CITY OF BURTON

BURTON CITY COUNCIL MEETING

MARCH 21, 2022

MINUTES

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

4303 S. CENTER ROAD
BURTON, MI 48519

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

A. INVOCATION LED BY: STEVE HEFFNER

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

C. ROLL CALL

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

D. APPROVAL OF AGENDA

1. Motion approve the agenda as presented.

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

E. STAFF PRESENT

Duane Haskins, Mayor
Racheal Boggs, City Clerk
Brian Ross, Police Chief
Kirk Wilkinson, Fire Chief
Charles Abbey, DPW Director/HR
Jodi Holbrook, Controller
Amber Abbey, Deputy DPW Director
Tom Colis, Bond Counsel

F. APPROVAL OF MINUTES

1. City Council - Regular Meeting - Mar 7, 2022 7:00 PM

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

G. ADMINISTRATIVE REPORTS

Mayor Haskins gave a report on the following:

- March 28, 2022 will be the start date of the Police Station parking lot and storage tank project. It should be wrapped up by the Memorial Day event.
- The City Attorney is requesting closed session under section 8E of the Open Meetings Act for the purpose of litigation settlement strategy.
- Planning is still underway for the 50th Anniversary/Memorial Day weekend event. We are still seeking pictures if anyone has them.
- We are getting complaints again regarding the Flat Rock property. I would like to meet with the Attorney to discuss this.
- The Maplewood Meadows repaving project was approved by the City Council this evening. This is historic in nature. Thank you.
- Some of the parameters were changed with the ARPA funds. The changes will allow us to use funds to replenish general fund and use it for roads. The deadline for the paperwork is April 30th. This will give us more latitude.

1. Motion to go into closed session under section 8E of the Open Meetings Act before audience participation for the purpose of discussion on city litigation settlement stategy.

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

H. COMMITTEE REPORTS

Discussion ensued regarding ARPA funding parameters and allowable uses.

Discussion regarding street lamps, MML Conference and members of the council being recognized on the house floor by State Representative, Tim Sneller.

I. CLOSED SESSION

City Council went into closed session at 7:23 PM
City Council returned from closed session at 7:52 PM.

J. AUDIENCE PARTICIPATION

Jessica Gann stated she is speaking on behalf of her father who resides at 1482 Carmen Street. There are issues with a neighbor who has damaged the storm drain by driving over it. He also violates the noise ordinance and piles dirt onto my fathers fence.

Kim Thornberry of 4302 Covey Lane stated she has a dispute with Grant Dunkel who owns the property at 4495 Belsay Road. He took down a fence and there is garbage and overgrown trees on the property.

John Jaworski of 4356 Meadows Avenue has questions regarding the Maplewood Meadows project.

Mona Ballge of 2288 S. Term Street invited everyone to the Burton Library Book Sale on Saturday from 10am-4pm. Thank you for the work you have done at the library.

K. COUNCIL DISCUSSION

Mr. Fenner stated this is not the only complaint we have received about the neighbor on Carmen Street. He has gone to court, correct?

Attorney Doyle stated he has gone to court, it was adjourned and he has a new date. He received permission to leave the state by the Circuit Court Judge so he was gone for some time.

Mr. Fenner stated there are other matters as well. He thinks there is a driveway on his lawn so he drives up the curb, across city property and on to his lawn. I have seen pictures of a bulldozer in the yard and a hole big enough to drive a bobcat into. He parks in front of peoples driveways. A decision needs to be made soon. Mayor, regarding the ARPA funds, can we do some projects with water/sewer and put the remainder back in?

Mayor Haskins stated you can reclaim expenditures that were spent during COVID, up to $10 million. It's not all or nothing.

Mr. Fenner asked, when did the members of Parks go to a W2 from a 1099 and why?

Ms. Holbrook stated when we went to the BS&A system.

Mr. Fenner stated I reached out to Tim Sneller regarding the Flat Rock property and sent pictures to him. My concern is if one of these violent residents get out, someone could get hurt. Hopefully, we hear something back from the state. I am afraid of this turning into a bad situation.

Mayor Haskins stated this is already a bad situation. For those who don't remember, these are not considered businesses because they are rental properties. They lease out the rooms and are allowed to have up to six residents under law. Therefore, they don't have to go to ZBA or Planning. The reason behind the legislative change is that they are transitional homes, the people placed here are functional but still require some assistance with preparing meals and things like that. There is no regulation on when they come and go. We are trying to get the state to intervene.

Mr. Fenner stated this makes it tough on the neighbors of these places. The residents can be violent. I am hoping for answers from the state about what can be done.

Mr. Smith thanked Councilwoman Hickson on her leadership with the parking issue.

Mr. Heffner stated Champion Street is still very bad and I am still receiving calls about it. I think the council needs to take some action to get the developer to clean the street.

Mr. Abbey stated we get the same calls. We look at it all the time. We were out there again today. Remember frost laws are on and there are weight restrictions that wouldn't allow them to sweep it this Friday. They have a different type of front sweeper they are going to bring in and they will have it on site more often.

Mr. Heffner stated if you go over there and look at the driveways, they are not using crushed concrete or limestone.

Mr. Abbey said, yes, they are. Everyone of them have two inches of stone in them.

Mr. Heffner stated I saw a house today that is occupied that has no driveway, whatsoever. I think the address is 2119.

Mr. Abbey stated I don't think they would have received occupancy without that.

Mr. Martinbianco stated I was down there today and didn't see that.

Mr. Abbey stated we will go check it out. This is a problem and it is going to be a problem. We will stay on this. If they don't have a sweeper by Wednesday, I will put a stop work order on them. When you are building this many houses this fast and this close together, it is going to be a problem.

Mr. Martinbianco stated regarding the situation on Covey Lane, Mr. Dunkel's allegation was that the people on the other subdivision were the ones throwing trash in the yard.

Discussion ensued between the audience and council.

Mr. Heffner asked Mrs. Thornberry to contact Mr. Abbey tomorrow.

Attorney Doyle stated he is under a court order to clean all of that up. If he does not do it, the city can.

Mr. Hull thanked Ms. Ballge for the literature she passed out today. Can you tell us more about this?

Ms. Ballge stated the reason we became a city in 1972 was because they were trying to take Eastland Mall (Courtland Center) away. Marilyn Estep who is a friend of my family was running for office and gave out these maps.

Further discussion continued regarding the history of Burton.

Mr. Heffner stated he would like to talk about item #2 on the agenda. I have a problem with section five of the Parks & Recreation by-laws. It should state that they must be a resident of the City of Burton. We don't want this interpreted the wrong way in the future.

Mayor Haskins stated the big question would be, does it state in the by-laws that anyone on Parks & Recreation Commission has to be a Burton resident? If not, it should be stated as a whole and not just in this one section.

Mr. Hull stated I don't think it does. The background on this and Mrs. Conley may know, is that there has been trouble in the past finding someone that is a School Board Member to sit on the Parks & Recreation Board. It is currently written that you have to have a School Board Member. The idea is that if we have a teacher that is really excited about doing this and we can't find a School Board Member, this would be a good fit. With that said, if we have someone who works for the school and they are excited about serving on the board, but they live in Davison for example, we should want to welcome their help.

Attorney Doyle stated I don’t believe the intent was to have someone from the area but someone who is the Superintendent from one of those school districts. So, their interest would be with one of the schools not necessarily the area. From what I am reading, the Commission shall consist of nine members with one member being appointed from the council, five members coming from the general populous of the city, in accordance with city ordinances and three members, one each coming from the school board of Atherton, Bendle and Bentley School Districts.

Mr. Heffner stated with this new change, we could potentially get a teacher that lives in Linden or Davison.

Attorney Doyle stated based on that, I would agree that it should be made specific. Otherwise, you would have no say over whether or not that person is a resident of the city.

Mr. Hull stated so if we couldn't find a school board member and the Superintendent of the school says I have this teacher who really wants to do this and is passionate about our events, and they live in Linden, that's a problem for us?

Mr. Heffner said, I think so.

Mr. Hull asked, why?

Mr. Heffner stated this is the City of Burton. We have a lot of Burton residents out there that might want to fill that spot if they had the opportunity.

Mr. Hull stated we are talking about a scenario where we can't find anyone and we are saying, you can't do this because you live in Linden? That doesn't make sense to me.

Mr. Heffner stated instead of faculty maybe they could pick someone from their boosters that lives in Burton. Anyone from their district, it doesn't have to be somebody out of our city.

Mr. Fenner stated I am at a crossroad here because I know we are having a difficult time getting people to participate. I don't know how many teachers are Burton residents. Will we be able to find one of those? Do we go down another level to boosters? Once we get there, isn't that the same as someone from general populous?

Mr. Heffner stated it is the Mayors appointment. He or she could appoint someone from the district if they choose. We have only had this problem once that we cannot find a school board member.

Mr. Fenner stated then why are we even discussing it if it has only happened once.

Mr. Hull stated we changed it because there was a problem in the past. I come from a non-profit world where if someone wants to volunteer and is passionate about it, you let them do that.

Mr. Heffner stated they perceived it to be a problem. It is a past problem. We should send it back to Park & Recreation and let them add it in.

1. Motion to add to agenda: Approve and authorize the City Attorney to settle the City of Burton V Telgenholf & Leach matter for the amount not to exceed $5,000.

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

L. COUNCIL ACTION

1. Approve and authorize the payment of Attorney Billing (Doyle) 3/1/22 to 3/14/22 in the amount of $7,167.00.

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

2. Approve and authorize the updates and revision to the Burton Parks & Recreation Bylaws.

   Mr. Martinbianco made a motion to table the motion and recommend this back to the Parks & Recreation Commission for further review of section 5 taking note of the councils discussion tonight.

RESULT:	**RECOMMENDED [6 TO 1]**	**Next: 4/13/2022 5:30 PM**
MOVER:	Tom Martinbianco, Vice President	
SECONDER:	Christina Hickson, Councilwoman	
AYES:	Martinbianco, Heffner, Smith, Fenner, Conley, Hickson	
NAYS:	Hull	

3. Approve and authorize the Mayor and Clerk to sign a Resolution 2022-6 for the adoption of the Genesee County Hazard Mitigation Plan Update.

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

4. Approve and authorize the Mayor and City Clerk to execute a Contract with the Michigan Department of Transportation for hot mix asphalt cold mill and resurfacing East Maple Road from Fenton Road to Saginaw Street and including joint and crack repairs, storm sewer, concrete curb and gutter, sidewalk and ramps signing and pavement markings; and all together with necessary related work in the City of Burton, Genesee County (DPW project No. 20-011-P), MDOT Control Section STU 25000, Job number 207656CON and 207657CON, MDOT Contract Number 22-5047 at an estimated total cost of $1,633,315, of which the City of Burton's final cost will be approximately $330,663.00. and to authorize Amber Abbey, Street Administrator / Deputy DPW Director to digitally sign said contract on behalf of the City of Burton.

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

5. Approve and authorize the Mayor and City Clerk to execute a Contract with the Michigan Department of Transportation for hot mix asphalt cold mill and resurfacing North Belsay Road from Davison Road to Potter road and including joint and crack repairs, storm sewer, concrete curb and gutter, sidewalk and ramps signing and pavement markings; and all together with necessary related work in the City of Burton, Genesee County (DPW project No. 20-012-P), MDOT Control Section STU 25000, Job number 207655CON, MDOT Contract Number 22-5043 at an estimated total cost of $483,917, of which the City of Burton's final cost will be approximately $96,784.00. and to authorize Amber Abbey, Street Administrator / Deputy DPW Director to digitally sign said contract on behalf of the City of Burton.

   Mr. Martinbianco asked, where are we putting the curb, gutter and sidewalks? I didn't see a plan.

   Mr. Abbey stated there may or may not be any. This is standard language that is required in the project.

   Mr. Martinbianco stated we just spent some money to improve the bridge over Kearsley Creek in that area. If there is to be curb and gutter, that is probably where it is coming from. I am concerned about the sidewalks, they are a pricey addition. If I understand correctly, if it is later decided that sidewalks are not necessary or wanted, they can be taken out of the project cost later.

   Mr. Abbey stated this is just to replace anything existing, if necessary. This is just standard language.

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

6. Approve and authorize the Mayor and City Clerk to execute a Contract with the Michigan Department of Transportation for performance of preliminary engineering activities for the roadway rehabilitation work along North Genesee Road from Court Street to Davison Road; and all together with necessary related work in the City of Burton, Genesee County (DPW project No. 21-023-P) MDOT Control Section STU 25000, Michigan Department of Transportation Contract 22-5096 for Job Number 207652PE at an estimated total cost of $82,300, of which the City of Burton's final cost will be approximately $16,460.00. and to authorize Amber Abbey, Street Administrator / Deputy DPW Director to digitally sign said contract on behalf of the City of Burton.

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

7. Approve and Authorize the Mayor and City Clerk to execute a contract with Fleis and VandenBrink Engineering, 9475 Holly Rd. Grand Blanc 48439, for Professional Engineering of Atherton Road Watermain Phase 1 (DPW Project No. 22-001-W), at an estimated cost of $33,500, contingent upon approval of the City Attorney.

Mr. Heffner asked, where is the $35,000 coming from?

Mr. Abbey stated it will have to be a transfer from the water department.

Mr. Smith stated I went through the agreement and it is roughly $500,000. The county is putting through about a third of that which is about $165,000, is that correct? We are looking at about a $365,000 commitment from the city, correct? Is the $35,000 part of that?

