



CITY OF BURTON
BURTON CITY COUNCIL MEETING
JANUARY 10, 2018
AGENDA

Council Chambers

Special Meeting

6:30 PM

4303 S. CENTER ROAD
BURTON, MI 48519

A. ROLL CALL

B. STAFF PRESENT

C. APPROVAL OF MINUTES

1. City Council - Regular Meeting - Dec 4, 2017 7:00 PM

D. ADMINISTRATIVE REPORT

E. AUDIENCE PARTICIPATION

Now is the time set-aside for members of the audience to address the Burton City Council. I would ask each individual to give their name and address for the record and to limit their comments to three (3) minutes and to speak on the topics germane to City business.

F. COUNCIL ACTION

1. Approve and Authorize the Mayor and City Clerk to execute a contract with OHM Advisors, G3101 West Bristol Road, Flint, MI 48507, for construction engineering of Center Road, Lippincott to Lapeer, (DPW Project No. 16-003-P), at an estimated cost of \$122,664.63, contingent upon approval of the City Attorney.

G. FIRST READING OF AN ORDINANCE

1. Approve and Authorize ZC# 319 - Wilson Boji 3761 Coolidge Troy, MI 48084, requests a zoning change from C-2 General Business to M-1 Light Industrial on the following described parcel: being located at 4312 S. Dort Hwy. as follows: 59-32-400-030 parent parcel pending split described as: Parcel A: BEGINNING AT THE EAST 1/4 CORNER OF SAID SECTION 32; THENCE S01o12'00"W ALONG THE EAST LINE OF SAID SOUTHEAST 1/4 OF SECTION 32, 255.00 FEET; THENCE N88o50'00"W AND PARALLEL TO THE NORTH LINE OF SAID SOUTHEAST 1/4, 1306.76 FEET; THENCE N01o05'20"E, 255.00 FEET TO A POINT OF SAID NORTH LINE OF THE SOUTHEAST 1/4; THENCE S88o50'00"E ALONG SAID NORTH LINE OF THE SOUTHEAST 1/4, 1307.26 FEET TO SAID EAST 1/4 CORNER AND THE POINT OF BEGINNING; PARCEL CONTAINS 7.65 GROSS ACRES OF LAND Parcel B: COMMENCING AT THE EAST 1/4 CORNER OF SAID SECTION 32; THENCE S01o12'00"W ALONG THE EAST LINE OF SAID SOUTHEAST 1/4 OF SECTION 32, 255.00 FEET TO THE POINT OF BEGINNING; THENCE S01o12'00W CONTINUING ALONG SAID EAST LINE OF THE SOUTHEAST 1/4 , 748.21 FEET; THENCE N88o44'00"W, 798.75 FEET; THENCE S01o12'00W, 600.19 FEET; THENCE N88o46'30"W, 505.40 FEET; THENCE N01o05'20"E, 1346.49 FEET TO A POINT 255.00 FEET SOUTH OF THE NORTH LINE OF SAID SOUTHEAST 1/4 OF SECTION 32; THENCE S88o50'00"E AND PARALLEL TO SAID NORTH LINE OF THE SOUTHEAST 1/4, 1306.76 TO A POINT ON SAID EAST LINE OF SOUTHEAST 1/4 AND THE POINT OF BEGINNING; PARCEL CONTAINS 29.37 GROSS ACRES OF LAND.



CITY OF BURTON
BURTON CITY COUNCIL MEETING
DECEMBER 4, 2017
MINUTES

Council Chambers

Regular Meeting

7:00 PM

4303 S. CENTER ROAD
BURTON, MI 48519

This meeting was opened by President Steven Heffner at 7:20 PM.

A. INVOCATION LED BY: STEVE HEFFNER

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

C. ROLL CALL

me	Title	Status	
nco	Councilman	Present	
s	Councilman	Present	
r	President	Present	
ey	Councilwoman	Present	
	Councilman	Present	
e	Councilman	Present	
	Councilman	Present	

D. STAFF PRESENT

Paula Zelenko, Mayor
 Bob Slattery, DPW Director
 Amber Abbey, Planning/Zoning
 Kirk Wilkinson, Asst. Fire Chief
 John Owens, Lieutenant
 Brian Warden, Lieutenant

Sue Warren, Human Resources
 Charles Abbey, Deputy DPW Director
 Amanda Doyle, City Attorney
 Tom Osterholzer, Police Chief
 Mike Odette, Lieutenant
 Charles Iddins, Sergeant

E. APPROVAL OF MINUTES

1. City Council - Regular Meeting - Oct 16, 2017 7:00 PM

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

F. ADMINISTRATIVE REPORTS

Mayor Zelenko stated in regards to the MERS lump sum payment, you approved a budget amendment to use \$24,000 of that for the Deputy Clerk's position with the understanding that we would replace this amount when it came time to make this payment.

Item #5 is the Budget amendment to replace that \$24,000. If you approve that item then

item #6 would need to be amended.

Attorney Doyle and Mrs. Abbey will address your concerns on Item #7 as well as some of the ordinance readings we have tonight. Charles Abbey and Drain Commissioner Wright is here to address concerns on Item #8 and they will give you an update on our new water treatment plant.

I would request that the tabled item regarding the rate study be taken up at the December 18th Council meeting. If there is any additional information anyone needs, please let me know.

In addition, you have received the new employment agreement for Ms. Warren, Human Resource/Labor Relations Director. The only changes from last year's agreement are the dates that the agreement covers; January 1, 2018 through December 31, 2018.

Attorney Leadford is here and we are requesting a closed session as allowed under the OMA Section 8a, c, e, and h. (a. Charges, complaints, suspension, dismissal, evaluation of a public officer, employee, staff member; c. negotiation strategy collective bargaining; e. consultation settlement, litigation strategy, and h. consider exempt materials such as written attorney opinion).

Every year we receive properties from the Genesee County Treasurer that did not sell at the county auctions. We are under a narrow timeline to evaluate the properties and let the County Treasurer know if there are any properties that we do not want to revert to the City. The building inspector and assessor's office are in the process of conducting their inspections and evaluations. If there are any properties that we recommend be rejected, we will have them on your December 18, 2017 meeting agenda.

In regards to the annual audit workshop, December 19th at 5:30 PM will work for Ginger and me. At that same time, Ginger would like to give the mid-year financial review for this current budget year.

The Master Plan Open House is next Tuesday, December 12th at 5 PM.

Lastly, a package of bills was introduced in the Michigan Senate and in the House of Representatives to address municipal pension and OPEB unfunded liabilities. These bill are on a fast track to be taken up before the year ends. The first committee hearing is scheduled for tomorrow morning. I have not had the opportunity to read all 16 bills, but what I have read, is not in the recommendations of the Governor's Task Force.

Language in these bills could force us to close our DB plans to new hires, thus eliminating the opportunity to utilize a hybrid plan. In addition, these bills propose further restricting collective bargaining and local government home rule. They make changes to PA#345 which allows the levying of taxes for public safety pensions, and the elimination of bonding provisions for closed plans. One of the bills opens up PA#436, the Emergency Manager Law to add a new provision for an emergency manager team to be appointed to a local government to find agreement on a solution/corrective plan. Another concern is language that mandates the pre-funding of retiree health benefits within a 5 year phase-in period.

The task force was very clear that no cookie cutter solution is going to address the problem and that for the best results, local government and collective bargaining units must be at the table in finding resolutions.

The only time the public can be recognized for comment is during the committee process and testimony must be in writing. I am working on such testimony and plan to attend the

committee meetings.

Genesee County Drain Commissioner Jeff Wright stated, a week ago we started supplying our own treated water into the distribution system. We have experienced 14 years of double rate increases from our last supplier in the City of Detroit. We are now with KWA (Karegnondi Water Authority). Our new water treatment plant is a 32 acre ponding area that holds a 14 day supply of water. The treatment plant itself was approximately 72 Million Dollars to construct. It and the site work came in on time and under budget by \$8 Million. Spence Brothers out of the Saginaw, Midland, and Bay City area were the general contractors and they hired many local contractors and used most of the suppliers from our area. This facility has the ability of pumping up to 85 million gallons a day. We currently, on a hot summer day, utilize around 22 million gallons throughout Genesee County. Burton is one of the 17 water customers that we have. We now have treated water which is competitive with anyone in the State. Because of the Flint water crisis, we have went above and beyond any State and Federal Regulations when it comes to trained personnel and the testing procedures to confirm that the water we are putting out is of the highest quality possible. This will put an end to the double digit rate increases that we have been paying and our children and grandchildren will have the lowest water rates in the Great Lakes Region.

Mr. Smith asked if the north end of the county is online now and were there any grants for this. Also, what is the increase of \$3.98 for?

Mayor Zelenko said the \$3.98 is the Readiness To Serve charge on all active domestic meters, water accounts.

Mr. Wright replied, as of last week Davison Twp., Richfield Twp., Genesee Twp., Mt. Morris Twp., Flushing Twp., City of Flushing, Clio and Vienna are online. Burton should be online next week. The total cost on the 42" pipeline down Potter Road was \$18 Million. Just the construction cost was \$14 Million. We did receive a grant through the State of Michigan for 7.5 Million toward the construction of this pipeline. Our ability to hold our costs down are great. Electric costs and chemical costs will be the driving factor in whatever rate increases we need in the future. I don't anticipate any capitol cost for the Karegnondi or the treatment plant for many years to come.

Mr. Wells asked how many new inquiries from new businesses and companies have you had that want to make a new home in Genesee County and what are they looking for?

Mr. Wright said we have had many inquiries from companies. Some of them have been in Burton. They look at tax abatements and how easy it is to get zoning changed. These businesses use a lot of water and create a lot of waste water. Our community has the waste water treatment plants capable of dealing with that. Most communities don't. This gives us an edge up over many communities. New businesses also look at locations with expressways, railroad, airports, etc. If we are weak in any area I think it would be in our education process. We are not training our folks in the fields that the businesses want them trained in.

G. COMMITTEE REPORTS

Mr. Smith said I contacted Plante Moran on our audit. The dates they gave me were December 19, 2017 at 5:30 PM. I am asking everyone to pay particular attention to Pages 7, 10, 53 and 64. This touches on our cash flow, water, MERS, etc. We are making progress on our pension but losing ground on our health care. Police retire at 50-55 years old and Teamsters retire at 60, they are still at least 5 years from getting anything from Medicare. How does a family cover that? That's what is being wrestled with in Lansing. I don't want to rely on Lansing to fix our problems, this should be done at the local level.

Minutes Acceptance: Minutes of Dec 4, 2017 7:00 PM (Approval of Minutes)

This has been brewing for many years.

Mr. Heffner said for the new committee appointments for the 2017-2019 Council are as follows:

Planning Commission - Vaughn Smith
 Zoning Board of Appeals - Christina Conley
 Central Communications Consortium (911) - Dennis O'Keefe
 Finance Committee - Vaughn Smith as Chair, Duane Haskins and Tom Martinbianco
 Legislative Committee - Tom Martinbianco as Chair, Dennis O'Keefe and Danny Wells
 Metropolitan Alliance - Danny Wells and Tom Martinbianco as Alternate
 Solid Waste and Recycling - Danny Wells and Christina Conley
 Burton Library Committee - Christina Conley
 Park and Recreation - Christina Conley
 Public Access Committee - Vaughn Smith as Chair, Danny Wells and Christina Conley
 Less Energy Dependence Committee - Danny Wells as Chair, Dennis O'Keefe and Vaughn Smith

H. AUDIENCE PARTICIPATION

Paul Wagner of Incredible Lawnsapes in Burton said my concern is for certain local community with trucks and trailers and we do not have a zoning place for us to operate our business. We do not have zoning that states businesses can have a panel van, truck or trailer that you can park on an approved surface at your place of business. I am trying to get this addressed so that each business doesn't have to come before you and pay variances to be able to run their business in a business district.

Rick Fuhst of Burton spoke regarding the water rate. If Council doesn't pass these funds through how will we be able to make repairs? You can't run a City without money.

I. COUNCIL DISCUSSION

Mr. Smith said he would like to add to the agenda, #9.

Mr. Wells said he would like to remove Item #6 from the agenda until we have a Council of the Whole meeting. When we passed the Police Millage, we all had visions of taking care of the Pension Fund. We are down to 36 Police Officers. We are budgeted for 40. When the millage was at 4.66 and you took the .66 off and kept it at 4 mills, it removed an opportunity for the Mayor to keep the Police Officers at 40. We have 7 more officers leaving, which will put us at 29 officers.

Mr. Smith said 36 officers is what was promised.

