1. City Council Regular Meeting Agenda

   Documents: 2-07-12 FINAL AGENDA.PDF

2. City Council Regular Meeting Packet

   Documents: 2-7-12 COUNCIL PACKET.PDF

CITY OF YPSILANTI
COUNCIL MEETING AGENDA
CITY COUNCIL CHAMBERS - ONE SOUTH HURON ST.
YPSILANTI, MI 48197
TUESDAY, FEBRUARY 7, 2012
7:00 P.M.

I. CALL TO ORDER –

II. ROLL CALL –

Council Member Bodary	P A	Council Member Robb	P A
Council Member Jefferson	P A	Council Member Vogt	P A
Council Member Murdock	P A	Mayor Schreiber	P A
Mayor Pro-Tem Richardson	P A		

III. INVOCATION –

IV. PLEDGE OF ALLEGIANCE –

"I pledge allegiance to the flag, of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all."

V. INTRODUCTIONS –

VI. AGENDA APPROVAL –

VII. PRESENTATIONS –

1. Millennial Vision – Sarah Demmon and Morgan Cox, Mayor's Millenial Congress

2. Presentation of Five-Year Financial Plan

VIII. PUBLIC HEARINGS –

1. Five-Year Financial Plan

   A. Resolution No. 2012-014, determination
   B. Open Public Hearing
   C. Resolution No. 2012-015, close public hearing.

2. Water Street Debt Millage

   A. Resolution No. 2012-016, determination
   B. Open Public Hearing
   C. Resolution No. 2012-017, close public Hearing

IX. ORDINANCES – FIRST READING   Ordinance No. 1169

1. An ordinance to add Chapter 3 to the Ypsilanti City Code entitled, "Uniform City Income Tax".

   A. Resolution No. 2012-018, determination.

B. Open public hearing.
C. Resolution No. 2012-019, close public hearing.

X. <u>AUDIENCE PARTICIPATION</u> –

XI. <u>REMARKS BY THE MAYOR</u> –

XII. <u>MINUTES</u> –

Resolution No. 2012-020, approving the minutes of January 10, 2012.

XIII. <u>CONSENT AGENDA</u> – Resolution No. 2012-021

1. Resolution No. 2012-022, adopting the Millenial Vision and protocol for the City of Ypsilanti.

2. Resolution No. 2012-023, approving contract with MDOT for 2012 CMAQ Equipment Replacement Project.

3. Resolution No. 2012-024, authorizing execution of the Adoption Agreement, Amended Cafeteria Plan and renewal contract with BASIC for administrative assistance of the city's flex plan.

4. Resolution No. 2012-025, authorizing the City to continue to retain Hartford Insurance to provide 457(b) deferred compensation services to city employees for the calendar year of January 1, 2012 through December 31, 2012.

XIV. <u>RESOLUTIONS/MOTIONS/DISCUSSIONS</u> –

1. Resolution No. 2012-026, approving financing and other related requests for Hamilton Crossing Phase II.

2. Resolution No. 2012-027, approving city income tax ballot language.

3. Resolution No. 2012-028, approving FY 2012-2013 budget priorities.

XV. <u>LIASON REPORTS</u> -

A. SEMCOG Update
B. Washtenaw Area Transportation Study
C. Washtenaw Metro Alliance
D. Urban Counties
E. Freight House

XVI. <u>COUNCIL PROPOSED BUSINESS</u> –

XVII. <u>COMMUNICATIONS FROM THE MAYOR</u> –

<u>Nominations:</u>

Planning Commission
Dan Lautenbach (reappointment)
106 Oakwood
Ypsilanti, MI 48197
Term Expires: 5/1/2015

Planning Commission
Richard Murphy (reappointment)
406 Florence
Ypsilanti, MI 48198
Term Expires: 5/1/2015

Planning Commission
Cheryl Zeullig (reappointment)
702 Collegewood
Ypsilanti, MI 48197
Term Expires: 5/1/2015

Ypsilanti Community Utilities Authority
Andrew Cameron (new appointment replacing Deedra Climer who resigned)
1313 W. Cross
Ypsilanti, MI 48197
Term Expires: 12/1/2012

XVIII. COMMUNICATIONS FROM THE INTERIM CITY MANAGER –

XIX. AUDIENCE PARTICIPATION -

XX. REMARKS FROM THE MAYOR –

XXI. ADJOURNMENT –

A. Resolution No. 2012-029 adjourning the City Council Meeting.

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XX. REMARKS FROM THE MAYOR –

XXI. ADJOURNMENT –

A. Resolution No. 2012-029 adjourning the City Council Meeting.

REQUEST FOR LEGISLATION
February 6, 2012

To: Mayor and Council

From: David R. Kowal, Director of Administrative Services

Subject: Proposed 5-Year Financial Plan

SUMMARY & BACKGROUND:

A financial plan sets forth strategies that the organization will pursue for financial health over a multi-year period and keeps everyone's eye on long-term financial health.

A long term financial plan is:

- A combination of technical analysis and strategizing. Long-term forecasts and analysis are used to identify long-term imbalances. Then, financial strategies are developed to counteract these imbalances.
- A collaborative and visionary process. A plan does not just forecast the status quo into the future. It considers different possible futures. It also involves other stakeholders. Elected officials, operating departments, and the public can all help identify financial issues, develop consensus strategies, and ensure a successful implementation.
- An anchor of financial sustainability. A plan encourages big-picture and long-term thinking among elected and appointed officials.

Financial planning supports a financial recovery in several ways:

- It maintains a focus on long-term financial condition and issues. This helps the City to act before a long-term imbalance becomes an immediate crisis.
- It builds the case for action by making stakeholders aware of long-term issues and increasing their desire to confront them.
- It builds trust with citizens. Citizens are often prepared to pay more in taxes if that is necessary to realize the future they want, but only if steps are taken to increase accountability and trust. Financial planning provides better accountability for how resources are used.
- It helps comply with bond rating agency expectations. Financial planning is described by Standard & Poor's as one of the "top 10 management characteristics of highly rated credits."

The attached 5-Year Financial Plan is a culmination of many months of planning and strategy meetings by elected and appointed officials. The Plan incorporates a conservative series of assumptions, conservative revenue forecasts, realistic expenditure projections, and two major new sources of potential revenue – a city income tax and a special Water Street debt service millage. Both will require voter approval and are scheduled for consideration by the electorate on the May 8, 2012 special election. The Plan does not incorporate potential reductions in existing staffing levels in any department. While such a discussion is warranted and necessary, I believe that a presentation without personnel cuts is required to gain a full understanding of the City's financial position. After the Council has an opportunity to digest the figures contained in the Plan, staff is prepared to amend, adjust and present various scenarios as requested by Council members.