Mr. Abbey said, that is correct. The $35,000 is part of it. This is a perfect scenario to use ARPA funds but the council can take it from where they see fit.

Mr. Smith asked for an explanation on the $150,000 figure.

Mr. Abbey stated the estimates were $497,500, the county pays 33% and we pay 66%.

Discussion ensued on the appropriate ways to spend ARPA money.

Mr. Heffner stated this city has been made promises by developers time and time again, big pipe dreams, build it and they will come. We build it and get stuck. If we fund this waterline for this development, is there a way Madam Attorney, that we can put a surety bond on that? Can we give them a number of houses that have to be done in the first phase and if they are not, we take the surety bond? Instead of us getting stuck holding the bag for that huge waterline to nowhere. This waterline is being put in for this development.

Mr. Fenner stated this is not a waterline to nowhere, it is completing a loop and connecting two dead ends in the future.

Mr. Abbey stated this development is what is driving the waterline, but there will also be fire hydrants in that area that we need for fire services. It will also loop the whole corridor in two different areas. More importantly, using your analogy and asking for a surety because you believe no one else benefits from the waterline, the $75 million worth of tax base that comes in, who benefits from that?

Mr. Heffner stated if it comes in. How many millions of dollars did this city lose when we paid for infrastructure for Mallard Ponds and Burton Estates?

Mr. Abbey said, none, in the end. That is not correct. Not when you include the tax base. I have it on a spreadsheet, I can show you. It does take a while to get it back. We never lost any money. When the bottom fell out of the market with those properties, they sat dormant and the council sold them at a discounted rate to a future developer. With the additional tax base, we have more than made that money up, way more.

Mr. Heffner stated it is the action this council took that saved it.

Mr. Abbey stated I am not debating that. We have not lost money.

Mr. Smith stated in 2010, the total amount we owed was $6 million. We basically had to reduce the market value of the properties by about a third. We lost roughly $2 million but in the long term, we have built out all of those properties plus we got Cross Creek for nothing. There is always risk. There are 240 homes here that will be appraised for $200-$250 thousand. That's a pretty good risk. There have been very little homes built since 2008. Analysts are saying that because homes are not being built, there is a home shortfall of four million in the United States. People are looking for homes now and the timing is right for this relative to the $365,000 risk. This is a good risk.

Mr. Heffner said, we are risking the tax payer’s money.

Mr. Smith stated we are trying to grow the tax payer’s money. We are trying to grow our community where the businesses and homes will be worth more. When you bring in this many people, it is good for our residents and our community. This is a good deal and we have the county covering a third of it. It’s worth it. As Councilman Fenner indicated, there is residual value moving that water down the road as well. This is a good move.

Mr. Heffner stated you will have to run water through the whole subdivision if residents want water. This is another cost within a cost. You're talking thousands just to get that going.

Mr. Abbey stated let’s keep in mind what we are doing today. We are approving the $33,500 for the engineering. We have to do this regardless, going forward. You do the preliminary work and then we can see where we are at. We should see a plan in the next 30-45 days. I understand the concern. We all have the same concerns. New money is coming in through new developments. We need that to grow to sustain the services we provide to all residents. You have to have it.

Mr. Heffner stated we have to have some assurances that we aren’t going to stick a bunch of money into a pipeline that’s just going to sit there.

Mr. Hull stated it seems that we are debating $33,000 for a $75 million tax base. Can we call the question?

Mr. Heffner stated we will discuss financing this at a later date.

RESULT:	**CARRIED [6 TO 0]**
MOVER:	Greg Hull, Councilman
SECONDER:	Tom Martinbianco, Vice President
AYES:	Martinbianco, Heffner, Smith, Fenner, Hull, Hickson
AWAY:	Conley

8. Motion to Call the Question on Item # 7

RESULT:	**CARRIED [6 TO 0]**
MOVER:	Greg Hull, Councilman
SECONDER:	Tom Martinbianco, Vice President
AYES:	Martinbianco, Heffner, Smith, Fenner, Hull, Hickson
AWAY:	Conley

9. Approve and authorize the City Attorney to settle the City of Burton V Telgenholf & Leach matter for the amount not to exceed $5,000.

   City Council went to recess at 8:50 PM.
   City Council returned from recess at 8:55 PM.

RESULT:	**CARRIED [6 TO 0]**
MOVER:	Tom Martinbianco, Vice President
SECONDER:	Christina Hickson, Councilwoman
AYES:	Martinbianco, Heffner, Smith, Fenner, Hull, Hickson
AWAY:	Conley

M. READING OF ORDINANCE

1. Approve and authorize ordinance 2022-01-87 (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.

   Mr. Colis, Bond Counsel for the city stated the ordinance in front of you is for phase two of the waste water collection system improvements. If you remember, we started phase one last year. The financing qualifies through the clean water state revolving fund which is a state program that provides funding for these projects. The city issues debt and the state acquires it. It is 30 year financing and the interest rate is 2.125% which is the same as last year. The state can change the rate every year. This phase will not change. We will come back to council for future phases. In today's market, this is a strong interest rate. You would see a much higher interest rate if you went out to the market and sold bonds as opposed to the state purchasing the bonds through this program. The ordinance also authorizes signing the documentation with EGLE and closing the bond issue in May. Funds will be available when the contractors are ready to commence the project.

Mr. Heffner asked what the cost difference would be for a 20 year.

Mr. Colis stated the city could choose a 20 year financing at a rate of 1.78%. From a revenue perspective, your debt service would be less each year over a 30 year, meaning you could layer in your financing and still have the capability of a reasonable debt service in one particular year.

Mr. Heffner asked, what is the difference in cost between a 20 year and 30 year?

Mr. Colis stated I don’t have that number but it would cost more.

Mr. Smith stated basically what you are saying is similar to buying a house for a 10 year mortgage versus a 20 year mortgage, you will pay more interest but you will pay less per year, so it’s easier to take out more debt, correct?

Mr. Colis said, yes.

Mr. Smith stated the other thing is, we have $10 million in the sewer fund earning interest of approximately 2%, the bonds are approximately 2%. So, we are keeping the money in sewer and it is growing and we are leveraging our money from other financial resources that basically doesn’t cost anything. This is locked in for 30 years and we know inflation is increasing. We are leveraging our money; the money we have is paying for the money we borrow. This is maximizing our purchasing power.

Further discussion continued regarding bonds, interest rates, loan forgiveness and the future of the infrastructure.

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

N. TABLED ITEMS

A motion was made by Mr. Martinbianco to un-table agenda item M.1 to Approve and Authorize the Appointment of Deborah Walton to the Election Commission. The motion was seconded by Mr. Smith. Council voted unanimously to un-table.

1. Approve and authorize the appointment of Deborah Walton, PO Box 190273, Burton, MI 48519, to the Election Commission with a term ending March 2026.

   Mr. Martinbianco stated I do not agree with the address that Mrs. Walton furnished us. There should be an identifying measure that identifies exactly what her address is.

   Mr. Heffner asked, what address does she use for her employment?

   Ms. Boggs stated I verified her residency and voter registration as Carmen Street which is also the address she provided when she was appointed to City Council.

Mr. Hull stated we all know she lives in Burton. This is minutia that is unimportant and irrelevant. Can we call the question? Mr. Fenner supported calling the question.

Mr. Heffner stated I would like to remind everybody that a positive yes vote will be a violation of your oath of office. The charter is clear on this.

Attorney Doyle stated the President and I disagree on this because I do not believe the charter in anyway intended for that to mean what he believes it does.

Mr. Heffner stated I would like to remind the City Attorney that we had a Mayor once who tried to read into the charter and the Court of Appeals reminded our Mayor that she should remember what is in the charter rather than what is not in the charter. She is an employee.

Attorney Doyle stated I disagree, she is not an employee.

Mr. Fenner stated this is coming from an attorney who we are paying for her legal opinion.

Discussion continued regarding the charter as it relates to an appointment to the Election Commission.

Mr. Hull stated I called the question and it was seconded by Mr. Fenner. Can we vote?

Mr. Heffner stated the way that works is when you call the question, the chair has to recognize you and you weren't recognized, so it obviously didn't work out that well for you, did it?

Mayor Haskins stated tomorrow at 5:30 PM at the Whiting in Flint there is a meeting regarding the I475 project, specifically through Burton, if anyone would like to attend, it is open to the public.

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

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

Meeting was adjourned at 8:54 PM.

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CITY OF BURTON

BURTON CITY COUNCIL MEETING

MARCH 7, 2022

MINUTES

Council Chambers	Regular Meeting	7:00 PM

4303 S. CENTER ROAD
BURTON, MI 48519

This meeting was opened by President Steven Heffner at 7:07 PM.

A. INVOCATION LED BY: TOM MARTINBIANCO

B. THE PLEDGE OF ALLEGIANCE IS LED BY: TOM MARTINBIANCO

C. ROLL CALL

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

D. APPROVAL OF AGENDA

1. Motion to approve the agenda as presented.

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

E. STAFF PRESENT

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

F. APPROVAL OF MINUTES

1. City Council - Regular Meeting - Feb 21, 2022 7:00 PM

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

G. ADMINISTRATIVE REPORTS

Mayor Haskins gave the following report:

- The Michigan State Housing Development Authority has opened up the Michigan Homeowner Assistance Fund Program. The City of Burton is enrolled in the program. If there are residents that need financial help with mortgage, taxes and a list of other things, they can call 517-335-6481. You can also email mshda-ho-haf-program@michigan.gov. This information will be on our website.
- An update on the Burton Estates mud issue. We have rectified the issue with the contractors. They will be held accountable. We understand that with the freeze, rain and thaw we have had that the mud is inevitable. We will do everything we can to make it more livable to the residents during the building process.
- Resident Penny Thomas gave high praise of our Fire Department and Chief on how well they handled the situation when her house caught on fire.
- Happy Birthday to City Attorney, Amanda Doyle.

H. COMMITTEE REPORTS

Mr. Martinbianco stated the Finance Committee met on February 28th to discuss funding for the Memorial Day/50th Anniversary event. At that time, we were not privy to a budget so we postponed the meeting which occurred tonight prior to this meeting. We also discussed the second phase of our sanitary sewer project. Today, I spoke to the Drain Commissioner who stated we should make sure we take advantage of the low interest rates. I also spoke to Mr. Colis and Mr. Benzinski, our bond counsel and attorney. We should expect to see an evolving rate increase, not just for the short term but, for long term, according to Mr. Benzinski. If we kick the can down the road, we will endure higher interest rates that will cost more money and ultimately end up in the laps of the tax payers. This is my opinion based on the conversations with the professionals we do business with. I anticipate that we will have an evaluation of phase one and expectations of phase two. Agenda item #6 is the SRF contract which came in under the projection. We are doing the right thing and this will keep us in line with these projects for future phases. At the Finance Meeting tonight, we discussed the tabled item on the agenda for $40,000 for the Memorial Day/50th Anniversary event. The council has made a decision to include a specific area and specific needs the council has. I think we can accommodate both and I don't think that $40,000 is over the top. As a reminder, we originally budgeted $39,000. The Mayor has assured me we are getting funds from additional sources. That number is around $16,500 to date. The committee decided to move the $40,000 forward. I would like to see part of that for what the council intends to do. I believe our ancestors both living and gone were our forefathers and much like the people in Ukraine, they were our fighters.

I. AUDIENCE PARTICIPATION

Grant Dunkel of 4295 S. Belsay Road in Burton spoke regarding a judgment made against him in court regarding a fence that code enforcement required him to remove. He does not believe he owns the fence.

J. COUNCIL DISCUSSION

Mr. Martinbianco stated regarding Mr. Dunkel's situation, when Maple Pointe was developed, the site plan review that went in front of the Planning Commission required that they put up a border fence. The distinction was that it had to be six inches in on your property. He has been charged and convicted in court for having a dilapidated fence and he was required to take it down. A clear expungement might be necessary. It is a tough job being a Code Enforcer and Frank does a great job. This is a tough situation. I would advise the City Attorney to look at this a little closer. The administration can look up the Planning Commission minutes from when Maple Point was constructed.

Mr. Abbey stated we will look into this. Mr. Dunkel maintains that it is not his fence but all the other neighboring residents say that it is. No one on our staff has found anything indicating that it is not his fence. We will look into it a little further. We did not make this determination. It was a judgment from a judge. The council nor the administration can over rule this.

Mr. Heffner stated the city was given an award from the Department of Defense of the Vietnam War Commemoration to recognize the city as a commemorative partner. We were presented with an award and a flag to fly over the city. The 50th anniversary of the Vietnam War began on Memorial Day in 2012 and will continue through Veteran's Day of 2025. We will have much more to say on this in the weeks to come. The Mayor has volunteered to be actively involved in this. Thank you, Mayor.

Mr. Fenner stated in reagards to the $40,000 for Memorial Day/50th Anniversary, many of us on this council have advocated for a great event. This is up-front money that we are hoping to get donations to cover the cost. This event isn't going to roll around again anytime soon. I don't see why we don't release these funds so the Mayor and Committee can confidently book the acts and get the events planned. Waiting any longer for this is pushing it down to the end of the wire. I would like to un-table this item and put it on the agenda for a vote tonight.

