



Brighton City Council Meeting

City Hall Council Chambers • 200 N First St. • Brighton, Michigan 48116
(810) 227-1911 • www.brightoncity.org

Regular Business Meeting December 7, 2017 – 7:30 p.m.

AGENDA

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Consider Approval of the Agenda

Consent Agenda Items

5. Approval of Minutes: [Study Session of November 16, 2017](#)
6. Approval of Minutes: [Regular Meeting of November 16, 2017](#)
7. Approval of Minutes: Closed Session of November 16, 2017
8. **Resolution** to Establish the City Council Regular Meeting Schedule as the Second and Fourth Monday of Each Month
9. [Appointment of Councilmember Liaisons to Various Boards and Commissions](#)
10. [Receipt of DDA and LDFA Annual Report](#)
11. Approval of [Purchase of Seven \(7\) Portable Motorola Radios and Two \(2\) Mobile Computer Terminals in an Amount not to Exceed \\$30,000](#)

Correspondence

12. Call to the Public
13. Staff Updates
14. Updates from Councilmember Liaisons to other Boards and Commissions

New Business

15. Consider **Resolution** to Dedicate Black Walnut Street*
16. Consider [Approval of Engineering Scope of Work in an Amount not to Exceed \\$118,000](#)
 - a. North Second Street Road and Utility Improvements Final Design and Bidding
 - b. Northwest Neighborhoods Road and Utility Improvements Preliminary Design

Other Business

17. Call to the Public
18. Consider Entering Closed Session to Discuss Pending Litigation to MCL 15.268(e)
19. Consider Possible Actions Resulting from Closed Session
20. Adjournment

MINUTES OF THE STUDY SESSION OF THE CITY COUNCIL OF BRIGHTON
HELD ON NOVEMBER 16, 2017 AT THE BRIGHTON CITY HALL
200 N. 1ST STREET, BRIGHTON, MICHIGAN

STUDY SESSION

The Council conducted a Study Session at 6:30 p.m.

Present were Mayor Muzzin, Mayor Pro-Tem Pipoly, Councilmembers: Tobbe, Bohn, Gardner, Emaus and Pettengill. Staff: City Manager Nate Geinzer, Attorney Brad Maynes, Police Chief Rob Bradford, Zoning and Code Enforcement Associate Mike Caruso, Management Assistant Jessica Lienhardt, DPW Director Marcel Goch, Clerk Pamela Stewart, Utilities Director Tim Krugh, Community Development Clerk Wendy Ayala, Communication and Community Engagement Assistant Lydia Macklin-Camel, and an audience of zero.

CALL TO PUBLIC

Mayor Muzzin opened the call to the public at 6:31 p.m. Hearing and seeing none he closed the Call to the Public at 6:31 p.m.

REDEVELOPMENT READY CITIES

Management Assistant Lienhardt talked about the MEDC (Michigan Economic Development Corporation)'s training and how the City can qualify to be considered a Redevelopment Ready City. Some of the items reviewed were: community plans and public outreach, CIP, zoning regulations, development review process, recruitment and education, redevelopment ready sites, and community prosperity.

CALL TO PUBLIC

Mayor Muzzin opened the call to the public at 7:15 p.m. Hearing and seeing no comment, Mayor Muzzin closed the Call to the Public at 7:15 p.m.

ADJOURNMENT

It was moved by Councilmember Emaus and seconded by Pettengill to adjourn the meeting at 7:15p.m.

Motion passed 7-0

Pamela Stewart, Clerk

James Muzzin, Mayor

MINUTES OF THE MEETING OF THE CITY COUNCIL OF BRIGHTON
HELD ON NOVEMBER 16, 2017 AT THE BRIGHTON CITY HALL
200 N. 1ST STREET, BRIGHTON, MICHIGAN

REGULAR SESSION

Mayor Muzzin called the meeting to order at 7:30 p.m. Present were Mayor Muzzin, Mayor Pro-Tem Pipoly, Councilmembers Bohn, Emaus, Gardner, Tobbe and Pettengill. Staff: City Manager Nate Geinzer, Attorney Brad Maynes, Police Chief Bradford, DPW Director Marcel Goch, Clerk Pamela Stewart, Management Assistant Jessica Lienhardt, Utilities Director Tim Krugh, and an audience of six.

Tom Tolen from WHMI also attended.

AGENDA APPROVAL

Mayor Muzzin removed item 9. Approval of Purchase of Police Department Mobile Data Computers and Radios, deleted item 18 and added item 15a. Consider cancellation of the December 21, 2017 City Council Meeting.

It was moved by Councilmember Gardner seconded by Emaus to approve the agenda as amended.

The motion passed 7-0.

CONSENT AGENDA

It was moved by Councilmember Pettengill seconded by Pipoly to approve the Consent Agenda.

The following items were approved:

Approved the Study Session, Regular, and Closed Session Minutes of November 2, 2017

Motion passed 7-0

CALL TO THE PUBLIC

Mayor Muzzin opened the Call to the Public at 7:32 p.m.

Jim Vichich from the Brighton Historical Society discussed the Old Village Cemetery. He spoke about headstone restoration, volunteer hours, and ordering new stones for Civil War Veterans.

Councilmember Tobbe moved and Bohn seconded the extension of Mr. Vichich's time.

Mayor Muzzin thanked Mr. Vichich for the support of the City.

Hearing and seeing no additional comment the Call to the Public closed at 7:43 p.m.

CITY CUSTOMER INFORMATION AND BOARD UPDATES

Chief Bradford mentioned that the police had received eleven applications and had purchased two new patrol cars. He also noted that Shop with a Cop would be held on Dec. 2 and the police had restarted their focus on distracted driving.

DPW Director Goch mentioned that leaf collection continues.

Utilities Director Krugh mentioned that the new asset management software was being installed.

City Manager Geinzer mentioned that the flex lanes on US-23 were open. Councilmember Bohn corrected to mention that the lanes were only in use in the 6 Mile area. Livingston County Finance Committee voted to decrease funding to the EDC.

Councilmember Pipoly reported that the PSD met and renewed their advertising agreement with WHMI, discussed Marketeer co-ops, and reviewed proposals for the rebranding.

Councilmember Pettengill thanked Jim Vichich and the volunteers that worked on the Old Village Cemetery.

Councilmember Emaus reported that the Veterans Memorial Committee met. Councilmember Emaus thanked the police and DPW for their assistance during the Veteran's Day parade and mentioned that the Veterans were discussing 2018 events. The next meeting of the Veterans Memorial Committee would be on January 10, 2017 at 8:30 a.m. the public can attend if they send a request through their Facebook page.

Mayor Muzzin mentioned the Brighton Area Fire Department met, watched a Master plan presentation, and approved purchase of Motorola radios.

PUBLIC HEARING FOR TEMPORARY LAND USE

Mayor Muzzin closed the regular meeting and opened the hearing for Temporary Land Use for St. Patrick's Church at 7:55 p.m.

