



CITY OF BURTON
BURTON CITY COUNCIL MEETING
MARCH 15, 2021
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. MEETING INFORMATION

Burton City Council

Hosted by Racheal Boggs

<https://cityofburton.my.webex.com/cityofburton.my/j.php?MTID=m637587b269ee4feffd0fc58cc3ba96b2>

Monday, Mar 15, 2021 7:00 pm | 2 hours | (UTC-05:00) Eastern Time (US & Canada)

Meeting number: 182 048 6165

Password: BCC2021 (2222021 from phones and video systems)

Join by video system

Dial 1820486165@webex.com

You can also dial 173.243.2.68 and enter your meeting number.

Join by phone

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Access code: 182 048 6165

B. INVOCATION LED BY: STEVE HEFFNER

C. THE PLEDGE OF ALLEGIANCE IS LED BY: STEVE HEFFNER

D. ROLL CALL

Mr. Heffner, Burton, MI

Mr. Martinbianco, Burton, MI

Mr. O'Keefe, Burton, MI

Attendee Name	Title	Status	Arrived
Tom Martinbianco	Councilman	Remote	
Dennis O'Keefe	Councilman	Remote	
Steven Heffner	President	Remote	
Danny Wells	Councilman	Present	7:07 PM
Vaughn Smith	Councilman	Present	
Gregory Fenner	Vice President	Present	
Christina Conley	Councilwoman	Present	

E. STAFF PRESENT

Duane Haskins, Mayor

Racheal Boggs, City Clerk

Brian Ross, Police Chief

Kirk Wilkinson, Fire Chief
Charles Abbey, DPW Director/HR
Amber Abbey, Deputy DPW Director
Jean Johnson, Senior Center Director
Amanda Doyle, City Attorney
Mike Vogt, Assistant Fire Chief
Ann Abbey, Assessor
Steve Phillips, IT Director

Others Present:

Dan Russell, Genesee Health System CEO
David Lossing, Vanguard Public Affairs

F. APPROVAL OF MINUTES

1. City Council - Regular Meeting - Mar 1, 2021 7:00 PM

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Tom Martinbianco, Councilman
SECONDER:	Christina Conley, Councilwoman
AYES:	Martinbianco, O'Keefe, Heffner, Wells, Smith, Fenner, Conley

G. ADMINISTRATIVE REPORTS

Mayor Haskins stated he would like everyone to keep the Defreese family in your thoughts and prayers for the passing of Frankie Defreese. He was born and raised here in Burton and his father, Stan was a member of the Fire Department for close to 50 years. Attorney Leadford is here tonight requesting a closed session for contract negotiation strategy under section 8C of the Open Meetings Act. Also here tonight are Dan Russell, Genesee Health System CEO and David Lossing of Vanguard Public Affairs for a presentation and to answer questions regarding the Genesee Health System Community Mental Health millage that is being proposed. As you are aware, we had emergency maintenance on our server that went down for three days. We are currently up and running and things are going well. There is an ongoing investigation so we cannot provide all the results and details. We are safe and have extra things in place now to protect us. We were informed that from our recreational marijuana businesses, we will be receiving \$140,000 from the state. If you so choose, we can use this toward local roads or something of that nature. In addition, we are getting over \$2 million through the COVID relief package. Once we get through all the parameters that are being put into place, we can come to council to see where we would like to use the funds to better our city. Memorial Day festivities are moving forward. We are still seeking donations. At the Finance Meeting, there was an approval to move money. I am not sure if that is all for the fence or to help with Memorial Day festivities. I am sure council will inform us of that. Regarding the Genesee County 911 system, we do not have a choice and will be switching over to the new system. This will be in place and implemented by 2023. The reason I say we don't have a choice is because per the law, and the \$240 surcharge money, it wouldn't behoove us to stay with the Premier One system.

1. Motion to go into closed session for contract negotiation strategy under section 8C of the Open Meetings Act.

Council went into closed session at 7:15 PM.

Council returned from closed session at 7:54 PM.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Tom Martinbianco, Councilman
SECONDER:	Gregory Fenner, Vice President
AYES:	Martinbianco, O'Keefe, Heffner, Wells, Smith, Fenner, Conley

H. COMMITTEE REPORTS

Mr. Smith stated we had a Finance Meeting tonight to look at possible reallocation of the money in the Parks & Recreation budget from cancelled events to improve the park at Fire Station #1. Councilwoman, Tina Conley has spear headed this and I am asking that she go over this with you.

Mrs. Conley stated Jeremy Scharrer, Chairman of the Parks & Recreation Board and I put a package together to propose a new fence at Water Tower Park. The fence that is there now was put in place in 1992 and is 30 years old. You can see in the pictures that we are in dire need of a new fence due to the damage. What we would like to do is move the fence 10 feet back behind the fire hydrant. We would like ornamental fence in the front and black chain link on the rest. We would also like to close one of the gates so we will only have one. The gate on the Fire Station side, we would like to be big enough for a full size truck to come through in case we need wood chips delivered. I will get with the Mayor with the dimensions. You can see there is a garden in the pictures, we would like to remove it and use the bricks in the front so when they weed whack they don't damage the fence. We would also like to bring the fence in 2 feet on each side because when the business next door plows snow, there is nowhere for them to put it. I would like to talk to the business and ask that they put their snow in their parking lot and not against the fence. I would like to pay for the project with unused money in the amount of \$13,800 from the following funds: Pizza with Santa \$2,800; Tree Lighting Ceremony \$3,000; Trick or Treat Trail \$3,800; Easter Egg Hunt \$2,000; P&R Community Events \$3,000 We also didn't use the money from last years Memorial Day Event, it went back into the general fund so the money is there.

Mr. Heffner stated the Mayor had requested that you discuss the Memorial Day funding at the Finance Meeting. Was that discussed at the Finance Meeting?

Mr. Smith stated the \$19,200 is still there. We are not touching that.

Mr. Heffner stated I thought he was asking for additional funds.

Mayor Haskins stated when I originally brought this up, I said I wasn't for sure how well we would be able to do with getting donations this year. I thought we could use the funds for Memorial Day. I guess they only discussed a fence. I know Mrs. Conley has brought this up before. I am sure there is money in the general fund that we could transfer for the fence or for Memorial Day, either way. I was just asking council for help in the event we could not get enough donations.

Mr. Heffner asked the Mayor to come to council with a number at our next council meeting so we can discuss it and see what council thinks. I am sure the council will be willing to help in some way.

Mayor Haskins stated it is difficult because I don't know where we will be with donations but I will try to put something together.

Mrs. Conley stated in the past we have had the parade, a band, activities for the kids and fireworks. With COVID, will we be only doing the parade and fireworks and not the other

activities?

Mayor Haskins stated we spoke to the CDC, MDHHS and Genesee County Health Department and they stated outdoor festivities doesn't spread COVID as much as indoor activities and they felt we would be fine with masks and social distancing as long as the activities were outdoors. The types of activities may change; maybe rock climbing, clowns, putt-putt golf or other things we can come up with that would be less congregation of people like a bounce house would be.

Mr. Smith stated some of the dynamics of the Memorial Day 5K have changed. Atherton will allow us to use the parking lot but not the school. We are having a virtual and in-person race and have limited it to 300 participants. We can't give out food or water. Can we be assured that we will have police for the course?

Mayor Haskins stated I assume so. Whatever was done in the past, we should be able to cover without any issues.

Mr. Fenner stated can we go ahead and get bids on the fence now that Mrs. Conley has all the specifications so we know how much money is needed. Also, we should have discussions with the DDA to see if they are still willing to help out with the fence. The Legislative Committee had a meeting tonight to discuss Ordinance 30.03 for the Clerk and the Assessor. We have come up with some suggestions to bring to council at the next meeting. I appreciate Mr. Martinbianco's input as a senior member.

A. Presentation

Dan Russell, Genesee Health System CEO & David Lossing, Vanguard Public Affairs gave a presentation on the countywide mental health millage proposal that is on the May Election ballot. The following information was presented:

Dan Russell

- Approval was received from Genesee County Board of Commissioners for ballot language in January. Genesee County Health System approached the board with millage last summer and they did not entertain it at that time.
- Mostly Medicaid funded program which increasing through pandemic & need for flexible spending will increase for those who do not meet full Medicaid benefit eligibility.

David Lossing

- Currently five counties in Michigan that provide local millage support for mental health services including Ingham, Eaton, Jackson, Hillsdale and Washtenaw.
- Millage is .94 mills per year with 10 year sunset so it will go back to the voters in the year 2030 for renewal.
- Research focused on seven investment areas:
 1. Working with law enforcement officers in a crisis intervention team model as best practice- Funding used to train every Police Officer in Genesee County, includes wages and training costs.
 2. Working with the court system- Providing de-escalation and hospital/jail diversion.
 3. Courts and Corrections system- Augment the current county mental health/circuit court with an assisted outpatient treatment program.
 4. Suicide and crisis prevention- provide treatment services and

- activities that are not fully funded through traditional sources.
5. Working with K-12 community including public schools, charter schools & nonprofit organizations that deal with young people to provide services for student mental health.
 6. Physical footprint for mental health facility- in collaboration with Hurley Medical Center, located on 5th avenue west of Grand Traverse, open 24 hours/7 days & staffed by medical professionals.
 7. Focus on vulnerable population- provide support to become productive members of community.
- Poll results indicated 81% of voters would support a millage to expand mental health services in Genesee County.
 - Biggest question is what will it cost taxpayers: Using taxable value of \$25,000, the cost per year would be \$23.50; taxable value of \$50,000, the cost per year would be \$47.00; taxable value of \$200,000, the cost per year would be \$188.00.
 - Millage has received several endorsements from officials and organizations throughout the county.
 - Website for more information www.geneseethefuture.org.

Mr. Heffner asked who is funding mental health in Genesee County right now.

Mr. Russell stated most of our funding is Medicaid. The services we just described are mostly not covered through Medicaid reimbursement. The need for these services continues to grow and that is why we are seeking flexible spending.

Mr. Heffner asked if the state or county is putting in any dollars.

Mr. Russell said, yes. Medicaid is a match between federal and state government. Also, there is a little bit of flexible funding provided by the state but we have lost funding due to the expansion of Medicaid. The county gives of mandated funding less than 2% of our budget.

Mr. Heffner asked if the county funding would continue if the millage passes. Will they withdraw the funding?

Mr. Russell stated it would continue.

Mr. Heffner stated Hurley is owned by the City of Flint. It is a City of Flint asset. I don't know why Burton taxes should pay for a City of Flint asset. That is one thing I don't like about this.

Mr. Russell stated the millage does not pay for the asset. It pays for the services and people that go into the building. Hurley will keep the building and lease it to us. Behavioral Health individuals go to Hurley Emergency Department currently or they go to jail.

Mr. Lossing stated additionally, the City of Flint does not support the hospital financially.

Discussion ensued regarding previous millages, results of polls taken for this millage and advertising for millage campaign.

Mr. Smith asked how much money this will raise the first year if the millage passes.

Mr. Lossing stated according to the County Equalization Department, \$9.5 million. Of

that, about \$300,000 will be redirected to districts within the county such as local DDA's.

Discussion ensued regarding Genesee County's allocation to Genesee Health System.

Mr. Wells stated this will be a good program and I think you need more money than that. I will be voting for it.

Mayor Haskins stated the mental health status in the county, state and nation is a growing concern. From a law enforcement standpoint, dealing with a subject who has mental health issues, the problem is, what do we do with them. They go to the hospital or jail and end up back on the street. We recognize the mental health crisis and the need to fix it. The question is should it go back to the taxpayers. Will this be for everyone regardless of medical coverage or income?

Mr. Russell stated we intend to make the crisis center for anyone regardless of age or ability to pay.

Mr. Heffner stated the timing on this is horrible. I do not agree with May elections.

Mr. Lossing stated we approached the Board of Commissioners in August of last year and they declined it. May was the next available election date by law. Unfortunately, this was our only recourse. We are sharing the ballot with the 911 Consortium and Bendle Schools.

I. AUDIENCE PARTICIPATION

Public comment may be sent to: publiccomment@burtonmi.gov. Comments received prior to the meeting will be read into the record.

The following public comments received via email were read into the record:

Ryan Doyle of Burton discussed water bill late fees.

Michelle Roberts of Burton would like an explanation why the storage facility that backs up to her house does not have to get proper fencing.

J. COUNCIL DISCUSSION

Mrs. Conley stated she received a code enforcement complaint regarding 1056 Bristol Road. Also, Forest and old Court Street that goes along the expressway, there is a house that I am receiving complaints about. Regarding Mr. Doyle's public comment, Belsay Road is bad, it feels like speed bumps.

Mr. Smith stated I went to look at the fence on the property that Michelle Roberts is speaking about. I sent a picture to everyone. I would like input from the council. What are your thoughts?

Mr. Martinbianco asked how this got through the Planning Commission. Do we require an obscured fence? Was Ms. Roberts at the Planning meeting during the time of approval?

Mrs. Abbey stated in went in front of the ZBA first and they required a 4ft high berm with 5-6ft high pine trees on top in addition to the fence. The people doing the project are doing exactly what they were approved to do. The Planning Commission also approved it with the same conditions. I don't think they have it done but they are working on it. I have not spoken to Ms. Roberts and do not know if she was present during the meeting but I can look into that and get back to you.

Mr. Martinbianco stated you allowed them to put in the berm? How high is the berm?

Mrs. Abbey stated the Planning Commission and ZBA allowed them to put a berm in. It is 4ft high.

Mr. Martinbianco asked what controls we have for enforcement purposes.

Mrs. Abbey stated there is no certificate of occupancy issued. It will only be issued when he completes the measures on the site plan.

Further discussion ensued on the fence, berm and trees in the picture of Raymond Avenue provided by Mr. Smith.

Mrs. Abbey stated tomorrow she will pull up the site plan and email it to council.

Mr. Wells stated I am always glad to see new business coming into the city. It is sad that it is a storage facility. I would like to have seen a restaurant or hotel there. I am receiving complaints about Ameriguard on Maple Road that backs up to Friel Street. Maybe we can send someone over there to look at it. I went out this week and looked at ditching and have spoken to the Mayor about Covert, Risendorf, Beechwood and Cashin. I took some pictures that I would like to send to Mr. Abbey. The ditches are full and no water can run through. Residents have put new driveways in and culverts are collapsing. I am happy to see the plan to fix the fence that Mrs. Conley and Mr. Scharrer have come up with. Well done.

Discussion ensued regarding the COVID relief package.

Mr. Martinbianco stated there is a lot of speeding on Farley Street. We did a great job grading there. Regarding the bumps and condition of Belsay Road between Davison and Potter, when is that scheduled for street paving?

Mr. Abbey stated that one is scheduled for next year. We will go take a look at it. Once the frost settles, there might be some things we can do on a temporary basis.

Mr. Martinbianco asked if the budget will be available the first meeting in April or will we need an extension.

Mayor Haskins stated the budget will be on time as scheduled.

Mr. Smith stated we have \$140,000 coming in from our marijuana businesses; I would like to use it for local streets. What does the council think?

Mr. Martinbianco stated that is a great idea. If it will be a constant flow of dollars, we can set up a sinking fund.

Mrs. Conley stated she would like to see it used for local streets or blight.

Mr. Heffner stated I have been on council since 2007 and can't remember a time that we put a significant amount of dollars into local streets. It is time we focus on that. I think we need to hold a special meeting of the council to discuss how we intend to spend the COVID relief money. I would like the administration to get a list of what is allowable.

Mr. Martinbianco stated we shouldn't put the cart before the horse. Let's get the guidance from the federal government so we know the requirements before we make judgments about spending.

Discussion ensued on state shared revenue, 2020 Census and status on the down payment money from the state for water.

Mr. Wells stated the council should put something together so we can vote on it and send it to the state to be a part of the Flint Water Crisis lawsuit.

K. COUNCIL ACTION

1. Approve and authorize the payment of Attorney Billing (Doyle) 2/10/21 to 2/23/21 in the amount of \$4,540.25.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Dennis O'Keefe, Councilman
SECONDER:	Vaughn Smith, Councilman
AYES:	Martinbianco, O'Keefe, Heffner, Wells, Smith, Fenner, Conley

2. Approve and authorize the payment of Attorney Billing (Masud) 2/1/2021 to 2/23/2021 in the amount of \$2,203.66.

RESULT:	CARRIED [6 TO 1]
MOVER:	Christina Conley, Councilwoman
SECONDER:	Vaughn Smith, Councilman
AYES:	Martinbianco, Heffner, Wells, Smith, Fenner, Conley
NAYS:	O'Keefe

3. Approve and authorize the request for a Residential Sanitary Water & Sewer Installer's License for Carson Site-Prep, LLC., P.O. Box 748, Goodrich, Michigan 48438.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Dennis O'Keefe, Councilman
SECONDER:	Christina Conley, Councilwoman
AYES:	Martinbianco, O'Keefe, Heffner, Wells, Smith, Fenner, Conley

4. Approve and authorize Resolution 2021-06 for submission of a Genesee County Senior Center 2021-2022 Level 3 Funding Application.

Mr. Wells asked for an explanation of the resolution.

Mayor Haskins stated Jean Johnson is here if you have questions but this is the same thing we go through every year, the allocation of the Senior Center millage that was passed several years ago. This is so we can get our allotment of the money.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Danny Wells, Councilman
SECONDER:	Christina Conley, Councilwoman
AYES:	Martinbianco, O'Keefe, Heffner, Wells, Smith, Fenner, Conley

5. Approve and authorize the acceptance of the low bid 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 Green Tech Systems, LLC 1203 Brissette Beach Rd. Kawkawlin MI 48631, in the amount of \$18,100.00 for the installation of a water service lead at 4062 Saginaw St.

Mr. Martinbianco asked what property this is going to.

Mr. Abbey stated it is the car wash. They had a water main break recently. The system is old and dilapidated. We are getting ready to fix the road so before we have to dig a pit in the middle of the new road, they are tapping in.

Mr. Heffner stated the bids were close between Greentech and Waldorf. What is our policy is on Burton businesses bidding?

Mr. Wells stated at one time we made an amendment to our bid policy that there was a home rule that stated a business in Burton got a 5% leeway.

Mr. Martinbianco stated Waldorf is not a Burton business.

Further discussion ensued on the bid process and how bids appear on the agenda.

Mr. Heffner stated we have several Burton residents that work for Waldorf. I will be voting no on this because it is not a Burton or Genesee County based company.

Mr. Fenner agrees he likes to use local businesses. Are there any statutes that prohibit us from not selecting the lowest bidder?

Mr. Abbey stated you can deviate from that. You do not have to take the low bidder as long as they are a responsible bidder. When you start down that path, the competitive bid goes out the window. It is hard enough to get bidders as it is.

Attorney Doyle stated she agrees with Mr. Abbey. There is no law that requires you to go with the lowest bidder. We do have an ordinance that suggests to go with the low bid.

Mr. Smith stated he did the math and even with the 5%, Greentech is still the lowest bid.

RESULT:	CARRIED [5 TO 2]
MOVER:	Dennis O'Keefe, Councilman
SECONDER:	Gregory Fenner, Vice President
AYES:	Martinbianco, O'Keefe, Smith, Fenner, Conley
NAYS:	Heffner, Wells

6. Approve and authorize the following 2020-2021 budget amendment: Increase Local Streets 2003-4063-818.0000 Contractual Service – Street Sweeping by \$22,580.

Mr. Martinbianco asked where the funding for the transfer is coming from.

Mr. Abbey stated we paid from last years funding out of the wrong GL# which took us into the previous years allocations. After last fiscal year, it dropped to fund balance. We have to take it back from fund balance in local streets. The next agenda item is the same thing.

Mr. Martinbianco stated I will vote for it tonight with the expectation that an appropriate resolution be prepared for the next meeting.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Christina Conley, Councilwoman
SECONDER:	Vaughn Smith, Councilman
AYES:	Martinbianco, O'Keefe, Heffner, Wells, Smith, Fenner, Conley

7. Approve and authorize the following 2020-2021 budget amendment: Increase Major Streets 2002-4063-818.0000 Contractual Service – Street Sweeping by \$15,054.

Mr. Martinbianco stated I will vote for it tonight with the expectation that an appropriate resolution be prepared for the next meeting.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Vaughn Smith, Councilman
SECONDER:	Christina Conley, Councilwoman
AYES:	Martinbianco, O'Keefe, Heffner, Wells, Smith, Fenner, Conley

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 Southbound Grand Traverse, Hemphill to Bristol (DPW Project No. 20-003-P), at an estimated cost of \$73,371.76, contingent upon approval of the City Attorney.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Danny Wells, Councilman
SECONDER:	Vaughn Smith, Councilman
AYES:	Martinbianco, O'Keefe, Heffner, Wells, Smith, Fenner, Conley

9. Approve and authorize Mayor and Clerk to sign Resolution 2021-07 to accept the fourth amendment to the Genesee County Phase II Regulations Storm Water Management System Contract.

Mr. Martinbianco stated I don't understand the absence of Mundy Township, Grand Blanc Township, Gaines Township, City of Flint and Flushing Township in the storm water management. What happens if there is an adjustment based on their formula at a later date?

RESULT:	CARRIED [6 TO 1]
MOVER:	Gregory Fenner, Vice President
SECONDER:	Dennis O'Keefe, Councilman
AYES:	O'Keefe, Heffner, Wells, Smith, Fenner, Conley
NAYS:	Martinbianco

10. Ordinance 2021-3-87 (C) to Purchase Bonds

Mr. Smith stated I was going through the contract and I thought it came in lower than anticipated.

Mayor Haskins stated it was the construction cost that came in lower. We are still roughly \$500,000 below what we were at.

Mr. Abbey stated I have never seen them come in this low. EGLE will not let you take more than your actual cost anyway, it is a number not to exceed. Mr. Colis is here if you need further explanation.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Danny Wells, Councilman
SECONDER:	Vaughn Smith, Councilman
AYES:	Martinbianco, O'Keefe, Heffner, Wells, Smith, Fenner, Conley

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

Meeting was adjourned at 9:47 PM.



CITY OF BURTON

BURTON CITY COUNCIL MEETING

MARCH 1, 2021

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. MEETING INFORMATION

Burton City Council
Hosted by Racheal Boggs

<https://cityofburton.my.webex.com/cityofburton.my/j.php?MTID=m4b9f075041bd9d86640074871679093c>

Monday, Mar 1, 2021 7:00 pm | 2 hours | (UTC-05:00) Eastern Time (US & Canada)

Meeting number: 142 039 2341

Password: BCC2021 (2222021 from phones and video systems)

Join by video system

Dial 1420392341@webex.com

You can also dial 173.243.2.68 and enter your meeting number.

