbianco, Heffner, Smith, Fenner, Conley, Hull, Hickson

8. Approve and Authorize the Mayor and City Clerk to execute a contract with ROWE Professional Services Company, 540 S. Saginaw St. Ste 200 Flint, MI 48502, for Construction Engineering of Bristol Road, Fenton to Saginaw (DPW Project No. 21-002-P), at an estimated cost of $138,400.00, contingent upon approval of the City Attorney.

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Christina Conley, Councilwoman
SECONDER:	Christina Hickson, Councilwoman
AYES:	Martinbianco, Heffner, Smith, Fenner, Conley, Hull, Hickson

9. Approve and Authorize the Mayor and City Clerk to execute a contract with Orchard, Hiltz & McCliment, In. (OHM), 34000 Plymouth Rd. Livonia, MI 48150, for Professional Engineering of Court Street, Genesee to Belsay (DPW Project No.23-05-P), at an estimated cost of $50,420.00, contingent upon approval of the City Attorney.

Mr. Martinbianco stated he doesn't know why they are doing this side of the road and he would rather see them go toward Center Road.

Mr. Abbey said we talked about this at budget time and we will go through it again with this coming budget. We go in with a wish list. We are in a good place because we have matching funds where a lot of communities do not. Because of this, we have been able to get some extra projects done each year, that is why you are seeing multiple roads get done instead of one or two. We don't always pick the projects, they prioritize them using the PASER rating process. They also have to prioritize based on the amount of money they have. There is a lot that goes into the process.

Discussion continued regarding PASER ratings.

Mr. Heffner asked when Court Street between Center and Genesee will be redone. In my opinion, it is the worst road in the city. Can we do to this road what we did to Belsay Road?

Mr. Abbey stated I think it's a couple years out, 2025-2026. Let's talk about this one another day. Court Street by Bentley School is terrible and we spend a lot of maintenance dollars there. I agree they need to be done.

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Greg Hull, Councilman
SECONDER:	Christina Conley, Councilwoman
AYES:	Martinbianco, Heffner, Smith, Fenner, Conley, Hull, Hickson

10. Approve and authorize the Professional Service Agreement to Provide Consulting Services Between the City of Burton and Retail Strategies upon Approval of the City Attorney.

RESULT:	**CARRIED [6 TO 1]**
MOVER:	Tom Martinbianco, Vice President
SECONDER:	Christina Hickson, Councilwoman
AYES:	Martinbianco, Heffner, Smith, Conley, Hull, Hickson
NAYS:	Fenner

Agendas and minutes may be found at www.burtonmi.gov

Mr. Martinbianco wished President Steve Heffner a Happy Birthday.

Meeting was adjourned at 7:43 PM.

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BURTON, MICHIGAN

BURTON CITY COUNCIL MEETING

JANUARY 19, 2023

MINUTES

Council Chambers | **Retail Committee** | **6:00 PM**

4303 S. CENTER ROAD
BURTON, MI 48519

This meeting was opened by Councilman Vaughn Smith at 6:00 PM.

I. CALL TO ORDER

Attendee Name	Title	Status	Arrived
Tom Martinbianco	Vice President	Present	
Steven Heffner	President	Present	
Vaughn Smith	Councilman	Present	
Don Jones	Planning Representative	Present	
Steve Welch	ZBA Representative	Present	

II. PUBLIC PORTION

None.

III. AGENDA ITEMS

1. Committee Organization and Objectives

   Retail Strategies discussed:

- Data & Analytics
- Customized Trade Area (Average Age, Growth Rate, Average Household Income)
- Gap Analysis (Full-Service Restaurants, Clothing, Sporting Goods)
- Peer Analysis (How we measure up to similar communities)
- Real Estate Analysis
- Universal Site Metrics (Signage, Parking, Access, Co-Tenancy, Traffic)
- Inventory
- Our Partnership (Retail Recruitment, Retail Academy)
- Advanced Deliverables (Market Analysis, Retail
- Our Relationships (Local, Commercial, Community, Retailer and Tenant, Property Owners)
- Advance The Team (5:1 Client to staff ratio)
- Conference Representation (To recruit retail to specific sites)

Mr. Martinbianco asked about the physical assets and real estate investments.

Mrs. Stewart stated real estate is one of the biggest parts of the puzzle, so we can customize something for you. We want to do what is right for you. We will help guide the property owners for free with what is best for the community to help get the deal done.

Mr. Martinbianco asked do you put out monthly, quarterly, or semi-annual reports?

Minutes Acceptance: Minutes of Jan 19, 2023 6:00 PM (APPROVAL OF MINUTES)

Mrs. Stewart answered communication is the heart of our partnership. We use the platform Base Camp, so everything is up to date and available. Whether it is something on our end or your end, every conversation, discussion, report, whatever it is, it's always there. It is a partnership, and you dictate to us how you want us to communicate with you. We have one point of contact to have some privacy, so deals don't get broken.

Mr. Welch asked can you tell me how it works in property for sale vs. property for lease?

Mrs. Stewart stated you will have specific retailers across the county and different brands that will want to own their own dirt or want to ground lease. We have to find the right retail mix that fits that specific need, then line up the right developers and the right brokers to get the best deal put in place. The best part of working with retail strategies is we have those connections. We know when the site selection criteria changes and we understand what is going on in the back end.

Discussion about leasing or selling property continued.

Mr. Welch asked about the contract commitment and the payment schedule.

Mrs. Stewart answered we typically ask for a three-year engagement, but you can exit out at any time. We understand different things happen like natural disaster or budgeting or whatever it is. We ask for the three years because it takes three to seven years to get grocery stores, Target, or other big box companies to come to the area once the seed is planted.

Mr. Smith asked about the difference between them and Retail Coach as far as communication is concerned.

Mrs. Stewart stated we have more team members than Retail Coach. We maintain a 5:1 client to staff ratio, so anytime we add a new client to the mix we make sure the team can support you, support the communication, making sure we do everything we said we were going to do. We are here to do what we promised, so any communication or request is there within 48 hours if not sooner.

Mayor Haskins asked what are you going to offer for $150,000 that Retail Coach didn't for $40,000?

Mrs. Stewart answered we have team of 70 people where Retail Coach has about 12. We keep a 5:1 ratio. We know how to handle different situations and we have many connections. Communication is the heart of what we do because at the end of the day, if you aren't getting what you want then you are going to fire us. We aren't here just to take money; we are here to add value and provide cities with what they need. The one thing I can guarantee is within the first ninety days of the partnership a minimum of 30 retailers and restaurants are going to know about Burton and specific sites located in Burton. You will get a report on all the different places we talk to. It won't just be places you already have or McDonald's. They will be on an approved list, so they are a right fit for Burton. We spend a lot of time getting to know who your consumers are and your real estate.

Minutes Acceptance: Minutes of Jan 19, 2023 6:00 PM (APPROVAL OF MINUTES)

Discussion ensued about what a TIFA, Tax Increment Finance Authority is and how it might be beneficial for the city.

Mr. Smith stated that he is aware they sometimes work with retailers in the area already and asked if she could explain more about it.

Mrs. Stewart stated we have another partnership specifically for aiding small businesses. Through our retail partnership, we can identify how money is being lost from the community and how we can change things to help boost revenue, maybe even open a second location. When we come do the real estate analysis, we do catalog the sites even if it isn't made for a national retail company.

Mr. Smith asked if they work with the local Chamber of Commerce.

Mrs. Stewart said we can partner directly with Chambers. The small business support platform has its own theme each quarter and every single theme starts the same way with a free webinar open to every business in Burton. They can listen in on whatever topic it might be. There are deliverables for each business in the training. Four to six businesses are chosen to go through the six-week intense training to get them to rethink their location and different components to help them grow, make more money, and have more time at home with family. Another quarter's theme is holiday shop local tool kit and again four to six businesses will be chosen to have intense training to learn how to really promote their business during the holidays. The third quarter's theme is online channel and how to take their brick and mortar to online social media to advertising everything that is on an online channel. The last quarter is property owner tool kit. Every property owner is invited to attend this webinar and get free resources. Four to six will be chosen to get the intense training. They get to work with us directly on flyers and get to put together a list of prospects to find the right tenant mix. We would have a kickoff conversation with our downtown team, our small business support team, and the chambers. We talk about timelines such as when do you start, which module do you want to do first, and how to communicate with the business owners. We would create flyers and different messages for social media to really get the word out. We have a project manager that reports back who attends and we go from there.

Mr. Hull asked if you do the outreach for the tools and events to the business and if so, what does that entail?

Mrs. Stewart replied for the small business platform it is separate from our retail recruitment platform. We would rely on the Chamber to contact the business to let them know the partnership is in place. When talking about the retail recruitment platform, we will be reaching out to the property owners, brokers, developers, retailers, and tenants to recruit them to Burton.

Meeting was adjourned at 6:57 PM.

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Minutes Acceptance: Minutes of Jan 19, 2023 6:00 PM (APPROVAL OF MINUTES)

CITY OF BURTON

BURTON CITY COUNCIL MEETING

JANUARY 19, 2023

MINUTES

Council Chambers | **Regular Meeting** | **7:00 PM**

4303 S. CENTER ROAD
BURTON, MI 48519

This meeting was opened by President Steven Heffner at 7:00 PM.

A. INVOCATION LED BY: COUNCILWOMAN CHRISTINA HICKSON

B. THE PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA LED BY: COUNCILWOMAN CHRISTINA HICKSON

C. ROLL CALL

Attendee Name	Title	Status	Arrived
Tom Martinbianco	Vice President	Present	
Steven Heffner	President	Present	
Vaughn Smith	Councilman	Present	
Gregory Fenner	Councilman	Present	
Christina Conley	Councilwoman	Present	
Greg Hull	Councilman	Present	
Christina Hickson	Councilwoman	Present	

D. APPROVAL OF AGENDA

1. Motion to Approve the Agenda as Presented.

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Vaughn Smith, Councilman
SECONDER:	Tom Martinbianco, Vice President
AYES:	Martinbianco, Heffner, Smith, Fenner, Conley, Hull, Hickson

E. STAFF PRESENT

Duane Haskins, Mayor
Racheal Boggs, City Clerk
Charles Abbey, DPW Director/HR
Kirk Wilkinson, Fire Chief

F. APPROVAL OF MINUTES

1. City Council - Regular Meeting - Jan 5, 2023 7:00 PM

Minutes Acceptance: Minutes of Jan 19, 2023 7:00 PM (APPROVAL OF MINUTES)

RESULT:	**ACCEPTED [UNANIMOUS]**
MOVER:	Gregory Fenner, Councilman
SECONDER:	Christina Hickson, Councilwoman
AYES:	Martinbianco, Heffner, Smith, Fenner, Conley, Hull, Hickson

G. ADMINISTRATIVE REPORTS

Mayor Haskins asked everyone to keep the Dunnivant family in their thoughts and prayers for the tragic loss of Mallory Dunnivant. He also gave a report on the following:

- I was appointed to the KWA Board unanimously so we will still have representation on the board of the city.
- The IT Director wanted me to mention the switch to the new Peak system that will take place in February. IQM2 is no longer supported, but we will have an archive to be able to access the older meetings, agendas, and minutes. We ask that everyone please be patient as we work through any glitches or problems that may occur with the transition.
- Our fabulous Controller has completed W2's and placed them in your mailboxes.
- As requested by Mr. Martinbianco, the expenditure report and employee salary report have been handed out to the council tonight.
- We would like to welcome back Police Officer, Dalton Christie who has returned to work after being shot over a year ago in the line of duty.

Mr. Abbey stated the city has done a letter of understanding with the union agreeing to let Mr. Christie accrue his six months of vacation days. We did not want him to be penalized because he was injured in the line of duty. Mr. Abbey read the letter into the record and provided each council member with a copy.

Mr. Martinbianco asked if this was authored by Attorney Leadford.

Mr. Abbey said yes.

Mr. Martinbianco asked why the Council President and City Attorney were not provided a copy.

Mr. Abbey stated this happened today. It was talked about at the collective bargaining table but this document was missed.

Mr. Martinbianco stated in the future the Council President and City Attorney should receive this before the administration.

Mr. Abbey stated the City Attorney has never been involved with labor issues. If we are making new rules, we should probably know them.

Mr. Fenner stated they did not mention anything along those lines.

1. January 2023 Investment Report

H. COMMITTEE REPORTS

Minutes Acceptance: Minutes of Jan 19, 2023 7:00 PM (APPROVAL OF MINUTES)

Mr. Smith thanked IT Director, Ryan Bertram for assisting with the Zoom Meeting that took place at 6:00PM tonight with the Retail Committee. The meeting is on IQM2 on our website for the public to view the presentation from Retail Strategies. Mr. Smith asked the council to be prepared to discuss this and provide your feedback during council discussion tonight.