Mayor Zelenko stated we are budgeted for 40 officers, but if I budget for 40 now that the general operating has been cut it's not going to be sustainable. I have chosen not to hire to 40 at this point, until we decide what we are going to do. With the 5-Year Forecast you need that General Fund Balance in order to transfer to supplement the Police Fund.

Mr. Wells said it would be nice to pay on the Pension Fund, but it didn't go broke overnight and we aren't going to fix it overnight. I would like to take some of that money and build our Police Department back up and maybe put some of it toward our Water Department. We need to look at what's going on in the world today and make rational decisions.

Mr. Haskins said we are trying to take care of the Pension system that is failing. Our Police Officers had an arbitrary run where they were going to be paying 22% into their pension. If this City didn't step up and help tackle the pension costs, we wouldn't have one Police Officer because they would be paying over 30% into their pension out of their paycheck. If

we could spend that million dollars anyway else and bring more Police and Firefighters on I would support it 100%. This MERS Pension System has cramped the City terrible.

Mr. O'Keefe said we are 3/4 of the way through this budget year and there isn't a whole lot we can do right now. In the 5-Year Forecast there are two scenarios. There is the original general tax rate of 4.707% and the 4% that's been passed by the Council for the last two years. With the 4%, we are going to be in violation of our fund balance. If we don't increase that mileage rate back to where it was years ago, we going to have severe problems.

Mayor Zelenko stated when we did the Police Mileage, those promises were made were based on the General Operating staying at 4.707%.

Mr. Heffner said we need new revenue in our City, new businesses.

1. Motion to go into executive session as allowed under the OMA Section 8 a, c, e and h. after Council action.

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

2. Motion for the Health Care Opt Out option.

Mr. Haskins said I have said every year since this Act has been instituted I believe that health care should be a mandatory right to bargain. It used to be until the State stepped with a law, just like they are getting ready to step in with pensions. They are overstepping their bounds. If this Council Opts Out, the City still does not lose its revenue sharing because it's one of the options you have by the State under law. It should not be forced upon the employees.

RESULT:	FAILED [2 TO 5]
MOVER:	Duane Haskins, Councilman
SECONDER:	Christina Conley, Councilwoman
AYES:	Haskins, Conley
NAYS:	Martinbianco, Heffner, Wells, O'Keefe, Smith

3. Motion to table Item #8, Approve and authorize the City Treasurer to pay MERS a lump sum of \$976,000.00 via wire transfer by 12/31/2017 to be applied to the unfunded liability of the City of Burton.

Vaughn Smith stated at the last meeting I requested the water fund. What was the portion yearly of our water fund going towards service and bonds and how much of it was depreciation and how much was left unencumbered. What do we have that's not being spoken for? The reason I ask for this is that I am wondering if we really need to pass this on to the residents. I need this information before I vote.

RESULT:	FAILED [6 TO 1]
MOVER:	Danny Wells, Vaughn Smith
SECONDER:	Christina Conley, Councilwoman
AYES:	Martinbianco, Heffner, Conley, Wells, O'Keefe, Smith
NAYS:	Haskins

4. COUNCIL ACTION

1. Approve and Authorize the Attorney Billing (A. Doyle) 11-15-17 to 11-28-17 in the amount of \$4,935.50.

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

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

Mr. Wells asked for the elimination plan. Can I get an update on this?

Mrs. Burke-Miller stated rather than borrow the money from an outside source because of the small amount of the project, the City chose to borrow the money from the Sewer Fund. Thereby not being able to have revenues and outside source of revenues come in so the capitol project fund had a deficit. The State of Michigan understands why the City took that action and why we have this and that we will continue to have this. So there is a shortfall currently of \$146,885.09. The solution is that the City will be collecting assessments from the Amy Street residents over a term of 15 years. The assessment will end in the year 2028.

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

3. Approve and authorize the attached Corrective Action Plan regarding budget variances.

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

4. Approve and authorize the "Hard Cap" Resolution 2017-___ regarding the cost sharing model set forth in State of Michigan Public Act 152 of 2011. (Choose "opt out" or "hard cap" or "80/20").

Motion was made to Approve and authorize the Hard Cap Resolution regarding the cost sharing model set forth in State of Michigan Public Act 152 of 2011.

RESULT: **CARRIED [5 TO 2]**
MOVER: Dennis O'Keefe, Councilman
SECONDER: Vaughn Smith, Councilman
AYES: Martinbianco, Heffner, Wells, O'Keefe, Smith
NAYS: Haskins, Conley

5. Budget Amendment (Budget #1991-1992) Approve and authorize the following 2017-2018 budget amendment: Decrease (1001-0000-390.0000 Unappropriated Surplus) by \$24,000.00 ; Increase (1001-2065-956.0401 Payment on Pension UAL) by \$24,000.

Mr. Haskins said the Mayor didn't follow our budget recommendations and didn't do a layoff. So then the money had to get moved and it is held out of the MERS to pay for the position that we eliminated in the Clerk's Office. It has nothing to do with contract.

Mr. Wells asked how long we will have to pay the Clerk's that are on administrated leave.

Sue stated it will be coming up in closed session.

Mr. Heffner stated \$24,000 will not make or break the Pension but might do a lot to help the General Fund. If this is voted down we will be putting \$976,000 towards MERS.

RESULT: **FAILED [3 TO 4]**
MOVER: Dennis O'Keefe, Councilman
SECONDER: Tom Martinbianco, Councilman
AYES: Martinbianco, O'Keefe, Smith
NAYS: Haskins, Heffner, Conley, Wells

6. Approve and authorize the City Treasurer to pay MERS a lump sum of \$976,000.00 via wire transfer by 12/31/2017 to be applied to the unfunded liability of the City of Burton.

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

7. Approve and Authorize an addition to the fee book for the Commercial Medical Marijuana Transaction Facilities fee as follows: Application fee in the amount \$50.00 / Annual License Fee in the amount of \$5,000 / Renewal License Fee in the amount of \$4,000 / Renewal Late Fee in the amount of \$500

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

8. 3310 : Resolution to adjust the City of Burton's water use charges in accordance with pass through.

Mr. Martinbianco stated I would like to bifurcate that resolution into a part A and part B. This would give an opportunity to have the commodity charge increase and not the readiness to serve charge and will also give an opportunity to voice an opinion on this. I would like it to read:

#8 (a). Approve and authorize the Treasurer to adjust the city of Burton's water usage commodity charge from \$6.48 to \$6.67 per 100 cubic feet (includes system losses) in accordance with the pass through increase from Genesee County Water and Waste of \$0.18 per 100 cubic feet of usage.

#8 (b). Approve and authorize the Treasurer to adjust the Readiness To Serve charge per meter on all active domestic metered water accounts to be increased \$3.98 monthly.

Mr. Slattery explained this would include all residential customers but would exclude commercial/industrial lawn sprinkling meters.

Mr. Smith said he would like to table this until we know where we are at in the water fund and then I can make a more informed decision.

RESULT:	CARRIED AS AMENDED [6 TO 1]
MOVER:	Tom Martinbianco, Dennis O'Keefe
SECONDER:	Christina Conley, Councilwoman
AYES:	Martinbianco, Heffner, Conley, Wells, O'Keefe, Smith
NAYS:	Haskins

9. Motion to add agenda item #11, The Burton City Council shall be governed by the latest revised edition of Roberts Rule of Order unless otherwise provided by the City Charter, City Ordinance or other applicable provisions of State or Federal Law.

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

10. The Burton City Council shall be governed by the latest revised edition of Roberts Rule of Order unless otherwise provided by the City Charter, City Ordinance or other applicable provisions of State or Federal Law

Attorney Doyle stated the Charter indicates that you shall determine rules under which will be governed.

Mayor Zelenko said section 4.7 (I) in the Charter states, Council shall determine its own rules in order of business and shall keep a journal in the English language of all of its proceedings.

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

J. TABLED ITEMS

1. Approve and Authorize the Mayor and Clerk to enter into an agreement with WHG, the Woodhill Group, 20145 Woodhill Dr. Northville, MI 48167, to conduct rate studies for the purpose of setting both the water and sewer rates, for a cost not to exceed \$13,110.00.

K. FIRST READING OF ORDINANCE

1. Approve and authorize the first reading of an ordinance to repeal Chapter 153, the City of Burton Sign Ordinance, and to replace it with a new Chapter 153, which shall regulate signs within the City of Burton and which provides for the penalty for the violation thereof.

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

2. Approve and authorize the first reading of an ordinance to add Chapter 152, the Wireless Communication Facilities Ordinance, to the City of Burton Code of Ordinances to regulate Distributed Antenna Systems (DAS)/small cell wireless facilities located in city roads right-of-ways.

RESULT: CARRIED [6 TO 0]
MOVER: Dennis O'Keefe, Councilman
SECONDER: Duane Haskins, Councilman
AYES: Martinbianco, Haskins, Heffner, Conley, O'Keefe, Smith
RECUSED: Wells

3. Approve and Authorize the first reading of an ordinance amending the City of Burton Code of Ordinances by the addition of Chapter 33 - City Property, generally, and by adding section 33.01 regarding the display of flags on city-owned property and providing the penalties for violation thereof.

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

4. Approve and authorize the first reading of an ordinance to amend Chapter 92 of the City of Burton Code of Ordinances to regulate fire prevention for commercial medical marijuana facilities.

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

L. SECOND READING OF ORDINANCE

1. Approve and authorize second reading of Ordinance 2017-____-116.05, an Ordinance Amending Chapter 116 by the addition of Section 05 providing for the PILOT program extension for Burton Place Apartments.

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

2. Approve and Authorize second reading of an ordinance for Zoning Case #318, amend chapter 157, the zoning ordinance, of the code of ordinances of the City of Burton to regulate Commercial Medical Marijuana Transaction Facilities

Mayor Zelenko stated this is a second reading of the ordinance, not the first reading.

Mrs. Abbey said this City ordinance is for the entire city, however there are location limitations on all uses. She went over the limitations.

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

City Council went into closed session at 9:30 PM and returned at 10:25 PM.

Meeting was adjourned at 10:27 PM.

INTEROFFICE MEMORANDUM

To: Paula Zelenko, Mayor
From: Robert Slattery – DPW Director
Date: January 8, 2018

Re: MDOT/City Construction Engineering Contract
DPW Project No. 16-003-P, Center Road, Lippincott to Lapeer

Madam Mayor:

AGENDA LANGUAGE:

Approve and Authorize the Mayor and City Clerk to execute a contract with OHM Advisors, G3101 West Bristol Road, Flint, MI 48507, for construction engineering of Center Road, Lippincott to Lapeer, (DPW Project No. 16-003-P), at an estimated cost of \$122,664.63, contingent upon approval of the City Attorney.

We have received approval to use federal aid monies to fund a portion of the Center Road Construction. Prior to being eligible to receive these funds, MDOT's financial operations require that we approve and execute a contract a 3rd Party Agreement with our selected design engineering firm, In this case OHM Advisors, G3101 West Bristol Road, Flint MI 48507, and reserve the estimated local share of the proposed engineering fee.

The proposed fee for this work is \$122,664.63. I have reviewed the proposal and feel it is fair and reasonable, and within MDOT guidelines. In addition to the engineering fee, we need to include 15% (\$18,399.70) for local staff to cover review and meetings. This totals \$141,064.33. Of this amount, 80% (\$112,851.46) will be covered by federal funds. **This leaves \$9,813.17 to be covered with local funds.** City Council has previously committed to providing Local Match totaling \$234,000 for the construction phase of this project.

Attachment: MoE 1-5-18 Center Road Lip to Lap CE (3445 : 3rd Part Agreement with OHM for CE Center Rd., Lippincott to Lapeer)

SUBCONTRACT NO. _____
 CONTROL SECTION NO. _____
 JOB NO. _____

FED. PROJECT NO. _____
 FED. ITEM NO. _____

THIRD PARTY AGREEMENT
 CONSTRUCTION ENGINEERING
 LOCAL AGENCY CONTRACT

THIS CONTRACT, made and entered into as of this date, _____, 201_ by and between Orchard, Hiltz & McCliment (OHM), 34000 Plymouth Road, Livonia, Michigan 48150, hereinafter referred to as the "CONSULTANT," and the City of Burton, 4303 South Center Road, Burton, MI 48519, hereinafter referred to as the "LOCAL AGENCY."

WHEREAS, the LOCAL AGENCY is planning to rehabilitate Center Road from Lippincott Blvd., to Lapeer Road in the City of Burton, using Federal funds from the City of Burton; and WHEREAS, the LOCAL AGENCY has assigned Robert Slattery, Department of Public Works (DPW) Director, to be the designated full-time public employee to be in Responsible Charge in accordance with 23 CFR 172.9 (d).

