

CITY OF BRIGHTON
CITY COUNCIL MEETING
CITY HALL
June 2, 2011

Regular Blue Sky - 7:00 pm: Review of Agenda Items for this evening's meeting

REGULAR SESSION - 7:30 P.M.

1. Call to order
2. Pledge of Allegiance
3. Roll Call
4. Approval of minutes: [Regular Meeting and Closed Session of May 19, 2011](#)
5. Call to the Public
6. Mayor's Reading of Citizen Inquiries received since the last City Council Meeting
7. City Manager's Response to Citizen Inquiries to City Council received At this City Council Meeting or prior meetings
8. Consider approval of the Agenda

Consent Agenda

9. Consider approval of [Traffic Control Orders for Flint Road and Challis Road](#) recommended by the Traffic Safety Advisory Board
10. Consider [adoption of a resolution to adopt a Title VI Plan](#) to incorporate the City of Brighton's existing non-discrimination policies into a new "Title VI Non-Discrimination Plan" as requested by MDOT for future possible federal transportation funding purposes.

Policy Development & Customer Communications' action item

11. Consider a motion to amend the Fiscal Year 2011-2012 City Budget and the related allocation to SELCRA
12. Consider a motion to approve updated SELCRA Bylaws and related recommendations from the City Attorney
13. Consider report from the City Attorney regarding the [City's Refuse User Fee Ordinance](#)
14. Receive informational presentation from the DDA Executive Director/Community Development Director regarding status of Downtown-related projects and related DDA activity
15. Consider approval of a request from the DDA Executive Director to [authorize Funding Source for Proposed Downtown Façade Improvement Program](#) with two banks as the DDA Attorney has advised that it is an authorized DDA activity and Use of Other Funding Source Requires City Council Approval

Other Business

16. Information for City Customers
17. Receive updates from Council Member Liaisons to other Boards and Commissions
18. Call to the Public
19. Conduct closed session at the request of the City Labor Attorney to receive an update regarding pending collective bargaining labor negotiations
20. Consider possible motions or actions as may be recommended by the City Labor Attorney regarding pending collective bargaining negotiations

21. Conduct closed session at the request of the City Attorney regarding a pending Michigan Tax Tribunal matter
22. Conduct closed session at the request of the City Attorney regarding an attorney-client privilege opinion letter
23. Adjournment

MINUTES OF THE MEETING OF THE CITY COUNCIL OF BRIGHTON
HELD ON MAY 19, 2011 AT THE BRIGHTON CITY HALL
200 N. 1ST STREET, BRIGHTON, MICHIGAN

BLUE SKY SESSION

The Council conducted a Blue Sky Session at 7:00 p.m. Present were Mayor Bandkau, Councilmembers Schillinger, Muzzin, Bohn, Roblee and Pipoly. The Council reviewed the agenda items.

REGULAR SESSION

Mayor Bandkau called the regular meeting to order at 7:30 p.m. Following the Pledge of Allegiance, the roll was called, there being present were Mayor Bandkau, Councilmembers Schillinger, Bohn, Muzzin, Roblee, Cooper and Pipoly. Also in attendance were Attorney Paul Burns, Special Legal Counsel Dennis Gabrian and Staff members Dana Foster, Diana Lowe, Jennifer Burke, Matt Schindewolf, Tom Wightman and an audience of 12. Press and Media included Tom Tolen, WHMI and John Branstetter, The Patch.

MINUTES APPROVAL

It was moved by Councilmember Pipoly, seconded by Muzzin to approve the Regular Meeting minutes of May 5, 2011 as presented. Motion passed 7-0.

It was moved by Councilmember Roblee, seconded by Muzzin to approve the Closed Session minutes of May 5, 2011 as presented. Motion passed 7-0.

HAL STEURER RETIREMENT PROCLAMATION

City Manager, Dana Foster read a Proclamation regarding Hal Steurer in recognition of his retirement after 32 years of service to the City of Brighton. He thanked Hal and his family for their dedication.

Hal Steurer thanked the City of Brighton and the City Council.

It was moved by Councilmember Muzzin, seconded by Schillinger to approve Hal Steurer's resolution as read. Motion passed 7-0.

CALL TO THE PUBLIC

Mayor Bandkau gave a Call to the Public at 7:39p.m.

The following comment were heard:

Pat Cole expressed her concerns regarding Councilmember Schillinger working for Corrigan Oil. That makes three Corrigan employees serving on the Brighton Area Fire Authority and a conflict of interest.

Hearing no further comment, the Call to the Public was closed at 7:44 p.m.

CITIZEN INQUIRIES

Susan Walters-Steinacker, 907 Brighton Lake Road, can city residents opt out of city trash pick up?

City Attorney, Paul Burns stated he will be prepared to answer the question at the next City Council meeting.

AGENDA APPROVAL

It was moved by Councilmember Muzzin, seconded by Schillinger to approve the Consent Agenda as presented. A roll call vote was taken. Yes: Schillinger, Cooper, Bohn, Bandkau, Muzzin, Roblee, Pipoly. No: none. Motion passed 7-0. The following items were approved:

1. Reviewed staff's quarterly check registry report.
2. Approved Resolution 11-07, Recognizing the nonprofit status of the Brighton Wrestling Club for future fundraising event purposes.
3. Approved a draft Water, Sewer, and Refuse Rate/User Fee Increase related Information Letter to City Residents and Businesses to be signed by all City Council Members
4. Renewed the Audit Contract with Plante & Moran.
5. Approved Resolution 11-08, To establish the levy and authorize the collection of taxes, penalties and fees for FY 2011-12.

It was moved by Councilmember Cooper, seconded by Roblee to approve the Action Agenda as presented. Motion passed 7-0.

SELCRA INTERGOVERNMENTAL MEETING REPORT

City Manager, Dana Foster referenced a letter from SELCRA dated last summer, which was passed out at the May 12th meeting. He apologized for not distributing the letter to City Council.

Mayor Pro-Tem Bohn displayed slides regarding SELCRA numbers and participation amounts. He stated the current formula has only been used for about a year. He discussed the Revised SELCRA Cost Allocations and based on this data there is still some inequality based on what the City of Brighton is paying compared to the other participating townships.

It was Council's consensus to have the SELCRA funding formula brought to the next City Council meeting.

COOPERATIVE ART USAGE AGREEMENT WITH THE D.I.A.

Councilmember Roblee introduced the Cooperative Art Usage agreement with the Detroit Institute of Arts for the City's downtown-based Brighton Biennial Public Art program. The Brighton Arts and Culture Commission recommends this program.

Community Development Clerk, Lauri French stated the Detroit Institute of Arts contacted the City of Brighton to bring framed reproductions of its most famous works as an open-air gallery to the community. This program is totally free and the City of Brighton will receive five to seven pieces of art to be located within a one-mile radius.

It was moved by Councilmember Roblee, seconded by Muzzin to authorize the participation of the cooperative art usage agreement with the Detroit Institute of Arts for the City's downtown based Brighton Biennial Public Art Program. Motion passed 7-0.

HEALTH INSURANCE OPT-OUT PROGRAM

It was moved by Councilmember Cooper, seconded by Pipoly to approve the Health Insurance Opt-Out program and to make available to all Employees (Union & Non-Union) contingent that this opt out program does not trigger a rate change that would be detrimental to the City's existing rates. Motion passed 7-0.