RECOMMENDED ACTION: Approval

ATTACHMENTS: Council Resolution; 5-Year Financial Plan; Plan Assumptions

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CITY MANAGER APPROVAL: ________________________ COUNCIL AGENDA DATE: _________

CITY MANAGER COMMENTS: __________________________

FISCAL SERVICES DIRECTOR APPROVAL: _____________________________________

City of Ypsilanti
Five-year Financial Plan
FYE 2013 through FYE 2017

	FYE 2012	FYE 2013	FYE 2014	FYE 2015	FYE 2016	FYE 2017	5-YEAR TOTAL
GENERAL FUND OPERATING REVENUE	$ 10,525,104	$ 9,449,470	$ 9,064,142	$ 8,681,489	$ 8,332,121	$ 8,167,647	**$ 43,694,869**
ADD IN PERSONAL PROPERTY TAX	$ -	$ 472,409	$ 480,078	$ 490,851	$ 504,859	$ 522,401	**$ 2,470,598**
BASE 2012 F&P PENSION REQUIRED							
EMPLOYER CONTRIBUTION	$ 1,885,727	$ 1,885,727	$ 1,885,727	$ 1,885,727	$ 1,885,727	$ 1,885,727	**$ 9,428,635**
TOTAL GENERAL FUND REVENUE	**$ 12,410,831**	**$ 11,807,606**	**$ 11,429,947**	**$ 11,058,067**	**$ 10,722,707**	**$ 10,575,775**	**$ 55,594,102**
GENERAL FUND OPERATING EXPENDITURES	**$ 13,914,709**	**$ 14,024,476**	**$ 14,528,899**	**$ 15,282,466**	**$ 16,083,642**	**$ 16,753,807**	**$ 76,673,290**
SURPLUS / (DEFICIT)	**$ (1,503,878)**	**$ (2,216,870)**	**$ (3,098,952)**	**$ (4,224,399)**	**$ (5,360,935)**	**$ (6,178,032)**	**$ (21,079,188)**
F&P PENSION ESTIMATED EMPLOYER							
CONTRIBUTION ANNUAL INCREASE	$ -	$ 246,334	$ 526,683	$ 845,989	$ 1,209,948	$ 1,625,123	**$ 4,454,077**
SURPLUS / (DEFICIT)	**$ (1,503,878)**	**$ (1,970,536)**	**$ (2,572,269)**	**$ (3,378,410)**	**$ (4,150,987)**	**$ (4,552,909)**	**$ (16,625,111)**
80/20 HEALTH INSURANCE PREMIUM							
EMPLOYEE CONTRIBUTIONS	$ 18,000	$ 127,500	$ 181,500	$ 190,500	$ 200,100	$ 210,100	**$ 909,700**
SURPLUS / (DEFICIT)	**$ (1,485,878)**	**$ (1,843,036)**	**$ (2,390,769)**	**$ (3,187,910)**	**$ (3,950,887)**	**$ (4,342,809)**	**$ (15,715,411)**
WATER STREET DEBT SERVICE MILLAGE	$ -	$ 1,308,618	$ 1,341,778	$ 1,568,715	$ 1,756,701	$ 1,744,937	**$ 7,720,749**
SURPLUS / (DEFICIT)	**$ (1,485,878)**	**$ (534,418)**	**$ (1,048,991)**	**$ (1,619,195)**	**$ (2,194,186)**	**$ (2,597,872)**	**$ (7,994,662)**
CITY INCOME TAX (NET)	$ -	$ 1,000,000	$ 2,250,000	$ 2,250,000	$ 2,250,000	$ 2,250,000	**$ 10,000,000**
SURPLUS / (DEFICIT)	**$ (1,485,878)**	**$ 465,582**	**$ 1,201,009**	**$ 630,805**	**$ 55,814**	**$ (347,872)**	**$ 2,005,338**

City of Ypsilanti
5-Year Financial Plan Assumptions:

1. Reduction in taxable values estimated at -7, -3, -3, -3, -3; FYE 2013 through FYE 2017, respectively
2. Personal Property Tax is not eliminated as source of revenue for the General Fund and Fire-Police Pension Fund during the 5-year period
3. No use of fund balance reserves to "balance" budget in any one of the five years
4. Use of base 2012 employer contribution to Fire-Police Pension Fund; projected employer contribution increases to Fire-Police Pension Fund identified separately
5. State shared revenue (now referred to as "EVIP") projected to decline over the course of the 5-year period
6. Employee contributions of 20% towards cost of health insurance premiums (phased-in commencing January 1, 2012 and concluding July 1, 2013, depending on employee group)
7. City income tax effective January 1, 2013 (requires voter approval; May 8, 2012)
8. Imposition of special Water Street debt service tax millage (requires voter approval; May 8, 2012); millage to be used to pay off principal and interest on bonds and CDBG grant
9. Inflation rate increased to 2.7%
10. Status quo (2011/12) staffing levels in all departments; assumes no staff reductions at this stage in the process

Resolution No. 2012 - 015
February 7, 2012

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

THAT the public hearing on the "Five-Year Financial Plan" be **officially closed.**

OFFERED BY: ______________________________

SUPPORTED BY: ______________________________

YES: NO: ABSENT: VOTE:

Resolution No. 2012 - 014
February 7, 2012

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS, a financial plan sets forth strategies that the organization will pursue for financial health over a multi-year period and keeps everyone's eye on long-term financial health; and

WHEREAS, a long term financial plan is a combination of technical analysis and strategizing; and

WHEREAS, a plan does not just forecast the status quo into the future; it considers different possible futures; and

WHEREAS, as an anchor of financial sustainability, financial planning encourages big-picture and long-term thinking among elected and appointed officials; and

WHEREAS, the attached City of Ypsilanti 5-Year Financial Plan is a culmination of many months of planning and strategy meetings by elected and appointed officials; and

WHEREAS, the financial plan incorporates a conservative series of assumptions, conservative revenue forecasts, realistic expenditure projections, and two major new sources of potential revenue – a city income tax and a special Water Street debt service millage – both of which will require voter approval and are scheduled for consideration by the electorate on the May 8, 2012 special election.

NOW THEREFORE BE IT RESOLVED THAT the Ypsilanti City Council does hereby adopt the City of Ypsilanti Financial Plan for the period Fiscal Year 2012/13 through Fiscal Year 2016/17.