Mr. Fenner stated I attended my first 911 Executive Board Meeting where we elected our officers and discussed the need for 911 operators. They are down 14 people. On any given day, there are only one or two people answering phones. Currently, after a memo of understanding with the union, Supervisors are also answering phone. Anyone interested in applying, please do so at Genesee County 911. The starting pay is competitive starting around $18/hour and going to about $21/hour after the probationary period. There are some criteria such as a background check and typing skills. For the future, I suggested adding this to the skill center like the Firefighter program and it seemed well received.

Mr. Martinbianco asked for more information about the breakdown in the 911 service a week or so ago.

Mr. Fenner stated I believe it was a software malfunction. I don't know if it was a hack, but they seem to have it under control. We are in the process of implementing a new system.

Mr. Martinbianco asked so, they don't think it was sabotage from the existing carrier?

Mr. Fenner stated nothing like that was mentioned, no.

I. AUDIENCE PARTICIPATION

Patrick Dargel of Hughes Street in Burton spoke regarding the MERS payment. He suggests continuing to table this action until the final meeting of the fiscal year. He also spoke on agenda item #4, poverty exemption application.

J. COUNCIL DISCUSSION

Mr. Smith stated he would like input from the council regarding the presentation from Retail Strategies that was presented tonight during the Retail Committee Meeting. We have been trying to find traction on this for a while. It comes down to either having to hire someone in house with a salary, benefits and travel or hiring a company. We tried to hire a company, Retail Coach and it didn't work out. There are not many companies that do this anymore.

Discussion continued regarding Retail Strategies and how other local municipalities handle marketing, potential for future need of an Economic Development Director, sending the proposed contract to the City Attorney, and who to select as the main contact person in the city.

Mr. Smith stated the Mayor should be the main point of contact.

Mr. Martinbianco disagreed.

Mr. Smith asked the Mayor for his feedback.

Mayor Haskins stated just like the last company, they will need information from employees in the Planning and Zoning Department. I don't think there will be a need to bring on a whole new person. We will need to meet with the company to see what they will need. We do have great employees who seem to always come through for us. I am sure we can get it done.

Minutes Acceptance: Minutes of Jan 19, 2023 7:00 PM (APPROVAL OF MINUTES)

Mr. Heffner agrees that our in house staff can handle this until it gets too big that they can't then, you would just come back to the council and say it's time to look at a new position for this.

Mayor Haskins stated Retail Strategies said it could take 18-36 months before we see any kind of results or progress, so it's not like this will happen overnight.

Mr. Abbey stated Retail Strategies will absolutely have to rely on the DPW. They will need to know what infrastructure is at each location, size of waterlines, fire suppression, water pressure, etc. In the past, Amber was the point person because she is the Planning and Zoning Administrator. They call on a regular basis and require a lot on information.

Mr. Smith stated he will send the contract to the Mayor to send to the council and City Attorney.

Mr. Heffner asked if we would like to place this on the next meeting agenda.

Mr. Martinbianco concurred. Council agreed.

Mr. Fenner stated I would like to be cautious about this. If the contract doesn't work, I want to be able to keep the data they collect.

Mayor Haskins stated that might be in the contract. Can we negotiate things to have in the contract? For instance, Retail Coach charged us all their expenses, food, travel, hotel, etc. I would like to ask that question.

Discussion continued about contract details including confidentiality and communication.

Council agreed to place the proposed Retail Strategies contract on the agenda at the Council Meeting on Monday, February 6th pending the City Attorney's approval.

Mr. Martinbianco thanked the Assessor for the time she spent talking with him about inflation and the anticipated 5% increase in taxes due to state law changes. At some point in time, we may have to decrease the tax mills from 4.0 to 3.75. I am offering this as a premature calculation. Please consider it. Thanks to the Mayor for supplying the documents I requested.

Mr. Smith addressed Mr. Dargel's comment. I agree that until we see the money, I think we should not move the $1 million for MERS. I would like to wait until after April 1st.

Mayor Haskins asked if the council would like to take the tabled item off the agenda and bring it back in April.

Mr. Heffner stated we could also bring it off the table and then vote it down. Madam Attorney, is that how we should handle it?

Attorney Doyle stated you don't have to do anything. It has been tabled and it doesn't have to be on the agenda. It is tabled indefinitely until you bring it back up.

K. COUNCIL ACTION

1. Approve and authorize the payment of Attorney Billing (Doyle) 1/3/23 to 1/10/23 in the amount of $4,154.00.

Minutes Acceptance: Minutes of Jan 19, 2023 7:00 PM (APPROVAL OF MINUTES)

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Christina Conley, Councilwoman
SECONDER:	Christina Hickson, Councilwoman
AYES:	Martinbianco, Heffner, Smith, Fenner, Conley, Hull, Hickson

2. Approve and authorize the payment of Attorney Billing (Masud) 12/5/2022 to 12/16/2022 in the amount of $2,448.00.

   Mr. Heffner stated the Mayor sent me a note about Masud.

   Mayor Haskins stated the Masud firm is raising their rate to $250 per hour from $240 effective March 1, 2023.

   Mr. Heffner stated we will need council action to bump that up.

   Mayor Haskins stated I figured it would be on the next agenda.

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Christina Conley, Councilwoman
SECONDER:	Christina Hickson, Councilwoman
AYES:	Martinbianco, Heffner, Smith, Fenner, Conley, Hull, Hickson

3. Approve and authorize the Mayor's appointment of Neil Martz, 5103 E Atherton Rd, Burton, MI., 48519, as an alternate member for the Board of Review. Term to expire January 2026.

   Mr. Matinbianco asked if Mr. Martz is a permanent member of other boards.

   Mr. Abbey stated DDA and Planning.

   Mr. Martinbianco asked if there was a pool of candidates that were not employed by a government agency either past or present. All due respect to his participation and input on the Planning Commission, but have we looked at anyone else?

   Mr. Abbey stated we have three members on the board. This is an alternate position to accommodate both the day and night time hours required and in case of vacations in the winter time.

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Gregory Fenner, Councilman
SECONDER:	Christina Conley, Councilwoman
AYES:	Martinbianco, Heffner, Smith, Fenner, Conley, Hull, Hickson

4. Approve and authorize the Poverty Exemption application and guidelines for use by property owners and the City of Burton Board of Review for consideration of exemption of ad valorem property taxes for tax year 2023 pursuant to MCL 211.7u.

Minutes Acceptance: Minutes of Jan 19, 2023 7:00 PM (APPROVAL OF MINUTES)

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Tom Martinbianco, Vice President
SECONDER:	Christina Hickson, Councilwoman
AYES:	Martinbianco, Heffner, Smith, Fenner, Conley, Hull, Hickson

5. Approve and authorize the acceptance of the 2022 Demolition low bids and allow the Mayor and Clerk to enter into a contract, contingent upon the submittal and approval of the required bonds and insurance documents, on behalf of the City of Burton with DR AC Enterprise Maintenance & Contracting, 3533 Flushing Rd. Flint MI 48504, for the following property: 2079 Judd R. in the amount of $7,987.00.

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Greg Hull, Councilman
SECONDER:	Tom Martinbianco, Vice President
AYES:	Martinbianco, Heffner, Smith, Fenner, Conley, Hull, Hickson

L. TABLED ITEMS

1. Approve and authorize the City Treasurer to pay MERS a lump sum of $1,000,000 via wire transfer by 12/31/22 to be applied to the unfunded liability of the City of Burton pension plan.

   Mr. Heffner stated this item will not appear on the next agenda.

RESULT:	**FAILED [3 TO 4]**
MOVER:	Tom Martinbianco, Vice President
AYES:	Martinbianco, Conley, Hickson
NAYS:	Heffner, Smith, Fenner, Hull

   Agendas and minutes may be found at www.burtonmi.gov

Meeting was adjourned at 8:14 PM.

Minutes Acceptance: Minutes of Jan 19, 2023 7:00 PM (APPROVAL OF MINUTES)

Approve and authorize the payment of Attorney Billing (Doyle) 1/11/23 to 1/31/23 in the amount of $6,201.00.

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Christina Conley, Councilwoman
SECONDER:	Christina Hickson, Councilwoman
AYES:	Martinbianco, Heffner, Smith, Fenner, Conley, Hull, Hickson

Approve and authorize the Mayor's appointment of Gregory Purzycki-Sova, G3358 S. Saginaw St., Burton, MI 48529 to the Downtown Development Authority, with a term ending December 2027.

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Gregory Fenner, Councilman
SECONDER:	Christina Hickson, Councilwoman
AYES:	Martinbianco, Heffner, Smith, Fenner, Conley, Hull, Hickson

Approve and authorize the re-appointment of Stephen M. Welch, 5272 White Pines, Grand Blanc, MI 48439 to City of Burton Zoning Board of Appeals, term serving February 2023 through February 2026.

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Greg Hull, Councilman
SECONDER:	Christina Hickson, Councilwoman
AYES:	Martinbianco, Heffner, Smith, Fenner, Conley, Hull, Hickson

Approve and authorize the re-appointment of Michaeline Ward-Terry, 2313 Pear Tree Dr., Burton, MI 48519 to the City of Burton Zoning Board of Appeals for term serving February 2023 through February 2026.

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Christina Conley, Councilwoman
SECONDER:	Vaughn Smith, Councilman
AYES:	Martinbianco, Heffner, Smith, Fenner, Conley, Hull, Hickson

Approve and authorize the increase of Masud Labor Law Group's hourly rate to $250.00 per hour effective March 1, 2023.

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Christina Conley, Councilwoman
SECONDER:	Vaughn Smith, Councilman
AYES:	Martinbianco, Heffner, Smith, Fenner, Conley, Hull, Hickson

Approve and authorize the Amy Street Capital Projects Shortfall Elimination Plan.

ATTACHMENTS:

- Amy Street Capital Project Deficit Elimination Plan 6-30-22 (DOCX)

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Tom Martinbianco, Vice President
SECONDER:	Christina Conley, Councilwoman
AYES:	Martinbianco, Heffner, Smith, Fenner, Conley, Hull, Hickson

Attachment: Amy Street Capital Project Deficit Elimination Plan 6-30-22 (5620 : Amy Street Capital Projects Shortfall Elimination Plan)

City of Burton Legislative Body Resolution and Deficit Elimination Plan:

WHEREAS City of Burton's **Amy Street Capital Project Fund** has a $83,272.00 deficit fund balance on June 30, 2022: and

WHEREAS, Act 275 of the Public Acts of 1980 requires that a Deficit Elimination Plan be formulated by the local unit of government and filed with the Michigan Department of Treasury:

NOW THEREFORE, IT IS RESOLVED that the City of Burton's legislative body adopts the following as the **Amy Street Capital Project Fund** Deficit Elimination Plan:

BE IT FURTHER RESOLVED that the City of Burton's Mayor submits the Deficit Elimination Plan to the Michigan Department of Treasury for certification.

Fund 4146 - AMY ST PAVING CAP PROJ 13-008-P				
	2023	2024	2025	2025
Unrestricted Net Position (Deficit) July 1	$ (83,272)	$ (66,472)	$ (49,372)	$ (31,772)
Revenue				
TRANSFER IN FROM FUND 3146 AMY SAD Collections	$ 20,000	$ 20,000	$ 20,000	$ 20,000
Total Revenue	$ 20,000	$ 20,000	$ 20,000	$ 20,000
Expenditures				
INTEREST ON LOAN	$ 3,200	$ 2,900	$ 2,400	$ 2,400
Total Expenditures	$ 3,200	$ 2,900	$ 2,400	$ 2,400
Add Back Depreciation	n/a	n/a	n/a	n/a
Unrestricted Net Position (Deficit) June 30	$ (66,472)	$ (49,372)	$ (31,772)	$ (14,172)

ADD CLERK'S CERTIFICATION

Amy Street Capital Project Fund

Shortfall $83,272

Solution: The City will be collecting assessments from the Amy Street residents over a term of 15 years. The assessment will end in the year 2028. The City found it more cost effective to borrow money from its Sewer Fund than to go out to bond for such a small project. The City had a deficit in this fund for prior years. Until the City finds another funding source, this will continue into the future.