CITY CUSTOMER INFORMATION

City Manager, Dana Foster stated Matt Schindewolf and himself are looking into how to allocate the Department of Public Services workforce. DPS crews will be directed to concentrate on services in the residential parts of the community Monday through Wednesday and Thursday through Friday will be concentrated on downtown tasks. We will be prepping for the cemetery upkeep, during the day tomorrow the municipal pavilion and enclosed compactor area will be power washed and street sweeping will also occur. He also stated the DASHBOARD measuring Brighton's performance has been added to the City of Brighton website. The City of Brighton and Kelly LaLonde have received the second consecutive Certificate of Achievement for Excellence in Financial Reporting.

Mayor Bandkau thanked and congratulated Kelly LaLonde and Staff for the CAFR Award.

Pro-Tem Bohn thanked the volunteers that cleaned up the Old Village Cemetery. He gave a Traffic Safety Advisory Board meeting update. He offered to add numbers to the City of Brighton's DASHBOARD.

Councilmember Muzzin thanked Hal Steurer for his years of service. He gave a Brighton Area Fire Authority update.

Councilmember Roblee thanked Kelly LaLonde and Hal Steurer. She stated Flower Day will be held on Main Street and encouraged everyone to attend.

Councilmember Schillinger reminded everyone to listen for Memorial Day activities occurring in the City.

Councilmember Pipoly thanked Hal Steurer for his years of services. He congratulated Jennifer Burke for her recent marriage.

Mayor Bandkau encouraged everyone to come down for Flower Day. Have a safe Memorial Day. The War Memorial at the Mill Pond has been restored.

CALL TO THE PUBLIC

Mayor Bandkau gave a Call to the Public at 9:02 p.m. Hearing no comment, the Call to the Public was closed.

Mayor Pro-Tem Bohn stated there has not been a single occasion when Councilmember Muzzin or Schillinger have voted on a motion when they should not have.

PENDING COLLECTIVE BARGAINING LABOR NEGOTIATIONS CLOSED SESSION

It was moved by Muzzin, seconded by Bohn to go into Closed Session to receive information regarding pending collective bargaining labor negotiations from the City Labor Attorney. A roll call vote was taken. Yes: Schillinger, Cooper, Bohn, Bandkau, Muzzin, Roblee, Pipoly. No: none. Motion passed 7-0.

The Council convened into Closed Session at 9:10 p.m.

The Council reconvened the Regular meeting at 10:00 p.m.

MITSUBA ATTORNEY-CLIENT PRIVILEGE OPINION LETTER CLOSED SESSION

It was moved by Muzzin, seconded by Pipoly to go into Closed Session to receive written attorney-client privilege communication regarding Mitsuba vs. City of Brighton from the City Attorney. A roll call vote was taken. Yes: Schillinger, Cooper, Bohn, Bandkau, Muzzin, Roblee, Pipoly. No: none. Motion passed 7-0.

The Council convened into Closed Session at 10:02 p.m.

The Council reconvened the Regular meeting at 10:15 p.m.

ADJOURNMENT

It was moved by Councilmember Cooper, seconded by Pipoly to adjourn the meeting at 10:15 p.m. Motion passed 7-0.

Diana Lowe, City Clerk

Ricci Bandkau, Mayor

**POLICY REPORT NO. BPD 11-04
REQUEST FOR TRAFFIC CONTROL ORDER
FLINT ROAD – SPEED LIMIT
JUNE 2, 2011**

Prepared by:

Thomas Wightman
Chief of Police

Reviewed by:

Dana W. Foster
City Manager

ISSUE:

Establishment of a legally defensible speed limit on Flint Road

BACKGROUND:

The current posted speed limit on Flint Road is 25mph. The establishment of that speed limit is based upon a 1995 Traffic Control Order (TCO), which directs that all speed limits not individually established shall be 25mph. It has recently come to the attention of the police Department and City Attorney's Office that state legislation enacted in 2006 requires that most streets that are not contained within a platted subdivision or downtown district must be established with a specific TCO. State law essentially offers two options for determining the speed limit in the TCO. The first option is based upon the number of access points within a half-mile span; the second option is based upon a speed study in accordance with established traffic engineering protocols (i.e. – 85th percentile). The statutorily established formula for using access points (e.g. – driveways, intersections, etc.) appears to have been created for application on rural roads, and if applied to municipal streets would set the speed limits extremely high. Therefore, a speed study was conducted on Flint Road and the results analyzed by Tetra Tech engineering staff, who recommended a speed limit of 35mph.

Speed limits not established in accordance with State statute revert to the basic speed law of 55 miles per hour.

This matter was considered by the Traffic Safety Advisory Board, which recommended that the speed limit on Flint Road be established as 35mph.

BUDGET IMPACT:

Updated signs will need to be posted by DPS at existing locations.

COUNCIL ACTION:

City Council may approve, modify, or reject the proposed Traffic Control Order.

STAFF RECOMMENDATION:

Staff recommends approval of the Traffic Control Order as recommended by the Traffic Safety Advisory Board.

ATTACHMENTS:

Tetra Tech letter
Proposed Traffic Control Order No. 160



TETRA TECH, INC.

MEMORANDUM

TO: Chief Tom Wightman, Brighton Police Department
FROM: Linda Basista, P.E. *Linda K. Basista*
DATE: November 5, 2010
SUBJECT: Speed Study Results, Flint Road

Tetra Tech has reviewed the spot speed study data received from your department for Flint Road. Based on the results of our analysis, for each of the non-holiday study days (September 15, 21 and 23; October 12, 14 and 20), the 85th percentile speed was consistently between 31 and 35 miles per hour (MPH) for both directions.

Based on these results, ITE recommended practice and the Michigan Manual of Uniform Traffic Control Devices (MMUTCD), we recommend that the posted speed limit on Flint Road be increased to 35 MPH on the non-platted segment within the City of Brighton.

We will continue to work with you and your staff to select the sections of roadways needed for speed studies and provide the analysis and resultant speed limit recommendations.

In the mean time, if you have any questions, please contact me at 225-8406 or Kyle Ramakers at 225-8438.

Copy: Bradford L. Maynes, Law Office of Paul Burns

TEMP. T.C.O. FILED _____
CONTROLS INSTALLED _____
APPROVED BY COUNCIL _____
RESCINDED _____

CITY OF BRIGHTON
TRAFFIC CONTROL ORDER NO. _____

In accordance with the Brighton City Code, as amended, and Ordinance #348, we have made an investigation of traffic conditions on:

and as a result of said investigation do hereby direct that:

This order shall not expire until rescinded by the City Council. If this is a temporary traffic control order that has been placed by the Traffic Engineer, this order shall expire 90 days from the date of filing with the City Clerk.

Traffic Engineer (City Manager)

Date of Filing with City Clerk
(if temporary)

Received for filing (date) by

Diana Lowe, City Clerk

Approved by the City Council on: _____

I hereby certify that the foregoing is a true copy prepared from the record on file in my office, as attested to by the Seal of the City Clerk of the City of Brighton, embossed hereto.

Signed _____
Diana Lowe, City Clerk

Date: _____



TETRA TECH, INC.

MEMORANDUM

TO: Chief Tom Wightman, Brighton Police Department
FROM: Gary Markstrom, P.E. *GM*
DATE: March 25, 2011
SUBJECT: Speed Study Results, Challis Road

Tetra Tech has reviewed the spot speed study data received from your department for Challis Road. Based on the results of our analysis, for each of the non-holiday study days (December 7, 8, 9, 15, 16 and 17), the 85th percentile speed was consistently between 36 and 40 miles per hour (MPH) for the westbound direction and between 41 and 45 MPH for the eastbound direction. The overall 85th percentile speed for all the study days was between 41 and 45 MPH.