OFFERED BY: ____

SUPPORTED BY: ____

YES: NO: ABSENT: VOTE:

REQUEST FOR LEGISLATION
January 27, 2012

To: Mayor and Council

From: David R. Kowal, Director of Administrative Services

Subject: Proposed Water Street Redevelopment Project Debt Service Millage

SUMMARY & BACKGROUND:

The City has previously issued various series of bonds to finance and refinance the costs relating to land acquisition, environmental cleanup, and public infrastructure in an area of the downtown referred to as the Water Street Redevelopment Project ("the Project"). The City's General Obligation Limited Tax Capital Improvement Refunding Bonds, Series 2006 ("the Bonds") are currently outstanding in the principal amount of $15,455,000 payable on May 1 from 2012 through 2031. The Bonds were issued in anticipation of tax increment revenues being generated by the proposed development. As you are all well aware, no such development has yet occurred. The City is currently paying the debt service on the Bonds from its general fund.

The City Council has previously considered submitting a proposal to the voters of the City requesting the voters to approve a debt millage to pay the debt service on the Bonds. This would enable the City Council to levy a tax on all taxable property in the City in an amount necessary to pay debt service on the Bonds. The tax levy would be reduced by the amount of tax increment revenues generated from the Project. The tax could be levied by the City Council in excess of any existing tax rate limitation, so it would not count against the City Charter tax rate limit.

The statute that authorizes the City Council to submit this type of ballot question is the Unlimited Tax Election Act, Act 189, Public Acts of Michigan, 1979, as amended. Act 189 sets forth some of the requirements for the ballot proposal, which must also be read in conjunction with other state statutes that regulate the content of ballot questions.

IMPACT ON DDA AND BRA:

The Ypsilanti Downtown Development Authority ("DDA") Plan was approved back in 2001, when the property was privately held and had an initial assessed value, or base value of $3,125,806. The DDA is authorized to capture tax increment revenues for any growth in taxable value in excess of that amount, from the available local taxing units (City, County, WCCC, HCMA, etc.), which includes all taxes <u>except</u> the State Education Tax, local schools and intermediate school district. Those DDA-captured taxes can be used to repay the Bonds and other obligations.

The Washtenaw County Brownfield Redevelopment Authority ("BRA") Plan was approved and then amended in 2006 at which time the initial assessed value of the BRA was $0 since the property was owned by the City. Since the DDA Plan was approved first, the DDA is entitled to first claim on tax increment revenues. Thus, the BRA is authorized to capture taxes levied on all non-debt millage taxes on value from $0 to $3,125,805 (including local taxing units and various school taxes). When the taxable value of the site is greater than $3,125,806, then the BRA is only allowed to capture the State Education Tax, local schools and ISD millage on the property, as the DDA will be capturing from the local taxing units.

The BRA Plan only authorized the capture for certain environmental activities and infrastructure costs. It was intended that there would be additional debt incurred to pay for those activities and that was how the BRA funds would be used. Although to the extent there isn't additional debt, the BRA can use the tax increment revenues to pay for the eligible costs described in the Plan.

Bond Counsel (Patrick F. McGow; Miller, Canfield, Paddock and Stone, PLC) was previously asked the question about whether the requirement to apply any tax increment revenues to reduce the millage rate could be written into the ballot language and/or whether such a commitment to do so by the current City Council would be binding on future City Councils. Attorney McGow opined that the City Council cannot write such a requirement/commitment into the ballot proposal and that, if it did so, it would not be binding on future City Councils.

As has been previously discussed, the current holders of the Bonds do not have a security interest or claim on the tax increment revenues under the existing Bond documents, as their security is the limited tax full faith and credit pledge of the City to pay the debt service from whatever sources are available to it.

REPAYMENT OF CDBG FUNDS:

The City was awarded a total of $3,050,350 in Community Development Block Grant ("CDBG") funding for Project MSC 201017-EDIG, the Water Street Redevelopment Project ("the Project"). Of that amount, $300,000 was to be used for administrative, legal, and property management expenses related the Project. The City agreed to repay grant funds in the amount of $2,750,000 or the actual amount of CDBG funds disbursed less credits applied (unpaid principal balance) and less the $300,000 amount as described above. The amount the City owes is $2,750,000 (exclusive of interest costs). Interest will begin accruing at the rate of 4% on January 1, 2015. Payments will be amortized over a 10-year period, beginning January 1, 2015 and ending January 1, 2025. The CDBG principal and interest amounts owed have been combined with the 2006 Capital Improvement Refunding Bonds in calculating the Schedule of Estimated Millage Needed to Retire Bonded Debt (attached).

Attorney McGow is scheduled to attend the City Council meeting to answer any questions or to elaborate on any related matter concerning the proposed Water Street Debt Service Millage.

RECOMMENDED ACTION: Adoption of the attached Resolution Calling Special Election for Water Street Debt Millage Proposal.

ATTACHMENTS: Council Resolution, Schedule of Existing Water Street Debt, Schedule of Estimated Millage Needed to Retire Bonded Debt

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CITY MANAGER APPROVAL: ________________________ COUNCIL AGENDA DATE: ___2-7-12____

CITY MANAGER COMMENTS: __________________________

FISCAL SERVICES DIRECTOR APPROVAL: _____________________________________

Resolution No. 2012 - 016
February 7, 2012

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS, the City of Ypsilanti, Michigan (the "City") has previously issued various series of bonds to finance and refinance the costs relating to land acquisition, environmental cleanup and public infrastructure in an area of the downtown referred to as the Water Street Redevelopment Project; and

WHEREAS, the City's General Obligation Limited Tax Capital Improvement Refunding Bonds, Series 2006 (Taxable) (the "Bonds") are currently outstanding in the principal amount of $15,455,000 payable on May 1 from 2012 through 2031; and

WHEREAS, the City entered into a Community Development Block Grant Agreement for Project MSC 201017-EDIG (the "CDBG Agreement") and received grant funds in the amount of $3,050,350, of which $2,750,350 remains outstanding and due to be paid, from January 1, 2015 through January 1, 2025; and

WHEREAS, the Bonds and the CDBG Agreement were issued in anticipation of tax increment revenues being generated by the proposed development, which has not occurred as originally anticipated; and

WHEREAS, the City is currently paying the debt service on the Bonds from its general fund and other sources; and