Joe Meaney of the St. Patrick's Dad's Club spoke about the weekend sales of Christmas Trees from November 24 through December 10 which has occurred for the last five years. The sale of the trees fund events for the St. Patrick's school. Mayor Muzzin closed the hearing at 7:56 p.m. and reopened the Regular meeting.

It was moved by Councilmember Tobbe and seconded by Pipoly to approve the Temporary Land Use for St. Patrick's Christmas tree sales.

Motion passed 7-0.

SANITARY SEWER LINING BID

Utilities Director Krugh spoke about the need to replace 650 feet of 8-inch sanitary sewer pipe on Rickett. Three bids for the work had been received. Staff requested that the bid for \$24,500 be accepted for the most urgent work.

It was moved by Councilmember Bohn and seconded by Emaus to award the bid for cured place pipe to Insituform Technologies USA in the amount of \$24, 500.

Motion passed 7-0

SNOW MAINTENANCE POLICY

Manager Geinzer mentioned that they had reviewed the current Snow Policy that had been discussed at a recent Study Session. DPW Director Goch spoke about the partnership with Downtown businesses, tracking information through the 2017-18 winter season, and new snow removal equipment.

DECEMBER 21, 2017 CITY COUNCIL MEETING

Manager Geinzer suggested the December 21, 2017 meeting be cancelled due to the holiday. Councilmember Bohn moved and Pipoly seconded the motion to cancel the City Council meeting.

Motion passed 6-1-0 (Councilmember Emaus voting no)

CALL TO THE PUBLIC

Mayor Muzzin opened the Call to the Public at 8:19 p.m.

Hearing and seeing no additional comment the Mayor closed the Call to the Public at 8:19 p.m.

CLOSED SESSION

It was moved by Councilmember Tobbe seconded by Pettengill to go into Closed Session at 8:19 p.m. to discuss pending litigation to MCL15.268(e). A roll call vote was taken. Yes: Pipoly, Muzzin, Gardner, Bohn, Tobbe, Pettengill, Emaus. No: none.

Motion passed 7-0.

The Council reconvened the Regular Session at 8:44 p.m.

ADJOURNMENT

It was moved by Councilmember Tobbe and seconded by Emaus to adjourn the meeting at 8:44 p.m.

Motion passed: 7-0

City Council
November 16, 2017
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Pamela Stewart, City Clerk

James Muzzin, Mayor



CITY OF BRIGHTON

REPORT FROM THE CITY MANAGER TO CITY COUNCIL

DECEMBER 7, 2017

SUBJECT: RESOLUTION TO ESTABLISH THE CITY COUNCIL REGULAR MEETING SCHEDULE AS THE SECOND AND FOURTH MONDAY OF EACH MONTH

ADMINISTRATIVE SUMMARY

The City of Brighton Charter Section 6.1 requires: “The Council shall provide by resolution for the time and place of its regular meetings and shall hold at least one regular meeting each month.”

Council has previously set the regular meeting schedule as the first and third Thursday of each month, with a Study Session at 6:30 p.m. and a Regular Session at 7:30 p.m.

Based on requests from Councilmembers and staff, City staff looked into changing the meeting schedule. Many community activities happen on Thursday evenings and Councilmembers have been unable to attend or participate in. Also, parking can at times be difficult for meeting attendees due to Thursday being a popular night to visit Downtown Brighton.

This change would necessitate the moving of only one commission, the Brighton Arts and Culture Commission. The Commission currently meets on the second Monday of each month.

RECOMMENDATION

It is recommended that City Council approved the resolution to establish the City Council regular meeting schedule as the second and fourth Monday of each month.

Prepared by: Pamela Stewart, City Clerk and Jessica Lienhardt, Management Assistant

Approved by: Nate Geinzer, City Manager



The City of Brighton Resolution #xx-xx to Establish the City Council Regular Meeting Schedule as Second and Fourth Monday of Each Month

WHEREAS, the Brighton City Council has previously scheduled its regular meetings on the first and third Thursday of each month, with a Study Session at 6:30 p.m. and a Regular Session at 7:30 p.m, and;

WHEREAS, the Brighton City Council has agreed to change the schedule of the regular meetings to the second and fourth Monday of each month;

NOW THEREFORE, BE IT RESOLVED, that the City of Brighton regular meetings of the City Council be held on the second and fourth Monday of each month, with a Study Session at 6:30 p.m. and a Regular Session at 7:30 p.m. beginning January 2018.

AYES:

NAYS:

ABSTAIN:

ABSENT:

I, Pamela Stewart, City Clerk for the City of Brighton, do hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the City Council at the Regular meeting held on December 7, 2017.

Pamela Stewart, City Clerk



CITY OF BRIGHTON

REPORT FROM THE CITY MANAGER TO CITY COUNCIL

DECEMBER 7, 2017

SUBJECT: APPOINTMENTS OF COUNCILMEMBER LIAISONS TO VARIOUS BOARDS AND COMMISSIONS

ADMINISTRATIVE SUMMARY

The Mayor presents the following appointments and reappointments:

Planning Commission: Councilmember Bohn

Zoning Board of Appeals: Councilmember Pettengill

Arts and Culture Commission: Councilmember Tobbe

Downtown Development Authority: Mayor Muzzin and Mayor Pro-Tem Pipoly

Local Development Finance Authority: Mayor Muzzin, Mayor Pro-Tem Pipoly, and Councilmembers Bohn and Gardner

Principal Shopping District: Councilmember Tobbe

Traffic Safety Advisory Board: Councilmember Bohn

Brighton Area Fire Authority Board: Mayor Muzzin and Mayor Pro-Tem Pipoly

Livingston County Commission: Councilmember Gardner

Brighton Veterans Memorial Committee: Councilmember Emaus

Southeast Michigan Council of Governments: Councilmember Tobbe

Greater Brighton Area Chamber of Commerce Environmental Council: Councilmember Pettengill

Prepared by: Jessica Lienhardt, Management Assistant

Approved by: Nate Geinzer, City Manager

City of Brighton
Annual Report on Status of Tax Financing Plan
Downtown Development Authority(DDA) and Local Development Financing Authority(LDFA)
Year Ending June 30, 2017

	DDA	LDFA
Revenue:		
Tax Increment Revenues July	\$765,682	\$131,131
Tax Increment Revenues December	21,072	3,607
Interest	2,732	251
Other Income	<u>35,600</u>	<u>0</u>
TOTAL	825,086	134,989
Bond Reserve	\$0	\$0
Expenditures:		
Community Development	\$627,012	\$32,421
Lease	37,953	0
Debt Service		
Principal	75,584	35,000
Interest	47,617	15,050
Agent Fees	<u>0</u>	<u>750</u>
TOTAL	788,166	83,221
Outstanding Bonded Indebtedness		
Principal	\$795,963	\$275,000
Interest	<u>278,584</u>	<u>62,867</u>
TOTAL	1,074,547	337,867
Tax Increment Revenues Received		
From County	\$138,482	\$23,703
From City of Brighton	627,622	107,428
From Fire and Park Authorities	<u>21,072</u>	<u>3,607</u>
TOTAL	787,176	134,738
Number of Jobs Created	Unknown	Unknown

