



Brighton City Council Meeting

Contact Information: City Hall • 200 N First St. • Brighton, Michigan 48116
(810) 227-1911 • www.brightoncity.org • info@brightoncity.org

This meeting will be conducted electronically.
Please visit the City website or the notice posted at City Hall for Zoom Meeting login instructions.

Regular Meeting June 17, 2021 – 7:30 p.m.

AGENDA

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

Consent Agenda Items

- a. Approval of Minutes: [Study Session of June 3, 2021](#)
- b. Approval of Minutes: [Regular Session of June 3, 2021](#)
- c. [Approval of Tetra Tech Engineering Services Retainer Agreement for Engineering Services from July 1, 2021 through June 30, 2022 in the Amount of \\$13,920, pending City Attorney Review](#)
- d. [Award of Bid for the 2021 Parking Lot Maintenance to T&M Asphalt in the Amount of \\$12,950, with a 15% Contingency, for a Total Cost Not to Exceed \\$14,892.50](#)
- e. [Approval of an Amendment to the PUD Contract Agreement with Robertson, Brighton Square, LLC](#)

Correspondence

6. Call to the Public
7. Staff Updates
8. Updates from Councilmember Liaisons to Various Boards and Commissions

New Business

9. [Approval of the Purchase of Six Black Decorative Streetlights from KE Electric in the Amount of \\$41,297.55](#)
10. [Consider Award of Bid for the 2021 Municipal Parking Lot Reconstruction Project to ASI, Inc. for the \\$44,900 with a 15% Contingency for a Total not to Exceed \\$51,635](#)

Other Business

11. Call to the Public
12. Consider Entering into Closed Session to Receive Written Attorney-Client Privileged Communications Pursuant to MCL 15.268(h)
13. Adjournment



City Council Study Session

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

This meeting was conducted electronically.

MINUTES OF THE STUDY SESSION OF THE BRIGHTON CITY COUNCIL HELD ON JUNE 3, 2021

1. Call to Order

Mayor Pipoly called the meeting to order at 6:30 p.m.

2. Roll Call

Present were Mayor Pipoly (City of Brighton, MI) and Mayor Pro Tem Gardner (City of Brighton, MI), Councilmembers: Bohn (City of Brighton, MI), Emaus (City of Brighton, MI), Muzzin (City of Brighton, MI), Pettengill (City of Brighton, MI), and Tobbe (City of Brighton, MI).

Staff Present: City Manager Nate Geinzer, City Clerk Tara Brown, Finance Director Gretchen Gomolka, Community Development Manager Mike Caruso, Assistant to the City Manager Henry Outlaw, Assistant to the DPS Director Patty Thomas, Chief Rob Bradford, Deputy DPS Director Corey Brooks, and Attorney Mike Homier. There were eight persons in the audience.

3. Consider Approval of the Agenda

Motion by Mayor Pro Tem Gardner, seconded by Councilmember Pettengill to approved the agenda as presented. **The motion carried without objection by roll call vote.**

4. Call to the Public

Mayor Pipoly opened the Call to the Public at 6:31 p.m.

Susan Bakhaus spoke regarding the donation item on the agenda.

Mayor Pipoly closed the Call to the Public at 6:34 p.m.

5. Discussion of Incoming Donation

City Council and staff discussed possible options for the donation given by Robertson Brothers to the community. Mr. Tim Laughrin from Robertson Brothers was present to relay what other communities have done with their donation and to answer any questions.

6. Discussion of Upcoming LETS Grant Application

LETS Director Greg Kellogg presented City Council with an update and plans for the future. City Council reached a consensus to draft a letter in support of a grant application as described by Director Kellogg.

7. Call to the Public

Mayor Pipoly opened the Call to the Public at 7:16 p.m. Hearing and seeing no comment, Mayor Pipoly closed the Call to the Public.

8. Adjournment

Motion by Councilmember Tobbe, seconded by Councilmember Muzzin to adjourn the meeting at 7:17

p.m. **The motion carried without objection by roll call vote.**

Tara Brown, City Clerk

Shawn Pipoly, Mayor



Brighton City Council Meeting

Contact Information: City Hall • 200 N First St. • Brighton, Michigan 48116
(810) 227-1911 • www.brightoncity.org • info@brightoncity.org

This meeting was conducted electronically.