Mr. Heffner stated I cannot support $40,000. In my opinion, it is irresponsible. A couple years ago, we spent $80,000 to repave Belsay Road and it has lasted five years. I get this is our 50th year and that is huge but, I believe that if we spend this kind of money on an event, we are going to be tarred and feathered and the residents will have every right to tar and feather us for what is, in my opinion wasting taxpayer dollars. We already budgeted $20,000. I told the Mayor I would give him more money and I am willing to go $15,000 more. That is more than I ever dreamed of at budget time. I believe we can still have a great event given the $15,000. We may not have all the bells and whistles but it can still be a great event. This is a lot of money. We are in a time of uncertainty. We are in an artificially inflated economy. This world could blow up on us and we could be in worse shape than we were in 2008. We need to take a step back here.

Mr. Fenner asked if we anticipate getting more donations.

Mayor Haskins said, yes. We have businesses who have stated they are going to donate but we have not received money from them yet. All the bands are giving us discounted rates.

Mr. Fenner stated I do not want to tie the hands of those planning this event.

Mr. Heffner stated we tie their hands every year. We give them a budget and they stay within that budget. This year is special, that's why we are even considering giving them more money. I would like to give $15,000 to the administration and $7,000 to City Council.

Mrs. Conley asked about the schedule for each of the bands. I want to have a great 50th. This is a big deal and it is special for our residents. Do we need it Friday through Monday? If we cut down some, maybe the residents won't look at it like we are spending so much money. I don't have a problem giving you guys money. I want to see how much more in donations we are going to get. If we give the money and you get more donations, does that mean you will spend more money to get more vendors?

Mayor Haskins stated I have previously stated if we raise the money with the donations, we will not spend the money that council gives us.

Mr. Heffner stated I see you have Mark Farner. They will draw a lot of people. We are not set up for that. We don't have the police, crowd control or means to keep the musicians safe.

Mayor Haskins stated that is your belief. We have been working diligently on this for several months. We have a lot of things in place that we will be able to facilitate this.

Mr. Heffner stated I hope so. I don't see how you can.

Mayor Haskins stated last year, we had over 5,000 people. The food trucks sold out of food in just a few hours. I am pretty sure Mr. Farner will not attract that many more people.

Mr. Hull stated the Finance Committee did discuss this as well as a lot of other things and that is part of the reason that we voted unanimously to recommend the $40,000 to the council.

Mr. Martibianco asked what steps have been taken to ameliorate the issue with the road on Champion Drive. Are our edge drains going to be impacted?

Mr. Abbey stated we are working closely with the builder. They have to have regular maintenance. They need to keep bags over the structures. The Mayor and I went out there again and looked at it. It is an impossible task to keep that road clean. There will be inconveniences for the next six months. If this was anyone else, that would be five years. They are moving at a pace that I have never seen, 15-20 basements at a time. That compounds the problem because they are regular size lots. They have a fence up that gets knocked down in the front. We told them they have to make sure it stays up, even if they have to do it everyday. They are stone matting the driveways and are doing the right measures that are required by law under soil erosion. The snow and then the thaw keeps the mud on the roads. They have contracted with someone to clean the roads and we have asked for that documentation. Once we receive it, we can sit down for a meeting with them. It is an ongoing problem. Last year they did Hunters Road and it is all built out and looks pretty good. It is a lot of activity all at one time. We will keep monitoring it. It is a muddy mess and will be an inconvenience until there is sod put down. This is a new development and if you happen to be one of the first homeowners in there, this is what comes afterward. The Building Official is out there more than anywhere else in the city but, he cannot stay there all day and watch them either. We will try to hold them as accountable as we can during the process.

Mr. Smith stated Mrs. Conley was just asking me about the council tent for the 50th Anniversary celebration. Mayor, you mentioned at the Finance Meeting an idea for this. Would you please share that with the council?

Mayor Haskins stated we have been working on including the past elected officials for over a year. Quite a few have responded that they will be coming. Logistically with all the other things we have going on, the best option for this will be to open the newly renovated Police Training room which is air conditioned, has a refrigerator, sink and bathroom facilities inside. I know a few of our past elected officials are not in the best of health so this would work out perfectly. They will be front and center at the event.

Mr. Heffner stated I personally would rather be at City Hall. We are council people not Police Officers.

Mayor Haskins stated if you want it at City Hall, we will try to have it at City Hall. I was just trying to figure out a place that was front and center and by the other events.

Mr. Matinibanco stated it is not about us. It is about our predecessors being able to enjoy the event. I agree about using City Hall but, I appreciate the Mayors offer.

Mr. Fenner asked if you are considering council chambers? There are stairs whereas the Police Station is on the ground floor and is new and very nice. I would just want the best location possible.

Mr. Martinbianco stated I haven't seen a site plan with the expected layout of the event. This is one of the components of putting together a budget. If we had 5,000 people last year, we will have 15,000 or more this year. We have to make sure we can accommodate everyone. This is a free event, people will come from all over not just from Burton. Parking is the biggest thing for me.

Mrs. Conley stated on the sheet I have it doesn't say council being at the Police Department. The first time I have heard this is today. I have been doing a lot of planning for the council tent. Since the article came out last week, a lot of previous council members have reached out to me and they were glad the article was out there because that's how they knew about it. I am trying to get pictures and articles to make banners to represent everyone. I think the council does deserve to pick where they want it and what they want to do with it. To me, there is nothing about the council on this sheet.

Mayor Haskins stated that sheet you have is a budget list with the vendors we are paying. We are not paying the council to be at the event so you are not on that sheet.

1. Motion to untable item L. #1 to Approve and authorize a 2021-2022 budget amendment: Increase 1001-6090-959-7674 Memorial Day Parade by $40,000; Decrease General Fund Balance by $40,000.

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

2. Motion to add to the agenda to Approve and authorize a 2021-2022 budget amendment: Increase 1001-6090-959-7674 Memorial Day Parade/50th Anniversary by $40,000; Decrease General Fund Balance by $40,000.

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

K. COUNCIL ACTION

1. Approve and authorize the payment of Attorney Billing (Doyle) 2/16/22 to 2/28/22 in the amount of $4,456.30.

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

2. Approve and authorize the request for a Residential Sanitary Water & Sewer Installer's License for Pzarka Site Development, LLC., 5747 Bullard Road, Fenton, Michigan.

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

3. Approve and authorize the appointment of Deborah Walton, PO Box 190273, Burton, MI 48519, to the Election Commission with a term ending March 7, 2026.

   Mrs. Hickson stated she was looking on the computer at the Burton Ordinances and they say the Election Commission members shall not be City Officials, employees or candidates for elected office in the city. My point is, Parks and Rec members get paid by the city. Does that make them an employee?

   Attorney Doyle stated I don't have that answer off the top of my head.

RESULT:	**TABLED [5 TO 2]**	**Next: 3/21/2022 7:00 PM**
MOVER:	Tom Martinbianco, Vice President	
SECONDER:	Christina Hickson, Councilwoman	
AYES:	Martinbianco, Heffner, Smith, Conley, Hickson	
NAYS:	Fenner, Hull	

4. Approve and authorize the Mayor and City Clerk to execute a contract with ACE-Saginaw Paving Co. 115 S. Averill Ave., Flint, MI 48506, for the Maplewood Meadows S.A.D. Paving Program contract which is the Local Street Paving for the Not-to-Exceed fee of $842,345.00

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

5. Approve and authorize the City Clerk to set a special city council meeting for the purpose of the second Public Hearing for Maplewood Meadows Subdivision Paving, SAD Project #22-019-P, for Monday, March 21, 2022, at 6:30 p.m. at City Hall, or any later date of City Council choice; (a minimum of fourteen (14) days is required. Public notices and letters to residents will be sent as appropriate.

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

6. Approve and authorize Mayor and Clerk to sign Resolution 2022-5 to award the SRF Segment 2 construction contract to Insituform Technologies, 17988 Edison Ave., Chesterfield, MO 63005, the lowest responsive bidder for a cost not to exceed $2,348,385.50

   Mrs. Conley asked, weren't we talking about the CARES money maybe taking care of this?

   Mr. Heffner stated I don't think we have decided how we are going to pay for it yet.

   Mrs. Conley stated we should have another meeting to discuss it.

   Mr. Smith stated first of all, what is happening with the fed is they are going to raise interest rates. There is also inflation which is dwindling our purchasing power right now. We get a little over 2% on the money in our sewer fund right now and it is going up. Bonds at 20 years is 1.78% and for 30 years, it is 2.25%. One thing about the bonds that is really good is they are locked in at 2.5%. When the feds raise the rates, the stock market drops because people move money from the stock market over to bonds and that bids up the bonds. We are trying to lock this in before that happens. We need to get the full purchasing power for that bond.

   Discussion continued on inflation and bonds.

   Mr. Hull asked Mr. Abbey, do we have someone coming in to discuss this at the next Council Meeting?

   Mr. Abbey stated they couldn't be here on March 7th but, Mr. Martinbianco and I both spoke to them. Keep in mind that it is not smart not to bond for this. We are making more money this way.

   Mr. Heffner stated you are still putting the city into debt when you don't have to. It makes no sense.

Mr. Abbey stated it does make sense and any finance person in the world will tell you that it makes sense. You still have your cash in the bank and can always pay them off at anytime. More importantly, we have a $40 million sewer issue over the next 20 years. The system has out lived it's useful life cycle. You don't have enough money to do it that way you want.

Mr. Heffner stated all I said was don't bond for it. We have CARES money.

Mr. Martibianco stated we did discuss a bicameral project where we use so much cash and then bond for the rest. All we are doing tonight for this line item is approving the low bidder at a not-to-exceed cost. We haven't decided on financing options yet. This is only to lock in this bid amount which came in below the projected cost and this is at a time where everyone is struggling to work. How many bids did we get for this project?

Mr. Abbey stated I believe there were seven bids. There are other needs we have as well and we have to address them. Why spend all your cash upfront if you don't have to. It doesn't make sense. All the new money that is coming in through the infrastructure bill will be for SRF and DWRF funds. If you get out now, you risk losing forgiveness later. We received forgiveness of $3 million in the water projects that we would've had to pay for. The same thing will happen here.

Mr. Heffner stated we still owe another $22 million that our residents are hemorrhaging in their water bills.

Mr. Abbey stated we didn't create the infrastructure 70-80 years ago. It has outlived its usefulness. What are we going to do? Do you want to be like Flint? Do you want to do it that way?

Mr. Heffner stated we have 80 years worth of terrible infrastructure that this generation is paying for all at one time. We can't do it all at once.

Mr. Abbey stated that is not correct. We have only done one third of our system. We still have needs out there. You have to take the blinders off. You have to fix it. It's the law; they will step in and make you do it.

Mr. Heffner stated we have to be mindful of the residents also.

Mr. Abbey stated we are. You haven't seen water rates go up. We have held the water rates. We are doing our part. We dropped them. That is not the issue here. Right now, this is good for the taxpayers. The bids are even better than we anticipated. We have to seize these things when the opportunity is there.

Discussion continued regarding funding for sewer projects.

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

7. Motion to Call the Question.

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

8. 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 construction engineering services for the construction phase of Segment 2 - SRF Wastewater System Improvement project at a cost not to exceed $239,800.

   Mr. Heffner stated I understand that Dima is no longer our representative. Who is our new representative?

   Mr. Abbey stated we have been dealing with Dima's assistant, Spencer Cain.

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

9. Motion to Amend tabled item: Approve and authorize a 2021-2022 budget amendment: Increase 1001-6090-959-7674 Memorial Day Parade/50th Anniversary by $25,000; Increase City Council 1001-1001-703.0001 by $5,000; Decrease General Fund Balance by $30,000.

   Mr. Matinbianco amended the motion to $25,000 to the Memorial Day Parade/50th Anniversary line item and added a new line item for $5,000 under City Council 1001-1001-703.0001 for the Memorial Day/50th anniversary event.

   Mr. Hull confirmed the details of the amendment. Do we need $5,000 for City Council? Is this for the council tent?

   Mr. Martinbianco stated that is my understanding.

   Mr. Hull asked, is that going to cost $5,000?

   Mr. Martinbianco stated I am not sure, it depends on how we would like to honor past councils.

RESULT:	**CARRIED AS AMENDED [5 TO 2]**
MOVER:	Tom Martinbianco, Vice President
SECONDER:	Vaughn Smith, Councilman
AYES:	Martinbianco, Smith, Fenner, Conley, Hickson
NAYS:	Heffner, Hull

10. Motion to Approve and authorize a 2021-2022 budget amendment: Increase 1001-6090-959-7674 Memorial Day Parade/50th Anniversary by $25,000; Increase City Council 1001-1001-703.0001 by $5,000; Decrease General Fund Balance by $30,000.

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

11. Motion to untable item #3 Appointment of Deborah Walton to Election Commission.

Mayor Haskins stated regarding the tabled motion on item #3, I believe Mrs. Hickson was referring to the City Charter. To refresh everyone's memory, in June of 2019, the council appointed Jim Craig to the Election Commission unanimously. So he has been on the commission for almost three years. He is also a member of our Parks & Recreation Commission.

Attorney Doyle stated I believe the council can confirm that none of our board members on Planning, Zoning, Parks & Rec are offered any benefits, healthcare, pension, etc. I do not believe the charter intended for the word employee to mean a commission member. In section 12.6 of the charter which is what Mrs. Hickson was referring to, it says city officials, employees or candidates for elective office. If you go to chapter 6 which refers to the council and their duties and responsibilities, section 6.13 Employee Welfare Benefits states the council shall have the power to make benefits available to employees including health insurance. Section 6.14 states the council may provide employees pension plans. I don't think that it ever contemplated Planning, Zoning or other board members being an employee for those purposes.