WHEREAS, the City Council desires to seek voter approval to pledge the City's unlimited tax full faith and credit for payment of the Bonds and CDBG Agreement to allow a millage to be levied to pay the debt service on the Bonds and CDBG Agreement.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Ypsilanti, Michigan, as follows:

1. A special election of the qualified electors of the City is called and requested to be held on Tuesday, May 8, 2012, for the purpose of submitting the following proposal to the electors:

WATER STREET DEBT MILLAGE PROPOSAL

> Shall the City of Ypsilanti, County of Washtenaw, Michigan, be authorized to pledge its unlimited tax full faith and credit for payment of its General Obligation Limited Tax Capital Improvement Refunding Bonds, Series 2006 (Taxable), which are outstanding in the principal amount of

$15,455,000, payable through 2031, and its contractual obligations under a Community Development Block Grant Agreement which is currently outstanding in the principal amount of $2,750,350, payable through 2025, both of which were issued or incurred for the purpose of paying the cost of financing and refinancing certain capital improvement costs relating to the Water Street Redevelopment Project? The estimated millage to be levied in 2012 is 4.94 mills ($4.94 per $1,000 of taxable value) and the estimated simple average annual millage rate required to retire the debt is 5.40 mills ($5.40 per $1,000 of taxable value).

2. The City Clerk is hereby authorized to cause the above proposal to be placed on the ballot at the election to be held on May 8, 2012.

3. The canvass and determination of votes of said question shall be made in accordance with the laws of the State of Michigan and the Charter of the City of Ypsilanti.

OFFERED BY: ____

SUPPORTED BY: ____

YES: NO: ABSENT: VOTE:

Resolution No. 2012 - 017
February 7, 2012

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

THAT the public hearing regarding the Water Street Debt Millage be **officially closed.**

OFFERED BY: ____

SUPPORTED BY: ____

YES: NO: ABSENT: VOTE:

CITY OF YPSILANTI
EXISTING WATER STREET DEBT
* NIC calculated from: 6/1/11

		CDBG LOAN Original Amount: $1,500,000 Net Interest Cost: 4.000%					2006 CAPITAL IMPROVEMENT REFUNDING BONDS Original Amount: $15,740,000 Net Interest Cost: 6.134% Maturities >= 2017 Callable 5/1/16 @ 100						
	Fiscal	$2,750,350		Loan Repayment From:		1/1/15	$15,455,000	Current Interest Bonds Dated			6/8/06	TOTAL DEBT	
Tax Year	Year Ended 6-30,	Interest Due Dec 1	Interest Due Jun 1	Interest Rate	Principal Due Jun 1	Total P&I	Interest Due Nov 1	Interest Due May 1	Interest Rate	Principal Due May 1	Total P&I	Total Principal	Total P&I
2011	2012	$0	$0	0.000%	$0	$0	$468,080	$468,080	5.550%	$335,000	$1,271,160	$335,000	$1,271,160
2012	2013	0	0	0.000%	0	0	458,784	458,784	5.600%	390,000	1,307,568	390,000	1,307,568
2013	2014	0	0	0.000%	0	0	447,864	447,864	5.750%	445,000	1,340,728	445,000	1,340,728
2014	2015	0	55,007	4.000%	137,518	192,525	435,070	435,070	5.750%	505,000	1,375,140	642,518	1,567,665
2015	2016	52,257	52,257	4.000%	275,035	379,548	420,551	420,551	5.750%	535,000	1,376,103	810,035	1,755,651
2016	2017	46,756	46,756	4.000%	275,035	368,547	405,170	405,170	5.800%	565,000	1,375,340	840,035	1,743,887
2017	2018	41,255	41,255	4.000%	275,035	357,546	388,785	388,785	5.800%	600,000	1,377,570	875,035	1,735,116
2018	2019	35,755	35,755	4.000%	275,035	346,544	371,385	371,385	6.000%	635,000	1,377,770	910,035	1,724,314
2019	2020	30,254	30,254	4.000%	275,035	335,543	352,335	352,335	6.000%	675,000	1,379,670	950,035	1,715,213
2020	2021	24,753	24,753	4.000%	275,035	324,541	332,085	332,085	6.000%	715,000	1,379,170	990,035	1,703,711
2021	2022	19,252	19,252	4.000%	275,035	313,540	310,635	310,635	6.150%	755,000	1,376,270	1,030,035	1,689,810
2022	2023	13,752	13,752	4.000%	275,035	302,539	287,419	287,419	6.150%	805,000	1,379,838	1,080,035	1,682,376
2023	2024	8,251	8,251	4.000%	275,035	291,537	262,665	262,665	6.150%	855,000	1,380,330	1,130,035	1,671,867
2024	2025	2,750	2,750	4.000%	137,518	143,018	236,374	236,374	6.150%	905,000	1,377,748	1,042,518	1,520,766
2025	2026	0	0	0.000%	0	0	208,545	208,545	6.150%	960,000	1,377,090	960,000	1,377,090
2026	2027	0	0	0.000%	0	0	179,025	179,025	6.200%	1,020,000	1,378,050	1,020,000	1,378,050
2027	2028	0	0	0.000%	0	0	147,405	147,405	6.200%	1,085,000	1,379,810	1,085,000	1,379,810
2028	2029	0	0	0.000%	0	0	113,770	113,770	6.200%	1,150,000	1,377,540	1,150,000	1,377,540
2029	2030	0	0	0.000%	0	0	78,120	78,120	6.200%	1,225,000	1,381,240	1,225,000	1,381,240
2030	2031	0	0	0.000%	0	0	40,145	40,145	6.200%	1,295,000	1,375,290	1,295,000	1,375,290
2031	2032	0	0	0.000%	0	0	0	0	0.000%	0	0	0	0
2032	2033	0	0	0.000%	0	0	0	0	0.000%	0	0	0	0
		$275,035	$330,042		$2,750,350	$3,355,427	$5,944,211	$5,944,211		$15,455,000	$27,343,423	$18,205,350	$30,698,850

WATER STREET DEBT

CITY OF YPSILANTI
COUNTY OF WASHTENAW, STATE OF MICHIGAN

Schedule of Estimated Millage Needed to Retire Bonded Debt

Taxable Value Growth History		
2006	$396,065,501	
2007	413,729,543	4.46%
2008	402,643,702	(2.68%)
2009	370,475,911	(7.99%)
2010	329,993,209	(10.93%)
2011	309,194,034	(6.30%)
Average Growth Rate:		(4.69%)