MINUTES OF THE REGULAR MEETING OF THE BRIGHTON CITY COUNCIL HELD ON JUNE 3, 2021

1. Call to Order

Mayor Pipoly called the meeting to order at 7:30 p.m.

2. Pledge of Allegiance

Mayor Pro Tem Gardner led the Pledge of Allegiance

3. Roll Call

Present were Mayor Pipoly (City of Brighton, MI) and Mayor Pro Tem Gardner (City of Brighton, MI), Councilmembers: Bohn (City of Brighton, MI), Emaus (City of Brighton, MI), Muzzin (City of Brighton, MI), Pettengill (City of Brighton, MI), and Tobbe (City of Brighton, MI).

Staff Present: City Manager Nate Geinzer, City Clerk Tara Brown, Finance Director Gretchen Gomolka, Public Services Director Marcel Goch, Community Development Manager Mike Caruso, Assistant to the DPS Director Patty Thomas, Assistant to the City Manager Henry Outlaw, Deputy DPS Director Corey Brooks, Chief Rob Bradford, and Attorney Mike Homier. There were thirteen persons in the audience.

4. Consider Approval of the Agenda

Motion by Councilmember Muzzin, seconded by Councilmember Emaus to approve the agenda as amended, removing item d. **The motion carried without objection by roll call vote.**

5. Consider Approval of Consent Agenda Items

Motion by Mayor Pro Tem Gardner, seconded by Councilmember Emaus to approve the consent agenda as amended. **The motion carried without objection by roll call vote.**

Consent Agenda Items

- a. Approval of Minutes: Study Session of May20, 2021
- b. Approval of Minutes: Regular Session of May 20, 2021
- c. Approval of Minutes: Closed Session of May 20, 2021
- ~~d. Approval of POLC (Patrol) and POLC (Command) Letters of Understanding~~
- e. Approval of Resolution #2021-14 to enter into a Temporary Right of Entry Agreement with CSX Transportation, Inc. for the crossing on Rickett Road as part of the Rickett Road Phase 2 Construction Project, Including Payment of \$10,141.
- f. Appointment to Various Boards and Commissions

Correspondence

6. Call to the Public

Mayor Pipoly opened the Call to the Public at 7:34 p.m. Hearing and seeing no comment, Mayor Pipoly closed the Call to the Public.

7. Staff Updates

Chief Bradford stated that the Police Department received the message radar trailer board and will be placing it out

in the community.

Director Goch provided a brief update on the Northwest Neighborhoods project. Spray patching has finished in the parking lots and the contractor will be moving onto sidewalks.

Assistant Outlaw thanked the City staff and business owners who chipped in to help celebrate the Brighton High School graduating class of 2021 formal night.

Manager Geinzer noted he has finished his one-on-one with the Police Department staff and thanked them for their hard work and dedication.

8. Updates from Councilmember Liaisons to Various Boards and Commissions

Councilmember Pettengill and the ZBA will meet June 10, 2021 to discuss one variance. Ms. Pettengill also thanked all involved with the formal night for the graduating class and hopes it will be an annual event.

Councilmember Gardner stated the Brighton Arts and Culture Commission will meet on June 14, 2021.

Councilmember Muzzin stated the Brighton Area Fire Authority will meet June 10, 2021.

Mayor Pipoly noted there was quite a turnout for the Brighton High School formal night downtown and appreciated that the graduating class enjoyed themselves.

New Business

9. Consider Approval of Five-Year AXON TASER 7 Lease to Own Agreement

Motion by Mayor Pro Tem Gardner, seconded by Councilmember Tobbe to approve of a five-year AXON TASER 7 lease to own agreement and to authorize the Chief of Police to execute the agreement. **The motion carried without objection by roll call vote.**

10. Consider approval of professional architectural services for the DPS Storage Addition and DPS Office Renovation to Lindhout Associates in the amount of \$26,402 with a budget amendment to pull back \$21,586 from bond proceeds to fiscal year 2020-2021

Motion by Councilmember Muzzin, seconded by Councilmember Emaus to approve of professional architectural services for the DPS storage addition and DPS office renovation to Lindhout Associates in the amount of \$26,402 with a budget amendment to pull back \$21,586 from bond proceeds to fiscal year 2020-2021. **The motion carried without objection by roll call vote.**

11. Consider award of the bid for the installation of the Nelson Street Booster Station to Lawrence M Clark, Inc. in the amount of \$309,800 with a 15 percent contingency totaling \$356,270 and related budget amendments.