Join by phone

+1-415-655-0001 US Toll

Access code: 142 039 2341

B. INVOCATION LED BY: GREG FENNER

C. THE PLEDGE OF ALLEGIANCE IS LED BY: GREG FENNER

D. ROLL CALL

Council Members attending through the virtual forum must state their name and physical location for the record.

Mr. Heffner, Burton, MI

Mrs. Conley, Burton, MI

Mr. Martinbianco, Burton, MI

Mr. O'Keefe, Burton, MI

Attendee Name	Title	Status	Arrived
Tom Martinbianco	Councilman	Remote	
Dennis O'Keefe	Councilman	Remote	
Steven Heffner	President	Remote	
Danny Wells	Councilman	Present	
Vaughn Smith	Councilman	Remote	
Gregory Fenner	Vice President	Present	
Christina Conley	Councilwoman	Remote	

E. STAFF PRESENT

Duane Haskins, Mayor
 Racheal Boggs, City Clerk
 Charles Abbey, DPW Director/HR
 Brian Ross, Police Chief
 Kirk Wilkinson, Fire Chief
 Mike Vogt, Assistant Fire Chief
 Ann Abbey, Assessor
 Amanda Doyle, City Attorney
 Steve Phillips, IT Director

F. APPROVAL OF MINUTES

1. City Council - Regular Meeting - Feb 15, 2021 7:00 PM

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Gregory Fenner, Vice President
SECONDER:	Christina Conley, Councilwoman
AYES:	Martinbianco, O'Keefe, Heffner, Wells, Smith, Fenner, Conley

G. ADMINISTRATIVE REPORTS

Mayor Haskins stated Burton resident Mary Burnaine passed away on Friday February 19, 2021. She was 64 years old. Mary was a Burton Election Inspector at Bendle Middle School for many years. She was an active member of the Burton Senior Center where she sometimes filled in as our shuttle driver. Mary also spent 27 years as a school bus driver at Grand Blanc and Bendle Schools. Please keep Mary's family in your thoughts and prayers. She will be deeply missed by the city and the Burton community. On item #5 on the agenda, there is a typo. It should not say amend, it should say approve. I am asking if the Legislative Committee will meet regarding Ordinance 30.03 in regards to the Assessor and Clerk salary. In January of 2019, these two positions were left out of any pay increases because we had a contractor as the Assessor and we did not have an approved Clerk at that time. I have given Legislative Chairman, Mr. Fenner back-up materials as far as comparables. I would like to ask to have a meeting about this to try to make it right because of the charter five; these are the only two that did not have an increase. I would like to know the council's feelings on the Memorial Day festivities. We are diligently trying to get sponsors and help. If we are unable to get the normal donations, will the council be willing to transfer money that was not used from the Easter Egg Hunt and other activities that were in the budget to help out with the festivities and fireworks if we can't generate enough money? We do have the fireworks and the parade scheduled. We did reach out to MDHHS along with our County Health Department and they told us they had no idea where we would be sitting in May. They do know that having outdoor activities lessens the spread of Covid and they feel that we should be fine. We do not have any indoor activities planned for that time. We do still have some money budgeted for Memorial Day. This is just in the event that we cannot get enough donations. I would like to report on some of the tragedies that have been happening in Burton over the past few months. Crime is actually down in Burton compared to 2019 in a lot of areas. We have had more drug forfeiture type of arrests. There have been more CCW violation arrests. We have also had way less traffic crashes in 2020 versus 2019. There were a couple of homicides in 2020 but they were not directly related to the City of Burton, they just ran over this way. Overall, it is looking positive. We have talked quite a bit about Belsay Road and Bristol Road; Mr. Wells has brought it up a few times. At the last meeting, Mr. Abbey informed you that there was money for the lighted stop signs at the intersection. Just to give you an idea of the statistics, over the last year and three months, Belsay and Bristol was at the bottom of the list for traffic crashes. There were eight crashes and none fatal or serious injury. Center and

Minutes Acceptance: Minutes of Mar 1, 2021 7:00 PM (APPROVAL OF MINUTES)

Lapeer, Center and Loder and Belsay and Atherton were the four lowest for traffic crashes. Our highest one at 34 crashes was Bristol and Grand Traverse.

H. COMMITTEE REPORTS

Mr. Fenner stated in regards to a Legislative Meeting Concerning these two positions, I would like to ask my colleagues who are on the committee, if that is something they would like to look into.

Mrs. Conley stated that's fine with me.

Mr. Martinbianco stated it is up to you, Mr. Chairman.

Mr Fenner stated he would like to schedule it prior to the next council meeting at 6 p.m. I think the Mayor has done a good job at getting it to us in a timely manner so that we can look at it as a committee and make a recommendation to the council as a whole.

I. AUDIENCE PARTICIPATION

Public Comment may be sent to: publiccomment@burtonmi.gov. Comments received prior to the meeting will be read into the record.

Comments received and read by the City Clerk:

Kevin Burge of Burton spoke regarding the Mental Health Millage on the ballot May 4, 2021. This could have been done in November and would have saved the taxpayers \$200,000. I don't believe you should ask to increase taxes on people in the middle of a pandemic.

Mr. O'Keefe stated he would like to respond to Mr. Burge. The 911 millage is a renewal however, it has to be done in May because that is when it expires. If we had to go until November without the income, we would not have 911 again. I would be very curious because I was under the understanding that the local municipalities are not responsible for paying for this. I thought that because it was approved by the county, they would pay for it.

Mr. Heffner stated I am sure our Clerk can clear that up. Who is going to pay for it?

Ms. Boggs stated the local units are responsible for paying for our staff of election workers and costs associated with polling locations. The county will pay for things such as ballots, precinct kits and supplies.

J. COUNCIL DISCUSSION

Mayor Haskins stated I forgot to bring up an item regarding 911. Genesee County 911 has decided to go with a new RMS program which is a reporting system that will put every police agency, if they opted in, on the same reporting system. The system that 911 opted to go to is costing \$1.4 million. There are a couple things that Burton is not comfortable with. We just switched over to an RMS system called Premier One a few years ago. The reporting was supposed to be statewide as long as you were on that Premier One system. It costs us \$7,000 a year to be on the system. Now, with the new system that 911 is going to, it will now cost the city of Burton \$12,000 a year. If we opted not to go with the new system and stay with Premier one, 911 came up with a formula and a fee that it will cost us for opting out. This comes to roughly \$3,400 per year. I bring this to your attention because they are having an Executive Board Meeting on Thursday of this week and Mr. O'Keefe probably knows when the General Membership Meeting will be. It sounds like the majority of police departments are going to switch to this new system and 911 is going to do it whether they have everyone on board or not. We are not sure what direction Burton is going to go. I do know the Sheriff's Department cannot afford to go to it because it will cost the Sheriff's

Department over \$380,000 and \$180,000 a year to go to the new system. This has nothing to do with the millage that was proposed, it is something totally different but I wanted to give you a heads-up on it.

Mr. O'keefe stated I am the council's representative for this organization and every time I get information, I send it to the Mayor, Mr. Abbey, and both Chiefs. This is the first I've heard that our city is not endorsing this program. I wish I would have known this a little sooner. All of my comments have been very positive and that is because this is a very small increase. The one thing I have learned about 911 is that it is all about technology. It is ever-changing because the minute they buy something it is obsolete. I am sure there is a good reason for this enhancement. They are great people and doing a phenomenal job. I would like to be in the loop with the city a little more because I am representing the city.

Mayor Haskins stated that is why I gave you this report. This wasn't going to be a big deal, you were either in or you were out. Now, all of a sudden, on Friday, they came up with additional charges if we wanted to stay on your old system. We weren't originally going to go with it because the reporting systems don't coincide with one another. It is way too complex of a process to switch it. For instance, any open cases you have in the old system, they will have to be re-entered into the new system. This is for warrants, arrests and case files. We just recently got caught up on our current system so, there is a lot more behind this. Spring Tremaine stated at the meeting on Friday that she didn't realize there were any departments that didn't want to go with this. I think they should have figured that out before they signed a contract. The cost is not a significant amount; it is more about the background behind going to the system. If the Sheriff's Department and County Jail are not going with the system, that means anyone we have in jail now will not coincide with our reporting systems either. We are just learning the new information that came to us on Friday and wanted to bring it to your attention. It is my understanding that it was not presented to the executive board or voted upon.

Mr. O'Keefe stated the meeting is next Tuesday and I am going to have to vote. I would like to vote for my city, not for myself, so somebody needs to give me a little direction on what they want me to do.

Mayor Haskins stated I just want to make it clear, there is no vote. It is already done. 911 has already signed the contract with the other company.

Mr. O'Keefe stated we will have discussion and I would like to know what the city's stance is on this, so I am not blindsided.

Mayor Haskins stated the executive board is meeting on Thursday and either the Chief or I can give you a call to discuss it and go over it. She was not going to bring it to the general membership. The Police Chiefs and Fire Chiefs were the ones who stated it should go to the general membership.

Mrs. Conley stated a while back, we discussed putting in a new fence at Water Tower Park and using some of the Parks and Recreation money for that. I don't know if you have been out there yet but we would like to move the fence in a little more on the sides and in front because the plow pushes the fence in and ruins it. My question is should we get someone out there to bid it so we have it for the upcoming budget or do we talk about it during the budget and then bid it out?

Mayor Haskins stated during the last discussion that I recall, I thought Mrs. Conley was going to check on some things and get back with us on it.

Mrs. Conley stated I did have someone come out and give us some ideas and I can bring

that to you but I thought it had to go through the city purchasing agent. I can measure it and I would like Mr. Abbey to come with us and see what we are talking about. If you want me to get three bids and bring them in, I will be happy to do it.

Mr. Abbey stated we do not want you to give us those bids or quotes with prices because it is not fair to the people that gave them to you. What we would like is the specs from the quote so we can write a spec for everyone and they can get in under the bidding process. They are sealed bids and it is not fair because everybody can see what they did. We like to bid Apples to Apples.

Mrs. Conley stated she talked to Steve about this and would like to have a fundraiser for the Veteran's Park. Maybe we could put some new pavers and walls in there because there are a lot of names that want to be added to it. Before any of that happens, my question is do you mind if we take the dirt and plants out of there and start fresh? I will do the work and find someone to help me. I think this should be done first before we do anything else.

Mr. Abbey stated I don't think that is a problem. If you are talking about erecting a new wall, that can get somewhat tough. We do have space there on the auxiliary walls. The side panels are empty and that is where they started putting the extra plates. You can add additional plates there.

Mayor Haskins stated I know we were setting money aside and there is about \$20,000 in the memorial fund to do pavers. It is just a matter of how much it will cost and if we have enough money. We have a lot of things in our city that have been neglected over the past few years and we are trying to work on them and fix them up. We are talking about a Police Department building that was built over 30 years ago; City Hall was built over 20 years with absolutely no improvements done to the buildings since they were built. The DPW parking lot is the same thing. We are still working hard and diligent on saving money and getting these projects moving in the right direction. I think the memorial should be at the top of our list, to try and get it spruced up.

Mrs. Conley stated that's why I was asking so we can start before all the outside projects begin and we are not going back to do it after everything else is done. We have to start somewhere. We can talk about it during the budget.

Mr. Heffner stated as far as putting names on the wall, there is no more room to do that. We are at the point where we have to start putting up new walls.

Mayor Haskins stated there is still room on the sides. We can put names on there.

Mr. Heffner stated I have been in contact with Grand Blanc Cement Products, which is where the original walls came from, and they seem eager to work with us. I don't want to do it on my own and overstep my bounds. I would like the Mayor or Mr. Abbey to come with me. We have the money to get the pavers going but we will need an architect for the walls.

Mrs. Conley stated remember, we did have a fundraiser to help with that but, then the COVID came.

Mr. Heffner stated I have the paperwork to sell the pavers and that will be a way to raise money. My ultimate goal is to have bronze statues out there. One to represent each of the six services.

Mr. Smith stated I apologize to the residents and the council for being late tonight.

Mr. Wells stated we have a meeting set for the Assessor and Clerk. We talked about moving

money to make Memorial Day happen. I think this has to happen. We have to honor our soldiers. Do we send this to finance? As far as the Veteran's Memorial, can we have someone put the application for the memorial on our website so people can download them and fill them out. We have had several people in the last week or so interested in putting names on there. Some of them don't want to have to pay the \$50.00. I paid for my dad, grandpa and uncle. In my opinion, there is always a way to help them out. We have a couple appointments tonight. Jim Craig has been an asset to the city for a long time going back to the Gus Macker days. Jeremy Scharrer, I hear his name a lot from Mrs. Conley so, I will be voting to put them both back on the Parks & Recreation Commission tonight. As far as the roads, I think we are moving forward in the right direction now. I still want to try to find a way to do something for the people on Bristol Road. All the meetings are online now and with so many people involved, it is hard to keep up with it. We need to try to get some TIP money and take care of Bristol Road; the sooner, the better. I can't believe 911 would force everyone to move to the new system without some kind of discussion. It is mind-boggling. I am sure Mr. O'Keefe will get to the bottom of that.

Mr. Heffner stated I agree with you about 911. It makes no sense. Isn't the Sheriff's Department the largest law enforcement agency in our county, and they are not involved with it?

Mayor Haskins said, yes, sir. They can't afford it. The Sheriff's Department proposed that if the new company put the system in the jail at no cost, they could swing the \$180,000 a year. They were told no. The Sheriff's Department would have to come up with over \$380,000.

Mr. Heffner stated that is amazing that someone at a desk can make that decision for the entire county without asking us if we can afford it.

Mr. Martinbianco stated it sounds like taxation without representation, Mr. President.

Mr. Heffner stated it is like the May Election. I understand what Mr. O'Keefe was saying, that 911 has to be voted on by May but they knew that last November. They could have tagged it on to last November's election and saved everyone a lot of time and money. We know why they do May elections. I am not going to sugar coat it. They are trying to sneak a lot of this over. It's not the 911 that is trying to sneak over, it's the other one. That's another thing we will have to dissect before May.

Mr. Fenner stated I am feeling the same way. For 911 to propose a system that the county won't take part in and then hope or insist that the local governments do, I am not understanding how this came about in such a manner. No disrespect to Mr. O'Keefe because I am sure he had no idea that the Sheriff's Department would not be part of the new system. It is hard for me to understand.

Mr. Heffner asked, are we the third or fourth largest Police Department in the county?

Mayor Haskins stated if you go by Police Departments, not the Sheriff's Department, we are the third largest. There is City of Flint, Grand Blanc Township and Flint Township and then us and Grand Blanc Township and Flint Township are only larger by a couple officers. I understand the premise behind it and I don't want to stir anyone the wrong way. To get everybody in the county on the same reporting system is a fabulous idea. I think it should have been presented to the elected official body and not just the Police and Fire Chiefs. It should have been brought to each municipality to talk about the changes and what they're aspiring. It was thrown in our lap. It was not that big of an issue at first because we had the option to opt in or out. At that time, we were going to opt out because of all the time and everything it was going to take to switch over. It's going to take two years to get this up

and running so they are predicting switching over completely by 2023. If we don't switch over, now it is going to cost us an additional \$3,400, \$240 per MDT we have in our cars. So, it will cost about the same as the new system.

Mr. Martinbianco stated by their own admission, by 2023, it will be obsolete and they will be looking for a replacement.

Mayor Haskins stated we were told that Premier One will be doing a major upgrade to their system and when they do that, their cost per year is supposed to go up as well. We don't have confirmation on it yet but it was presented to us by the Director and Assistant Director on Friday. I wish this was brought more to our attention. 911 works for us and our residents. When they are going to make a purchase of this nature, I think we should have been informed and contacted directly from 911. They let the Police Chiefs make the decision instead of going to the elected body. We are responsible to one entity and that is our taxpayers. They are throwing costs out there without going over all of this. This should have been presented to us in a different fashion. It wasn't. It is here and we will see where it goes from here.

Mrs. Conley stated nothing has been normal for some time now because of the COVID. You would think they would work with us and put the millage on the November ballot because of what we are all going through and to save everybody money from having a special election.

K. COUNCIL ACTION

1. Approve and authorize the payment of Attorney Billing (Doyle) 2/10/21 to 2/23/21 in the amount of \$3,166.50.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Christina Conley, Councilwoman
SECONDER:	Gregory Fenner, Vice President
AYES:	Martinbianco, O'Keefe, Heffner, Wells, Smith, Fenner, Conley

2. Approve and authorize the Mayors re-appointment of Jim Craig, 6295 Hidden Trails Burton, MI 48519 to the City of Burton Parks and Recreation. Term to expire February 2024.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Danny Wells, Councilman
SECONDER:	Christina Conley, Councilwoman
AYES:	Martinbianco, O'Keefe, Heffner, Wells, Smith, Fenner, Conley

3. Approve and authorize the Mayors re-appointment of Jeremy Scharrer, 3092 Threadcreek Dr. Burton, MI 48529 to the City of Burton Parks and Recreation. Term to expire February, 2024.

Mr. Fenner stated I don't know how many of you know Mr. Scharrer but I don't know if there is another person in our city who is as big of an advocate to our parks as Jeremy. He is an asset to our city as a Firefighter as well. This is the kind of guy we want working for our city.

Mrs. Conley stated she agrees.

Mr. Heffner stated both Mr. Craig and Mr. Scharrer are keepers and have done a great job for the city.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Christina Conley, Councilwoman
SECONDER:	Gregory Fenner, Vice President
AYES:	Martinbianco, O'Keefe, Heffner, Wells, Smith, Fenner, Conley

4. Approve and authorize Mayor and Clerk to sign Resolution 2021-5 to award the SRF Segment 1 construction contract to Insituform Technologies, 17988 Edison Ave., Chesterfield, MO 63005, the lowest responsive bidder for a cost not to exceed \$1,748,202.30

Mr. Martinbianco asked, what exactly are we doing with this resolution? What is the intent?

Mr. Abbey stated the approval of Insituform is to award the contract to the low bidder for SRF segment 1 as it was advertised and bid.

Mr. Martinbianco stated I think we have it backwards. The last item on the agenda should precede this. We need to authorize the consulting firm because they will be the ones tasked with most of the inspection work based on the contract.

Mr. Abbey stated it does not make a difference. Either way, without one, the other does not work. Item #5 is for engineering services. It does not matter which way you reverse them because you are not going to build a contract without it. Stantec has already done the design as you saw in the map of all five phases. This is just for phase one. It came in well under what we anticipated. If you remember, we estimated \$3 million. This is under the \$3 million even with the engineering and associated costs for bonds.

Mr. Martinbianco asked, why aren't we just paying cash instead of bonding for it?

Mr. Abbey stated we could do that but we are borrowing money at roughly 2.25 or even less than that. Once we get to phase 2, 3, 4 and 5, we will be at \$15 million, if you remember. You would deplete all of our money out of the sewer fund and we would be in the same situation we got in with our water fund. The beauty is we still have our reserves and if we want to pay it off at one point, we can do that.

Mr. Martinbianco asked how much the sewer repair cost us.

Mr. Abbey stated for one little section by Vassar and Lapeer, it was about \$40,000. There are three of these on the books right now.

Mr. Martinbianco stated I was up by Traverse City area on US 21 where they had the roadway torn up for about a mile. It was that way for almost 6 months. I do not know if it was the contractor or the inspectors but I don't want to see that happen. Anything I see they have substantial reserve for repair to the roadways, if they have to open cut them, do we have enough money, number one. Number two, I don't

want to do a road repair and then have to go back and re-patch it.

Mr. Abbey said, I concur. I think we are good. Most of this is CIPP lining, manhole to manhole, long runs. There are some spot repairs and some dig and replace and most of those happen in greenbelts because it's more cost effective to dig and replace in an area like that. The reason most of this is a lining project is because you're getting into other infrastructure, tight areas and roadways. That's why there's a combination of fixes in here.

Mr. Martinbianco stated I opposed this project from the beginning but since the majority of the council has said they support investing in the infrastructure, I am going to vote for it. I assume we will be doing some of the inspection and Stantec will bear some of the responsibility for other ends of the inspection. Is this correct?

Mr. Abbey stated that is correct. We have made it contingent on our approval that our inspectors get charged to the project. This way, we can take some burden off our budget.

Mr. Heffner stated if we approve segment one tonight, are we locked into approving segments two through five? Also, is segment one the worst of the segments?

Mr. Abbey said, no. you are not locked into it. Segment one as a whole is probably the worst. You approved it overall so we could get it in the bond proposal but we are going to do it phase by phase so we can show the merits to it and monitor it. The beauty is we can also monitor it as it goes along to see if it's going to do what we thought it would do, not only fix the collapsed pipes but also, if we see the real savings in I&I which is in treatment costs as well.

Mr. Heffner stated if we take this slow, we have a choice; we don't have to do segment two. It is my understanding that the interest from the sewer fund is paying for this. Is that correct?

Mr. Abbey stated we are going to sell bonds and you can do a number of things. We are healthy in the rates. Right now, we are in the black to pretty much cover this. Now, if there comes a point in later phases that we can't cover it, we will need to either take it out of fund balance or do a rate change. That will be strictly up to the council and what the bond obligations are after each segment.

Mr. Heffner stated I remember on July 24th, we spoke about this and this was all supposed to be paid for with the interest from the sewer fund.

Mr. Abbey stated not just interest but what we are taking in from sewer rates and interest income should cover it for at least the first couple of phases. Remember, you sold \$22 million worth of bonds for the water. Our stroke on that is a little over \$1 million per year. This will be much less than that if bids keep coming in like they are. Your total bond for all five phases will be somewhere in the \$650,000-\$700,000 range. If that's the case, we are in pretty good shape. This is over five years so we will monitor it after each and every phase.

Mr. Heffner stated right now, we can't put the burden on the residents. We are in the middle of this pandemic and uncertainty.

Mr. Abbey stated we hear you loud and clear. The Mayor and I are in total agreement. That is not the intent.

Mr. Heffner stated when the federal dollars stop, the state is going to want some money and our revenue sharing is going to be the first place they come. We all know that. As long as we don't have to raise rates on the residents, I can support this.