Downtown Development Authority

Captured Values	<u>2015 Taxable Value</u>	<u>Base Year Assessed Value</u>	<u>Captured Value</u>
Ad valorem PRE Real	\$2,195,876	\$134,532	\$2,061,344
Ad valorem non-PRE Real	95,868,515	29,658,068	66,210,447
Ad valorem industrial personal	4,983,600	836,000	4,147,600
Ad valorem commercial personal	11,570,100	5,640,600	5,929,500
Ad valorem utility personal	348,100	0	348,100
IFT New Facility real property, 50% SET exemption	2,687,700	0	2,687,700
IFT New Facility personal property on industrial class land	4,439,150	0	<u>4,439,150</u>
TOTAL CAPTURE DDA			\$ 85,823,841

Local Development Financing Authority

Captured Values	<u>2015 Taxable Value</u>	<u>Base Year Assessed Value</u>	<u>Captured Value</u>
Ad valorem non-PRE Real	\$4,684,168	\$618,600	\$4,065,568
Ad valorem industrial personal	6,589,200	0	6,589,200
IFT New Facility real property, 50% SET exemption	2,687,700	0	2,687,700
IFT New Facility personal property on industrial class land	4,137,350	0	<u>4,137,350</u>
TOTAL CAPTURE LDFA			\$ 17,479,818



City of Brighton

REPORT FROM THE CITY MANAGER TO CITY COUNCIL

December 7, 2107

SUBJECT: APPROVAL OF THE PURCHASE OF SEVEN (7) PORTABLE MOTOROLA RADIOS AND TWO (2) MOBILE COMPUTER TERMINALS

ADMINISTRATIVE SUMMARY

The Police Department is recommending the upgrade of the following equipment:

- The purchase of seven (7) new Motorola 6000 Portable Radios
- The purchase of two (2) new Police Mobile Computer Terminals (MCT) Dell Model #5285
- Two (2) Vehicle MCT docks with installation

The Portable Radios will be purchased at the Genesee County 2017 Competitive Bid Price and the MCT and vehicle docks will be purchased at the Livingston County IT Competitive Bid Price. The MCT cost could possibly be refunded to the City Police Department via Livingston County Central Dispatch, if funding sources are not depleted.

EQUIPMENT SPECIFICS

- Motorola 6000series Portable Radios are currently being used by all Livingston County Agencies and will replace all of this department's 5000series Portable Radios that, after the calendar year 2017, will no longer be serviceable by Motorola. The Genesee County bid price is around 48 percent off what this department could normally purchase them from the approved Motorola vendor for this county.
- Mobile Computer Terminals Dell Model #5285 with internal modem, docking station, and pen.

BUDGET

- Originally, Central Dispatch was going to purchase all mobile and prep radios county-wide. This has now changed to them purchasing all the MCTs and no radios.
- The current 17/18 Police Capital Improvement Plan (CIP) reflects the MCTs being replaced with funds from the police equipment millage. The MCTs will now be replaced county-wide by age, priority, and available funding by Livingston County Central Dispatch. This fiscal year, Central Dispatch has agreed to purchase and replace two (2) MCTs that will be installed in the two (2) new patrol cars that were just delivered.
- This purchase will replace a current MCT assigned to the Detective and add one for the Chief. The current MCTs are 5-year-old Panasonic Tough Books that are out of warranty and expensive to service. This purchase for Dell is half the price of a similar Panasonic and has been tested and adopted by all county agencies. The current Detective MCT will be given back to Central Dispatch to be used as a county-wide spare.
- The Portable Radio Genesee County Competitive Bid Price will expire December 31, 2017 causing the radios to go from \$2,730.50 to \$4,500.
- The cost of the seven (7) Portable Radios is \$24,032.12 and two (2) MCTs is \$4,248.06 and totals **\$28,280.18**; this includes all necessary accessories, spare batteries, and activation fees for all the equipment.
- Purchase and install two (2) vehicle docking stations for MCTs is not-to-exceed **\$1,000**.
- The current CIP budget for MCTs is \$40,000 and is funded by the police equipment millage.

RECOMMENDATION

Approve the purchase of seven (7) Portable Motorola Radios and two (2) Mobile Computer Terminals (MCT) for a cost not-to-exceed \$30,000.

Prepared by: Rob Bradford, Chief of Police

Approved by: Nate Geinzer, City Manager



City of Brighton

REPORT FROM THE CITY MANAGER TO CITY COUNCIL

December 7, 2017

SUBJECT: APPROVAL OF ENGINEERING SCOPE OF WORK FOR NORTH SECOND STREET ROAD AND UTILITY IMPROVEMENTS FINAL DESIGN AND BIDDING AND NORTHWEST NEIGHBORHOODS ROAD AND UTILITY IMPROVEMENTS PRELIMINARY DESIGN

ADMINISTRATIVE SUMMARY

North Second Street Engineering and Bidding

- To facilitate redevelopment along N. Second Street, utility service must be upsized. Currently, the 8" sanitary sewer is at capacity. Additionally, the 6" water main needs to be increased to improve water pressure and flow at the hydrants.
- In 2016, preliminary plans for N. Second Street were provided to the City by Tetra Tech to improve the road geometry, streetscape design, and utilities.
- The attached project scope includes development of construction documents and bidding.
- Following bidding, work is proposed to begin in spring 2018.
- The City currently has two likely developments in the works that are dependent on these utility upgrades.
- The Downtown Development Authority (DDA) reviewed the scope of work at their November 21 meeting and has tentatively committed to funding the project. DDA would like to review final construction costs, future DDA cash flow, and final cross sections for the project at the December DDA meeting.
- The proposed design includes bike lanes and new five foot sidewalks for the cross section; however, the DDA would prefer striping for on-street parking rather than bike lanes.
- Additional input, including input from the public, is necessary before final cross sections are determined.

Northwest Neighborhoods Preliminary Design

- The Northwest Neighborhoods are in significant need of roads and utilities, both of which have significantly exceeded their useful life and lack curb and gutter. Additionally, design work would include the addition of storm sewers connecting into the Main Street storm interceptor.
- City Council budgeted engineering dollars for preliminary design work so that a more accurate cost opinion could be developed and move the project closer to "shovel ready" status should there be an opportunity to proceed.