Attachment: Amy Street Capital Project Deficit Elimination Plan 6-30-22 (5620 : Amy Street Capital Projects Shortfall Elimination Plan)

Approve and authorize the Mayor and City Clerk to execute a Contract with the Michigan Department of Transportation for hot mix asphalt cold mill and resurfacing Bristol Road from Fenton Road to Saginaw Street and including joint and crack repairs, storm sewer, concrete curb and gutter, sidewalk and ramps signing and pavement markings; and all together with necessary related work in the City of Burton, Genesee County (DPW project No. 21-002-P), MDOT Control Section STU 25000, Job number 207654CON, MDOT Contract Number 22-5595 at an estimated total cost of $1,660,805, of which the City of Burton's final cost will be approximately $335,361. and to authorize Amber Abbey, Street Administrator / Deputy DPW Director to digitally sign said contract on behalf of the City of Burton.

COMMENTS - Current Meeting:

Mr. Heffner asked if we will be closing a street or putting in a curb like we did on Columbine.

Mr. Abbey said no.

Mr. Fenner asked if the sidewalks run the entire length.

Mr. Abbey said no, but it will now. The gaps will all be filled in with this project. We have to use up the portion of our non-motorized Act 51 money.

ATTACHMENTS:

- REsolutuon to approve MDOT Contract (DOCX)
- 207654_22-5595 MDOT Contract (PDF)

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Vaughn Smith, Councilman
SECONDER:	Christina Hickson, Councilwoman
AYES:	Martinbianco, Heffner, Smith, Fenner, Conley, Hull, Hickson

RESOLUTION 2023-01
CITY OF BURTON
GENESEE COUNTY MICHIGAN

RESOLUTION

RESOLVED, THAT THE CITY COUNCIL OF THE CITY OF BURTON, A MUNICIPAL CORPORATION OF GENESEE COUNTY, DOES HEREBY:

_____ moved and _____ seconded the following:

Approve and authorize the Mayor and City Clerk to execute a Contract with the Michigan Department of Transportation for hot mix asphalt cold mill and resurfacing Bristol Road from Fenton Road to Saginaw Street and including joint and crack repairs, storm sewer, concrete curb and gutter, sidewalk and ramps signing and pavement markings; and all together with necessary related work in the City of Burton, Genesee County (DPW project No. 21-002-P), MDOT Control Section STU 25000, Job number 207654CON, MDOT Contract Number 22-5595 at an estimated total cost of $1,660,805, of which the City of Burton's final cost will be approximately $335,361. and to authorize Amber Abbey, Street Administrator / Deputy DPW Director to digitally sign said contract on behalf of the City of Burton.

CERTIFICATION

I, Racheal Boggs, City Clerk of Burton, do certify that the above Resolution was duly adopted in conformance with Act 267 Public Acts of Michigan, 1976, at a Regular Council Meeting of the City of Burton Council held at Burton City Hall, February 6, 2023 by the following vote:

Ayes:
Nays:
Absent:

THIS RESOLUTION IS DECLARED ADOPTED

Dated: _____

_____
Racheal Boggs, City Clerk

Prepared by:
City of Burton
4303 S. Center Rd. Burton, MI 48519

Attachment: REsolutuon to approve MDOT Contract (5616 : MDOT Contract for Bristol Road Fenton to Saginaw)

STP DA

Control Section	ST 25000
Job Number	207654CON
Project	23A0173
CFDA No.	20.205 (Highway Research Planning & Construction)
Contract No.	22-5595

PART I

THIS CONTRACT, consisting of PART I and PART II (Standard Agreement Provisions), is made by and between the MICHIGAN DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "DEPARTMENT"; and the CITY OF BURTON, a Michigan municipal corporation, hereinafter referred to as the "REQUESTING PARTY"; for the purpose of fixing the rights and obligations of the parties in agreeing to the following improvements, in Burton, Michigan, hereinafter referred to as the "PROJECT" and estimated in detail on EXHIBIT "I", dated January 10, 2023, attached hereto and made a part hereof:

PART A – FEDERAL PARTICIPATION
Hot mix asphalt cold milling and resurfacing along East Bristol Road from Fenton Road to Saginaw Street, including concrete pavement removal and repair, sidewalk, curb and gutter, curb ramps, permanent signing and pavement markings; and all together with necessary related work.

PART B – NO FEDERAL PARTICIPATION
Audio-video survey along the limits as described in PART A; and all together with necessary related work.

WITNESSETH:

WHEREAS, pursuant to Federal law, monies have been provided for the performance of certain improvements on public roads; and

WHEREAS, the reference "FHWA" in PART I and PART II refers to the United States Department of Transportation, Federal Highway Administration; and

WHEREAS, the PROJECT, or portions of the PROJECT, at the request of the REQUESTING PARTY, are being programmed with the FHWA, for implementation with the use of Federal Funds under the following Federal program(s) or funding:

Attachment: 207654_22-5595 MDOT Contract (5616 : MDOT Contract for Bristol Road Fenton to Saginaw)

SURFACE TRANSPORTATION PROGRAM

WHEREAS, the parties hereto have reached an understanding with each other regarding the performance of the PROJECT work and desire to set forth this understanding in the form of a written contract.

NOW, THEREFORE, in consideration of the premises and of the mutual undertakings of the parties and in conformity with applicable law, it is agreed:

1. The parties hereto shall undertake and complete the PROJECT in accordance with the terms of this contract.

Pursuant to Title 2 of the Code of Federal Regulations Part 200, a description of the federal award for the project is shown in detail on EXHIBIT "II", dated January 10, 2023, and made a part of this document.

2. The term "PROJECT COST", as herein used, is hereby defined as the cost of the physical construction necessary for the completion of the PROJECT.

Costs for construction engineering, construction materials testing, and inspection as may be incurred by the DEPARTMENT and the REQUESTING PARTY, including any other costs incurred by the DEPARTMENT as a result of this contract, will be at PROJECT COST. Costs for construction engineering, construction materials testing, and inspection incurred by the REQUESTING PARTY for the PROJECT shall be limited to the lesser of: (1) 100 percent of the actual costs for construction engineering, construction materials testing, and inspection, or (2) 15 percent of the actual contracted physical construction costs.

The costs incurred by the REQUESTING PARTY for preliminary engineering and right-of-way are excluded from the PROJECT COST as defined by this contract.

The Michigan Department of Environment, Great Lakes, and Energy has informed the DEPARTMENT that it adopted new administrative rules (R 325.10101, et. seq.) which prohibit any governmental agency from connecting and/or reconnecting lead and/or galvanized service lines to existing and/or new water main. Questions regarding these administrative rules should be directed to Michigan Department of Environment, Great Lakes, and Energy. The cost associated with replacement of any lead and/or galvanized service lines, including but not limited to contractor claims, will be the sole responsibility of the REQUESTING PARTY.

3. The DEPARTMENT is authorized by the REQUESTING PARTY to administer on behalf of the REQUESTING PARTY all phases of the PROJECT including advertising and awarding the construction contract for the PROJECT or portions of the PROJECT. Such administration shall be in accordance with PART II, Section II of this contract.

Attachment: 207654_22-5595 MDOT Contract (5616 : MDOT Contract for Bristol Road Fenton to Saginaw)

Any items of the PROJECT COST incurred by the DEPARTMENT may be charged to the PROJECT.

4. The REQUESTING PARTY, at PROJECT COST, shall:

A. Appoint a project engineer who shall be in responsible charge of the PROJECT and ensure that the plans and specifications are followed.

B. Perform or cause to be performed the construction engineering, construction materials testing, and inspection services necessary for the completion of the PROJECT.

The REQUESTING PARTY shall submit biweekly pay estimates and construction contract modifications to the DEPARTMENT in a timely manner.

The REQUESTING PARTY will furnish the DEPARTMENT proposed timing sequences for trunkline signals that, if any, are being made part of the improvement. No timing adjustments shall be made by the REQUESTING PARTY at any trunkline intersection, without prior issuances by the DEPARTMENT of Standard Traffic Signal Timing Permits.

The method of performing the work will be indicated on the work authorization. The REQUESTING PARTY will comply with PART II, Section IIF, when applicable.

The REQUESTING PARTY has designed or caused to be designed the plans for the PROJECT at no cost to the PROJECT.

5. The PROJECT COST shall be met in accordance with the following:

PART A
Federal Surface Transportation Urban Funds in combination with Federal Surface Transportation Flex Funds shall be applied to the eligible items of the PART A portion of the PROJECT COST at the established Federal participation ratio equal to 80 percent with Federal Surface Transportation Flex Funds limited to $817,000 and used first. The balance of the PART A portion of the PROJECT COST, after deduction of Federal Funds, shall be charged to and paid by the REQUESTING PARTY in the manner and at the times hereinafter set forth.

PART B
The PART B portion of the PROJECT COST is not eligible for Federal participation and shall be charged to and paid 100 percent by the REQUESTING PARTY in the manner and at the times hereinafter set forth.

Any items of PROJECT COST not reimbursed by Federal Funds will be the sole responsibility of the REQUESTING PARTY.

Attachment: 207654_22-5595 MDOT Contract (5616 : MDOT Contract for Bristol Road Fenton to Saginaw)

6. No working capital deposit will be required for this PROJECT.

In order to fulfill the obligations assumed by the REQUESTING PARTY under the provisions of this contract, the REQUESTING PARTY shall make prompt payments of its share of the PROJECT COST upon receipt of progress billings from the DEPARTMENT as herein provided. All payments will be made within 30 days of receipt of billings from the DEPARTMENT. Billings to the REQUESTING PARTY will be based upon the REQUESTING PARTY'S share of the actual costs incurred less Federal Funds earned as the PROJECT progresses.

7. Upon completion of construction of the PROJECT, the REQUESTING PARTY will promptly cause to be enacted and enforced such ordinances or regulations as may be necessary to prohibit parking in the roadway right-of-way throughout the limits of the PROJECT.

8. The performance of the entire PROJECT under this contract, whether Federally funded or not, will be subject to the provisions and requirements of PART II that are applicable to a Federally funded project.

In the event of any discrepancies between PART I and PART II of this contract, the provisions of PART I shall prevail.

Buy America Requirements (23 CFR 365.410) shall apply to the PROJECT and will be adhered to, as applicable, by the parties hereto.

9. The REQUESTING PARTY certifies that it is not aware if and has no reason to believe that the property on which the work is to be performed under this agreement is a facility, as defined by the Michigan Natural Resources and Environmental Protection Act [(NREPA), PA 451, 1994, as amended 2012]; MCL 324.20101(1)(s). The REQUESTING PARTY also certifies that it is not a liable party pursuant to either Part 201 or Part 213 of NREPA, MCL 324.20126 et seq. and MCL 324.21323a et seq. The REQUESTING PARTY is a local unit of government that has acquired or will acquire property for the use of either a transportation corridor or public right-of-way and was not responsible for any activities causing a release or threat of release of any hazardous materials at or on the property. The REQUESTING PARTY is not a person who is liable for response activity costs, pursuant to MCL 324.20101 (vv) and (ww).

10. If, subsequent to execution of this contract, previously unknown hazardous substances are discovered within the PROJECT limits, which require environmental remediation pursuant to either state or federal law, the REQUESTING PARTY, in addition to reporting that fact to the Michigan Department of Environment, Great Lakes, and Energy, shall immediately notify the DEPARTMENT, both orally and in writing of such discovery. The DEPARTMENT

Attachment: 207654_22-5595 MDOT Contract (5616 : MDOT Contract for Bristol Road Fenton to Saginaw)

shall consult with the REQUESTING PARTY to determine if it is willing to pay for the cost of remediation and, with the FHWA, to determine the eligibility, for reimbursement, of the remediation costs. The REQUESTING PARTY shall be charged for and shall pay all costs associated with such remediation, including all delay costs of the contractor for the PROJECT, in the event that remediation and delay costs are not deemed eligible by the FHWA. If the REQUESTING PARTY refuses to participate in the cost of remediation, the DEPARTMENT shall terminate the PROJECT. The parties agree that any costs or damages that the DEPARTMENT incurs as a result of such termination shall be considered a PROJECT COST.

11. If federal and/or state funds administered by the DEPARTMENT are used to pay the cost of remediating any hazardous substances discovered after the execution of this contract and if there is a reasonable likelihood of recovery, the REQUESTING PARTY, in cooperation with the Michigan Department of Environment, Great Lakes, and Energy and the DEPARTMENT, shall make a diligent effort to recover such costs from all other possible entities. If recovery is made, the DEPARTMENT shall be reimbursed from such recovery for the proportionate share of the amount paid by the FHWA and/or the DEPARTMENT and the DEPARTMENT shall credit such sums to the appropriate funding source.

12. The DEPARTMENT'S sole reason for entering into this contract is to enable the REQUESTING PARTY to obtain and use funds provided by the Federal Highway Administration pursuant to Title 23 of the United States Code.