Motion by Councilmember Tobbe, seconded by Councilmember Pettengill to award the bid for the installation of the Nelson Street booster station to Lawrence M Clark, Inc. in the amount of \$309,800 with a 15 percent contingency totaling \$356, 270 and related budget amendments. **The motion carried without objection by roll call vote.**

12. Consider of amendment to increase the Nelson Street Booster Station engineering contract with Tetra Tech Engineering Services from \$69,000 to \$79,600.

Motion by Councilmember Pettengill, seconded by Councilmember Tobbe to approve of amendments to increase the Nelson Street booster station engineering contract with Tetra Tech Engineering Services from \$69,000 to \$76,600. **The motion carried without objection by roll call vote.**

13. Approve the purchase of a new Combination Sewer Cleaner Vacuum Truck from Jack Doheny Company in the amount of \$439,445 with related budget amendments.

Motion by Mayor Pro Tem Gardner, seconded by Councilmember Emaus to approve the purchase of a new combination sewer cleaner vacuum truck from Jack Doheny Company in the amount of \$439,445 with related budget amendments which in the public interest will be better served by accepting a higher bid. **The motion carried without objection by roll call vote.**

14. Consider Motion Identifying City Council Preference for the Use of Anticipated Donation by Robertson Brothers, INC.

No action was taken; this item will come before City Council at a future study session.

Other Business

15. Call to the Public

Mayor Pipoly opened the Call to the Public at 8: 14 p.m. Hearing and seeing no comment, Mayor Pipoly closed the Call to the Public.

16. Adjournment

Motion by Councilmember Pettengill, seconded by Councilmember Emaus to adjourn the meeting at 8:42 p.m. **The motion carried without objection by roll call vote.**

Tara Brown, City Clerk

Shawn Pipoly, Mayor



City of Brighton

REPORT FROM THE CITY MANAGER TO CITY COUNCIL

JUNE 17, 2021

SUBJECT: CONSIDER APPROVAL OF TETRA TECH ENGINEERING SERVICES RETAINER AGREEMENT FOR ENGINEERING SERVICES FROM JULY 1, 2021 THROUGH JUNE 30, 2022 IN THE AMOUNT OF \$13,920.

ADMINISTRATIVE SUMMARY

- Recently, the City completed a Quality Based Selection (QBS) process for our Engineer of Record and prequalified project engineers. Now that the selection process is complete, the City needs to renew the Retainer Agreement for Engineering Services with Tetra Tech. These services are required for needs that are not covered under our current project contracts and can vary in use for items such as site plan coordination meetings prior to site plan submittals, attendance at intergovernmental meetings, utility service requests and preparing cost opinions for infrastructure projects for budgeting purposes.
- Through the QBS process, Tetra Tech Engineering Services was chosen as the firm that would best serve the City's needs and will continue as the Engineer of Record for the next three years. As part of that designation, they will also provide engineering retainer services. Attached is their proposal. This Agreement would be in effect for one year and coincides with the City's fiscal year. As fiscal year 2020-2021 is in its final month, a new Retainer Agreement is needed for 2021-2022. Under the proposed Agreement, Tetra Tech will provide eight hours of engineering services per month at a cost of \$1,160, for a yearly total of \$13,920. If additional engineering services are required beyond the eight hours, Tetra Tech will provide those services at a rate of \$145 per hour.
- As the QBS process was just completed in May, staff sent the terms and conditions to the City Attorney for review. Once approved by the City's Attorney and City Council, staff will sign and return a signed copy to Tetra Tech to begin the new Retainer Agreement.
- Funds for engineering retainer services have been approved in the 2021-2022 budget.

RECOMMENDATION

Approve Tetra Tech Engineering Services Retainer Agreement for engineering services from July 1, 2021 through June 30, 2022 in the amount of \$13,920, pending City Attorney review.

Prepared by: Marcel Goch, DPS Director

Reviewed by: Gretchen Gomolka, Finance Director (Required for all financial related agenda items)

- Within Budget
- Budget Amendment Necessary and in Proper Form
- Other _____

City Attorney (Required for all agreements, ordinances, etc.)