Based on these results, ITE recommended practice and the Michigan Manual of Uniform Traffic Control Devices (MMUTCD), we recommend that the posted speed limit on Challis Road remain at 45 MPH on the non-platted segment within the City of Brighton.

We will continue to work with you and your staff to select the sections of roadways needed for speed studies and provide the analysis and resultant speed limit recommendations.

In the mean time, if you have any questions, please contact me at 225-8419 or Kyle Ramakers at 225-8438.

Copy: Bradford L. Maynes, Law Office of Paul Burns

TEMP. T.C.O. FILED _____
CONTROLS INSTALLED _____
APPROVED BY COUNCIL _____
RESCINDED _____

CITY OF BRIGHTON
TRAFFIC CONTROL ORDER NO. _____

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Traffic Engineer (City Manager)

Date of Filing with City Clerk
(if temporary)

Received for filing (date) by

Diana Lowe, City Clerk

Approved by the City Council on: _____

I hereby certify that the foregoing is a true copy prepared from the record on file in my office, as attested to by the Seal of the City Clerk of the City of Brighton, embossed hereto.

Signed _____
Diana Lowe, City Clerk

Date: _____

**POLICY REPORT
CITY OF BRIGHTON TITLE VI NON-DISCRIMINATION PLAN**

May 20, 2011

Prepared by:

**Jennifer Piasecki
Human Resources Director/Deputy City Clerk**

Reviewed by:

**Dana W. Foster
City Manager**

ISSUE:

To consider adopting a Title VI Non-Discrimination Plan for the City of Brighton.

STAFF RECOMMENDATION:

Staff concurs with a related request from MDOT.

BACKGROUND:

I am submitting this report in capacity as the City's E.E.O. Compliance Official. A Title VI Plan is required when City Departments receive federal funds (42 U.S.C. Section 2000d, 23 CFR 200.9 and 49 CFR 21). As a condition for federal grant funding, the City must have a Title VI Plan to implement federal Title VI non-discrimination and environmental justice requirements.

Environmental justice includes the need to identify and address the effects of programs, policies, and activities on minority and low-income populations and ensure full and fair participation by these populations during the decision-making process.

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, and national origin, in programs and activities receiving federal financial assistance. The Civil Rights Restoration Act of 1987 broadened the scope of Title VI coverage by expanding the definition of the terms "programs or activities" to include all programs or activities of federal aid recipients, sub recipients, and contractors, whether such programs and activities are federally assisted or not. Failure to comply with this requirement could place the City in deficiency status until we have complied with the regulation as specified in CFR Part 200 and 49 CFR Part 21.

MDOT is required under 23 CFR 200.9(b) (7) to conduct Title VI reviews of cities, counties, consultant contractors, suppliers, universities, colleges, planning agencies, and other recipients of Federal-aid highway funds.

The City of Brighton currently has equal employment opportunity and non-discrimination policies in place for our workplace and for our contracting procedures. However, by adoption of the proposed resolution, it would incorporate the City's existing non-discrimination policies into the new "Title VI Non-Discrimination Plan" which MDOT has asked us to do for future federal transportation funding purposes.

BUDGET IMPACT: N/A

RELATIONSHIP TO 2010/2011 GOALS: N/A

COUNCIL ACTION:

1. To approve/adopt the Title VI Plan for the City of Brighton

Attachments:

1. Resolution
2. Title VI Plan Document
3. City of Brighton Equal Employment Opportunity Policy
4. Advertisement for Bids Notice

RESOLUTION 11 -

WHEREAS, the City Council adopts a **Title VI Non-Discrimination Plan** for the City of Brighton

WHEREAS, discrimination on the basis of race, color, and national origin is prohibited in programs and activities receiving federal financial assistance by Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, the Federal Highway Act of 1973, Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, Executive Order 12898 and Executive Order 13166; and

WHEREAS, as a condition of federal grants received by the City, the City must have a “Title VI Plan” to implement the requirements of Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, the Federal Highway Act of 1973, Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, Executive Order 12898 and Executive Order 13166; and

WHEREAS, the City has prepared a plan which provides for the collection of data regarding persons impacted by City projects; establishes a complaint process for those believed to be discriminated against under the provisions of Title VI; ensures enhanced public outreach of Title VI provisions and procedures; ensures monitoring and compliance of Title VI requirements; and requires annual reports and updates to the Title VI Plan; and

BE IT THEREFORE RESOLVED, the City Council of the City of Brighton resolves as follows:

Section 1. The “City of Brighton Title VI Plan,” which is attached hereto as “Exhibit A” and incorporated herein by reference, is hereby adopted.

Section 2. This resolution is effective upon adoption.

ADOPTED the 2nd day of June, 2011 by Council Action.

Diana Lowe, City Clerk

I, Diana Lowe, City Clerk for the City of Brighton, do hereby certify that the foregoing is a true and complete copy of a resolution adopted by the Brighton City Council at a regular meeting on June 2, 2011.

Diana Lowe, City Clerk

TITLE VI

NON-DISCRIMINATION PLAN

**City of Brighton
200 N. First Street
Brighton, MI 48116
(810) 225-9251**

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POLICY STATEMENT

The City of Brighton is committed to ensuring that the fundamental principles of equal opportunity are upheld in all decisions involving our employees and contractors/consultants, and to ensuring that the residents of our city are afforded access to our programs and services.

To that end, no person shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any City of Brighton program or activity on the grounds of race, color, national origin, income, sex, age, disability, or limited English proficiency. The City of Brighton assures all its programs and activities will be free from discrimination, whether those programs and activities are federally funded or not.

The City of Brighton designates the Director of Human Resources as the Title VI officer with the responsibility of ensuring that the City of Brighton complies with Title VI regulations.

Inquiries concerning the City of Brighton policies, investigations, complaints, compliance with applicable laws, regulations, and concerns regarding compliance with Title VI may be directed to the Human Resources Director, 200 N. First Street, Brighton, Michigan 48116, telephone 810-225-9251.

This policy statement will be circulated throughout the City of Brighton and included by reference in all contracts, agreements, programs and services administered by the City of Brighton.

City Manager

Date

CITY OF BRIGHTON TITLE VI ASSURANCE

The City of Brighton (hereinafter referred to as the City) hereby agrees that as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d-2 to 2000d-4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the Regulations) and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall, on the grounds of gender, race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the City received Federal financial assistance from the Department of Transportation, including the Federal Highway Administration, and hereby gives assurance that it will promptly take any measures necessary to effectuate this agreement. This assurance is required by subsection 21.7(a)(1) and (b) of the Regulations.

More specifically and without limiting the above general assurance, the City hereby gives the following specific assurances with respect to the Federal Aid highway program:

1. That the City agrees that each “program” and each “facility” as defined in subsections 21.23(e) and 21.23(b) of the Regulations, will be (with regard to a “program”) conducted, or will be (with regard to a “facility”) operated in compliance with all requirements imposed by, or pursuant to, the Regulations.
2. That the City shall insert the following notification in all solicitations for bids for work or material subject to the Regulations and, in adapted form, in all proposals for negotiated agreements:

“The City of Brighton in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d-2 to 2000d-4 and Title 49, Code of Federal Regulations, Department of Federally-assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of gender, disability, race, color or national origin in consideration for an award.”