Any and all approvals of, reviews of, and recommendations regarding contracts, agreements, permits, plans, specifications, or documents, of any nature, or any inspections of work by the DEPARTMENT or its agents pursuant to the terms of this contract are done to assist the REQUESTING PARTY in meeting program guidelines in order to qualify for available funds. Such approvals, reviews, inspections and recommendations by the DEPARTMENT or its agents shall not relieve the REQUESTING PARTY and the local agencies, as applicable, of their ultimate control and shall not be construed as a warranty of their propriety or that the DEPARTMENT or its agents is assuming any liability, control or jurisdiction.

The providing of recommendations or advice by the DEPARTMENT or its agents does not relieve the REQUESTING PARTY and the local agencies, as applicable of their exclusive jurisdiction of the highway and responsibility under MCL 691.1402 et seq., as amended.

When providing approvals, reviews and recommendations under this contract, the DEPARTMENT or its agents is performing a governmental function, as that term is defined in MCL 691.1401 et seq., as amended, which is incidental to the completion of the PROJECT.

Upon completion of the PROJECT, the REQUESTING PARTY shall accept the facilities constructed as built to specifications within the contract documents. It is understood that the REQUESTING PARTY shall own the facilities and shall operate and maintain the facilities in accordance with all applicable Federal and State laws and regulations, including, but not limited to, Title II of the Americans with Disabilities Act (ADA), 42 USC 12131 et seq., and its

Attachment: 207654_22-5595 MDOT Contract (5616 : MDOT Contract for Bristol Road Fenton to Saginaw)

associated regulations and standards, and DEPARTMENT Road and Bridge Standard Plans and the Standard Specifications for Construction

13. The DEPARTMENT, by executing this contract, and rendering services pursuant to this contract, has not and does not assume jurisdiction of the highway, described as the PROJECT for purposes of MCL 691.1402 et seq., as amended. Exclusive jurisdiction of such highway for the purposes of MCL 691.1402 et seq., as amended, rests with the REQUESTING PARTY and other local agencies having respective jurisdiction.

14. The REQUESTING PARTY shall approve all of the plans and specifications to be used on the PROJECT and shall be deemed to have approved all changes to the plans and specifications when put into effect. It is agreed that ultimate responsibility and control over the PROJECT rests with the REQUESTING PARTY and local agencies, as applicable.

15. The REQUESTING PARTY agrees that the costs reported to the DEPARTMENT for this contract will represent only those items that are properly chargeable in accordance with this contract. The REQUESTING PARTY also certifies that it has read the contract terms and has made itself aware of the applicable laws, regulations, and terms of this contract that apply to the reporting of costs incurred under the terms of this contract.

16. Each party to this contract will remain responsible for any and all claims arising out of its own acts and/or omissions during the performance of the contract, as provided by this contract or by law. In addition, this is not intended to increase or decrease either party's liability for or immunity from tort claims. This contract is also not intended to nor will it be interpreted as giving either party a right of indemnification, either by contract or by law, for claims arising out of the performance of this contract.

17. The parties shall promptly provide comprehensive assistance and cooperation in defending and resolving any claims brought against the DEPARTMENT by the contractor, vendors or suppliers as a result of the DEPARTMENT'S award of the construction contract for the PROJECT. Costs incurred by the DEPARTMENT in defending or resolving such claims shall be considered PROJECT COSTS.

18. The DEPARTMENT shall require the contractor who is awarded the contract for the construction of the PROJECT to provide insurance in the amounts specified and in accordance with the DEPARTMENT'S current Standard Specifications for Construction and to:

A. Maintain bodily injury and property damage insurance for the duration of the PROJECT.

B. Provide owner's protective liability insurance naming as insureds the State of Michigan, the Michigan State Transportation Commission, the DEPARTMENT and its officials, agents and employees, the REQUESTING PARTY and any other county, county road commission,

Attachment: 207654_22-5595 MDOT Contract (5616 : MDOT Contract for Bristol Road Fenton to Saginaw)

or municipality in whose jurisdiction the PROJECT is located, and their employees, for the duration of the PROJECT and to provide, upon request, copies of certificates of insurance to the insureds. It is understood that the DEPARTMENT does not assume jurisdiction of the highway described as the PROJECT as a result of being named as an insured on the owner's protective liability insurance policy.

C. Comply with the requirements of notice of cancellation and reduction of insurance set forth in the current standard specifications for construction and to provide, upon request, copies of notices and reports prepared to those insured.

Attachment: 207654_22-5595 MDOT Contract (5616 : MDOT Contract for Bristol Road Fenton to Saginaw)

19. This contract shall become binding on the parties hereto and of full force and effect upon the signing thereof by the duly authorized officials for the parties hereto and upon the adoption of the necessary resolutions approving said contract and authorizing the signatures thereto of the respective officials of the REQUESTING PARTY, a certified copy of which resolution shall be attached to this contract.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed as written below.

CITY OF BURTON

By_____
Title:

By_____
Title:

MICHIGAN DEPARTMENT
OF TRANSPORTATION

By_____
Department Director MDOT

REVIEWED
By Larry Doyle at 11:13 am, 1/30/23

Attachment: 207654_22-5595 MDOT Contract (5616 : MDOT Contract for Bristol Road Fenton to Saginaw)

January 10, 2023

EXHIBIT I

CONTROL SECTION	ST 25000
JOB NUMBER	207654CON
PROJECT	23A0173

ESTIMATED COST

CONTRACTED WORK

	PART A	PART B	TOTAL
Estimated Cost	$1,440,700	$ 4,000	$1,444,700
CONSTRUCTION ENGINEERING, CONSTRUCTION MATERIALS TESTING, & INSPECTION	$ 216,105	$ 0	$ 216,105
GRAND TOTAL	$1,656,805	$ 4,000	$1,660,805

COST PARTICIPATION

GRAND TOTAL ESTIMATED COST	$1,656,805	$ 4,000	$1,660,805
Less Federal Funds	$1,325,444	$ 0	$1,325,444
BALANCE (REQUESTING PARTY'S SHARE)	$ 331,361	$ 4,000	$ 335,361

NO DEPOSIT

Attachment: 207654_22-5595 MDOT Contract (5616 : MDOT Contract for Bristol Road Fenton to Saginaw)

EXHIBIT II

January 10, 2023

Notification of Required Federal Program Information to Subrecipients for Federal Funding

Does this project receive Federal funds? ☒ Yes ☐ No

Subrecipient's Name: City of Burton

Subrecipient's Unique Entity Identifier Number (UEI): JL8YL7QGJA64

Federal Grant/Project Number(s): 23A0173

MDOT Project Number: 207654CON

Project Description: Hot mix asphalt cold milling and resurfacing along East Bristol Road from Fenton Road to Saginaw Street, including concrete pavement removal and repair, sidewalk, curb and gutter, curb ramps, permanent signing and pavement markings; and all together with necessary related work.

CFDA Number, Federal Agency, Program Title: CFDA 20.205
Highway Research Planning & Construction

Federal Award Identification Number(s) (FAIN): 693JJ22330000Y230MI23A0173
693JJ22330000Y240MI23A0173

Federal Award Date: December 16, 2022

Period of Performance Start Date: December 16, 2022

Period of Performance End Date: September 30, 2023

Amount of Federal Funds obligated by this action: $1,325,444

Total amount of Federal Funds obligated: $1,325,444

Total amount of the Federal award: 1,660,805

Budget Approved Cost sharing or matching, where applicable:
Federal Participation: $1,325,444; Local Participation: $335,361

Name of Federal awarding agency and contact information for awarding official:

Acting Director Brad Wieferich
Michigan Department of Transportation
425 West Ottawa Street
Lansing, MI 48909

Is this a Research and Development award: ☐ Yes ☒ No

Indirect cost rate for the Federal award (if applicable): Not Applicable

Attachment: 207654_22-5595 MDOT Contract (5616 : MDOT Contract for Bristol Road Fenton to Saginaw)

DOT

TYPE B
BUREAU OF HIGHWAYS
03-15-93

PART II

STANDARD AGREEMENT PROVISIONS

SECTION I COMPLIANCE WITH REGULATIONS AND DIRECTIVES

SECTION II PROJECT ADMINISTRATION AND SUPERVISION

SECTION III ACCOUNTING AND BILLING

SECTION IV MAINTENANCE AND OPERATION

SECTION V SPECIAL PROGRAM AND PROJECT CONDITIONS

Attachment: 207654_22-5595 MDOT Contract (5616 : MDOT Contract for Bristol Road Fenton to Saginaw)

SECTION I

COMPLIANCE WITH REGULATIONS AND DIRECTIVES

A. To qualify for eligible cost, all work shall be documented in accordance with the requirements and procedures of the DEPARTMENT.

B. All work on projects for which reimbursement with Federal funds is requested shall be performed in accordance with the requirements and guidelines set forth in the following Directives of the Federal-Aid Policy Guide (FAPG) of the FHWA, as applicable, and as referenced in pertinent sections of Title 23 and Title 49 of the Code of Federal Regulations (CFR), and all supplements and amendments thereto.

1. Engineering

   a. FAPG (6012.1): Preliminary Engineering

   b. FAPG (23 CFR 172): Administration of Engineering and Design Related Service Contracts

   c. FAPG (23 CFR 635A): Contract Procedures

   d. FAPG (49 CFR 18.22): Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments–Allowable Costs

2. Construction

   a. FAPG (23 CFR 140E): Administrative Settlement Costs-Contract Claims

   b. FAPG (23 CFR 140B): Construction Engineering Costs

   c. FAPG (23 CFR 17): Recordkeeping and Retention Requirements for Federal-Aid Highway Records of State Highway Agencies

   d. FAPG (23 CFR 635A): Contract Procedures

   e. FAPG (23 CFR 635B): Force Account Construction

   f. FAPG (23 CFR 645A): Utility Relocations, Adjustments and Reimbursement

Attachment: 207654_22-5595 MDOT Contract (5616 : MDOT Contract for Bristol Road Fenton to Saginaw)

g. FAPG (23 CFR 645B): Accommodation of Utilities (PPM 30-4.1)

h. FAPG (23 CFR 655F): Traffic Control Devices on Federal-Aid and other Streets and Highways

i. FAPG (49 CFR 18.22): Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments–Allowable Costs

3. Modification Or Construction Of Railroad Facilities

a. FAPG (23 CFR 140I): Reimbursement for Railroad Work

b. FAPG (23 CFR 646B): Railroad Highway Projects

C. In conformance with FAPG (23 CFR 630C) Project Agreements, the political subdivisions party to this contract, on those Federally funded projects which exceed a total cost of $100,000.00 stipulate the following with respect to their specific jurisdictions:

1. That any facility to be utilized in performance under or to benefit from this contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities issued pursuant to the requirements of the Federal Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended.

2. That they each agree to comply with all of the requirements of Section 114 of the Federal Clean Air Act and Section 308 of the Federal Water Pollution Control Act, and all regulations and guidelines issued thereunder.

3. That as a condition of Federal aid pursuant to this contract they shall notify the DEPARTMENT of the receipt of any advice indicating that a facility to be utilized in performance under or to benefit from this contract is under consideration to be listed on the EPA List of Violating Facilities.

D. Ensure that the PROJECT is constructed in accordance with and incorporates all committed environmental impact mitigation measures listed in approved environmental documents unless modified or deleted by approval of the FHWA.

E. All the requirements, guidelines, conditions and restrictions noted in all other pertinent Directives and Instructional Memoranda of the FHWA will apply to this contract and will be adhered to, as applicable, by the parties hereto.

Attachment: 207654_22-5595 MDOT Contract (5616 : MDOT Contract for Bristol Road Fenton to Saginaw)

SECTION II

PROJECT ADMINISTRATION AND SUPERVISION

A. The DEPARTMENT shall provide such administrative guidance as it determines is required by the PROJECT in order to facilitate the obtaining of available federal and/or state funds.

B. The DEPARTMENT will advertise and award all contracted portions of the PROJECT work. Prior to advertising of the PROJECT for receipt of bids, the REQUESTING PARTY may delete any portion or all of the PROJECT work. After receipt of bids for the PROJECT, the REQUESTING PARTY shall have the right to reject the amount bid for the PROJECT prior to the award of the contract for the PROJECT only if such amount exceeds by ten percent (10%) the final engineer's estimate therefor. If such rejection of the bids is not received in writing within two (2) weeks after letting, the DEPARTMENT will assume concurrence. The DEPARTMENT may, upon request, readvertise the PROJECT. Should the REQUESTING PARTY so request in writing within the aforesaid two (2) week period after letting, the PROJECT will be cancelled and the DEPARTMENT will refund the unused balance of the deposit less all costs incurred by the DEPARTMENT.