- Acceptable Form and Ready to Execute
- Agreement is under review by the City Attorney

Reviewed &

Approved by: Nate Geinzer, City Manager

Attachment: May 19, 2021 Letter from Tetra Tech



May 19, 2021

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

Re: Retainer Services July 2021 to June 2022 Period

Dear Mr. Geinzer:

For a number of years, we have provided general engineering services to the City through our retainer agreement. This arrangement has provided the City with a discounted rate for a set number of service hours per month to assist City staff in daily tasks where engineering input is requested. Our current retainer contract with the City will expire on June 30, 2021. It is our understanding the City would like to extend the term of this agreement to the end of June 2022. For the upcoming period, we propose the hourly rate as described herein with estimated hours maintained from the prior years' service.

For the referenced period of service, we propose a retainer service fee of \$13,920 on the basis of \$1,160 per month. The base fee will consist of miscellaneous services of up to 8 hours per month. The base fee of \$1,160 will be invoiced monthly regardless of whether the entire 8 hours of allocated time has been used.

The scope of services for the retainer typically include attendance at City Council, Traffic Safety Advisory Board meetings, and other meetings as requested by City Council and/or staff by our Representative Engineer(s). Additionally, general engineering services requested above the 8 hours per month will be billed at \$145 per hour. As in the past, project-related tasks or more time-consuming services will be performed under separate proposals, as requested.

Engineering services for the retainer commence on July 1, 2021 and expire on the 30th day of June 2022. This agreement shall continue to be enforced thereafter on a monthly basis until a written sixty (60) day notice of termination or an acceptable renewal is received by the Engineer. Our standard terms and conditions are attached and considered a part of this proposal.

If this proposal is acceptable, please sign in the space provided below and return a copy to our office.

Tetra Tech

7927 Nemco Way, Suite 100, Brighton, MI 48116
Tel 810.220.2112 Fax 810.220.0094 www.tetrattech.com

Mr. Nate Geinzer
Retainer Services July 2021 to June 2022 Period
May 19, 2021
Page 2

We appreciate the opportunity to provide continuing professional services to the City of Brighton.

Sincerely,



Steven J. Magnan, P.E.
Senior Project Manager

cc: Gretchen Gomolka

Attachment: Tetra Tech Standard Terms and Conditions

PROPOSAL ACCEPTED BY CITY OF BRIGHTON

BY: _____

TITLE: _____ **DATE:** _____

Engineering Services Standard Terms & Conditions

Services Consultant will perform services for the Project as set forth in the provisions for Scope of Work/Fee/Schedule in the proposal 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.

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 Client.

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 other 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 above. 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) - \$5,000,000 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 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 applicable 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.

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.



City of Brighton

REPORT FROM THE CITY MANAGER TO CITY COUNCIL

JUNE 17, 2021

SUBJECT: CONSIDER AWARD OF BID FOR THE 2021 PARKING LOT MAINTENANCE TO T&M ASPHALT IN THE AMOUNT OF \$12,950

BACKGROUND

- Every year, a parking lot maintenance Request for Proposal (RFP) is published to help address the maintenance and sometimes replacement of City parking lots. Like asphalt roads, parking lot surface life can be extended if the correct treatment is performed at the right time. After staff assessed all downtown parking lots earlier this spring, an RFP was developed and published in February requesting crack sealing, sealcoating and line striping for the Creamery, Pierce Street and Old Village parking lots with asphalt replacement for the Municipal and Mill Pond lots. Unfortunately, costs came in too high for this work to be performed and staff had to consider alternatives.

ADMINISTRATIVE SUMMARY

- With the 2020-2021 budget not containing enough funds to perform all of the identified work, staff decided to lessen the scope of work for the project by removing the repaving of the Mill Pond and Municipal Parking lots. This left enough funds to perform the spray patch in the City parking lots that was recently approved by Council. With the remaining funds, it is staff’s intention to perform crack sealing, sealcoating and line striping in the aforementioned lots as well. Knowing that the Municipal parking lot needed to be repaved because of its current condition and after the Storm Line Replacement Project that took place last month, staff decided a separate RFP would be published for that project using funds from the 2021-2022 fiscal year’s budget.
- On May 27, 2021, a new RFP was published on the Michigan Intergovernmental Trade Network (MITN) using the bidding documents reviewed by the City Attorney. On June 9, 2021, the City held the bid opening where four bid submittals were received. As stated earlier, this RFP only had the maintenance mentioned above and no asphalt surface repaving. Below you will see that T&M Asphalt of was the low bidder.