Mr. Abbey stated let me make this clear, you don't have to raise the rates right now. That's why we wanted to bond for it. That is not the intent. We are in agreement. At some point, after every segment, we will have to reevaluate it.

Mr. Heffner stated I will support this tonight but I am not making any commitments for future phases.

Mrs. Conley stated wasn't the whole project \$16 million.

Mr. Abbey stated we approved up to \$15.9 million.

Mrs. Conley stated if we revisit each phase, we are not locked into the \$15.9 million.

Mr. Abbey stated that is correct. Remember, Mr. Bendzinski said it is more cost effective to do it all in one shot instead of doing each phase because you have to go through the whole process for each one of them. This way, that part is already out of the way. It is up to us to bring each phase to you and if we see the value, we keep going.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Gregory Fenner, Vice President
SECONDER:	Vaughn Smith, Councilman
AYES:	Martinbianco, O'Keefe, Heffner, Wells, Smith, Fenner, Conley

5. Approve and authorize the Mayor and Clerk to approve the construction engineering contract with Stantec Consulting Michigan Inc., 3754 Ranchero Drive, Ann Arbor, MI 48108-2771. To provide professional engineering services for the construction phase of Segment 1 - SRF Wastewater System Improvement project at a cost not to exceed \$220,400.00.

Mrs. Conley stated in the back-up material, we don't have an itemized bill of what the \$220,400 covers. I would like to see what that is.

Mr. Abbey stated there is another typo that I just recognized. It is not the design contract. It should be Construction Engineering. The specifics are managing the project out in the field. This includes approving construction changes, change orders and physical inspections along with our field inspector.

Mrs. Conley stated it would be nice if it was written out and not just the amount.

Mr. Smith stated there is \$20,000 in the budget for Memorial Day. I would like to know when we could meet as a Finance Committee.

Discussion ensued regarding Finance Meeting and money available in the budget for Memorial Day. A Finance Committee Meeting was scheduled for March 15, 2021 at 6:30 PM.

Mr. Martinbianco stated we had a lot of discussion about the 911 Consortium. There are a lot of quasi-governmental agencies like the Genesee County Water & Waste Commission that make unilateral decisions and they hand them to you and say you have to pass that. Somehow, someday, that has to end. I don't know how but, that is my two cents.

Mr. Wells stated I am going to be hopeful and say we are at the end of this pandemic. I am proud of this group for staying together and working hard to do the right thing for our residents. Thank you.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Dennis O'Keefe, Councilman
SECONDER:	Vaughn Smith, Councilman
AYES:	Martinbianco, O'Keefe, Heffner, Wells, Smith, Fenner, Conley

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

Meeting was adjourned at 8:18 PM.

Minutes Acceptance: Minutes of Mar 1, 2021 7:00 PM (APPROVAL OF MINUTES)



Burton City Council
4303 S. Center Road
Burton, MI 48519

Meeting: 03/15/21 07:00 PM
Department: Clerk's Office
Category: Attorney Billing
Prepared By: Racheal Boggs
Department Head: Racheal Boggs

K.1

ADOPTED

AGENDA ITEM (ID # 5032)

DOC ID: 5032

Approve and authorize the payment of Attorney Billing (Doyle) 2/10/21 to 2/23/21 in the amount of \$4,540.25.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Dennis O'Keefe, Councilman
SECONDER:	Vaughn Smith, Councilman
AYES:	Martinbianco, O'Keefe, Heffner, Wells, Smith, Fenner, Conley



Burton City Council
4303 S. Center Road
Burton, MI 48519

Meeting: 03/15/21 07:00 PM
Department: Clerk's Office
Category: Attorney Billing
Prepared By: Racheal Boggs
Department Head: Racheal Boggs

K.2

ADOPTED

AGENDA ITEM (ID # 5026)

DOC ID: 5026

Approve and authorize the payment of Attorney Billing (Masud) 2/1/2021 to 2/23/2021 in the amount of \$2,203.66.

RESULT:	CARRIED [6 TO 1]
MOVER:	Christina Conley, Councilwoman
SECONDER:	Vaughn Smith, Councilman
AYES:	Martinbianco, Heffner, Wells, Smith, Fenner, Conley
NAYS:	Dennis O'Keefe



ADOPTED

AGENDA ITEM (ID # 5023)

DOC ID: 5023

Approve and authorize the request for a Residential Sanitary Water & Sewer Installer's License for Carson Site-Prep, LLC., P.O. Box 748, Goodrich, Michigan 48438.

ATTACHMENTS:

- Carson Site-Prep LLC (PDF)

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Dennis O'Keefe, Councilman
SECONDER:	Christina Conley, Councilwoman
AYES:	Martinbianco, O'Keefe, Heffner, Wells, Smith, Fenner, Conley



City of Burton
4303 S. Center Rd.
Burton, MI 48519
www.burtonmi.gov

K.3.a

Application for Sewer & Water Installer License

Date: 3-1-2021 License Expiration: _____
Name of Applicant: Chad Carson
Applicant Address: PO Box 748, Goodrich MI 48438
Phone Number: (810) 625-7535 Email: carson site prep llc@yahoo.com
Name of Business: Carson Site-Prep LLC
Business Address: PO Box 748, Goodrich MI 48438
Phone Number: (810) 625-7535 Plumbing License #: _____

LICENSE FEES	Amount	Proration	PAID
1. Sewer Installer Expires - March 31, _____	\$100.00		☒
2. Water Installer Expires - March 31, _____	\$100.00		☒

- Applicant must file a Performance Bond in the Amount of \$10,000.
- Applicant must maintain insurance against liability in the amounts of \$100,000 for injury to one person and \$300,000 per occurrence, and against liability for property damage in the amount of \$100,000.
- Each contractor shall maintain Workman's Compensation insurance covering all employees.

The undersigned hereby specifically agrees that any approval granted for license received after said approval is subject to revocation at any time by the Burton City Council, and that there shall be no liability on the part of the Burton City Council of the City of Burton, or any officers, members or employees of said units, because of any revocations and the granting of such approval of license does not create a vested right.

The undersigned hereby specifically agrees to abide by all provisions of Burton City Ordinance #112, adopted 8-4-69, effective 9-15-69, and all City Ordinances and Resolutions of the Burton City Council now in force or hereinafter adopted.

I, Chad Carson (applicant) being duly sworn, state that I have read the foregoing application and exhibits therein contained and attached, by me subscribe and knowingly made the foregoing answers, statements, and representations therein contained and that said statement representations are true.

THIS APPLICATION MUST BE SIGNED BEFORE A NOTARY: _____

Signature of Applicant

Subscribed and sworn before me a Notary Public in and for the County of Genesee, State of Michigan this 1st day of March, 2021.

Attachment: Carson Site-Prep LLC [Revision 1] (5023 : Residential Sanitary Water & Sewer Installer's License)



Notary Public

City of Burton
4303 S. Center Rd.
Burton, MI 48519
www.burtonmi.gov

Commission Expires

K.3.a

Attachment: Carson Site-Prep LLC [Revision 1] (5023 : Residential Sanitary Water & Sewer Installer's License)



CARSSIT-01

K.3.a

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/1/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER My Member Insurance Agency, LLC 7531 Gratiot Rd Saginaw, MI 48609		CONTACT NAME: PHONE (A/C, No, Ext): (989) 781-2662 E-MAIL: ADDRESS:		FAX (A/C, No): (989) 781-4824		
INSURED Carson Site-Prep, LLC Chad Carson P.O. Box 748 Goodrich, MI 48438		INSURER(S) AFFORDING COVERAGE				NAIC #
		INSURER A : Selective Insurance Co.				12572
		INSURER B : Accident Fund National Insurance Company				12305
		INSURER C :				
		INSURER D :				
		INSURER E :				
INSURER F :						

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC OTHER:		S2348744	10/1/2020	10/1/2021	EACH OCCURRENCE \$ 1,000,0 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,0 MED EXP (Any one person) \$ 15,0 PERSONAL & ADV INJURY \$ 1,000,0 GENERAL AGGREGATE \$ 3,000,0 PRODUCTS - COMPI/OP AGG \$ 3,000,0 \$
A	AUTOMOBILE LIABILITY ☐ ANY AUTO OWNED AUTOS ONLY ☒ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY		S2348744	10/1/2020	10/1/2021	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,0 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED RETENTION \$		S2348744	10/1/2020	10/1/2021	EACH OCCURRENCE \$ 2,000,0 AGGREGATE \$ 2,000,0 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) ☐ Y/N ☒ N/A If yes, describe under DESCRIPTION OF OPERATIONS below		WCV6213963	10/1/2020	10/1/2021	PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ 1,000,0 E.L. DISEASE - EA EMPLOYEE \$ 1,000,0 E.L. DISEASE - POLICY LIMIT \$ 1,000,0

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

City of Burton
4303 S. Center Rd
Burton, MI 48519

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Robert W. Jansen



Western Surety Company

CONTINUATION CERTIFICATE

Western Surety Company hereby continues in force Bond No. 62260430 briefly described as WATERMAIN INSTALLER CITY OF BURTON,
for CARSON SITE-PREP, LLC, as Principal,
in the sum of \$ TEN THOUSAND AND NO/100 Dollars, for the term beginning April 01, 2021, and ending March 31, 2022, subject to all the covenants and conditions of the original bond referred to above.

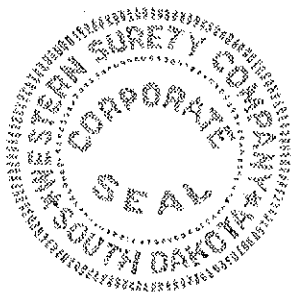
This continuation is issued upon the express condition that the liability of Western Surety Company under said Bond and this and all continuations thereof shall not be cumulative and shall in no event exceed the total sum above written.

Dated this 19th day of February, 2021.

WESTERN SURETY COMPANY

By

Paul T. Brufat, Vice President



THIS "Continuation Certificate" MUST BE FILED WITH THE ABOVE BOND.

Western Surety Company

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS:

That WESTERN SURETY COMPANY, a corporation organized and existing under the laws of the State of South Dakota, and authorized and licensed to do business in the States of Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, and the United States of America, does hereby make, constitute and appoint

Paul T. Bruflat of Sioux Falls,
State of South Dakota, its regularly elected Vice President,
as Attorney-in-Fact, with full power and authority hereby conferred upon him to sign, execute, acknowledge and deliver for and on its behalf as Surety and as its act and deed, the following bond:

One WATERMAIN INSTALLER CITY OF BURTON

bond with bond number 62260430

for CARSON SITE-PREP, LLC

as Principal in the penalty amount not to exceed: \$10,000.00

Western Surety Company further certifies that the following is a true and exact copy of Section 7 of the by-laws of Western Surety Company duly adopted and now in force, to-wit:

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, any Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys-in-Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

In Witness Whereof, the said WESTERN SURETY COMPANY has caused these presents to be executed by its Vice President Paul T. Bruflat with the corporate seal affixed this 19th day of February, 2021.

ATTEST

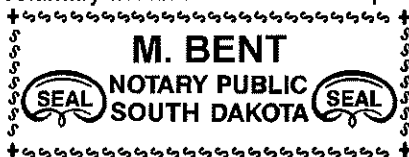
L. Nelson
L. Nelson, Assistant Secretary

WESTERN SURETY COMPANY
By Paul T. Bruflat
Paul T. Bruflat, Vice President

STATE OF SOUTH DAKOTA }
COUNTY OF MINNEHAHA } ss

On this 19th day of February, 2021, before me, a Notary Public, personally appeared
Paul T. Bruflat and L. Nelson

who, being by me duly sworn, acknowledged that they signed the above Power of Attorney as Vice President and Assistant Secretary, respectively, of the said WESTERN SURETY COMPANY, and acknowledged said instrument to be the voluntary act and deed of said Corporation.



M. Bent
Notary Public

My Commission Expires March 2, 2026

To validate bond authenticity, go to www.cnasurety.com > Owner/Obligee Services > Validate Bond Coverage.

CITY OF BURTON
4303 S. CENTER RD.
BURTON, MI 48519
Phone : 810-743-1500
WWW.BURTONMI.GOV

Received From:
CARSON SITE PREP

Date: 03/01/2021 Time: 3:05:53 PM
Receipt: 110696278
Cashier: 006
Workstation: Drawer: 1

ITEM REFERENCE	AMOUNT
LICENSE LICENSE FEES	
WATER	
1001-0000-450.0000	\$100.00
LICENSE LICENSE FEES	
SEWER	
1001-0000-450.0000	\$100.00
TOTAL	\$200.00
CHECK 1578	\$200.00
Total Tendered:	\$200.00
Change:	\$0.00

Attachment: Carson Site-Prep LLC [Revision 1] (5023 : Residential Sanitary Water & Sewer Installer's License)



ADOPTED

AGENDA ITEM (ID # 5024)

DOC ID: 5024

Approve and authorize Resolution 2021-06 for submission of a Genesee County Senior Center 2021-2022 Level 3 Funding Application.

COMMENTS - Current Meeting:

Mr. Wells asked for an explanation of the resolution.

Mayor Haskins stated Jean Johnson is here if you have questions but this is the same thing we go through every year, the allocation of the Senior Center millage that was passed several years ago. This is so we can get our allotment of the money.

ATTACHMENTS:

- 2021-06 Senior Center Level 3 Funding Application (DOCX)

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Danny Wells, Councilman
SECONDER:	Christina Conley, Councilwoman
AYES:	Martinbianco, O'Keefe, Heffner, Wells, Smith, Fenner, Conley

**RESOLUTION 2021-06
CITY OF BURTON
GENESEE COUNTY, MICHIGAN**

**A Resolution Approving Submission of a Genesee County Senior Center
2021/2022 Level 3 Funding Application**

WHEREAS, Genesee County voters have approved a tax to be used for the purpose of providing quality services to the aging population of Genesee County; and,

WHEREAS, the Genesee County Board of Commissioners has designated Senior Citizens' Centers as the focal points of access to Senior Citizens for services and activities within communities; and

WHEREAS, the objective of the Senior Millage is to fund services that improve the health, safety and quality of life for Genesee County residents aged 60 years or older; and

WHEREAS, for 2021/2022, the Genesee County Board of Commissioners has established a Grant Application process, through which the operating entity of the Burton Senior Center may request funding; and

WHEREAS, Genesee County requires approval of Operation Entities for Senior Centers to submit Applications for the Senior Center 2021/2022 Level 3 funding.

NOW, THEREFORE, BE IT RESOLVED, that the City of Burton, does hereby approve the Application for 2021/2022 Senior Center Level 3 funds for the Burton Senior Center.

Motion was moved by _____ and supported by _____.

Yeas:

Nays:

Absent:

CERTIFICATION

I, Racheal Boggs, City Clerk of the City of Burton, do certify that the above Resolution was duly adopted in conformance with Act 267 Public Acts of Michigan, 1976, at a Regular Meeting of the Burton City Council held at Burton City Hall on March 15, 2021.

THIS RESOLUTION IS DECLARED ADOPTED.

Date: March 15, 2021

Racheal Boggs, City Clerk

Duane Haskins, Mayor

Attachment: 2021-06 Senior Center Level 3 Funding Application (5024 : Resolution 2021-06 Senior Center Funding Application)



ADOPTED

AGENDA ITEM (ID # 5031)

DOC ID: 5031

Approve and authorize the acceptance of the low bid 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 Green Tech Systems, LLC 1203 Brissette Beach Rd. Kawkawlin MI 48631, in the amount of \$18,100.00 for the installation of a water service lead at 4062 Saginaw St.

COMMENTS - Current Meeting:

Mr. Martinbianco asked what property this is going to.

Mr. Abbey stated it is the car wash. They had a water main break recently. The system is old and dilapidated. We are getting ready to fix the road so before we have to dig a pit in the middle of the new road, they are tapping in.

Mr. Heffner stated the bids were close between Greentech and Waldorf. What is our policy is on Burton businesses bidding?

Mr. Wells stated at one time we made an amendment to our bid policy that there was a home rule that stated a business in Burton got a 5% leeway.

Mr. Martinbianco stated Waldorf is not a Burton business.

Further discussion ensued on the bid process and how bids appear on the agenda.

Mr. Heffner stated we have several Burton residents that work for Waldorf. I will be voting no on this because it is not a Burton or Genesee County based company.

Mr. Fenner agrees he likes to use local businesses. Are there any statutes that prohibit us from not selecting the lowest bidder?

Mr. Abbey stated you can deviate from that. You do not have to take the low bidder as long as they are a responsible bidder. When you start down that path, the competitive bid goes out the window. It is hard enough to get bidders as it is.

Attorney Doyle stated she agrees with Mr. Abbey. There is no law that requires you to go

with the lowest bidder. We do have an ordinance that suggests to go with the low bid.

K.5

Mr. Smith stated he did the math and even with the 5%, Greentech is still the lowest bid.

ATTACHMENTS:

- [Greentech](#) (PDF)

RESULT:	CARRIED [5 TO 2]
MOVER:	Dennis O'Keefe, Councilman
SECONDER:	Gregory Fenner, Vice President
AYES:	Martinbianco, O'Keefe, Smith, Fenner, Conley
NAYS:	Steven Heffner, Danny Wells



BID TABULATION CITY OF BURTON

Department of Public Works



Project: 4062 Saginaw St. - Water Service Lead 21-001-W

Bid opening at: City Council Chambers

Date & Time: February 23, 2021 at 10 a.m.

Present:

Julie Griffith, Purchasing Agent

Pete Wingblad, Sup't of Engineering

Amber Abbey, Deputy DPW Director

Bidder Name & Address		Bid Bond	Signed Bid	Total Bid	Rank
1	HMC, LLC.	Yes	Yes	\$60,810.00	3
2	Waldorf and Sons	Yes	Yes	19,545.00	2
3	Greentech Systems	Yes	Yes	\$18,100.00	1
4					
5					
6					

Amount in **bold** type denotes low bid

() Contractor is disqualified due to failure to submit bid bond with bid

Attachment: Greentech (5031 : Acceptance of bid)

**PROPOSAL
DPW JOB # 21-001-W**

This is the PROPOSAL of Green Tech Systems, LLC, hereinafter called the Bidder, to the City of Burton, a Michigan Governmental Corporation, hereinafter called the Owner.

The Bidder, having familiarized himself with the local conditions affecting the work, and having examined the contract documents including the Advertisement, Instruction to Bidders, Proposal, Agreement, Bonds, Insurances, Specifications and Addenda, hereby proposes to furnish all labor, materials, tools, equipment, utilities and transportation services, and to perform and fully complete all the work listed on the proposal form and/or described in the contract documents and specifications designated as:

**CITY OF BURTON, MICHIGAN
DPW JOB # 21-001-W
SCHEDULE**

The successful Bidder will be required to complete all work within the schedule specified below.

All contract work must be completed in its entirety and opened to traffic no later than April 1, 2021.

Liquidated Damages shall be assessed in accordance with Section 108.10 of the MDOT 2012 Standard specifications for Construction.

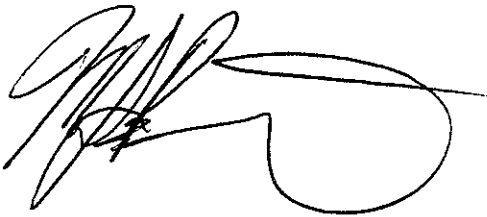
In no case shall any work be commenced prior to receipt of formal notice of award by the Owner.

Attachment: Greentech (5031 : Acceptance of bid)

BASE PROPOSAL

Item#	Item	Quantity	Unit Price	Total Price
1	TRAFFIC CONTROL	1 LS	\$ 3500.00	\$ 3500.00
2	PAVEMENT REMOVE, MOD	20 SY	\$ 40.00	\$ 800.00
3	PAVEMENT REPAIR, TEMP	20 SY	\$ 80.00	\$ 1600.00
4	DRIVEWAY REMOVE	25 SY	\$ 20.00	\$ 500.00
5	DRIVEWAY NON REINF, 8 INCH	25 SY	\$ 40.00	\$ 1000.00
6	SIDEWALK, REMOVE	6 SY	\$ 50.00	\$ 300.00
7	SIDEWALK, CONCRETE, 8 INCH	50 SF	\$ 40.00	\$ 2000.00
8	SERVICE LEAD, 2" K COPPER	70 FT	\$ 120.00	\$ 8400.00
PROJECT TOTAL				\$ 18,100.00

Attachment: Greentech (5031 : Acceptance of bid)



LEGAL STATUS OF BIDDER

A corporation duly organized and doing business under the laws of the State of Michigan, for whom Mark Birnbaum, bearing the official title of President whose signature is affixed to this Proposal, is duly authorized to execute contracts.

A partnership, all of the members which, with addresses, are:

An individual, whose signature is affixed to this Proposal.

(The BIDDER shall fill out the appropriate form and strike out the other two)

LSB-1

Attachment: Greentech (5031 : Acceptance of bid)

P-2

The undersigned hereby agrees that if the foregoing proposal shall be accepted by the Owner, he will, within fifteen (15) consecutive calendar days after receiving notice of the acceptance of such proposal, enter into contract, in the appropriate form, to furnish all labor, materials, tools, and construction equipment necessary for the full and complete execution of the work at and for the prices named in this proposal, and he will furnish to the Owner all required insurance certificates and policies, and furnish such surety as shall be approved by the Owner for the faithful performance of such contract and for the payment of all materials used in this work and for all labor expended thereon and for the maintenance and guarantee of his work as shall be approved by the Owner.

The attention of the undersigned is directed to the liquidated damages provision of the contract documents. The undersigned hereby agrees that if this proposal be accepted by the Owner, he will complete the entire work of the contract within the specified number of consecutive calendar days after being notified to proceed, and if the work is not completed in the designated time, the liquidated damages specified shall be deducted from any money due the Contractor.

Project to be opened to traffic throughout construction.

Project shall be to complete all work within the schedule specified in this proposal.

The successful Bidder

The undersigned has attached hereto a (Bid Bond) (Certified Check) in the sum of See Attached Bid Bond (5%) as required in the "Advertisement" and the undersigned agrees that in case he shall fail to fulfill his obligations under the foregoing proposal and agreement, the Owner may, at its option, determine that the undersigned has abandoned his rights and interest in such proposal, and that the certified check or bid bond accompanying his proposal has be forfeited to the said Owner, but otherwise, the said certified check or bid bond shall be returned to the undersigned upon the execution of such contract and the acceptance of his bonds and insurances or upon the rejection of his proposal.