Notes:	Collection Cycle July Levy: 100%	Current Levy 0.0000

Average Millage 5.40

Tax Year	F/Y End 6-30,	Existing Debt $18,205,350	Capitalized or Accrued Interest	Plus: 8.00% Allow for Delinq.	(Use) of Funds on Hand $0	Net Existing Debt	Projected Txbl Value [1]	Growth Rate	Mills Needed
2011	2012	$1,271,160	$0	$0	$0	$1,271,160	$309,237,984	(6.30%)	
2012	2013	1,307,568		113,702	0	1,421,269	287,591,325	(7.00%)	4.94
2013	2014	1,340,728			0	1,340,728	278,963,585	(3.00%)	4.81
2014	2015	1,567,665			0	1,567,665	270,594,678	(3.00%)	5.79
2015	2016	1,755,651			0	1,755,651	262,476,837	(3.00%)	6.69
2016	2017	1,743,887			0	1,743,887	254,602,532	(3.00%)	6.85
2017	2018	1,735,116			0	1,735,116	254,602,532	0.00%	6.81
2018	2019	1,724,314			0	1,724,314	257,148,558	1.00%	6.71
2019	2020	1,715,213			0	1,715,213	262,291,529	2.00%	6.54
2020	2021	1,703,711			0	1,703,711	270,160,275	3.00%	6.31
2021	2022	1,689,810			0	1,689,810	278,265,083	3.00%	6.07
2022	2023	1,682,376			0	1,682,376	286,613,035	3.00%	5.87
2023	2024	1,671,867			0	1,671,867	295,211,426	3.00%	5.66
2024	2025	1,520,766			0	1,520,766	304,067,769	3.00%	5.00
2025	2026	1,377,090			0	1,377,090	313,189,802	3.00%	4.40
2026	2027	1,378,050			0	1,378,050	322,585,496	3.00%	4.27
2027	2028	1,379,810			0	1,379,810	332,263,061	3.00%	4.15
2028	2029	1,377,540			0	1,377,540	342,230,953	3.00%	4.03
2029	2030	1,381,240			0	1,381,240	352,497,882	3.00%	3.92
2030	2031	1,375,290			0	1,375,290	363,072,818	3.00%	3.79
2031	2032	0			0	0	373,965,003	3.00%	
2032	2033	0			0	0	385,183,953	3.00%	
		$30,698,850	$0	$113,702		$30,812,551			

[1] Includes $43,950 of Equivalent IFT Valuations & Less DDA/TIFA Debt Captures of $0 .

REQUEST FOR LEGISLATION
February 2, 2012

To: Mayor and Council

From: David R. Kowal, Director of Administrative Services

Subject: Proposed City Income Tax

SUMMARY & BACKGROUND:

The Uniform City Income Tax Act, Act 284 of 1964 as amended, MCL 141.501 et seq., is the Michigan statute that authorizes a city to levy an income tax. Under the State's Uniform City Income Tax Act ("UCITA"), the voters must approve the imposition of an income tax. The maximum tax rates that can be assessed are 1% on residents and corporations and ½% on nonresident individuals. The rates can be lower; however, the nonresident rate cannot exceed ½ of the resident rate. The model currently being prepared by the City's consultant in this matter, Municipal Analytics, is being prepared using the maximum allowable rates, which are the most common rates among the other cities which impose an income tax.

UCITA provides that a taxpayer is allowed a minimum deduction from income of $600 for each personal and dependency exemption (as determined under the federal internal revenue code). Additional exemptions are allowed for taxpayers who meet certain qualifications, such as being 65 years of age or older, blind, deaf, or totally and permanently disabled. The model currently being developed by the City's consultant uses a minimum deduction from income of $1,000 for each personal and dependency exemption.

Another provision of the UCITA specifies that residents who pay income tax to another city can be allowed a credit for the amount paid to that city. Given the City's location compared to other cities that impose an income tax, the model being developed gives consideration to residents who work and pay income taxes in the City of Detroit.

In preparing the income tax model, the City's consultant will segregate the taxpayers into the following categories:

- Individuals who live and work in the City of Ypsilanti
- Individuals who live in Ypsilanti, but work elsewhere (non-taxing city)
- Individuals who live in Ypsilanti, but work in Detroit (taxing city)
- Individuals who work in Ypsilanti, but live elsewhere (commuters)
- Corporations

Data is being gathered by the City's consultant (Aggregate Taxable Income Method; Michigan Department of Treasury) in order to determine how many people are in each of the categories identified above. Once the number of individuals in each category can be reasonably estimated, the amount of taxable income for each category will be reasonably estimated.

The City Attorney has opined that the UCITA has not changed and still allows an exemption for pensions. That opinion has reportedly been agreed with by Mr. Kirk Profit.

FINDINGS; INCOME TAX FEASIBILITY STUDY 2005:

The City Council in 2005 commissioned a similar City Income Tax Feasibility Study to that being currently undertaken by Municipal Analytics. Based on the various assumptions utilized in the 2005 report, an income tax using maximum tax rates and a $1,000 exemption level as allowed by Michigan law was forecasted to generate approximately $3.9 million (2005) to $4.4 million (2009), net of administrative costs.

Since that report was commissioned, of course, very significant events and circumstances have occurred that were not anticipated at the time. These include, but are not limited to, a significant downturn in the economy (e.g., the "Great Recession"), apportionment of income by nonresidents and businesses, changes (decreases) in the City's population, changes (decreases) in income levels subject to the tax, and changes (decreases) in the number of jobs within the City's limits due to corporate closures and relocations of businesses out of the City.

INCOME TAX FEASIBILITY STUDY 2012:

The City Council awarded a contract to the consulting firm of Municipal Analytics on January 17, 2012. Due to an accelerated pace being established by the City Council late in the process, requiring two addendums to the City's original Request for Proposals, the final product from the consultant is not due until February 17. Although it would be very premature and inappropriate at this date to forecast what revenues may be generated by an income tax at the current time under current economic conditions, I believe it is a safe to assume that the forecasted revenues contained in the 2005 study will prove to be considerably overstated. The final 2012 Income Tax Feasibility Study will be distributed to members of the City Council immediately upon staff receipt on February 17. The City Council is scheduled to consider second and final reading of an ordinance adopting a City Income Tax at its regular meeting of February 21, 2012.

RECOMMENDED ACTION: That an ordinance entitled "Uniform City Income Tax" be approved on first reading.