2021 Municipal Parking Lot Maintenance (2) #ITB-DPW-21-04	
BIDDER	TOTAL
A&R Sealcoat, Inc. - Waterford, MI	\$13,500.00
T&M Asphalt Paving - Inc. – Milford, MI	\$12,950.00
Al's Asphalt Paving Co - Taylor, MI	N/A
Hutch Paving - Westland, MI	\$15,800.00

- The “N/A” Referenced in the “TOTAL” Column for Al’s Asphalt is because they did not submit a complete bid.

- References for T&M Asphalt were contacted and found to be favorable. Additionally, T&M Asphalt has performed work for the City previously and staff was pleased with their work. If approved this evening, a meeting will be held with the contractor to discuss their schedule with every effort made to cause as minimal interruption as possible.

BUDGET INFORMATION

Funding for this maintenance is approved in the current 2020-2021 fiscal year's budget.

RECOMMENDATION

Award bid for the 2021 Parking Lot Maintenance to T&M Asphalt in the amount of \$12,950, with a 15% contingency, for a total cost not to exceed \$14,892.50.

Prepared by: Marcel Goch, DPS Director

Reviewed by: Gretchen Gomolka, Finance Director (Required for all financial related agenda items)

- Within Budget
- Budget Amendment Necessary and in Proper Form
- Other _____

Reviewed &

Approved by: Nate Geinzer, City Manager



City of Brighton

REPORT FROM THE CITY MANAGER TO CITY COUNCIL

June 17, 2021

SUBJECT: CONSIDER APPROVAL OF AN AMENDMENT TO THE PUD CONTRACT AGREEMENT WITH ROBERTSON, BRIGHTON SQUARE, LLC.

ADMINISTRATIVE SUMMARY

- Robertson Bothers, Brighton Square, LLC has submitted for an identification monument sign to be located at the entrance of the Brighton Square Development. The monument sign is proposed at 32 square feet in size, and 4 feet in height.
- In an effort to gain consistency in PUD contracts, staff would like to add language into this and future contracts, addressing the size of monument signs for residential developments. In review of monument signs approved at current developments, through the sign ordinance or variances granted, Staff has determined 32 square feet and 4 feet in height would be consistent language for PUD contracts.
- Current negotiations of the proposed West Village PUD contract has the same language included.
- This amendment also includes language that removes SKA, LLC as a party to any future amendments to the agreement. SKA, LLC is the original property owner and on the original signed agreement.

RECOMMENDATION

Staff is recommending to approve the First Amendment of the PUD Contract Agreement between the City of Brighton and Robertson Brighton Square, LLC.

Prepared by: Michael Caruso, Community Development Manager

Reviewed by: Sarah Gabis, City Attorney

Acceptable Form and Ready to Execute

Other _____

Reviewed &

Approved by: Nate Geinzer, City Manager

FIRST AMENDMENT TO PLANNED UNIT DEVELOPMENT AGREEMENT

BRIGHTON SQUARE

THIS FIRST AMENDMENT (“First Amendment”) is made this ____ day of _____, 2021, by and among the **CITY OF BRIGHTON**, a Michigan municipal corporation (the "City"), 200 N. First Street, Brighton, Michigan 48116, **ROBERTSON BRIGHTON SQUARE, LLC**, a Michigan limited liability with offices at 6905 Telegraph Road, Suite 200, Bloomfield Hills, Michigan, 48301 (the “Developer”) and **SKA, LLC**, a Michigan limited liability company with offices at 7208 Grand River, Brighton, Michigan, 48814 (the “Owner”).