3. That the City shall insert the clauses of Appendix A of this assurance in every contract subject to the Act and the Regulations.
4. That where the City receives Federal financial assistance to construct a facility, or part of a facility, the assurance shall extend to the entire facility and any facilities operated in connection therewith.
5. That where the City receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the assurance shall extend to rights to space on, over or under such property.
6. That this assurance obligates the City for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property or real property or interest therein or structures or improvements thereon, in which case the assurance obligates the City or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the City retains ownership or possession of the property.

7. The City shall provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-grantees, contractors, sub-contractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations and this assurance.

This assurance is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the City under the Federal Aid highway program and is binding on it, other recipients, sub-grantees, contractors, sub-contractors, transferees, successors in interest and other participants in the Federal Aid highway program. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the City.

Dated: _____

City of Brighton

City

Manager

AUTHORITIES

Title VI of the Civil Rights Act of 1964, 42 USC 2000d to 2000-4; 42 USC 4601 to 4655; 23 USC 109(h);

Title VI of the 1964 Civil Rights Act provides that no person in the United States shall, on the grounds of race, color, national origin (including Limited English Proficiency), or sex, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance (please refer to 23 CFR 200.9 and 49 CFR 21). Related statutes have broadened the grounds to include age, low income, and disability.

The Civil Rights Restoration Act of 1987 also broadened the scope of Title VI coverage by expanding the definition of terms “programs or activities” to include all programs or activities of Federal Aid recipients, sub-recipients, and contractors, whether such programs and activities are federally assisted or not (Public Law 100-259 [S. 557] March 22, 1988).

Federal Aid Highway Act of 1973, 23 USC 324: No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal assistance under this title or carried on under this title.

Age Discrimination Act of 1975, 42 USC 6101: No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving federal financial assistance.

Americans With Disabilities Act of 1990 PL 101-336: No qualified individual with a disability shall, by reason of his/her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination by a department, agency, special purpose district, or other instrumentality of a state or a local government.

Section 504 of the Rehabilitation Act of 1973: No qualified handicapped person shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity that receives or benefits from federal financial assistance.

USDOT Order 1050.2: Standard Title VI Assurances.

EO 12250: Department of Justice Leadership and coordination of Non-discrimination Laws.

EO 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations; and

28 CFR 50.3: Guidelines for the enforcement of Title VI, Civil Rights Act of 1964.

EO 13166 Improving Access to Services for Persons with Limited English Proficiency.

DEFINITIONS

Adverse Effects – The totality of significant individual or cumulative human health or environmental effects, including interrelated social and economic effects, which may include, but are not limited to: (See Appendix B for additional discussion of “significant.”)

- Bodily impairment, infirmity, illness or death
- Air, noise and water pollution and soil contamination
- Destruction or disruption of man-made or natural resources
- Destruction or diminution of aesthetic values
- Destruction or disruption of community cohesion or a community’s economic vitality
- Destruction or disruption of the availability of public and private facilities and services
- Adverse employment effects
- Displacement of persons, businesses, farms or non-profit organizations
- Increased traffic congestion, isolation, exclusion or separation of minority or low-income individuals within a given community or from the broader community
- Denial of, reduction in, or significant delay in the receipt of benefits of City programs, policies or activities

Significant Adverse Effects on Minority and Low-Income Populations – An adverse effect that:

- a. is predominately borne by a minority population and/or a low-income population, or
- b. will be suffered by the minority population and/or low-income population and is shown to be appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the non-minority population and/or non-low-income population

Limited English Proficiency – Individuals with a primary or home language other than English who must, due to limited fluency in English, communicate in that primary or home language if the individuals are to have an equal opportunity to participate effectively in or benefit from any aid, service or benefit provided by the City.

Federal Assistance – includes grants and loans of federal funds; the grant or donation of federal property and interests in property; the detail of federal personnel, federal property or any interest in such property without consideration or at a nominal consideration or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient; and any federal agreement, arrangement or other contract which has, as one of its purposes, the provision of assistance.

Low-Income – A person whose median household income is at or below the Department of Health and Human Services poverty guidelines.

(<http://aspe.os.dhhs.gov/pverty/poverty.htm>)

Low-Income Population – Any readily identifiable group of low-income persons who live in geographic proximity and, if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed City program, policy or activity.

Minority – A person who is:

- a. Black – a person having origins in any of the black racial groups of Africa;
- b. Hispanic – a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race;
- c. Asian American – a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian sub-continent, or the Pacific Islands; or
- d. American Indian and Alaskan Native – a person having origins in any of the original people of North America and who maintains cultural identification through tribal affiliation or community recognition.

Minority Population – Any readily identifiable groups of minority persons who live in geographic proximity and, if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed City program, policy or activity.

Non-compliance – a recipient has failed to meet prescribed requirements and has shown an apparent lack of good faith effort in implementing all the requirements of Title VI and related statutes.

Persons – where designation of persons by race, color or national origin is required, the following designations ordinarily may be used: “White not of Hispanic origin,” “Black not of Hispanic origin,” “Hispanic,” “Asian or Pacific Islander,” “American Indian or Alaskan Native.” Additional sub-categories based on national origin or primary language spoken may be used, where appropriate, on either a national or a regional basis.

Program – includes any road or park project including planning or any activity for the provision of services, financial aid or other benefits to individuals. This includes education or training, work opportunities, health, welfare, rehabilitation, or other services, whether provided directly by the recipient of federal financial assistance or provided by others through contracts or other arrangements with the recipient.

Recipient – any state, territory, possession, the District of Columbia, Puerto Rico, or any political subdivision, or instrumentality thereof, or any public or private agency, institution, or organization, or other entity, or any individual, in any state, territory, possession, the District of Columbia, or Puerto Rico, to whom Federal assistance is extended, either directly or through another recipient, for any program. Recipient includes any successor, assignee, or transferee thereof, but does not include any ultimate beneficiary under any such program.

Sub-recipient – An agency such as a council of governments, regional planning agency, educational institution, for example, that receives Federal Highway Administration (FHWA) funds through the State DOT and not directly from the FHWA. Other agencies, local governments, contractors, consultants that receive these funds are all considered sub-recipients.

ADMINISTRATION – GENERAL

The City Human Resources Director shall have lead responsibility for coordinating the administration of the Title VI and related statutes program, plan, and assurances.

- Complaints

If any individual believes that he/she or any other program beneficiaries have been the object of unequal treatment or discrimination as to the receipt of benefits and/or services, or on the grounds of race, color, national origin (including Limited English Proficiency), sex, age or handicap, she/he may exercise his/her right to file a complaint with the City. Complaints may be filed with the Director of Human Resources. Every effort will be made to resolve complaints informally at the lowest level.