ATTACHMENTS: Proposed Ordinance; City Income Tax Memorandum prepared by the City Attorney dated January 19, 2012; Memorandum from Mr. Dan DuChene to City Attorney Barr dated February 1, 2012

CITY MANAGER APPROVAL: ________________________ COUNCIL AGENDA DATE: _________

CITY MANAGER COMMENTS: __________________________

FISCAL SERVICES DIRECTOR APPROVAL: _____________________________________

CITY OF YPSILANTI
NOTICE OF ADOPTED ORDINANCE
Ordinance No. 1169

An ordinance to add Chapter 3 to the Ypsilanti City Code entitled "Uniform City Income Tax."

1. **THE CITY OF YPSILANTI ORDAINS** That, pursuant to the authority of Section 3c of Chapter 1 of Act 284 of the Public Acts of 1964, as amended (The City Income Tax Act, MCL 141.501 et seq), a new Chapter 3 of the Code of the City of Ypsilanti entitled "Uniform City Income Tax" Ordinance is hereby added to read as follows:

Chapter 3. Uniform City Income Tax

Section 3-1. Adoption
The Uniform City Income Tax Ordinance as prescribed by Act 284 of the Michigan Public Acts of 1964, as amended, is hereby adopted as the City of Ypsilanti Uniform City Income Tax Ordinance and all the terms, provisions, and conditions as found therein are hereby incorporated by reference.

Section 3-2. Rate of Taxation
Subject to the exclusions, adjustments, exemptions, and deductions herein provided, and in accordance with Section 11 of Chapter 2 of the uniform city income tax ordinance, MCL 141.611, an annual tax of one percent (1%) on corporations and resident individuals and of one half of one percent (*.5%)* on non-resident individuals for general revenue purposes is hereby imposed as an excise on income earned and received on and after the effective date of this ordinance.

Section 3-3 Effective Date
This Ordinance is effective on January 1, 2013, pursuant to the authority of Section 3 of Chapter 1 of Act 284 of the Public Acts of 1964, as amended (the City Income Tax Act MCL 141.405); provided, however, that this Ordinance shall not be effective unless approved by a majority of the qualified electors voting on the question at an election to be held Tuesday, May 8, 2012.

Section 3-4 Individual deduction
An individual taxpayer, in computing his taxable income, is allowed a deduction of One Thousand Dollars ($1,000) for each personal and dependency exemption under the rules for determining exemptions and dependents as provided in the

Federal Internal Revenue Code.

Section 3-5 Additional deductions
An additional deduction is allowed under section 3-4 for a taxpayer who is sixty-five (65) years of age or older, or who is blind as defined in Section 504 of the Income Tax Act of 1967, Act 281 of the Public Acts of 1967, being Section 206.504 of the Michigan Compiled Laws. If the taxpayer is both sixty-five (65) years of age or older and blind, two (2) additional exemptions are allowed under this section.

Section 3-6 Additional deductions
An additional deduction is allowed under section 3-4 for a taxpayer who is a paraplegic, quadriplegic, hemiplegic or totally and permanently disabled or deaf, as those terms are defined in state law.

2. Severability. If any clause, sentence, section, paragraph, or part of this ordinance, or the application thereof to any person, firm, corporation, legal entity, or circumstances, shall be for any reason adjudged by a court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not effect, impair, or invalidate the remainder of this Ordinance and the application of such provision to other persons, firms, corporations, legal entities, or circumstances by such judgment shall be confined in its operation to the clause, sentence, section, paragraph, or part of this Ordinance thereof directly involved in the case or controversy in which such judgment shall have been rendered and to the person, firm, corporation, legal entity, or circumstances then and there involved. It is hereby declared to be the legislative intent of this body that the Ordinance would have been adopted had such invalid or unconstitutional provisions not have been included in this Ordinance.

3. Repeal. All other Ordinances inconsistent with the provisions of this Ordinance are, to the extent of such inconsistencies, hereby repealed.

4. Savings Clause. The balance of the Code of Ordinances, City of Ypsilanti, Michigan, except as herein or previously amended, shall remain in full force and effect. The repeal provided herein shall not abrogate or affect any offense or act committed or done, or any penalty or forfeiture incurred, or any pending fee, assessments, litigation, or prosecution of any right established, occurring prior to the effective date hereof.

5. Copies to be available. Copies of the Ordinance are available at the office of the city clerk for inspection by, and distribution to, the public during normal office hours. A complete copy of the ordinance is also available for inspection on the City's website, www.cityofypsilanti.com.

6. Publication and Effective Date. The City Clerk shall cause this Ordinance, or a summary of this Ordinance, to be published by printing the same in the publication of record. This Ordinance shall become effective after publication at the expiration of 30 days after adoption.

MADE, PASSED AND ADOPTED BY THE YPSILANTI CITY COUNCIL THIS ________ DAY OF ___________________, 2012.

____
Frances McMullan, City Clerk

Attest

I do hereby confirm that the above Ordinance No. ___ was published in The Ypsilanti Courier on the __________ day of ______________________, 2012.

____
Frances McMullan, City Clerk

CERTIFICATE OF ADOPTING

I hereby certify that the foregoing is a true copy of the Ordinance passed at the regular meeting of the City Council held on the _____ day of ________________, 2012.

____
Frances McMullan, City Clerk

Notice Published: ___January 26, 2012__________

First Reading: ____February 7, 2012____________

Second Reading: ____________________________

Published: _________________________________

Effective Date: ______________________________

Resolution No. 2012-018
February 7, 2012

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

That an ordinance entitled "Uniform City Income Tax" be approved on First Reading.

OFFERED BY: ____

SUPPORTED BY: ____

YES: NO: ABSENT: VOTE:

Resolution No. 2012 - 019
February 7, 2012

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

THAT the public hearing to consider an ordinance to add Chapter 3 to the Ypsilanti City Code entitled, "Uniform City Income Tax" be **officially closed.**

OFFERED BY: ______________________________

SUPPORTED BY: ______________________________

YES: NO: ABSENT: VOTE:

Resolution No. 2012 – 020
February 7, 2012

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

That the Minutes of January 10, 2012 be approved.

OFFERED BY: ____

SUPPORTED BY: ____

YES: NO: ABSENT: VOTE:

Draft

CITY OF YPSILANTI
COUNCIL MEETING MINUTES
CITY COUNCIL CHAMBERS - ONE SOUTH HURON ST.
YPSILANTI, MI 48197
TUESDAY, JANUARY 10, 2012
7:00 P.M.

I. CALL TO ORDER –

The meeting was called to order at 7:08 p.m.