RECITALS:

- A. On September 11, 2019, the City and the Developer and the Owner entered into a Planned Unit Development Agreement (the "Agreement") for the development of real property located in the City of Brighton (the "Land"), known as Brighton Square (the “Development”). The Land is further described in Exhibit A attached hereto and made a part of this First Amendment.
- B. The Agreement was recorded as Instrument No. 2019R-025460, Livingston County Records, on September 23, 2019.
- C. Robertson Brighton Square, LLC, SKA, LLC and the City of Brighton are the current parties to the Agreement. It is acknowledged that SKA, LLC and Robertson Brighton Square, LLC are parties to a purchase agreement for the Land, and that upon closing of that real estate transaction and recording of the deed (the “Land Transfer”), SKA, LLC will no longer have a legal or equitable interest in the Land or the Development.
- D. The purpose of this First Amendment is to amend the text of Paragraph 2.24 to provide for the installation of an on-premises monument sign for Brighton Square.

NOW, THEREFORE, it is hereby agreed as follows:

- 1. Capitalized terms used in this First Amendment that are not defined herein shall have the meanings given to them in the Agreement.
- 2. Paragraph 2.24 of the Agreement provides as follows:

“**Sign.** One temporary two-sided, onsite marketing sign each up to (72) square-feet may be installed on the public road frontage immediately following approval of this Development Agreement and shall remain to the end of the sales period of the development.”

3. Upon execution and recording of this First Amendment of the Agreement, the original Paragraph 2.24 will be superseded and amended as follows:

“**Signs.** One temporary two-sided, onsite marketing signs up to (72) square-feet may be installed on the public road frontage immediately following approval of this Development Agreement and shall remain to the end of the sales period of the development. Developer shall be permitted to construct a permanent monument sign with the name of the community at the entrance to the Development, not exceeding four (4) feet in height, and a maximum of thirty-two (32) square feet in overall size. The permanent monument sign shall be located as shown on the approved final site plan dated April 19, 2019, and approved by City Council on May 16, 2019.”

4. Upon the Land Transfer, SKA, LLC shall no longer be a party to any future amendments to the Agreement. Any obligation imposed upon SKA, LLC in the Agreement or this First Amendment, shall remain in full force and effect.

5. In the event of any conflict between the terms of the Agreement and this First Amendment, the terms of this First Amendment shall govern and control. This First Amendment to the Agreement shall be recorded with the Livingston County Register of Deeds.

IN WITNESS WHEREOF, the parties have caused this First Amendment to be executed and delivered on the day and year first above written.

[SIGNATURES ON THE FOLLOWING PAGES]

CITY OF BRIGHTON

By: _____
Shawn Pipoly
Its: Mayor

STATE OF MICHIGAN)
) ss.
COUNTY OF LIVINGSTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021, by Shawn Pipoly the Mayor of the City of Brighton, on behalf of the City.

Print Name: _____
Notary Public, State of _____,
County of _____
My Commission Expires: _____
Acting in the County of _____

ROBERTSON BRIGHTON SQUARE, LLC,
a Michigan limited liability company

By: _____
Name: James Clarke
Its: President

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021, by James Clarke the President of Robertson Brighton Square, LLC, a Michigan limited liability company, on behalf of the company.

Print Name: _____
Notary Public, State of _____,
County of _____
My Commission Expires: _____
Acting in the County of _____

SKA, LLC,
a Michigan limited liability company

By: _____
Name: John Conely
Its: Member

STATE OF MICHIGAN)
) ss.
COUNTY OF LIVINGSTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021, by John Conely, a member of SKA, LLC, a Michigan limited liability company, on behalf of the company.

Print Name: _____
Notary Public, State of _____,
County of _____
My Commission Expires: _____
Acting in the County of _____

Prepared by and when recorded return to:

Sarah J. Gabis
Foster Swift Collins & Smith, PC
28411 Northwestern Highway, Suite 500
Southfield, MI 48034
(248) 785-4744

