



# Brighton City Council Meeting

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

## Regular Business Meeting October 17, 2019 – 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 Meeting of October 3, 2019](#)
6. Approval of Minutes: [Regular Meeting of October 3, 2019](#)
7. [Approval of Reappointment to the Zoning Board of Appeals](#)
8. [Transmittal of Pension and OPEB Reporting under Public Act 202 of 2017](#)

#### **Correspondence**

9. Call to the Public
10. Staff Updates
11. Updates from Councilmember Liaisons to Various Boards and Commissions
12. Receive Annual Audit Report and Presentation

#### **New Business**

13. [Approval of Engineering Services for the 2019 Water Reliability Study Update in an Amount Not to Exceed \\$11,000.](#)

#### **Other Business**

14. Call to the Public
15. Adjournment



# City Council Study Session

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## MINUTES OF THE STUDY SESSION OF THE BRIGHTON CITY COUNCIL HELD ON OCTOBER 3, 2019

### **CALL TO ORDER**

Mayor Muzzin called the Study Session to order at 6:30 p.m.

### **ROLL CALL**

Present were Mayor Muzzin, Councilmembers: Bohn, Emaus, Gardner, Pettengill, Pipoly, and Tobbe. Staff: City Manager Nate Geinzer, City Clerk Tara Brown, DPS Director Marcel Goch, Community Development Manager Mike Caruso, Chief of Police Rob Bradford, City Engineer Gary Markstrom, and Attorneys Paul Burns and Jeff Alber. There were two persons in the audience.

### **APPROVAL OF AGENDA**

Mayor Muzzin noted the addition of "Discussion of Reimbursement for Stormwater Upgrade Relating to the Northwest Neighborhoods Project in Conjunction with the Uptown on First Development" to the agenda.

**Motion** by Councilmember Gardner, seconded by Councilmember Emaus to approve the agenda as amended. **The motion carried without objection.**

### **CALL TO THE PUBLIC**

Mayor Muzzin opened the Call to the Public at 6:31 p.m. Hearing and seeing no comment, Mayor Muzzin closed the Call to Public at 6:31 p.m.

### **DISCUSSION: CHALLIS ROAD PARCEL PROPOSAL/PURCHASE AGREEMENT**

City Manager Geinzer introduced the agenda discussion topic. He stated that there is an interested party who has submitted a bid for the property with intentions to develop the site with a 250-unit multi-family garden style housing. He noted that due to the many development challenges, there are extensions/safety features built in to allow for due diligence within the proposed agreement. Attorney Burns relayed the different extensions and possible refunds should the buyer wish to back out. Council and staff discussed the intricacies of the extensions at length and what Council would like to see from the agreement.

Councilmember Emaus asked if any changes by the developer if they deviate from the original intention will come back to City Council for approval. Manager Geinzer stated that the any purchase agreement would be approved by City Council. Councilmember Bohn has no problem refunding deposits, and feels that the City should do what it can to work with the developer. Mayor Muzzin agreed that it is about moving the property and efforts should be made to work with potential developers. Council, attorney, and staff spoke about the details involved with starting the work for the development such as surveys and easement agreements.

Manager Geinzer summarized the concerns from Council and stated that city attorney and staff would work on the agreement language and bring the proposed agreement to Council for final approval.

### **DISCUSSION OF REIMBURSEMENT FOR STORMWATER UPGRADES RELATING TO THE NORTHWEST NEIGHBORHOODS PROJECT IN CONJUNCTION WITH THE UPTOWN ON FIRST DEVELOPMENT**

Manager Geinzer stated that during the planning phase of the Uptown of First Street development, Tetra Tech engineers identified a unique opportunity to upgrade the storm water pipe from the eighteen-inch pipe to thirty-six inch in preparation for the north west neighborhood streets project. The foresight of this opportunity would save several large trees, eliminate the necessity of easement agreements, and ultimately approximately \$40,000. If approved, Manager Geinzer would ask that a twenty percent contingency is approved. He further stated that the necessary funds would be from the local streets fund, not the millage money. If this project were to be completed after the Uptown development, the cost could double and require removal of several large trees.