Mr. Heffner stated it says may, not shall.

Attorney Doyle stated it says you may provide that to employees. That is what I am saying. I am not arguing the word may. I am arguing that it didn't intend for an employee to be a commission member. Had it done that, I don't think it would have used the word interchangeably in both sections.

Mr. Smith stated I would like to make a motion un un-table agenda item #3.

Mr. Heffner stated I think we need another opinion on this. I am not convinced, just because we did it wrong once. If you are getting a paycheck, that makes you an employee.

Attorney Doyle stated not necessarily, not by terms of the City Charter. I don't believe that is what it intended. I don't believe that is what it means.

Mr. Heffner stated we need to get the Attorney General opinion.

Mr. Fenner asked if Election Commission members get paid.

Ms. Boggs stated it is a volunteer position.

Discussion continued regarding the Election Commission position, the City Charter and whether or not a board member is considered a city employee.

Attorney Doyle stated based on how the charter reads specifically in the council section 6.13 and 6.14, it did not intend for a commission member to be an employee. Do you believe then that the council could provide for pension plans and other benefits for Commission members?

Mr. Smith stated I believe at one time these were unpaid positions, when the charter was written.

Attorney Doyle stated it is hard to determine who is an employee and who is not. Is the city a client of mine or am I an employee because I get a 1099 from the city?

Further discussion ensued on who and who is not a city employee.

Attorney Doyle stated the charter distinguishes between elected officials, administrative officials and employees. I think it meant to distinguish between an employee that works at DPW or the Clerk's Office and someone who might be a commission member.

Mayor Haskins stated this position was posted. Only one person has applied and it is a volunteer position.

Mr. Heffner stated just remember we took oaths to uphold the charter and the charter clearly states an employee cannot do this.

Mr. Hull asked, what is the suggestion then? Do we stop paying the commissioners or do we adjust the charter? What is the solution to this problem?

Mr. Heffner stated we get somebody that doesn't get paid by the city to be on the commission.

RESULT:	**FAILED [3 TO 4]**
MOVER:	Vaughn Smith, Councilman
SECONDER:	Gregory Fenner, Councilman
AYES:	Smith, Fenner, Hull
NAYS:	Martinbianco, Heffner, Conley, Hickson

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

Meeting was adjourned at 8:38 PM.

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

ADOPTED

Meeting: 03/21/22 07:00 PM
Department: Clerk's Office
Category: Attorney Billing
Prepared By: Racheal Boggs
Department Head: Racheal Boggs

AGENDA ITEM (ID # 5325)

DOC ID: 5325

Approve and authorize the payment of Attorney Billing (Doyle) 3/1/22 to 3/14/22 in the amount of $7,167.00.

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

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

SCHEDULED

Meeting: 03/21/22 07:00 PM
Department: Parks & Recreation Commission
Category: Amendment
Prepared By: Katie Malin
Department Head: Amy Clous

AGENDA ITEM (ID # 5320)

DOC ID: 5320 A

Approve and authorize the updates and revision to the Burton Parks & Recreation Bylaws.

COMMENTS - Current Meeting:

Mr. Martinbianco made a motion to table the motion and recommend this back to the Parks & Recreation Commission for further review of section 5 taking note of the councils discussion tonight.

ATTACHMENTS:

- Parks and Rec Bylaws 2022 (Revised) (PDF)

RESULT:	**RECOMMENDED [6 TO 1]**	**Next: 4/13/2022 5:30 PM**
MOVER:	Tom Martinbianco, Vice President	
SECONDER:	Christina Hickson, Councilwoman	
AYES:	Martinbianco, Heffner, Smith, Fenner, Conley, Hickson	
NAYS:	Greg Hull	

DUANE D HASKINS
Mayor

City of Burton

PARKS & RECREATION DEPARTMENT

4303 SOUTH CENTER ROAD
BURTON, MI 48519
PHONE (810) 743-1500
FAX (810) 743-5060
www.burtonmi.gov

AMY CLOUS
Director

February 15, 2022

Dear Mayor Haskins:

According to Section 4 of the By-Laws for the Burton Parks and Recreation Commission, we are required to review our By-Laws every three years. January 18, 2022 the By-Laws Committee consisting of:

Jeremy Scharrer   Greg Hull   Jim Craig

Along with myself met and reviewed the By-Laws for the Commission. There were six changes proposed to the By-Laws that was presented to the full commission at its regular meeting on February 9, 2022 and passed unanimously.

The changes occurred are as follows:

- Section 5, will reflect that "In the event that a School Board Member is not available to sit on Parks and Recreation Commission, the school may recommend for appointment by the Mayor another member from the school with interest, such as a member of the faculty."
- Section 6, language added that, "Agenda items will be submitted to the Clerk's Office the Thursday prior to a meeting."
- Section 7, change wording to reflect "prior to" instead of the word "of" after Monday.
- Section 8, will now read, the Parks and Recreation Commission shall meet once a month, unless cancelled by the Parks and Recreation Commission Chairperson, a quorum vote by the Commission or the Director with the consent of the Chair or Vice Chair in the absence of the Chairperson.
- Section 13, it was determined by the board that the language in the second sentence of this section should read, "this conflict of interest shall be stated to this commission."
- Section 14, the second sentence was corrected to read, "Commission Chairperson will receive an additional $10.00 per month."

We ask that the Burton City Council approve the changes to the By-Laws at their meeting on March 21, 2022.

Thank you,

Amy Clous

Amy Clous
Parks and Recreation Director

BURTON PARKS AND RECREATION COMMISSION BYLAWS

1. **PURPOSE OF THE COMMISSION:**
   The purpose in establishing a Burton Parks and Recreation Commission is to better serve the community of Burton, Michigan. Service to the community shall be accomplished not only through the combined resources, planning and coordination of our existing parks and school recreational facilities, but also by establishing or improving recreational facilities and programs according to the needs of the community. The Commission shall establish policies, procedures and rules for parks, programs and events. The Commission will strive to provide citizens a higher quality of life through our parks and recreational system.

2. **PURPOSE OF THE DIRECTOR:**
   The Director is appointed by the Mayor for the Parks and Recreation Department. The Director will be the Administrative liaison between the Commission and the City Departments. The Director will develop, conduct, supervise, and maintain recreational programs, activities and facilities on properties designated for that purpose. The Director shall establish an Annual departmental budget that is presented to the Mayor. The Director shall keep the Commission informed of budget, events, programs, parks, maintenance, new projects and capital improvements. The Director will provide a financial report with updated incomes and expenses quarterly. The Director shall annually develop a Calendar of events and programs to be presented to the Commission each December. The Director shall manage/oversee other contract employees or volunteers, working for the Parks and Recreation Department.

3. **PARLIMENTARY PROCEDURE:**
   The rules of parliamentary procedure comprised in "Roberts Rules of Order" shall govern in all cases in which they are not inconsistent with the standing rules and orders of the Commission, or any existing law of the State of Michigan. Agendas are to drawn up and submitted to the Commission by Monday prior to the scheduled Wednesday meetings.

4. **AMENDING BYLAWS:**
   Any changes in the bylaws, will be recommended to the Commission for approval. The Commission may recommend the bylaws be altered, amended, added to, or repealed, in whole or in part, by a quorum vote, at a regular or special meeting. Bylaws shall be reviewed every three years.

5. **APPOINTMENTS AND TERMS:**
   The Commission shall consist of (9) nine members with (1) one member being appointed from City Council and (5) five members coming from the general populace of the city, in accordance with City Ordinances and three (3) members (1) one each coming from the School board Atherton, Bendle, and Bentley school districts.

   Each member shall be appointed for a (3) three-year term. Members may be reappointed for continuing terms as to the pleasure of the Mayor, or the respective governing bodies. The Mayor will appoint members to the Commission with staggered terms.

   In the event that a School Board Member is not available to sit on Parks and Recreation Commission, the school may recommend for appointment by the Mayor another member from the school with interest, such as a member of the faculty.

   Members may be removed, by the Commission before their term expires, with just cause, and a quorum vote by the Commission. Vacancies for the (5) five Community at large members shall be filled by the Mayor. Their governing bodies will reassign vacancies for the City Council seat, or School Board members. Council President will appoint the Council representative. Each school board will appoint their respective representative.

6. OFFICERS:

The Parks and Recreation Commission shall elect a Chairperson, and Vice Chairperson of who shall serve for one year, with a new vote to be taken in January of each year, or when the position(s) are vacant. The Chairperson shall preside at the meetings of the Commission and shall have a vote upon all resolutions. He/She will work with the Director to establish agendas for each meeting. **Agenda items will be submitted to the Clerk's Office the Thursday prior to a meeting.** The Vice-Chairperson will fulfill the duties of the Chairperson upon his/her absence resignation or death, until a new vote can be taken.

7. SECRETARIAL DUTIES:

The Secretaries duties will be the responsibility of the personnel directed by the Clerk's Office, with copies of all meeting minutes kept at City Hall. It is the responsibility of the Clerk's Office to provide Secretarial duties for all meetings of the Commission. All agendas and minutes of the previous meetings must be made available to the members by Monday ~~of~~ **prior to** the next meeting. It is the job of the Director, or his/her designate to telephone members of any special meetings.

8. MEETINGS:

The Parks and Recreation Commission shall meet once a month, unless cancelled by the Parks and Recreation Commission Chairperson, ~~or~~ **a** quorum vote by the Commission **or the Director with the consent of the Chair or Vice Chair in the absence if the Chairperson**. Additional meetings shall be called at the request of the Director, Chairperson, or any (3) three Commission members. Notice of all unscheduled meetings must be made by telephone to Commission members, and posted for the Burton community, (48) forty-eight hours prior.

9. ABSENTEEISM:

Attendance at meetings is strongly encouraged for all members. If a member cannot attend a meeting, that member shall notify the Director or Chairperson at least (48) forty-eight hours prior to the start of the meeting in question, unless it is an emergency. If a member misses (3) three consecutive meetings without informing the Director, or Chairperson, the Commission can relieve that member with a majority vote of the Commission. Any member with more than (6) six absents throughout the calendar year, can be removed with a majority vote of the commission.

10. QUORUM:

Five (5) Commission members shall constitute a quorum for the transaction of business, passage of resolutions or any action of the Commission.

11. DUTIES OF THE COMMISSION:

The Commission members shall stay abreast of the recreational needs of their community, by bringing concerns and those needs back to the members of the Commission and Director. Members should be involved, as much as possible, in fundraisers, park openings, and organized community programs put on by the Parks Department.

The Commission shall set goals and review with the director these goals as well as the (5) Five-year plan a minimum of once a year. They shall work with the Director on proposed budget of funds required for the operation, maintenance and improvements of the recreation system. The Commission using the voting process shall authorize unbudgeted funds for new projects or programs.

The Chairperson and Director shall annually make a full and complete report to the Mayor in December of each year, to announce the Parks and Recreation Commission's goals and projects planned for the following year, including updates of that years completed projects or continuing projects. From time to time the Commission, through the Chairperson, shall make such additional reports as may be requested by the Mayor. The City Council member on the Commission shall update the Council, at City Council meetings, of current projects and programs.

The Parks and Recreation Commission and Director are authorized to explore agreements with the Cities Boards of Education, groups, or other City Recreational Facilities private or public, to exchange use of facilities, services or other arrangements of mutual advantage in the conduct of a recreational program. All agreements must be with acknowledgement of the Mayor and may require City Council approval.

All Gifts, grants, and bequests shall be directed to the Parks & Recreation Director. The Director shall have the duty to notify the Commission of any gifts, grants, or bequests made. The Parks & Recreation Commission reserves the right to specify the manner in which gifts are made; to define the type of gift, grant, or bequest which it considers appropriate; and to reject those which it deems inappropriate or unsuitable. If accepted, the Commission will attempt to carry out the wishes of the donor.

Gifts, grants, and bequests shall become the property of the Commission and will be subject to use by the City as determined by the policies applying to all properties, equipment, materials, and funds owned by the City.

Any equipment purchased or donated by an outside individual or organization for use for a City-related event shall be reviewed to determine if the City would incur any liability by its use.

The Commission reserves the right to not accept such liability and thus deny the use of the equipment.

12. PUBLIC HEARINGS:

Anyone in attendance at the Parks and Recreation Commission public hearing is encouraged to present their ideas and share their concerns with Commission. For reasons of fairness and expedition, each attendee shall be allowed to speak only once unless invited to provide additional input by the Chairperson. A (3) three-minute time limit shall be placed on each person speaking. Audience participation will only be allowed with respect to the order of agenda.

13. VOTING:

In some instances, Commission members may be faced with a conflict of interest issue. In order to ensure fairness, ~~a member faced with a perceived~~ **this** conflict of interest shall **be stated** ~~this~~ to the Commission. The Commission shall determine if it is a conflict of interest by a majority vote of the members present. A member determined to have a conflict of interest shall abstain from all voting of that issue.

14. STIPEND

Commission members shall be paid a stipend of $50.00 per month provided they attend either a Park & Recreation meeting, a sub-committee meeting or event within the calendar month. Commission Chairpersons will receive an ~~addition~~ **additional** $10.00 per month. At no time, unless changed by the City Council shall a Commissioner's pay exceed $50.00 for commission members and $60.00 for the Commission Chairperson in one-month timeframe.