II. ROLL CALL

Council Member Bodary	Present	Council Member Robb	Present
Council Member Jefferson	Present	Council Member Vogt	Present
Council Member Murdock	Present	Mayor Schreiber	Present
Mayor Pro-Tem Richardson	Present		

III. INVOCATION

The Mayor asked all to stand for a moment of silence.

IV. PLEDGE OF ALLEGIANCE

"I pledge allegiance to the flag, of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all."

V. INTRODUCTIONS

Mayor Schreiber introduced Housing Commission Executive Director Walter Norris, Finance Manager Eric Temple, Fire Fighter Ken Hobbs, County Commissioner Ronnie Peterson, Pension Review Board Member Don Pearson, Ann Arbor Council Member Steve Kunselman, Fiscal Services Director Marilou Uy, Planner II Teresa Gillotti and Public Services Director Stan Kirton.

VI. AGENDA APPROVAL

Council Member Murdock requested Resolution No. 2011-223, approving a public transportation agreement between Ann Arbor Transit Authority, Cities of Ypsilanti and Ann Arbor and Washtenaw County be removed from the agenda and taken up after AATA develops a financial plan and resolves other issues.

On a voice vote the agenda was approved as amended.

VIII. PRESENTATIONS

1. Audit Presentation – Mark Kettner, CPA, CGFM, Principal, Rehmann-Robson

   Council Member Murdock asked if the projected surplus is not realized in this two-year budget cycle will it be made up from fund balance.

Mr. Koryzno replied yes.

Mayor Schreiber asked about the deficit elimination plan.

Fiscal Services Director Uy replied the deficit resulted from MTTs and Board of Review rulings.

2. Rutherford Pool Presentation – John Weiss, Friends of Rutherford Pool ***(presentation on file in Clerk's Office)***

   John Weiss reported on fundraising efforts. David Bates reviewed the business and operations plan.

   Mr. Weiss gave an overview of the how the Friends intend to proceed and said their actions are contingent upon the State's appropriation of the funds.

   Mayor Pro-Tem Richardson complimented the Friends on a thorough report.

   Council Member Vogt congratulated the Friends on their outstanding efforts and success. He said he is very pleased at this example of community efforts.

   Council Member Jefferson commented that Mr. Kirk Profit spoke of the Friends' efforts positively and was very instrumental in the project's selection for the grant.

   Mayor Schreiber thanked the Friends for their hours of work and asked who will be running the pool 15 years down the road?

   Mr. Bates answered the Board will play an active role in the decision-making and identifying the future leadership. He said the Board will also help develop the program and budgeting throughout the year and he expects they will be instrumental in hiring the remainder of staff and make recommendations to the city. He pointed out that the MOU says the city will do the hiring and the Board will make recommendations.

3. YMCA Presentation – Cathi Duchon, YMCA President and CEO

   Cathi Duchon gave an update on the activities and programming being done in Ypsilanti. She said she believes kids should be active and the YMCA's objective is to reduce obesity. She gave the history of when the after-school activities begin at Adams and Chapelle schools and described activities that were held at Prospect and Recreation parks. She said programs are currently being held at Estabrook and the YMCA's impact has been great.

4. Parkridge Presentation – John Barfield

   John Barfield gave the background of the Parkridge Center and said Mr. Tom Frye was instrumental in getting things moving. Mr. Barfield introduced a potential partner of the Work Skill organization which had operated out of the General Motors plant for many years and is anticipates moving into the Parkridge addition to offer services to Ypsilanti.

   Tom Phillips, Vice-President, Hobbs & Black, shared the conceptual plans during a PowerPoint presentation and said activity could occur within the next 6 months.

Mr. Barfield said a 10,000-12,000 sq. ft. addition will be added to the existing building and 15% will be used for work skills, 50% for The Paul Collins Museum of African-American Art. He said the museum will be a world class facility to attract people to Ypsilanti.

He explained he is donating paintings and contributing $200,000 to the project which already has $600,000 in funds. He said they plan to start the project in June of this year. The total cost of the project ranges from $ 1.8 and $2 million and he is asking the city to be responsible for the demolition of the existing properties, clearance of the site, removal of trees and provision of a long-term sale/lease of Parkridge. He said some maintenance of the park is also requested.

Mr. Barfield said he is seeking Council's approval to proceed.

Mr. Robb asked if the Planning Department had been approached about the potential plans.

Mr. Barfield answered no and said he wanted to know if City Council was amenable first.

Mayor Pro-Tem Richardson reported she traveled to Brighton to the work skills facility and the program offered is fabulous. She said she thinks Council should seriously consider the proposal because it will be an asset to the entire city and will help put the city on the map. She said the project will help the city's image and would bring people into the city.

Council Member Jefferson said job training and schooling is needed in the city since factories are no longer here so the job skills program is a good addition. He appreciated the efforts of Mr. Barfield, Hobbs and Black, Mr. Frye and Mr. Williamson and said he believes City Council should do what they can to help move the project forward.

Mayor Schreiber appreciated the time and effort put into this project by Mr. Barfield and the Parkridge committee. He acknowledged that the $600,000 in gifts is good and asked where will the remainder of funds come from?

Mr. Barfield said the remainder of the funds will be secured through fundraising. He said he plans to ask some of his major customers for a matching contribution.

IX. AUDIENCE PARTICIPATION

Mayor Schreiber read the rules for audience participation.

1. Steve Kunselman, Ann Arbor City Council Member, updated City Council on what occurred at the Ann Arbor City Council meeting regarding the AATA 4 party agreement. He read the amendment he introduced and encouraged the City of Ypsilanti to also adopt the same language to protect taxpayers. He said there is no adequate justification of why Ann Arbor has a minority vote. He said he feels Ann Arbor should have a majority of the vote and encouraged council members to contact him with questions.

2. Elizabeth Drabik, 301 E. Cross, #2 announced Growing Hope will begin classes on how to start a community garden and training will be held at the First Congregational church of Ypsilanti. She gave the fees and encouraged those interested to contact her for more information or to register a group.

3. Richard Leyshock, 1008 N. Congress, spoke regarding a city income tax and said Ypsilanti is at a crossroads. He said many will support Council if they decide to ask for additional revenues; however a thoughtful, constructive income tax and water street millage will help

because many in the community do not understand. He said he will support the effort and stressed the importance of a unified council and communication because opposition will be fierce. He asked Council to consider a November general election and develop clear and factual information for distribution to the public.

4. County Commissioner Ronnie Peterson said Ed Koryzno is one of the most outstanding City Manager's in Ypsilanti. He said Mr. Koryzno represented the city well and will be missed.