- Data Collection
Statistical data on race, color, national origin, English language ability and sex of participants in, and beneficiaries of City programs, e.g., impacted citizens and affected communities, will be gathered and maintained by the City. The gathering procedures will be reviewed annually to ensure sufficiency of the data in meeting the requirements of the Title VI program.
- City Reviews
Special emphasis program reviews will be conducted based on the annual summary of Title VI activities, accomplishments, and problems. The reviews will be conducted by the City to assure effectiveness in their compliance of Title VI provisions. The City Human Resources Director will coordinate efforts to ensure the equal participation in all their programs and activities at all levels. The City does not have any special emphasis programs at this time.
- Title VI Reviews on Sub-recipients
Title VI compliance reviews will be conducted annually by the Human Resources Director of the City. Priority for conducting reviews will be given to those recipients of federal (US Department of Transportation) funds with the greatest potential of impact to those groups covered by the act. The reviews will entail examination of the recipients' adherence to all Title VI requirements. The status of each review will be reported in the annual update and reported to relevant US Department of Transportation (US DOT) modes upon request.
- Annual Report
An annual report will be required to be compiled by August 1 of each year. The Human Resources Director of the City will be responsible for this report and it will be available by September 1 to the Michigan Department of Transportation and Federal Highway Administration if requested. This report will review Title VI accomplishments during the year and goals for the next year.
- Title VI Plan Updates
An annual update of the Title VI program will be submitted by October 1 to the Michigan Department of Transportation.
- Public Dissemination
The City will disseminate Title VI Program information to City employees and to the general public. Title VI Program information will be submitted to sub-recipients, contractors and beneficiaries. Public dissemination will include inclusion of Title VI language in contracts and publishing the Title VI Policy Statement on the City Internet website.
- Remedial Action
The City, through the Human Resources Director will actively pursue the prevention of Title VI deficiencies and violations and will take the necessary steps to ensure compliance with all program administrative requirements. When deficiencies are found, procedures will be promptly implemented to correct the deficiencies and to put in writing the corrective action(s). The period to determine corrective action(s) and put it/them in writing to effect compliance may not exceed 90 days from the date the deficiencies are found.

LIMITED ENGLISH PROFICIENCY

Compliance with Title VI includes Limited English Proficient (LEP) persons. Language barriers prohibit people who are LEP from obtaining services and information relating to transportation services and programs. The City personnel have been made aware of LEP requirements. The City has examined the services it provides and has developed and implemented a system by which LEP persons can meaningfully access those services consistent with Title VI compliance without unduly burdening the organization. Following are some of the procedures implemented to meet LEP:

- Material printed and distributed in languages other than English when determined necessary. Typically this will be done when five percent or more of the individuals in an impacted area speak a language other than English.
- Individuals planning public meetings review the population of the affected area to determine LEP needs and make requests that individuals advise them of special needs.
- Reasonable steps to ensure meaningful access to City programs and activities by LEP persons have been implemented.
- Programs and activities normally provided in English are accessible to LEP persons and are therefore non-discriminatory on the basis of national origin in compliance with Title VI of the Civil Rights Act of 1964, as amended, and its implementing regulations.

U.S. DOT guidelines require that recipients of federal financial assistance provide “meaningful access to programs and activities” by giving LEP persons adequate and understandable information and allowing them to participate in programs and activities, where appropriate. The recipient has to take “reasonable steps” to remove barriers for LEP individuals.

Reasonable steps will depend on:

- The number and proportion of LEP persons potentially served by the recipient’s programs or activities and the variety of languages spoken in the recipient’s service area.
- The frequency with which LEP individuals are affected by the program or activity.
- The importance of the effect of the recipient’s program on LEP individuals.
- The resources available to the recipient and whether the recipient has budgeted for provision of special language services.
- The level of services provided to fully English proficient people.
- Whether LEP persons are being excluded from services or provided a lower level of services.
- Whether the recipient has adequate justification for restrictions, if any, on special language services or on speaking languages other than English.

FILING A COMPLAINT

I. **Introduction**

The Title VI complaint procedures are intended to provide aggrieved persons an avenue to raise complaints of discrimination regarding the City programs, activities and services as required by statute.

II. **Purpose**

The purpose of the discrimination complaint procedures is to describe the process used by the City for processing complaints of discrimination under Title VI of the Civil Rights Act of 1964 and related statutes.

III. **Roles and Responsibilities**

The Human Resources Director of the City has overall responsibility for the discrimination complaint process and procedures. The Human Resources Director may, at his/her discretion, assign a capable person to investigate the complaint.

The designated investigator will conduct an impartial and objective investigation, collect factual information and prepare a fact-finding report based upon the information obtained from the investigation.

IV. **Filing a Complaint**

In cases where the complainant is unable or incapable of providing a written statement, the complainant will be assisted in converting the verbal complaint into a written complaint. All complaints, however, must be signed by the complainant and/or by the complainant's representative.

The complainant shall make him- or herself reasonably available to the designated investigator, to ensure completion of the investigation within the timeframes set forth.

Applicability – The complaint procedures apply to the beneficiaries of City programs, activities and services, including but not limited to the public, contractors, sub-contractors, consultants and other sub-recipients of federal and state funds.

Eligibility – Any person who believes that he/she has been excluded from participation in, denied benefits or services of any program or activity administered by the City or its sub-recipients, consultants and contractors on the basis of race, color, national origin (including Limited English Proficiency), sex, age or disability may bring forth a complaint of discrimination under Title VI.

Time Limitation and Filing Options – Title VI complaints of discrimination may be filed with the Human Resources Director or Office of the City Manager.

In all situations, City employees must contact the Human Resources Director immediately upon receipt of a Title VI complaint and forward all documentation as soon as possible.

Complaints must be filed no later than 180 days after:

- The date of the alleged act of discrimination; or
- The date the person became aware of the alleged discrimination; or
- Where there has been a continuing course of discriminatory conduct, the date on which the conduct was discontinued.

Complaints must be in writing and must be signed by the complainant and/or the complainant's representative. The complaint must set forth as fully as possible the facts and circumstances surrounding the claimed discrimination. In cases where the complainant is unable or incapable of providing a written

statement, the complainant will be assisted in converting the verbal complaint into a written complaint. All complaints, however, must be signed by the complainant and/or by the complainant's representative.

Items that should not be considered a formal complaint (unless the item contains a signed cover letter specifically alleging a violation of Title VI) include but are not limited to:

1. An anonymous complaint that is too vague to obtain required information
2. Inquiries seeking advice or information
3. Courtesy copies of court pleadings
4. Courtesy copies of complaints addressed to other local, State or Federal agencies
5. Newspaper articles
6. Courtesy copies of internal grievances

V. **Investigation**

Investigation Plan The investigator shall prepare a written plan, which includes, but is not limited to the following:

- Names of the complainant(s) and respondent(s)
- Basis for the complaint
- Issues, events or circumstances that caused the person to believe that he/she has been discriminated against
- Information needed to address the issue
- Criteria, sources necessary to obtain the information
- Identification of key people
- Estimated investigation time line
- Remedy sought by the complainant(s)

Conducting the Investigation

- The investigation will address only those issues relevant to the allegations in the complaint
- Confidentiality will be maintained as much as possible
- Interviews will be conducted to obtain facts and evidence regarding the allegations in the complaint. The investigator will ask questions to elicit information about aspects of the case
- A chronological contact sheet is maintained in the case file throughout the investigation

Investigation Reporting Process

- Within 40 days of receiving the complaint, the investigator prepares an investigative report and submits the report and supporting documentation to the Office of the City Manager for review.
- The City Manager reviews the file and investigative report. Subsequent to the review, the City Manager makes a determination of "probable cause" or "no probable cause" and prepares the decision letter.

Reporting Requirements to an External Agency

A copy of the complaint, together with a copy of the investigation report and the final decision letter will be forwarded to the Federal Highway Administration Michigan Division Office within 60 days of the date the complaint was received.

○

Records

All records and investigative working files are maintained in a confidential area. Records are kept for three years.

Appendix Summary

Appendix A

Appendix A applies to all Federal-aid contracts and is included as a contract provision. Provisions include but are not limited to the following:

- Construction contracts and vendor/supply agreements.
- Consultant agreements for performance of work in connection with Federal-aid roadway projects. Typical contracts of this nature are for design work and environmental studies.
- Research agreements with colleges, universities or other institutions.
- Fee appraiser and fee attorney contracts in connection with Federally-aided right-of-way work.
- Contracts between the City and contractors for relocation of utilities. Appendix A would *not* apply if the utility itself or its contractor relocates utilities.