Amended by Parks & Recreation 2/9/2022
Presented to Council
Effective Date

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

Meeting: 03/21/22 07:00 PM
Department: Department of Public Works
Category: Resolution
Prepared By: Amber Abbey
Department Head: Charles Abbey

L.3

ADOPTED

AGENDA ITEM (ID # 5310)

DOC ID: 5310

Approve and authorize the Mayor and Clerk to sign a Resolution 2022-6 for the adoption of the Genesee County Hazard Mitigation Plan Update.

ATTACHMENTS:

- Haz Mit Plan Adoption Resolution - Genesee County Local Units (DOCX)
- MEMO Genesee County Haz Mit Plan Local Units Adoption (PDF)
- Genesee County BoC Haz Mit Plan Resolution (PDF)

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

A Resolution
for the Adoption of the Genesee County Hazard Mitigation Plan Update

WHEREAS, **The City of Burton**, Michigan is vulnerable to a wide range of natural, technological, and human-related hazards, and has experienced repetitive disasters that have caused loss of life, damaged commercial, residential and public properties, displaced citizens and businesses, closed streets and presented general public health and safety concerns; and

WHEREAS, Genesee County has prepared a *Genesee County Hazard Mitigation Plan Update* that provides an understanding of those threats, identifies the hazards affecting the area, discusses the County's vulnerability to the identified hazards, and outlines the community's options and strategies to reduce overall damage and impact from natural and technological hazards; and

WHEREAS, the *Genesee County Hazard Mitigation Plan Update* represents the interests and needs of **the City of Burton**;

NOW, THEREFORE, BE IT RESOLVED: that the *Genesee County Hazard Mitigation Plan Update* is hereby adopted as an official plan of **The City of Burton;**

Passed the ______ day of ______________, 2022

By the ____

Authorized Signature: ______________________________________

Title: ____

GENESEE ■ COUNTY
METROPOLITAN PLANNING COMMISSION

MEMORANDUM

TO: Genesee County Local Units of Government

FROM: Derek Bradshaw, Director
Genesee County Metropolitan Planning Commission

Jeff Wilson, Emergency Manager
Office of Genesee County Sheriff
Emergency Management and Homeland Security Division

DATE: February 18, 2022

SUBJECT: **Adoption of Genesee County Hazard Mitigation Plan Update**

Genesee County Metropolitan Planning Commission (GCMPC) staff, in coordination with the Genesee County Sheriff's Emergency Management and Homeland Security Division, has completed an update to the Genesee County Hazard Mitigation Plan. The Plan Update has now met the Federal Emergency Management Agency's (FEMA) required criteria for a multi-jurisdictional Hazard Mitigation Plan and has been conditionally approved by FEMA. Formal approval by FEMA is now contingent upon the adoption of the Plan Update by the County and local units of government. Once FEMA receives documentation of adoption from the County and local units of government, FEMA will send a letter of formal approval for the Plan Update. Local units who adopt the Plan Update will be eligible to apply for hazard mitigation funding and implement hazard mitigation projects within their community in the future. Those who do not adopt the Plan Update will not be eligible.

The Genesee County Board of Commissioners adopted the Genesee County Hazard Mitigation Plan Update at their February 16, 2022, meeting; the signed Board of Commissioners resolution is attached for reference. The next step is for all Genesee County local units of government to adopt the Plan Update so they will be eligible to apply for hazard mitigation funds. Please find the attached sample resolution that you can use for the adoption of the Plan Update. Staff is requesting that you adopt the Plan Update before April 15, 2022. Once you have adopted the Plan Update, please send a copy of the resolution by email to croblyer@geneseecountymi.gov or by mail to 1101 Beach Street, Room 111, Flint, MI 48502.

A copy of the Plan Update can be accessed by clicking on the following web link: Genesee County Hazard Mitigation Plan.

If you need additional information, or have any questions or comments, please feel free to contact Cody Roblyer, Lead Planner, at (810) 766-6570. Thank you for your prompt attention to this important matter.

RES-2022-94

A Resolution
for the Adoption of the Genesee County Hazard Mitigation Plan Update

WHEREAS, Genesee County, Michigan is vulnerable to a wide range of natural, technological, and human-related hazards, and has experienced repetitive disasters that have caused loss of life, damaged commercial, residential, and public properties, displaced citizens and businesses, closed streets and presented general public health and safety concerns; and

WHEREAS, Genesee County has prepared a *Genesee County Hazard Mitigation Plan Update* that provides an understanding of those threats, identifies the hazards affecting the area, discusses the County's vulnerability to the identified hazards, and outlines the community's options and strategies to reduce overall damage and impact from natural and technological hazards; and

WHEREAS, the *Genesee County Hazard Mitigation Plan Update* represents the interests and needs of Genesee County.

NOW, THEREFORE, BE IT RESOLVED: that the Board of Commissioners of Genesee County, Michigan, hereby adopts the *Genesee County Hazard Mitigation Plan Update* as an official plan of Genesee County.

Passed the 16th day of February, 2022

By the Genesee County Board of Commissioners Authorized Signature

Approve and authorize the Mayor and City Clerk to execute a Contract with the Michigan Department of Transportation for hot mix asphalt cold mill and resurfacing East Maple Road from Fenton Road to Saginaw Street and including joint and crack repairs, storm sewer, concrete curb and gutter, sidewalk and ramps signing and pavement markings; and all together with necessary related work in the City of Burton, Genesee County (DPW project No. 20-011-P), MDOT Control Section STU 25000, Job number 207656CON and 207657CON, MDOT Contract Number 22-5047 at an estimated total cost of $1,633,315, of which the City of Burton's final cost will be approximately $330,663.00. and to authorize Amber Abbey, Street Administrator / Deputy DPW Director to digitally sign said contract on behalf of the City of Burton.

ATTACHMENTS:

- 207656 207657_22-5047 (PDF)
- Resolution to approve MDOT ContractCON (DOCX)

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

STP DA

Control Section	STU 25000
Job Number	207656CON; 207657CON
Project	22A0275; 22A0272
CFDA No.	20.205 (Highway Research Planning & Construction)
Contract No.	22-5047

PART I

THIS CONTRACT, consisting of PART I and PART II (Standard Agreement Provisions), is made by and between the MICHIGAN DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "DEPARTMENT"; and the CITY OF BURTON, a Michigan municipal corporation, hereinafter referred to as the "REQUESTING PARTY"; for the purpose of fixing the rights and obligations of the parties in agreeing to the following improvements, in Burton, Michigan, hereinafter referred to as the "PROJECT" and estimated in detail on EXHIBIT "I", dated February 24, 2022, attached hereto and made a part hereof:

PART A – STU 25000; 207656CON; 22A0275 – FEDERAL PARTICIPATION
Hot mix asphalt cold milling and resurfacing along East Maple Avenue from Fenton Road to Sandalwood Drive, including joint and crack repairs, concrete curb and gutter repair, guardrail, permanent signing and pavement markings; and all together with necessary related work.

PART B – STU 25000; 207656CON; 22A0275 – NO FEDERAL PARTICIPATION
Audio video route survey along the limits as described in PART A; and all together with necessary related work.

PART C – STU 25000; 207657CON; 22A0272 – FEDERAL PARTICIPATION
Hot mix asphalt cold milling and resurfacing along East Maple Avenue from Sandalwood Drive to Saginaw Street, including joint and crack repairs, concrete curb and gutter repair, permanent signing and pavement markings; and all together with necessary related work.

PART D – STU 25000; 207657CON; 22A0272 – NO FEDERAL PARTICIPATION
Audio video route survey along the limits as described in PART C; and all together with necessary related work.

WITNESSETH:

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

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

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

SURFACE TRANSPORTATION PROGRAM

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

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

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

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

Costs for construction engineering, construction materials testing, and inspection as may be incurred by the DEPARTMENT and the REQUESTING PARTY, including any other costs incurred by the DEPARTMENT as a result of this contract, will be at PROJECT COST. Costs for construction engineering, construction materials testing, and inspection incurred by the REQUESTING PARTY for the PROJECT shall be limited to the lesser of: (1) 100 percent of the actual costs for construction engineering, construction materials testing, and inspection, or (2) $90,630 for PART A and $51,085 for PART C.

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

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

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

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

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

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

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

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

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

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

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

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

PART A

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

PART B

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

PART C

Federal Surface Transportation Funds shall be applied to the eligible items of the PART C portion of the PROJECT COST at the established Federal participation ratio equal to 80 percent. The balance of the PART C portion of the PROJECT COST, after deduction of Federal Funds, shall be charged to and paid by the REQUESTING PARTY in the manner and at the times hereinafter set forth.

PART D

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

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

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

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

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

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

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

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

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

10. If, subsequent to execution of this contract, previously unknown hazardous substances are discovered within the PROJECT limits, which require environmental remediation pursuant to either state or federal law, the REQUESTING PARTY, in addition to reporting that fact to the Michigan Department of Environment, Great Lakes, and Energy, shall immediately notify the DEPARTMENT, both orally and in writing of such discovery. The DEPARTMENT shall consult with the REQUESTING PARTY to determine if it is willing to pay for the cost of remediation and, with the FHWA, to determine the eligibility, for reimbursement, of the remediation costs. The REQUESTING PARTY shall be charged for and shall pay all costs associated with such remediation, including all delay costs of the contractor for the PROJECT, in the event that remediation and delay costs are not deemed eligible by the FHWA. If the REQUESTING PARTY refuses to participate in the cost of remediation, the DEPARTMENT shall terminate the PROJECT. The parties agree that any costs or damages that the DEPARTMENT incurs as a result of such termination shall be considered a PROJECT COST.

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

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

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

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

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

Upon completion of the PROJECT, the REQUESTING PARTY shall accept the facilities constructed as built to specifications within the contract documents. It is understood that the REQUESTING PARTY shall own the facilities and shall operate and maintain the facilities in accordance with applicable law.

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

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

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

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

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

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

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

B. Provide owner's protective liability insurance naming as insureds the State of Michigan, the Michigan State Transportation Commission, the DEPARTMENT and its officials, agents and employees, the REQUESTING PARTY and any other county, county road commission, or municipality in whose jurisdiction the PROJECT is located, and their employees, for the duration of the PROJECT and to provide, upon request, copies of certificates of insurance to the insureds. It is understood that the DEPARTMENT does not assume jurisdiction of the highway described as the PROJECT as a result of being named as an insured on the owner's protective liability insurance policy.

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

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

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

CITY OF BURTON	MICHIGAN DEPARTMENT OF TRANSPORTATION
By______________________________ Title:	By______________________________ Department Director MDOT
By______________________________ Title:	

REVIEWED
By Larry Doyle at 9:23 am, 3/4/22

February 24, 2022

EXHIBIT I

CONTROL SECTION	STU 25000
JOB NUMBER	207656CON; 207657CON
PROJECT	22A0275; 22A0272

ESTIMATED COST

CONTRACTED WORK

	PART A	PART B	PART C	PART D	TOTAL
Estimated Cost	$ 939,400	$ 2,500	$547,200	$ 2,500	$1,491,600
CONSTRUCTION ENGINEERING, CONSTRUCTION MATERIALS TESTING & INSPECTION	$ 90,630	$ 0	$ 51,085	$ 0	$ 141,715
GRAND TOTAL	$1,030,030	$ 2,500	$598,285	$ 2,500	$1,633,315

COST PARTICIPATION

GRAND TOTAL ESTIMATED COST	$1,030,030	$ 2,500	$598,285	$ 2,500	$1,633,315
Less Federal Funds	$ 824,024	$ 0	$478,628	$ 0	$1,302,652
BALANCE (REQUESTING PARTY'S SHARE)	$ 206,006	$ 2,500	$119,657	$ 2,500	$ 330,663

NO DEPOSIT

09/06/90 STP.FOR 2/24/22

PART II

STANDARD AGREEMENT PROVISIONS

SECTION I

COMPLIANCE WITH REGULATIONS AND DIRECTIVES

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

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

1. Engineering

   a. FAPG (6012.1): Preliminary Engineering

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

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

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

2. Construction

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

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

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

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

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

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

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

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

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

3. Modification Or Construction Of Railroad Facilities

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

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

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

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

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

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

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

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

SECTION II

PROJECT ADMINISTRATION AND SUPERVISION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION III

ACCOUNTING AND BILLING

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

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

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

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

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

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

   Within sixty (60) days after the date of the Notice of Audit Results, the REQUESTING PARTY shall: (a) respond in writing to the responsible Bureau or the DEPARTMENT indicating whether or not it concurs with the audit report, (b) clearly explain the nature and basis for any disagreement as to a disallowed item of expense and, (c) submit to the DEPARTMENT a written explanation as to any questioned or no opinion expressed item of expense, hereinafter referred to as the "RESPONSE". The RESPONSE shall be clearly stated and provide any supporting documentation necessary to resolve any disagreement or questioned or no opinion expressed item of expense. Where the documentation is voluminous, the REQUESTING PARTY may supply appropriate excerpts and make alternate arrangements to conveniently and reasonably make that documentation available for review by the DEPARTMENT. The RESPONSE shall refer to and apply the language of the contract. The REQUESTING PARTY agrees that failure to submit a RESPONSE within the sixty (60) day period constitutes agreement with any disallowance of an item of expense and authorizes the DEPARTMENT to finally disallow any items of questioned or no opinion expressed cost.