EXHIBIT A

Land Description

Part of the Southwest $\frac{1}{4}$ of Section 30, T2N-R6E, City of Brighton, Livingston County, Michigan, more particularly described as follows: COMMENCING at the South $\frac{1}{4}$ Corner of said Section 30, thence along the North-South $\frac{1}{4}$ Line of said Section 30, Due North 1462.17 feet to the POINT OF BEGINNING of the parcel to be described, said point lies Due South, 1199.91 feet from the Center of said Section 30; thence S 78°08'55" W, 363.93 feet (previously recorded as S 81°00' W, 362 feet) to a set iron rod with cap number 51686; thence along the East line of East Street, (66 foot wide Right of Way), N 15°22'22" W. 67.16 feet (previously recorded as N 20°30' W, 66 feet) to a found $\frac{1}{2}$ iron rod; thence continuing along the East line of said East Street, N 14°39'04" W, 157.88 feet (previously recorded as N 13°45' W, 158.00 feet) to an axle shaft; thence along the East line of East Street N 11°40'42" W, 109.53 feet (previously recorded as N 10°32' W, 109.00 feet) to a $\frac{1}{2}$ iron rod with cap number 51686; thence along the East line of Flint Road (variable width Right of Way), on the arc of a curve, right 119.83 feet, said curve has a radius of 154.87 feet, a central angle of 44°19'49" and a chord which bears N 10°29'13" E, 116.86 feet to a $\frac{1}{2}$ " iron rod with cap number 51686; thence continuing along the East line of said Flint Road, N 32°39'08" E, 246.00 feet to a chiseled "X" in the concrete sidewalk, thence N 85°11'27" E, 283.08 feet (previously recorded as N 85° E, 281.13 feet) to a found iron pipe with cap number 46723; thence along the North-South $\frac{1}{4}$ line of said Section 30, Due South, 595.78 feet to the Point of Beginning, containing 5.54 acres, more or less and subject to the rights of the public over East Street and Flint Road. Also subject to a 20 foot wide Easement for Sanitary and Storm Sewer as recorded in Liber 648 of Deeds on page 423 of the Livingston County Records and assigned to the City of Brighton in Liber 667 of Deeds on Page 289 of the Livingston County Records. Also subject to any other easements or restriction of record.

87162:00001:5475056-1



City of Brighton

REPORT FROM THE CITY MANAGER TO CITY COUNCIL

JUNE 17, 2021

SUBJECT: CONSIDER APPROVAL OF THE PURCHASE OF SIX BLACK DECORATIVE STREET LIGHTS FROM KE ELECTRIC IN THE AMOUNT OF \$41,297.55

BACKGROUND

The City of Brighton has black decorative streetlights in various locations throughout the City. We were recently informed that while these lights are owned and maintained by DTE, the City is responsible for purchasing them and keeping at least one of each type in stock so in the case of a knock down, DTE could install a new one in a timely manner. The lead time for these lights is approximately six weeks as they are not manufactured until an order is placed.

ADMINISTRATIVE SUMMARY

In March of 2021, DTE provided Staff with three approved suppliers of these lights. All three were contacted and asked to provide quotes. Two vendors responded in a timely manner, and after many follow up emails and quotes with the third, a quote was provided on May 21; however, it only included one of the lights. An email was again sent to the vendor requesting pricing on the lights. We have not received pricing as of June 10, 2021.

Below is a summary of the pricing provided by each of the vendors.

Black Decorative Street Lights 2021 Stock Up Quote					
	Locations				
Vendor	Main & Grand River (1 Each)	St. Paul St (2 Each)	Spencer /Oak Ridge (2 Each)	Spring Mountain (1 Each)	Total
KE Electric	\$9,693.25	\$11,732.10	\$16,513.30	\$3,358.90	\$41,297.55
Great Lakes	\$9,692.94	\$11,731.76	\$16,512.94	\$3,358.83	\$41,296.47
Graybar	N/A	N/N	N/A	\$5,065.00	N/A

As you can see, the difference in pricing between KE Electric and Great Lakes Electric is only \$1.08. The lead time from both suppliers is the same, staff recommends purchasing the lights from KE Electric. They are a local business and the City has purchased other items from them throughout the years.

Please note, when these lights are damaged or knocked down, the replacement cost is generally recouped by the driver’s insurance company. Unfortunately, there are times when this happens and we do not have information on who damaged or knocked down the light so the City must pay for the repair or a replacement light. With the cost of having multiple styles of lights that the City is required to keep in stock per DTE, Staff would like to have a discussion in the future with Council to understand what lead to having different styles to determine if they would like to explore options

that could save the City money going forward.

BUDGET INFORMATION

City Council approved funding to purchase these lights in the Fiscal Year 2020/2021 budget.

RECOMMENDATION

Approval of the purchase of six black decorative streetlights from KE Electric in the amount of \$41,297.55.