Councilmember Pettengill restated that the savings are approximately \$40,000 and saving several large trees as well. Mayor Pro Tem stated that he appreciates this kind of forethought, planning, and collaboration, noting that the City is gaining a savings of nearly fifty percent. Councilmember Emaus noted that this money could come from the millage but the City will be spending from the local streets fund instead.

**CALL TO THE PUBLIC**

Mayor Muzzin opened the Call to the Public at 7:11 p.m. Hearing and seeing no comment, Mayor Muzzin closed the Call to the Public at 7:11 p.m.

**ADJOURNMENT**

**Motion** by Councilmember Emaus, seconded by Councilmember Pettengill to adjourn the Study Session at 7:11 p.m.  
**The motion carried without objection.**

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Tara Brown, City Clerk

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James Muzzin, Mayor



# Brighton City Council Meeting

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## MINUTES OF THE REGULAR MEETING OF THE BRIGHTON CITY COUNCIL HELD ON OCTOBER 3, 2019

### 1. Call to Order

Mayor Muzzin called the Regular Meeting to order at 7:30 p.m.

### 2. Pledge of Allegiance

### 3. Roll Call

Present were Mayor Muzzin, Councilmembers: Bohn, Emaus, Gardner, Pettengill, Pipoly, and Tobbe. City Manager Nate Geinzer, City Clerk Tara Brown, Community Development Manager Mike Caruso, DPS Director Marcel Goch, Assistant to the DPS Director Patty Thomas, Chief Rob Bradford, Attorney Paul Burns and Attorney Jeff Alber. There were five persons in the audience.

### 4. Consider Approval of the Agenda

**Motion** by Councilmember Tobbe, seconded by Councilmember Emaus to approve the agenda as amended, adding item 12a. **The motion carried without objection.**

#### Consent Agenda Items

**Motion** by Councilmember Emaus, seconded by Councilmember Gardner to approve the consent agenda as amended. **The motion carried without objection.**

### 5. Approval of Minutes: Study Session Meeting of September 19, 2019

### 6. Approval of Minutes: Regular Meeting of September 19, 2019

### 7. Approval of Minutes: Closed Session of September 19, 2019

### 8. Approval of Traffic Control Orders #174 and #175

#### Correspondence

### 9. Economic Development Council of Livingston County (EDCLC) Update

Marcia Gebarowski and Ann Paddington from SPARK gave an update with a short power point presentation on developments within their organization and plans for the future while identifying key economic priorities and growth.

Councilmember Bohn asked how SPARK anticipates electric vehicles will shape the industry and how SPARK hopes to tailor their focus. Ms. Gebarowski stated that identifying industry clusters to pinpoint change is a focus for SPARK to anticipate the change and garner new relevant industry and talent.

### 10. Call to the Public

Mayor Muzzin opened the Call to the Public at 7:56 p.m.

Pat Cole spoke on several topics. She asked for clarification on the terminology Blue Sky versus Study Session, asked to televise other board and commission meetings, accessibility of the City Charter, and the necessity to renew the Charter language to better fit with times.

Mayor Muzzin closed the Call to the Public at 8:01 p.m.

Councilmember Bohn noted that Blue Sky was used to review items on the agenda, Study Session was intended to review items that require deeper discussion and eventual action. Mayor Muzzin added that action can be taken at the Study Session but City Council has made a practice of not. Councilmember Emaus noted that the City Charter does have legal language provided by the State to address he/she pronouns. Councilmember Bohn stated the City Charter is much like the Constitution. Like the constitution of the Country, the Charter has severed and is serving the City quite well.

#### **11. Staff Updates**

Director Goch stated that the Rickett Road project is moving along very well and anticipates it will open late October or early November.