The undersigned affirms that in making such proposal neither he nor any company that he may represent, nor anyone on behalf of himself or his company, has directly or indirectly entered into any collusion, undertaking, or agreement with any bidder to maintain the prices of said work, and further affirms that such proposal is made without regard or reference to any other bidder or proposal and without any agreement or understanding or combination, either directly or indirectly, with any other person or persons with reference to such bidding.

In submitting this bid it is understood that the right is reserved by the Owner to waive any informality in bids, to reject any or all bids, or accept any bid or combination of bids, which is considered most favorable to the Owner.

P-3

The Owner reserves the right to decide which divisions will be constructed under this contract. Once the bids are received, the scope of the work will be decided.

Bidder acknowledges receipt of the following addenda(s):

n/a

Dated and signed at Kawkawlin, State of Michigan, this 19th day of February, 2021.

Name of Bidder: Green Tech Systems, LLC

By: 

Address: 1203 Brissette Beach Road
Kawkawlin, MI 48631

Telephone: 989 737 8508

Attachment: Greentech (5031 : Acceptance of bid)



ADOPTED

AGENDA ITEM (ID # 5037)

DOC ID: 5037

Approve and authorize the following 2020-2021 budget amendment: Increase Local Streets 2003-4063-818.0000 Contractual Service – Street Sweeping by \$22,580.

COMMENTS - Current Meeting:

Mr. Martinbianco asked where the funding for the transfer is coming from.

Mr. Abbey stated we paid from last years funding out of the wrong GL# which took us into the previous years allocations. After last fiscal year, it dropped to fund balance. We have to take it back from fund balance in local streets. The next agenda item is the same thing.

Mr. Martinbianco stated I will vote for it tonight with the expectation that an appropriate resolution be prepared for the next meeting.

ATTACHMENTS:

- Budget Amendment 2020-21 03-15-21 LS (DOC)

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Christina Conley, Councilwoman
SECONDER:	Vaughn Smith, Councilman
AYES:	Martinbianco, O'Keefe, Heffner, Wells, Smith, Fenner, Conley

INTEROFFICE MEMORANDUM

To: Mayor Duane Haskins
From: Controller Jodi Holbrook
Date: March 12, 2021

Re: Memo of Explanation for
City Council Meeting of 03/15/2021

Mayor Haskins:

I am requesting that Council approve a budget amendment within the Local Streets Fund Budget as follows: Increase 2003-4063-818.0000 Contractual Service – Street Sweeping by \$22,580.

This budget amendment adds \$22,580 to the expense for covering project costs budgeted for in the 2019-20 fiscal year which were not spent until the current fiscal year. Because the funds were not spent in the prior year, the unspent funds rolled into fund balance at June 30, 2020. Those funds will be used to cover these amendments.

Attachment: Budget Amendment 2020-21 03-15-21 LS (5037 : Budget Amendment Local Streets)



ADOPTED

AGENDA ITEM (ID # 5036)

DOC ID: 5036

Approve and authorize the following 2020-2021 budget amendment: Increase Major Streets 2002-4063-818.0000 Contractual Service – Street Sweeping by \$15,054.

COMMENTS - Current Meeting:

Mr. Martinbianco stated I will vote for it tonight with the expectation that an appropriate resolution be prepared for the next meeting.

ATTACHMENTS:

- Budget Amendment 2020-21 03-15-21 MS (DOC)

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Vaughn Smith, Councilman
SECONDER:	Christina Conley, Councilwoman
AYES:	Martinbianco, O'Keefe, Heffner, Wells, Smith, Fenner, Conley

INTEROFFICE MEMORANDUM

To: Mayor Duane Haskins
From: Controller Jodi Holbrook
Date: March 12, 2021

Re: Memo of Explanation for
City Council Meeting of 03/15/2021

Mayor Haskins:

I am requesting that Council approve a budget amendment within the Major Streets Fund Budget as follows: Increase 2002-4063-818.0000 Contractual Service – Street Sweeping by \$15,054.

This budget amendment adds \$15,054 to the expense for covering project costs budgeted for in the 2019-20 fiscal year which were not spent until the current fiscal year. Because the funds were not spent in the prior year, the unspent funds rolled into fund balance at June 30, 2020. Those funds will be used to cover these amendments.

Attachment: Budget Amendment 2020-21 03-15-21 MS (5036 : Budget Amendment Major Streets)



ADOPTED

AGENDA ITEM (ID # 5030)

DOC ID: 5030

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 Southbound Grand Traverse, Hemphill to Bristol (DPW Project No. 20-003-P), at an estimated cost of \$73,371.76, contingent upon approval of the City Attorney.

ATTACHMENTS:

- Third Party CE Agreement 207658 Final signed RF (PDF)

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Danny Wells, Councilman
SECONDER:	Vaughn Smith, Councilman
AYES:	Martinbianco, O'Keefe, Heffner, Wells, Smith, Fenner, Conley

SUBCONTRACT NO.	_____
CONTROL SECTION NO.	STU 25000__
JOB NO.	207658__
FED. PROJECT NO.	_____
FED. ITEM NO.	_____

THIRD PARTY AGREEMENT

SOUTHBOUND GRAND TRAVERSE ST. REHABILITATION HEMPHILL RD. TO BRISTOL RD. CITY OF BURTON

Preliminary Engineering LOCAL AGENCY CONTRACT

THIS CONTRACT, made and entered into as of this date _____, by and between ROWE Professional Services Company, 540 South Saginaw Street, Ste. 200, Flint, MI 48502, hereinafter referred to as the "CONSULTANT," and the City of Burton, 4093 Manor Rd., Burton, MI 48519 hereinafter referred to as the "LOCAL AGENCY."

WITNESSETH:

WHEREAS, the LOCAL AGENCY is planning rehabilitation of southbound Grand Traverse St. between Hemphill Rd. and Bristol Rd., a RRR project within its limits; and

WHEREAS, the LOCAL AGENCY has assigned Peter Wingblad to be the designated full-time public employee to be in Responsible Charge in accordance with 23 CFR 172.9 (d).

WHEREAS, the LOCAL AGENCY desires to engage the professional services and assistance of the CONSULTANT to perform certain construction engineering and other related work, said work to be hereinafter referred to as the "SERVICES," required in connection with the design of the following southbound Grand Traverse St. improvements, said improvements to be hereinafter referred to as the "PROJECT:"

Rehabilitation of the pavement on southbound Grand Traverse St. between Hemphill Rd. and Bristol Rd., including concrete curb and ADA sidewalk upgrades.

WHEREAS, the LOCAL AGENCY has programmed the PROJECT with the Michigan DEPARTMENT of Transportation, hereinafter referred to as the "MDOT," for the use of RRR Funds administered by the United States DEPARTMENT of Transportation, Federal Highway Administration, hereinafter referred to as the "FHWA;" and

WHEREAS, the CONSULTANT is willing to render the SERVICES desired by the LOCAL AGENCY for the considerations hereinafter expressed; and

WHEREAS, the CONSULTANT was selected utilizing a qualifications based selection (QBS) process, as applicable; and CONSULTANT performance evaluations will be completed, as defined in Exhibit D.

WHEREAS, the terms and conditions of the PRIME CONTRACT between the MDOT and the LOCAL AGENCY for the PROJECT shall be incorporated by reference as part of this SUBCONTRACT to ensure that if any discrepancies occur between the PRIME CONTRACT and SUBCONTRACT, the PRIME CONTRACT shall prevail; and

WHEREAS, the parties hereto have reached an understanding as to the scope of the work and the performance of the SERVICES on the PROJECT and desire to set forth this understanding in the form of a written contract;

NOW THEREFORE, it is hereby agreed by and between the parties hereto that: The CONSULTANT will:

1. Perform the work set forth in Exhibit A, dated February 8, 2021, attached hereto and made a part hereof (SERVICES). The LOCAL AGENCY specifically agrees that it will not perform SERVICES that are not included in the scope of SERVICES in Exhibit A.
2. Perform all SERVICES by the applicable codes, laws, and standards of the LOCAL AGENCY and the MDOT and the FHWA.
3. During the performance of the SERVICES herein provided for, be responsible for any loss or damage to the documents, owned by the LOCAL AGENCY while they are in its possession. Restoration of lost or damaged documents shall be at the CONSULTANTS expense.
4. Furnish qualified personnel, as per 23 CFR Part 172, to assist the PROJECT Engineer/Supervisor in solving problems, when so requested.
5. Attend conferences and make such trips as necessary to the LOCAL AGENCY'S offices and to the site of the work to confer with representative of the LOCAL AGENCY and the MDOT or the FHWA as may be necessary in the carrying out of the work under THIS CONTRACT.
6. Provide and maintain public liability, property damage, and workers' compensation insurance, insuring as they may appear the interests of all parties to THIS CONTRACT against any and all claims that may arise out of the LOCAL AGENCY'S operation hereunder. In addition, provide professional liability insurance, as further defined in Exhibit B, attached hereto and made a part hereof.
7. Commence work on the PROJECT as set forth in and following execution of THIS CONTRACT only upon receipt of written notice from the PROJECT Engineer/Supervisor.
8. Submit billings to the LOCAL AGENCY as set forth in Section 17.

9. Perform all PROJECT work under the direction of the PROJECT Engineer who will be assigned by the LOCAL AGENCY as provided in Section 14.
10. Provide such reports and maintain such records of the PROJECT as are required to document the work to the satisfaction of the PROJECT Engineer, the LOCAL AGENCY, the MDOT, and the FHWA.
11. Permit the LOCAL AGENCY, the MDOT, the FHWA, and other public agencies interested in the plans and designs for the PROJECT to have full access thereto during the progress of the SERVICES being performed thereon.
12. Have their professional endorsement upon all plans, specifications, estimates, and engineering data furnished to the LOCAL AGENCY.
13. Follow standard accounting practices and permit representatives of the LOCAL AGENCY and MDOT, FHWA, U.S. DEPARTMENT OF Transportation's Inspector General, and the Controller General of the United States to audit and inspect its PROJECT books and records at any reasonable time.
 - a. Such records are to be kept available for three (3) years from the date of the final payment for work conducted under THIS CONTRACT.
 - b. In the event of a dispute with regard to the allowable expenses or any other issue under THIS CONTRACT, the CONSULTANT 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.
 - c. In the event of a dispute with regard to the allowable expenses or any other issue under THIS CONTRACT, the CONSULTANT 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.
 - d. If any part of the work is subcontracted, the conditions for the responsibilities of the CONSULTANT apply to the CONSULTANT and their SUBCONSULTANTS (or affiliates).

The LOCAL AGENCY shall:

14. Assign a PROJECT Engineer/Supervisor in responsible charge of the PROJECT.
15. For and in consideration of the SERVICES rendered by the CONSULTANT as set forth in THIS CONTRACT, pay the CONSULTANT on the basis of actual cost plus a fixed fee (profit) amount which shall not exceed Seventy-Three Thousand Three-Hundred Seventy-One dollars and Seventy-Six cents (\$73,371.76). The fixed fee (profit) shall be the amount of Seven-Thousand One-Hundred Nineteen dollars and Fifty-Three cents (\$7,119.53), which amount is included in the total amount of Seventy-Three Thousand Three-Hundred and Seventy-One dollars and Seventy-Six cents (73,371.76) as shown in Exhibit "A," attached hereto and made part hereof.
16. Pay for actual costs for SERVICES. Work required and performed will be determined in accordance with the following terms, subject to the cost criteria set

forth in the Federal Acquisition Regulations, 48 CFR, Part 31.

- a. Direct Salary Costs: Actual labor costs of personnel performing the SERVICES work. This cost will be based on the employees' actual hourly rate of pay and the actual hours of performance on the PROJECT as supported by employee time records.
- b. Direct Costs: Actual costs of materials and SERVICES, other than salaries, as may be required hereunder but which are not normally provided as a part of the overhead of the CONSULTANT. All actual costs shall be itemized and certified as paid to specifically named firms or individuals, and shall be supported by proper receipts.

Overhead (Indirect Costs): For A pro-rated portion of the actual overhead incurred by the CONSULTANT during performance of the PROJECT work shall be computed as set forth in 48 CFR, Federal Acquisition Regulations, Part 31, see Attachment C. The amount of overhead payment, including payroll overhead, will be calculated as a percentage of all direct labor costs related to staff personnel and members of the firm. Overhead shall include those costs, which because of their incurrence for common or joint objectives, are not readily subject to treatment as a direct cost. If a certified overhead rate, attachment C, has not been established, a provisional overhead rate, which will be applied to direct labor costs for progress payments, is set forth in Exhibit A. Use the provisional overhead rate until the actual overhead rate has been determined.

- c. Non MDOT Pre-Qualified CONSULTANT:

It is agreed that the use of the provisional overhead rate set forth in Exhibit A sets neither a minimum nor maximum to the actual overhead costs to be paid the CONSULTANT. Any overpayments or underpayments made to the CONSULTANT for SERVICES performed resulting from usage of the provisional overhead rate, will be corrected in the first billing submitted subsequent to the CONSULTANT'S calculations of an actual overhead rate for the financial year end applicable to the reported direct labor cost. The audit at the completion of THIS CONTRACT or at such time as THIS CONTRACT is terminated, will verify the propriety of reporting overhead.

MDOT Pre-Qualified CONSULTANT:

When work occasioned at the LOCAL AGENCY'S request is contracted with the CONSULTANT to perform the SERVICES, the actual overhead costs incurred by the CONSULTANT at the MDOT-accepted rate during work, computed as set forth in 48 CFR, Federal Acquisition Regulations, Part 31, The amount of overhead payment, including payroll overhead, will be calculated as applied rates to direct labor costs. Overhead costs will include those costs that, because of their incurrence for common or joint objectives, are not readily subject to treatment as direct costs. The MDOT- accepted overhead rate is not subject to adjustment for overhead costs, but the LOCAL AGENCY and MDOT retains the right to audit the records of the CONSULTANT at any reasonable time.

Contract LOCAL AGENCY Work:

When work occasioned at the LOCAL AGENCY'S request is contracted with another LOCAL AGENCY to perform the SERVICES, the actual overhead costs incurred by the LOCAL AGENCY shall be computed as set forth in 2 CFR 200.414. The LOCAL AGENCY must submit a 2 CFR 200.414 compliant overhead (indirect) cost rate proposal/plan to MDOT, prior to claiming any overhead (indirect) costs. The LOCAL AGENCY and MDOT retains the right to audit the records of the CONSULTANT at any reasonable time.

Reimbursement for costs incurred is subject to the cost criteria set forth in 48 CFR Part 31, and/or 2 CFR 200 Subpart E-Cost Principles as applicable, is incorporated herein by reference as if the same were repeated in full herein.

- d. Facilities Cost of Capital: A pro-rated portion of the actual facilities costs of capital incurred by the CONSULTANT during work is reimbursable only if the estimated facilities cost of capital was specifically identified in the cost proposal, included in the Scope of Services for this work (Exhibit A).
- e. Travel and Subsistence: Actual costs in accordance with and not to exceed the amounts set forth in the State of Michigan Standardized Travel Regulations, incorporated herein by reference as if the same were repeated in full herein.
- f. Fixes Fee (Profit): In addition to the payments for direct and overhead costs as hereinbefore provided, the LOCAL AGENCY agrees to pay the CONSULTANT a fixed amount for profit for the SERVICES performed. It is agreed and understood that such amount constitutes full compensation to the CONSULTANT for profit and will not vary because of any differences between the estimated cost and the actual cost for work performed, except that in the event THIS CONTRACT is terminated, payment of a fixed fee (profit) in respect to the PROJECT shall be in an amount which can be established by the CONSULTANT from its accounts and records and subject to the provisions of Section 30.

SUBCONSULTANT Costs: Actual costs of SUBCONSULTANTS performing SERVICES under THIS CONTRACT. Amounts for fixed fees paid by the CONSULTANT to the SUBCONSULTANT will not be considered an actual cost of the CONSULTANT, but will be considered a part of the fixed fee of the CONSULTANT.

- 17. Make payments to the CONSULTANT in accordance with the following procedures:
 - a. Progress payments may be made for reimbursement of amounts earned to date and shall include direct costs, other direct costs, calculated amounts for overhead using overhead, and facilities cost of capital using applied rates, set forth hereinbefore, plus

a portion of the fixed fee. The portion of the fixed fee which may be included in progress payments shall be equal to the total fixed fee multiplied by the percentage of the work which has been completed to date of billing.

- b. Partial payments will be made upon the submission by the CONSULTANT of a billing, accompanied by properly completed reporting forms and such other evidence of progress as may be required by the LOCAL AGENCY. Partial payments shall be made only one a month.
- c. Final billing under THIS CONTRACT shall be submitted in a timely manner but not later than three (3) months after completion of the SERVICES. Billing for work submitted later than three (3) months after completion of SERVICES will not be paid. Final payment, including adjustments of direct salary costs, other direct costs and overhead costs, will be made upon completion of audit by the LOCAL AGENCY and/or as appropriate, by representatives of the MDOT and the FHWA.

In the event such audit indicates an overpayment, the CONSULTANT will repay the LOCAL AGENCY within 60 days of the date of the invoice.

It is further agreed that:

- 18. Upon completion or termination of THIS CONTRACT, all documents prepared by the CONSULTANT, including tracings, drawings, estimates, specifications, field notes, investigations, studies, etc., as instruments of SERVICE, shall become property of the LOCAL AGENCY.
- 19. No portion of the PROJECT work, hereto before defined, shall be sublet, assigned, or otherwise disposed of except as herein provided or with the prior written consent for the LOCAL AGENCY and approval by MDOT and the FHWA. Consent to sublet, assign or otherwise dispose of any portion of the SERVICES shall not be construed to relieve the CONSULTANT of any responsibility for the fulfillment of THIS CONTRACT.
- 20. All questions which may arise as to the quality and acceptability of work, the manner of performance and rate of progress of the work, and the interpretation of plans and specifications shall be decided by the LOCAL AGENCY'S PROJECT Engineer/Supervisor. All questions as to the satisfactory and acceptable fulfillment of the terms of THIS CONTRACT shall be decided by the LOCAL AGENCY.
- 21. This agreement is to be governed by the laws of the State of Michigan. All disputes between the LOCAL AGENCY and CONSULTANT shall be resolved per the Dispute Resolution in Appendix C.
- 22. Any change in SERVICES to be performed by the CONSULTANT involving extra compensation must be authorized in writing by the LOCAL AGENCY and approved by the

MDOT and the FHWA prior to the performance thereof by the CONSULTANT and requires an amendment to THIS CONTRACT.

23. The CONSULTANT and the LOCAL AGENCY specifically agree that in the event problems arise that may be the result of errors and/or omissions by the CONSULTANT or due to a failure of the CONSULTANT to otherwise perform in accordance with THIS CONTRACT, the CONSULTANT will be held responsible with no cost to the LOCAL AGENCY or in accordance with Dispute Resolution in Appendix C.
24. In addition, the CONSULTANT shall comply with, and shall require any CONTRACTOR or SUBCONTRACTOR to comply with, the following:
 - a. In connection with the performance of the PROJECT under THIS CONTRACT, the CONSULTANT (hereinafter in Appendix "A" referred to as the "CONTRACTOR") agrees 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 and will require a similar covenant on the part of any CONTRACTOR or SUBCONTRACTOR employed in the performance of THIS CONTRACT.
 - b. During the performance of THIS CONTRACT, the CONSULTANT, for itself, its assignees, and its successors in interest (hereinafter in Appendix B referred to as the "CONTRACTOR"), agrees to comply with the Civil Rights Act of 1964, being P.L. 88-352, 78 Stat. 241, as amended, being Title 42 USC Sections 1971, 1975a-1975d, and 2000a-2000h-6, and the Regulations of the DEPARTMENT of Transportation (49 CFR Part 21) issued pursuant to said Act, including Appendix B, dated June 2011, attached hereto and made a part hereof. This provision will be included in all subcontracts relating to THIS CONTRACT.
 - c. The parties hereto further agree that they accept the MDOT'S Minority Business Enterprises/Women's Business Enterprises (MBE/WBE) Program with respect to the PROJECT and will abide by the provisions set forth in Appendix C, dated October 1, 2005, attached hereto and made a part hereof, being an excerpt from Title 42 C.F.R. Part 23, more specifically 23.43(a)(1) and (2) thereof.
25. The CONSULTANT warrants that it has not employed or retained any company or person other than bona fide employees working solely for the CONSULTANT to solicit or secure THIS CONTRACT and that it has not paid or agreed to pay any company or person other than bona fide employees working solely for the CONSULTANT any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of THIS CONTRACT. For breach or violation of this warranty, the LOCAL AGENCY will have the right to annul THIS CONTRACT without liability or, at its discretion, to deduct from the contract price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

26. The CONSULTANT specifically agrees that in the performance of the SERVICES herein enumerated, by itself, by an approved SUBCONTRACTOR, or by anyone acting on its behalf, it will comply with any and all state, federal, and local statutes, ordinances, and regulations and will obtain all permits applicable to the entry into the performance of THIS CONTRACT.
27. No charges or claims for damages shall be made by the CONSULTANT for delays or hindrances from any cause whatsoever during the progress of any portions of the SERVICES specified in THIS CONTRACT, except as hereinafter provided.

In case of a substantial delay on the part of the LOCAL AGENCY in providing to the CONSULTANT either the necessary information or approval to proceed with the work, resulting, through no fault of the CONSULTANT, in delays of such extent as to require the CONSULTANT to perform its work under changed conditions not contemplated by the parties, the LOCAL AGENCY will consider supplemental compensation limited to increased costs incurred as a direct result of such delays. Any claim for supplemental compensation must be in writing and accompanied by substantiating data. Authorization of such supplemental compensation shall be by an amendment to THIS CONTRACT subject to prior approval by the MDOT.

When delays are caused by circumstances or conditions beyond the control of the CONSULTANT, as determined by the LOCAL AGENCY, the CONSULTANT may be granted an extension of time for such reasonable period as may be mutually agreed upon between the parties. However, that permitting of the CONSULTANT to proceed to complete the SERVICES, or any part of them, after the date through which the time of completion may have been extended, will in no way operate as a waiver on the part of the LOCAL AGENCY of any of its rights herein set forth.