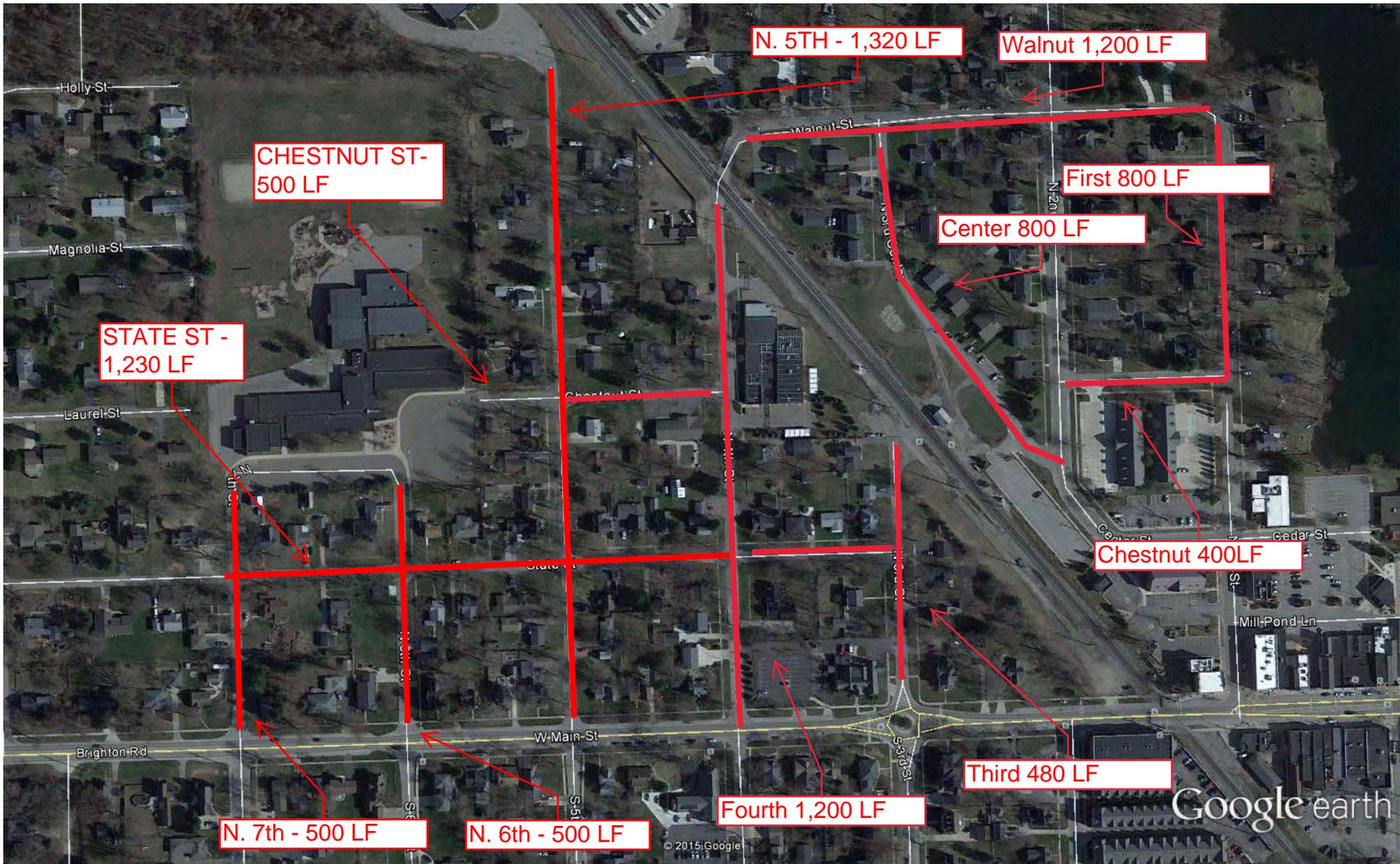
Funding for both engineering projects are available in the 17/18 General Fund and Utilities Fund budgets. Moving forward with both projects concurrently will create some efficiency in project management and translate into savings on the engineering fees, which is reflected in the staff recommendation.

RECOMMENDATION

It is recommended that City Council authorize the City Manager to execute a purchase order for engineering design services for Second Street road and utility improvements and Northwest Neighborhoods road and utility improvements in the amount of \$118,000.

Prepared by: Brandon Skopek, Community Development Associate and Nate Geinzer, City Manager

Approved by: Nate Geinzer, City Manager



Google earth





November 8, 2017

Mr. Nate Geinzer
City of Brighton
200 North First Street
Brighton, MI 48116

**Re: North Second Street Road and Utility Improvements
Final Design and Bidding Professional Services Proposal
(Amended)**

Dear Mr. Geinzer:

Pursuant to our discussion, Tetra Tech is pleased to present the following proposal for completing the Road and Utility Improvements Design on North Second Street from Mill Pond Lane to Cross Street. In June 2015, Tetra Tech provided the City with preliminary plans to improve the road geometry, provide a streetscape design and upgrade the sanitary sewer and water utilities. The preliminary plans were never completed due the withdrawal of proposed development plans on the east side of Second Street.

In 2006, Tetra Tech performed an evaluation of flows and capacity of Second Street and projected that the sanitary sewer system would be over capacity once the tributary area is fully developed. Recently, in the memo dated September 22, 2017, Tetra Tech updated the projected Residential Equivalent Units (REUs) in the tributary area. The updated data suggests the Second Street tributary area contributing to the flow north of the existing manhole at Mill Pond Lane and First Street is almost at capacity.

It is recommended that sanitary sewer along Second Street be upsized to provide sewer capacity for the complete build-out of the service area and to allow parcel re-development. The City has had recent interest in re-developing sites on Second Street from Center Street to Cross Street. In anticipation of these future developments, it is recommended the sanitary sewer mains be upgraded to meet the City's future collection system needs.

In addition to sanitary sewer improvements, the water system should also be upgraded. The 2014 Water Reliability Study identified that the existing 6-inch transmission main should be increased in size. The 6-inch main constricts the capacity of the system resulting in availability of water for fire flow to be less than 1,000 gpm at 20 psi residual pressure. This low pressure limits the ability to provide adequate fire protection to future developments.

PROJECT APPROACH

Our project manager and engineering team will work with the City to complete the final design and specifications for bidding, bidding support and assisting the City with its public awareness program. The following scope of work, schedule and budget is proposed.