Clerk Brown stated that absentee voter ballots for the November 5, 2019 election were sent out to those on the permanent absentee list on September 30, 2019. Anyone who would still like an absentee ballot could apply for one by contacting the City Clerk's office.

Manager Geinzer attended Manufacturing Day with SPARK and students from Flex Tech at a local city company on October 3, 2019. Along with the students, Mr. Geinzer was very impressed with the behind the scene robotics and machinery during the tour.

#### **12. Updates from Councilmember Liaisons to Various Boards and Commissions**

Councilmember Bohn updated that the Planning Commission met on September 23, 2019 and reviewed a draft DBD ordinance, the public hearing is set for October 21, 2019. A preliminary PUD extension was approved for the Bluffs at Spring Hill. There were several neighboring residents at the meeting and feels confident that developer will work diligently to address their concerns. The Planning Commission conditionally approved a site plan for Sidecar Slider Bar.

Councilmember Tobbe stated the PSD met on October 1, 2019 to discuss the future of the board. More to come at future meetings.

Councilmember Gardner thanked Council and staff who reached out to her after the death of her mother, Anna Trussell. She said the heartwarming support was very much appreciated during this difficult time.

Renee Pettengill updated that due to the heavy rain on September 28, 2019, the Imagination Station resealing will be postponed until October 12, 2019. If the weather is not corporative the event will be postponed until June of 2020. Please check the Facebook page for updates.

Councilmember Emaus congratulated the Brighton Art Guild on their twentieth year and noted the annual fine art exhibition Kaleidoscope will be held on October 11-20, 2019 at the Green Oak Village Place Mall. He stated there are many City of Brighton artists showcasing and involved with the guild. Mr. Emaus also stated that he does have a copy of the Charter, which he reads via the City's website for free, and it is a classic and fantastic document. There are modern amendments that address he/she. He also thanked the Brighton Police department for their professionalism and care during a recent situation at Charyl Stockwell Academy as well as the Academy's staff.

#### **New Business**

#### **12a. Approval of Reimbursement of Stormwater Facility Costs Associated with City Requested Site Plan Changes Benefiting the Northwest Neighborhoods Project to Innovant Group LLC (Uptown on First) in an Amount not to Exceed \$30,500, plus a 20% Contingency**

Director Goch summarized the opportunity that was identified by city engineers as plans progressed for the Uptown at First development. The plan was to upgrade the planned eighteen inch stormwater drain to thirty-six inches in preparation for the northwest neighborhoods project. The foresight of this opportunity would save

several large trees, eliminate the necessity of easements, and ultimately save approximately \$40,000. If approved, the funds would be from the local streets fund rather than the millage fund.

Mayor Pro Tem Pipoly stated that this plan would eliminate the need to replace new pipe while saving money. Mayor Muzzin remarked that Gary Markstron and staff came up with this opportunity and thanked them for working together to find savings and efficiencies.

**Motion** by Councilmember Emaus, seconded by Councilmember Gardner to approve Reimbursement of Stormwater Facility Costs Associated with City Requested Site Plan Changes Benefiting the Northwest Neighborhoods Project to Innovant Group LLC (Uptown on First) in an Amount not to Exceed \$30,500, plus a 20% Contingency. **The motion carried without objection.**

**13. Consider Approval of an Access Easement Agreement and a Termination of Easement Agreement for 1320 Rickett Road, Brighton Manor Assisted Living Facility**

Community Development Manager Mike Caruso introduced the agenda item stating that there are a series of easements that will need approval to clean up the property easements and deed. The agreement has been reviewed by the City Attorney and management.

Mayor Pro Tem Pipoly inquired about the proximity of the easement to the building. Mr. Caruso indicated that the building is on the easement. Mr. Pipoly clarified that these agreements are to clean up the property.