C. The DEPARTMENT will perform such inspection services on PROJECT work performed by the REQUESTING PARTY with its own forces as is required to ensure compliance with the approved plans & specifications.

D. On those projects funded with Federal monies, the DEPARTMENT shall as may be required secure from the FHWA approval of plans and specifications, and such cost estimates for FHWA participation in the PROJECT COST.

E. All work in connection with the PROJECT shall be performed in conformance with the Michigan Department of Transportation Standard Specifications for Construction, and the supplemental specifications, Special Provisions and plans pertaining to the PROJECT and all materials furnished and used in the construction of the PROJECT shall conform to the aforesaid specifications. No extra work shall be performed nor changes in plans and specifications made until said work or changes are approved by the project engineer and authorized by the DEPARTMENT.

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F. Should it be necessary or desirable that portions of the work covered by this contract be accomplished by a consulting firm, a railway company, or governmental agency, firm, person, or corporation, under a subcontract with the REQUESTING PARTY at PROJECT expense, such subcontracted arrangements will be covered by formal written agreement between the REQUESTING PARTY and that party.

This formal written agreement shall: include a reference to the specific prime contract to which it pertains; include provisions which clearly set forth the maximum reimbursable and the basis of payment; provide for the maintenance of accounting records in accordance with generally accepted accounting principles, which clearly document the actual cost of the services provided; provide that costs eligible for reimbursement shall be in accordance with clearly defined cost criteria such as 49 CFR Part 18, 48 CFR Part 31, 23 CFR Part 140, OMB Circular A-87, etc. as applicable; provide for access to the department or its representatives to inspect and audit all data and records related to the agreement for a minimum of three years after the department's final payment to the local unit.

All such agreements will be submitted for approval by the DEPARTMENT and, if applicable, by the FHWA prior to execution thereof, except for agreements for amounts less than $100,000 for preliminary engineering and testing services executed under and in accordance with the provisions of the "Small Purchase Procedures" FAPG (23 CFR 172), which do not require prior approval of the DEPARTMENT or the FHWA.

Any such approval by the DEPARTMENT shall in no way be construed as a warranty of the subcontractor's qualifications, financial integrity, or ability to perform the work being subcontracted.

G. The REQUESTING PARTY, at no cost to the PROJECT or the DEPARTMENT, shall make such arrangements with railway companies, utilities, etc., as may be necessary for the performance of work required for the PROJECT but for which Federal or other reimbursement will not be requested.

H. The REQUESTING PARTY, at no cost to the PROJECT, or the DEPARTMENT, shall secure, as necessary, all agreements and approvals of the PROJECT with railway companies, the Railroad Safety & Tariffs Division of the DEPARTMENT and other concerned governmental agencies other than the FHWA, and will forward same to the DEPARTMENT for such reviews and approvals as may be required.

I. No PROJECT work for which reimbursement will be requested by the REQUESTING PARTY is to be subcontracted or performed until the DEPARTMENT gives written notification that such work may commence.

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J. The REQUESTING PARTY shall be responsible for the payment of all costs and expenses incurred in the performance of the work it agrees to undertake and perform.

K. The REQUESTING PARTY shall pay directly to the party performing the work all billings for the services performed on the PROJECT which are authorized by or through the REQUESTING PARTY.

L. The REQUESTING PARTY shall submit to the DEPARTMENT all paid billings for which reimbursement is desired in accordance with DEPARTMENT procedures.

M. All work by a consulting firm will be performed in compliance with the applicable provisions of 1980 PA 299, Subsection 2001, MCL 339.2001; MSA 18.425(2001), as well as in accordance with the provisions of all previously cited Directives of the FHWA.

N. The project engineer shall be subject to such administrative guidance as may be deemed necessary to ensure compliance with program requirement and, in those instances where a consultant firm is retained to provide engineering and inspection services, the personnel performing those services shall be subject to the same conditions.

O. The DEPARTMENT, in administering the PROJECT in accordance with applicable Federal and State requirements and regulations, neither assumes nor becomes liable for any obligations undertaken or arising between the REQUESTING PARTY and any other party with respect to the PROJECT.

P. In the event it is determined by the DEPARTMENT that there will be either insufficient Federal funds or insufficient time to properly administer such funds for the entire PROJECT or portions thereof, the DEPARTMENT, prior to advertising or issuing authorization for work performance, may cancel the PROJECT, or any portion thereof, and upon written notice to the parties this contract shall be void and of no effect with respect to that cancelled portion of the PROJECT. Any PROJECT deposits previously made by the parties on the cancelled portions of the PROJECT will be promptly refunded.

Q. Those projects funded with Federal monies will be subject to inspection at all times by the DEPARTMENT and the FHWA.

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SECTION III

ACCOUNTING AND BILLING

A. Procedures for billing for work undertaken by the REQUESTING PARTY:

1. The REQUESTING PARTY shall establish and maintain accurate records, in accordance with generally accepted accounting principles, of all expenses incurred for which payment is sought or made under this contract, said records to be hereinafter referred to as the "RECORDS". Separate accounts shall be established and maintained for all costs incurred under this contract.

   The REQUESTING PARTY shall maintain the RECORDS for at least three (3) years from the date of final payment of Federal Aid made by the DEPARTMENT under this contract. In the event of a dispute with regard to the allowable expenses or any other issue under this contract, the REQUESTING PARTY shall thereafter continue to maintain the RECORDS at least until that dispute has been finally decided and the time for all available challenges or appeals of that decision has expired.

   The DEPARTMENT, or its representative, may inspect, copy, or audit the RECORDS at any reasonable time after giving reasonable notice.

   If any part of the work is subcontracted, the REQUESTING PARTY shall assure compliance with the above for all subcontracted work.

   In the event that an audit performed by or on behalf of the DEPARTMENT indicates an adjustment to the costs reported under this contract, or questions the allowability of an item of expense, the DEPARTMENT shall promptly submit to the REQUESTING PARTY, a Notice of Audit Results and a copy of the audit report which may supplement or modify any tentative findings verbally communicated to the REQUESTING PARTY at the completion of an audit.

   Within sixty (60) days after the date of the Notice of Audit Results, the REQUESTING PARTY shall: (a) respond in writing to the responsible Bureau or the DEPARTMENT indicating whether or not it concurs with the audit report, (b) clearly explain the nature and basis for any disagreement as to a disallowed item of expense and, (c) submit to the DEPARTMENT a written explanation as to any questioned or no opinion expressed item of expense, hereinafter referred to as the "RESPONSE". The RESPONSE shall be clearly stated and provide any supporting documentation necessary to resolve any disagreement or questioned or no opinion expressed item of expense. Where the documentation is voluminous, the REQUESTING PARTY may supply appropriate excerpts and make alternate

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arrangements to conveniently and reasonably make that documentation available for review by the DEPARTMENT. The RESPONSE shall refer to and apply the language of the contract. The REQUESTING PARTY agrees that failure to submit a RESPONSE within the sixty (60) day period constitutes agreement with any disallowance of an item of expense and authorizes the DEPARTMENT to finally disallow any items of questioned or no opinion expressed cost.

The DEPARTMENT shall make its decision with regard to any Notice of Audit Results and RESPONSE within one hundred twenty (120) days after the date of the Notice of Audit Results. If the DEPARTMENT determines that an overpayment has been made to the REQUESTING PARTY, the REQUESTING PARTY shall repay that amount to the DEPARTMENT or reach agreement with the DEPARTMENT on a repayment schedule within thirty (30) days after the date of an invoice from the DEPARTMENT. If the REQUESTING PARTY fails to repay the overpayment or reach agreement with the DEPARTMENT on a repayment schedule within the thirty (30) day period, the REQUESTING PARTY agrees that the DEPARTMENT shall deduct all or a portion of the overpayment from any funds then or thereafter payable by the DEPARTMENT to the REQUESTING PARTY under this contract or any other agreement, or payable to the REQUESTING PARTY under the terms of 1951 PA 51, as applicable. Interest will be assessed on any partial payments or repayment schedules based on the unpaid balance at the end of each month until the balance is paid in full. The assessment of interest will begin thirty (30) days from the date of the invoice. The rate of interest will be based on the Michigan Department of Treasury common cash funds interest earnings. The rate of interest will be reviewed annually by the DEPARTMENT and adjusted as necessary based on the Michigan Department of Treasury common cash funds interest earnings. The REQUESTING PARTY expressly consents to this withholding or offsetting of funds under those circumstances, reserving the right to file a lawsuit in the Court of Claims to contest the DEPARTMENT'S decision only as to any item of expense the disallowance of which was disputed by the REQUESTING PARTY in a timely filed RESPONSE.

The REQUESTING PARTY shall comply with the Single Audit Act of 1984, as amended, including, but not limited to, the Single Audit Amendments of 1996 (31 USC 7501-7507).

The REQUESTING PARTY shall adhere to the following requirements associated with audits of accounts and records:

a. Agencies expending a total of $500,000 or more in federal funds, from one or more funding sources in its fiscal year, shall comply with the requirements of the federal Office of Management and Budget (OMB) Circular A-133, as revised or amended.

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The agency shall submit two copies of:

The Reporting Package
The Data Collection Form
The management letter to the agency, if one issued by the audit firm

The OMB Circular A-133 audit must be submitted to the address below in accordance with the time frame established in the circular, as revised or amended.

b. Agencies expending less than $500,000 in federal funds must submit a letter to the Department advising that a circular audit was not required. The letter shall indicate the applicable fiscal year, the amount of federal funds spent, the name(s) of the Department federal programs, and the CFDA grant number(s). This information must also be submitted to the address below.

c. Address: Michigan Department of Education
Accounting Service Center
Hannah Building
608 Allegan Street
Lansing, MI 48909

d. Agencies must also comply with applicable State laws and regulations relative to audit requirements.

e. Agencies shall not charge audit costs to Department's federal programs which are not in accordance with the OMB Circular A-133 requirements.

f. All agencies are subject to the federally required monitoring activities, which may include limited scope reviews and other on-site monitoring.

2. Agreed Unit Prices Work - All billings for work undertaken by the REQUESTING PARTY on an agreed unit price basis will be submitted in accordance with the Michigan Department of Transportation Standard Specifications for Construction and pertinent FAPG Directives and Guidelines of the FHWA.

3. Force Account Work and Subcontracted Work - All billings submitted to the DEPARTMENT for Federal reimbursement for items of work performed on a force account basis or by any subcontract with a consulting firm, railway company, governmental agency or other party, under the terms of this contract, shall be prepared in accordance with the provisions of the pertinent FHPM Directives and the procedures of the DEPARTMENT. Progress billings may be submitted monthly during the time work is being performed provided, however, that no bill of a lesser amount than $1,000.00 shall be submitted unless it is a final

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or end of fiscal year billing. All billings shall be labeled either "Progress Bill Number _____", or "Final Billing".

4. Final billing under this contract shall be submitted in a timely manner but not later than six months after completion of the work. Billings for work submitted later than six months after completion of the work will not be paid.

5. Upon receipt of billings for reimbursement for work undertaken by the REQUESTING PARTY on projects funded with Federal monies, the DEPARTMENT will act as billing agent for the REQUESTING PARTY, consolidating said billings with those for its own force account work and presenting these consolidated billings to the FHWA for payment. Upon receipt of reimbursement from the FHWA, the DEPARTMENT will promptly forward to the REQUESTING PARTY its share of said reimbursement.

6. Upon receipt of billings for reimbursement for work undertaken by the REQUESTING PARTY on projects funded with non-Federal monies, the DEPARTMENT will promptly forward to the REQUESTING PARTY reimbursement of eligible costs.

B. Payment of Contracted and DEPARTMENT Costs:

1. As work on the PROJECT commences, the initial payments for contracted work and/or costs incurred by the DEPARTMENT will be made from the working capital deposit. Receipt of progress payments of Federal funds, and where applicable, State Critical Bridge funds, will be used to replenish the working capital deposit. The REQUESTING PARTY shall make prompt payments of its share of the contracted and/or DEPARTMENT incurred portion of the PROJECT COST upon receipt of progress billings from the DEPARTMENT. Progress billings will be based upon the REQUESTING PARTY'S share of the actual costs incurred as work on the PROJECT progresses and will be submitted, as required, until it is determined by the DEPARTMENT that there is sufficient available working capital to meet the remaining anticipated PROJECT COSTS. All progress payments will be made within thirty (30) days of receipt of billings. No monthly billing of a lesser amount than $1,000.00 will be made unless it is a final or end of fiscal year billing. Should the DEPARTMENT determine that the available working capital exceeds the remaining anticipated PROJECT COSTS, the DEPARTMENT may reimburse the REQUESTING PARTY such excess. Upon completion of the PROJECT, payment of all PROJECT COSTS, receipt of all applicable monies from the FHWA, and completion of necessary audits, the REQUESTING PARTY will be reimbursed the balance of its deposit.