Final Design & Permitting Phase

- ❖ **Bidding Documents**
 - Engage arborist in a site walk to identify trees that can be protected from the street improvements. It is anticipated special root protection details will be incorporated into the design.
 - It is anticipated 2 days of fieldwork will be required to pick up additional spot elevations.
 - Coordination with utility companies will be required to identify if there has been any utility improvements since the preliminary design.
 - Coordination with DTE on pole removal, electrical line relocations, and street lighting.
 - In May 2015, G2 Consulting performed a soil investigation. The results of the geotechnical investigation will be incorporated into the drawings.
 - Provide decorative pedestrian lighting plans on the east side of North Second Street.
 - Coordinate with the Downtown Development Authority (DDA) and Lindhout Associates for the design of a decorative bike and pedestrian rest area and street scape façade. It has been assumed Lindhout will provide electronic files for incorporation into the contract documents.
 - Submit 95% design documents and an Opinion of Probable Construction Cost to the City for review and comments. The cost opinion will be separated out by the various funding contributions.
 - Incorporate City Staff comments and finalize bidding documents and updated Opinion of Probable Construction Cost.
- ❖ **Base Bid and Bid Alternatives**
 - The construction documents will be arranged in phases with bid alternatives to provide the City with multiple construction options. Options being considered at this time include:
 - Base Bid – Construction of Second Street from Mill Pond Lane to Walnut Street.
 - Bid Alternative 1 – Full vs partial construction of curb and gutter from Mill Pond Lane to Walnut Street.
 - Bid Alternative 2 – Construction of Second Street from Walnut Street to Cross Street.
 - Bid Alternative 3 – Full vs partial construction of curb and gutter from Walnut Street to Cross Street.
 - Phasing plans for maintenance of traffic, bike lane transitions, and utility transitions will be provided.
- ❖ **Public Relations**
 - Incorporate comments received in project restart meeting. Prepare a drawing or series of drawing illustrations showing the proposed improvements for use in a public relations meeting.
 - Attend and present project highlights in two (2) public relations meetings held by the City.
 - Meet with City Staff to discuss concerns identified in public relations meetings. Incorporate changes adopted by the City.
- ❖ **Meetings**
 - Project restart meeting with City Staff and DDA to discuss Streetscape Improvements.
 - Two (2) meetings have been assumed to provide updates at City Council meetings.
- ❖ **Permitting**
 - Submit plans to reviewing and permitting agencies. Permitting agencies include, but are not limited to:
 - The Michigan Department of Environmental Quality (MDEQ) for sanitary sewer and water main improvements.
 - The Livingston County Drain Commissioner's (LCDC) office for a Soil Erosion and Sedimentation (SESC) preliminary approval. The final SESC permit will be obtained by the Contractor.

Bidding & Contracting Phase

- Place advertisements for bids in the MITA system and distribute bidding documents to contractors and plan houses.
- Attend the pre-bid meeting, address questions raised by bidders, and prepare necessary addenda to the bidding documents.
- Attend the bid opening and write a letter of recommendation for awarding the contracts.
- Present the project bids and recommendation for proceeding to construction to the City Council for action.
- Assist City staff with project cost information for bond counsel to solicit funding for the project.

Construction Phase

- Construction phase services will be included in a separate scope of services and proposal.

ASSUMPTIONS

- ❖ The following assumptions pertaining to the final design:
 - Street lighting design and calculations will not be included as part of the design since street lighting is existing and is not being impacted by the project.
 - The west and east curb lines will remain in their current locations.
 - Driveways within the right-of-way will not be replaced unless required for the utility and/or street improvements.
 - Sidewalks will be widened and street side bike lanes will be provided.
 - Obtaining title work to verify right-of-way locations will not be required.
 - DTE will provide the electrical design requirements for Tetra Tech to incorporate the design.

PROJECT SCHEDULE

We can begin immediately upon authorization to proceed from the City. Tetra Tech anticipates the following schedule for the project.

Phase	Completion Date
Project Startup	November 1, 2017
95% Design & Permit Submittal	December 2017
Bidding & Contracting	February – April 2018
Construction Utilities	May – July 2018
Construction Street	July – September 2018

Tetra Tech will work with the City, as needed, to revise the proposed schedule to meet the requirements for this project.

COMPENSATION

Compensation for this project has been broken out into three (3) major components to allow the City maximum flexibility in proceeding with the final design project. The major components are:

1. Base Bid. (Providing final design documents from Mill Pond Lane to Walnut Street.)
2. Bid Alternatives. (Providing final design documents from Walnut Street to Cross Street and other desired alternatives.)
3. Bidding Phase.

Compensation for our personnel directly engaged in the work of this proposal will be based on our hourly billable rates plus in-house reimbursable expenses. We propose the following not-to-exceed budget for the above-mentioned scope of work.

Project Component	Budget
Base Bid Final Design & Permitting	\$36,500
Bid Alternatives	\$ 8,500
Bidding & Contracting	\$ 6,000
Total:	\$51,000

If you concur with our proposal, please sign in the space provided below and return one original signed copy of this proposal to indicate your authorization to proceed. The agreement for this project is comprised of this proposal and the attached Tetra Tech Standard Terms and Conditions.

We appreciate the opportunity to assist the City in this important project. If you have any questions regarding this proposal, please call.

Sincerely,


Gary J. Markstrom, P.E.
Unit Vice President


Kari L. Jozwik, P.E., LEED AP
Project Engineer

Attachment: Tetra Tech Standard Terms and Conditions

Proposal Accepted By City of Brighton:

By: _____

Title: _____

Date: _____



Tetra Tech of Michigan, PC

Engineering Services Standard Terms & Conditions

Services Consultant will perform services for the Project as set forth in Attachment A and in accordance with these Terms & Conditions. Consultant has developed the Project scope of service, schedule, and compensation based on available information and various assumptions. The Client acknowledges that adjustments to the schedule and compensation may be necessary based on the actual circumstances encountered by Consultant in performing their services. Consultant is authorized to proceed with services upon receipt of an executed Agreement.

Compensation In consideration of the services performed by Consultant, the Client shall pay Consultant in the manner set forth above. The parties acknowledge that terms of compensation are based on an orderly and continuous progress of the Project. Compensation shall be equitably adjusted for delays or extensions of time beyond the control of Consultant. Where total project compensation has been separately identified for various tasks, Consultant may adjust the amounts allocated between tasks as the work progresses so long as the total compensation amount for the project is not exceeded.

Fee Definitions The following fee types shall apply to methods of payment:

- **Salary Cost** is defined as the individual's base salary plus customary and statutory benefits. Statutory benefits shall be as prescribed by law and customary benefits shall be as established by Consultant employment policy.
- **Cost Plus** is defined as the individual's base salary plus actual overhead plus professional fee. Overhead shall include customary and statutory benefits, administrative expense, and non-project operating costs.
- **Lump Sum** is defined as a fixed price amount for the scope of services described.
- **Standard Rates** is defined as individual time multiplied by standard billing rates for that individual.
- **Subcontracted Services** are defined as Project-related services provided by other parties to Consultant.
- **Reimbursable Expenses** are defined as actual expenses incurred in connection with the Project.

Payment Terms Consultant shall submit invoices at least once per month for services performed and Client shall pay the full invoice amount within 30 days of the invoice date. Invoices will be considered correct if not questioned in writing within 10 days of the invoice date. Client payment to Consultant is not contingent on arrangement of project financing or receipt of funds from a third party. In the event the Client disputes the invoice or any portion thereof, the undisputed portion shall be paid to Consultant based on terms of this Agreement. Invoices not in dispute and unpaid after 30 days shall accrue interest at the rate of one and one-half percent per month (or the maximum percentage allowed by law, whichever is the lesser). Invoice payment delayed beyond 60 days shall give Consultant the right to stop work until payments are current. Non-payment beyond 70 days shall be just cause for termination by Consultant.