**Motion** by Mayor Pro Tem Pipoly, seconded by Councilmember Gardner to approve of an access easement agreement and a termination of easement agreement for 1320 Rickett Road, Brighton Manor Assisted Living Facility. **The motion carried without objection.**

**14. Conduct First Reading and Set Public Hearing of Proposed Ordinance #589, Text Amendments to Chapter 90 of the City of Brighton Code of Ordinances: Specific Rates and Charges**

Community Development Manager Mike Caruso introduced this agenda item referencing a past study session in which specific rates and time frame was discussed. It was surmised that the consensus among City Council was to break the payments from twelve quarterly payments to twenty, keeping one third down and two thirds would be allowed to be paid over a five-year term.

Councilmember Gardner asked how the remaining payments would be made if the property sold before the five-year period was up. Mr. Caruso stated that the new owner would assume the payments.

**Motion** by Councilmember Bohn, seconded by Mayor Pro Tem Pipoly to set a public hearing date of November 21, 2019 for proposed ordinance #589, text amendments to chapter 90 of the City of Brighton Code of Ordinances: Specific Rates and Charges. **The motion carried without objection.**

**15. Consider Approval of City Manager Compensation Committee Recommendations**

Councilmember Bohn introduced the item with a handout and presentation of comparable wages and compensation within Livingston County as well as similar city's within Michigan. The Compensation Committee, constructed of Councilmembers Tobbe, Bohn, and Mayor Pro Tem Pipoly discussed and evaluated comparable and agreed to meet in the middle and have recommended a six percent increase and to commit to an annual review in September of each year. Council discussed the intricacies of merit based increases and language that is requested to be altered in the managers' contract. Attorney Burns and labor council will bring the requested language to Council in November.

**Motion** by Councilmember Emaus, seconded by Councilmember Gardner to approve the City Manager Compensation Committee Recommendations and direct the City Attorney and Labor Council to review the proposed amendments. **The motion carried without objection by roll call vote.**

**Other Business**

**16. Call to the Public**

Mayor Muzzin opened the Call to the Public at 8:54 p.m.

Pat Cole thanked Council for their response and asked about an elected Charter Commission.

Mayor Muzzin closed the Call to the Public at 8:55 p.m.

**17. Adjournment**

**Motion** by Mayor Pro Tem Pipoly, seconded by Councilmember Tobbe to adjourn the meeting at 8:55 p.m. **The motion carried without objection.**

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Tara Brown, City Clerk

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James Muzzin, Mayor



# City of Brighton

## REPORT FROM THE CITY MANAGER TO CITY COUNCIL OCTOBER 17, 2019

**SUBJECT: REAPPOINTMENT OF ALICIA URBAIN TO THE CITY OF BRIGHTON ZONING BOARD OF APPEALS**

### **ADMINISTRATIVE SUMMARY**

Alicia Urbain is seeking reappointment to the Zoning Board of Appeals for another three-year term. She has been a member of the Board for six years, originally as an alternate starting in June of 2013, and then appointed as a Board member in October of 2013. Her professionalism and experience serving the ZBA is prevalent, as her peers have recently appointed her to the Chair position.

### **RECOMMENDATION**

Reappointment of Alicia Urbain to the Zoning Board of Appeals for a 3-year term ending on November 1, 2022 as recommended by Mayor Muzzin.