Appendix B

Appendix B covers determining or distinguishing significant and non-significant adverse effects.

Appendix C

Appendix C is applicable to all deeds, licenses, leases, permits and similar instruments.

Examples:

- Leases and Property Management Agreements.
- Permits and Licenses, except where they are issued for the construction of utilities on roadway right-of-way, the cost of which is paid by the utility company without Federal participation.
- Tenancy Agreements.
- Air Space Agreements.
- Railroad Agreements.

Once the purpose for which the Federal financial assistance is extended terminates and/or the City no longer retains ownership or possession of the property Title VI Assurances do not apply.

Examples of agreements where Appendix C is not applicable are as follows:

- Pit Agreements.
- Stockpiling Agreements.

- Relocation Agreements.
- Determination of Vacation and Abandonment.
- Quit Claim Deeds.
- Contracts with property owners, i.e., royalty agreements for obtaining materials.
- Warranty Deeds.

Appendix D

Appendix D represents the Title VI Complaint Form.

Appendix E

Appendix E outlines the plans for the compliance activities for the current plan year.

APPENDIX A

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

1. **Compliance with Regulations:** The contractor shall comply with the Regulations relative to non-discrimination in Federally-assisted programs of the Department of Transportation, Title 49, code of Federal Regulations, Part 21 as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulation, including employment practices when the contractor covers a program set forth in Appendix B of the Regulations.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor’s obligations under this contract and the Regulations relative to non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City of Brighton to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the State highway department, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Non-compliance:** In the event of the contractor’s non-compliance with the non-discrimination provisions of this contract, the City of Brighton shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - (a) Withholding of payments to the contractor under the contract until the contractor complies, and/or
 - (b) Cancellation, termination or suspension of the contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the City of Brighton may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the City of Brighton to enter into such litigation to protect the interests of the City, and, in addition, the contractor may request the State highway department to enter into such litigation to protect the interests of the State and/or the United States to enter into such litigation to protect the interests of the United States.

APPENDIX B Determine/Distinguish Significant/non-Significant Effects

“*Significantly*” requires considerations of both context and intensity:

(a) *Context*. This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the local area rather than in the world as a whole. Both short- and long-term effects are relevant.

(b) *Intensity*. This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action. The following should be considered in evaluating intensity:

(1) Impacts that may be both beneficial and adverse. A significant effect may exist even if, on balance, the effect would be beneficial.

Non-significant effect means no substantial change to an environmental component and thus no material bearing on the decision-making process.

Scientific, technical, institutional, the public’s value, and the local economic conditions influence the meaning of *significant effect*.

If an alternative would provide a beneficial effect, then the alternative would cause no significant adverse effect. If an alternative would provide an adverse effect, the effect might be significant or the effect might be non-significant. Determinations of “significant” and “non-significant” effects will be made by the Human Resources Director.

APPENDIX C

The following clauses shall be included in all deeds, licenses, lease, permits, or similar instruments entered into by the City of Brighton.

The grantee, licensee, lessee, permittee, etc., (as appropriate) for himself or herself, his or her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add "as a covenant running with the land") that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a City of Brighton program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

(Include in licenses, leases, permits, etc.)*

That in the event of breach of any of the above non-discrimination covenants, the City of Brighton shall have the right to terminate the license, lease, permit, etc., and to re-enter and repossess said land and the facilities thereon, and hold the same as if said license, lease, permit, etc., had never been made or issued.

(Include in deeds)*

That in the event of breach of any of the above non-discrimination covenants, the City of Brighton shall have the right to re-enter said lands and facilities hereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of the City of Brighton and its assigns.

*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purpose of Title VI of the Civil Rights Act of 1964 and the Civil Rights Act of 1987.

APPENDIX D

TITLE VI COMPLAINT FORM

This form may be used to file a complaint with the City of Brighton based on purported violations of Title VI of the Civil Rights Act of 1964. You are not required to use this form; a letter that provides the same information is sufficient to file your complaint. If you need assistance completing this form due to a physical impairment, please contact us by phone at (810) 225-9251 or FAX (810) 227-9954.

Only the complainant or the complainant's designated representative should complete this form.

Name: _____
Street Address: _____
City: _____ State: _____ Zip: _____
Telephone: () () ()
Home Work Fax.

Please explain your relationship to the individual(s) indicated above: _____

Name of agency, department or program that discriminated:

Agency or Department Name: _____
Name of Individual if Known: _____
Address: _____
City: _____ State: _____ Zip: _____
Telephone: () Fax: ()

Date(s) of alleged discrimination:

Date discrimination began: _____

Last or most recent date of discrimination: _____

Waiver Request:

Generally, complaints of discrimination must be filed within 180 days of the alleged discrimination. If the most recent date of discrimination listed was more than 180 days ago, you may request a waiver of the filing requirement. If you wish to request a waiver, please explain why you waited until now to file your complaint:

Alleged discrimination:

Race/Color _____
 National origin _____

Sex

Religion

Age

Disability

Explain: Please explain as clearly as possible what happened. Provide the name(s) of witnesses and others involved in the alleged discrimination. (Attach additional sheets if necessary and provide a copy of written materials pertaining to your case.)

Signature

Date

Note: *The laws enforced by this department prohibit retaliation or intimidation against anyone because that individual has either taken action or participated in action to secure rights protected by these laws. If you experience retaliation or intimidation separate from the discrimination alleged in this complaint or if you have questions regarding the completion of this form, please contact:*

City of Brighton
Human Resources Director
200 N. First Street
Brighton, MI 48116
(810) 225-9251

APPENDIX E

Program Compliance/Program Review Goals for Current Plan Year

1. The City Title VI Policy will be communicated to each city Department Head who will review the Policy with appropriate departmental employees.
2. The City Title VI Policy will be published on the City of Brighton Internet Web Site.
3. Appendix A will be included in all City contracts as outlined in the Title VI Plan.
4. The language in number 2 of the City of Brighton Title VI Assurance will be included in all solicitations for bids for work or material subject to the Regulations and in all proposals for negotiated agreements.
5. A procedure for responding to individuals with Limited English Proficiency will be developed.
6. Appropriate City employees will be trained on the LEP procedure and the Title VI complaint procedure.
7. A review of City facilities will be conducted in reference to compliance with the American with Disabilities Act.
8. The following data will be collected and reviewed by the Human Resources Director and included, where appropriate, in the annual report submitted to MDOT.
 - a. **Board and Commissions:** The number of vacancies; how vacancies are advertised and filled; the number of applicants; the representation of minorities will be evaluated.
 - b. **Public Meetings:** The number of open meetings. How meeting dates and times communicated to the general public and to individuals directly affected by the meeting.
 - c. **Construction Projects:** The number of construction projects, number of minority contractor bidding and the number selected; Verification that Title VI language was included in bids and contracts for each project.
 - d. **LED Needs.** How many requests for language assistance were requested or required and the outcome of these requests.
 - e. **Complaints:** The number of Title VI complaints received; nature of the complaints; resolution of the complaints.
 - f. **Timeliness of services.** Number of requests for services; Amount of time from request to when service was delivered; Number of requests denied.
 - g. **Right of Way/Imminent Domain:** Numbers of such actions and diversity of individual affected.
 - h. **Program Participants;** Racial data of program participants where possible.

