



CLERK OF COUNCIL AMHERST, OHIO

OFFICE OF THE
CLERK OF COUNCIL
(440) 988-2420
(440) 988-2570 fax

LINDA TURLEY
206 SOUTH MAIN STREET
AMHERST, OH 44001
council@amherstohio.org

AMHERST COUNCIL COMMITTEE MEETINGS SCHEDULE FOR January 17, 2017

A-17-02	An ordinance to approve current replacement pages to the Amherst Codified Ordinances; and declaring an emergency.	
A-17-03	Authorization to bid and award 2017 Street Rehabilitation Program.	
A-17-04	Authorization to bid and award the Elyria Ave. repairs and improvement project-OPWC Issue 1, Round 31.	
A-17-05	Authorization to bid and award the widening of Kresge Drive.	
Finance	January 17, 2017 at 7:00 pm	A-17-04
Streets	January 17, 2017 at 7:05 PM	A-17-03 & A-17-05
Ordinance	January 17, 2017 at 7:10 PM	A-17-02

Linda Turley
Council Clerk

CITY OF AMHERST

REQUEST FOR LEGISLATIVE ACTION REPORT

AGENDA NUMBER 17-02

COMMITTEE Ordinance

DATE 1-9-17 SUBMITTED BY L. TURLEY

SUBJECT An ordinance to approve current replacement pages to the Amherst Codified Ordinances ; and declaring an emergency

INFORMATION ON SUBJECT:

RECEIVED ON 1-9-17 CLERK [Signature]

RECEIVED ON 1-9-17 PRESIDENT [Signature]

REFERRED TO THE FOLLOWING COMMITTEE:

FINANCE/GRANTS _____

BUILDING AND LANDS _____

STREETS _____

COMMUNITY DEVELOPMENT _____

EXECUTIVE AND INSURANCE _____

ORDINANCE _____

UTILITIES _____

RECYCLING _____

CABLE TELEVISION _____

POLICE AND FIRE _____

ANNEXATION _____

COMMITTEE OF THE WHOLE _____

SPECIAL COMMITTEE _____

Final Action Taken by Committee:

SIGNATURE OF CHAIRPERSON

ORDINANCE NO. _____

AN ORDINANCE TO APPROVE CURRENT REPLACEMENT PAGES TO THE AMHERST CODIFIED ORDINANCES AND DECLARING AN EMERGENCY.

WHEREAS, the Ohio Constitution requires that Ohio municipal ordinances comply with State law if they are an exercise of the Municipality's police powers;

WHEREAS, certain provisions within the Codified Ordinances should be amended to conform with current State law; and

WHEREAS, various ordinances of a general and permanent nature have been passed by Council which should be included in the Codified Ordinances; and

WHEREAS, the City has heretofore entered into a contract with the Walter H. Drane Company to prepare and publish such revision which is before Council;

NOW, THEREFORE, BE IT ORDAINED, by the City of Amherst, County of Lorain, State of Ohio:

SECTION 1: That the editing, arrangement and numbering of those ordinances and resolutions enacted by Council from 12-31-15 to 12-31-16, as listed in the Comparative Section Table, are hereby approved and adopted as printed in the 2016 Replacement Pages to the Codified Ordinances so as to achieve uniformity of style and classification. A copy of such Replacement Pages is attached to this ordinance and incorporated as a part hereof.

SECTION 2: That the following sections and chapters are hereby added, amended or repealed as respectively indicated in order to comply with current State law.

Traffic Code

301.04	Bicycle; Motorized Bicycle; Moped. (Amended)
301.19	Motorcycle. (Amended)
331.21	Right of Way of Public Safety or Coroner's Vehicle. (Amended)
331.211	Report of Vehicle Failing to Yield Right of Way to Public Safety Vehicle, (Added)
335.021	Ohio Driver's License Required for In State Residents. (Added)
335.09	Display of License Plates. (Amended)
335.111	Registration Within Thirty Days of Residency. (Added)
335.12	Stopping After Accident Upon Streets. (Amended)
335.13	Stopping After Accident Upon Property Other Than Street. (Amended)
373.02	Riding Upon Seats; Handlebars; Helmets and Glasses. (Amended)