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2. In the event that the bid, plus contingencies, for the contracted, and/or the DEPARTMENT incurred portion of the PROJECT work exceeds the estimated cost therefor as established by this contract, the REQUESTING PARTY may be advised and billed for the additional amount of its share.

C. General Conditions:

1. The DEPARTMENT, in accordance with its procedures in existence and covering the time period involved, shall make payment for interest earned on the balance of working capital deposits for all projects on account with the DEPARTMENT. The REQUESTING PARTY in accordance with DEPARTMENT procedures in existence and covering the time period involved, shall make payment for interest owed on any deficit balance of working capital deposits for all projects on account with the DEPARTMENT. This payment or billing is processed on an annual basis corresponding to the State of Michigan fiscal year. Upon receipt of billing for interest incurred, the REQUESTING PARTY promises and shall promptly pay the DEPARTMENT said amount.

2. Pursuant to the authority granted by law, the REQUESTING PARTY hereby irrevocably pledges a sufficient amount of funds received by it from the Michigan Transportation Fund to meet its obligations as specified in PART I and PART II. If the REQUESTING PARTY shall fail to make any of its required payments when due, as specified herein, the DEPARTMENT shall immediately notify the REQUESTING PARTY and the State Treasurer of the State of Michigan or such other state officer or agency having charge and control over disbursement of the Michigan Transportation Fund, pursuant to law, of the fact of such default and the amount thereof, and, if such default is not cured by payment within ten (10) days, said State Treasurer or other state officer or agency is then authorized and directed to withhold from the first of such monies thereafter allocated by law to the REQUESTING PARTY from the Michigan Transportation Fund sufficient monies to remove the default, and to credit the REQUESTING PARTY with payment thereof, and to notify the REQUESTING PARTY in writing of such fact.

3. Upon completion of all work under this contract and final audit by the DEPARTMENT or the FHWA, the REQUESTING PARTY promises to promptly repay the DEPARTMENT for any disallowed items of costs previously disbursed by the DEPARTMENT. The REQUESTING PARTY pledges its future receipts from the Michigan Transportation Fund for repayment of all disallowed items and, upon failure to make repayment for any disallowed items within ninety (90) days of demand made by the DEPARTMENT, the DEPARTMENT is hereby authorized to withhold an equal amount from the REQUESTING PARTY'S share of any future distribution of Michigan Transportation Funds in settlement of said claim.

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4. The DEPARTMENT shall maintain and keep accurate records and accounts relative to the cost of the PROJECT and upon completion of the PROJECT, payment of all items of PROJECT COST, receipt of all Federal Aid, if any, and completion of final audit by the DEPARTMENT and if applicable, by the FHWA, shall make final accounting to the REQUESTING PARTY. The final PROJECT accounting will not include interest earned or charged on working capital deposited for the PROJECT which will be accounted for separately at the close of the State of Michigan fiscal year and as set forth in Section C(1).

5. The costs of engineering and other services performed on those projects involving specific program funds and one hundred percent (100%) local funds will be apportioned to the respective portions of that project in the same ratio as the actual direct construction costs unless otherwise specified in PART I.

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SECTION IV

MAINTENANCE AND OPERATION

A. Upon completion of construction of each part of the PROJECT, at no cost to the DEPARTMENT or the PROJECT, each of the parties hereto, within their respective jurisdictions, will make the following provisions for the maintenance and operation of the completed PROJECT:

1. All Projects:

Properly maintain and operate each part of the project, making ample provisions each year for the performance of such maintenance work as may be required, except as qualified in paragraph 2b of this section.

2. Projects Financed in Part with Federal Monies:

a. Sign and mark each part of the PROJECT, in accordance with the current Michigan Manual of Uniform Traffic control Devices, and will not install, or permit to be installed, any signs, signals or markings not in conformance with the standards approved by the FHWA, pursuant to 23 USC 109(d).

b. Remove, prior to completion of the PROJECT, all encroachments from the roadway right-of-way within the limits of each part of the PROJECT.

With respect to new or existing utility installations within the right-of-way of Federal Aid projects and pursuant to FAPG (23 CFR 645B): Occupancy of non-limited access right-of-way may be allowed based on consideration for traffic safety and necessary preservation of roadside space and aesthetic quality. Longitudinal occupancy of non-limited access right-of-way by private lines will require a finding of significant economic hardship, the unavailability of practicable alternatives or other extenuating circumstances.

c. Cause to be enacted, maintained and enforced, ordinances and regulations for proper traffic operations in accordance with the plans of the PROJECT.

d. Make no changes to ordinances or regulations enacted, or traffic controls installed in conjunction with the PROJECT work without prior review by the DEPARTMENT and approval of the FHWA, if required.

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B. On projects for the removal of roadside obstacles, the parties, upon completion of construction of each part of the PROJECT, at no cost to the PROJECT or the DEPARTMENT, will, within their respective jurisdictions, take such action as is necessary to assure that the roadway right-of-way, cleared as the PROJECT, will be maintained free of such obstacles.

C. On projects for the construction of bikeways, the parties will enact no ordinances or regulations prohibiting the use of bicycles on the facility hereinbefore described as the PROJECT, and will amend any existing restrictive ordinances in this regard so as to allow use of this facility by bicycles. No motorized vehicles shall be permitted on such bikeways or walkways constructed as the PROJECT except those for maintenance purposes.

D. Failure of the parties hereto to fulfill their respective responsibilities as outlined herein may disqualify that party from future Federal-aid participation in projects on roads or streets for which it has maintenance responsibility. Federal Aid may be withheld until such time as deficiencies in regulations have been corrected, and the improvements constructed as the PROJECT are brought to a satisfactory condition of maintenance.

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SECTION V

SPECIAL PROGRAM AND PROJECT CONDITIONS

A. Those projects for which the REQUESTING PARTY has been reimbursed with Federal monies for the acquisition of right-of-way must be under construction by the close of the twentieth (20th) fiscal year following the fiscal year in which the FHWA and the DEPARTMENT projects agreement covering that work is executed, or the REQUESTING PARTY may be required to repay to the DEPARTMENT, for forwarding to the FHWA, all monies distributed as the FHWA'S contribution to that right-of-way.

B. Those projects for which the REQUESTING PARTY has been reimbursed with Federal monies for the performance of preliminary engineering must be under construction by the close of the tenth (10th) fiscal year following the fiscal year in which the FHWA and the DEPARTMENT projects agreement covering that work is executed, or the REQUESTING PARTY may be required to repay to the DEPARTMENT, for forwarding to the FHWA, all monies distributed as the FHWA'S contribution to that preliminary engineering.

C. On those projects funded with Federal monies, the REQUESTING PARTY, at no cost to the PROJECT or the DEPARTMENT, will provide such accident information as is available and such other information as may be required under the program in order to make the proper assessment of the safety benefits derived from the work performed as the PROJECT. The REQUESTING PARTY will cooperate with the DEPARTMENT in the development of reports and such analysis as may be required and will, when requested by the DEPARTMENT, forward to the DEPARTMENT, in such form as is necessary, the required information.

D. In connection with the performance of PROJECT work under this contract the parties hereto (hereinafter in Appendix "A" referred to as the "contractor") agree to comply with the State of Michigan provisions for "Prohibition of Discrimination in State Contracts", as set forth in Appendix A, attached hereto and made a part hereof. The parties further covenant that they will comply with the Civil Rights Acts of 1964, being P.L. 88-352, 78 Stat. 241, as amended, being Title 42 U.S.C. Sections 1971, 1975a-1975d, and 2000a-2000h-6 and the Regulations of the United States Department of Transportation (49 C.F.R. Part 21) issued pursuant to said Act, including Appendix "B", attached hereto and made a part hereof, and will require similar covenants on the part of any contractor or subcontractor employed in the performance of this contract.

E. The parties will carry out the applicable requirements of the DEPARTMENT'S Disadvantaged Business Enterprise (DBE) program and 49 CFR, Part 26, including, but not limited to, those requirements set forth in Appendix C.

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APPENDIX A
PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS

In connection with the performance of work under this contract; the contractor agrees as follows:

1. In accordance with Public Act 453 of 1976 (Elliott-Larsen Civil Rights Act), the contractor shall not discriminate against an employee or applicant for employment with respect to hire, tenure, treatment, 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, or marital status. A breach of this covenant will be regarded as a material breach of this contract. Further, in accordance with Public Act 220 of 1976 (Persons with Disabilities Civil Rights Act), as amended by Public Act 478 of 1980, the contractor shall not discriminate against any 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 a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of the above covenants will be regarded as a material breach of this contract.

2. The contractor hereby agrees that any and all subcontracts to this contract, whereby a portion of the work set forth in this contract is to be performed, shall contain a covenant the same as hereinabove set forth in Section 1 of this Appendix.

3. The contractor will take affirmative action to ensure that applicants for employment and employees are treated without regard to their race, color, religion, national origin, age, sex, height, weight, marital status, or any disability that is unrelated to the individual's ability to perform the duties of a particular job or position. Such action shall include, but not be limited to, the following: employment; treatment; upgrading; demotion or transfer; recruitment; advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

4. The contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, age, sex, height, weight, marital status, or disability that is unrelated to the individual's ability to perform the duties of a particular job or position.

5. The contractor or its collective bargaining representative shall send to each labor union or representative of workers with which the contractor has a collective bargaining agreement or other contract or understanding a notice advising such labor union or workers' representative of the contractor's commitments under this Appendix.

6. The contractor shall comply with all relevant published rules, regulations, directives, and orders of the Michigan Civil Rights Commission that may be in effect prior to the taking of bids for any individual state project.

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7. The contractor shall furnish and file compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission; said forms may also elicit information as to the practices, policies, program, and employment statistics of each subcontractor, as well as the contractor itself, and said contractor shall permit access to the contractor's books, records, and accounts by the Michigan Civil Rights Commission and/or its agent for the purposes of investigation to ascertain compliance under this contract and relevant rules, regulations, and orders of the Michigan Civil Rights Commission.

8. In the event that the Michigan Civil Rights Commission finds, after a hearing held pursuant to its rules, that a contractor has not complied with the contractual obligations under this contract, the Michigan Civil Rights Commission may, as a part of its order based upon such findings, certify said findings to the State Administrative Board of the State of Michigan, which State Administrative Board may order the cancellation of the contract found to have been violated and/or declare the contractor ineligible for future contracts with the state and its political and civil subdivisions, departments, and officers, including the governing boards of institutions of higher education, until the contractor complies with said order of the Michigan Civil Rights Commission. Notice of said declaration of future ineligibility may be given to any or all of the persons with whom the contractor is declared ineligible to contract as a contracting party in future contracts. In any case before the Michigan Civil Rights Commission in which cancellation of an existing contract is a possibility, the contracting agency shall be notified of such possible remedy and shall be given the option by the Michigan Civil Rights Commission to participate in such proceedings.

9. The contractor shall include or incorporate by reference, the provisions of the foregoing paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Michigan Civil Rights Commission; all subcontracts and purchase orders will also state that said provisions will be binding upon each subcontractor or supplier.

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APPENDIX B
TITLE VI ASSURANCE

During the performance of this contract, the contractor, for itself, its assignees, and its successors in interest (hereinafter referred to as the "contractor"), agrees as follows:

1. **Compliance with Regulations**: For all federally assisted programs, the contractor shall comply with the nondiscrimination regulations set forth in 49 CFR Part 21, as may be amended from time to time (hereinafter referred to as the Regulations). Such Regulations are incorporated herein by reference and made a part of this contract.

2. **Nondiscrimination**: The contractor, with regard to the work performed under the contract, shall not discriminate on the grounds of race, color, sex, or national origin in the selection, retention, and treatment of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices, when the contractor covers a program set forth in Appendix B of the Regulations.

3. **Solicitation for Subcontracts, Including Procurements of Materials and Equipment**: All solicitations made by the contractor, either by competitive bidding or by negotiation for subcontract work, including procurement of materials or leases of equipment, must include a notification to each potential subcontractor or supplier of the contractor's obligations under the contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

4. **Information and Reports**: The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and facilities as may be determined to be pertinent by the Department or the United States Department of Transportation (USDOT) in order to ascertain compliance with such Regulations or directives. If required information concerning the contractor is in the exclusive possession of another who fails or refuses to furnish the required information, the contractor shall certify to the Department or the USDOT, as appropriate, and shall set forth the efforts that it made to obtain the information.