ADVERTISEMENT FOR BIDS

CITY OF BRIGHTON, MICHIGAN
ORNDORF DRIVE IMPROVEMENTS

Contract 0303551-R-1

Sealed Bids will be received by the City of Brighton, Michigan, 200 North First Street, Brighton, Michigan 48116, up to 2:00 p.m., prevailing local time, on Tuesday, February 24, 2009, and then publicly opened and read aloud for the construction of Contract 0303551-R-1.

The Work consists of approximately 1400 LF of road improvements including widening, full depth replacement, bituminous overlay and associated work including curb and gutter, sidewalks, drainage structures, tree removal, striping and signage.

Bids shall be on a unit price basis with lump sum prices for certain items of the Work.

OWNER will pre-qualify Bidders to Bid for this Contract. The pre-qualification documents are available at the office of the ENGINEER, Tetra Tech Inc., 123 Brighton Lake Road, Suite 203, Brighton, Michigan 48116, (810) 220-2112. All Bidders who are interested in submitting a Bid on this Contract must complete the pre-qualification documents and submit them to the ENGINEER no later than 5:00 p.m. on January 29, 2009. OWNER will review the submittals and by February 5, 2009, issue a list of potential Bidders they deem qualified to Bid this Contract. A list of Bidders previously pre-qualified by OWNER may be obtained by the ENGINEER.

The Drawings and Project Manual under which the Work is to be done will be on file and may be examined after February 5, 2009, at the office of Public Service Department, 410 S. Third Street, Brighton, Michigan; at Construction Association of Michigan in Bloomfield Hills, Michigan; at Reed Construction Data, Document Processing Center; at McGraw-Hill Construction Dodge in Lansing, Michigan; at Builders Exchange of Lansing and Saginaw, Michigan; at Construction News Service in Detroit, Michigan; and at the office of the ENGINEER, Tetra Tech, Inc., 123 Brighton Lake Road, Suite 203, Brighton, Michigan 48116.

Bidding Documents may be obtained after February 5, 2009, by purchase from the ENGINEER for the sum of \$60 per set. Ground shipping with purchase is an additional \$10 per set. Priority overnight shipping with purchase is an additional \$20 per set. There will be no refunds or return of Bidding Documents. Direct the request, with payment, to the ENGINEER, Tetra Tech, Inc. at 123 Brighton Lake Road, Suite 203, Brighton, Michigan 48116, (810) 220-2112. The purchaser must supply the telephone and facsimile numbers along with street address of the individual or firm to whom addenda (if any) can be directed.

A Bid Security in the form of a certified check, bank check, or Bid Bond for a sum not less than five percent (5%) of the amount of the Bid will be required with each Bid.

The right is reserved by OWNER to accept any Bid, to reject any Bid, and to waive irregularities in Bids.

A Pre-Bid Conference will be held at 11:00 a.m. February 10, 2009, at Brighton City Hall, 200 North First Street, Brighton, Michigan, 48116. Representatives of OWNER and ENGINEER will be present to discuss the Project. Bidders are invited to attend and participate in the conference. ENGINEER will transmit to all prospective Bidders of record such Addenda as ENGINEER considers necessary in response to questions arising at the conference. Oral statements may not be relied upon and will not be binding or legally effective.

OWNER will not engage in unlawful discrimination on the basis of race, color, religion, national origin, age, sex, height, weight, marital status, or unrelated disability. Bids from minority- and female-owned organizations are encouraged.

This Contract requires the use of prevailing wage rates.

No Bids may be withdrawn after the above date and time for receiving Bids for a period of ninety (90) days.

Dana W. Foster
City Manager

EQUAL EMPLOYMENT OPPORTUNITY POLICY

The City of Brighton is an Equal Opportunity Employer. It is the policy of the City to provide equal employment for all persons, and to prohibit discrimination in employment because of race, color, religion, sex, nation origin, age, height, weight, marital status, arrest record, or disability/handicap (as defined by the Americans with Disabilities Act and Michigan law.) In accordance with applicable legal requirements, disabled/handicapped applicants and employees have the right to request reasonable accommodation of their disability/handicap to enable them to perform the essential functions of t employment position they hold or desire.

In furtherance of this Policy, an internal procedure will be established for filing and handling complaints of any employee, based on alleged acts of discrimination due o race, color, religion, sex, national origin, age, height, weight, marital status, arrest record, or disability/handicap. Any employee may file a complaint with the City Clerk/HR Director. Complaints may either be filed in person or be submitted in an envelope marked confidential and addressed to the City Clerk/HR Director. Employees are urged to file complaints of alleged discrimination without delay. All complaints will be acknowledged and an investigation will be initiated as soon as possible.

Upon completion of the investigation, a written disposition will be furnished to the employee on the basis of the facts obtained during the investigator. This disposition will state what action, if any, is warranted and specify when the action will be taken.

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF BRIGHTON, MICHIGAN, BY AMENDING CHAPTER 70, SOLID WASTE, SECTION 70-3.

THE CITY OF BRIGHTON, LIVINGSTON COUNTY, HEREBY ORDAINS:

I. Section 70-3 of Chapter 70, Solid Waste, of the Brighton Code of Ordinances is hereby amended and shall read as follows:

Sec. 70-3. Charges

(a) Charges for the collection of garbage or rubbish to single family residential customers shall be determined from time to time by resolution of the City Council and shall be collected from each single family residence receiving such services under the terms of this article.

(b) A collection user fee shall be assessed by the city treasurer, as fixed by resolution of the City Council, and added to the monthly utility bill for each residence. Charges for collection shall be paid by the residential customer to the city. The city's designated waste hauler shall be paid by the city pursuant to the terms of the contract then in effect.

(c) A ten percent (10%) penalty will be added if the fee is not paid by the designated due date on the utility bill. The penalty assessed shall be retained by the city and not paid to the city's designated waste hauler.

(d) The charges for collection and disposal fees relating to services to single-family generation sites by the designated waste hauler shall constitute a lien upon the property for which the services have been provided. Delinquent charges and penalties shall be certified annually by the city official in charge of collection to the tax assessing officer of the city to be entered upon the next tax roll against the single-family residence for which the services have been rendered. The charges and penalties shall be collected as part of the general city taxes against such single-family residence and shall accrue further interest and penalties and shall be collected in the same manner as provided for delinquent real property taxes in the city.

(e) No charge shall be made for commercial or construction garbage or rubbish unless, in the opinion of the city manager, the same constitutes a financial detriment to the city. In such case, and on the approval of the council, a charge shall be made based on actual cost to the city, including overhead, and shall be collected in the same manner as other contracted debts.

II. This Ordinance shall be in full force and effect fifteen (15) days from the adoption as provided by the Brighton City Charter.

DIANA LOWE, City Clerk

RICCI BANDKAU, Mayor

First Reading: August 19, 2010

Brief Publication: August 27, 2010

Public Hearing: September 2, 2010

Second Reading: September 2, 2010

Adoption: September 2, 2010

Full Publication: September 10, 2010

**POLICY REPORT: REQUEST FROM DDA EXECUTIVE DIRECTOR FOR
CITY COUNCIL AUTHORIZATION TO UTILIZE PRIVATE FUNDING
SOURCES FOR DDA FAÇADE IMPROVEMENT PROGRAM**

MAY 26, 2011

Prepared by:

Matt Modrack
DDA Executive
Director/Community
Development Director

Reviewed by:

Dana Foster
City Manager

REQUESTED ACTION:

City Council approval for the City of Brighton Downtown Development Authority (DDA) to utilize community bank funding for a Façade Improvement Program to provide low interest loans to eligible downtown business or building owners.