General Offenses Code

501.06	Limitation of Criminal Prosecution. (Amended)
505.071	Cruelty to Companion Animals. (Amended)
513.02	Gift of Marihuana. (Amended)
513.03	Drug Abuse; Controlled Substance Possession or Use. (Amended)
513.04	Possessing Drug Abuse Instruments. (Amended)
513.05	Permitting Drug Abuse. (Amended)
513.07	Possessing or Using Harmful Ingredients. (Amended)
513.08	Illegally Dispensing Drug Samples. (Amended)
513.11	Possessing Nitrous Oxide in Motor Vehicle. (Amended)
513.12	Drug Paraphernalia. (Amended)
513.121	Marihuana Drug Paraphernalia. (Amended)
513.13	Counterfeit Controlled Substances. (Amended)
525.16	Assaulting Police Dog or Horse or an Assistance Dog. (Amended)
529.01	Liquor Control Definitions. (Amended)
529.07	Open Container Prohibited. (Amended)
537.051	Menacing by Stalking. (Amended)
537.10	Telecommunications Harassment. (Amended)
537.17	Criminal Child Enticement. (Amended)
541.04	Criminal Mischief. (Amended)
541.09	Vehicular Vandalism. (Amended)

Fire Prevention Code

1519.04	Fireworks Possession, Sale or Discharge Prohibited. (Amended)
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SECTION 3: That the complete text of the sections listed above are set forth in full in the current replacement pages to the Codified Ordinances which are hereby attached to this ordinance as Exhibit A. The listing above of each new section by reference to its title shall constitute sufficient publication of new matter contained therein.

SECTION 4: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 Ohio Revised Code.

SECTION 5: That this ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health and safety of the Municipality and its inhabitants for the reason that there exists an imperative necessity for the earliest publication and distribution of current Replacement Pages to the officials and residents of the Municipality, so as to facilitate administration, daily operation and avoid practical and legal entanglements, including conflict with general State law, and shall go into effect immediately.

1st reading _____
2nd reading _____
3rd reading _____

PASSED _____

President of Council

ATTEST _____

APPROVED

Mayor

Approved as to form by :

Director of Law

Filed with the Mayor: _____

City of Amherst
Request for Legislative Action Report

Agenda Number A - 17-03

Committee STREETS

Date: January 9, 2017

Submitted by: Mark Costilow, Mayor

Subject: Authorization to bid and award the 2017 Street Rehabilitation Program.

Amount:

Account #:

Information: Information to follow

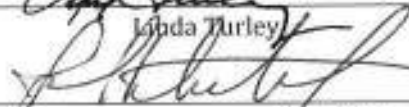
RECEIVED: 1-9-17

CLERK:


Linda Turley

RECEIVED: _____

PRESIDENT:


John Dietrich, Council President

Referred to the following committee:

Finance/Grants _____

Building & Lands _____

Streets _____

Community Development _____

Executive & Insurance _____

Ordinance _____

Utilities _____

Recycling _____

Technology _____

Police & Fire _____

Annexation _____

Committee of the Whole _____

Special Committee _____

Final Action Taken by Committee:

Signature of Chairperson

City of Amherst

Mark Costilow, Mayor
John Jeffreys, Safety Service Director

Memorandum

Date: January 12, 2017
To: Council
RE: Authorization to bid and award the 2017 Street Rehab program

Attached is the project description and scope of services for the recommendation of the 2017 street rehab program.

The funding is from the following accounts:

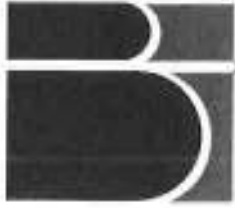
#206-6006-52350 Engineering	\$ 99,360.00
#206-6006-52501 Capital Outlay	\$ 720,000.00
#610-5003-52350 Engineering	\$ 43,520.00
#610-5003-52501 Capital Outlay	\$ 258,000.00

The total of the road program to include sanitary work is \$1,120,880.00.

If you have any questions regarding this project please feel free to contact me.



Mark Costilow, Mayor



BRAMHALL
ENGINEERING &
SURVEYING COMPANY

801 Moore Road • Avon, Ohio 44011 • 440/934-7878 • Fax 440/934-7879

Equal Opportunity • Affirmative Action Employer

January 12, 2017

Mayor Mark Costilow
City of Amherst
206 South Main Street
Amherst, Ohio 44001

Reference: Professional Services Proposal
2017 Road Rehabilitation Program

Dear Mayor Costilow:

We appreciate your interest in retaining Bramhall Engineering and Surveying Company (BRAMHALL) to provide Professional Engineering Services pertaining to the above referenced project.