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

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

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

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

The agency shall submit two copies of:

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

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

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

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

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

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

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

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

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

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

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

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

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

B. Payment of Contracted and DEPARTMENT Costs:

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

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

C. General Conditions:

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

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

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

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

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

SECTION IV

MAINTENANCE AND OPERATION

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

1. All Projects:

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

2. Projects Financed in Part with Federal Monies:

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

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

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

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

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

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

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

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

SECTION V

SPECIAL PROGRAM AND PROJECT CONDITIONS

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

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

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

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

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

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. 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

TO BE INCLUDED IN ALL FINANCIAL ASSISTANCE AGREEMENTS WITH LOCAL AGENCIES

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

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

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

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

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

RESOLUTION 2022-7
CITY OF BURTON
GENESEE COUNTY MICHIGAN

RESOLUTION

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

________________ moved and _______________ seconded the following:

Approve and authorize the Mayor and City Clerk to execute a Contract with the Michigan Department of Transportation for hot mix asphalt cold mill and resurfacing East Maple Road from Fenton Road to Saginaw Street and including joint and crack repairs, storm sewer, concrete curb and gutter, sidewalk and ramps signing and pavement markings; and all together with necessary related work in the City of Burton, Genesee County (DPW project No. 20-011-P), MDOT Control Section STU 25000, Job number 207656CON and 207657CON, MDOT Contract Number 22-5047 at an estimated total cost of $1,633,315, of which the City of Burton's final cost will be approximately $330,663.00. and to authorize Amber Abbey, Street Administrator / Deputy DPW Director to digitally sign said contract on behalf of the City of Burton.

CERTIFICATION

I, Racheal Boggs, City Clerk of Burton, do certify that the above Resolution was duly adopted in conformance with Act 267 Public Acts of Michigan, 1976, at a Regular Council Meeting of the City of Burton Council held at Burton City Hall, March 21, 2022 by the following vote:

Ayes:
Nays:
Absent:

THIS RESOLUTION IS DECLARED ADOPTED

Dated: ___________

____
Racheal Boggs, City Clerk

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

Attachment: Resolution to approve MDOT ContractCON (5311 : MDOT Contract for Maple Ave - construction)

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

ADOPTED

Meeting: 03/21/22 07:00 PM
Department: Department of Public Works
Category: Contract
Prepared By: Amber Abbey
Department Head: Charles Abbey

AGENDA ITEM (ID # 5312)

DOC ID: 5312

Approve and authorize the Mayor and City Clerk to execute a Contract with the Michigan Department of Transportation for hot mix asphalt cold mill and resurfacing North Belsay Road from Davison Road to Potter road and including joint and crack repairs, storm sewer, concrete curb and gutter, sidewalk and ramps signing and pavement markings; and all together with necessary related work in the City of Burton, Genesee County (DPW project No. 20-012-P), MDOT Control Section STU 25000, Job number 207655CON, MDOT Contract Number 22-5043 at an estimated total cost of $483,917, of which the City of Burton's final cost will be approximately $96,784.00. and to authorize Amber Abbey, Street Administrator / Deputy DPW Director to digitally sign said contract on behalf of the City of Burton.

COMMENTS - Current Meeting:

Mr. Martinbianco asked, where are we putting the curb, gutter and sidewalks? I didn't see a plan.

Mr. Abbey stated there may or may not be any. This is standard language that is required in the project.

Mr. Martinbianco stated we just spent some money to improve the bridge over Kearsley Creek in that area. If there is to be curb and gutter, that is probably where it is coming from. I am concerned about the sidewalks, they are a pricey addition. If I understand correctly, if it is later decided that sidewalks are not necessary or wanted, they can be taken out of the project cost later.

Mr. Abbey stated this is just to replace anything existing, if necessary. This is just standard language.

ATTACHMENTS:

- 207655_22-5043 (PDF)
- Resolution to approve MDOT Contract CON (DOCX)

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

STP DA

Control Section	STU 25000
Job Number	207655CON
Project	22A0282
CFDA No.	20.205 (Highway Research Planning & Construction)
Contract No.	22-5043

PART I

THIS CONTRACT, consisting of PART I and PART II (Standard Agreement Provisions), is made by and between the MICHIGAN DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "DEPARTMENT"; and the CITY OF BURTON, a Michigan municipal corporation, hereinafter referred to as the "REQUESTING PARTY"; for the purpose of fixing the rights and obligations of the parties in agreeing to the following improvements, in Burton, Michigan, hereinafter referred to as the "PROJECT" and estimated in detail on EXHIBIT "I", dated February 18, 2022, attached hereto and made a part hereof:

Hot mix asphalt cold milling and resurfacing, joint and crack repairs, permanent signing and pavement markings along North Belsay Road from Davison Road to Potter Road; and all together with necessary related work.

WITNESSETH:

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

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

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

SURFACE TRANSPORTATION PROGRAM

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

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

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

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

Costs for construction engineering, construction materials testing, and inspection as may be incurred by the DEPARTMENT and the REQUESTING PARTY, including any other costs incurred by the DEPARTMENT as a result of this contract, will be at PROJECT COST. Costs for construction engineering, construction materials testing, and inspection incurred by the REQUESTING PARTY for the PROJECT shall be limited to the lesser of: (1) 100 percent of the actual costs for construction engineering, construction materials testing, and inspection, or (2) $56,374.

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

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

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

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

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

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

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

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

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

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

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

5. The PROJECT COST shall be met in part by contributions by the Federal Government. Federal Surface Transportation Funds shall be applied to the eligible items of the PROJECT COST at the established Federal participation ratio equal to 80 percent. The balance of the PROJECT COST, after deduction of Federal Funds, shall be charged to and paid by the REQUESTING PARTY in the manner and at the times hereinafter set forth.

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

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

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

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

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

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

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

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

10. If, subsequent to execution of this contract, previously unknown hazardous substances are discovered within the PROJECT limits, which require environmental remediation pursuant to either state or federal law, the REQUESTING PARTY, in addition to reporting that fact to the Michigan Department of Environment, Great Lakes, and Energy, shall immediately notify the DEPARTMENT, both orally and in writing of such discovery. The DEPARTMENT shall consult with the REQUESTING PARTY to determine if it is willing to pay for the cost of remediation and, with the FHWA, to determine the eligibility, for reimbursement, of the remediation costs. The REQUESTING PARTY shall be charged for and shall pay all costs associated with such remediation, including all delay costs of the contractor for the PROJECT, in the event that remediation and delay costs are not deemed eligible by the FHWA. If the REQUESTING PARTY refuses to participate in the cost of remediation, the DEPARTMENT shall terminate the PROJECT. The parties agree that any costs or damages that the DEPARTMENT incurs as a result of such termination shall be considered a PROJECT COST.

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

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

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

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

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

Upon completion of the PROJECT, the REQUESTING PARTY shall accept the facilities constructed as built to specifications within the contract documents. It is understood that the REQUESTING PARTY shall own the facilities and shall operate and maintain the facilities in accordance with applicable law.

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

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

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

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

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

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

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

B. Provide owner's protective liability insurance naming as insureds the State of Michigan, the Michigan State Transportation Commission, the DEPARTMENT and its officials, agents and employees, the REQUESTING PARTY and any other county, county road commission, or municipality in whose jurisdiction the PROJECT is located, and their employees, for the duration of the PROJECT and to provide, upon request, copies of certificates of insurance to the insureds. It is understood that the DEPARTMENT does not assume jurisdiction of the highway described as the PROJECT as a result of being named as an insured on the owner's protective liability insurance policy.

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

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

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

CITY OF BURTON	MICHIGAN DEPARTMENT OF TRANSPORTATION
By_____________________________	By_____________________________
Title:	Department Director MDOT
By_____________________________	
Title:	REVIEWED By Larry Doyle at 1:35 pm, 3/2/22

February 18, 2022

EXHIBIT I

CONTROL SECTION	STU 25000
JOB NUMBER	207655CON
PROJECT	22A0282

ESTIMATED COST

CONTRACTED WORK	
Estimated Cost	$427,543
CONSTRUCTION ENGINEERING, CONSTRUCTION MATERIALS TESTING, & INSPECTION	$ 56,374
GRAND TOTAL	$483,917

COST PARTICIPATION

GRAND TOTAL ESTIMATED COST	$483,917
Less Federal Funds	$387,133
BALANCE (REQUESTING PARTY'S SHARE)	$ 96,784

NO DEPOSIT

PART II

STANDARD AGREEMENT PROVISIONS

SECTION I

COMPLIANCE WITH REGULATIONS AND DIRECTIVES

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

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

1. Engineering

   a. FAPG (6012.1): Preliminary Engineering

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

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

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

2. Construction

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

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

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

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

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

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

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

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

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

3. Modification Or Construction Of Railroad Facilities

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

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

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

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

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

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

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

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

SECTION II

PROJECT ADMINISTRATION AND SUPERVISION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION III

ACCOUNTING AND BILLING

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

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

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

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

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

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

   Within sixty (60) days after the date of the Notice of Audit Results, the REQUESTING PARTY shall: (a) respond in writing to the responsible Bureau or the DEPARTMENT indicating whether or not it concurs with the audit report, (b) clearly explain the nature and basis for any disagreement as to a disallowed item of expense and, (c) submit to the DEPARTMENT a written explanation as to any questioned or no opinion expressed item of expense, hereinafter referred to as the "RESPONSE". The RESPONSE shall be clearly stated and provide any supporting documentation necessary to resolve any disagreement or questioned or no opinion expressed item of expense. Where the documentation is voluminous, the REQUESTING PARTY may supply appropriate excerpts and make alternate arrangements to conveniently and reasonably make that documentation available for review by the DEPARTMENT. The RESPONSE shall refer to and apply the language of the contract. The REQUESTING PARTY agrees that failure to submit a RESPONSE within the sixty (60) day period constitutes agreement with any disallowance of an item of expense and authorizes the DEPARTMENT to finally disallow any items of questioned or no opinion expressed cost.

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

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

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

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

The agency shall submit two copies of:

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

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

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

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

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

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

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

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

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

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

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

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

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

B. Payment of Contracted and DEPARTMENT Costs:

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

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

C. General Conditions:

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

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

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

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

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

SECTION IV

MAINTENANCE AND OPERATION

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

1. All Projects:

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

2. Projects Financed in Part with Federal Monies:

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

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

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

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

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

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

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

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

SECTION V

SPECIAL PROGRAM AND PROJECT CONDITIONS

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

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

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

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

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

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.

<u>Revised June 2011</u>

APPENDIX B
TITLE VI ASSURANCE

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

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

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

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

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

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

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

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

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

TO BE INCLUDED IN ALL FINANCIAL ASSISTANCE AGREEMENTS WITH LOCAL AGENCIES

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

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

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

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

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

RESOLUTION 2022-8
CITY OF BURTON
GENESEE COUNTY MICHIGAN

RESOLUTION

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

_________________ moved and ________________ seconded the following:

Approve and authorize the Mayor and City Clerk to execute a Contract with the Michigan Department of Transportation for hot mix asphalt cold mill and resurfacing North Belsay Road from Davison Road to Potter road and including joint and crack repairs, storm sewer, concrete curb and gutter, sidewalk and ramps signing and pavement markings; and all together with necessary related work in the City of Burton, Genesee County (DPW project No. 20-012-P), MDOT Control Section STU 25000, Job number 207655CON, MDOT Contract Number 22-5043 at an estimated total cost of $483,917, of which the City of Burton's final cost will be approximately $96,784.00. and to authorize Amber Abbey, Street Administrator / Deputy DPW Director to digitally sign said contract on behalf of the City of Burton.

CERTIFICATION

I, Racheal Boggs, City Clerk of Burton, do certify that the above Resolution was duly adopted in conformance with Act 267 Public Acts of Michigan, 1976, at a Regular Council Meeting of the City of Burton Council held at Burton City Hall, March 21, 2022 by the following vote:

Ayes:
Nays:
Absent:

THIS RESOLUTION IS DECLARED ADOPTED

Dated: ___________

____
Racheal Boggs, City Clerk

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

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

ADOPTED

Meeting: 03/21/22 07:00 PM
Department: Department of Public Works
Category: Contract
Prepared By: Amber Abbey
Department Head: Charles Abbey

AGENDA ITEM (ID # 5313)

DOC ID: 5313

Approve and authorize the Mayor and City Clerk to execute a Contract with the Michigan Department of Transportation for performance of preliminary engineering activities for the roadway rehabilitation work along North Genesee Road from Court Street to Davison Road; and all together with necessary related work in the City of Burton, Genesee County (DPW project No. 21-023-P) MDOT Control Section STU 25000, Michigan Department of Transportation Contract 22-5096 for Job Number 207652PE at an estimated total cost of $82,300, of which the City of Burton's final cost will be approximately $16,460.00. and to authorize Amber Abbey, Street Administrator / Deputy DPW Director to digitally sign said contract on behalf of the City of Burton.

ATTACHMENTS:

- 207652_22-5096 (PDF)
- Resolution to approve MDOT Contract PE (DOCX)

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

STP		DIR	
PRELIMINARY ENGINEERING		Control Section	STU 25000
MODIFIED PART II		Job Number	207652PE
		Project	22A0360
		CFDA No.	20.205 (Highway Research Planning & Construction)
		Contract No.	22-5096

PART I

THIS CONTRACT, consisting of PART I and PART II (Modified Standard Agreement Provisions), is made by and between the MICHIGAN DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "DEPARTMENT"; and the CITY OF BURTON, a Michigan municipal corporation, hereinafter referred to as the "REQUESTING PARTY"; for the purpose of fixing the rights and obligations of the parties in agreeing to the performance by the REQUESTING PARTY of preliminary engineering, consisting of the preparation of reports and studies, as well as the surveys and design, necessary for the construction of the following improvements in Burton, Michigan, which preliminary engineering is hereinafter referred to as the "PROJECT":

> The performance of preliminary engineering activities for road rehabilitation along North Genesee Road from Court Street to Davison Road; and all together with necessary related work.