WHEREAS, the LOCAL AGENCY desires to engage the professional services and assistance of the CONSULTANT to perform the preliminary engineering and other related work, said work to be hereinafter referred to as the "SERVICES," required in connection with the rehabilitation of the following Center Road Rehabilitation Project, said improvements to be hereinafter referred to as the "PROJECT:"

Mill and resurface, complete pavement repairs, ADA ramp upgrades, and update pavement markings and signage on Center Road from Lippincott Boulevard to Lapeer Road in the City of Burton

WITNESSETH:

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

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

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

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

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

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

The CONSULTANT will:

1. Perform the work set forth in Exhibit A, dated December 12, 2017, attached hereto and made a part hereof (SERVICES). The LOCAL AGENCY specifically agrees that it will not perform SERVICES that are not included in the scope of SERVICES in Exhibit A – CONSULTANT Proposal.
2. Perform all SERVICES by the applicable codes, laws, and standards of the LOCAL AGENCY and the MDOT and the FHWA.
3. During the performance of the SERVICES herein provided for, be responsible for any loss or damage to the documents, owned by the LOCAL AGENCY while they are in its possession. Restoration of lost or damaged documents shall be at the CONSULTANT'S expense.
4. Furnish qualified personnel, as per 23 CFR Part 172, to assist the PROJECT Engineer/Supervisor in solving problems, when so requested.
5. Attend conferences and make such trips as necessary to the LOCAL AGENCY'S offices and to the site of the work to confer with representative of the LOCAL AGENCY and the MDOT or the FHWA as may be necessary in the carrying out of the work under THIS CONTRACT.
6. Provide and maintain public liability, property damage, and workers' compensation insurance, insuring as they may appear the interests of all parties to THIS CONTRACT against any and all claims that may arise out of the LOCAL AGENCY'S operation hereunder. In addition, provide professional liability insurance, as further defined in Exhibit B, attached hereto and made a part hereof.

7. Commence work on the PROJECT as set forth in and following execution of THIS CONTRACT only upon receipt of written notice from the PROJECT Engineer/Supervisor.
8. Submit billings to the LOCAL AGENCY as set forth in Section 17.
9. Perform all PROJECT work under the direction of the PROJECT Engineer who will be assigned by the LOCAL AGENCY as provided in Section 14.
10. Provide such reports and maintain such records of the PROJECT as are required to document the work to the satisfaction of the PROJECT Engineer, the LOCAL AGENCY, the MDOT, and the FHWA.
11. Permit the LOCAL AGENCY, the MDOT, the FHWA, and other public agencies interested in the plans and designs for the PROJECT to have full access thereto during the progress of the SERVICES being performed thereon.
12. Have their professional endorsement upon all plans, specifications, estimates, and engineering data furnished to the LOCAL AGENCY.
13. Follow standard accounting practices and permit representatives of the LOCAL AGENCY and MDOT, FHWA, U.S. DEPARTMENT OF Transportation's Inspector General, and the Controller General of the United States to audit and inspect its PROJECT books and records at any reasonable time.
 - a. Such records are to be kept available for three (3) years from the date of the final payment for work conducted under THIS CONTRACT.
 - b. In the event of a dispute with regard to the allowable expenses or any other issue under THIS CONTRACT, the CONSULTANT shall thereafter continue to maintain the records at least until that dispute has been finally decided and the time for all available challenges or appeals of that decision has expired.
 - c. In the event of a dispute with regard to the allowable expenses or any other issue under THIS CONTRACT, the CONSULTANT shall thereafter continue to maintain the records at least until that dispute has been finally decided and the time for all available challenges or appeals of that decision has expired.
 - d. If any part of the work is subcontracted, the conditions for the responsibilities of the CONSULTANT apply to the CONSULTANT and their SUBCONSULTANTS (or affiliates).

The LOCAL AGENCY shall:

14. Assign a PROJECT Engineer/Supervisor in responsible charge of the PROJECT.

15. For and in consideration of the SERVICES rendered by the CONSULTANT as set forth in THIS CONTRACT, pay the CONSULTANT on the basis of actual cost plus a fixed fee (profit) amount, which shall not exceed one hundred twenty-two thousand six hundred sixty-four dollars and sixty-three cents (\$122,664.63). This fixed fee (profit) shall be the amount of twelve thousand one hundred thirty dollars and sixty-six cents (\$12,130.66) and amount is included in the total amount of one hundred twenty-two thousand six hundred sixty-four dollars and sixty-three cents (\$122,664.63), which as shown in Exhibit "A," attached hereto and made part hereof.

16. Pay for actual costs for SERVICES. Work required and performed will be determined in accordance with the following terms, subject to the cost criteria set forth in the Federal Acquisition Regulations, 48 CFR, Part 31.

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

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

- c. Non MDOT Pre-Qualified CONSULTANT:

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

MDOT Pre-Qualified CONSULTANT:

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

Contract LOCAL AGENCY Work:

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

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

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

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

17. Make payments to the CONSULTANT in accordance with the following procedures:

- a. Progress payments may be made for reimbursement of amounts earned to date and shall include direct costs, other direct costs, calculated amounts for overhead using overhead, and facilities cost of capital using applied rates, set forth hereinbefore, plus a portion of the fixed fee. The portion of the fixed fee which may be included in progress payments shall be equal to the total fixed fee multiplied by the percentage of the work which has been completed to date of billing.
- b. Partial payments will be made upon the submission by the CONSULTANT of a billing, accompanied by properly completed reporting forms and such other evidence of progress as may be required by the LOCAL AGENCY. Partial payments shall be made only one a month.
- c. Final billing under THIS CONTRACT shall be submitted in a timely manner but not later than three (3) months after completion of the SERVICES. Billing for work submitted later than three (3) months after completion of SERVICES will not be paid. Final payment, including adjustments of direct salary costs, other direct costs and overhead costs, will be made upon completion of audit by the LOCAL AGENCY and/or as appropriate, by representatives of the MDOT and the FHWA.

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

It is further agreed that:

- 18. Upon completion or termination of THIS CONTRACT, all documents prepared by the CONSULTANT, including tracings, drawings, estimates, specifications, field notes, investigations, studies, etc., as instruments of SERVICE, shall become property of the LOCAL AGENCY.
- 19. No portion of the PROJECT work, hereto before defined, shall be sublet, assigned, or otherwise disposed of except as herein provided or with the prior written consent for the LOCAL AGENCY and approval by MDOT and the FHWA. Consent to sublet, assign or otherwise dispose of any portion of the SERVICES shall not be construed to relieve the CONSULTANT of any responsibility for the fulfillment of THIS CONTRACT.
- 20. All questions which may arise as to the quality and acceptability of work, the manner of performance and rate of progress of the work, and the interpretation of plans and

specifications shall be decided by the LOCAL AGENCY'S PROJECT Engineer/Supervisor. All questions as to the satisfactory and acceptable fulfillment of the terms of THIS CONTRACT shall be decided by the LOCAL AGENCY.

21. This agreement is to be governed by the laws of the State of Michigan. All disputes between the LOCAL AGENCY and CONSULTANT shall be resolved per the Dispute Resolution in Exhibit C.
22. Any change in SERVICES to be performed by the CONSULTANT involving extra compensation must be authorized in writing by the LOCAL AGENCY and approved by the MDOT and the FHWA prior to the performance thereof by the CONSULTANT and requires an amendment to THIS CONTRACT.
23. The CONSULTANT and the LOCAL AGENCY specifically agree that in the event problems arise that may be the result of errors and/or omissions by the CONSULTANT or due to a failure of the CONSULTANT to otherwise perform in accordance with THIS CONTRACT, the CONSULTANT will be held responsible with no cost to the LOCAL AGENCY or in accordance with Dispute Resolution in Exhibit C.
24. In addition, the CONSULTANT shall comply with, and shall require any CONTRACTOR or SUBCONTRACTOR to comply with, the following:
 - a. In connection with the performance of the PROJECT under THIS CONTRACT, the CONSULTANT (hereinafter in Appendix "A" referred to as the "CONTRACTOR") agrees to comply with the State of Michigan provisions for "Prohibition of Discrimination in State Contracts," as set forth in Appendix "A," attached hereto and made a part hereof and will require a similar covenant on the part of any CONTRACTOR or SUBCONTRACTOR employed in the performance of THIS CONTRACT.
 - b. During the performance of THIS CONTRACT, the CONSULTANT, for itself, its assignees, and its successors in interest (hereinafter in Appendix B referred to as the "CONTRACTOR"), agrees to comply with the Civil Rights Act of 1964, being P.L. 88-352, 78 Stat. 241, as amended, being Title 42 USC Sections 1971, 1975a-1975d, and 2000a-2000h-6, and the Regulations of the DEPARTMENT of Transportation (49 CFR Part 21) issued pursuant to said Act, including Appendix B, dated June 2011, attached hereto and made a part hereof. This provision will be included in all subcontracts relating to THIS CONTRACT.
 - c. The parties hereto further agree that they accept the MDOT'S Minority Business Enterprises/Women's Business Enterprises (MBE/WBE) Program with respect to the PROJECT and will abide by the provisions set forth in Appendix C, dated October 1, 2005, attached hereto and made a part hereof, being an excerpt from Title 42 C.F.R. Part 23, more specifically 23.43(a)(1) and (2) thereof.

25. The CONSULTANT warrants that it has not employed or retained any company or person other than bona fide employees working solely for the CONSULTANT to solicit or secure THIS CONTRACT and that it has not paid or agreed to pay any company or person other than bona fide employees working solely for the CONSULTANT any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of THIS CONTRACT. For breach or violation of this warranty, the LOCAL AGENCY will have the right to annul THIS CONTRACT without liability or, at its discretion, to deduct from the contract price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.
26. The CONSULTANT specifically agrees that in the performance of the SERVICES herein enumerated, by itself, by an approved SUBCONTRACTOR, or by anyone acting on its behalf, it will comply with any and all state, federal, and local statutes, ordinances, and regulations and will obtain all permits applicable to the entry into the performance of THIS CONTRACT.
27. No charges or claims for damages shall be made by the CONSULTANT for delays or hindrances from any cause whatsoever during the progress of any portions of the SERVICES specified in THIS CONTRACT, except as hereinafter provided.

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

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

28. In case the CONSULTANT deems extra compensation will be due it for work or materials not clearly covered in THIS CONTRACT, or not ordered by the LOCAL AGENCY as a change, or due to changed conditions, the CONSULTANT shall notify the LOCAL AGENCY in writing of its intention to make claim for such extra compensation before beginning such work. Failure on the part of the CONSULTANT to give such notification will constitute a waiver of the claim for such extra compensation. The filing of such notice by the CONSULTANT shall not in any way be construed to establish the validity of the claim. Such extra compensation shall be provided only by amendment to THIS CONTRACT with approval of the MDOT and the FHWA.

29. In addition to the protection afforded by any policy of insurance, the CONSULTANT agrees to indemnify and save harmless the State of Michigan, the Michigan State Transportation Commission, LOCAL AGENCY, the FHWA, and all officers, agents, and employees thereof:

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

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

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

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

- a. Termination for Convenience:
FOR COSTS TO BE REIMBURSED ON AN ACTUAL COST PLUS FIXED FEE

BASIS: The CONSULTANT will be reimbursed for all costs incurred up to the termination date set forth in the notice of termination. Such reimbursement will be as set forth in Sections 16 and 17. The CONSULTANT will be reimbursed a proportionate share of the fixed fee based on the portion of the project that is complete as determined by LOCAL AGENCY. LOCAL AGENCY will receive the work product produced by the CONSULTANT under THIS CONTRACT up to the time of termination, prior to the CONSULTANT being reimbursed. In no case will the compensation paid to the CONSULTANT for partial completion of SERVICES exceed the amount the CONSULTANT would have received had the SERVICES been completed.

b. Termination for Cause:

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

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

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

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

The value of such partially completed work product will be determined by LOCAL

AGENCY based on actual costs incurred up to the estimated value of the work product received by LOCAL AGENCY as determined by LOCAL AGENCY.

In the event that termination by LOCAL AGENCY is necessitated by any wrongful breach, failure, default, or omission by the CONSULTANT, LOCAL AGENCY will be entitled to pursue whatever remedy is available to it, including, but not limited to, withholding funds or off-setting against funds owed to the CONSULTANT under THIS CONTRACT, as well as any other existing or future contracts between the CONSULTANT and LOCAL AGENCY, for any and all damages and costs incurred or sustained by LOCAL AGENCY as a result of its termination of THIS CONTRACT due to the wrongful breach, failure, default, or omission by the CONSULTANT.