The City of Amherst has determined the 2017 Road Program which consists of the rehabilitation of the following roadways:

Asphalt and Concrete Pavement Rehabilitation and Infrastructure Improvements

1. **Crownhill Avenue** – Asphalt resurfacing and sanitary sewer replacement.
2. **Dodge Drive** – Asphalt resurfacing – Middle Ridge Road to North Pointe. Subdivision including Sanitary Sewer Alignment Improvements.
3. **Main Street** – Intermittent Drive Lane Repairs.
4. **Apple Orchard Subdivision and Various Concrete Streets** – Intermittent Panel, Joint and Expansion Joint repairs.
5. **Westlake Drive** – Asphalt resurfacing and sanitary sewer repairs. West Martin Street to the end.
6. **Mayfield Court** – Asphalt resurfacing and waterline replacement.
7. **Intermittent Asphalt Repairs on Various Roadways throughout the City**
 - Locations to be determined
8. **Intermittent Pavement Repairs and Sanitary Sewer Improvements on Various Roadways throughout the City**
 - Locations to be determined
9. **Crack Sealing on Various Roadways throughout the City**
 - Locations to be determined

Scope of Services

To meet your objectives the project Scope of Services to be provided by BRAMHALL shall include the following:

Task I – Plan Preparation and Bidding Administration

- Perform limited topographic survey of pertinent features included in the scope of work.
- Contacting The Ohio Utility Protection Service (OUPS) and limited utility coordination.
- Prepare construction plans and specifications. Develop various typical sections of partial depth, partial width, full depth and full width pavement repairs. Driveway and utility casting adjustments will be included within the plans where required. Plan views will consist of field measurements of the repair areas with an aerial overlay. Plans will include Standard City of Amherst and/or ODOT Construction Standard Drawings as required. Provide Sanitary Sewer and Waterline Improvement Plans and prepare permit applications as required.
- Prepare bid documents and administer the bidding process including preparing a bid form, engineers estimate, attend prebid meeting, issue addendums as required in response to contractor questions, tabulation of bids, bid review, bid recommendation and notice of commencement. We are planning to have 3 bid packages as follows:
 - Sanitary Sewer Improvements –Spring Bid
 - Asphalt Road Repair Program – Late Spring Bid
 - Concrete Road Repair Program – Late Spring Bid

Task II – Construction Services

- Conduct a preconstruction meeting, and routine project meetings.
- Review shop drawings and material submittals.
- Administer Construction of each bid with City assistance.
- Coordinate with the City and Contractor throughout construction.
- Review of Contractor Pay Requests for accuracy and completeness.
- Provide a full time project representative to perform onsite inspection.
- Verify contractor conformance to project specifications and city requirements.
- Verify material quantities.
- Assist the City and Contractor to provide layout of intermittent repair areas, construction limits and critical utility layout as required to facilitate construction.
- Provide As-Built Plans of any pertinent Utility work and Record Status Plans (Print as noted with inspector's comments).
- All drawings will be developed and prepared in AutoCAD 2017 with layering standard as set by BESC.
- BESC to furnish one (1) set of reproducible final As-Built exhibits for submission.

January 12, 2017
2017 Road Rehabilitation Program

Construction and Engineering Costs

The following is a breakdown of costs by fund for the Construction and Engineering:

FUNDING SOURCE	TOTAL CONSTRUCTION	ENGINEERING INSPECTION CONSTRUCTION ADMINISTRATION	OHIO EPA FEES AND PERMIT ESTIMATE	TOTAL AMOUNT
ROAD AND STORM IMPROVEMENTS	\$720,000.00	\$99,360.00	-	\$819,360.00
WATERLINE IMPROVEMENTS	\$0.00	\$5,800.00	\$1,000.00	\$6,800.00
SANITARY SEWER IMPROVEMENTS	\$256,000.00	\$43,520.00	\$2,000.00	\$301,520.00
TOTAL	\$976,000.00	\$148,680.00	\$3,000.00	\$1,127,680.00

Note: The construction cost of the proposed waterline replacement on Mayfield Court is not included as this will be performed in house by the Utility Department. No appropriation of construction funds is required at this time.