5. **Sanctions for Noncompliance**: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Department shall impose such contract sanctions as it or the USDOT may determine to be appropriate, including, but not limited to, the following:

   a. Withholding payments to the contractor until the contractor complies; and/or

   b. Canceling, terminating, or suspending the contract, in whole or in part.

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6. **Incorporation of Provisions**: The contractor shall include the provisions of Sections (1) through (6) in every subcontract, including procurement of material and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the Department or the USDOT may direct as a means of enforcing such provisions, including sanctions for non-compliance, provided, however, that in the event a contractor becomes involved in or is threatened with litigation from a subcontractor or supplier as a result of such direction, the contractor may request the Department to enter into such litigation to protect the interests of the state. In addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

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APPENDIX C

TO BE INCLUDED IN ALL FINANCIAL ASSISTANCE AGREEMENTS WITH LOCAL AGENCIES

Assurance that Recipients and Contractors Must Make (Excerpts from US DOT Regulation 49 CFR 26.13)

A. Each financial assistance agreement signed with a DOT operating administration (or a primary recipient) must include the following assurance:

> The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any US DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of US DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26 and as approved by US DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

B. Each contract MDOT signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

> The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of US DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

Attachment: 207654_22-5595 MDOT Contract (5616 : MDOT Contract for Bristol Road Fenton to Saginaw)

Approve and Authorize the Mayor and City Clerk to execute a contract with ROWE Professional Services Company, 540 S. Saginaw St. Ste 200 Flint, MI 48502, for Construction Engineering of Bristol Road, Fenton to Saginaw (DPW Project No. 21-002-P), at an estimated cost of $138,400.00, contingent upon approval of the City Attorney.

ATTACHMENTS:

- CE Proposal for ROWE(PDF)

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Christina Conley, Councilwoman
SECONDER:	Christina Hickson, Councilwoman
AYES:	Martinbianco, Heffner, Smith, Fenner, Conley, Hull, Hickson

January 3, 2023

Mr. Peter Wingblad
City of Burton
4093 Manor Drive
Burton, MI 48519

RE: Construction Engineering Services for Bristol Road Rehabilitation (Fenton to Saginaw)

Dear Mr. Wingblad:

ROWE Professional Services Company is pleased to submit a proposal to provide complete construction engineering services for the above referenced project.

The City of Burton has received funding from Michigan Department of Transportation (MDOT) through the Local Agency Program (LAP) to rehabilitate the 1.01-mile segment of Bristol Road from Fenton Road to Saginaw Street. The plans are currently in final design, and construction is anticipated to occur between April and July 2023. The current construction cost estimate prepared by others is **$1,444,660**.

ROWE's budget for construction observation and contract administration is based on the equivalent of a 9 weeklong period where full time observation is required. Our proposed scope of services and budget for providing services for this time frame totals **$138,400**, per the attached fee breakdown. The billing will reflect the actual staff hours required during construction. ROWE will provide full time construction, aggregate base and bituminous density testing, concrete testing, contract administration, and coordination between the city, MDOT, contractor, and adjacent property owners/tenants (as needed).

We understand that the City of Burton will receive reimbursement for construction engineering services via a tri-party contract between MDOT, the City of Burton, and ROWE. If you agree with our proposal as stated, we would ask that you indicate your approval below, and then return a copy to our office. Upon receipt, we can begin preparation of the MDOT form 5101B, which will be used to generate the final actual cost of the contract (using MDOT Labor Cost calculation methods). ROWE will then assist the city in preparing the MDOT Tri-Party agreement and will be prepared to sign once it is endorsed by MDOT.

Attachment: CE Proposal for ROWE (5617 : Third Party Agreement with Rowe Professional Services For CE For Bristol Road)

To authorize ROWE to begin work, please sign the authorization below, and return a copy of the signed document to our office. Please contact me on my cell phone at (248) 318-1492 if you have any questions.

Sincerely,

Paul T. O'Meara

Digitally signed by Paul T. O'Meara
DN: C=US, E=ptomeara@rowepsc.com, O=ROWE, OU=Design Services, CN=Paul T. O'Meara
Date: 2023.01.03 16:18:43-05'00'

Paul T. O'Meara, PE
Project Manager

Having reviewed this proposal, which is a part thereof, acceptance of this proposal is hereby confirmed. ROWE Professional Services Company is authorized to proceed with the work.

Accepted by: _____ _____
Signature Date

_____
Print Name and Title

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Attachment: CE Proposal for ROWE (5617 : Third Party Agreement with Rowe Professional Services For CE For Bristol Road)

City of Burton
Bristol Road Rehabilitation Project
Fenton to Saginaw

Construction Engineering Fee Breakdown

January 3, 2023

Survey Construction Staking

- Stake proposed curbs and drive approaches (where needed).
- Stake accessible sidewalk ramps.

Survey Construction Staking Total **$12,500**

Construction Observation & Testing

- Measure and track quantities daily.
- Perform construction concrete, asphalt, and density testing services.
- Verify construction compliance with contract specifications.

Construction Observation and Testing Total **$82,100**

Contract Administration

- Obtain documents from MDOT to set up Fieldbook and Field Manager files.
- Review material shop drawings for compliance with contract documents.
- Verify project quantities with contractor.
- Process pay requests and change orders.
- Provide all administration that conforms to MDOT Local Agency Program. requirements including completing wage rate interviews and reviewing certified payrolls.
- Prepare and attend pre-construction and progress meetings, distribute minutes.
- Prepare punch list for contractor and prepare project closeout paperwork.

Contract Administration Total **$43,800**

Construction Engineering Services Total ***$138,400***

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Attachment: CE Proposal for ROWE (5617 : Third Party Agreement with Rowe Professional Services For CE For Bristol Road)

Approve and Authorize the Mayor and City Clerk to execute a contract with Orchard, Hiltz & McCliment, In. (OHM), 34000 Plymouth Rd. Livonia, MI 48150, for Professional Engineering of Court Street, Genesee to Belsay (DPW Project No.23-05-P), at an estimated cost of $50,420.00, contingent upon approval of the City Attorney.

COMMENTS - Current Meeting:

Mr. Martinbianco stated he doesn't know why they are doing this side of the road and he would rather see them go toward Center Road.

Mr. Abbey said we talked about this at budget time and we will go through it again with this coming budget. We go in with a wish list. We are in a good place because we have matching funds where a lot of communities do not. Because of this, we have been able to get some extra projects done each year, that is why you are seeing multiple roads get done instead of one or two. We don't always pick the projects, they prioritize them using the PASER rating process. They also have to prioritize based on the amount of money they have. There is a lot that goes into the process.

Discussion continued regarding PASER ratings.

Mr. Heffner asked when Court Street between Center and Genesee will be redone. In my opinion, it is the worst road in the city. Can we do to this road what we did to Belsay Road?

Mr. Abbey stated I think it's a couple years out, 2025-2026. Let's talk about this one another day. Court Street by Bentley School is terrible and we spend a lot of maintenance dollars there. I agree they need to be done.

ATTACHMENTS:

- PE Proposal. OHM (PDF)

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Greg Hull, Councilman
SECONDER:	Christina Conley, Councilwoman
AYES:	Martinbianco, Heffner, Smith, Fenner, Conley, Hull, Hickson

ARCHITECTS. ENGINEERS. PLANNERS.

OHM Advancing Communities

January 31, 2023

City of Burton
Department of Public Works
4093 Manor Drive
Burton, MI 48519

Attention: **Mr. Peter Wingblad**
Engineering and Inspection Superintendent

Regarding: **Professional Engineering Services Proposal**
E. Court Street from Genesee Road to Belsay Road (MDOT Job #216129)

Dear Mr. Wingblad:

We would like to thank you for the opportunity to submit a proposal to provide professional engineering services for the resurfacing of approximately one (1) mile of E. Court Street from Genesee Road to Belsay Road in the City of Burton. We are excited to extend our support of the City's continuing effort to improve its road network.

PROJECT UNDERSTANDING

It is our understanding the project will consist of the design engineering and contract documents through final engineering/bidding in accordance with MDOT LAP guidelines. The improvements will include milling and resurfacing on the existing footprint of the road width, pavement and joint repairs, miscellaneous curb repairs, ADA sidewalk ramp upgrades, signage and pavement marking to greatly improve the safety and condition of this road segment.

The federal funding for the project must be administered through the Michigan Department of Transportation (MDOT) Local Agency Programs Unit (LAP). The plans for this project will be developed in accordance with MDOT guidelines. Additional project administration effort resulting from the federal aid process (program application, crash analysis, mobility analysis, GI meeting, NEPA, SHPO, etc.) has been included.

SCOPE OF SERVICES

Our scope of professional services includes the following tasks:

PRELIMINARY ENGINEERING

- Prepare and submit MDOT form #5323 at least 2 months prior to the GI submittal in accordance with MDOT LAP guidelines.
- Prepare LOG type field review to identify pavement repair/joint repair needs. The limits of our LOG survey will be the intersection of Genesee Road to Belsay Road.
- Obtain topographic survey information for intersection sidewalk ramps and collect topographic survey information every 200 feet at road cross sections to analyze existing crown location and road slopes to confirm they are within the accpetable range for MDOT rehabilitation projects..
- Gather utility information within the E. Court St. project limits and coordinate relocations if necessary.
- Coordinate with a G2 Consulting Group to obtain pavement cores along the project route. We anticipate six (6) pavement cores.

OHM Advisors
G3101 W. BRISTOL ROAD
FLINT, MICHIGAN 48507
T 810.396.4015
F 734.522.6427
OHM-Advisors.com

Attachment: PE Proposal. OHM (5618 : Third Party Agreement with OHM For PE For Court Street Genesee to Belsay)

- Create a base plan geometry and meet with the City to review. This will be created from the collected topographic information, GIS aerial imagery, and our LOG review as cited above.
- Meet with City Staff to determine curb & gutter removal and replacement locations and discuss potential drainage improvements identified by the City.
- Complete a Crash Analysis per MDOT requirements. We will obtain traffic crash data for the last three-year period showing the location and types of crashes. A report will be developed and submitted to the City outlining what was discovered and possible corrective actions that can be implemented into the design to help mitigate any possible deficiencies that may contribute to accidents.
- Prepare typical cross sections for the project.
- Evaluate and identify the need for temporary grading easements.
- Prepare documents to obtain Genesee County Drain Commission soil erosion permit.
- Discuss a Maintenance of Traffic strategy with the City and prepare a concept for the City's review and general concurrence.
- Review and upgrade existing signage within the project limits.
- Submit a Grade Inspection (GI) plan package consisting of cover sheet, existing and proposed typical sections, notes, details, legend, LOG removal, LOG plan, permanent pavement marking and signing, and maintenance of traffic sheet.
- Coordinate and attend G.I. review meeting with MDOT and City representatives.

FINAL ENGINEERING SERVICES

- Coordinate the maintenance of traffic plan and project schedule with other projects or events in the area.
- Complete construction details.
- Review and finalize plans based on comments obtained from G.I. review meeting to MDOT Local Agency Program's requirements.
- Finalize grading easement limits and locations (if required) and prepare up to five grading easements for submittal to the City to acquire. If it is determined that additional temporary grading easements are necessary, OHM would request that the additional easements be paid at $1,000.00 per additional temporary grading easement.
- Review the project estimate for scope additions or subtractions and verify quantities.
- Prepare project special provisions and Engineer's opinion of cost to include in the MDOT submittal package.
- Submit final plans, project specifications, and an opinion of probable construction cost in MERL format to MDOT Local Agency Programs.
- Answer questions raised by contractors from MDOT during the bidding process.

COMPENSATION AND SCHEDULE

The above-mentioned services will be invoiced on a **Cost Plus Fixed Fee Basis** per MDOT LAP requirements as detailed below.

Professional Engineering Services	$ 47,920.00
G2 Consulting Group	$ 2,500.00
Engineering Services Total:	**$ 50,420.00**

Attachment: PE Proposal. OHM (5618 : Third Party Agreement with OHM For PE For Court Street Genesee to Belsay)

Schedule
We are prepared to begin the project upon receiving a signed authorization and will work with the City to meet a schedule that works within their timeframe. It is anticipated that plans will be prepared to meet MDOT bid letting late summer of 2023.