Prepared by: Michael Caruso, Community Development Manager

Approved by: Nate Geinzer, City Manager





# CITY OF BRIGHTON

## REPORT FROM THE CITY MANAGER TO CITY COUNCIL

October 17, 2019

**SUBJECT: Transmittal of Pension and OPEB Reporting under Public Act 202 of 2017**

### ADMINISTRATIVE SUMMARY

- On January 5, 2018, the Michigan Department of Treasury released initial reporting requirements under Public Act 202 of 2017, the Protecting Local Government Retirement Benefits Act (“the Act”), which was a primary component of the act. These reporting requirements apply to all local units of government that offer or provide defined pension and/or defined benefit OPEB retirement benefits.
- In addition to submitting this form to the Department of Treasury, local units must also post this information on their website. The governing body of the local unit must also receive a copy of this form, in accordance with the Act, but the Act does not require approval by the governing body.
- The reporting form provided by the State uses inputs from the annual audit, actuarial reports, and investment providers to determine if a local unit meets the definition of “underfunded status” which will require corrective action plans by the local unit.
- The tests to determine if an “underfunded status” is triggered for Pension and OPEB are as follows:
  - Pension Triggers – The plan is less than 60% funded AND the annual Actuarial Determined Contribution is greater than 10% of Governmental fund revenues
  - OPEB Triggers – The plan is less than 40% funded AND the Annual Required Contribution is greater than 12% of Governmental fund revenues
- Attached is a copy of the completed report for the City of Brighton and we are pleased to say that an “underfunded status” was not triggered on either our pension or OPEB plans, however we want to point out that we are very close in both cases to the trigger point.
  - We are just below the 60% funded requirement in the pension plan at 58% and we are at 8.4% of our governmental fund revenues for our Actuarial Determined Contribution, which has a limit of 10%. This year, for the first time, we have pulled the funded status trigger and we are closer to the Actuarial Determined Contribution than last year. These changes from prior year are due to MERS changing their actuarial assumptions. We know that MERS has already announced they will be changing them again, which will most likely cause both triggers to be pulled and we will have to come up with a corrective action plan. We have already taken steps to implement corrective actions on our own as evidenced in the employee concessions that were implemented for the non-union, clerical union, and DPW employees.
  - For the OPEB plan we continue to fail the 40% funded mark as we are at 12.4% funded and we are still below the 12% limit for the Annual Requirement Contribution limit as we are at 4.9%. This percentage will get larger in coming years if we continue to see large increases in the premium costs of retiree healthcare.
- In order to try and avoid triggering “underfunded status” in future years, management will be looking into making additional contributions to these plans as a part of the annual budget process. Further, we are still working on collective bargaining efforts for the two police unions.
- This year, the report also includes trigger calculations using State mandated uniform assumptions. These assumptions are so the State can compare all municipalities as though all plans had the same assumptions. While these are not the official calculations for determining if triggers are pulled, they are very telling for us, because they are indicative of what will happen when MERS changes

assumptions. Using the State Assumptions, the City's pension plan **DOES** pull both triggers and is in UNFUNDED STATUS. The OPEB plan is extremely close to pulling both triggers as well. It pulls the 40% funded status trigger, and at 11.5% is extremely close to the actuarial required contribution limit of 12%.

### **RECOMMENDATION**

No action is need by Council at this time

Prepared by: Gretchen M. Gomolka, Finance Director

Approved by: Nate Geinzer, City Manager

**The Protecting Local Government Retirement and Benefits Act (PA 202 of 2017) Health Care (OPEB) Report**

Enter Local Unit Name	City or Brighton	Instructions: For a list of detailed instructions on how to complete and submit this form, visit <a href="http://michigan.gov/LocalRetirementReporting">michigan.gov/LocalRetirementReporting</a> .
Enter Six-Digit Municode	472010	
Unit Type	City	
Fiscal Year End Month	June	
Fiscal Year (four-digit year only, e.g. 2019)	2019	Questions: For questions, please email <a href="mailto:LocalRetirementReporting@michigan.gov">LocalRetirementReporting@michigan.gov</a> . Return this original Excel file. Do not submit a scanned image or PDF.
Contact Name (Chief Administrative Officer)	Gretchen Gomolka	
Title if not CAO	Finance Director	
CAO (or designee) Email Address	gomolkag@brightoncity.org	
Contact Telephone Number	810-225-9283	
OPEB System Name (not division) 1	City of Brighton Retiree Healthcare Plan	If your OPEB system is separated by divisions, you would only enter one system. For example, one could have different divisions of the same system for union and non-union employees. However, these would be only one system and should be reported as such on this form.
OPEB System Name (not division) 2		
OPEB System Name (not division) 3		
OPEB System Name (not division) 4		
OPEB System Name (not division) 5		