28. In case the CONSULTANT deems extra compensation will be due it for work or materials not clearly covered in THIS CONTRACT, or not ordered by the LOCAL AGENCY as a change, or due to changed conditions, the CONSULTANT shall notify the LOCAL AGENCY in writing of its intention to make claim for such extra compensation before beginning such work. Failure on the part of the CONSULTANT to give such notification will constitute a waiver of the claim for such extra compensation. The filing of such notice by the CONSULTANT shall not in any way be construed to establish the validity of the claim. Such extra compensation shall be provided only by amendment to THIS CONTRACT with approval of the MDOT and the FHWA.
29. In addition to the protection afforded by any policy of insurance, the CONSULTANT agrees to indemnify and save harmless the State of Michigan, the Michigan State Transportation Commission, LOCAL AGENCY, the FHWA, and all officers, agents, and employees thereof:
- a. From any and all claims by persons, firms, or corporations for labor, materials,

supplies, or services provided to the CONSULTANT in connection with the CONSULTANT'S performance of the SERVICES; and

- b. From any and all costs or claims for additional compensation or damages, or injuries to or death of any and all persons, for loss of or damage to property, for environmental damage, degradation, response and cleanup cost, including attorney fees and related costs, caused by errors and/or omissions attributable to the CONSULTANT'S performance of the SERVICES under THIS CONTRACT unless the CONSULTANT proves that notwithstanding the error or omission, the CONSULTANT met generally accepted standards of care. In addition to excusing consultants from liability for errors or omissions that the CONSULTANT proves occurred despite its compliance with generally accepted standards of care, the CONSULTANT will only be responsible for the percentage of the damages and costs that corresponds to the proportion of the total damages and costs caused by the errors and/or omissions attributable to the CONSULTANT for which the CONSULTANT is otherwise liable under this subparagraph.

LOCAL AGENCY will not be subject to any obligations or liabilities by CONTRACTORS of the CONSULTANT or their SUBCONTRACTORS or any other person not a party to THIS CONTRACT without its specific consent and notwithstanding its concurrence in or approval of the award of any contract or subcontract or the solicitation thereof.

It is expressly understood and agreed that the CONSULTANT will take no action or conduct that arises either directly or indirectly out of its obligations, responsibilities, and duties under THIS CONTRACT that results in claims being asserted against or judgments being imposed against the State of Michigan, the Michigan State Transportation Commission, LOCAL AGENCY, and/or the FHWA, as applicable. In the event that the same occurs, it will be considered as a breach of THIS CONTRACT, thereby giving the State of Michigan, the Michigan State Transportation Commission, LOCAL AGENCY, and/or the FHWA, as applicable, a right to seek and obtain any necessary relief or remedy, including, but not limited to, a judgment for money damages.

- 30. LOCAL AGENCY may terminate THIS CONTRACT and/or any AUTHORIZATION(S) under THIS CONTRACT for convenience or cause, as set forth below, before the SERVICES are completed. Written notice of termination will be sent to the CONSULTANT. The CONSULTANT will be reimbursed in accordance with the following:

- a. Termination for Convenience:
FOR COSTS TO BE REIMBURSED ON AN ACTUAL COST PLUS FIXED FEE BASIS: The CONSULTANT will be reimbursed for all costs incurred up to the termination date set forth in the notice of termination. Such reimbursement will be as set forth in Sections 16 and 17. The CONSULTANT will be reimbursed a proportionate share of the fixed fee based on the portion of the project that is complete as determined by LOCAL AGENCY. LOCAL AGENCY will receive the work product produced by the CONSULTANT under THIS CONTRACT up to the

time of termination, prior to the CONSULTANT being reimbursed. In no case will the compensation paid to the CONSULTANT for partial completion of SERVICES exceed the amount the CONSULTANT would have received had the SERVICES been completed.

b. Termination for Cause:

The LOCAL AGENCY may terminate this CONTRACT whenever the CONSULTANT causes any of the following events to occur: fails to complete any of the SERVICES in a manner satisfactory to LOCAL AGENCY, and/or discloses LOCAL AGENCY'S confidential information, and/or replaces any Key People without prior written approval from LOCAL AGENCY, and/or fails to find an acceptable replacement to the Project Team within thirty (30) days, (or within the extension of time granted by LOCAL AGENCY, if any), and/or makes any public relations communications, (and/or products) that are intended for external audience without prior written approval from the LOCAL AGENCY.

AUTHORIZATION(S) pursuant to THIS CONTRACT for cause. Written notice of termination will be sent to the CONSULTANT. The CONSULTANT will be reimbursed as follows:

FOR COSTS TO BE REIMBURSED ON AN ACTUAL COST PLUS FIXED FEE BASIS: The CONSULTANT will be reimbursed for SERVICES completed up to receipt of the notice of termination. LOCAL AGENCY may pay a proportionate share for a partially completed work product. The value of such partially completed work product will be determined by LOCAL AGENCY based on actual costs incurred up to the estimated value of the work product received by LOCAL AGENCY, as determined by LOCAL AGENCY. Such actual costs will be as set forth in Section 16.

The CONSULTANT will be reimbursed a proportionate share of the fixed fee based on the portion of the project that is complete, as determined by LOCAL AGENCY. LOCAL AGENCY will receive the work product produced by the CONSULTANT under THIS CONTRACT up to the time of termination, prior to the CONSULTANT being reimbursed. In no case will the compensation paid to the CONSULTANT for partial completion of the SERVICES exceed the amount the CONSULTANT would have received had the SERVICES been completed.

The value of such partially completed work product will be determined by LOCAL AGENCY based on actual costs incurred up to the estimated value of the work product received by LOCAL AGENCY as determined by LOCAL AGENCY.

In the event that termination by LOCAL AGENCY is necessitated by any wrongful breach, failure, default, or omission by the CONSULTANT, LOCAL AGENCY will be entitled to pursue whatever remedy is available to it, including, but not limited to,

withholding funds or off-setting against funds owed to the CONSULTANT under THIS CONTRACT, as well as any other existing or future contracts between the CONSULTANT and LOCAL AGENCY, for any and all damages and costs incurred or sustained by LOCAL AGENCY as a result of its termination of THIS CONTRACT due to the wrongful breach, failure, default, or omission by the CONSULTANT.

In the event of termination of THIS CONTRACT and/or any AUTHORIZATION(S), LOCAL AGENCY may procure the professional SERVICES from other sources and hold the CONSULTANT responsible for any damages or excess costs occasioned thereby.

In the event that the CONSULTANT disagrees with LOCAL AGENCY regarding a determination of the completeness or value of SERVICES performed or the amount of reimbursement for which the CONSULTANT is eligible under the provisions of this section, the CONSULTANT may invoke the dispute process defined in Exhibit C.

31. The CONSULTANT'S signature on THIS CONTRACT constitutes the CONSULTANT'S certification of "status" under penalty of perjury under the laws of the United States with respect to 49 CFR Part 29, as amended and as relocated to 2 CFR Part 1200, pursuant to Executive Order 12549.

The certification included as a part of THIS CONTRACT as Attachment A is Appendix A of 49 CFR Part 29 and applies to the CONSULTANT (referred to in Appendix A as "the prospective primary participant").

The CONSULTANT is responsible for obtaining the same certification from all SUBCONTRACTORS under THIS CONTRACT by inserting the following paragraph in all subcontracts:

"The SUBCONTRACTOR'S signature on THIS CONTRACT constitutes the SUBCONTRACTOR'S certification of 'status' under penalty of perjury under the laws of the United States with respect to 49 CFR Part 29, as amended and as relocated to 2 CFR Part 1200, pursuant to Executive Order 12549. The certification included as a part of THIS CONTRACT as Attachment B is Appendix B of 49 CFR Part 29."

This certification is required of all SUBCONTRACTORS, testing laboratories, and other lower tier participants with whom the CONSULTANT enters into a written arrangement for the procurement of goods or services provided for in THIS CONTRACT.

32. The CONSULTANT'S signature on THIS CONTRACT constitutes the CONSULTANT'S certification that to the best of his or her knowledge and belief no federal appropriated funds have been paid or will be paid by or on behalf of the undersigned to any person for

influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or the extension, continuation, removal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

The CONSULTANT will require that the language of this certification be included in the award documents for all third-party agreements (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients will certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification will be subject to a civil penalty of not less than Ten Thousand Dollars (\$10,000.00) and not more than One Hundred Thousand Dollars (\$100,000.00) for each such failure.

33. The CONSULTANT agrees to pay each SUBCONTRACTOR for the satisfactory completion of work associated with the subcontract no later than ten (10) calendar days from the receipt of each payment the CONSULTANT receives from MDOT. This requirement is also applicable to all sub-tier SUBCONTRACTORS and will be made a part of all subcontract agreements.

This prompt payment provision is a requirement of 49 CFR Part 26, as amended, and does not confer third-party beneficiary right or other direct right to a SUBCONTRACTOR against MDOT. This provision applies to both DBE and non-DBE SUBCONTRACTORS.

The CONSULTANT further agrees that it will comply with 49 CFR Part 26, as amended, and will report any and all DBE SUBCONTRACTOR payments to MDOT semi-annually in the format set forth in Appendix G, dated July 2015, attached hereto and made a part hereof, or any other format acceptable to MDOT.

34. The CONSULTANT agrees that the costs reported to LOCAL AGENCY for THIS CONTRACT will represent only those items that are properly chargeable in accordance with THIS CONTRACT. The CONSULTANT 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.

The following exhibits, appendices, and attachments are included on page 14 of THIS CONTRACT, IN WITNESS WHEREOF, the parties hereto have set their hands and seals by their duty authorized agents and representative the day and year first above written.

By: **Rick Freeman**
TITLE: Rick Freeman, P.E. - Vice President

Digitally signed by Rick Freeman
DN: CN=Rick Freeman,
E=rfreeman@rowepsc.com, O=State of
Michigan, C=US
Date: 2021.03.05 08:29:44-05'00'

By: _____
TITLE: _____

List of Exhibits/Appendixes/Attachments

Exhibit A – Scope of Services

Exhibit B – Professional Liability Insurance

Exhibit C – The Dispute Resolution Process

Exhibit D – Consultant Performance Evaluations

Appendix A – Prohibition of Discrimination in State Contracts

Appendix B – TITLE VI Assurance

Appendix C – Assurances that Recipients and Contractors Must Make

Appendix D – Local Consultant Conflict of Interest

Appendix E – Public Relations Communications, and Use of Project Information for External Audiences

Appendix G – Prime Consultant State of DBE Sub-Consultant Payments

Attachment A – Certification Regarding Debarment, Suspension, and Other Responsibility Matters
– Primary Covered Transactions

Attachment B – Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusions-Lower Tier Covered Transactions

Attachment C – Transportation Certification of Indirect Rate

EXHIBIT A**Scope of Services****Scope of Work:**

1. Obtain documents from MDOT to set up Fieldbook & Field Manager files.
2. Review material shop drawings for compliance with contract documents.
3. Provide all administration that conforms to MDOT Local Agency Program requirements including completing wage rate interviews and reviewing certified payrolls.
4. Prepare and attend pre-construction and progress meetings, distribute minutes.
5. Stake proposed curbs and drive approaches (where needed).
6. Stake accessible sidewalk ramps and new sidewalk where proposed.
7. Measure and track quantities daily.
8. Perform construction concrete, asphalt, and density testing services.
9. Verify construction compliance with contract specifications.
10. Verify project quantities with contractor.
11. Process pay requests and change orders.
12. Prepare punch list for contractor and prepare project closeout paperwork.

Comments:

1. All required permits shall be secured by others.

EXHIBIT B**PROFESSIONAL LIABILITY INSURANCE****June 27, 1996**

The CONSULTANT specifically agrees to maintain professional liability insurance for protection from claims arising out of the performance of SERVICES under THIS CONTRACT.

This insurance will be maintained in an amount not less than One Million Dollars (\$1,000,000.00) per claim and annual aggregate. Such insurance will be in effect for the life of THIS CONTRACT and for the period through the construction and DEPARTMENT acceptance of such construction, resulting from the SERVICES provided by THIS CONTRACT, whichever is later.

As evidence of said coverage, the CONSULTANT will submit to the DEPARTMENT certificates of insurance. All required insurance will be in effect and all documents required by this section will be submitted to the DEPARTMENT prior to the commencement of the SERVICES. All such approvals will include a provision for a cancellation notice of not less than thirty (30) days, directed to the DEPARTMENT. The CONSULTANT specifically agrees to immediately provide written notification of any change to its professional liability insurance coverage.

THE DISPUTE RESOLUTION PROCESS

November, 2015

BACKGROUND

During the design and construction phases of projects, there are quality assurance and quality assessment procedures required of CONSULTANTS and the LOCAL AGENCY that are intended to minimize the occurrence of errors and/or omissions. Even so, there are often valid changes required during construction in order to complete the project. These changes may or may not be the result of the Design or Construction Engineering Consultant's errors or omissions.

Some of the changes may be due to errors and/or omissions in the Design Plans or Construction Engineering Services resulting in cost increases to the project or degradation of quality of the road project. When changes to a project result in errors or omissions and cause additional costs or reduction in quality, an assessment must be made to determine the extent of the Design and/or Construction Engineering consultant's responsibility for the errors and/or omissions, including the CONSULTANT'S share of the additional costs.

LOCAL AGENCY personnel must keep in mind that Design Plans and Construction Engineering Services will normally contain minor deficiencies that do not materially (*an issue is considered material when the perceived cost of the error and/or omission is greater than the administrative cost of the dispute resolution process*) affect the cost or quality of the project. The steps to assign responsibility are intended to be used in those cases where LOCAL AGENCY personnel have reason to believe that, in their professional judgment, a Design and/or Construction Engineering CONSULTANT did not adhere to recognized professional standards of care in the performance of its duties, resulting in substantial additional costs to the LOCAL AGENCY.

It is also important to understand that the cost of correcting an error and/or omission should be compared to the estimated first-time cost that would have been incurred had the services or contract documents been correct to begin with. For example, the omission of a pay item that has to be added during construction will cause an increase in the construction cost, but the cost would have been higher had the pay item been included from the beginning. In this case, the cost of the omission depends on how much more it costs to include the item during construction than it would have cost had the item been included when the project was bid. This is known as premium cost. Premium costs are the additional cost of a contract that would not have been incurred if the work had been included in the original contract. More specifically, premium costs are dollar amounts paid for non value added work. Delays, inefficiencies, rework, or extra work as shown below, other than those caused by the CONTRACTOR or his or her SUBCONTRACTORS or suppliers, will be considered as non-value added work. Non-value added work can occur in three distinct situations.

- Work delays or inefficiencies. The premium costs are the total delay/ inefficiencies damages paid to the CONTRACTOR.
- Rework. The premium costs are the dollar amounts paid for the original items of work that have to be removed plus the costs to remove these items.
- Extra work. The premium costs are the net difference between the final, agreed-upon price paid to the CONTRACTOR and the Engineer's Estimate i.e., what the cost would have been had the extra work been included in the original bid at letting.

Premium costs associated with Errors and Omissions shall be Federal-aid Non-Participating.

Another example is improper or missing testing documentation. In this case, the cost of the omission depends on whether or not the Federal Aid or State participation will remain as the quality of the construction may not be able to be determined and was affected by the missing or improper acceptance documentation to support payment.

THE PROCESS – OVERVIEW

PROJECTS will be built as designed and let. Furthermore, field staff will not revise the design for purposes of enhancement or personal choice. In the event the PROJECT cannot be practically built or let as designed, due to omissions or errors, then the steps of this procedure will govern.

There are three (3) possible categories of potential errors, omissions, or questions of a material nature.

Category 1 – Design Issues The first category is when potential errors, omissions, or questions of a material nature are related to the Design Plans only. These events will be referred to as “Design Issues” until such time as the cause, effect, and responsibility have been determined. *[Any issue is material when the cost of the error and/or omission is perceived to be greater than the administrative cost of the dispute resolution process.]*

Category 2 – Design/Construction Engineering Issues The second category is when it cannot be determined whether the potential errors, omissions, or questions of a material nature are encountered in the Construction Engineering Services or in the Design Plans.. These events will be referred to as “Construction Engineering/Design Issues” until such time as the cause, effect, and responsibility have been determined.

Category 3 – Construction Engineering Issues The third category is when the potential errors, omissions, or questions of a material nature are encountered in Construction Engineering Services and not related to the Design Plans. These events will be referred to as “Construction Engineering Issues” until such time as the cause, effect, and responsibility have been determined.

In the event that **the MDOT TSC Construction Engineer** decides that the Design and/or Construction Engineering Issue is not material, the Local Agency Project Supervisor will proceed unilaterally. A copy of the Design Issue decision, changes, and/or other relevant documents must be sent immediately to the **LOCAL AGENCY**, and the Construction Engineering CONSULTANT, if applicable. Typically, this will be a e-mail of the work order. The LOCAL AGENCY will forward these decisions, changes, and/or other documents to the Design Consultant. This step is important for two reasons. First, the Design CONSULTANT, and/or the **LOCAL AGENCY** will have an opportunity to review the change and take action if they disagree. Second, this will give an opportunity for everyone to learn of the deficiencies in order to improve the product in the future.

In the event that the **MDOT TSC Construction Engineer** is uncertain regarding the designer’s intent, he/she must contact the **LOCAL AGENCY** to determine the intent. The **LOCAL AGENCY** will contact the CONSULTANT staff when appropriate.

The process will initially focus on solving the problem with the objective of minimizing the impact on construction. After that, the process will focus on responsibility according to the multi-step procedure that follows. The step of determining responsibility must be taken any time the Design and/or Construction Engineering CONSULTANT is brought into the process and incurs costs. These steps must also be taken any time errors and/or omissions in consultant prepared Design Plans or Construction Engineering Services result in increased cost during construction or decrease in the quality of the project.

The determination of the degree of responsibility for substandard work must include a review of the CONSULTANT'S scope of work, the standards in effect when the work was done, design information provided to the CONSULTANT, and directions provided by the LOCAL AGENCY. In making this determination, the LOCAL AGENCY must discuss the error and/or omission with the CONSULTANT and any involved LOCAL AGENCY personnel to obtain all information and points of view. The LOCAL AGENCY is to make a record of conversations and other documentation that support whatever determination is made and then place copies of those records in the project files. Separate budgets will be created for payment to Design and Construction Engineering CONSULTANTS for their correction of Design or Construction Engineering Issues that are judged not to be their responsibility and for changes by the LOCAL AGENCY for their activities during this process.

PROCESS – DISPUTE RESOLUTION

For levels one and two of these proceedings, the first focus should be on resolving the Design or Construction Engineering Issue in order to minimize the impact on construction. The LOCAL AGENCY and the consultant will attempt to jointly determine the solution. In the event that such agreement cannot be reached, the LOCAL AGENCY alone will decide on the appropriate solution. In the event that the Design and/or Construction Engineering CONSULTANT does not agree with any of these decisions, it may appeal its financial responsibility to the next level. After the Design or Construction Engineering Issue is resolved, the focus shifts to responsibility and financial implications. All decisions must be completely agreed upon by the representatives of the LOCAL AGENCY.

Level 1 – Omissions and Errors Identification and Correction

Step A – Notify the Design or Construction Engineering CONSULTANT of the first notice of the issue in either design or construction.

Step B – The LOCAL AGENCY and CONSULTANT personnel will collaborate on the safest, cost efficient solution to construct the project within the character of the scope of work. If consensus cannot be reached the LOCAL AGENCY is then charged with determining the appropriate resolution to the issue to get the project back under design or construction. This issue resolution should be discussed with the MDOT TSC Construction Engineer with regards to appropriateness and potential project financial participation implications prior to any final decisions being made.

Step C – Issue Work Order/Contract Modification that resolves issue so that design or construction work may continue. Processes for contract modifications will follow those

set forth in the MDOT Construction Manual or other guidance documents pertaining to revisions to the contract.

Level 2 – Cost Responsibility Determination

Step A – Mutually determine, between the LOCAL AGENCY and the CONSULTANT, if the issue was caused by a plan error or omission.

If it is determined that a plan error created the issue, the financial responsibility for the correction and associated design and construction costs will be borne 100% by the CONSULTANT.

If it is determined that an omission created the issue, only the premium cost above what the LOCAL AGENCY would have expected to pay, if the work was included in the original bid construction documents, will be borne by the CONSULTANT.

Step B – If the CONSULTANT disagrees with the determination in Step 2 A, then the disputed items are sent to the mutually agreed upon review PANEL for a recommendation of cost responsibility. The LOCAL AGENCY will facilitate the development of the members of the review PANEL.

The LOCAL AGENCY and the CONSULTANT will each select a member of their choosing, the two selected members will then mutually agree to select one more member. The review PANEL will be made up of three members. The LOCAL AGENCY will then notify, a PANEL of impartial and non-interested individuals to mediate a resolution to the issue. The cost for the PANEL members should be shared between the LOCAL AGENCY and the CONSULTANT. Example participants could be members ACEC, CRA, MML, etc. The PANEL will guide the LOCAL AGENCY and the CONSULTANT toward an agreement. The staff from MDOT may also be present as observers. At such time as the PANEL determines that the LOCAL AGENCY and the CONSULTANT are not making reasonable progress toward resolving one or more issues, the PANEL will render a non-binding written decision of those issues. In the event the non-binding written decision is not acceptable to either party, then other legal remedies may be sought.

Level 3 – Cost Recovery or Payment

Upon the conclusion of the level 2 process, the LOCAL AGENCY will do one of the following in accordance with the results of this process:

Cost Recovery The LOCAL AGENCY will prepare a billing to the Design or Construction Engineering Consultant for its share of the costs incurred for work performed during this process plus its share of any increased costs of construction, in accordance with the Design Consultant's determined share of responsibility; or

Payment The LOCAL AGENCY will prepare a payment to the Design or Construction Engineering Consultant for a share of its costs incurred for work performed during this process in accordance with its determined share of responsibility.

Upon the conclusion of this process, the LOCAL AGENCY will do one of the following in accordance with the results of this process:

- a. The LOCAL AGENCY will prepare a billing to the Design or Construction Engineering Consultant for its share of the costs incurred for work performed during this process plus its share of any increased costs of construction, in accordance with the Design Consultant's determined share of responsibility; or
- b. The LOCAL AGENCY will prepare a payment to the Design or Construction Engineering Consultant for a share of its costs incurred for work performed during this process in accordance with its determined share of responsibility.