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

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

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

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

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

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

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

32. The CONSULTANT'S signature on THIS CONTRACT constitutes the CONSULTANT'S certification that to the best of his or her knowledge and belief no

federal appropriated funds have been paid or will be paid by or on behalf of the undersigned to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or the extension, continuation, removal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

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

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

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

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

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

34. The CONSULTANT agrees that the costs reported to LOCAL AGENCY for THIS CONTRACT will represent only those items that are properly chargeable in accordance with THIS CONTRACT. The CONSULTANT also certifies that it has read the Contract terms and has made itself aware of the applicable laws, regulations, and terms of THIS CONTRACT that apply to the reporting of costs incurred under the terms of THIS CONTRACT.

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

CITY OF BURTON

By: _____

PAULA ZELENKO

TITLE: MAYOR

By: _____

RIK HAYMAN

TITLE: ACTING CITY CLERK

OHM ADVISORS

Patrick G.

By: Wingate, PE

PATRICK G. WINGATE, PE

TITLE: DIRECTOR OF TRANSPORTATION

Digitally signed by Patrick G. Wingate, PE DN:
cn=Patrick G. Wingate, PE, o=Orchard, Hiltz &
McCliment, Inc., ou=Director,
email=Pat.Wingate@ohm-advisors.com, c=US
Date: 2018.01.05 09:51:14 -05'00'

List of Exhibits/Appendixes/Attachments

Exhibit A – CONSULTANT Proposal: Scope of Services

Exhibit B – Professional Liability Insurance

Exhibit C – The Dispute Resolution Process

Exhibit D – Consultant Performance Evaluations

Appendix A – Prohibition of Discrimination in State Contracts

Appendix B – TITLE VI Assurance

Appendix C – Assurances that Recipients and Contractors Must Make

Appendix D – Local Consultant Conflict of Interest

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

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

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

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

Attachment C – Transportation Certification of Indirect Rate

EXHIBIT A

CONSULTANT Proposal: Scope of Services

A.

Understanding, Innovations & Safety Program

Understanding

OHM Advisors (OHM) has reviewed the plans and special provisions for this project and understands the scope includes the milling and resurfacing of Center Road from Lippincott Boulevard to Lapeer Street in the City of Burton. It appears the City has focused effort on Center Road over the recent construction seasons, as the road has been repaved from Atherton to Lippincott. This project will continue to improve the busy corridor.



Existing guardrail



Curbed island at Walli Strasse Drive



North end of the project

Center Road is a full depth asphalt five-lane urban road experiencing 25,088 vehicles daily and serves a major corridor in the City of Burton, bordering the City of Flint. The construction will be completed in two phases and includes full depth pavement repairs, intermittent curb and gutter repairs, intermittent driveway replacement (in conjunction with Detail M replacements), the addition of sidewalk on the east side towards the north end of the project, and the addition of pedestrian push buttons at the Lippincott intersection all of which are identified in the plans. In a brief conversation with the City Staff we understand there may be some concerns with the cross slope of the road that will need to be considered during construction. Also, OHM understands that some of the local residents may have concerns about the removal of the **existing guardrail** on the west side of Center Road. The plans also show that **the curbed island at Walli Strasse Drive** will be relocated further to the east. In addition to these revisions, the only drainage improvements will occur at the **north end of the project** near sta. 30+50, right, and consist of replacing a drainage structure and adjoining pipe replacement. We understand the City has identified this failure through their current SAW program.

Our team has completed a thorough review of the project's Special Provisions. The Progress Clause states the project is scheduled to begin mid-April 2018 with a final completion of July 20th, 2018. We understand the final package will be submitted soon, and based on MDOT's Local Agency Programs FY 2018 Project Planning Guide, if submitted during December 2017 it would be included in the March 2018 MDOT letting. The maintaining traffic special provision clearly defines the proposed project phasing with the eastern portion of the road being completed during Phase 1 and the western portion during Phase 2. All other information included in the special provision is similar to what OHM would expect for this project. OHM is very familiar with all other Special Provisions in the package and feel the intent of the modified pay items included in the project are clearly defined.

The OHM team understands the many facets of this project and will provide full construction engineering services as outlined in the Request for Qualifications (RFQ). We have assembled an experienced and qualified team to perform construction engineering, construction layout, contract administration and project oversight.

A.

Understanding, Innovations & Safety Program

The OHM team will provide:

- Complete project administration using FieldManager software in accordance with Federal Requirements;
- Coordinate with utilities and agencies;
- Office Technician, certified by MDOT;
- Inspection;
- SESC inspection;
- Construction staking/layout;
- Quality Control materials testing in accordance with MDOT and Federal requirements;
- Facilitation of bi-weekly progress meetings;
- Measurement, computation, and documentation of quantities;
- Reporting and record keeping, including certified payroll reviews;
- Finalization of all project documentation through MDOT Audit;

OHM will ensure contract service requirements are met and perform responsibilities consistent with MDOT LAP practices and procedures for this project. **Andy Harris, Project Engineer**, will provide oversight of contract responsibilities and serve as the liaison between the Contractor and City. He will also ensure the project is completed, from the preconstruction meeting through the final pay estimate, according to MDOT standards and procedures. Routine tasks include the following:

- Perform as-needed site visits to review critical items, site conditions, progress and resolve contentious issues;
- Ensure the interests of the City are protected and coordinate any adjustments which may become necessary to keep the contract running smoothly; and
- Monitor progress schedule requirements and MOT requirements.
- Resolve any problems, issues, discrepancies or other items brought to the attention of the team by the Contractor, including written documentation of findings or resolutions to these issues.
- Assist the City on any and all claims for extra compensation and denied extension of time requests by the Contractor.
- Sign applicable documentation as the Project Engineer for the project.
- Communicate general project status and any foreseeable issues with the City.

- Work with senior technician, field technician, the City, and the contractor to resolve issues encountered.
- Complete punchlist walkthrough with the Contractor and monitor status of punchlist items.
- Coordinate and complete project review with MDOT and the City upon project completion. The MDOT Form 1120 will be filled out and signed by all parties.
- Oversee and ensure timely completion of the final file audit and final estimate. The file shall be completed and finalized within the 120 day window from the date of the final inspection and acceptance.

Rachyl Randall, Office Technician, will complete contract administration and office technician duties for the project. She will perform all items associated with FieldManager documentation and construction project records requirements (BOH IM 2008-09). Responsibilities will also include:

- Set up FieldManager file using the Contractor provided documentation (i.e. MSL's) and associating all applicable materials to the contract pay items.
- Complete bi-weekly pay estimates for review and approval of the Project Engineer.
- Complete any required Contract Modifications and compile supporting documentation.
- Compile certified payroll documentation, complete the reviews, and complete any correspondence regarding compliance or additional information for the engineer's signature.
- Compile all documentation to comply with the new requirements for prompt payment verification.
- Facilitate completion of Contractor Performance Evaluations (CPE's) and circulate for signatures.
- Work with the project engineer on closeout process including file review and certification.
- Develop contractor outstanding documentation correspondence.
- Assist in the creation of the final estimate and final as-builts for each project.

Nick Tanton, Senior Technician, will act as the liaison between the Field Technician and the Project Engineer visiting the site intermittently during construction. The Senior Technician will provide a supervisory role over the field technician and will assist with the onsite construction challenges as they occur. Responsibilities will include:

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Understanding, Innovations & Safety Program

- Coordinate and schedule the preconstruction meeting with project stakeholders
- Review material testing reports as work progresses.
- Assist and/or run regularly scheduled progress meetings, both formal and onsite.
- Review field staff documentation and material testing procedures as part of our QA/QC process;
- Coordinate between construction contractors, sub-consultants, and other public and private entities.
- Coordinate with utility companies.
- Coordinate material testing or laboratory testing and construction staking requests.
- Communicate with the field technicians and office technician daily to review current items and outstanding issues.
- Coordinate and schedule sub-contractor to perform laboratory Hot Mix Asphalt testing during the days of paving.

Eric Turland, Field Technician, will perform daily onsite field inspection. He will be the daily eyes and ears of the Project Engineer and the City onsite throughout the entire duration of the project. Our general approach to onsite inspection includes the following tasks:

- Complete required paperwork including Inspector Daily Reports (IDR's) and all other required documentation and submit it to the Office Technician on a regularly scheduled basis.
- In a business district such as Center Road, we encourage our field technicians to communicate with the business owners as required during construction. Some business owners may have questions or concerns during construction and making the field technician their first point of contact provides the opportunity for those concerns to be addressed in a most time efficient manner. We have found that this close connection and increased level of communication at the field level allows for a direct outlet for questions or concerns and speeds resolution to mitigate the construction impacts to the local business owners.
- Regularly review and monitor all traffic control devices and detour routes. Implementation of proper and effective traffic-control and "mobility" plans is a priority on every project. We understand the importance of safety for the workforce and traveling public in construction

zones, especially along a heavily traveled corridor like Center Road. We have extensive experience working in similar settings to ensure "mobility" is being maintained.

- The staff is experienced with the MDOT Material Source Guide. Our field technicians understand the need to work with office staff to ensure all items and materials are accounted for to achieve proper payments to the Contractor and expedite the project closeout process.
- Our field technicians look for ways to find the design's intent and work with appropriate team members to find the best solution, while striving to keep the project within budget.
- Work with the project engineer and the contractor's field representative to ensure quantities are agreed upon on a regular basis. The team's field and office staff will work to balance items as work progresses and items are completed.
- Develop as-built plans as the project progresses, documenting field changes, actual utility locations, and substantial quantity changes.
- Conduct any field or laboratory test to verify materials placed meet the requirements of the contract, including but not limited to; fresh concrete sampling and testing, density testing, aggregate sampling and testing, HMA sampling and testing, etc.
- Complete a log book containing the rainfall record and at least weekly SESC inspections on MDOT Form 1126. Our technicians are well-versed with the SESC Manual. OHM ensures the individual assigned to these tasks has the experience, training and certifications necessary to complete them.

Andrew Schripsema, Professional Surveyor, will be responsible for coordinating survey staking and layout. OHM's survey team has significant experience with projects similar and nature. After review of the plans we would anticipate a limited amount of survey will be required due to the majority of the existing curb and gutter to remain.

Jack Niemi, Laboratory Technician, will be responsible for coordinating all required laboratory testing. It is anticipated that sieve analysis will be required along with concrete cylinder breaks. Having the ability to perform in-house materials testing provides an excellent communication link between the lab, the field, the office staff, and the contractor promoting adherence to the project schedule.

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Understanding, Innovations & Safety Program

OHM is also teaming with an experienced firm, SMAC, to perform the **HMA laboratory testing** during construction which is required by MDOT. **Stuart MacDonald** of SMAC has become our premier sub-consultant for HMA testing on projects throughout the state of Michigan, and we are confident in the services he will provide.

OHM understands the many facets of this project and has significant experience with projects similar in nature. We have reviewed the plans and feel we will provide the City with unmatched service to assure this project is constructed in accordance with the Plans, the Proposal, and meets the required schedule. Limiting the time of impact on local business owners will be critical in the success of this project.

We have listed the tasks above to highlight to the City that OHM understands what is required to see this project through construction. We look forward to being a part of the Team with the City and working to successfully complete this project.

Innovations

OHM has a tremendous amount of experience with reviewing the contractor bids and providing Value Engineering for our clients. If we are able to pinpoint a specific quantity that can be adjusted to save dollars in the project, the opportunity to do so will be discussed with the City. For example the cost for curb and gutter repairs on the Miller Road project in Swartz Creek caused the bids to be higher than the City's budgeted amount. OHM worked with the City and the contractor to adjust the quantity and get the cost to be within the City's budget while staying within the MDOT contractual limits for quantity adjustments. There may be a similar opportunity for this project when determining the actual locations of the proposed pavement repairs. Once the surface is milled, the failing areas will more clearly present themselves, and the actual quantity may be different than what is currently shown in the plans. OHM will review the repairs with the contractor and, if possible, will provide the City with the opportunity to save money on this project.

Recently MDOT Local Agency projects have integrated the use of the ProjectWise software. Previously, the software was used exclusively by MDOT. However, they have since promoted its use on Local Agency Projects. In fact the

majority of LAP projects completed by OHM in 2017 and several in 2016 utilized the software. ProjectWise provides an electronic method of file transfer and maintenance. Forms are filled out and submitted to ProjectWise, and if a signature is required the person signing is notified via email and prompted to login to sign the document. This eliminates the historical issue of circulating hard copies for actual signatures and in most cases, contract modifications which used to take a week or two to execute can now be authorized in a day or two.