Prepared by: Patty Thomas, Asst. to the DPS Director

Reviewed by: Marcel Goch, DPS Director

Gretchen Gomolka, Finance Director

- Within Budget
- Budget Amendment Necessary and in Proper Form
- Other _____

Reviewed &

Approved by: Nate Geinzer, City Manager



City of Brighton

REPORT FROM THE CITY MANAGER TO CITY COUNCIL

JUNE 17, 2021

SUBJECT: CONSIDER AWARD OF BID OF THE 2021 MUNICIPAL PARKING LOT RECONSTRUCTION PROJECT TO ASI, INC. IN THE AMOUNT OF \$44,900, WITH A 15% CONTINGENCY FOR A TOTAL NOT TO EXCEED \$51,635

BACKGROUND

- In February of this year, staff published a Request for Proposal (RFP) for parking lot maintenance. This RFP included crack sealing, sealcoating and line striping of three existing parking lots with the repaving of two parking lots. When the RFP submittals were received, it was found that the cost for all the work was more than what was available in the current 2020-2021 fiscal year’s budget. As a result, the decision was made to split up the parking lot repaving and the parking lot maintenance work into two different RFP’s. The new crack sealing, sealcoating and line striping RFP would be funded through the current 2020-2021 fiscal year budget and the repaving portion would be in a separate RFP funded through the 2021-2022 fiscal budget.

ADMINISTRATIVE SUMMARY

- Expecting the cost of repaving the Municipal and Mill Pond parking lots to be more than the available funds approved in the 2021-2022 fiscal budget, Staff opted to change the scope of work to include only the repaving of the Municipal parking lot. This lot was determined to be most in need of resurfacing as it just had the storm sewer repair and some curb and drain structure replacement. Note that while the Mill Pond Parking Lot is not going to be resurfaced, it was added to the parking lot maintenance RFP that Council is reviewing this evening in an effort to extend its surface life until a later date.
- On May 28, 2021, an RFP was published on the Michigan Intergovernmental Trade Network (MITN) using bidding documents approved by the City’s Attorney. On June 9, 2021, a public bid opening was held at City Hall via a virtual meeting where seven proposals were received. Of the seven contractors, ASI, Inc. was the low bidder with Nagle Paving Company being second lowest. See table below.

2021 Municipal Parking Lot Reconstruction #ITB-DPW-21-05		
BIDDER	Base Bid	Alternate #1
Best Asphalt, Inc. - Romulus, MI	\$49,000.00	\$56,000.00
Hutch Paving - Warren, MI	\$53,995.00	\$69,325.00
Nagle Paving Co - Novi, MI	\$45,990.00	\$51,890.00
Spartan Paving - Waterford., MI	\$49,925.00	\$90,173.00
ASI, Inc. - Pontiac, MI	\$44,900.00	\$55,100.00
S&J - Canton, MI	\$51,100.00	\$59,450.00
Al's Asphalt Paving Co - Taylor, MI	\$48,679.00	\$60,000.00

- As the asphalt depth of the municipal parking lot was discovered to be 7-8 inches thick, staff planned on the contractor milling off four inches and replacing it with new asphalt. Staff also wanted to see if a full depth removal would be more affordable than milling off four inches, so an alternate price was requested that included a full depth removal with raising of the sub-grade to accommodate the new asphalt. As seen above, the milling of the four inches is the better choice.
- All references were contacted with responses being favorable. Additionally, ASI has been contracted by the City of Brighton previously, and staff was satisfied with their work.
- If the project is approved this evening, a meeting will be held between the contractor and staff to discuss their schedule. Knowing this will require the parking lot to be closed for a few days, notification will go out to the downtown businesses and information will go out on the City's website and social media sites. Every effort will be made to cause as minimal disruption as possible.

BUDGET INFORMATION

Funding for this project has been approved in the 2021-2022 fiscal year's budget.

RECOMMENDATION

Award bid of the 2021 Municipal Parking Lot Reconstruction Project to ASI, Inc. for the \$44,900, with a 15% contingency for a total not to exceed \$51,635.

Prepared by: Marcel Goch, DPS Director

Reviewed by:

Gretchen Gomolka, Finance Director (Required for all financial related agenda items)

- Within Budget
- Budget Amendment Necessary and In Proper Form
- Other _____

Reviewed &

Approved by: Nate Geinzer, City Manager