Professional Services Fee

We propose to provide the Professional Services described herein for a Lump Sum Amount of:

One Hundred Forty-Eight Thousand Six Hundred Eighty Dollars..... \$148,680.00

Project Schedule

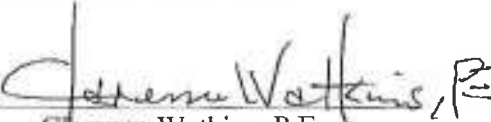
We are prepared to begin work on this assignment immediately and will have the Sanitary Sewer Bid Package prepared for a spring bid with Asphalt and Concrete Bid Packages for a late spring bid. Construction will be approximately April to September.

Clarifications and Exceptions:

1. A Right-of-Way Survey and/or Right-of-Way Dispute Resolution is not included in the Scope of Services.
2. Advertising, Notice of Commencement recording fees and OEPA Permit fees are by the City of Amherst.
3. The construction plans for Mayfield Court waterline replacement are intended for execution by City of Amherst forces. Construction Inspection of the waterline replacement is by the City of Amherst.

ACKNOWLEDGED & ACCEPTED

BRAMHALL ENGINEERING & SURVEYING COMPANY

By: 
Clarence Watkins, P.E.

Title: Engineering Manager
Date: January 12, 2017

ACKNOWLEDGED & ACCEPTED

**MAYOR MARK COSTILOW
CITY OF AMHERST**

By: _____

Title: _____

Date: _____

City of Amherst P.O. # _____

City of Amherst
Request for Legislative Action Report

Agenda Number A - 17-04
Committee FINANCE

Date: January 4, 2017

Submitted by: Mark Costilow, Mayor

Subject: Authorization to bid and award the Elyria Avenue repairs and improvements project-
OPWC Issue 1 Round 31.

Amount: \$119,070.00
\$ 15,680.00

Account #:206-6006-52501 Capital Outlay
206-6006-52350 Engineering

Information: Attached

RECEIVED: 1-9-17

CLERK:


Linda Turley

RECEIVED: 1-9-17

PRESIDENT:


John Dietrich, Council President

Referred to the following committee:

Finance/Grants _____

Building & Lands _____

Streets _____

Community Development _____

Executive & Insurance _____

Ordinance _____

Utilities _____

Recycling _____

Technology _____

Police & Fire _____

Annexation _____

Committee of the Whole _____

Special Committee _____

Final Action Taken by Committee:

Signature of Chairperson



Mark Costilow, Mayor

Memorandum

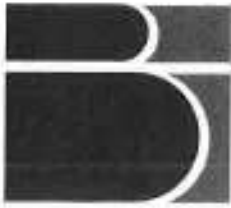
Date: January 4, 2017
To: Council
RE: Authorization to bid and award the Elyria Avenue repairs and improvements project
OPWC Issue 1 Round 31

Attached is the project description and scope of services submitted by Bramhall Engineering for the Elyria Avenue repairs and improvements project.

This project is between the City of Amherst and OPWC Round 31 funding.

As always, should you have any questions please do not hesitate to contact me.

Mark



BRAMHALL
ENGINEERING &
SURVEYING COMPANY

December 21, 2016

Mayor Mark Costilow
City of Amherst
206 South Main Street
Amherst, Ohio 44001

Reference: OPWC Round 31
Elyria Avenue Resurfacing

Dear Mayor Costilow:

Please accept the following Proposal for Professional Engineering and Surveying Services pertaining to the above referenced project. The Elyria Avenue Resurfacing Project has been selected for Ohio Public Works Commission (OPWC) Issue I funding for 2017. Final OPWC documentation will be forthcoming. We appreciate the opportunity to work with the City of Amherst on this project.