EXHIBIT D
CONSULTANT PERFORMANCE EVALUATIONS

May 20, 2015

The purpose of the Consultant Performance Evaluation process is to: provide CONSULTANTS documented feedback of their performance on local federal-aid projects; promote project management/consultant communication; identify and document areas of potential improvements of CONSULTANT performance, improve the overall quality of local projects, and to obtain ratings for use in future project selections.

The performance evaluation process is required for all types of CONSULTANT services utilizing federal-aid. An evaluation must be prepared for the prime vendor, as well as separate evaluations for each sub-vendor. Evaluations of both prime and SUB-CONSULTANTS are critical because their evaluation scores affect future selection scoring and ranking. The performance evaluation should include, but not be limited to, an assessment of timely completion of work, adherence to contract scope and budget, and the quality of the work conducted. .

The LOCAL AGENCY specifically agrees to complete and maintain CONSULTANT performance evaluations at the end of THIS CONTRACT and submit them to MDOT before the final reimbursement will be processed in LARS.

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.

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.

Revised June 2011

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.
 - b. Canceling, terminating, or suspending THE CONTRACT, in whole or in part.

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.

Revised June 2011

APPENDIX C

Assurances that Recipients and CONTRACTORs Must Make (Excerpts from US DOT Regulation 49 CFR § 26.13)

1. 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.).

2. Each contract MDOT signs with a CONTRACTOR (and each subcontract the prime CONTRACTOR signs with a SUBCONTRACTOR) must include the following assurance:

The CONTRACTOR, subrecipient 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.

(Revised October 1, 2005)

APPENDIX D

LOCAL CONSULTANT CONFLICT OF INTEREST

The CONSULTANT and its Affiliates agree not to have any public or private interest, and shall not acquire directly or indirectly any such interest in connection with the project, that would conflict or appear to conflict in any manner with the performance of SERVICES under THIS CONTRACT. "Affiliate" means a corporate entity linked to the CONSULTANT through common ownership. The CONSULTANT and its Affiliates agree not to provide any services to a construction CONTRACTOR or any entity that may have an adversarial interest in a project for which it has provided services to the MDOT OR LOCAL AGENCY. The CONSULTANT and its Affiliates agree to disclose to the LOCAL AGENCY and the MDOT all other interests that the prime or SUBCONSULTANT have or contemplate having during each phase of the project. The phases of the PROJECT include, but are not limited to, planning, scoping, early preliminary engineering, design engineering, real estate acquisition, and construction engineering. In all situations, the MDOT will decide if a conflict of interest exists. If the MDOT concludes that a conflict of interest exists, it will inform the LOCAL AGENCY and CONSULTANT and its Affiliates. If the CONSULTANT and its Affiliates choose to retain the interest constituting the conflict, the MDOT may require the LOCAL AGENCY to terminate the Contract for cause if a conflict of interest finding is upheld.

Appendix E

Public Relations Communications, and Use of Project Information for External Audiences

Any public relations communications and/or products pertaining to this CONTRACT or the SERVICES hereunder that are intended for an external audience will not be made without prior written approval from LOCAL AGENCY, and then only in accordance with explicit instructions from LOCAL AGENCY. Examples of public relations communications and/or products may include the following:

Use of the LOCAL AGENCY logo;

Brochures, flyers, invitations, programs, or any other printed materials intended for external audiences; Posting on social media sites or web sites;

New or updated video, digital versatile disk (DVD), or video sharing productions;

Exhibits or presentations.

A violation of this provision will be considered a breach of this CONTRACT, and LOCAL AGENCY may terminate this CONTRACT under provisions of Section 30(b).

Appendix G
Prime Consultant State of DBE Sub-Consultant Payments

ATTACHEMENT A

(This is a reproduction of Appendix A of 49 CFR Part 29)
**Certification Regarding Debarment, Suspension, and Other
 Responsibility Matters -- Primary Covered Transactions**

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the DEPARTMENT or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the DEPARTMENT or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the DEPARTMENT or agency may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the DEPARTMENT or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the DEPARTMENT or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the DEPARTMENT or agency entering into this transaction.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transaction," provided by the DEPARTMENT or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the DEPARTMENT or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters – Primary Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal DEPARTMENT or agency;
 - b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - d. Have not within a three year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

[60 FR 33042, 33064, June 26, 1995]

ATTACHMENT B

[This is a reproduction of Appendix B of 49 CFR Part 29]
**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
 INELIGIBILITY, AND VOLUNTARY EXCLUSION--LOWER
 TIER COVERED TRANSACTIONS**

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the DEPARTMENT or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms “covered transaction”, “debarred”, “suspended”, “ineligible”, “lower tier covered transaction”, “participant”, “person”, “primary covered transaction”, “principal”, “proposal”, and “voluntarily excluded”, as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the DEPARTMENT or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled “Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transaction”, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification

is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List (Telephone No. (517) 335-2513 or (517) 335-2514).

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the DEPARTMENT, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-
- Lower
Tier Covered Transactions

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal DEPARTMENT or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

[Federal Register Doc. 88-11561 Filed 5-25-88; 8:45 a.m.] March 9, 1989

Attachment C

Transportation Certification of Indirect Rate

Of Transportation

Michigan Department

5108L (01111)

CERTIFICATION OF INDIRECT (OVERHEAD) RATE

This Certification is required according to U.S. Department of Transportation Federal Highway Administration (FHWA) Order 4470.1A, dated October 27, 2010. FHWA has issued this new policy to be effective January 1, 2011. This policy requires consultants to certify that costs used to establish indirect (overhead) cost rates applicable to Federal-aid engineering and design related services contracts do not include any costs which are expressly unallowable, and that the indirect (overhead) rate was established based only on allowable costs.

This certification is to provide assurance that the indirect (overhead) cost rate was calculated in accordance with the applicable cost principles contained in the Federal Acquisition Regulations (FAR) of Title 48, Code of Federal Regulations (CFR) Part 31.

This form shall be completed and submitted by the prime consultant, for the prime contract as well as for each subcontract (first and second tier subconsultant(s)) proposed to be included as part of this priced proposal, where an indirect (overhead) rate is proposed. Please note that the Certifying Official is defined as the firm's Executive (Vice President, President or equivalent) or Chief Financial Officer.

PROJECT INFORMATION

MOOT CONTROL SECTION(S)-JOB NUMBERS(S):

CONTRACT / AUTHORIZATION NUMBER:

LOCAL AGENCY:

PROJECT DESCRIPTION:

DECLARATION OF CERTIFICATION

INDIRECT (OVERHEAD) COST RATE:

DATE OF INDIRECT (OVERHEAD) COST RATE
DETERMINATION (mm/dd/yyyy):

FISCAL PERIOD COVERED (mm/dd/yyyy to mm/dd/yyyy): _____ to _____

I, the undersigned, certify that I have reviewed the indirect (overhead) rate calculation for the fiscal period as specified above and to the best of my knowledge and belief:

- 1) All costs included to establish the above rate are allowable in accordance with the cost principles of the Federal Acquisition Regulation (FAR) of Title 48, Code of Federal Regulation (CFR), part 31.
- 2) This indirect (overhead) cost rate does not include any costs which are expressly unallowable under the cost principles of the FAR of 48 CFR 31.

All known material transactions or events that have occurred affecting the firm's ownership, organization, and indirect (overhead) cost rates have been disclosed.

CONSULTANT INFORMATION

ROLE
D Prime

Tier 1 Sub

☐ Tier 2 Sub

LEGAL BUSINESS NAME:

Rowe Professional Services Corp.

FEDERAL ID NUMBER (Must match prequalification
file): 38-1867099

COMPANY ADDRESS:

540 S. Saginaw St.

CITY:

Flint

STATE:

MI

ZIP CODE:

48502

EMAIL ADDRESS:

rfreeman@rowepsc.com8

PHONE NO.:

810-341-7500

CERTIFYING OFFICIAL

NAME OF CERTIFYING OFFICIAL (Print Name and Title):

Rick A. Freeman, Vice-President

SIGNATURE OF CERTIFYING OFFICIAL:

Rick Freeman

Digitally signed by Rick Freeman
DN: cn=Rick Freeman,
e=rfreeman@rowepsc.com, o=State of
Michigan, c=US
Date: 2021.03.05 08:30:57-0500

[Clear Form](#)



ADOPTED

AGENDA ITEM (ID # 5029)

DOC ID: 5029

Approve and authorize Mayor and Clerk to sign Resolution 2021-07 to accept the fourth amendment to the Genesee County Phase II Regulations Storm Water Management System Contract.

COMMENTS - Current Meeting:

Mr. Martinbianco stated I don't understand the absence of Mundy Township, Grand Blanc Township, Gaines Township, City of Flint and Flushing Township in the storm water management. What happens if there is an adjustment based on their formula at a later date?

ATTACHMENTS:

- 4th ammendment (003)FINAL (DOC)
- 4811-5776-8412 v1 Resolution Approving Fourth Amendment - Municipalities (DOCX)
- 2020 proposed cost alternatives- Updated 2021March (PDF)

RESULT:	CARRIED [6 TO 1]
MOVER:	Gregory Fenner, Vice President
SECONDER:	Dennis O'Keefe, Councilman
AYES:	O'Keefe, Heffner, Wells, Smith, Fenner, Conley
NAYS:	Tom Martinbianco

FOURTH AMENDMENT TO
GENESEE COUNTY PHASE II REGULATIONS STORM WATER
MANAGEMENT SYSTEM CONTRACT

THIS FOURTH AMENDMENT TO CONTRACT, made and entered into as of the 1st day of April, 2021, by and among the COUNTY OF GENESEE, a Michigan county corporation (hereinafter referred to as the “County”), by and through its Drain Commissioner, as County Agency, and the TOWNSHIP OF ARGENTINE, TOWNSHIP OF DAVISON, CHARTER TOWNSHIP OF FENTON, CHARTER TOWNSHIP OF FLINT, CHARTER TOWNSHIP OF GENESEE, CHARTER TOWNSHIP OF MT. MORRIS, CHARTER TOWNSHIP OF VIENNA, CITY OF BURTON, CITY OF CLIO, CITY OF DAVISON, CITY OF FENTON, CITY OF FLUSHING, CITY OF GRAND BLANC, CITY OF LINDEN, CITY OF MT. MORRIS and CITY OF SWARTZ CREEK (hereinafter referred to individually as a “Municipality” or collectively as the “Municipalities”):

W I T N E S S E T H:

WHEREAS, the County and the Municipalities are subject to the requirements of the Phase II Storm Water Regulations (the “Phase II Regulations”) published by the United States Environmental Protection Agency (“EPA”) in the Federal Register on December 8, 1999; and

WHEREAS, the Board of Commissioners of the County of Genesee has established the Genesee County Storm Water Management System (the “System”) to provide, among other things, storm water management services to the Municipalities pursuant to the provisions of Act 342, Public Acts of Michigan, 1939, as amended (“Act 342”), to enable the County and the Municipalities to comply with the requirements of the Phase II Regulations and to engage in other watershed management activities related thereto; and

WHEREAS, the County Drain Commissioner (hereinafter referred to as the “County Agency”) has been designated as the agency of the County in connection with the establishment, management and operation of the System; and

WHEREAS, the County, the Municipalities and other units of local government in the County have previously entered into the Genesee County Phase II Regulations Storm Water Management System Contract, dated as of May 1, 2001, as amended by the First Amendment to Genesee County Phase II Regulations Storm Water Management System Contract and the Second Amendment to Genesee County Phase II Regulations Storm Water Management System Contract and the Third Amendment to Genesee County Phase II Regulations Storm Water Management System Contract (as amended, the “Contract”), pursuant to which the County agreed to provide such services as are necessary (defined therein as the “Services”) to assist the County, the Municipalities and such other local units of government in complying with the requirements of the Phase II Regulations and in other watershed management activities, including, but not limited to, applying for NPDES permit coverage and planning for and implementing storm water discharge management controls (known as “best management practices”) with respect to the following minimum control measures: (a) public education and outreach on storm water impacts; (b) public participation/involvement; (c) illicit discharge detection and elimination; (d) construction site storm water runoff control; (e) post-construction storm water runoff control; and (f) pollution prevention/good housekeeping for municipal operations; and

WHEREAS, the Contract provided for a budget of not to exceed \$250,000 for the Services and set forth the manner in which the budgeted cost of the Services was to be allocated among the County and the Municipalities; and

WHEREAS, the Contract also provided for the creation of a Phase II Storm Water Advisory Committee (the Committee”), which consists of one representative from the County and each of the Municipalities; and

WHEREAS, the Committee has appointed three subcommittees with the following responsibilities to assist in the implementation of the best management practices: (a) the Public Education Program Subcommittee, with responsibility for public education and participation; (b) the Monitoring and Mapping Subcommittee, with responsibility for the illicit discharge program, which will identify and map all municipal discharges to open waters; and (c) the New Construction Standards Subcommittee, with responsibility for construction standards, redevelopment standards, oversight of all watersheds and the preparation of the pollution prevention program known as the Storm Water Pollution Prevention Initiative; and

WHEREAS, the County and the Municipalities desire to proceed with the foregoing implementation activities and any other activities required by the Phase II Regulations (hereinafter referred to as the “Implementation Activities”) and to provide a method for allocating the costs of such activities, and it is therefore necessary to amend and supplement the Contract in the manner hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and the covenants of each other, the parties hereto agree as follows:

1. The cost of the Services to be provided by the County in connection with the Implementation Activities will consist of budgeted costs and variable costs.

(a) The budgeted costs shall not exceed \$150,000 per Fiscal Year (as hereinafter defined), which amount is hereby approved by the parties. For purposes of this

Fourth Amendment to Contract, the term “Fiscal Year” shall mean the fiscal year of the County, which currently begins on October 1 of each year and ends on September 30 of the following year, with the exception of the first Fiscal Year under this Fourth Amendment to Contract which shall mean April 1, 2021 to and including September 30, 2022. The County agrees to pay twenty-five percent (25%) of the budgeted cost of such Services each Fiscal Year and the remaining seventy-five percent (75%) of the budgeted cost of such Services (the “Local Share”) shall be allocated each Fiscal Year to each Municipality on the basis of a fraction, the numerator of which is the population for such Municipality at the beginning of such Fiscal Year and the denominator of which is the population for all Municipalities at the beginning of such Fiscal Year.

(b) Budgeted costs referred to in subsection (a) above do not include Services relating to the illicit discharge elimination program (“IDEP”). Those Services relating to the IDEP shall be allocated to each Municipality as a variable cost. Each Municipality shall be responsible for paying for IDEP Services that are directly related to each Municipal Separate Storm Sewer System (“MS4”) that is owned by such Municipality. During each year that this Fourth Amendment to Contract is in effect, the County shall prepare a statement for each Municipality identifying each MS4 owned by such Municipality and an estimated amount for each Municipality to comply with the IDEP. If requested by the Municipality, the variable costs for the IDEP will be payable in equal quarterly installments.

2. Each Municipality agrees to pay the County its share, as set forth in Section 1, of the cost of the Services for the Implementation Activities, promptly upon receipt of an invoice for the same from the County Agency. The County Agency intends to send such an invoice to each Municipality quarterly on December 1, March 1, June 1 and September 1 of each Fiscal Year. The Municipalities shall not be responsible for their share of any budgeted costs for the Services in connection with the Implementation Activities that exceed \$150,000 in any Fiscal

Year unless such additional costs shall have been approved by a majority of the members of the Committee. If such additional costs are so approved, each Municipality agrees to pay its share, as set forth in Section 1, of such costs promptly upon receipt of an invoice for the same from the County Agency.

3. The payments made by the Municipalities pursuant to Section 2 shall be used solely and only to pay for the Services for the Implementation Activities, and after payment of all costs of the Services as contemplated by this Fourth Amendment to Contract, any surplus remaining from the payments made by the County and the Municipalities for such Services shall be credited to the County and the Municipalities for charges for Services in the following Fiscal Year pro rata in accordance with the percentages set forth in Section 1.

4. All powers, duties and functions vested by this Fourth Amendment to Contract in the County shall be exercised and performed by the County Agency for and on behalf of the County unless otherwise provided by law or in this Fourth Amendment to Contract.

5. In the event that any one or more of the provisions of this Fourth Amendment to Contract shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereof, but this Fourth Amendment to Contract shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

6. This Fourth Amendment to Contract shall become effective on April 1, 2021, after approval by the governing body of each Municipality and by the Board of Commissioners of the County and execution by the authorized officials of the parties; may be executed in several counterparts; and shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

7. The Contract, as amended and supplemented by this Fourth Amendment to Contract, is hereby ratified and confirmed, and shall terminate on October 1, 2026 unless extended by the parties.

IN WITNESS WHEREOF, the parties hereto have caused this Fourth Amendment to Contract to be executed and delivered, by their respective duly authorized officers, all as of the day and year first above written.

COUNTY OF GENESEE

TOWNSHIP OF ARGENTINE

By: _____
Drain Commissioner,
as County Agency

By: _____
Supervisor

And: _____
Clerk

TOWNSHIP OF DAVISON

CHARTER TOWNSHIP OF FENTON

By: _____
Supervisor

By: _____
Supervisor

And: _____
Clerk

And: _____
Clerk

CHARTER TOWNSHIP OF FLINT

CHARTER TOWNSHIP OF GENESEE

By: _____
Supervisor

By: _____
Supervisor

And: _____

And: _____

Attachment: 4th ammendment (003)FINAL (5029 : Storm Water Management Contract)

Clerk

Clerk

CHARTER TOWNSHIP OF MT. MORRIS

CHARTER TOWNSHIP OF VIENNA

By: _____
Supervisor

By: _____
Supervisor

And: _____
Clerk

And: _____
Clerk

CITY OF BURTON

CITY OF CLIO

By: _____
Mayor

By: _____
Mayor

And: _____
Clerk

And: _____
Clerk

CITY OF DAVISON

CITY OF FENTON

By: _____
Mayor

By: _____
Mayor

And: _____
Clerk

And: _____
Clerk

CITY OF FLUSHING

CITY OF GRAND BLANC

By: _____
Mayor

By: _____
Mayor

And: _____

And: _____

Clerk

Clerk

CITY OF LINDEN

CITY OF MT. MORRIS

By: _____
Mayor

By: _____
Mayor

And: _____
Clerk

And: _____
Clerk

CITY OF SWARTZ CREEK

By: _____
Mayor

And: _____
Clerk

Troy 9075-247 1480772v1

Attachment: 4th ammendment (003)FINAL (5029 : Storm Water Management Contract)

At a _____ meeting of the _____ of the _____ of _____, Genesee County, Michigan, held on _____, 2021.

PRESENT: _____

ABSENT: _____

The following resolution was offered by _____ and seconded by _____:

WHEREAS, the County of Genesee (the “County”) and the cities and townships located within the County identified on Exhibit A attached hereto (hereinafter referred to individually as a “Municipality” or collectively as the “Municipalities”) and other units of local government in the County have previously entered into the Genesee County Phase II Regulations Storm Water Management System Contract, dated as of May 1, 2001, as amended by the First Amendment to Genesee County Phase II Regulations Storm Water Management System Contract, the Second Amendment to Genesee County Phase II Regulations Storm Water Management System Contract and the Third Amendment to Genesee County Phase II Regulations Storm Water Management System Contract (as amended, the “Contract”), pursuant to which the County agreed to provide such services as are necessary (defined therein as the “Services”) to assist the County, the Municipalities and such other local units of government in complying with the requirements of the Phase II Regulations and in other watershed management activities, including, but not limited to, applying for NPDES permit coverage and planning for and implementing storm water discharge management controls (known as “best management practices”) with respect to the following minimum control measures: (a) public education and outreach on storm water impacts; (b) public participation/involvement; (c) illicit discharge detection and elimination; (d) construction site

storm water runoff control; (e) post-construction storm water runoff control; and (f) pollution prevention/good housekeeping for municipal operations; and

WHEREAS, the Contract terminated on October 1, 2020 with the intent of the parties to renew, but that was not renewed due to the postponement and cancellation of certain public meetings of the County and the Municipalities following the COVID-19 outbreak and issuance of related statewide orders limiting attendance at various types of gatherings and venues; and

WHEREAS, the Clerk has presented to the _____ a form of fourth amendment to contract dated as of April 1, 2021, among the County of Genesee, acting through its Drain Commissioner, as County Agency, and the Municipalities, which amendment ratifies and confirms the Contract and amends the Contract relative to the provision relative to the provision of services for implementation activities required by the Phase II Storm Water Regulations (the “Phase II Regulations”) and the allocation of the costs of such activities among the County and the Municipalities.

After discussion of the fourth amendment to contract, the following resolution was offered by _____ and seconded by _____:

BE IT RESOLVED:

1. The Contract is hereby ratified and confirmed, and the intent of the _____ to renew and restore the terms of the Contract, as amended through the Third Amendment to Genesee County Phase II Regulations Storm Water Management System Contract, is hereby acknowledged and confirmed.

2. The _____ hereby approves the Fourth Amendment to Genesee County Phase II Regulations Storm Water Management System Contract to be dated as

of April 1, 2021, among the County of Genesee, acting through its Drain Commissioner, as County Agency, and the Municipalities (the “Amendment”), which Amendment provides, among other things, for the provision by the Genesee County Storm Water Management System of services for implementation activities required by the Phase II Regulations, the allocation of the costs of such activities among the County and the Municipalities, and the payment by the County and the Municipalities of their respective share of the cost of the services as set forth in the Amendment.

3. The _____ and the Clerk are authorized and directed to execute and deliver the Amendment for and on behalf of the _____ (in such number of counterparts as may be desirable).

4. A copy of the Amendment presented on this date and herein approved and authorized to be executed and delivered shall be attached to the minutes of this meeting and made a part thereof and shall be placed on file with the Clerk and made available for examination by any interested person during normal business hours.

5. All resolutions and parts of resolutions, insofar as they may be in conflict herewith, are hereby rescinded.

ADOPTED: YEAS: _____

NAYS: _____

EXHIBIT A
MUNICIPALITIES

Township of Argentine
Township of Davison
Charter Township of Fenton
Charter Township of Flint
Charter Township of Genesee
Charter Township of Mt. Morris
Charter Township of Vienna
City of Burton
City of Clio
City of Davison
City of Fenton
City of Flushing
City of Grand Blanc
City of Linden
City of Mt. Morris
City of Swartz Creek

STATE OF MICHIGAN)
)ss
 COUNTY OF GENESEE)

I hereby certify that the foregoing is a true and complete copy of a resolution duly adopted by the _____ of the _____ of _____, Genesee County, Michigan, at a _____ meeting held on _____, 2021, the original of which resolution is on file in my office. I further certify that notice of said meeting was given in accordance with the provisions of the Open Meetings Act.