Another example of Value Engineering was recently completed for the City of Bay City's Patterson Avenue project. Another consultant designed the roadway and we were selected to perform full Construction Engineering services. The design included removal of half of the existing concrete pavement for storm sewer replacement and placing concrete pavement back in the trench area and tying to the existing concrete, prior to placing the leveling and wearing HMA courses. Through value engineering and negotiations with the contractor, we produced a fix that removed the concrete entirely, placed new aggregate base and HMA layers and underdrain for an additional \$26,000. The City now has a new pavement section without a concrete surface beneath the HMA.



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Understanding, Innovations & Safety Program

In addition to expediting the paperwork process, any users who have access to the project via the software can view a limited level of the submitted paperwork. For example, the contractor can view items which have ‘Contractor Access’ and the office technician has access to all documentation. Each party has a limited level of rights to alter specific forms. The software also expedites the closeout process. In many cases, the only actual specific pieces of paper in a physical file is material tickets (i.e. HMA tickets, concrete tickets etc.) Once the file is scheduled for review the assigned MDOT reviewer has access to all files via ProjectWise and doesn’t need to visit an office to complete the review. OHM has experienced a significant upward trend of project closeouts happening within the 120 day window.

OHM understands the importance of equipping our field staff with the latest mobile technology as well as any required materials testing equipment. Technicians will be provided a local Wi-Fi hot-spot device, laptop, and printer/scanner so their vehicle serves as their mobile office. Other tools used regularly are smart phones or tablets with Skype or FaceTime capability. The phone allows anyone to be a resource to the project, whether through still shots or video feed directed at a point of interest in the field. Observations can be collected and shared visually in real time by utilizing these tools as questions arise. In addition to mobile technology, each field technician will have concrete testing equipment and density testing equipment to maximize efficiency while on site. This avoids the additional cost of having a separate testing firm onsite doing the materials testing and streamlines the communication between the technician and the contractor.

One of the biggest challenges in project like this is maintaining traffic during construction. We had included this discussion point in our Proposal to complete the Preliminary Engineering for this project. Minimizing user delay times and allowing the work to be completed safely are two challenges that typically impact the maintenance of traffic. We have reviewed the plans and understand the strategy is to complete the work using adjacent lane closures versus the ‘inside/outside’ approach. Based on our experience we would agree that this would be the more efficient option in regards to completing the project on schedule. The GCRC will need to be coordinated to

relocate traffic signal heads and will be integral in successfully executing this approach. OHM has experience working closely with the GCRC staff during the Miller Road project in Swartz Creek. We feel our relationship with their staff will complement the proposed maintenance of traffic strategy.

Safety Program

OHM Advisors takes pride in providing the safest work environment possible for all of our staff, field and office. In 2014 we ramped up our program and appointed a new Safety Director, Craig Schripsema, PE. He has implemented several initiatives to make safety one of the first thoughts in all employees minds on every project or aspect of our daily activities. Included in our program are the following safety focused initiatives:

Safety Tailgate Topics – We send out a bi-weekly safety topic and quiz to all staff, from interns to CEO (engineers, field staff, and office staff). This provides a one page safety fact sheet on a variety of key topics, along with a short quiz to document involvement and prize raffles to motivate participation. This has been very successful in educating all of our staff, and getting safety to be a topic of conversation.

MIOSHA Visits – We have voluntarily requested regularly scheduled sessions with MIOSHA to discuss our program



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Understanding, Innovations & Safety Program

and current updates. This helps keep our efforts focused and encourages a pro-active rather than reactive approach to compliance.

OSHA 300 Log and EMR Ratings – OHM has an average 0.8 EMR Rating, which is below the Industry Standard of 1.0. Our OSHA 300 Logs show zero lost to injuries over the last three years which is outstanding.

Annual Construction Safety Kick-Off Meeting – At the beginning of each construction season we host a day long, mandatory kick off meeting with our field staff to inspect their Personal Protection Equipment (PPE) and discuss current updates and various safety issues. We bring in speakers from MDOT and other agencies regarding safety.

First Aid & CPR Training – We currently have 32 staff certified in First Aid and CPR. We strive to have at least one CPR/First Aid certified employee on each project site.

Confined Space Entry – OHM has 41 staff members currently certified in Confined Space Entry. We also have our own written and accepted by OSHA Confined Space Entry Program.

Safety Committee – OHM has implemented a company-wide Safety Committee which meets to discuss current project safety needs, workflow and hazard identification, hazard prevention and control, training needs and updates to our current program. This committee includes representatives from each of our offices, along with representation from all aspects of our services and staff.

OSHA Safety Training - OHM has 12 OSHA 30-Hour Construction Safety Certified staff, and 30 OSHA 10-Hour Safety Certified Construction Staff.

Project Safety Data Forms – In an effort to encourage discussion and thought to be put into safety prior to even starting a project, we have created a “Project Specific Safety Information” form that is to be completed prior to starting any new phase on a project. This encourages people familiar with the project to think through and identify potential hazards that may be associated with various aspects of the

project that should be shared with all staff that will touch the project so that they know ahead of time what measures to take to mitigate the potential hazards. We have also created a “Site Safety Audit Form” that is to be utilized by supervisors to verify and document that staff are using the proper PPE and other mitigation efforts on that specific project.

OHM Safety and Accident Prevention Manual - While OHM has an existing External Safety Manual, we have been in the process of completely re-writing and creating a new Safety and Accident Prevention Manual, which is currently under review by MIOSHA for requested feedback. This manual is a comprehensive re-write to include information on company policy regarding safety, and to define a strict “zero tolerance” position towards safety. It includes compliance with the changing Hazard Communication requirements, accident prevention measures, and specific discussion on the various hazards that are inherent to our business.

Personal Protection Equipment and Log – OHM maintains a PPE log to track distribution of protective equipment to staff and condition. Currently all field staff are issued ANSI certified hard hat, safety vest, safety glasses, ear plugs (NR33), skin care kits (contain poison ivy, sunblock and insect repellent), and first aid kits (with eye wash).

Goals to implement a Safety First Culture – Another change that we have made to make safety part of our culture is the addition of safety as an agenda/discussion item on every service divisions weekly staff meetings, and at our bi-weekly operations meetings with all division & office managers. This is a way that we can share a consistent message, discuss any observations or potential issues coming up on our projects, and create a forum for questions to be collected and addressed at all staff levels.

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

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

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

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

EXHIBIT C

THE DISPUTE RESOLUTION PROCESS

November, 2015

BACKGROUND

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

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

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

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

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

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

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

THE PROCESS – OVERVIEW

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

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

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

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

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

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

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

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

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

PROCESS – DISPUTE RESOLUTION

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

Level 1 – Omissions and Errors Identification and Correction

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

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

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

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

Level 2 – Cost Responsibility Determination

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

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

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

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

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

Level 3 – Cost Recovery or Payment

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

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

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

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

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

EXHIBIT D
CONSULTANT PERFORMANCE EVALUATIONS

May 20, 2015

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

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

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

APPENDIX A

PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS

In connection with the performance of work under THIS CONTRACT; the CONTRACTOR agrees as follows:

1. In accordance with Public Act 453 of 1976 (Elliott-Larsen Civil Rights Act), the CONTRACTOR shall not discriminate against an employee or applicant for employment with respect to hire, tenure, treatment, terms, conditions, or privileges of employment or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight, or marital status. A breach of this covenant will be regarded as a material breach of THIS CONTRACT. Further, in accordance with Public Act 220 of 1976 (Persons with Disabilities Civil Rights Act), as amended by Public Act 478 of 1980, the CONTRACTOR shall not discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment or a matter directly or indirectly related to employment because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of the above covenants will be regarded as a material breach of THIS CONTRACT.
2. The CONTRACTOR hereby agrees that any and all subcontracts to THIS CONTRACT, whereby a portion of the work set forth in THIS CONTRACT is to be performed, shall contain a covenant the same as hereinabove set forth in Section 1 of this Appendix.
3. The CONTRACTOR will take affirmative action to ensure that applicants for employment and employees are treated without regard to their race, color, religion, national origin, age, sex, height, weight, marital status, or any disability that is unrelated to the individual's ability to perform the duties of a particular job or position. Such action shall include, but not be limited to, the following: employment; treatment; upgrading; demotion or transfer; recruitment; advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
4. The CONTRACTOR shall, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, age, sex, height, weight, marital status, or disability that is unrelated to the individual's ability to perform the duties of a particular job or position.
5. The CONTRACTOR or its collective bargaining representative shall send to each labor union or representative of workers with which the CONTRACTOR has a collective bargaining agreement or other contract or understanding a notice advising such labor union or workers' representative of the CONTRACTOR'S commitments under this Appendix.
6. The CONTRACTOR shall comply with all relevant published rules, regulations, directives, and orders of the Michigan Civil Rights Commission that may be in effect prior to the taking

of bids for any individual state project.

7. The CONTRACTOR shall furnish and file compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission; said forms may also elicit information as to the practices, policies, program, and employment statistics of each SUBCONTRACTOR, as well as the CONTRACTOR itself, and said CONTRACTOR shall permit access to the CONTRACTOR'S books, records, and accounts by the Michigan Civil Rights Commission and/or its agent for the purposes of investigation to ascertain compliance under THIS CONTRACT and relevant rules, regulations, and orders of the Michigan Civil Rights Commission.
8. In the event that the Michigan Civil Rights Commission finds, after a hearing held pursuant to its rules, that a CONTRACTOR has not complied with the contractual obligations under THIS CONTRACT, the Michigan Civil Rights Commission may, as a part of its order based upon such findings, certify said findings to the State Administrative Board of the State of Michigan, which State Administrative Board may order the cancellation of the Contract found to have been violated and/or declare the CONTRACTOR ineligible for future contracts with the state and its political and civil subdivisions, DEPARTMENTS, and officers, including the governing boards of institutions of higher education, until the CONTRACTOR complies with said order of the Michigan Civil Rights Commission. Notice of said declaration of future ineligibility may be given to any or all of the persons with whom the CONTRACTOR is declared ineligible to contract as a contracting party in future contracts. In any case before the Michigan Civil Rights Commission in which cancellation of an existing contract is a possibility, the contracting agency shall be notified of such possible remedy and shall be given the option by the Michigan Civil Rights Commission to participate in such proceedings.
9. The CONTRACTOR shall include or incorporate by reference, the provisions of the foregoing paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Michigan Civil Rights Commission; all subcontracts and purchase orders will also state that said provisions will be binding upon each SUBCONTRACTOR or supplier.

Revised June 2011

APPENDIX B TITLE VI

ASSURANCE

During the performance of THIS CONTRACT, the CONTRACTOR, for itself, its assignees, and its successors in interest (hereinafter referred to as the “CONTRACTOR”), agrees as follows:

1. **Compliance with Regulations:** For all federally assisted programs, the CONTRACTOR shall comply with the nondiscrimination regulations set forth in 49 CFR Part 21, as may be amended from time to time (hereinafter referred to as the Regulations). Such Regulations are incorporated herein by reference and made a part of THIS CONTRACT.
2. **Nondiscrimination:** The CONTRACTOR, with regard to the work performed under THE CONTRACT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection, retention, and treatment of SUBCONTRACTORS, including procurements of materials and leases of equipment. The CONTRACTOR shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices, when the CONTRACTOR covers a program set forth in Appendix B of the Regulations.
3. **Solicitation for Subcontracts, Including Procurements of Materials and Equipment:** All solicitations made by the CONTRACTOR, either by competitive bidding or by negotiation for subcontract work, including procurement of materials or leases of equipment, must include a notification to each potential SUBCONTRACTOR or supplier of the CONTRACTOR’S obligations under the Contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The CONTRACTOR shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and facilities as may be determined to be pertinent by the DEPARTMENT or the United States DEPARTMENT of Transportation (USDOT) in order to ascertain compliance with such Regulations or directives. If required information concerning the CONTRACTOR is in the exclusive possession of another who fails or refuses to furnish the required information, the CONTRACTOR shall certify to the DEPARTMENT or the USDOT, as appropriate, and shall set forth the efforts that it made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of the CONTRACTOR’S noncompliance with the nondiscrimination provisions of THIS CONTRACT, the DEPARTMENT shall impose such contract sanctions as it or the USDOT may determine to be appropriate, including, but not limited to, the following:
 - a. Withholding payments to the CONTRACTOR until the CONTRACTOR complies; and/or b.
 - b. Canceling, terminating, or suspending THE CONTRACT, in whole or in part.

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

Revised June 2011

APPENDIX C

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

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

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

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

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

(Revised October 1, 2005)

APPENDIX D

LOCAL CONSULTANT CONFLICT OF INTEREST

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

Appendix E

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

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

Use of the LOCAL AGENCY logo;

Brochures, flyers, invitations, programs, or any other printed materials intended for external audiences;

Posting on social media sites or web sites;

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

Exhibits or presentations.