Project Description

The City of Amherst is proposing to resurface Elyria Avenue from South Main Street to Middle Ridge Road. This heavily traveled section of roadway is over 3,000 feet in length and located within the heart of Amherst. This project will greatly improve road rideability for the traveling public and will include improvements to the storm drainage that will result in a reduction of inflow and infiltration to the sanitary sewer system. Reflective signage upgrades will improve safety throughout the corridor. The total project cost including construction and engineering, as proposed in the OPWC application for financial assistance, is \$550,000. The funding for this work is broken down as follows:

- 37.73% OPWC Loan (\$207,500)
 - 37.73% OPWC Grant (\$207,500)
 - 24.54% Local Amherst Road Improvement Monies (\$135,000)
- 100% Total Project Cost (\$550,000)

The estimated **construction cost** prorated at these percentages is as follows:

OPWC	\$ 366,930.00
City of Amherst	<u>\$ 119,070.00</u>

Total Estimated Construction Cost \$ 486,000.00 includes a construction contingency (permits and advertising)

Generally, the proposed rehabilitation work includes the following:

- Intermittent Milling the existing concrete pavement (average width varies from 28' to 33').
- Adjust catch basins, sewer manholes, water valve boxes and monuments to grade.
- Make full depth repairs where required.
- Intermittent curb repair.
- Pave the roadway with 1 ¾" intermediate course, and 1 ¼" finish course of asphalt.
- Pavement markings and signage.
- Replace portions of the existing storm sewer and drive culverts.
- Lawn restoration as required.

Scope of Services

To meet your objectives Bramhall Engineering proposes the following Scope of Services:

Task I - Prepare Topographic Survey and Base Mapping of the project site area. Contact OUPS and coordinate with Utility Owners.

Task II - Prepare Construction Plans for the proposed improvements including title sheet, typical sections, general notes, plan and profiles, cross sections where required, and standard construction details. Prepare Bidding and Contract Documents including Notice to Bidders. Prepare Engineer's Probable Construction Cost Estimate. Answer Bidding Questions, Conduct Prebid Meeting and Bid Opening, Prepare Bid Review, Bid Tabulation and Bid Recommendation.

Task III - Provide Construction Staking of critical items. Provide Construction Inspection and Administration to ensure that construction meets the Project Plans and Specifications, prepare quantity worksheet estimates, recommend and review change orders, review pay requests and recommend payment. An inspector markup of as-built construction plans will be provided.

Professional Services Fee

Topographic Survey and Base Mapping (Task I)	\$5,000.00
Construction Plans (Task II)	\$35,000.00
Construction Services (Task III)	<u>\$24,000.00</u>
TOTAL LUMP SUM AMOUNT	\$64,000.00

The **Professional Services Fee** prorated at the project participation percentages is as follows:

OPWC (75.5%).....	\$ 48,320.00
City of Amherst (24.5%)	<u>\$ 15,680.00</u>
Total Professional Services Fee	\$ 64,000.00

Clarifications and Exceptions:

1. All permits and associated fees are by Others.
2. BRAMHALL personnel shall have access to the site to conduct required survey tasks.
3. Right of Way and Easement Acquisition is not anticipated and therefore not included.

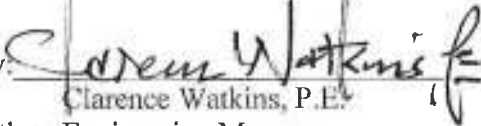
Project Schedule

We propose to have plans and bidding documents complete by the end of April 2017, bidding May of 2017, request to proceed to OPWC in July of 2017, and construction from August to October of 2017.

ACKNOWLEDGED & ACCEPTED

**BRAMHALL ENGINEERING &
SURVEYING COMPANY**

By: _____


Clarence Watkins, P.E.

Title: Engineering Manager

Date: December 21, 2016

ACKNOWLEDGED & ACCEPTED

**MAYOR MARK COSTILOW
CITY OF AMHERST**

By: _____

Title: _____

Date: _____

City of Amherst P.O. # _____

City of Amherst
Request for Legislative Action Report

Agenda Number A - 17-05

Committee Streets

Date: January 9, 2017

Submitted by: Mark Costilow, Mayor

Subject: Authorization to bid and award the widening of Kresge Drive.