Additional Services The Client and Consultant acknowledge that additional services may be necessary for the Project to address issues that may not be known at Project initiation or that may be required to address circumstances that were not foreseen. In that event, Consultant shall notify the Client of the need for additional services and the Client shall pay for such additional services in an amount and manner as the parties may subsequently agree.

Site Access The Client shall obtain all necessary approvals for Consultant to access the Project site(s).

Underground Facilities Consultant and/or its authorized subcontractor will conduct research and perform site reconnaissance in an effort to discover the location of existing underground facilities prior to developing boring plans, conducting borings, or undertaking invasive subsurface investigations. Client recognizes that accurate drawings or knowledge of the location of such facilities may not exist, or that research may reveal as-built drawings or other documents that may inaccurately show, or not show, the location of existing underground facilities. In such events, except for the sole negligence, willful misconduct, or practice not conforming to the Standard of Care cited in this Agreement, Client agrees to indemnify and hold Consultant and/or its Subcontractor harmless from any and all property damage, injury, or economic loss arising or allegedly arising from borings or other subsurface penetrations.

Regulated Wastes Client is responsible for the disposal of all regulated wastes generated as a result of services provided under this Agreement. Consultant and Client mutually agree that Consultant assumes no responsibility for the waste or disposal thereof.

Contractor Selection Consultant may make recommendations concerning award of construction contracts and products. The Client acknowledges that the final selection of construction contractors and products is the Client's sole responsibility.

Ownership of Documents Drawings, specifications, reports, programs, manuals, or other documents, including all documents on electronic media, prepared under this Agreement are instruments of service and are, and shall remain, the property of Consultant. Record documents of service shall be based on the printed copy. Consultant will retain all common law, statutory, and other reserved rights, including the copyright thereto. Consultant will furnish documents electronically; however, the Client releases Consultant from any liability that may result from documents used in this form. Consultant shall not be held liable for reuse of documents or modifications thereof by the Client or its representatives for any purpose other than the original intent of this Agreement, without written authorization of and appropriate compensation to Consultant.

Standard of Care Services provided by Consultant under this Agreement will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. Consultant makes no warranty or guaranty, either express or implied. Consultant will not be liable for the cost of any omission that adds value to the Project.

Period of Service This Agreement shall remain in force until completion and acceptance of the services or until terminated by mutual agreement. Consultant shall perform the services for the Project in a timely manner consistent with sound professional practice. Consultant will strive to perform its services according to the Project schedule set forth in the provisions for Scope of Work/Fee/Schedule in Attachment A. The services of each task shall be considered complete when deliverables for the task have been presented to the Client. Consultant shall be entitled to an extension of time and compensation adjustment for any delay beyond Consultant control.

Insurance and Liability Consultant shall maintain the following insurance and coverage limits during the period of service. The Client will be named as an additional insured on the Commercial General Liability and Automobile Liability insurance policies.

Worker's Compensation – as required by applicable state statute

Commercial General Liability - \$1,000,000 per occurrence for bodily injury, including death and property damage, and \$2,000,000 in the aggregate

Automobile Liability –\$1,000,000 combined single limit for bodily injury and property damage

Professional Liability (E&O) - \$1,000,000 each claim and in the aggregate

The Client shall make arrangements for Builder's Risk, Protective Liability, Pollution Prevention, and other specific insurance coverage warranted for the Project in amounts appropriate to the Project value and risks. Consultant shall be a named insured on those policies where Consultant may be at risk. The Client shall obtain the counsel of others in setting insurance limits for construction contracts.

Indemnification Consultant shall indemnify and hold harmless the Client and its employees from any liability, settlements, loss, or costs (including reasonable attorneys' fees and costs of defense) to the extent caused solely by the negligent act, error, or omission of Consultant in the performance of services under this Agreement. If such damage results in part by the negligence of another party, Consultant shall be liable only to the extent of Consultant's proportional negligence.

Dispute Resolution The Client and Consultant agree that they shall diligently pursue resolution of all disagreements within 45 days of either party's written notice using a mutually acceptable form of mediated dispute resolution prior to exercising their rights under law. Consultant shall continue to perform services for the Project and the Client shall pay for such services during the dispute resolution process unless the Client issues a written notice to suspend work. Causes of action between the parties to this Agreement shall be deemed to have accrued and the applicable statutes of repose and/or limitation shall commence not later than the date of substantial completion.

Suspension of Work The Client may suspend services performed by Consultant with cause upon fourteen (14) days written notice. Consultant shall submit an invoice for services performed up to the effective date of the work suspension and the Client shall pay Consultant all outstanding invoices within fourteen (14) days. If the work suspension exceeds thirty (30) days from the effective work suspension date, Consultant shall be entitled to renegotiate the Project schedule and the compensation terms for the Project.

Termination The Client or Consultant may terminate services on the Project upon seven (7) days written notice without cause or in the event of substantial failure by the other party to fulfill its obligations of the terms hereunder. Consultant shall submit an invoice for services performed up to the effective date of termination and the Client shall pay Consultant all outstanding invoices, together with all costs arising out of such termination, within fourteen (14) days. The Client may withhold an amount for services that may be in dispute provided that the Client furnishes a written notice of the basis for their dispute and that the amount withheld represents a reasonable value.

Authorized Representative The Project Manager assigned to the Project by Consultant is authorized to make decisions or commitments related to the project on behalf of Consultant. Only authorized representatives of Consultant are authorized to execute contracts and/or work orders on behalf of Consultant. The Client shall designate a representative with similar authority. Email messages between Client and members of the project team shall not be construed as an actual or proposed contractual amendment of the services, compensation or payment terms of the Agreement.

Project Requirements The Client shall confirm the objectives, requirements, constraints, and criteria for the Project at its inception. If the Client has established design standards, they shall be furnished to Consultant at Project inception. Consultant will review the Client design standards and may recommend alternate standards considering the standard of care provision.

Independent Consultant Consultant is and shall be at all times during the term of this Agreement an independent consultant and not an employee or agent of the Client. Consultant shall retain control over the means and methods used in performing Consultant's services and may retain subconsultants to perform certain services as determined by Consultant.

Compliance with Laws Consultant shall perform its services consistent with sound professional practice and endeavor to incorporate laws, regulations, codes, and standards applicable at the time the work is performed. In the event that standards of practice change during the Project, Consultant shall be entitled to additional compensation where additional services are needed to conform to the standard of practice.

Permits and Approvals Consultant will assist the Client in preparing applications and supporting documents for the Client to secure permits and approvals from agencies having jurisdiction over the Project. The Client agrees to pay all application and review fees.

Limitation of Liability In recognition of the relative risks and benefits of the project to both the Client and Consultant, the risks have been allocated such that the Client agrees, to the fullest extent permitted by law, to limit the liability of Consultant and its subconsultants to the Client and to all construction contractors and subcontractors on the project for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, so that the total aggregate liability of Consultant and its subconsultants to all those named shall not exceed \$50,000 or the amount of Consultant's total fee paid by the Client for services under this Agreement, whichever is the greater. Such claims and causes include, but are not limited to negligence, professional errors or omissions, strict liability, breach of contract or warranty.