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

Appendix G
Prime Consultant State of DBE Sub-Consultant Payments

ATTACHEMENT A

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

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the DEPARTMENT or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the DEPARTMENT or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the DEPARTMENT or agency may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the DEPARTMENT or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the DEPARTMENT or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the DEPARTMENT or agency entering into this transaction.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transaction," provided by the DEPARTMENT

or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

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

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

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

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

ATTACHMENT B

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

Instructions for Certification

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

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

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

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

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

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

Michigan Department
Of Transportation
5108L (01/11)

CERTIFICATION OF INDIRECT (OVERHEAD) RATE

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

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

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

PROJECT INFORMATION

MDOT CONTROL SECTION(S) – JOB NUMBERS(S):	CONTRACT / AUTHORIZATION NUMBER:
LOCAL AGENCY: City of Burton	
PROJECT DESCRIPTION: Mill and resurfacing of Center Road from Lippincott Boulevard to Lapeer Street in the City of Burton	

DECLARATION OF CERTIFICATION

INDIRECT (OVERHEAD) COST RATE:	188.70%
DATE OF INDIRECT (OVERHEAD) COST RATE DETERMINATION (mm/dd/yyyy):	08/02/2017
FISCAL PERIOD COVERED (mm/dd/yyyy to mm/dd/yyyy):	08/01/2017 to 07/31/2018

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

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

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

CONSULTANT INFORMATION

ROLE ☒ Prime ☐ Tier 1 Sub ☐ Tier 2 Sub			
LEGAL BUSINESS NAME: Orchard, Hiltz & McCliment, Inc.		FEDERAL ID NUMBER (Must match prequalification file): 38-1691323	
COMPANY ADDRESS: 34000 Plymouth Road	CITY: Livonia	STATE: MI	ZIP CODE: 48150
EMAIL ADDRESS: pat.wingate@ohm-advisors.com	PHONE NO.: (734) 522-6711		

CERTIFYING OFFICIAL

NAME OF CERTIFYING OFFICIAL (Print Name and Title): Patrick G. Wingate, PE - Director of Transportation	SIGNATURE OF CERTIFYING OFFICIAL: Patrick G. Wingate, PE
--	---

Patrick G. Wingate, PE
 Director of Transportation
 Orchard, Hiltz & McCliment, Inc.
 Date: 2018.01.05 09:03:04 -0500

PROPOSAL COST EXHIBIT SUMMARY

PROJECT NAME:

Construction Engineering from Lippincott Blvd to Lapeer Rd, City of Burton

CONSULTANT NAME:

SUMMARY BY CONSULTANT

<u>OHM</u>	\$ 120,520.11
<i>Fixed fee (included in total above)</i>	<i>\$ 11,918.14</i>
<u>SMAC Testing, Inc.</u>	\$ 2,144.52
<i>Fixed fee (included in total above)</i>	<i>\$ 212.52</i>
<u>Total</u>	\$ 122,664.63
<i>Fixed fee (included in total above)</i>	<i>\$ 12,130.66</i>



DERIVATION OF PRIME CONSULTANT COSTS

Exhibit

F.1.b

Summary of all Prime Costs for ALL JOB NUMBERS (including phases) for all services provided. Use additional pages as necessary.

MDOT CONTROL SECTION(S) - JOB NUMBER(S): CS - JN	CONTRACT / AUTHORIZATION #:	FIRM ROLE: Prime Firm
PRIME CONSULTANT NAME: Orchard, Hiltz & McCliment, Inc.	PROJECT DESCRIPTION: Construction Engineering from Lippincott Blvd to Lapeer Rd, City of Burton	

PRIME LABOR:

CLASSIFICATION	HOURS			RATE/HR	=	LABOR COST
Prof Eng/Arch IV	4	x	\$	51.09	=	\$ 204.36
Prof Eng/Arch III	72	x	\$	44.09	=	\$ 3,174.48
Prof Eng/Arch I	40	x	\$	33.31	=	\$ 1,332.40
Technician IV	189	x	\$	38.36	=	\$ 7,250.04
Technician II	1002	x	\$	23.62	=	\$ 23,667.24
Prof Surveyor III	5	x	\$	46.63	=	\$ 233.15
Surveyor III	32	x	\$	29.44	=	\$ 942.08
Surveyor II	32	x	\$	22.67	=	\$ 725.44
Total Hours: 1376				Total Labor		\$ 37,529.19

PRIME OVERHEAD: (Total Labor x Overhead Rate)

Overhead Rate: **188.70%** Total Overhead **\$ 70,817.58**

PRIME FACILITIES CAPITAL COST OF MONEY (F.C.C.M.): (Total Labor x F.C.C.M. Rate)

F.C.C.M. Rate: **0.68%** Total F.C.C.M. **\$ 255.20**

PRIME FIXED FEE FOR PROFIT: ((Total Labor + Total Overhead) x 11%)

Fixed Fee Rate: **11%** Total Fixed Fee **\$ 11,918.14**TOTAL PRIME FIRM COSTS **\$ 120,520.11**

Firm Role: Prime Firm

Note: Payment Method = ACFF

Attachment: Center Road Rehab 3rd Party Agreement - OHM Advisors (3445 : 3rd Part Agreement with OHM for CE Center Rd., Lippincott to

DERIVATION OF SUBCONSULTANT COSTS

Exhibit

F.1.b

Summary of all Sub Costs for ALL JOB NUMBERS (including phases) for all services provided. Use additional pages as necessary.

MDOT CONTROL SECTION(S) - JOB NUMBER(S): CS - JN		CONTRACT / AUTHORIZATION #:		FIRM ROLE: Tier 1 Sub	
SUBCONSULTANT NAME: SMAC Testing, Inc.		PROJECT DESCRIPTION: Construction Engineering from Lippincott Blvd to Lapeer Rd, City of Burton			
SUB LABOR:					
CLASSIFICATION Construction Testing HMA	HOURS 40	x	RATE/HR \$ 23.00	=	LABOR COST \$ 920.00
Total Hours: <u>40</u>		Total Labor <u>\$ 920.00</u>			
SUB OVERHEAD: (Total Labor x Overhead Rate)					
Overhead Rate: <u>110.00%</u>		Total Overhead <u>\$ 1,012.00</u>			
SUB FIXED FEE FOR PROFIT: ((Total Labor + Total Overhead) x 11%)					
Fixed Fee Rate: <u>11%</u>		Total Fixed Fee <u>\$ 212.52</u>			
TOTAL SUBCONSULTANT COSTS \$ 2,144.52					
Firm Role: Tier 1 Sub to		Note: Payment Method = ACFF			

Attachment: Center Road Rehab 3rd Party Agreement - OHM Advisors (3445 : 3rd Part Agreement with OHM for CE Center Rd., Lippincott to

Case No. 319

CITY OF BURTON
GENESEE COUNTY, MICHIGAN
ORDINANCE NO. 157. _____

AMENDMENTS TO CITY OF BURTON ORDINANCE CHAPTER 157, AS AMENDED

THE CITY OF BURTON ORDAINS:

That Ordinance Chapter 157, being City of Burton Zoning Ordinance, be amended as follows:

Section 1

City of Burton Ordinance Chapter 157, designated “City of Burton Zoning Ordinance” and the zoning district map attached thereto and made a part thereof, are hereby amended by rezoning the following described property in the City of Burton from present zoning classification to M-1, Light Industrial being located at 4312 S. Dort Hwy. as follows:

59-32-400-030 parent parcel pending split described as:

Parcel A: BEGINNING AT THE EAST 1/4 CORNER OF SAID SECTION 32; THENCE S01°12’00”W ALONG THE EAST LINE OF SAID SOUTHEAST ¼ OF SECTION 32, 255.00 FEET; THENCE N88°50’00”W AND PARALLEL TO THE NORTH LINE OF SAID SOUTHEAST ¼, 1306.76 FEET; THENCE N01°05’20”E, 255.00 FEET TO A POINT OF SAID NORTH LINE OF THE SOUTHEAST 1/4; THENCE S88°50’00”E ALONG SAID NORTH LINE OF THE SOUTHEAST ¼, 1307.26 FEET TO SAID EAST ¼ CORNER AND THE POINT OF BEGINNING; PARCEL CONTAINS 7.65 GROSS ACRES OF LAND

Parcel B: COMMENCING AT THE EAST ¼ CORNER OF SAID SECTION 32; THENCE S01°12’00”W ALONG THE EAST LINE OF SAID SOUTHEAST ¼ OF SECTION 32, 255.00 FEET TO THE POINT OF BEGINNING; THENCE S01°12’00W CONTINUING ALONG SAID EAST LINE OF THE SOUTHEAST 1/4 , 748.21 FEET; THENCE N88°44’00”W, 798.75 FEET; THENCE S01°12’00W, 600.19 FEET; THENCE N88°46’30”W, 505.40 FEET; THENCE N01°05’20”E, 1346.49 FEET TO A POINT 255.00 FEET SOUTH OF THE NORTH LINE OF SAID SOUTHEAST ¼ OF SECTION 32; THENCE S88°50’00”E AND PARALLEL TO SAID NORTH LINE OF THE SOUTHEAST ¼, 1306.76 TO A POINT ON SAID EAST LINE OF SOUTHEAST ¼ AND THE POINT OF BEGINNING; PARCEL CONTAINS 29.37 GROSS ACRES OF LAND.

Section 2

The penalty for violation of this Ordinance shall be the same as those penalties set forth in Chapter 157.999 of the City of Burton Zoning Ordinance Chapter 157.

Section 3

Notice of this Ordinance shall be published in a newspaper circulated within the City of Burton, Genesee County, Michigan.

This Ordinance shall become effective upon publication.

Attachment: Council Back up (3446 : First Reading of Ord.)

A copy of this Ordinance may be inspected at the Burton City Hall, 4303 S. Center Road, Burton, Michigan, during regular business hours.

Ordinance Introduced on:

CITY OF BURTON

By:

Paula Zelenko, Mayor

Enacted:

By:

Richard Hayman, acting City Clerk



City of Burton

Building Department
4093 Manor Drive
Burton, MI 48519
(810) 742-9230

DATE FILED : 12-18-17
FEE PAID : \$600.00
CHECK NO: 1243
RECEIVED BY: JA

PETITION FOR ZONING CHANGE

CASE NO. 319 SPR#: 18-01

We the Owners, Contract Purchasers, Optionees and Leaseholders of the hereinafter described property do hereby petition your Honorable Body to rezone property described as:

see attached legal description for Parcel A and Parcel B

Parcel ID#: Pending split 59-32-400-030

Located at: 4312 S Dort Hwy Burton MI 48529
(address of property to be rezoned)

and change the zoning district classification from C-2 to M-1 for the purpose of redevelopment opportunities and such other uses permitted by the proposed zoning district.