Line	Descriptive Information	Source of Data	System 1	System 2	System 3	System 4	System 5
1	Is this unit a primary unit (County, Township, City, Village)?	Calculated	YES	YES	YES	YES	YES
2	Provide the name of your retirement health care system	Calculated from above	City of Brighton Retiree Healthcare				
<b>3 Financial Information</b>							
4	Enter retirement health care system's assets (system fiduciary net position ending)	Most Recent Audit Report	1,965,867				
5	Enter retirement health care system's liabilities (total OPEB liability)	Most Recent Audit Report	15,823,912				
6	Funded ratio	Calculated	12.4%				
7	Actuarially determined contribution (ADC)	Most Recent Audit Report	489,407				
7a	Do the financial statements include an ADC calculated in compliance with <a href="#">Numbered Letter 2018-3?</a>	Most Recent Audit Report	YES				
8	Governmental Fund Revenues	Most Recent Audit Report	10,017,704				
9	All systems combined ADC/Governmental fund revenues	Calculated	4.9%				
<b>10 Membership</b>							
11	Indicate number of active members	Most Recent Actuarial Funding Valuation	30				
12	Indicate number of inactive members	Most Recent Actuarial Funding Valuation	-				
13	Indicate number of retirees and beneficiaries	Most Recent Actuarial Funding Valuation	50				
14	Provide the amount of premiums paid on behalf of the retirants	Most Recent Audit Report or Accounting Records	513,411				
<b>15 Investment Performance</b>							
16	Enter actual rate of return - prior 1-year period	Most Recent Actuarial Funding Valuation or System Investment Provider	3.33%				
17	Enter actual rate of return - prior 5-year period	Most Recent Actuarial Funding Valuation or System Investment Provider	5.54%				
18	Enter actual rate of return - prior 10-year period	Most Recent Actuarial Funding Valuation or System Investment Provider	8.56%				
<b>19 Actuarial Assumptions</b>							
20	Assumed Rate of Investment Return	Most Recent Actuarial Funding Valuation	7.48%				
21	Enter discount rate	Most Recent Actuarial Funding Valuation	7.00%				
22	Amortization method utilized for funding the system's unfunded actuarial accrued liability, if any	Most Recent Actuarial Funding Valuation	Percent of Pay				
23	Amortization period utilized for funding the system's unfunded actuarial accrued liability, if any	Most Recent Actuarial Funding Valuation	30				
24	Is each division within the system closed to new employees?	Most Recent Actuarial Funding Valuation	Yes				
25	Health care inflation assumption for the next year	Most Recent Actuarial Funding Valuation	8.50%				
26	Health care inflation assumption - Long-Term Trend Rate	Most Recent Actuarial Funding Valuation	4.50%				
<b>27 Uniform Assumptions</b>							
28	Enter retirement health care system's actuarial value of assets using uniform assumptions	Most Recent Actuarial Funding Valuation	1,965,867				
29	Enter retirement health care system's actuarial accrued liabilities using uniform assumptions	Most Recent Actuarial Funding Valuation	16,825,120				
30	Funded ratio using uniform assumptions	Calculated	11.7%				
31	Actuarially Determined Contribution (ADC) using uniform assumptions	Most Recent Actuarial Funding Valuation	1,150,432				
32	All systems combined ADC/Governmental fund revenues	Calculated	11.5%				
<b>33 Summary Report</b>							
34	Did the local government pay the retiree insurance premiums for the year?	Accounting Records	YES				
35	Did the local government pay the normal cost for employees hired after June 30, 2018?	Accounting Records	N/A				
36	Does this system trigger "underfunded status" as defined by PA 202 of 2017?	<b>Primary unit triggers:</b> Less than 40% funded <b>AND</b> greater than 12% ARC/Governmental fund revenues. <b>Non-Primary unit triggers:</b> Less than 40% funded	NO	NO	NO	NO	NO

**Requirements (For your information, the following are requirements of P.A. 202 of 2017)**

Local units must post the current year report on their website or in a public place

The local unit of government must electronically submit the form to its governing body.