Amount: \$141,000.00
 \$ 22,300.00

Account #:206-6006-52501 Capital Outlay
 206-6006-52350 Engineering

Information: Attached

RECEIVED: 1-9-17

CLERK:



Linda Turley

RECEIVED: 1-9-17

PRESIDENT:



John Dietrich, Council President

Referred to the following committee:

Finance/Grants _____

Building & Lands _____

Streets _____

Community Development _____

Executive & Insurance _____

Ordinance _____

Utilities _____

Recycling _____

Technology _____

Police & Fire _____

Annexation _____

Committee of the Whole _____

Special Committee _____

Final Action Taken by Committee:

Signature of Chairperson

City of Amherst

Mark Costilow, Mayor
John Jeffreys, Safety Service Director

Memorandum

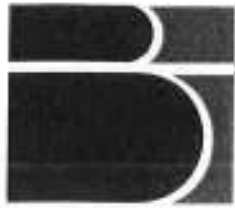
Date: January 9, 2017
To: Council
RE: Authorization to bid and award the widening of Kresge Drive.

Attached is the Development Agreement between the City of Amherst and Victor Nardini passed by Council as O-16-53 at the November 28, 2016 meeting.

We are asking for authorization to bid and award this project with the city fronting the funds and Mr. Nardini (Micah Properties) reimbursing the City up to one-half of the cost, not to exceed \$65,000.00 (#2 of agreement).

If there are questions please feel free to contact me.

Mark



BRAMHALL
ENGINEERING &
SURVEYING COMPANY

January 9, 2017

Mayor Mark Costilow
City of Amherst
206 South Main Street
Amherst, Ohio 44001

Reference: Professional Services Proposal
Kresge Drive Widening

Dear Mayor Costilow:

We appreciate your interest in retaining Bramhall Engineering and Surveying Company (BRAMHALL) to provide Professional Engineering Services pertaining to the above referenced project.

The Developer, Victor Nardini, is moving forward with Century Plaza Phase III (final phase) and as part of contingent approval, by the City, the Developer will be contributing funds to the widening of Kresge Drive along the frontage of Century Plaza. The City of Amherst will be performing a Joint Venture Project with the Developer of Century Plaza with the City as the lead on the publicly bid project.

The proposed project will widen Kresge Drive from 2 lanes to 3 lanes along the frontage of Century Plaza. The pavement will taper from 3 lanes down to 2 at the east end at the existing 2 lane Bridge over the East Branch of the Beaver Creek. The City will also perform additional improvements to the Traffic Signal Timing and Operation at SR 58, Lane Marking and Signage revisions to optimize the Kresge Drive and SR 58 Corridor. The additional Traffic Improvements will coincide with the pavement widening project.

The preliminary construction cost estimate for the widening of Kresge Drive is \$141,000 which includes a construction contingency of \$15,000.

Scope of Services

To meet your objectives the project Scope of Services to be provided by BRAMHALL shall include the following:

Task I – Plan Preparation and Bidding Administration

- Perform limited topographic survey of pertinent features included in the scope of work.
- Contacting The Ohio Utility Protection Service (OUPS) and limited utility coordination.

Task I – Plan Preparation and Bidding Administration continued:

- Prepare construction plans and specifications. Develop pavement typical sections. Driveway and utility casting adjustments will be included within the plans where required. Plans will include Standard City of Amherst and/or ODOT Construction Standard Drawings as required, Maintenance of Traffic Notes, Storm Water Pollution Prevention Plan and Notes.
- Prepare bid documents and administer the bidding process including preparing a bid form, engineers estimate, attend prebid meeting, issue addendums as required in response to contractor questions, tabulation of bids, bid review, bid recommendation and notice of commencement.

Task II – Construction Administration, Inspection and Staking

- Conduct a preconstruction meeting, and routine project meetings.
- Review shop drawings and material submittals.
- Review of Contractor Pay Requests for accuracy and completeness.
- Provide a full time project representative to perform onsite inspection.
- Verify contractor conformance to project specifications and city requirements.
- Verify material quantities.
- Assist the City and Contractor to provide layout of the proposed pavement widening, construction limits and critical utility layout as required to facilitate construction.

Professional Services Fee

We propose to provide the Professional Services described herein for the following lump sum amount for Task 1 and on an hourly, as needed, basis in accordance with our Standard Hourly Rates(see rates attached herein), for Task 2.

Task I – Plan Preparation and Bidding Administration

TWELVE THOUSAND THREE HUNDRED DOLLARS\$12,300 (Lump Sum)

Task II – Construction Administration, Inspection and Staking

A Budget Estimate for this task is:

TEN THOUSAND DOLLARS\$10,000 (Hourly)

We will not exceed these amounts without your prior authorization.