Consequential Damages Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither the Client nor Consultant, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the project or to this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation or any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty. Both the Client and Consultant shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in this project or with this Agreement.

Waiver of Subrogation Consultant shall endeavor to obtain a waiver of subrogation against the Client, if requested in writing by the Client, provided that Consultant will not increase its exposure to risk and Client will pay the cost associated with any premium increase or special fees.

Environmental Matters The Client warrants that they have disclosed all potential hazardous materials that may be encountered on the Project. In the event unknown hazardous materials are encountered, Consultant shall be entitled to additional compensation for appropriate actions to protect the health and safety of its personnel, and for additional services required to comply with applicable laws. The Client shall indemnify Consultant from any claim related to hazardous materials encountered on the Project except for those events caused by negligent acts of Consultant.

Cost Opinions Consultant shall prepare cost opinions for the Project based on historical information that represents the judgment of a qualified professional. The Client and Consultant acknowledge that actual costs may vary from the cost opinions prepared and that Consultant offers no guarantee related to the Project cost.

Contingency Fund The Client acknowledges the potential for changes in the work during construction and the Client agrees to include a contingency fund in the Project budget appropriate to the potential risks and uncertainties associated with the Project. Consultant may offer advice concerning the value of the contingency fund; however, Consultant shall not be liable for additional costs that the Client may incur beyond the contingency fund they select unless such additional cost results from a negligent act, error, or omission related to services performed by Consultant.

Safety Consultant shall be responsible solely for the safety precautions or programs of its employees and no other party.

Information from Other Parties The Client and Consultant acknowledge that Consultant will rely on information furnished by other parties in performing its services under the Project. Consultant shall not be liable for any damages that may be incurred by the Client in the use of third party information.

Force Majeure Consultant shall not be liable for any damages caused by any delay that is beyond Consultant's reasonable control, including but not limited to unavoidable delays that may result from any acts of God, strikes, lockouts, wars, acts of terrorism, riots, acts of governmental authorities, extraordinary weather conditions or other natural catastrophes, or any other cause beyond the reasonable control or contemplation of either party.

Waiver of Rights The failure of either party to enforce any provision of these terms and conditions shall not constitute a waiver of such provision nor diminish the right of either party to the remedies of such provision.

Warranty Consultant warrants that it will deliver services under the Agreement within the standard of care. No other expressed or implied warranty is provided by Consultant.

Severability Any provision of these terms later held to be unenforceable shall be deemed void and all remaining provisions shall continue in full force and effect. In such event, the Client and Consultant will work in good faith to replace an invalid provision with one that is valid with as close to the original meaning as possible.

Survival All obligations arising prior to the termination of this Agreement and all provisions of these terms that allocate responsibility or liability between the Client and Consultant shall survive the completion or termination of services for the Project.

Assignments Neither party shall assign its rights, interests, or obligations under the Agreement without the express written consent of the other party.

Governing Law The terms of Agreement shall be governed by the laws of the state where the services are performed provided that nothing contained herein shall be interpreted in such a manner as to render it unenforceable under the laws of the state in which the Project resides.

Collection Costs In the event that legal action is necessary to enforce the payment provisions of this Agreement if Client fails to make payment within sixty (60) days of the invoice date, Consultant shall be entitled to collect from the Client any judgment or settlement sums due, reasonable attorneys' fees, court costs, and expenses incurred by Consultant in connection therewith and, in addition, the reasonable value of Consultant's time and expenses spent in connection with such collection action, computed at Consultant's prevailing fee schedule and expense policies.

Equal Employment Opportunity Consultant will comply with federal regulations pertaining to Equal Employment Opportunity. Consultant is in compliance with applicable local, state, and federal regulations concerning minority hiring. It is Consultant's policy to ensure that applicants and employees are treated equally without regard to race, creed, sex, color, religion, veteran status, ancestry, citizenship status, national origin, marital status, sexual orientation, or disability. Consultant expressly assures all employees, applicants for employment, and the community of its continuous commitment to equal opportunity and fair employment practices.

Attorney Fees Should there be any suit or action instituted to enforce any right granted in this contract, the substantially prevailing party shall be entitled to recover its costs, disbursements, and reasonable attorney fees from the other party. The party that is awarded a net recovery against the other party shall be deemed the substantially prevailing party unless such other party has previously made a bona fide offer of payment in settlement and the amount of recovery is the same or less than the amount offered in settlement. Reasonable attorney fees may be recovered regardless of the forum in which the dispute is heard, including an appeal.

Third Party Beneficiaries Nothing in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Client or the Consultant. The Consultant's services under this Agreement are being performed solely for the Client's benefit, and no other entity shall have any claim against the Consultant because of this Agreement or the performance or nonperformance of services hereunder. The Client agrees to include a provision in all contracts with contractors and other entities involved in this project to carry out the intent of this paragraph.

Lien Rights Consultant may file a lien against the Client's property in the event that the Client does not make payment within the time prescribed in this Agreement. The Client agrees that services by Consultant are considered property improvements and the Client waives the right to any legal defense to the contrary.

Captions The captions herein are for convenience only and are not to be construed as part of this Agreement, nor shall the same be construed as defining or limiting in any way the scope or intent of the provisions hereof.



November 9, 2017

Mr. Nate Geinzer
City of Brighton
200 North First Street
Brighton, MI 48116

**Re: Northwest Neighborhood; Road and Utility Improvements
Preliminary Design Engineering Proposal**

Dear Mr. Geinzer:

Tetra Tech is pleased to provide this proposal to prepare a preliminary design for the road and utility improvements for the Northwest Neighborhood street improvements. The proposed project includes the reconstruction of Third, Fourth, Fifth, Sixth and Seventh Streets from Main to their northerly terminus; State Street between Third and Seventh; Chestnut between Lindbom and Fourth, Walnut from Fourth to First, Center from Walnut to Second, Chestnut from Second to First and First from Walnut to Chestnut. The improvements have been part of past Capital Improvement Plans but were postponed due to funding issues. The existing water and sanitary sewer utilities will also be replaced, as they have reached the end of their useful life. The streets will be improved with curb, gutter, and storm sewers connecting to the storm interceptor that was extended to the north side of Main Street at Sixth in anticipation of the NW Neighborhood project.

This proposal is to perform the topographic survey and preliminary design sufficient to determine detailed quantities and preparation of opinions of probable cost for the proposed improvements.

The following scope of work, schedule, and budget are proposed for this phase of the project:

SCOPE OF WORK

Preliminary Design & Surveying Phase

- Prepare base mapping by obtaining topographic survey, right-of-way, and utility information for the project area.
- Confirm the need for utility upgrades/repairs with DPS staff. It is currently assumed that the existing 4-inch water mains will be upgraded to 8-inch, and the existing 8-inch sanitary sewer will be inspected and, based on the results, either replaced or, at a minimum, the service leads replaced within the right-of-way. Our proposal is based on replacing the sanitary sewers. All water leads will also be replaced to the road right-of-way.