Local units must have had an actuarial experience study conducted by the plan actuary for each retirement system at least every 5 years

Local units must have had a peer actuarial audit conducted by an actuary that is not the plan actuary OR replace the plan actuary at least every 8 years.



# City of Brighton

## REPORT FROM THE CITY MANAGER TO CITY COUNCIL October 17, 2019

**SUBJECT: CONSIDER APPROVAL OF ENGINEERING SERVICES FROM TETRA TECH FOR THE 2019 WATER RELIABILITY STUDY UPDATE IN AN AMOUNT NOT TO EXCEED \$11,000**

### ADMINISTRATIVE SUMMARY

- Under PA 399, the Michigan Department of Environment, Great Lakes and Energy (EGLE) requires a public water provider to have and update a Water Reliability Study every five years. The purpose of the study is to confirm that the water providers system can supply a continuous and reliable amount of water for household, drinking and firefighting needs. The last Water Reliability Study that was created for the City of Brighton was done in 2014 and an update is due this year.
- As part of the 2019 Water Reliability Study, Tetra Tech Engineering Services will provide the following:
  - Update the City's GIS database and existing model with all water system additions and expansion since 2014.
  - Update planning data, water use, auxiliary power, and facility conditions Update water loss data
  - Establish future demands
  - Recalibrate water model to EGLE standards
  - Evaluate water supply and storage reliability
  - Evaluate current and future system performance
  - Prioritize system improvements
  - Update the existing Water Reliability Study documents
- Tetra Tech will begin work immediately upon City Council approval with staff review in early December. Upon completion, the document will be submitted to EGLE prior to January 1, 2020.
- City Council approved \$25,000 for this service in their 2019/2020 CIP.
- Tetra Tech's proposal includes new Terms and Conditions that were reviewed and accepted by the City Attorney. Specifically, the document/work ownership has been changed to identify the City and the Liability Insurance requirement has been increased to \$5,000,000. These terms will be used on all proposals moving forward.

### RECOMMENDATION

Approval of Engineering Services from Tetra Tech for the 2019 Water Reliability Study Update in an Amount Not to Exceed \$11,000.

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

Reviewed by: Marcel Goch, DPS Director

Approved by: Nate Geinzer, City Manager



September 17, 2019

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

**Re: 2019 Water System Reliability Study Update  
Professional Services Proposal**

Dear Mr. Geinzer:

Tetra Tech is pleased to submit the following proposal for professional services to update the 2014 City of Brighton Water Reliability Study in accordance with the Michigan Department of Environment, Great Lakes and Energy (EGLE) standards and guidelines. The purpose of the reliability report is to assist the City in maintaining reliability to assure a continuous supply of water for drinking and household purposes. As part of the State of Michigan's ongoing management plan and for compliancy to ACT 399 and Administration Rules 12/09, EGLE requires owners of public water systems to update this document every five (5) years.

The following scope of work is proposed:

### **SCOPE OF WORK**

#### **Update General Plan Map and Water Distribution Model**

Tetra Tech will update the City's GIS database and existing model with water system expansions and improvements completed since 2014.

The new pipe network will be updated to GIS for reference in the Lucity™ background drawings.

#### **Document Planning Data, Facility Condition, and Water Use**

Planning data, water use, auxiliary power, and facility conditions (such as from a well or tower inspection) will be updated in the water reliability study report based on data provided by the City. Facility condition assessments are not included as part of this study. See memo to Todd Bennett and Marcel Goch, dated March 8, 2019, entitled Data Needed from City of Brighton for Water Study, for data needs. If the City does not provide new data, we will assume that the information is the same as in the 2014 Water Reliability Study.