 Clerk

Troy 9075-247 1285899v2

Attachment: 4811-5776-8412 v1 Resolution Approving Fourth Amendment - Municipalities (5029 : Storm Water Management Contract)

2020 Allocation Countywide

Non IDEP costs

					2020-2025 proposed \$80,000.00 /year	2020-2025 proposed cost per quarterly billing	2020-2025 total proposed IDEP Costs		2020-2025 proposed cost per quarterly billing (first 3-years)
	2010 Population								
MUNICIPALITY	Population	used	%	ALLOCATION					
Argentine Township	6913	6913	3.61%	2.71%	\$2,167.42	\$541.86	\$0.00		\$0.00
Davison Township	19575	19575	10.23%	7.67%	\$6,137.33	\$1,534.33	\$750.00	OR	\$62.50
Fenton Township	15552	15552	8.13%	6.09%	\$4,876.00	\$1,219.00	\$500.00	OR	\$41.67
Flint Township	13929	13929	7.28%	5.46%	\$4,367.14	\$1,091.79	\$1,500.00	OR	\$125.00
Genesee Township	21581	21581	11.28%	8.46%	\$6,766.26	\$1,691.57	\$0.00		\$0.00
Mt. Morris Township	21501	21501	11.24%	8.43%	\$6,741.18	\$1,685.30	\$750.00	OR	\$62.50
Vienna Township	13255	13255	6.93%	5.19%	\$4,155.82	\$1,038.96	\$1,250.00	OR	\$104.17
City of Burton	29999	29999	15.68%	11.76%	\$9,405.55	\$2,351.39	\$0.00		\$0.00
City of Clio	2646	2646	1.38%	1.04%	\$829.60	\$207.40	\$6,500.00	OR	\$541.67
City of Davison	5173	5173	2.70%	2.03%	\$1,621.88	\$405.47	\$17,750.00	OR	\$1,479.17
City of Fenton	11746	11746	6.14%	4.60%	\$3,682.71	\$920.68	\$13,500.00	OR	\$1,125.00
City of Flushing	8389	8389	4.38%	3.29%	\$2,630.19	\$657.55	\$15,500.00	OR	\$1,291.67
City of Grand Blanc	8276	8276	4.32%	3.24%	\$2,594.76	\$648.69	\$0.00		\$0.00
City of Linden	3991	3991	2.09%	1.56%	\$1,251.29	\$312.82	\$4,500.00	OR	\$375.00
City of Mt. Morris	3086	3086	1.61%	1.21%	\$967.55	\$241.89	\$11,000.00	OR	\$916.67
City of Swartz Creek	5758	5758	3.01%	2.26%	\$1,805.30	\$451.32	\$18,000.00	OR	\$1,500.00
municipal sub-total					\$60,000.00	\$15,000.00			
County of Genesee					25.00%	\$20,000.00	\$5,000.00		
Communities can opt to pay 1 lump sum for IDEP OR pay quarterly over the first 3 years of the contract									
IDEP costs are based on estimated costs based on # of outfalls minus left over funds from 2015-2020 contract.									
TOTALS		191370	100.00%	100.00%	\$80,000.00				



ADOPTED

AGENDA ITEM (ID # 5028)

DOC ID: 5028 A

Approve and authorize ordinance 2021-3-87 (c) to provide for the acquisition and construction of additions, extensions and improvements to the sewage disposal system of the City of Burton; to provide for the issuance and sale of junior lien revenue bonds to pay the cost thereof; to prescribe the form of the bonds; to provide for the collection of revenues from the system sufficient for the purpose of paying the costs of operation and maintenance of the system and to pay the principal of and interest on the bonds; to provide for security for the bonds; to provide for the segregation and distribution of the revenues; to provide for the rights of the holders of the bonds in enforcement thereof; and to provide for other matters relating to the bonds and the system.

COMMENTS - Current Meeting:

Mr. Smith stated I was going through the contract and I thought it came in lower than anticipated.

Mayor Haskins stated it was the construction cost that came in lower. We are still roughly \$500,000 below what we were at.

Mr. Abbey stated I have never seen them come in this low. EGLE will not let you take more than your actual cost anyway, it is a number not to exceed. Mr. Colis is here if you need further explanation.

ATTACHMENTS:

- Ordinance_CWSRF_Junior Lien_LT Pledge_2021(37334481.1) (DOC)

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Danny Wells, Councilman
SECONDER:	Vaughn Smith, Councilman
AYES:	Martinbianco, O'Keefe, Heffner, Wells, Smith, Fenner, Conley

ORDINANCE NO. 2021-3-87 (C)

AN ORDINANCE TO PROVIDE FOR THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, EXTENSIONS AND IMPROVEMENTS TO THE WATER SUPPLY AND SEWAGE DISPOSAL SYSTEM OF THE CITY OF BURTON; TO PROVIDE FOR THE ISSUANCE AND SALE OF JUNIOR LIEN REVENUE BONDS TO PAY THE COST THEREOF; TO PRESCRIBE THE FORM OF THE BONDS; TO PROVIDE FOR THE COLLECTION OF REVENUES FROM THE SYSTEM SUFFICIENT FOR THE PURPOSE OF PAYING THE COSTS OF OPERATION AND MAINTENANCE OF THE SYSTEM AND TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS; TO PROVIDE FOR SECURITY FOR THE BONDS; TO PROVIDE FOR THE SEGREGATION AND DISTRIBUTION OF THE REVENUES; TO PROVIDE FOR THE RIGHTS OF THE HOLDERS OF THE BONDS IN ENFORCEMENT THEREOF; AND TO PROVIDE FOR OTHER MATTERS RELATING TO THE BONDS AND THE SYSTEM.

THE CITY OF BURTON ORDAINS:

Section 1. Definitions. Whenever used in this Ordinance, except when otherwise indicated by the context, the following terms shall have the following meanings:

- (a) “Act 94” means Act 94, Public Acts of Michigan, 1933, as amended.
- (b) “Authority” means the Michigan Finance Authority.
- (c) “Authorized Officers” means the Mayor, the City Controller, the City Clerk, the City Treasurer and the DPW Director of the Issuer.
- (d) “Bonds” means the Series 2021 Bonds, together with any additional bonds heretofore or hereafter issued of equal standing with the Series 2021 Bonds.
- (e) “Engineers” means Stantec, consulting engineers of Ann Arbor, Michigan.
- (f) “EGLE” means the Michigan Department of Environment, Great Lakes and Energy.
- (g) “Issuer” means the City of Burton, County of Genesee, State of Michigan.
- (h) “Outstanding Bonds” means the Outstanding Junior Lien Bonds and Outstanding Senior Lien Bonds.
- (i) “Outstanding Junior Lien Bonds” means the Series 2014 Bonds, Series 2015 Bonds, Series 2015B Bonds, Series 2016 Bonds, Series 2017 Bonds, Series 2018 Bonds and any additional bonds issued that are of equal standing and priority of lien.

(j) “Outstanding Senior Lien Bonds” means the Series 2011 Bonds and any additional bonds issued that are senior in standing and priority of lien with the Outstanding Junior Lien Bonds.

(k) “Prior Bonds” means the Series 2011 Bonds, Series 2014 Bonds, Series 2015 Bonds, Series 2015B Bonds, Series 2016 Bonds, Series 2017 Bonds and the Series 2018 Bonds.

(l) “Prior Ordinances” means Ordinance Nos. 87(C), 2011-4-87(C), 2014-2-SO, 2015-3-87(C), 2015-4-87(C), 2016-1-87(C), 2017-1-87(C) and 2018-1-87(C) adopted by the City Council authorizing the issuance of the Prior Bonds.

(m) “Project” means the acquisition, construction, furnishing and equipping of additions, extensions and improvements to the Issuer's Water Supply and Sewage Disposal System, together with all necessary interests in land, rights of way and all appurtenances and attachments therefor, as described in the plans prepared by the Engineers and approved herein.

(n) “Purchase Contract” means the Purchase Contract to be entered into between the Authority and the Issuer relating to the purchase by the Authority of the Series 2021 Bonds.

(o) “Revenues” and “Net Revenues” means the revenues and net revenues of the System and shall be construed as defined in Section 3 of Act 94, including with respect to “Revenues”, the earnings derived from the investment of moneys in the various funds and accounts established by the Prior Ordinances and this Ordinance.

(p) “Series 2011 Bonds” means the Issuer’s Water Supply and Sewage Disposal System Revenue Refunding Bonds, Series 2011, dated December 7, 2011, in the original principal amount of \$1,390,000.

(q) “Series 2014 Bonds” means the Issuer’s 2014 Water Supply and Sewage Disposal System Junior Lien Revenue Bond (Limited Tax General Obligation), dated June 25, 2014, in the original principal amount of \$6,000,000.

(r) “Series 2015 Bonds” means the Issuer’s 2015 Water Supply and Sewage Disposal System Junior Lien Revenue Bond (Limited Tax General Obligation), dated June 25, 2015, in the original principal amount of \$5,000,000.

(s) “Series 2015B Bonds” means the Issuer’s Water Supply and Sewage Disposal System Junior Lien Revenue Bond, Series 2015B (Limited Tax General Obligation), dated September 17, 2015, in the original principal amount of \$7,625,000.

(t) “Series 2016 Bonds” means the Issuer’s 2016 Water Supply and Sewage Disposal System Junior Lien Revenue Bond (Limited Tax General Obligation), dated April 11, 2016, in the original principal amount of \$4,030,000.

(u) “Series 2017 Bonds” means the Issuer’s 2017 Water Supply and Sewage Disposal System Junior Lien Revenue Bond (Limited Tax General Obligation), dated April 10, 2017, in the original principal amount of \$3,895,000.

(v) “Series 2018 Bonds” means the Issuer’s 2018 Water Supply and Sewage Disposal System Junior Lien Revenue Bond (Limited Tax General Obligation), dated April 10, 2018, in the original principal amount of \$2,990,000.

(w) “Series 2021 Bonds” means the Issuer’s 2021 Water Supply and Sewage Disposal System Junior Lien Revenue Bond (Limited Tax General Obligation), in the principal amount of not to exceed \$2,600,000 issued pursuant to this Ordinance.

(x) “Sufficient Government Obligations” means direct obligations of the United States of America or obligations the principal and interest on which is fully guaranteed by the United States of America, not redeemable at the option of the issuer, the principal and interest payments upon which without reinvestment of the interest, come due at such times and in such amounts as to be fully sufficient to pay the interest as it comes due on the Bonds and the principal and redemption premium, if any, on the Bonds as it comes due whether on the stated maturity date or upon earlier redemption. Securities representing such obligations shall be placed in trust with a bank or trust company, and if any of the Bonds are to be called for redemption prior to maturity, irrevocable instructions to call the Bonds for redemption shall be given to the paying agent.

(y) “Supplemental Agreement” means the supplemental agreement among the Issuer, the Authority and EGLE relating to the Series 2018 Bonds.

(z) “System” means the entire Water Supply and Sewage Disposal system of the Issuer, including the Project and all additions, extensions and improvements hereafter acquired.

Section 2. Necessity; Approval of Plans and Specifications. It is hereby determined to be a necessary public purpose of the Issuer to acquire and construct the Project in accordance with the plans and specifications prepared by the Engineers, which plans and specifications are hereby approved. The Project qualifies for the Clean Water State Revolving Fund financing program being administered by EGLE and the Authority, whereby bonds of the Issuer are sold to the Authority and bear interest at a fixed rate of two and one-eighth percent (2.125%) per annum.

Section 3. Costs; Useful Life. The cost of the Project is estimated to be Two Million Six Hundred Thousand Dollars (\$2,600,000), including the payment of incidental expenses as specified in Section 4 of this Ordinance, which estimate of cost is hereby approved and confirmed, and the period of usefulness of the Project is estimated to be not less than thirty (30) years.

Section 4. Payment of Cost; Bonds Authorized. To pay part of the cost of acquiring and constructing the Project, legal, engineering, financial and other expenses incident thereto and incident to the issuance and sale of the Series 2021 Bonds, the Issuer shall borrow the sum of not to exceed Two Million Six Hundred Thousand Dollars (\$2,600,000), or such lesser amount as

shall have been advanced to the Issuer pursuant to the Purchase Contract and the Supplemental Agreement, and issue the Series 2021 Bonds pursuant to the provisions of Act 94. The remaining cost of the Project, if any, shall be defrayed from Issuer funds on hand and legally available for such use.

Except as amended by or expressly provided to the contrary in this Ordinance, all of the provisions of the Prior Ordinances shall apply to the Series 2021 Bonds issued pursuant to this Ordinance, the same as though each of said provisions were repeated in this Ordinance in detail; the purpose of this Ordinance being to authorize the issuance of additional revenue bonds of subordinate lien with respect to the Outstanding Senior Lien Bonds to finance the cost of acquiring and constructing additions, extensions and improvements to the System, additional bonds of subordinate standing with the Outstanding Senior Lien Bonds for such purpose being authorized by the provisions of the Prior Ordinances, upon the conditions therein stated, which conditions have been fully met.

Section 5. Issuance of Series 2021 Bonds; Details. The Series 2021 Bonds of the Issuer, to be designated **2021 WATER SUPPLY AND SEWAGE DISPOSAL SYSTEM JUNIOR LIEN REVENUE BOND (LIMITED TAX GENERAL OBLIGATION)**, are authorized to be issued in the aggregate principal sum of not to exceed Two Million Six Hundred Thousand Dollars (\$2,600,000) as finally determined by order of the EGLE for the purpose of paying part of the cost of the Project, including the costs incidental to the issuance, sale and delivery of the Series 2021 Bonds. The Series 2021 Bonds shall be payable out of the Net Revenues, as set forth more fully in Section 8 hereof, provided that the Series 2021 Bonds shall be subordinate to the prior lien with respect to the Net Revenues in favor of the Outstanding Senior Lien Bonds and of any additional bonds of equal standing with the Outstanding Senior Lien Bonds hereafter issued. The Series 2021 Bonds shall be in the form of a single fully-registered, nonconvertible bond of the denomination of the full principal amount thereof, dated as of the date of delivery, payable in principal installments as finally determined by the order of the EGLE at the time of sale of the Series 2021 Bonds and approved by the Authority and an Authorized Officer. Principal installments of the Series 2021 Bonds shall be payable on October 1 of the years 2022 to 2051, inclusive, or such other payment dates as hereinafter provided. Interest on the Series 2021 Bonds shall be payable on April 1 and October 1 of each year, commencing October 1, 2021 or on such other interest payment dates as hereinafter provided. Final determination of the principal amount of and interest on the Series 2021 Bonds and the payment dates and amounts of principal installments of the Series 2021 Bonds shall be evidenced by execution of the Purchase Contract and each of the Authorized Officers is authorized and directed to execute and deliver the Purchase Contract when it is in final form and to make the determinations set forth above; provided, however, that the principal installments shall not exceed thirty (30) in number and the total principal amount shall not exceed \$2,600,000.

The Series 2021 Bonds shall bear interest at a rate of two and one-eighth percent (2.125%) per annum on the par value thereof or such other rate as evidenced by execution of the Purchase Contract, but in any event not to exceed the rate permitted by law, and any Authorized Officers as shall be appropriate shall deliver the Series 2021 Bonds in accordance with the delivery instructions of the Authority.

The principal amount of the Series 2021 Bonds is expected to be drawn down by the Issuer periodically, and interest on principal amount shall accrue from the date such principal amount is drawn down by the Issuer.

The Series 2021 Bonds shall not be convertible or exchangeable into more than one fully-registered bond. Principal of and interest on the Series 2021 Bonds shall be payable as provided in the Series 2021 Bond form in this Ordinance.

The Series 2021 Bonds shall be subject to optional redemption by the Issuer with the prior written approval of the Authority and on such terms as may be required by the Authority.

The Treasurer of the Issuer shall record on the registration books payment by the Issuer of each installment of principal or interest or both when made and the cancelled checks or other records evidencing such payments shall be returned to and retained by the Treasurer.

Upon payment by the Issuer of all outstanding principal of and interest on the Series 2021 Bonds, the Authority shall deliver the Series 2021 Bonds to the Issuer for cancellation.

Section 6. Execution of Series 2021 Bonds. The Series 2021 Bonds shall be signed by the manual or facsimile signature of the Mayor and countersigned by the manual or facsimile signature of the Clerk and shall have the corporate seal of the Issuer or a facsimile thereof impressed thereon. The Series 2021 Bonds bearing the manual or facsimile signatures of the Mayor and the Clerk sold to the Authority shall require no further authentication.

Section 7. Registration and Transfer. Any Bond may be transferred upon the books required to be kept pursuant to this section by the person in whose name it is registered, in person or by the registered owner's duly authorized attorney, upon surrender of the Bond for cancellation, accompanied by delivery of a duly executed written instrument of transfer in a form approved by the transfer agent. Whenever any Bond or Bonds shall be surrendered for transfer, the Issuer shall execute and the transfer agent shall authenticate and deliver a new Bond or Bonds, for like aggregate principal amount. The transfer agent shall require payment by the bondholder requesting the transfer of any tax or other governmental charge required to be paid with respect to the transfer. The Issuer shall not be required (i) to issue, register the transfer of or exchange any Bond during a period beginning at the opening of business 15 days before the day of the giving of a notice of redemption of Bonds selected for redemption as described in the form of Series 2021 Bonds contained in Section 13 of this Ordinance and ending at the close of business on the day of that giving of notice, or (ii) to register the transfer of or exchange any Bond so selected for redemption in whole or in part, except the unredeemed portion of Bonds being redeemed in part. The Issuer shall give the transfer agent notice of call for redemption at least 20 days prior to the date notice of redemption is to be given.

The transfer agent shall keep or cause to be kept at its principal office sufficient books for the registration and transfer of the Bonds, which shall at all times be open to inspection by the Issuer; and upon presentation for such purpose the transfer agent shall under such reasonable regulations as it may prescribe, transfer or cause to be transferred on said books Bonds as hereinbefore provided.

If any Bond shall become mutilated, the Issuer, at the expense of the holder of the Bond, shall execute, and the transfer agent shall authenticate and deliver, a new Bond of like tenor in exchange and substitution for the mutilated Bond, upon surrender to the transfer agent of the mutilated Bond. If any Bond issued under this Ordinance shall be lost, destroyed or stolen, evidence of the loss, destruction or theft may be submitted to the transfer agent and, if this evidence is satisfactory to both and indemnity satisfactory to the transfer agent shall be given, and if all requirements of any applicable law including Act 354, Public Acts of Michigan, 1972, as amended (“Act 354”), being sections 129.131 to 129.135, inclusive, of the Michigan Compiled Laws have been met, the Issuer, at the expense of the owner, shall execute, and the transfer agent shall thereupon authenticate and deliver, a new Bond of like tenor and bearing the statement required by Act 354, or any applicable law hereafter enacted, in lieu of and in substitution for the Bond so lost, destroyed or stolen. If any such Bond shall have matured or shall be about to mature, instead of issuing a substitute Bond the transfer agent may pay the same without surrender thereof.

Section 8. Payment of Series 2021 Bonds; Security; Priority of Lien. Principal of and interest on the Series 2021 Bonds shall be payable primarily from the Net Revenues. There is hereby recognized the statutory lien upon the whole of the Net Revenues created by this Ordinance which shall be a lien that is junior and subordinate to the lien of the Outstanding Senior Lien Bonds and equal to the lien of the Outstanding Junior Lien Bonds created by the Prior Ordinances, to continue until payment in full of the principal of and interest on all Bonds payable from the Net Revenues, or until sufficient cash or Sufficient Government Obligations have been deposited in trust for payment in full of the Series 2021 Bonds then outstanding, principal and interest, to maturity, or, if called for redemption, to the date fixed for redemption together with the amount of the redemption premium, if any. Upon deposit of cash or Sufficient Government Obligations, as provided in the previous sentence, the statutory lien shall be terminated with respect to the Series 2021 Bonds, the holders of the Series 2021 Bonds shall have no further rights under this Ordinance except for payment from the deposited funds, and the Series 2021 Bonds shall no longer be considered to be outstanding under this Ordinance.

In addition, the Series 2021 Bonds being sold to the Authority, the Issuer hereby pledges its limited tax full faith and credit for the payment of the principal of and interest on the Series 2021 Bonds. Should the Net Revenues of the System at any time be insufficient to pay the principal of and interest on the Series 2021 Bonds as the same become due, then the Issuer shall advance from any funds available therefor, or, if necessary, levy taxes upon all taxable property in the Issuer, subject to constitutional, statutory and charter tax limitations, such sums as may be necessary to pay said principal and interest. The Issuer shall be reimbursed for any such advance from the Net Revenues of the System subsequently received which are not otherwise pledged or encumbered by this Ordinance or the Prior Ordinances.

Section 9. Management; Fiscal Year. The operation, repair and management of the System and the acquiring and constructing of the Project shall continue to be under the supervision and control of the Issuer. The Issuer may employ such person or persons in such capacity or capacities as it deems advisable to carry on the efficient management and operation of the System. The Issuer may make such rules and regulations as it deems advisable and necessary to assure the efficient management and operation of the System. The System shall be operated on the basis of an operating year which shall coincide with the Issuer’s fiscal year.

Section 10. Rates and Charges; No Free Service. The rates and charges for service furnished by the System and the methods of collection and enforcement of the collection of the rates shall be those in effect on the date of adoption of this Ordinance and are estimated to be sufficient to provide for the payment of the expenses of administration and operation and such expenses for maintenance of the System as are necessary to preserve the System in good repair and working order, to provide for the payment of the principal of and interest on the Series 2021 Bonds and the Outstanding Bonds as the same become due and payable, and the maintenance of the reserves, if any, therefore; and to provide for all other obligations, expenditures and funds for the System required by law, the Prior Ordinances and this Ordinance. No free service or use of the System, or service or use of the System at less than cost, shall be furnished by the System to any person, firm, or corporation, public or private, or to any public agency or instrumentality, including the Issuer.