WITNESSETH:

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

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

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

SURFACE TRANSPORTATION PROGRAM

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

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

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

Pursuant to Title 2 of the Code of Federal Regulations Part 200, a description of the federal award for the project is shown in detail on EXHIBIT "I", dated February 24, 2022, and made a part of this document.

2. The term "PROJECT COST", as herein used, is hereby defined as all the costs necessary for the performance of the PROJECT work, including the costs of design, design surveys, final construction plans and specifications, and any costs incurred by the DEPARTMENT as a result of this contract.

3. The REQUESTING PARTY will perform or cause to be performed all the PROJECT work. A separate work authorization will be issued to the REQUESTING PARTY by the DEPARTMENT for the commencement of the PROJECT work. The method of performing the work will be indicated on the work authorization.

4. The PROJECT COST shall be met in part by contributions by the Federal Government. Federal Surface Transportation Funds shall be applied to the eligible items of the PROJECT COST at the established Federal participation ratio equal to 80 percent. The balance of the PROJECT COST, after deduction of Federal Funds, shall be paid by the REQUESTING PARTY. The PROJECT COST and the cost participation are estimated to be as follows:

ESTIMATED COST	FEDERAL AID	REQUESTING PARTY'S SHARE
$82,300	$65,840	$16,460

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

5. The construction of the improvements for which the PROJECT work is being performed and the construction engineering work related thereto will be covered by a separate contract.

6. A working capital deposit is not required for the PROJECT.

7. The contracting parties do hereby agree to be bound by all of the provisions and conditions set forth in PART II hereof which are applicable to the PROJECT.

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

8. The DEPARTMENT'S sole reason for entering into this contract is to enable the REQUESTING PARTY to obtain and use funds provided by the state and/or the FHWA.

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

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

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

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

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

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

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

CITY OF BURTON

By_____________________________
Title:

By_____________________________
Title:

MICHIGAN DEPARTMENT
OF TRANSPORTATION

By_____________________________
Department Director MDOT

February 24, 2022

EXHIBIT I

Notification of Required Federal Program Information to Subrecipients for Federal Funding

Does this project receive Federal funds? ☒ Yes ☐ No

Subrecipient's Name: Burton

Subrecipient's Data Universal Numbering System Number (DUNS): 84294339

Federal Grant/Project Number(s): 22A0360

MDOT Project Number: 207652PE

Project Description: The performance of preliminary engineering activities for road rehabilitation along North Genesee Road from Court Street to Davison Road.

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

Federal Award Identification Number(s) (FAIN): 693JJ22230000Y230MI22A0360

Federal Award Date: February 16, 2022

Period of Performance Start Date: February 16, 2022

Period of Performance End Date: September 30, 2022

Amount of Federal Funds obligated by this action: $65,840

Total amount of Federal Funds obligated: $65,840

Total amount of the Federal award: $82,300

Budget Approved Cost sharing or matching, where applicable:
Federal Participation: $65,840; Local Participation: $16,460

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

Director Paul C. Ajegba
Michigan Department of Transportation
425 West Ottawa Street
Lansing, MI 48909

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

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

DOT

BUREAU OF HIGHWAYS
NON CONSTRUCTION
03-15-93

PART II
MODIFIED

STANDARD AGREEMENT PROVISIONS

SECTION I

COMPLIANCE WITH REGULATIONS AND DIRECTIVES

A. All work shall be performed in accordance with the requirements and procedures of the DEPARTMENT.

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

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

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

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

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

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

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

SECTION II

PROJECT ADMINISTRATION AND SUPERVISION

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

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

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

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

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

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

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

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

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

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

H. All work by a consulting firm will be performed in compliance with the applicable provisions of 1980 PA 299, Subsection 201, MCL 339.2001; MSA 18.425(2001), as well as in accordance with the provisions of all previously cited Directives of the FHWA.

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

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

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

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

SECTION III

ACCOUNTING AND BILLING

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

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

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

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

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

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

   Within sixty (60) days after the date of the Notice of Audit Results, the REQUESTING PARTY shall: (a) respond in writing to the responsible Bureau or the DEPARTMENT indicating whether or not it concurs with the audit report, (b) clearly explain the nature and basis for any disagreement as to a disallowed item of expense and, (c) submit to the DEPARTMENT a written explanation as to any questioned or no opinion expressed item of expense, hereinafter referred to as the "RESPONSE". The RESPONSE shall be clearly stated and provide any supporting documentation necessary to resolve any disagreement or questioned or no opinion expressed item of expense. Where the documentation is voluminous, the REQUESTING PARTY may supply appropriate excerpts and make alternate arrangements to conveniently and reasonably make that documentation available for review by the DEPARTMENT. The RESPONSE shall refer to and apply the language of the contract. The REQUESTING PARTY agrees that failure to submit a RESPONSE within the sixty (60) day period constitutes agreement with any disallowance of an item of expense and authorizes the DEPARTMENT to finally disallow any items of questioned or no opinion expressed cost.

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

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

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

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

The agency shall submit two copies of:

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

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

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

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

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

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

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

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

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

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

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

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

B. General Conditions:

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

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

SECTION IV

SPECIAL PROGRAM AND PROJECT CONDITIONS

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

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

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

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

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. **<u>Compliance with Regulations</u>**: 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. **<u>Nondiscrimination</u>**: 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. **<u>Solicitation for Subcontracts, Including Procurements of Materials and Equipment</u>**: 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. **<u>Information and Reports</u>**: 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. **<u>Sanctions for Noncompliance</u>**: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Department shall impose such contract sanctions as it or the USDOT may determine to be appropriate, including, but not limited to, the following:

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

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

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

TO BE INCLUDED IN ALL FINANCIAL ASSISTANCE AGREEMENTS WITH LOCAL AGENCIES

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

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

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

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

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

RESOLUTION 2022-9
CITY OF BURTON
GENESEE COUNTY MICHIGAN

RESOLUTION

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

_________________ moved and ________________ seconded the following:

Approve and authorize the Mayor and City Clerk to execute a Contract with the Michigan Department of Transportation for performance of preliminary engineering activities for the roadway rehabilitation work along North Genesee Road from Court Street to Davison Road; and all together with necessary related work in the City of Burton, Genesee County (DPW project No. 21-023-P) MDOT Control Section STU 25000, Michigan Department of Transportation Contract 22-5096 for Job Number 207652PE at an estimated total cost of $82,300, of which the City of Burton's final cost will be approximately $16,460.00. and to authorize Amber Abbey, Street Administrator / Deputy DPW Director to digitally sign said contract on behalf of the City of Burton.

CERTIFICATION

I, Racheal Boggs, City Clerk of Burton, do certify that the above Resolution was duly adopted in conformance with Act 267 Public Acts of Michigan, 1976, at a Regular Council Meeting of the City of Burton Council held at Burton City Hall, March 21, 2022 by the following vote:

Ayes:
Nays:
Absent:

THIS RESOLUTION IS DECLARED ADOPTED

Dated: ___________

____
Racheal Boggs, City Clerk

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

Approve and Authorize the Mayor and City Clerk to execute a contract with Fleis and VandenBrink Engineering, 9475 Holly Rd. Grand Blanc 48439, for Professional Engineering of Atherton Road Watermain Phase 1 (DPW Project No. 22-001-W), at an estimated cost of $33,500, contingent upon approval of the City Attorney.

COMMENTS - Current Meeting:

Mr. Heffner asked, where is the $35,000 coming from?

Mr. Abbey stated it will have to be a transfer from the water department.

Mr. Smith stated I went through the agreement and it is roughly $500,000. The county is putting through about a third of that which is about $165,000, is that correct? We are looking at about a $365,000 commitment from the city, correct? Is the $35,000 part of that?

Mr. Abbey said, that is correct. The $35,000 is part of it. This is a perfect scenario to use ARPA funds but the council can take it from where they see fit.

Mr. Smith asked for an explanation on the $150,000 figure.

Mr. Abbey stated the estimates were $497,500, the county pays 33% and we pay 66%.

Discussion ensued on the appropriate ways to spend ARPA money.

Mr. Heffner stated this city has been made promises by developers time and time again, big pipe dreams, build it and they will come. We build it and get stuck. If we fund this waterline for this development, is there a way Madam Attorney, that we can put a surety bond on that? Can we give them a number of houses that have to be done in the first phase and if they are not, we take the surety bond? Instead of us getting stuck holding the bag for that huge waterline to nowhere. This waterline is being put in for this development.

Mr. Fenner stated this is not a waterline to nowhere, it is completing a loop and connecting two dead ends in the future.

Mr. Abbey stated this development is what is driving the waterline, but there will also be fire hydrants in that area that we need for fire services. It will also loop the whole corridor in two different areas. More importantly, using your analogy and asking for a surety because you believe no one else benefits from the waterline, the $75 million worth of tax base that comes in, who benefits from that?

Mr. Heffner stated if it comes in. How many millions of dollars did this city lose when we paid for infrastructure for Mallard Ponds and Burton Estates?

Mr. Abbey said, none, in the end. That is not correct. Not when you include the tax base. I have it on a spreadsheet, I can show you. It does take a while to get it back. We never lost any money. When the bottom fell out of the market with those properties, they sat dormant and the council sold them at a discounted rate to a future developer. With the additional tax base, we have more than made that money up, way more.

Mr. Heffner stated it is the action this council took that saved it.

Mr. Abbey stated I am not debating that. We have not lost money.

Mr. Smith stated in 2010, the total amount we owed was $6 million. We basically had to reduce the market value of the properties by about a third. We lost roughly $2 million but in the long term, we have built out all of those properties plus we got Cross Creek for nothing. There is always risk. There are 240 homes here that will be appraised for $200-$250 thousand. That's a pretty good risk. There have been very little homes built since 2008. Analysts are saying that because homes are not being built, there is a home shortfall of four million in the United States. People are looking for homes now and the timing is right for this relative to the $365,000 risk. This is a good risk.

Mr. Heffner said, we are risking the tax payer’s money.

Mr. Smith stated we are trying to grow the tax payer’s money. We are trying to grow our community where the businesses and homes will be worth more. When you bring in this many people, it is good for our residents and our community. This is a good deal and we have the county covering a third of it. It’s worth it. As Councilman Fenner indicated, there is residual value moving that water down the road as well. This is a good move.

Mr. Heffner stated you will have to run water through the whole subdivision if residents want water. This is another cost within a cost. You're talking thousands just to get that going.

Mr. Abbey stated let’s keep in mind what we are doing today. We are approving the $33,500 for the engineering. We have to do this regardless, going forward. You do the preliminary work and then we can see where we are at. We should see a plan in the next 30-45 days. I understand the concern. We all have the same concerns. New money is coming in through new developments. We need that to grow to sustain the services we provide to all residents. You have to have it.

Mr. Heffner stated we have to have some assurances that we aren’t going to stick a bunch of money into a pipeline that’s just going to sit there.

Mr. Hull stated it seems that we are debating $33,000 for a $75 million tax base. Can we call the question?

Mr. Heffner stated we will discuss financing this at a later date.

ATTACHMENTS:

- P17963 Burton - ARPA Atherton WM PE Prop Ltr (PDF)

RESULT:	**CARRIED [6 TO 0]**
MOVER:	Greg Hull, Councilman
SECONDER:	Tom Martinbianco, Vice President
AYES:	Martinbianco, Heffner, Smith, Fenner, Hull, Hickson
AWAY:	Christina Conley

FLEIS&VANDENBRINK
DESIGN. BUILD. OPERATE.

March 14, 2022

Via Email (a.abbey@burtonmi.gov)

Ms. Amber Abbey,
Deputy DPW Director
City of Burton
4303 S. Center Road
Burton, Michigan 48519

RE: Proposal for Design Engineering Services
Atherton Road Water Main Extension (Belsay Road to Tax Parcel 59-25-100-008)

Dear Amber,

It's great to hear of the new residential development proposed in the southeast portion of the City. This is an indication of the demand for continual investment in the community and the desire for the services that the City of Burton has to offer. We thank Pete for meeting with us last week to further discuss the needs and goals of this project to assist us in preparing our proposal.

Project Understanding

The proposed project involves extending water main along Atherton Road from Belsay Road to tax parcel #59-25-100-008, where the new development will access Atherton Road. This will represent Phase 1 of a planned three phase looping project to eventually extend watermain from Belsay Road one-mile east to Vassar Road, and then approximately one-half mile north along Vassar Road to the existing 12-inch dead-end water main near Milano Drive. The future phases of the project will provide public water to Davison Township as well, increasing access to quality drinking water for additional Genesee County residents.

Phase 1 will involve approximately 1,900 feet of water main along Atherton Road. This project has an estimated total cost of approximately $500,000, including engineering and contingency, and will be funded in part by Genesee County ARPA funds.

The proposed water main is anticipated to be 12-inch ductile iron. The City will inquire with their consultant who prepared the latest water system hydraulic model to confirm the recommended pipe size for this extension and future looping. The technical specifications shall generally follow GCDC-WWS requirements. The design will be completed in accordance with EGLE, 10 States, City, and GCDC-WWS standards.