**Tetra Tech**

7927 Nemco Way, Suite 100, Brighton, MI 48116  
Tel 810.220.2112 Fax 810.220.0094 [www.tetrattech.com](http://www.tetrattech.com)

### **Determine the Unaccounted Water**

Unaccounted water is defined as the difference between the water supplied and what is consumed by customers. This unaccounted water can be attributed to several factors including water main breaks, meter error, leakage, firefighting and illegal taps. Tetra Tech will update water lost for the fiscal years 2014-15 to current.

### **Establish Existing and Future Demands**

Tetra Tech will review the existing and future projected demands for significant changes in growth and will update the model to include significant changes. If the City does not provide new data, we will assume that the information is the same as in the 2014 Water Reliability Study.

### **Calibrate Model**

The hydrant flow tests, provided by the City on August 27, 2019, have been preliminarily compared with the flow results in the model. It appears that in some cases the new data varies significantly to the model results. Therefore, the model will be recalibrated to EGLE standards for static and residual pressure and fire flow by adjusting roughness coefficients to match the significant deviations from 2014 testing results.

### **Evaluate Water Supply and Storage Reliability**

The supply and storage reliability will be evaluated. Tetra Tech will confirm if the storage tanks and the firm pumping capacity of the wells and pumps are adequate both currently and with projected demands.

### **Evaluating Current and Future System Performance**

The projects listed in the 2014 report will be updated to remove projects that have been constructed. A new analysis of the system's hydraulic performance during the peak hour demand and the maximum day demand plus fire flow for the current, 5-, and 20-year planning periods will not be completed.

New pressure and fire flow maps will be prepared using the 2019 calibrated model data.

### **Prioritize System Improvements**

It is anticipated that the 2014 report prioritization list will be modified slightly to account for completed projects. Costs developed in the 2014 report will be updated based on a 5-year escalation percentage.

### **Update Existing Water Reliability Study Report**

The Water Reliability Study Report will be updated in accordance with the requirements of the EGLE while presenting findings and recommendations of the analysis. A review of the previously recommended future supply and distribution system improvements will be completed.

The following maps, as previously described, will be updated and provided with the report:

- A General Plan Map showing well, treatment, and storage tank locations, the existing distribution mains (with age, material, and size where known) and valves, hydrants, and pressure district/service area boundaries
- A map showing peak hour pressure
- A map showing available fire flow during maximum day demand
- A map showing the locations of recommended improvements

### ASSUMPTIONS

- The City of Brighton will complete the hydrant tests and will provide demand, water use, demographic and other data or reports necessary to complete each component of the scope.
- There will be no in-person meetings.
- As done in the past, the City will provide an Emergency Response Plan (also called water shortage response plan) which is required by EGLE as part of the reliability study. A water shortage response plan typically includes the following components:
  - Contacts for City staff, EGLE, and other appropriate entities
  - Agreements with customers or other entities (e.g., mutual aid agreements) if they exist
  - General system operation and auxiliary power sources
  - Safety and bacteriological sampling plans

### PROJECT SCHEDULE

We can begin immediately upon authorization to proceed from the City. We anticipate the draft report being submitted to the City for review at the beginning of December with the final being submitted to EGLE prior to January 1, 2020.

### COMPENSATION

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 a not-to-exceed budget of \$11,000 for the above-mentioned scope of work.

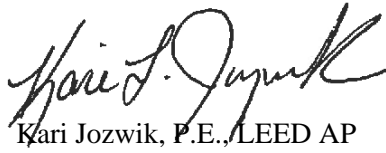
If you concur with our proposal, please sign in the space provided below and return one original signed copy of this proposal to indicate your authorization to proceed. The agreement for this project is comprised of this proposal and the attached Tetra Tech Standard Terms and Conditions.

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

Sincerely,



Gary Markstrom, P.E.  
Vice President



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

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.