PROPOSED ACTIVITY AND BASIS FOR REQUEST:

The City of Brighton Downtown Development Authority Development Sub-Committee is preparing to move forward with a proposal to establish a Façade Improvement Program in partnership with two local community banks. **The purpose of the low interest loan program is to provide a means of financing for significant façade improvements to targeted and high priority buildings in the core downtown district.** The proposed use is an expressly permitted activity in the Downtown Development Authority Act as noted in the accompanying correspondence from Doug Cameron dated April 13, 2011 and is an activity identified as “Business Improvement Loans” in the most recent DDA Plan Amendment (see attachments).

Loan Pool Commitments

Over the past 9 months the DDA, through the office of the Director, has solicited interest from many financial institutions located within the district in an effort to secure a low interest source of funding for an “incentivized” façade improvement program for identified buildings and businesses within an identified priority district. Nearly all of the institutions were supportive and interested in pursuing participation. Consequently, we have now secured written letters of interest from two local community banks to provide \$100,000 each to the DDA Façade Improvement Program loan pool through a line of credit with an interest rate of 2.5 percent. These commitments must move forward to an actual contract between the partnering banks and the DDA in order to proceed with a loan program, contingent on the Council approval of the source of funding, i.e., the use of a partnership between the participating banks and the DDA.

Although many, if not most, DDA's that manage façade improvement programs, utilize TIFA funds for their loan pool, or their grant programs, the use of a partnership agreement with the local community banks in our case will result in a "net" of working capital for the DDA of approximately \$200,000. The partnering local community banks are willing to participate as a measure of support for the DDA's efforts to facilitate a dynamic downtown as well as the opportunity to meet the intent of the Community Reinvestment Act. The addition of the **\$200,000** in financial resources is particularly significant for the DDA in the current, somewhat strained, budget environment.

Façade Improvement Program Outline

The proposed DDA Façade Improvement Program will include standard façade loan program requirements as follows:

- The DDA Design Committee will review the proposed façade for compliance with the DDA design guidelines and request any needed changes prior to the applicant receiving approval.
- An analysis of the applicant's creditworthiness will be provided to the DDA in a standard, industry-accepted format, prior to acting on an application.
- Loan documents will be industry standard with the exception of the low interest rate (not yet determined but likely in the 3-4% range/4-8 years).
- The application will be scored based on a point system that reflects the DDA's priorities as reflected in the adopted Downtown Façade Study (Lindhout & Associates, April 20, 2011), as well as other critical aspects of the project, such as supporting MEDC funding.
- The loans will be serviced through the partnership agreement with the participating community banks.

Status of Program Development

The purpose of this request is to obtain a preliminary indication of support from City Council for the "other sources" i.e., the local community banks, as indicated in accompanying letter from DDA Attorney Doug Cameron, prior to drafting the final program documents with the correlating partnership agreement between the participating banks and the DDA.

BUDGET IMPACT:

Although the DDA is permitted to fund a façade improvement program through their existing revenue source, i.e., the TIFA capture revenue, the use of the local community bank partnership will increase the available capital for other activities such as infrastructure improvements and eligible public services within the district.

REQUESTED COUNCIL ACTION:

To provide preliminary approval for the DDA's use of a private source of funding for a Façade Improvement Program pursuant to the DDA Development Plan, and with the condition that the final partnership agreements are provided to the City Council prior to Council authorization

Attachments:

April 13, 2011 opinion letter from Doug Cameron, DDA Attorney
Excerpt from DDA Plan Amendment



William D. McCrie, Sr.

Douglas D. Cameron

Victoria L. Lesner

Frank J. Mancuso, Jr.

April 13, 2011

Mr. Matt Modrack
City of Brighton
Downtown Development Authority
200 North Second Street
Brighton, MI 48116



RE: Façade Improvement Program

Dear Mr. Modrack,

We have had several discussions recently regarding the possibility and feasibility of the DDA creating a Façade Improvement Program for existing buildings located in the district. Specifically, we have discussed creating a program whereby the DDA would make loans to building owners for the express purpose of making façade improvements. The proposed loan program would be funded by the DDA through the establishment of a line of credit with one or more local banks. The DDA would draw on this credit line and, in turn, make low interest loans to participating business owners. You have asked me to give you my legal opinion concerning the creation of such a program.

A recent amendment to the Downtown Development Authority Act, Section 7 (1)(q) specifically authorizes a DDA board to create, operate and fund a loan program to fund improvements for existing buildings located in a downtown district to make them marketable for sale or lease. The amended Brighton DDA plan also includes such a program. Section 11 of the DDA Act sets forth the permissible sources of financing for the activities of a DDA. Specifically, Section 11(1)(g) provides that activities of an authority may be financed by money obtained from "other sources" approved by the governing body of the municipality.

Therefore, it is my opinion that the Brighton DDA may establish a Façade Improvement Loan Program funded through a bank line of credit provided that the funding for the program is approved by the City Council. Please feel free to call me anytime with any questions or comments.

Sincerely,

McCRIRIE & CAMERON


Douglas D. Cameron

DDC/kdl

**CITY OF BRIGHTON, MICHIGAN
DDA FUND - PROPOSED AMENDED PLAN
FY 2010/11 - FY 2044/45**

<u>Future City of Brighton DDA Projects</u>	<u>Total</u>
Public Parking Structure	8,000,000
Pink Hotel/Railroad R.O.W. Improvements	100,000
Miscellaneous Parking Lot Opportunities	100,000
East Grand River Improvement Program	4,674,000
EGR Parking	500,000
EGR Park	600,000
First Street/Parking Lot Improvements	100,000
Parking Lot - Cemetery	600,000
West & Main Raised Crosswalk	290,000
Additional Parking Pierce Street Lot	50,000
West Street Streetscape Completion	500,000
Trail Extension Grand River to Flint Rd.	250,000
North Street Streetscape Completion	200,000
Grand River & St. Paul / North St. Intersections	1,000,000
Grand River Streetscape I-96 to Dutcher St.	5,300,000
Crosswalk - Grand River at Boardwalk	750,000
Civic Center Improvements - Phase IV	350,000
Challis Road Sidewalks & Street Lights	110,000
Property Acquisition - East Block	250,000
Improvement Loan Program	100,000
Mill Pond Turf Replacement	54,000
Second Street to Library Drive Walkway	300,000
Raised Median Turning Lane - Grand River	2,000,000
Park at Ore Creek - Pierce St. Lot	185,000
Security Camera Installation - Downtown	175,000
Downtown Gateway on Main	100,000
Raised Median / Portable Planters - Main St.	675,000
Bike Rack Station	10,000
Banner Posts	11,000
Replace Main St. Detroit Edison "Cobra" Street Lights	250,000
Cobb Hall Lot Development + Adj. Prop.	425,000
Mill Pond Park Renovation/Repairs	100,000
South Main Elec. Burial	750,000
<u>Approved City CIP Projects within the DDA District:</u>	
Streetscape	210,000
City Hall Land Acquisition	750,000
Village Cemetery Improvements	35,000
Grand River & Orndorf Mast Arm Update	200,000
Black Ornamental Lamp Cover Replacement	15,000
Downtown Grounds, Lights & Furniture Replace.	145,000
Millpond Park Power Washer	15,000
Millpond Water Circulator	50,000
Splash Pad	30,000
Millpond Fire Pit	10,000
Millpond Dredging	660,000
Challis Road Gateway	100,000
Street Tree Improvements	150,000
Miscellaneous - TBD	<u>630,000</u>
TOTAL	<u>31,859,000</u>