Section 11. Funds and Accounts; Flow of Funds; Junior Lien Bond and Interest Redemption Fund. All funds belonging to the System and all Revenues of the System shall continue to be set aside as collected and credited to the Receiving Fund established by the Prior Ordinances (the "Receiving Fund"), except as provided in this Ordinance. The Revenues credited to the Receiving Fund are pledged for the purposes of the funds and accounts established by the Prior Ordinances and this Ordinance and shall be transferred or debited from the Receiving Fund periodically in the manner and at the times and in the order of priority specified in the Prior Ordinances and this Ordinance.

Funding Existing Funds and Accounts. Out of the Revenues in the Receiving Fund there shall be transferred and debited the amounts required by the Prior Ordinances to be deposited into the existing Operation and Maintenance Fund, the existing Bond and Interest Redemption Fund (including Bond Reserve Account) and the existing Junior Lien Bond and Interest Redemption Account created pursuant to the Prior Ordinances.

Junior Lien Bond and Interest Redemption Account. In the Prior Ordinances, the Issuer created a separate account designated *Junior Lien Bond and Interest Redemption Account* (the "Junior Lien Redemption Account"). Out of the Revenues remaining in the Receiving Fund after provision for the transfers and debits described in the previous paragraph, there shall be set aside at the time of delivery of the Series 2021 Bonds and the first day of each fiscal quarter thereafter in the existing Junior Lien Redemption Account an amount equal to that fraction of the amount of interest due on the next interest payment date the numerator of which is one and the denominator of which is the number of full or partial fiscal quarters to the next interest payment date, less any amount in the Junior Lien Redemption Account representing investment income on amounts on deposit in the Junior Lien Redemption Account. Commencing the first day of the fourth fiscal quarter preceding the first principal installment payment date there shall be set aside in the Junior Lien Redemption Account an amount equal to 1/4 of the amount of principal installment next coming due. If there is any deficiency in the amount previously set aside, that deficiency shall be added to the next succeeding quarterly requirements. The amount to be set aside for the payment of principal and interest on any principal payment shall not exceed the amount which, when added to the money on deposit in the Junior Lien Redemption Account including investment income thereon, is necessary to pay principal and interest due on the Series 2021 Bonds to the next succeeding principal payment date.

Section 12. Bond Proceeds. The proceeds of the sale of the Series 2021 Bonds as received by the Issuer shall be deposited in a separate account in a bank or banks qualified to act as depository of the proceeds of sale under the provisions of Section 15 of Act 94 designated WATER SUPPLY AND SEWAGE DISPOSAL SYSTEM JUNIOR LIEN REVENUE BONDS CONSTRUCTION FUND (the “Construction Fund”). Moneys in the Construction Fund shall be applied solely in payment of the cost of the Project and any engineering, legal and other expenses incident thereto and to the financing thereof.

Section 13. Bond Form. The Series 2021 Bonds shall be in substantially the following form with such changes or completion as necessary or appropriate to give effect to the intent of this Ordinance and subject to such modifications which may be required by the Michigan Attorney General and the Authority and approved by bond counsel:

FORM OF BOND

UNITED STATES OF AMERICA
STATE OF MICHIGAN
COUNTY OF GENESEE

CITY OF BURTON

2021 WATER SUPPLY AND SEWAGE DISPOSAL SYSTEM JUNIOR LIEN REVENUE BOND
(LIMITED TAX GENERAL OBLIGATION)

REGISTERED OWNER: Michigan Finance Authority

PRINCIPAL AMOUNT: Two Million Six Hundred Thousand Dollars
(\$2,600,000)

DATE OF ORIGINAL ISSUE: May 3, 2021

The CITY OF BURTON, County of Genesee, State of Michigan (the “Issuer”), acknowledges itself to owe and for value received hereby promises to pay, primarily out of the hereinafter described Net Revenues of the Issuer’s Water Supply and Sewage Disposal System (hereinafter defined), to the Michigan Finance Authority (the “Authority”), or registered assigns, the Principal Amount shown above, or such portion thereof as shall have been advanced to the Issuer pursuant to a Purchase Contract between the Issuer and the Authority and a Supplemental Agreement by and among the Issuer, the Authority and the State of Michigan acting through the Department of Environment, Great Lakes and Energy, in lawful money of the United States of America, unless prepaid or reduced prior thereto as hereinafter provided.

During the time the Principal Amount is being drawn down by the Issuer under this bond, the Authority will periodically provide to the Issuer a statement showing the amount of principal that has been advanced and the date of each advance, which statement shall constitute prima facie evidence of the reported information; provided that no failure on the part of the Authority to provide such a statement or to reflect a disbursement or the correct amount of a disbursement shall relieve the Issuer of its obligation to repay the outstanding Principal Amount actually advanced, all accrued interest thereon, and any other amount payable with respect thereto in accordance with the terms of this bond.

The Principal Amount shall be payable on the dates and in the annual principal installment amounts set forth on the Schedule attached hereto and made a part hereof, as such Schedule may be adjusted if less than \$2,600,000 is disbursed to the Issuer or if a portion of the Principal Amount is prepaid as provided below, with interest on said principal installments from the date each said installment is delivered to the holder hereof until paid at the rate of two and one-eighth percent (2.125%) per annum. Interest is first payable on October 1, 2021, and semiannually thereafter on the first day of April and October of each year, as set forth in the Purchase Contract.

Notwithstanding any other provision of this Bond, so long as the Authority is the owner of this Bond, (a) this Bond is payable as to principal, premium, if any, and interest at The Bank of New York Mellon Trust Company, N.A. or at such other place as shall be designated in writing to the Issuer by the Authority (the "Authority's Depository"); (b) the Issuer agrees that it will deposit with the Authority's Depository payments of the principal of, premium, if any, and interest on this Bond in immediately available funds by 12:00 noon at least five business days prior to the date on which any such payment is due whether by maturity, redemption or otherwise; in the event that the Authority's Depository has not received the Issuer's deposit by 12:00 noon on the scheduled day, the Issuer shall immediately pay to the Authority as invoiced by the Authority an amount to recover the Authority's administrative costs and lost investment earnings attributable to that late payment; and (c) written notice of any redemption of this Bond shall be given by the Issuer and received by the Authority's Depository at least 40 days prior to the date on which such redemption is to be made.

Additional Interest

In the event of a default in the payment of principal or interest hereon when due, whether at maturity, by redemption or otherwise, the amount of such default shall bear interest (the "additional interest") at a rate equal to the rate of interest which is two percent above the Authority's cost of providing funds (as determined by the Authority) to make payment on the bonds of the Authority issued to provide funds to purchase this bond but in no event in excess of the maximum rate of interest permitted by law. The additional interest shall continue to accrue until the Authority has been fully reimbursed for all costs incurred by the Authority (as determined by the Authority) as a consequence of the Issuer's default. Such additional interest shall be payable on the interest payment date following demand of the Authority. In the event that (for reasons other than the default in the payment of any municipal obligation purchased by the Authority) the investment of amounts in the reserve account established by the Authority for the bonds of the Authority issued to provide funds to purchase this bond fails to provide sufficient available funds (together with any other funds which may be made available for such purpose) to pay the interest on outstanding bonds of the Authority issued to fund such account, the Issuer shall and hereby agrees to pay on demand only the Issuer's pro rata share (as determined by the Authority) of such deficiency as additional interest on this bond.

For prompt payment of principal and interest on this bond, the Issuer has irrevocably pledged the revenues of the Water Supply and Sewage Disposal System of the Issuer, including all appurtenances, extensions and improvements thereto (the "Water Supply and Sewage Disposal System"), after provision has been made for reasonable and necessary expenses of operation, maintenance and administration (the "Net Revenues"), and a statutory lien thereon is hereby recognized and created.

This bond is a single, fully-registered, non-convertible bond in the principal sum indicated above issued pursuant to Ordinance Nos. 87(C), 2011-4-87(C), 2014-2-SO, 2015-3-87(C), 2015-4-87(C), 2016-1-87(C), 2017-1-87(C), 2018-1-87(C) and ____ duly adopted by the City Council (the "Ordinances"), and under and in full compliance with the Constitution and statutes of the State of Michigan, including specifically Act 94, Public Acts of Michigan, 1933, as amended, for the purpose of paying part of the cost

of acquiring and constructing additions, extensions and improvements to the Water Supply and Sewage Disposal System of the Issuer.

For a complete statement of the revenues from which and the conditions under which this bond is payable, a statement of the conditions under which additional bonds of superior and equal standing may hereafter be issued and the general covenants and provisions pursuant to which this bond is issued, reference is made to the Ordinances. This bond is of junior standing and priority of lien as to the Net Revenues to the Issuer's Water Supply and Sewage Disposal System Revenue Refunding Bonds, Series 2011 (the "Outstanding Senior Lien Bonds") and of equal standing and priority of lien as to the Net Revenues with the Issuer's 2014 Water Supply and Sewage Disposal System Junior Lien Revenue Bond (Limited Tax General Obligation), 2015 Water Supply and Sewage Disposal System Junior Lien Revenue Bond (Limited Tax General Obligation), Water Supply and Sewage Disposal System Junior Lien Revenue Bond, Series 2015B (Limited Tax General Obligation), 2016 Water Supply and Sewage Disposal System Junior Lien Revenue Bond (Limited Tax General Obligation), 2017 Water Supply and Sewage Disposal System Junior Lien Revenue Bond (Limited Tax General Obligation) and 2018 Water Supply and Sewage Disposal System Junior Lien Revenue Bond (Limited Tax General Obligation), (the "Outstanding Junior Lien Bonds", together with the Outstanding Senior Lien Bonds, the "Outstanding Bonds").

This bond is primarily a self-liquidating bond, payable, both as to principal and interest, primarily from the Net Revenues of the System. The principal of and interest on this bond are secured by the statutory second lien hereinbefore mentioned. As additional security, the Issuer has pledged its limited tax full faith and credit for payment of the principal of and interest on the bonds of this issue, which includes the Issuer's obligation to levy taxes, if necessary, within applicable constitutional, statutory and charter tax limitations.

The Issuer has covenanted and agreed, and does hereby covenant and agree, to fix and maintain at all times while any bonds payable from the Net Revenues of the Water Supply and Sewage Disposal System shall be outstanding, such rates for service furnished by the Water Supply and Sewage Disposal System as shall be sufficient to provide for payment of the interest upon and the principal of this bond and any bonds of equal standing with this bond and the Outstanding Junior Lien Bonds, the Outstanding Senior Lien Bonds and any additional bonds of equal standing with the Outstanding Senior Lien Bonds, as and when the same shall become due and payable, and to maintain a bond redemption fund (including, except for bonds of this issue and any Outstanding Junior Lien Bonds, a bond reserve account) therefor, to provide for the payment of expenses of administration and operation and such expenses for maintenance of the Water Supply and Sewage Disposal System as are necessary to preserve the same in good repair and working order, and to provide for such other expenditures and funds for the Water Supply and Sewage Disposal System as are required by the Ordinances.

Principal installments of this bond are subject to prepayment by the Issuer prior to maturity only with the prior written consent of the Authority and on such terms as may be required by the Authority.

This bond is transferable only upon the books of the Issuer by the registered owner in person or the registered owner's attorney duly authorized in writing, upon the surrender of this bond together with a written instrument of transfer satisfactory to the transfer agent, duly executed by the registered owner or the registered owner's attorney duly authorized in writing, and thereupon a new bond or bonds in the same aggregate principal amount and of the same maturity shall be issued to the transferee in exchange therefor as provided in the Ordinance, and upon payment of the charges, if any, therein prescribed.

It is hereby certified and recited that all acts, conditions and things required by law to be done precedent to and in the issuance of this bond have been done and performed in regular and due time and form as required by law.

IN WITNESS WHEREOF, the City of Burton, County of Genesee, State of Michigan, by its City Council has caused this bond to be executed with the manual or facsimile signatures of its Mayor and its City Clerk and the corporate seal of the City to be impressed or imprinted hereon, all as of the Date of Original Issue.

CITY OF BURTON

By _____
Its Mayor

(Seal)

Countersigned:

By _____
Its City Clerk

Attachment: Ordinance_CWSRF_Junior Lien_LT Pledge_2021(37334481.1) (5028 : Ordinance 2021-3-87 (C) to Purchase Bonds)

DEQ Project No.: 5715-01
 DEQ Approved Amt: \$2,600,000

SCHEDULE A

Based on the schedule provided below unless revised as provided in this paragraph, repayment of the principal of the bond shall be made until the full amount advanced to the Issuer is repaid. In the event the Order of Approval issued by the Department of Environment, Great Lakes and Energy (the "Order") approves a principal amount of assistance less than the amount of the bond delivered to the Authority, the Authority shall only disburse principal up to the amount stated in the Order. In the event (1) that the payment schedule approved by the Issuer and described below provides for payment of a total principal amount greater than the amount of assistance approved by the Order or (2) that less than the principal amount of assistance approved by the Order is disbursed to the Issuer by the Authority, the Authority shall prepare a new payment schedule which shall be effective upon receipt by the Issuer.

<u>Maturity Date</u>	<u>Principal Amount</u>
October 1, 2022	\$60,000
October 1, 2023	\$60,000
October 1, 2024	\$65,000
October 1, 2025	\$65,000
October 1, 2026	\$65,000
October 1, 2027	\$70,000
October 1, 2028	\$70,000
October 1, 2029	\$70,000
October 1, 2030	\$75,000
October 1, 2031	\$75,000
October 1, 2032	\$80,000
October 1, 2033	\$80,000
October 1, 2034	\$80,000
October 1, 2035	\$85,000
October 1, 2036	\$85,000
October 1, 2037	\$85,000
October 1, 2038	\$90,000
October 1, 2039	\$90,000
October 1, 2040	\$95,000
October 1, 2041	\$95,000
October 1, 2042	\$95,000
October 1, 2043	\$95,000
October 1, 2044	\$100,000
October 1, 2045	\$100,000
October 1, 2046	\$100,000
October 1, 2047	\$105,000
October 1, 2048	\$110,000
October 1, 2049	\$115,000
October 1, 2050	\$120,000
October 1, 2051	\$120,000

Interest on the bond shall accrue on that portion of principal disbursed by the Authority to the Issuer from the date such portion is disbursed, until paid, at the rate of 2.125% per annum, payable October 1, 2021 and semi-annually hereafter.

Attachment: Ordinance_CWSRF_Junior Lien_LT Pledge_2021(37334481.1) (5028 : Ordinance 2021-3-87 (C) to Purchase Bonds)

Section 14. Bondholders' Rights; Receiver. The holder or holders of the Bonds representing in the aggregate not less than twenty per cent (20%) of the entire principal amount thereof then outstanding, may, by suit, action, mandamus or other proceedings, protect and enforce the statutory lien upon the Net Revenues of the System, and may, by suit, action, mandamus or other proceedings, enforce and compel performance of all duties of the officers of the Issuer, including the fixing of sufficient rates, the collection of Revenues, the proper segregation of the Revenues of the System and the proper application thereof. The statutory lien upon the Net Revenues, however, shall not be construed as to compel the sale of the System or any part thereof.

If there is a default in the payment of the principal of or interest upon the Series 2021 Bonds, any court having jurisdiction in any proper action may appoint a receiver to administer and operate the System on behalf of the Issuer and under the direction of the court, and by and with the approval of the court to perform all of the duties of the officers of the Issuer more particularly set forth herein and in Act 94.

The holder or holders of the Series 2021 Bonds shall have all other rights and remedies given by Act 94 and law, for the payment and enforcement of the Series 2021 Bonds and the security therefor.

Section 15. Additional Bonds. The Issuer may issue additional bonds of equal standing with the Series 2021 Bonds for the following purposes and subject to the following conditions:

(a) To complete the Project in accordance with the plans and specifications therefor. Such bonds shall not be authorized unless the engineers in charge of construction shall execute a certificate evidencing the fact that additional funds are needed to complete the Project in accordance with the plans and specifications therefor and stating the amount that will be required to complete the Project. If such certificate shall be so executed and filed with the Issuer, it shall be the duty of the Issuer to provide for and issue additional revenue bonds in the amount stated in said certificate to be necessary to complete the Project in accordance with the plans and specifications plus an amount necessary to issue such bonds or to provide for part or all of such amount from other sources.

(b) For subsequent repairs, extensions, enlargements and improvements to the System or for subsequent repairs, extensions, enlargements and improvements to the System and for the purpose of refunding part or all of the Junior Lien Bonds then outstanding and paying costs of issuing such additional Junior Lien Bonds. Junior Lien Bonds for such purposes shall not be issued pursuant to this subparagraph (b) unless the Adjusted Net Revenues of the System for the then last two (2) preceding twelve-month operating years or the Adjusted Net Revenues for the last preceding twelve-month operating year, if the same shall be lower than the average, shall be equal to at least one hundred percent (100%) of the maximum amount of principal and interest thereafter maturing in any operating year on the then outstanding Senior Lien Bonds, Junior Lien Bonds and on the additional Bonds then being issued. If the additional Junior Lien Bonds are to be issued in whole or in part for refunding outstanding Junior Lien Bonds, the annual principal and interest requirements shall be determined by deducting from the

principal and interest requirements for each operating year the annual principal and interest requirements of any Junior Lien Bonds to be refunded from the proceeds of the additional Junior Lien Bonds. For purposes of this subparagraph (b) the Issuer may elect to use as the last preceding operating year any operating year ending not more than sixteen months prior to the date of delivery of the additional Junior Lien Bonds and as the next to the last preceding operating year, any operating year ending not more than twenty-eight months prior to the date of delivery of the additional Junior Lien Bonds. Determination by the Issuer as to existence of conditions permitting the issuance of additional Junior Lien Bonds shall be conclusive. No additional Junior Lien Bonds of equal standing as to the Net Revenues of the System shall be issued pursuant to the authorization contained in this subparagraph if the Issuer shall then be in default in making its required payments to the Operation and Maintenance Fund or the Redemption Fund.

(c) For refunding a part or all of the Junior Lien Bonds then outstanding and paying costs of issuing such additional Junior Lien Bonds including deposits which may be required to be made to the bond reserve account for such Junior Lien Bonds. No additional Junior Lien Bonds shall be issued pursuant to this subsection unless the maximum amount of principal and interest maturing in any operating year after giving effect to the refunding shall be less than the maximum amount of principal and interest maturing in any operating year prior to giving effect to the refunding.

Section 16. Negotiated Sale; Application to EGLE and Authority; Execution of Documents. The Issuer determines that it is in the best interest of the Issuer to negotiate the sale of the Series 2021 Bonds to the Authority because the Clean Water State Revolving Fund financing program provides significant interest savings to the Issuer compared to competitive sale in the municipal bond market. The Authorized Officers are hereby authorized to make application to the Authority and to the EGLE for placement of the Series 2021 Bonds with the Authority. The actions taken by the Authorized Officers with respect to the Series 2021 Bonds prior to the adoption of this Ordinance are ratified and confirmed. The Authorized Officers are each authorized to execute and deliver the Purchase Contract, the Supplemental Agreement and the Issuer's Certificate. Any Authorized Officer is further authorized to execute and deliver such contracts, documents and certificates as are necessary or advisable to qualify the Series 2021 Bonds for the Clean Water State Revolving Fund. Prior to the delivery of the Series 2021 Bonds to the Authority, any Authorized Officer is hereby authorized to make such changes to the form of the Series 2021 Bonds contained in Section 13 of this Ordinance as may be necessary to conform to the requirements of Act 227, Public Acts of Michigan 1985, as amended ("Act 227"), including, but not limited to changes in the principal maturity and interest payment dates and references to additional security required by Act 227.

Section 17. Covenant Regarding Tax Exempt Status of the Bonds. The Issuer shall, to the extent permitted by law, take all actions within its control necessary to maintain the exemption of the interest on the Series 2021 Bonds from general federal income taxation (as opposed to any alternative minimum or other indirect taxation) under the Internal Revenue Code of 1986, as amended (the "Code"), including, but not limited to, actions relating to any required rebate of arbitrage earnings and the expenditure and investment of Series 2021 Bonds proceeds and moneys deemed to be Bond proceeds.

Section 18. Approval of Bond Counsel. The representation of the Issuer by Miller, Canfield, Paddock and Stone, P.L.C. ("Miller Canfield"), as bond counsel is hereby approved, notwithstanding the representation by Miller Canfield of the Authority in connection with the State Revolving Fund program which may include advising the Authority with respect to this borrowing.

Section 19. Approval of Bond Details. The Authorized Officers are each hereby authorized to adjust the final bond details set forth herein to the extent necessary or convenient to complete the transaction authorized herein, and in pursuance of the foregoing is authorized to exercise the authority and make the determinations authorized pursuant to Section 7a(1)(c) of Act 94, including but not limited to determinations regarding interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, interest payment dates, redemption rights, the place of delivery and payment, and other matters, provided that the principal amount of Series 2021 Bonds issued shall not exceed the principal amount authorized in this Ordinance, the interest rate per annum on the Series 2021 Bonds shall not exceed two and one-eighth percent (2.125%) per annum, and the Series 2021 Bonds shall mature in not more than thirty (30) annual installments.

Section 20. Savings Clause. All ordinances, resolutions or orders, or part thereof, in conflict with the provisions of this Ordinance are, to the extent of such conflict, repealed.

Section 21. Severability; Paragraph Headings; and Conflict. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance. The paragraph headings in this Ordinance are furnished for convenience of reference only and shall not be considered to be part of this Ordinance.

Section 22. Publication and Recordation. This Ordinance shall be published in full in the *Burton Observer*, a newspaper of general circulation in the Issuer qualified under State law to publish legal notices, promptly after its adoption, and shall be recorded in the Ordinance Book of the Issuer and such record authenticated by the signatures of the Mayor and the City Clerk.

Section 23. Effective Date. This Ordinance shall be effective upon its adoption and publication.

ADOPTED AND SIGNED THIS 15th day of March, 2021.

Signed _____
Its Mayor

Signed _____
Its City Clerk

I HEREBY CERTIFY that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the City Council of the City of Burton, County of Genesee, State of Michigan, at a regular meeting held on the 15th day of March, 2021, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

I further certify that the following Members were present at said meeting:

and that the following Members were absent:

I further certify that Member _____ moved for adoption of said Ordinance and that said motion was supported by Member _____.

I further certify that the following Members voted for adoption of said Ordinance:

and that the following Members voted against adoption of said Ordinance:

I further certify that said Ordinance has been recorded in the Ordinance Book and that such recording has been authenticated by the signatures of the Mayor and the City Clerk.

City Clerk

37334481.1/012916.00063

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