Project Schedule


We are prepared to begin work on this assignment immediately and will have the Bid Package prepared for a spring 2017 bid with construction in late spring or early summer of 2017.

Clarifications and Exceptions:

1. A Right-of-Way Survey and/or Right-of-Way Dispute Resolution is not included in the Scope of Services. All work is intended to be performed within the existing right of way.
2. Advertising and Notice of Commencement recording fees are by the City of Amherst.
3. Bridge widening is not included. Traffic Signal modifications, pavement markings and signage will be a separate contract with the City of Amherst and TMS Engineers.

ACKNOWLEDGED & ACCEPTED

**BRAMHALL ENGINEERING &
SURVEYING COMPANY**

By: 
Aaron Appell, P.E.
Title: Project Manager
Date: January 9, 2017

ACKNOWLEDGED & ACCEPTED

**MAYOR MARK COSTILOW
CITY OF AMHERST**

By: _____
Title: _____
Date: _____
City of Amherst P.O. # _____

DEVELOPMENT AGREEMENT

THIS AGREEMENT is entered into by and between MICAH PROPERTIES, II, LLC, an Ohio limited liability company, and VICTOR NARDINI (hereinafter collectively "Micah"), and the CITY OF AMHERST, an Ohio municipal corporation, (hereinafter "The City").

WHEREAS, Micah is the owner of real estate located within the municipal limits of the City; and

WHEREAS, Micah desires to develop the real estate known as Century Plaza III or third phase into a commercial building; and

WHEREAS, City has raised concerns with Micah regarding traffic congestion in and around the area of the aforesaid development; and

WHEREAS, Micah is desirous of proceeding with its development while the City undertakes a further study of the traffic congestion in the area; and

WHEREAS, the City is willing to allow Micah to proceed with its development based on certain conditions and promises contained herein

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties hereto agree as follows:

1. The City ~~has granted will grant~~ to Micah all permits necessary for the construction of a 5,000 square foot commercial building in the Century Plaza located on Kresge Drive in the City of Amherst.
2. The City ~~has determined will complete its traffic study for the area in and around Kresge Drive and if the City determines~~ that it is necessary to widen Kresge Drive for an additional lane of traffic,; Micah ~~agrees to shall~~ convey to the City such land as is necessary on the north ~~and/or the~~ south side of Kresge Drive, which Micah or its owner, Victor Nardini, owns or controls to allow for said widening, at no charge to the City. In addition, Micah will contribute to the City a sum equal to one-half of the cost of the widening project not to exceed \$65,000 toward the cost of said widening of Kresge Drive. Payment shall be made to the appropriate City fund upon certification by the City's engineer that the widening project of Kresge Drive is substantially complete.
3. Neither Micah nor any company owned or controlled by Micah's owners, will be assessed for widening of Kresge drive ~~as described in paragraph 2 above~~ beyond the \$65,000 payment set forth herein.
4. In the event that the widening of Kresge Drive by the City requires the removal or ~~relocation relations~~ of any existing monument signs for Mayflower Square or Century Plaza, the cost of said relocation shall be deducted from the \$65,000 payment

owed by Micah, pursuant to paragraph 2 above. The City shall have the option of performing this relocation relation at its cost, provided that the relocated sign is in substantially the same condition at the conclusion of the move, in which case, Micah shall not be entitled to a credit.

5. The City agrees to take only such land from Micah as is absolutely necessary to widen Kresge Drive by one lane of traffic.

6. In the event that the City makes further improvements to Kresge Drive or the surrounding area for which Micah or its owner, Victor Nardini, would be assessed, Micah and Nardini shall receive any credit for the payment made pursuant to paragraph 2 above toward such assessment provided that such credit shall be applied only for assessments levied within 120 months of the date of this agreement.

7. Micah hereby releases the City from any and all claims related to the Century Plaza project, except for such obligations as the City has pursuant to this agreement.

IN WITNESS WHEREOF, the parties have set their hands this 30th day of November, 2016.

Witnesses:

[Signature]
[Signature]

MICAH PROPERTIES, II, LLC

By:

[Signature]
VICTOR NARDINI
Its Managing Member

VICTOR NARDINI, Individually

[Signature]

CITY OF AMHERST

By:

[Signature]
Print Name: MARK COSTILLO
Its Mayor