- Prepare 20% plans and review with City staff. The plans will include the conceptual routing of the new utilities on plan view and information obtained from the utility and survey scope of services.
- Prepare a preliminary design for the storm sewer for the Northwest Neighborhood. A review meeting will be held with the City to discuss the conceptual design.
- Prepare a preliminary opinion of probable construction cost based on the 20% drawings.
- Attend up to two staff meetings to present the project to the Council and obtain comments for proceeding with the final design phase of the project.

Final Design

- Final Design phase services will be included in a separate scope of services and proposal.

Bidding and Construction Phases

- Bidding and Construction phase services will be included in a separate scope of services and proposal.

SCHEDULE

Presented below is the proposed schedule for the project.

Milestones Schedule

Preliminary Design and Topographic Survey	November 2017 – March 2017
Final Design and Permitting	TBD
Bidding & Contracting	TBD
Construction Utilities	TBD
Construction Street	TBD

BUDGET

The proposed budget consists of the components shown below. As requested, we have separated the proposed fee into the different elements of work for aligning with City funds.

	<u>Street/Storm</u>	<u>Water/Sanitary</u>
Topographic Survey	\$22,000	\$15,000
Preliminary Design	\$16,000	\$14,000
Subtotal Preliminary Design Phase	\$38,000	\$29,000
Total		\$67,000

It is our understanding that the City is considering combining these preliminary design phase services with the Second Street Improvements project. If both projects are authorized and run concurrently then the proposed fee shown above can be reduced by \$4,000 for efficiencies in project management (one project versus two) and survey services.

If this proposal is acceptable, please sign below and return a copy to our office for our authorization to proceed. The agreement for this project is comprised of this proposal and the attached Tetra Tech Standard Terms and Conditions.

We appreciate the opportunity to provide continuing service to the City of Brighton. If you have any questions regarding this proposal please call.

Sincerely,



Gary J. Markstrom, P.E.
Vice President

Enclosure

PROPOSAL ACCEPTED CITY OF BRIGHTON

BY: _____

TITLE: _____ **DATE:** _____



Tetra Tech of Michigan, PC

Engineering Services Standard Terms & Conditions

Services Consultant will perform services for the Project as set forth in Attachment A and in accordance with these Terms & Conditions. Consultant has developed the Project scope of service, schedule, and compensation based on available information and various assumptions. The Client acknowledges that adjustments to the schedule and compensation may be necessary based on the actual circumstances encountered by Consultant in performing their services. Consultant is authorized to proceed with services upon receipt of an executed Agreement.

Compensation In consideration of the services performed by Consultant, the Client shall pay Consultant in the manner set forth above. The parties acknowledge that terms of compensation are based on an orderly and continuous progress of the Project. Compensation shall be equitably adjusted for delays or extensions of time beyond the control of Consultant. Where total project compensation has been separately identified for various tasks, Consultant may adjust the amounts allocated between tasks as the work progresses so long as the total compensation amount for the project is not exceeded.

Fee Definitions The following fee types shall apply to methods of payment:

- **Salary Cost** is defined as the individual's base salary plus customary and statutory benefits. Statutory benefits shall be as prescribed by law and customary benefits shall be as established by Consultant employment policy.
- **Cost Plus** is defined as the individual's base salary plus actual overhead plus professional fee. Overhead shall include customary and statutory benefits, administrative expense, and non-project operating costs.
- **Lump Sum** is defined as a fixed price amount for the scope of services described.
- **Standard Rates** is defined as individual time multiplied by standard billing rates for that individual.
- **Subcontracted Services** are defined as Project-related services provided by other parties to Consultant.
- **Reimbursable Expenses** are defined as actual expenses incurred in connection with the Project.

Payment Terms Consultant shall submit invoices at least once per month for services performed and Client shall pay the full invoice amount within 30 days of the invoice date. Invoices will be considered correct if not questioned in writing within 10 days of the invoice date. Client payment to Consultant is not contingent on arrangement of project financing or receipt of funds from a third party. In the event the Client disputes the invoice or any portion thereof, the undisputed portion shall be paid to Consultant based on terms of this Agreement. Invoices not in dispute and unpaid after 30 days shall accrue interest at the rate of one and one-half percent per month (or the maximum percentage allowed by law, whichever is the lesser). Invoice payment delayed beyond 60 days shall give Consultant the right to stop work until payments are current. Non-payment beyond 70 days shall be just cause for termination by Consultant.

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Consequential Damages Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither the Client nor Consultant, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the project or to this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation or any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty. Both the Client and Consultant shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in this project or with this Agreement.

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Governing Law The terms of Agreement shall be governed by the laws of the state where the services are performed provided that nothing contained herein shall be interpreted in such a manner as to render it unenforceable under the laws of the state in which the Project resides.

Collection Costs In the event that legal action is necessary to enforce the payment provisions of this Agreement if Client fails to make payment within sixty (60) days of the invoice date, Consultant shall be entitled to collect from the Client any judgment or settlement sums due, reasonable attorneys' fees, court costs, and expenses incurred by Consultant in connection therewith and, in addition, the reasonable value of Consultant's time and expenses spent in connection with such collection action, computed at Consultant's prevailing fee schedule and expense policies.

Equal Employment Opportunity Consultant will comply with federal regulations pertaining to Equal Employment Opportunity. Consultant is in compliance with applicable local, state, and federal regulations concerning minority hiring. It is Consultant's policy to ensure that applicants and employees are treated equally without regard to race, creed, sex, color, religion, veteran status, ancestry, citizenship status, national origin, marital status, sexual orientation, or disability. Consultant expressly assures all employees, applicants for employment, and the community of its continuous commitment to equal opportunity and fair employment practices.

Attorney Fees Should there be any suit or action instituted to enforce any right granted in this contract, the substantially prevailing party shall be entitled to recover its costs, disbursements, and reasonable attorney fees from the other party. The party that is awarded a net recovery against the other party shall be deemed the substantially prevailing party unless such other party has previously made a bona fide offer of payment in settlement and the amount of recovery is the same or less than the amount offered in settlement. Reasonable attorney fees may be recovered regardless of the forum in which the dispute is heard, including an appeal.

Third Party Beneficiaries Nothing in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Client or the Consultant. The Consultant's services under this Agreement are being performed solely for the Client's benefit, and no other entity shall have any claim against the Consultant because of this Agreement or the performance or nonperformance of services hereunder. The Client agrees to include a provision in all contracts with contractors and other entities involved in this project to carry out the intent of this paragraph.

Lien Rights Consultant may file a lien against the Client's property in the event that the Client does not make payment within the time prescribed in this Agreement. The Client agrees that services by Consultant are considered property improvements and the Client waives the right to any legal defense to the contrary.

Captions The captions herein are for convenience only and are not to be construed as part of this Agreement, nor shall the same be construed as defining or limiting in any way the scope or intent of the provisions hereof.