ALL OWNERS, CONTRACT PURCHASERS, OPTIONEES AND LESSEES OF THE LAND PROPOSED FOR REZONING SIGN HERE:

Name: Wilson Boji Signature: Wilson Boji
3761 Coolidge, Troy MI 48084 248.520.9151
Address Phone

Name: _____ Signature: _____

Address _____ Phone _____

Name: _____ Signature: _____

Address _____ Phone _____

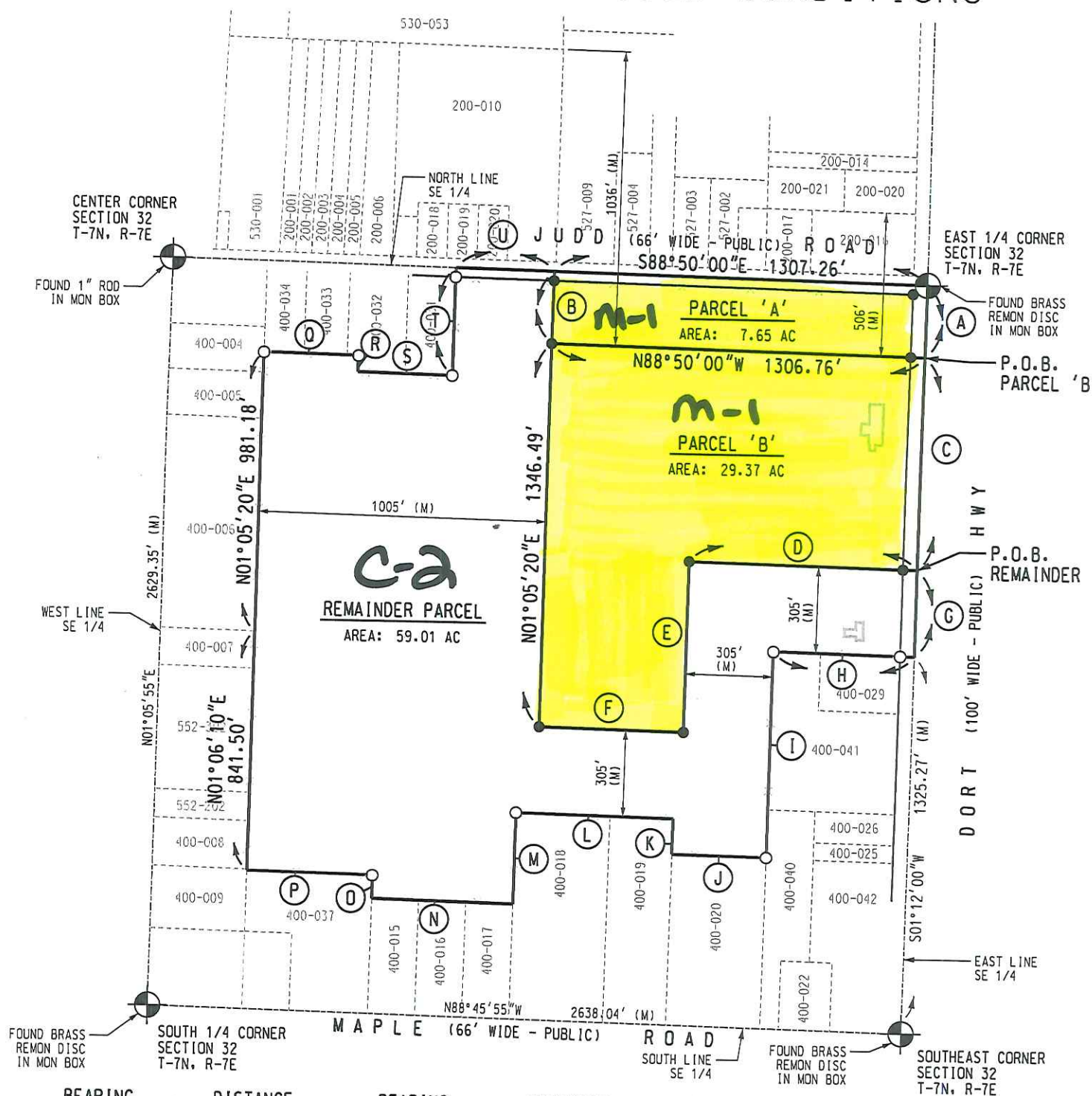
1st Public Hearing
Planning Commission Meeting: January 9, 2018 Time: 5:00 pm Action: _____

2nd Public Hearing / 1st Reading
Date of City Council Meeting: _____ Time: _____ Action: _____

2nd Reading
Date of City Council Meeting: _____ Time: _____ Action: _____

Attachment: Council Back up (3446 : First Reading of Ord.)

PARCEL SPLIT — PROPOSED CONDITIONS

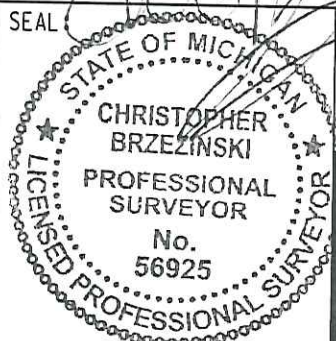


BEARING		DISTANCE	BEARING		DISTANCE	BEARING		DISTANCE
(A)	S01°12'00"W	255.00'	(H)	N88°44'00"W	493.75'	(O)	N01°07'30"E	82.50'
(B)	N01°05'20"E	255.00'	(I)	S01°12'00"W	724.97'	(P)	N88°44'00"W	440.04'
(C)	S01°12'00"W	748.21'	(J)	N88°46'30"W	329.91'	(Q)	S88°50'00"E	330.26'
(D)	N88°44'00"W	798.75'	(K)	N01°11'00"E	125.00'	(R)	S01°05'40"W	58.00'
(E)	S01°12'00"W	600.19'	(L)	N88°46'30"W	549.96'	(S)	S88°50'00"E	330.24'
(F)	N88°46'30"W	505.40'	(M)	S01°09'20"W	323.00'	(T)	N01°06'00"E	381.00'
(G)	S01°12'00"W	305.00'	(N)	N88°46'30"W	494.75'	(U)	S88°50'00"E	344.43'

1 NORTH

LEGEND

-  - IRON SET
 - IRON FOUND
 - SECTION CORNER



PROJECT: SOUTHMOOR GOLF COURSE
4312 S. DORT HWY
BURTON, MI 48529

SW 1/4, SECTION 32
TOWN 7N - RANGE 7E
CITY OF BURTON
STATE OF MICHIGAN

JOB NO.: 171203

SCALE: 1" = 500'

DATE: 12-14-2017

REVISION:

CREW:

DRAWN BY: MCHURD

CHK'D BY: BRZEZINSKI

MISC:

PAGE: 02 OF 03

Griggs Quaderer Inc.

Civil Engineering ▪ Land Surveying ▪ Site Planning

PH: (810) 695.0154

FAX: (810) 695.0158

WWW.GQINCORP.COM

8308 Office Park Dr.
Grand Blanc, MI 48439

PARCEL SPLIT — PARCEL DESCRIPTIONS

PARENT PARCEL DESCRIPTION:

LAND IN THE CITY OF BURTON, GENESEE COUNTY, MICHIGAN, DESCRIBED AS PART OF THE SOUTHEAST 1/4 OF SECTION 32, TOWN 7 NORTH, RANGE 7 EAST, DESCRIBED AS:

BEGINNING AT THE EAST 1/4 CORNER OF SAID SECTION 32; THENCE S01°12'W, 1308.21 FEET; THENCE N88°44'W, 493.75 FEET; THENCE S01°12'W, 724.97 FEET; THENCE N88°46'30"W, 329.91 FEET; THENCE N01°11'E, 125 FEET; THENCE N88°46'30"W, 549.96 FEET; THENCE S01°09'20"W, 323.00 FEET; THENCE N88°46'30"W, 494.75 FEET; THENCE N01°07'30"E, 82.50 FEET; THENCE N88°44'W, 440.04 FEET; THENCE N01°06'10"E, 841.50 FEET; THENCE N01°05'20"E, 981.18 FEET; THENCE S88°50'E, 330.26 FEET; THENCE S01°05'40"W, 58.00 FEET; THENCE S88°50'E, 330.24 FEET; THENCE N01°06'E, 381.00 FEET; THENCE S88°50'E 1651.47 FEET TO THE POINT OF BEGINNING.

REMIANDER PARCEL:

LAND IN THE CITY OF BURTON, GENESEE COUNTY, MICHIGAN, DESCRIBED AS PART OF THE SOUTHEAST 1/4 OF SECTION 32, TOWN 7 NORTH, RANGE 7 EAST, DESCRIBED AS:

COMMENCING AT THE EAST 1/4 CORNER OF SAID SECTION 32; THENCE S01°12'00"W ALONG THE EAST LINE OF SAID SOUTHEAST 1/4 OF SECTION 32, 1003.21 FEET TO THE POINT OF BEGINNING; THENCE S01°12'00"W CONTINUING ALONG SAID EAST LINE OF THE SOUTHEAST 1/4, 305.00 FEET; THENCE N88°44'00"W, 493.75 FEET; THENCE S01°12'00"W, 724.97 FEET; THENCE N88°46'30"W, 329.91 FEET; THENCE N01°11'00"E, 125.00 FEET; THENCE N88°46'30"W, 549.96 FEET; THENCE S01°09'20"W, 323.00 FEET; THENCE N88°46'30"W, 494.75 FEET; THENCE N01°07'30"E, 82.50 FEET; THENCE N88°44'00"W, 440.04 FEET; THENCE N01°06'10"E, 841.50 FEET; THENCE N01°05'20"E, 981.18 FEET; THENCE S88°50'00"E, 330.26 FEET; THENCE S01°05'40"W, 58.00 FEET; THENCE S88°50'00"E, 330.24 FEET; THENCE N01°06'00"E, 381.00 FEET TO A POINT ON THE NORTH LINE OF SAID SOUTHEAST 1/4; THENCE S88°50'00"E ALONG SAID NORTH LINE OF THE SOUTHEAST 1/4, 344.43 FEET; THENCE S01°05'20"W, 1601.49 FEET; THENCE S88°46'30"E, 505.40 FEET; THENCE N01°12'00"E, 600.19 FEET; THENCE S88°44'00"E, 798.75 FEET TO A POINT ON SAID EAST LINE OF THE SOUTHEAST 1/4 AND THE POINT OF BEGINNING; PARCEL CONTAINS 59.01 GROSS ACRES OF LAND.

PARCEL 'A' DESCRIPTION:

LAND IN THE CITY OF BURTON, GENESEE COUNTY, MICHIGAN, DESCRIBED AS PART OF THE SOUTHEAST 1/4 OF SECTION 32, TOWN 7 NORTH, RANGE 7 EAST, DESCRIBED AS:

BEGINNING AT THE EAST 1/4 CORNER OF SAID SECTION 32; THENCE S01°12'00"W ALONG THE EAST LINE OF SAID SOUTHEAST 1/4 OF SECTION 32, 255.00 FEET; THENCE N88°50'00"W AND PARALLEL TO THE NORTH LINE OF SAID SOUTHEAST 1/4, 1306.76 FEET; THENCE N01°05'20"E, 255.00 FEET TO A POINT ON SAID NORTH LINE OF THE SOUTHEAST 1/4; THENCE S88°50'00"E ALONG SAID NORTH LINE OF THE SOUTHEAST 1/4, 1307.26 FEET TO SAID EAST 1/4 CORNER AND THE POINT OF BEGINNING; PARCEL CONTAINS 7.65 GROSS ACRES OF LAND.

PARCEL 'B' DESCRIPTION:

LAND IN THE CITY OF BURTON, GENESEE COUNTY, MICHIGAN, DESCRIBED AS PART OF THE SOUTHEAST 1/4 OF SECTION 32, TOWN 7 NORTH, RANGE 7 EAST, DESCRIBED AS:

COMMENCING AT THE EAST 1/4 CORNER OF SAID SECTION 32; THENCE S01°12'00"W ALONG THE EAST LINE OF SAID SOUTHEAST 1/4 OF SECTION 32, 255.00 FEET TO THE POINT OF BEGINNING; THENCE S01°12'00"W CONTINUING ALONG SAID EAST LINE OF THE SOUTHEAST 1/4, 748.21 FEET; THENCE N88°44'00"W, 798.75 FEET; THENCE S01°12'00"W, 600.19 FEET; THENCE N88°46'30"W, 505.40 FEET; THENCE N01°05'20"E, 1346.49 FEET TO A POINT 255.00 FEET SOUTH OF THE NORTH LINE OF SAID SOUTHEAST 1/4 OF SECTION 32; THENCE S88°50'00"E AND PARALLEL TO SAID NORTH LINE OF THE SOUTHEAST 1/4, 1306.76 TO A POINT ON SAID EAST LINE OF SOUTHEAST 1/4 AND THE POINT OF BEGINNING; PARCEL CONTAINS 29.37 GROSS ACRES OF LAND.

CERTIFICATION

I HEARBY CERTIFY THAT I, CHRISTOPHER BRZEZINSKI, A LICENSED LAND SURVEYOR IN THE STATE OF MICHIGAN, HAVE SURVEYED AND MAPPED THE PROPERTY HEREIN DESCRIBED AND THAT ALL REQUIREMENTS OF P.A. 132 OF 1970 HAVE BEEN MET. THE RATIO OF CLOSURE OF THE FIELD OBSERVATIONS WAS MEASURED BETTER THAN 1:10,000.

SEAL:	PROJECT: SOUTHMOOR GOLF COURSE 4312 S. DORT HWY BURTON, MI 48529	SW 1/4, SECTION 32 TOWN 7N - RANGE 7E CITY OF BURTON STATE OF MICHIGAN	JOB NO.: 171203	
			SCALE: 1" = 500'	
			DATE: 12-14-2017	
	REVISION:			
	Griggs Quaderer Inc. Civil Engineering ▪ Land Surveying ▪ Site Planning PH: (810) 695.0154 FX: (810) 695.0158 WWW.GQINCORP.COM 8308 Office Park Dr. Grand Blanc, MI 48439			CREW:
				DRAWN BY: MCHURD
				CHK'D BY: BRZEZINSKI
				MISC:
	PAGE: 03 OF 03			

FILE LOCATION: G:\Client\Bolt\171203 Southmoor Golf\03\030303\171203split.dgn DATE: 12/15/2017

Attachment: Council Back up (3446 : First Reading of Ord.)