FURTHER CLARIFICATIONS AND ASSUMPTIONS

The above-listed scope of services was prepared with the following assumptions:

- Based on the proposed scope of work, it is anticipated that this project will qualify for a Section 106 exemption and not require a State Historic Preservation Office (SHPO) review per MDOT requirements. If determined otherwise by MDOT, OHM would look to contract with a Commonwealth Heritage Group to satisfy Section 106 requirements under a separate proposal.
- The City will be responsible for all permit application fees and permit fees.
- No permanent right-of-way acquisition is anticipated. City will obtain temporary grading easements, if required.
- OHM will be pleased to provide any additional services for this project on an hourly basis. Services not included in this proposal:
    a. Construction phase services such as, but not limited to, construction management, construction engineering, construction administration, construction observation and/or construction layout.
    b. Relocation design services for sanitary sewer, if required.
    c. Wetland delineation and survey, mitigation, and permitting.
    d. Environmental assessments or reports, drainage studies, or other environmental evaluations associated with potential contaminated soils.
    e. Traffic signalization design.
    f. Preparation of plans for landscaping and ornamental features.
    g. Location of private utilities, other than requesting as-built information from private utility owners.

Should you find this agreement acceptable, please execute both copies and return one copy to us for our files. We look forward to working with the city on another successful project. If you have any questions, please feel free to contact me at rob.merinsky@ohm-advisors.com or (810) 396-4372.

Sincerely,
OHM Advisors

Rob Merinsky, P.E.
Project Manager

Enclosures: Standard Terms and Conditions

Cc: Andrew Harris, Principal
File

Attachment: PE Proposal. OHM (5618 : Third Party Agreement with OHM For PE For Court Street Genesee to Belsay)

City of Burton
E. Court St. Rehabilitation – Professional Engineering Services

Accepted By:_____

Title:_____

Date:_____

Attachment: PE Proposal. OHM (5618 : Third Party Agreement with OHM For PE For Court Street Genesee to Belsay)

OHM Advisors
G3101 W. BRISTOL ROAD
FLINT, MICHIGAN 48507
T 810.396.4015
F 734.522.6427
OHM-Advisors.com

TERMS & CONDITIONS

1. THE AGREEMENT. These Terms and Conditions and the attached Proposal or Scope of Services, upon acceptance by CLIENT, shall constitute the entire Agreement between Orchard, Hiltz & McCliment, Inc. (OHM ADVISORS), a registered Michigan Corporation, and CLIENT. OHM ADVISORS and CLIENT may be referred to individually as a Party or collectively as Parties. This Agreement supersedes all prior negotiations or agreements and may be amended only by written agreement signed by both Parties.

2. CLIENT RESPONSIBILITIES. CLIENT, at no cost, shall:
   a. Provide access to the project site to allow timely performance of the services.
   b. Provide all information in CLIENT'S possession as required by OHM ADVISORS to perform the services.
   c. Designate a person to act as CLIENT'S representative who shall transmit instructions, receive information, define CLIENT policies, and have the authority to make decisions related to services under this Agreement.

3. PROJECT INFORMATION. OHM ADVISORS shall be entitled to rely on the accuracy and completeness of services and information furnished by CLIENT, other design professionals, or consultants contracted directly to CLIENT.

4. PERIOD OF SERVICE. The services shall be completed within the time specified in the Proposal or Scope of Services, or if no time is specified, within a reasonable amount of time. OHM ADVISORS shall not be liable to CLIENT for any loss or damage arising out of any failure or delay in rendering services pursuant to this Agreement that arise out of circumstances that are beyond the control of OHM ADVISORS.

5. COMPENSATION. CLIENT shall pay OHM ADVISORS for services performed in accordance with the method of payment, as stated in the Proposal or Scope of Services. CLIENT shall pay OHM ADVISORS for reimbursable expenses for subconsultant services, equipment rental, or other special project related items at a rate of 1.15 times the invoice amount.

6. TERMS OF PAYMENT. Invoices shall be submitted to the CLIENT each month for services performed during the preceding period. CLIENT shall pay the full amount of the invoice within thirty days of the invoice date. If payment is not made within thirty days, the amount due to OHM ADVISORS shall include a service fee at the rate of one (1%) percent per month from said thirtieth day.

7. STANDARD OF CARE. OHM ADVISORS shall perform their services under this Agreement in a manner consistent with the professional skill and care ordinarily provided by similar professionals practicing in the same or similar locality under the same or similar conditions.

8. RESTRICTION OF REMEDIES. OHM ADVISORS is responsible for the work of its employees while they are engaged on OHM ADVISORS' projects. As such, and in order to minimize legal costs and fees related to any dispute, CLIENT agrees to restrict any and all remedies it may have by reason of OHM ADVISORS' breach of this Agreement or negligence in the performance of services under this Agreement, be they in contract, tort, or otherwise, to OHM ADVISORS, and to waive any claims against individual employees.

9. LIMIT OF LIABILITY. To the fullest extent permitted by law CLIENT agrees that, notwithstanding any other provision in this Agreement, the total liability in the aggregate, of OHM ADVISORS to CLIENT, or anyone claiming under CLIENT, for any claims losses, damages or costs whatsoever arising out of, resulting from or in any way related to this Agreement or the services provided by OHM ADVISORS pursuant to this Agreement, be limited to $25,000 or OHM ADVISORS fee, whichever is greater, and irrespective of whether the claim sounds in breach of contract, tort or otherwise.

10. ASSIGNMENT. Neither Party to this Agreement shall transfer sublet, or assign any duties, rights under or interest in this Agreement without the prior written consent of the other Party.

11. NO WAIVER. Failure of either Party to enforce, at anytime, the provisions of this Agreement shall not constitute a waiver of such provisions or the right of either Party at any time to avail themselves of such remedies as either may have for any breach of such provisions.

12. GOVERNING LAW. The laws of the State of Michigan will govern the validity of this Agreement, its interpretation and performance.

13. INSTRUMENTS OF SERVICE. OHM ADVISORS shall retain ownership of all reports, drawings, plans, specifications, electronic data and files, and other documents (Documents) prepared by OHM ADVISORS as Instruments of Service. OHM ADVISORS shall retain all common law, statutory and other reserved rights including, without limitation, all copyrights thereto. CLIENT, upon payment in full for OHM's services, shall have an irrevocable license to use OHM's Instruments of Service for or in conjunction with repairs, alterations or maintenance to the project involved but for no other purpose. CLIENT shall not reuse or make any modifications to the Documents without prior written authorization by OHM ADVISORS. In accepting and utilizing any Documents or other data on any electronic media provided by OHM ADVISORS, CLIENT agrees they will perform acceptance tests or procedures on the data within 30 days of receipt of the file

14. CERTIFICATIONS. OHM ADVISORS shall have 14 days to review proposed language prior to the requested dates of execution OHM ADVISORS shall not be required to execute certificates to which it has a reasonable objection, or that would require knowledge, services, or responsibilities beyond the scope of this Agreement, nor shall any certificates be construed as a warranty or guarantee by OHM ADVISORS.

15. TERMINATION. Either Party may at any time terminate this Agreement upon giving the other Party 7 calendar days prior written notice. CLIENT shall within 45 days of termination pay OHM ADVISORS for all services rendered and all costs incurred up to the date of termination in accordance with compensation provisions in this Agreement.

16. RIGHT TO SUSPEND SERVICES. In the event CLIENT fails to pay OHM ADVISORS the amount shown on any invoice within 45 days of the date of the invoice. OHM ADVISORS may, after giving 7 days' notice to CLIENT, suspend its services until payment in full for all services and expenses is received.

Attachment: PE Proposal. OHM (5618 : Third Party Agreement with OHM For PE For Court Street Genesee to Belsay)

17. OPINIONS OF PROBABLE COST. OHM ADVISORS preparation of Opinions of Probable Cost represents OHM ADVISORS' best judgment as a design professional familiar with the industry. CLIENT recognizes that OHM ADVISORS has no control over costs of labor, equipment, materials, or a contractor's pricing. OHM ADVISORS makes no warranty, expressed or implied, as to the accuracy of such opinions as compared to bid or actual cost.

18. JOB SITE SAFETY. Neither the professional activities of OHM ADVISORS, nor the presence of OHM ADVISORS or our employees and subconsultants at a construction site shall relieve the Contractor or any other entity of their obligations, duties, and responsibilities including, but not limited to, construction means, methods, sequences, techniques or procedures necessary for performing, superintending or coordinating all portions of the work of construction in accordance with the contract documents and the health or safety precautions required by any regulatory agency. OHM ADVISORS has no authority to exercise any control over any construction contractor or any other entity or their employees in connection with their work or any health or safety precautions.

19. CONTRACTOR SUBMITTALS. If included in the services to be provided, OHM ADVISORS shall review the contractor's submittals such as shop drawings, product data, and samples for the limited purpose of checking for conformance with information given and the design concept expressed in the construction documents issued by OHM ADVISORS. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the contractor's responsibility. OHM ADVISORS review shall not constitute approval of safety precautions or, unless otherwise specifically stated by OHM ADVISORS, of any construction means, methods, techniques, sequences or procedures. OHM ADVISORS approval of a specific item shall not indicate approval of an assembly of which the item is a component.

20. CONSTRUCTION OBSERVATION. If requested, OHM ADVISORS shall visit the project construction site to generally observe the construction work and answer questions that CLIENT may have. OHM ADVISORS shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the construction work, or to determine whether the construction work is being constructed in accordance with the Contract Documents.

21. HAZARDOUS MATERIALS. As used in this Agreement, the term hazardous materials shall mean any substances, including without limitation asbestos, toxic or hazardous waste, PCBs, combustible gases and materials, petroleum or radioactive materials (as each of these is defined in applicable federal statutes) or any other substances under any conditions and in such quantities as would pose a substantial danger to persons or property exposed to such substances at or near the Project site. Both Parties acknowledge that OHM ADVISORS' Scope of Services does not include any services related to the presence of any hazardous or toxic materials. In the event OHM ADVISORS or any other person or entity involved in the project encounters any hazardous or toxic materials, or should it become known to OHM ADVISORS that such materials may be present on or about the jobsite or any adjacent areas that may affect the performance of OHM ADVISORS' services, OHM ADVISORS may, at its sole option and without liability fo consequential or any other damages, suspend performance of it services under this Agreement until CLIENT retains appropriate qualified consultants and/or contractors to identify and abate o remove the hazardous or toxic materials and warrants that th jobsite is in full compliance with all applicable laws and regulations CLIENT agrees, notwithstanding any other provision of thi Agreement, to the fullest extent permitted by law, to indemnify and hold harmless OHM ADVISORS, its officers, partners, employee and subconsultants (collectively, OHM ADVISORS) from and against any and all claims, suits, demands, liabilities, losses, damage or costs, including reasonable attorneys' fees and defense cost arising out of or in any way connected with the detection, presence handling, removal, abatement, or disposal of any asbestos o hazardous or toxic substances, products or materials that exist on about or adjacent to the Project site, whether liability arises unde breach of contract or warranty, tort, including negligence, stric liability or statutory liability, regulatory or any other cause of action except for the sole negligence or willful misconduct of OHM ADVISORS.

22. WAIVER OF CONSEQUENTIAL DAMAGES. The Partie waive consequential damages for claims, disputes or other matter in question arising out of or relating to this Agreement. This mutua waiver is applicable, without limitation, to all consequentia damages due to either Party's termination of this Agreement.

23. WAIVER OF SUBROGATION. The Parties waive all right against each other and any of their contractors, subcontractors consultants, agents, and employees, each of the other, for damage caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to a written contract or othe property insurance applicable to the construction work.

24. THIRD PARTIES. Nothing contained in this Agreement shal create a contractual relationship with, or a cause of action in favo of, a third party against either CLIENT or OHM ADVISORS.

25. CODE REVIEW/ACCESSIBILITY. In providing its service under this Agreement, OHM ADVISORS may have to interpre federal and or state laws, codes, ordinances, regulations and/o statutes. CLIENT understands and agrees that these may be subject to different and possibly contradictory interpretations by relevant governmental officials charged with interpreting same and furthermore understands and agrees that OHM ADVISORS does not warrant or guarantee that their interpretation will be consisten with the interpretation of the relevant governmental officials. OHM ADVISORS shall not be liable for unreasonable or unforeseeable interpretation of federal and or state laws, codes, ordinances regulations and/or statutes by governmental officials charged with interpreting same.

26. DISPUTE RESOLUTION. In an effort to resolve any conflicts that arise during the project or following the completion of the project, the Parties agree that all disputes between them arising ou of or relating to this Agreement shall be submitted to nonbinding mediation, unless the Parties mutually agree otherwise, as a prerequisite to further legal proceedings. The Parties agree to share the mediator's fee and any filing fees equally, and the mediation shall be held in the place where the project is located, unless another location is mutually agreed upon.

Attachment: PE Proposal. OHM (5618 : Third Party Agreement with OHM For PE For Court Street Genesee to Belsay)