Scope of Services

Our proposed engineering services includes water main design, permitting, and bidding assistance. Our scope of services includes:

- Topographic survey of project area
- Watermain design and plan preparation
- Act 399 permitting and basis of design (with assistance as-needed by city or water model consultant)
- GCDC-WWS approval and permitting
- MISS Dig design ticket and coordination with private utility companies
- Preparation of project technical specifications
- Preparation of engineer's opinion of probable construction costs

9475 Holly Road, Suite 2
Grand Blanc, MI 484
P: 810.743.9120
F: 810.771.7860

- Preparation of Project Manual (bidding documents)
- Submit preliminary and final plans, specs, and estimate to City for review
- Planning and progress meetings with City administration
- Bidding assistance, including submittals to plan rooms, electronic .PDF distribution of bidding documents, maintaining of plan holders list, assistance with contractor inquires, bid tabulation, and recommendation of award.

Currently we have not included professional services, or subconsultant needs, related to any of the federal cross-cutters that may be required for projects incorporating federal funds. This would include environmental (NEPA) and historical (SHPO) evaluations and clearances. We understand that the City of Burton has labor standards that will need to be incorporated into the bidding documents. Construction engineering and construction staking services have also not been included in our scope of services or fees at this time.

Professional Fee

The above professional services will be completed for a lump sum fee of **$33,500.**

Schedule

The city desires to complete Phase I construction in 2022. As discussed last week with Pete, there is currently a long lead time for watermain materials. This includes ductile iron, as well as other common pipe materials. We are also hearing of further delays based on size, finding that larger diameter pipe may be more readily available than smaller diameters. Currently we are anticipating 14-22 weeks for delivery of water main materials once ordered. We will work closely with the City to establish a schedule that works with their needs and hopefully allows ample time for procurement of materials and construction.

We appreciate the opportunity in providing our services to the City of Burton. Following acceptance of this proposal, we will prepare our standard professional services agreement for review and signature.

If you have any questions, please contact me at (810) 244-1729 or grose@fveng.com.

Sincerely,

FLEIS & VANDENBRINK

Geric L. Rose, PE, PS
Regional Manager, Associate

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

ADOPTED

Meeting: 03/21/22 07:00 PM
Department: Department of Public Works
Category: Ordinance
Prepared By: Amber Abbey
Department Head: Charles Abbey

AGENDA ITEM (ID # 5316)

DOC ID: 5316 A

Approve and authorize ordinance 2022-01-87 (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. Colis, Bond Counsel for the city stated the ordinance in front of you is for phase two of the waste water collection system improvements. If you remember, we started phase one last year. The financing qualifies through the clean water state revolving fund which is a state program that provides funding for these projects. The city issues debt and the state acquires it. It is 30 year financing and the interest rate is 2.125% which is the same as last year. The state can change the rate every year. This phase will not change. We will come back to council for future phases. In today's market, this is a strong interest rate. You would see a much higher interest rate if you went out to the market and sold bonds as opposed to the state purchasing the bonds through this program. The ordinance also authorizes signing the documentation with EGLE and closing the bond issue in May. Funds will be available when the contractors are ready to commence the project.

Mr. Heffner asked what the cost difference would be for a 20 year.

Mr. Colis stated the city could choose a 20 year financing at a rate of 1.78%. From a revenue perspective, your debt service would be less each year over a 30 year, meaning you could layer in your financing and still have the capability of a reasonable debt service in one particular year.

Mr. Heffner asked, what is the difference in cost between a 20 year and 30 year?

Mr. Colis stated I don't have that number but it would cost more.

Mr. Smith stated basically what you are saying is similar to buying a house for a 10 year mortgage versus a 20 year mortgage, you will pay more interest but you will pay less per year, so it's easier to take out more debt, correct?

Mr. Colis said, yes.

Mr. Smith stated the other thing is, we have $10 million in the sewer fund earning interest of approximately 2%, the bonds are approximately 2%. So, we are keeping the money in sewer and it is growing and we are leveraging our money from other financial resources that basically doesn't cost anything. This is locked in for 30 years and we know inflation is increasing. We are leveraging our money; the money we have is paying for the money we borrow. This is maximizing our purchasing power.

Further discussion continued regarding bonds, interest rates, loan forgiveness and the future of the infrastructure.

ATTACHMENTS:

- Ordinance_CWSRF_Junior Lien_LT Pledge_2022(38821294.1) (DOC)

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

ORDINANCE NO. _________

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 2022 Bonds, together with any additional bonds heretofore or hereafter issued of equal standing with the Series 2022 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, Series 2021 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, the Series 2018 Bonds and the Series 2021 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) 2018-1-87(C), 2021-3-87(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 2022 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), dated May 3, 2021, in the original principal amount of $2,455,000.

(x) "Series 2022 Bonds" means the Issuer's 2022 Water Supply and Sewage Disposal System Junior Lien Revenue Bond (Limited Tax General Obligation), in the principal amount of not to exceed $3,030,000 issued pursuant to this Ordinance.

(y) "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.

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

(aa) "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 Three Million Thirty Thousand Dollars ($3,030,000), 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 2022 Bonds, the Issuer shall borrow the sum of not to exceed Three Million Thirty Thousand Dollars ($3,030,000), 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 2022 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 2022 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 equal standing and priority of lien as to the Outstanding Junior Lien Bonds and 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 equal standing and priority of lien as to the Outstanding Junior Lien Bonds and 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 2022 Bonds; Details. The Series 2022 Bonds of the Issuer, to be designated **2022 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 Three Million Thirty Thousand Dollars ($3,030,000) 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 2022 Bonds. The Series 2022 Bonds shall be payable out of the Net Revenues, as set forth more fully in Section 8 hereof, provided that the Series 2022 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 2022 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 2022 Bonds and approved by the Authority and an Authorized Officer. Principal installments of the Series 2022 Bonds shall be payable on October 1 of the years 2023 to 2052, inclusive, or such other payment dates as hereinafter provided. Interest on the Series 2022 Bonds shall be payable on April 1 and October 1 of each year, commencing October 1, 2022 or on such other interest payment dates as hereinafter provided. Final determination of the principal amount of and interest on the Series 2022 Bonds and the payment dates and amounts of principal installments of the Series 2022 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 $3,030,000.

The Series 2022 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 2022 Bonds in accordance with the delivery instructions of the Authority.

The principal amount of the Series 2022 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 2022 Bonds shall not be convertible or exchangeable into more than one fully-registered bond. Principal of and interest on the Series 2022 Bonds shall be payable as provided in the Series 2022 Bond form in this Ordinance.

The Series 2022 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 2022 Bonds, the Authority shall deliver the Series 2022 Bonds to the Issuer for cancellation.

<u>Section 6</u>. <u>Execution of Series 2022 Bonds</u>. The Series 2022 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 2022 Bonds bearing the manual or facsimile signatures of the Mayor and the Clerk sold to the Authority shall require no further authentication.

<u>Section 7</u>. <u>Registration and Transfer</u>. 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 2022 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 2022 Bonds; Security; Priority of Lien. Principal of and interest on the Series 2022 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 all Bonds of a series then outstanding, principal and interest on such Bonds 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 that series of Bonds, the holders of that series shall have no further rights under the Prior Ordinances or this Ordinance except for payment from the deposited funds, and the Bonds of that series shall no longer be considered to be outstanding under the Prior Ordinances or this Ordinance.

In addition, the Series 2022 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 2022 Bonds. Should the Net Revenues of the System at any time be insufficient to pay the principal of and interest on the Series 2022 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 2022 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 2022 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 2022 Bonds to the next succeeding principal payment date.

Section 12. Bond Proceeds. The proceeds of the sale of the Series 2022 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 2022 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

2022 WATER SUPPLY AND SEWAGE DISPOSAL SYSTEM
JUNIOR LIEN REVENUE BOND (LIMITED TAX GENERAL OBLIGATION)

REGISTERED OWNER: Michigan Finance Authority

PRINCIPAL AMOUNT: ________________________ Dollars ($___________)

DATE OF ORIGINAL ISSUE: May 6, 2022

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 $3,030,000 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, 2022, 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 U.S. Bank Trust Company, National Association 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 which is junior in 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), 2018 Water Supply and Sewage Disposal System Junior Lien Revenue Bond (Limited Tax General Obligation) and 2021 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 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), 2021-3-87(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 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

DEQ Project No.: 5738-01
DEQ Approved Amt: $3,030,000

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.

Maturity Date	Principal Amount
October 1, 2023	$70,000
October 1, 2024	$75,000
October 1, 2025	$75,000
October 1, 2026	$80,000
October 1, 2027	$80,000
October 1, 2028	$80,000
October 1, 2029	$85,000
October 1, 2030	$85,000
October 1, 2031	$85,000
October 1, 2032	$85,000
October 1, 2033	$90,000
October 1, 2034	$90,000
October 1, 2035	$95,000
October 1, 2036	$95,000
October 1, 2037	$100,000
October 1, 2038	$100,000
October 1, 2039	$105,000
October 1, 2040	$105,000
October 1, 2041	$105,000
October 1, 2042	$110,000
October 1, 2043	$110,000
October 1, 2044	$115,000
October 1, 2045	$115,000
October 1, 2046	$120,000
October 1, 2047	$125,000
October 1, 2048	$125,000
October 1, 2049	$130,000
October 1, 2050	$130,000
October 1, 2051	$130,000
October 1, 2052	$135,000

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, 2022 and semi-annually hereafter.

The City agrees that it will deposit with the Authority’s Depository, or such other place as shall be designated in writing to the City by the Authority 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 City’s deposit by 12:00 noon on the scheduled day, the City 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.

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 2022 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 2022 Bonds shall have all other rights and remedies given by Act 94 and law, for the payment and enforcement of the Series 2022 Bonds and the security therefor.

Section 15. Additional Bonds. The Issuer may issue additional bonds of equal standing with the Series 2022 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 2022 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 2022 Bonds with the Authority. The actions taken by the Authorized Officers with respect to the Series 2022 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 2022 Bonds for the Clean Water State Revolving Fund. Prior to the delivery of the Series 2022 Bonds to the Authority, any Authorized Officer is hereby authorized to make such changes to the form of the Series 2022 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 2022 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 2022 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 2022 Bonds issued shall not exceed the principal amount authorized in this Ordinance, the interest rate per annum on the Series 2022 Bonds shall not exceed two and one-eighth percent (2.125%) per annum, and the Series 2022 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 21st day of March, 2022.

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 21st 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

38821294.1/012916.00063

Approve and authorize the appointment of Deborah Walton, PO Box 190273, Burton, MI 48519, to the Election Commission with a term ending March 2026.

HISTORY:

03/07/22 City Council TABLED Next: 03/21/22

Mrs. Hickson stated she was looking on the computer at the Burton Ordinances and they say the Election Commission members shall not be City Officials, employees or candidates for elected office in the city. My point is, Parks and Rec members get paid by the city. Does that make them an employee?

Attorney Doyle stated I don't have that answer off the top of my head.

COMMENTS - Current Meeting:

Mr. Martinbianco stated I do not agree with the address that Mrs. Walton furnished us. There should be an identifying measure that identifies exactly what her address is.

Mr. Heffner asked, what address does she use for her employment?

Ms. Boggs stated I verified her residency and voter registration as Carmen Street which is also the address she provided when she was appointed to City Council.

Mr. Hull stated we all know she lives in Burton. This is minutia that is unimportant and irrelevant. Can we call the question? Mr. Fenner supported calling the question.

Mr. Heffner stated I would like to remind everybody that a positive yes vote will be a violation of your oath of office. The charter is clear on this.

Attorney Doyle stated the President and I disagree on this because I do not believe the charter in anyway intended for that to mean what he believes it does.

Mr. Heffner stated I would like to remind the City Attorney that we had a Mayor once who tried to read into the charter and the Court of Appeals reminded our Mayor that she should remember what is in the charter rather than what is not in the charter. She is an employee.

Attorney Doyle stated I disagree, she is not an employee.

Mr. Fenner stated this is coming from an attorney who we are paying for her legal opinion.

Discussion continued regarding the charter as it relates to an appointment to the Election Commission.

Mr. Hull stated I called the question and it was seconded by Mr. Fenner. Can we vote?

Mr. Heffner stated the way that works is when you call the question, the chair has to recognize you and you weren't recognized, so it obviously didn't work out that well for you, did it?

Mayor Haskins stated tomorrow at 5:30 PM at the Whiting in Flint there is a meeting regarding the I475 project, specifically through Burton, if anyone would like to attend, it is open to the public.

ATTACHMENTS:

- Deborah Walton Interest Letter (PDF)

RESULT:	**CARRIED [4 TO 3]**
MOVER:	Tom Martinbianco, Vice President
SECONDER:	Gregory Fenner, Councilman
AYES:	Tom Martinbianco, Vaughn Smith, Gregory Fenner, Greg Hull
NAYS:	Steven Heffner, Christina Conley, Christina Hickson

Deborah Walton
P.O. Box 190273
Burton, MI 48519

March 1, 2022

Mayor Haskins and Madam Clerk,

Please accept this as my letter of interest to be appointed as a member of the Burton Election Commission. I am currently a resident of the City of Burton and serving on the Parks and Recreation Commission. In the past, I have sat on the board of the Planning Commission and the Zoning Board of Appeals. Recently, I was appointed to fill a six-month term on the Burton City Council that ended in November of 2021. I think I could be an asset to the Election Commission and look forward to the opportunity to continue to serve this great city. Thank you for your time and consideration.

Kind regards,

Deborah Walton

Deborah Walton