Overview

The Applicant is requesting a re-zoning of the property located 4312 S Dort Hwy, Burton, MI 48529. The current zone classification is C-2. The Applicant is requesting a re zoning of a portion of the property to M-1 to provide for a construction of a Commercial Medical Marijuana Transaction facility(s) in accordance with CITY OF BURTON ORDINANCE NO. 2017- -157.

The new M1 designation would more closely match the zoning classification of the surrounding and adjacent property.

The project will consist of two phases in conformance with State of Michigan license requirements:

Phase 1

- Five (5) Class C commercial grow licenses
- One (1) provisioning center license
- One (1) processing license

Optional Phase 2

- Additional five (5) Class C commercial grow licenses
- Central utilities including a 3.5 MW biomass power generator

Design

Phase 1 - the existing clubhouse will be repurposed and a portion will be renovated into a dispensary/provisioning center. The remaining space in the building will be used as a processing center for the production of medical products.

The entire property is 96.03 acres. If both phases are constructed, only 37 acres or 38% of the available land will be developed. The remaining 59.01 acres will be as green space and a buffer zone for the development. Two large water retention ponds will be constructed to help manage hydrological impact to the site.

Each of the five (5) Class C commercial grow facilities will be 42,000 ft. fully engineered, indoor grows. The advanced design of these grows include a negative pressure odor mitigation strategy (no smell will escape the building) and next generation efficient lighting systems.

These facilities will utilize less than 50% of the power for a similar sized standard grow operation. Consumers Energy Power Company has 3-Phase power available at a nearby substation that will provide all the necessary energy requirements.

Optional Phase 2 – If market conditions are favorable, the Applicant may add I five (5) additional grows facilities. Part of the Phase 2 construction would also include be a 3.5 MW biomass power generator. The biomass boilers are feedstock agnostic and can utilize all the waste material from the grow (stems and leaves) as fuel. We will produce enough green, renewable energy to power the entire facility. The exhaust will be scrubbed to reduce emissions while simultaneously capturing



the CO₂ from the stack. The CO₂ will then be used in the grow facilities. This will create a truly closed loop system and be the first **carbon negative** grow facility in the US.

Economic Development

The project will represent a substantial investment in the city of Burton. Construction cost for each of the five (5) Class C grow facilities will be approximately \$4.5 million. With site development and renovations to the clubhouse, the capital improvements to the site for Phase 1 will exceed \$24 million.

Phase 2 construction will add an additional five (5) grows and the biomass power generation component. Total investment into the site for both Phases will be nearly \$60 million.

The annual gross revenue for each of the five (5) grows, at full capacity will be approximately \$15 million with 26 employees and an annual payroll of \$1.82 million per grow.

With both phases developed, the park will create 300 jobs. Those jobs will pay good wages and include, with good paying jobs and benefits. A summary is listed below:

	<u>Phase 1</u>	<u>Phase 2</u>	<u>Total</u>
Capital Improvements	\$24,500,000	\$34,500,000	\$59,000,000
Annual Revenue	\$80,000,000	\$83,000,000	\$163,000,000
Employees	147	140	287
Annual Payroll	\$10,400,000	\$10,790,000	\$21,190,000

Security and Traffic Flow

The entire grow facility will be fenced and secure with an access gate and security cameras. Two tree lines will be established for privacy and aesthetics.

Each grow facility will have two shifts of employees with a staggered starting time. This system will help ease traffic concerns during at shift changes. There are two existing entrances from Dort Highway and the Applicant would consider an adding an additional entrance if deemed necessary.

Summary

This project will be one of the most advanced medical marijuana cultivation sites in the United States. The Applicants goal is to work closely with the City of Burton to create a world class operation with the focus on quality medicine, research, and good jobs in an environmentally friendly atmosphere.

We would like to work hand in hand with the City to accomplish these goals.



Southmoor Corporate
Cannabis Park
Burton, Michigan

mark	date	description
	01/03/18	REVISION2

G:\GG-MMDispensary\base\NCI Logo.jpg

Columbus, Ohio

DRAWN RM	CHECKED JM	APPROVED GG
PROJECT		SCALE 1"=50'-0"

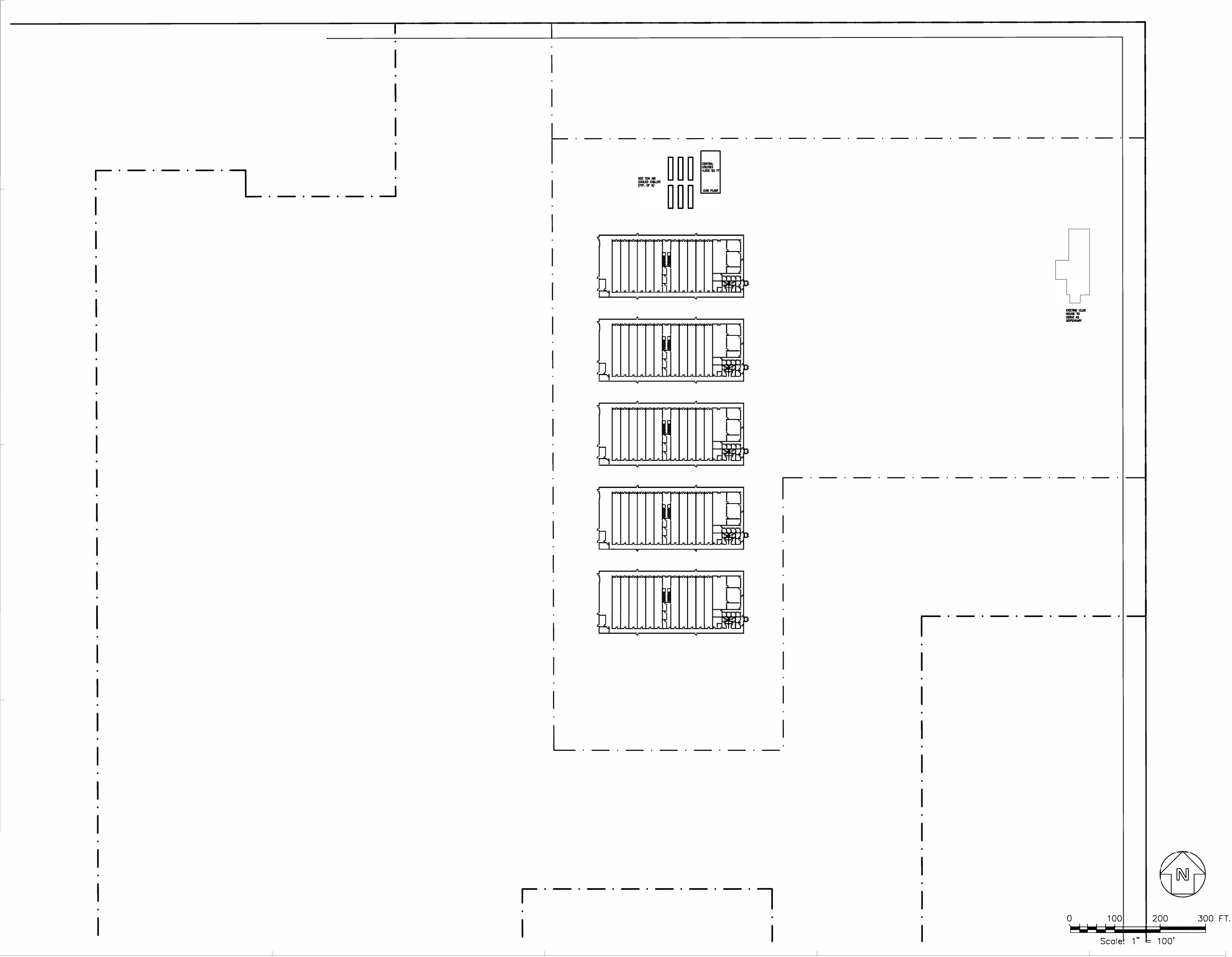
SHEET TITLE

SITE PLAN
PHASE 1

SHEET NO.

S-1

NOT FOR CONSTRUCTION





Burton, Michigan

mark	date	description
	01/03/18	REVISION2

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Columbus, Ohio

DRAWN RM	CHECKED JM	APPROVED GG
PROJECT		SCALE 1"=50'-0"

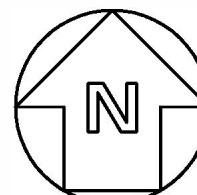
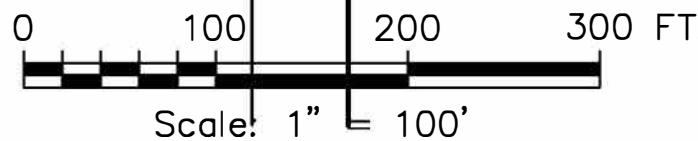
SHEET TITLE

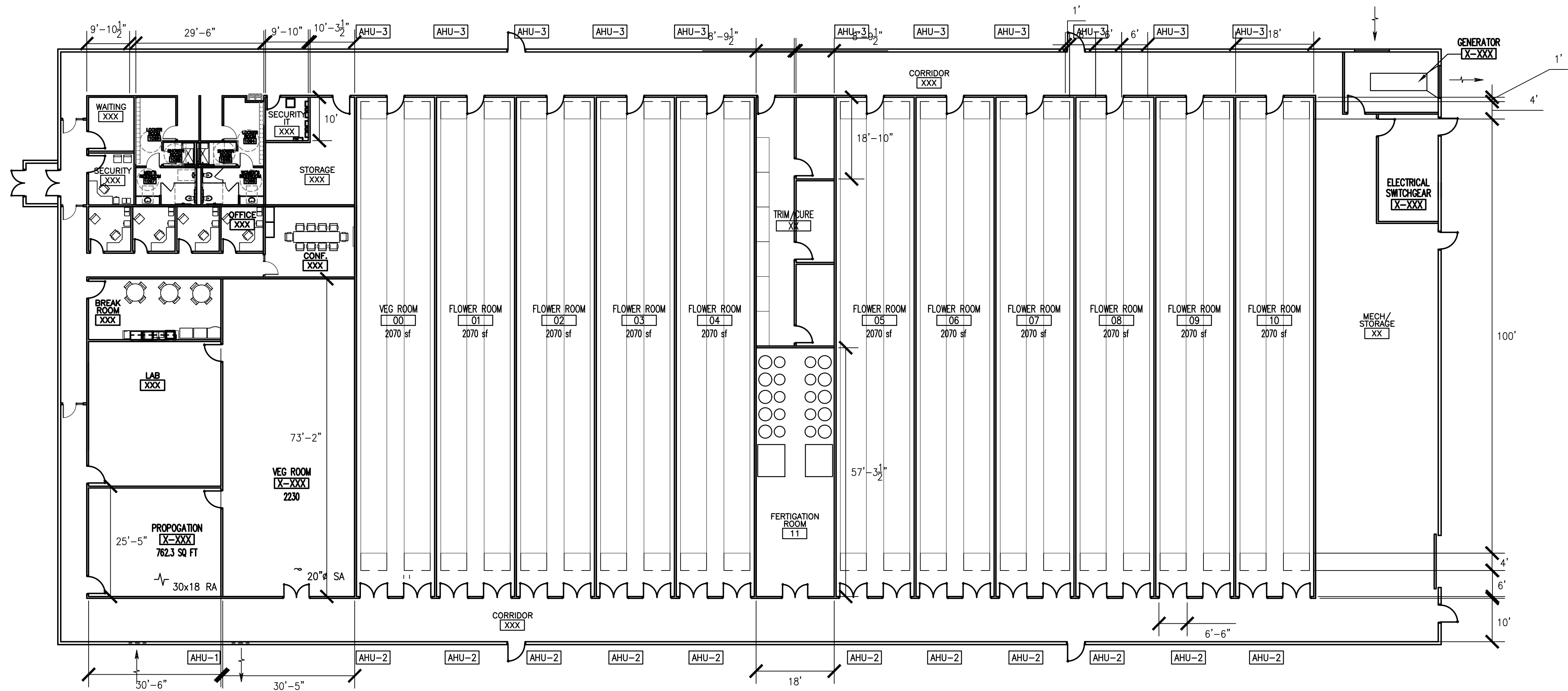
SITE PLAN PHASE 2

SHEET NO.

S-2

NOT FOR CONSTRUCTION





NOT FOR CONSTRUCTION

CLASS C COMMERCIAL CULTIVATION FACILITY

Burton, Michigan

mark	date	description
00252017	VERSION 3	



CannaDevelopment Company
Columbus, Ohio

DRAWN RM	CHECKED JM	APPROVED GG
PROJECT		SCALE 1/16"=1'-0"

SHEET TITLE

COMMERICAL GROW BUILDING

FLOOR PLAN

SHEET NO.

A1-1