5. Beth Bashert spoke about the income tax and debt reduction proposals and thanked City Council for continuing to look for solutions to keep the city as it is known. She said she has been in Ypsilanti for 22 years and plans to retire here. She said she is not looking forward to the campaign but willing to put time and resources behind Council's plan in order to help get the proposals passed. She said she feels presenting the issues in May will be challenging and difficult and suggested Council give citizen's time to run a good campaign.

6. Bob Levy said he is delighted to hear that people are willing to work on the income tax and debt millage campaign. He expressed the importance of maintaining fire and police and said once the city loses those it will go down and people will not want to live in Ypsilanti. He said he would like to work on the campaign as well because he thinks a lot of this city and loves the town.

7. YHC Executive Director Walter Norris commented on the expertise and professionalism Mr. Koryzno provided to the community and said the community was far better off for having him. On behalf of Board and YHC staff, Mr. Norris wished Mr. Koryzno well and thanked him for his service. Mr. Norris added that the YHC received a communication on 12/29 stating the YHC physical react scores were posted and they received a score of 37/40. He said the YHC has had success in its inspection of its properties for 2011.

8. Leonardo Christian said he will support the income tax proposal and thinks that what Mr. Barfield is proposing is good. He encouraged City Council to support Mr. Barfield's project and not block it.

X. <u>REMARKS BY THE MAYOR</u>

Mayor Schreiber appreciated and thanked the speakers for their comments and support.

The meeting recessed at 9:16 p.m. and reconvened at 9:31 p.m.

XI. <u>MINUTES</u>

Resolution No. 2012-001, approving the minutes of November 29, December 12, December 13 and December 20, 2011.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

That the Minutes of November 29, December 12, December 13 and December 20, 2011 be approved.

OFFERED BY: Council Member Bodary
SUPPORTED BY: Council Member Jefferson

On a voice vote, the motion carried and the minutes were approved as submitted.

XII. <u>CONSENT AGENDA</u> – Resolution No. 2012-002

1. Resolution No. 2012-003, approving renewal agreement with the Ann Arbor YMCA.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

Whereas, due to reduced General Fund, revenues the City of Ypsilanti eliminated recreational programming for the City's youth; and

Whereas, financial contributions from foundations, businesses, non-profits and individuals, combined with contributions of time from many volunteers in the City, have kept the City's recreational facilities open; and

Whereas, the Ann Arbor YMCA desires to continue to provide recreational opportunities for area youth during 2012 and 2013; including youth basketball, youth flag football summer camps; and

Whereas, the City of Ypsilanti desires to offer the use of City park facilities to the Ann Arbor YMCA in return for providing recreational opportunities for area youth at no charge.

Now Therefore Be it Resolved that the City Council approves the agreement with the Ann Arbor YMCA to provide recreational opportunities during 2012 and 2013 to area youth in City parks at no cost to the City.

2. Resolution No. 2012-004, approving appointments to Boards and Commissions.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

THAT, the following individuals be appointed to the City of Ypsilanti Boards and Commissions as indicated below:

NAME	BOARD	TERM TO EXPIRE
John McMillan 504 North Huron St. Ypsilanti, MI 48197	**Fire Civil Service Commission (new appointment)**	**1/10/2018**
Jennifer Henricksen 709 Prospect Ypsilanti, MI 48197	**Historic District Commission (reappointment)**	**1/31/2015**
Ron Rupert 421 N. Huron Ypsilanti, MI 48197	**Historic District Commission (reappointment)**	**1/31/2015**

3. Resolution No. 2012-005, approving employment contract with John Hansen.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS, the City Manager of the City of Ypsilanti filed a letter of resignation with the City Council effective January 20, 2012; and

WHEREAS, the City Council has determined it to be in the best interest of the City of Ypsilanti to hire an Interim City Manager while the Council performs an executive recruitment process for a new City Manager; and

WHEREAS, after conducting interviews with four candidates, the City Council has determined that Mr. John P. Hansen shall be appointed as Interim City Manager.

NOW THEREFORE BE IT RESOLVED THAT the Ypsilanti City Council does hereby authorize and direct the Mayor and City Clerk to execute an Independent Contractor Agreement between the City of Ypsilanti and John P. Hansen, dba Hansen Consulting Services, for Temporary City Manager Consulting Services.

OFFERED BY: Mayor Pro-Tem Richardson
SUPPORTED BY: Council Member Bodary

On a voice vote, the Consent Agenda was approved.

XIII. RESOLUTIONS/MOTIONS/DISCUSSIONS –

1. ~~Resolution No. 2011-223, approving a public transportation agreement between Ann Arbor Transit Authority, Cities of Ypsilanti and Ann Arbor and Washtenaw County.~~ ***(Removed 12/20/11)***

2. Resolution No. 2011-260, approving traffic control order for Lincoln Street. ***(Tabled 12/6/11 and 12/20/11)***

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS, the east side of the 200 block of Lincoln St. has persistent problems with cars parked within the roadway; and

WHEREAS, previous enforcement efforts have provided only short term fixes; and

WHEREAS, the parking problems have created an impediment to the travel of fire and other emergency vehicles on the streets;

NOW THEREFORE BE IT RESOLVED, THAT the City Council hereby approves Traffic Control Order 2011-04 and authorizes the requested change to No Parking, and Tow Away Zone for the east side of the 200 block of Lincoln Street.

OFFERED BY: Council Member Robb
SUPPORTED BY: Mayor Pro-Tem Richardson

Mr. Koryzno gave the background and said this was tabled because two key businesses need to comply with zoning and building. He said he doesn't feel it is appropriate to allow at this time and recommended Council wait for changes and for the appropriate permits to be granted via the planning process.

Mr. Murdock asked if site plans are in process.

Ms. Gillotti answered there are three businesses there and have drafted plans. She said she has been in with the owners of all three sites and expects to have an update at the March or April meeting. She added the businesses need to comply with special use requirements.

On roll call, the vote to approve Resolution No. 2011-260 was as follows:

Council Member Jefferson	Yes	Council Member Vogt	Yes
Council Member Murdock	Yes	Mayor Schreiber	Yes
Mayor Pro-Tem Richardson	Yes	Council Member Bodary	Yes
Council Member Robb	Yes		

VOTE:

Yes: 7 No: 0 Absent: 0 Vote: Carried

3. Resolution No. 2012-006, approving Letter of Intent (LOI) with Washtenaw County for the proposed Water Street Recreation Center.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS, the City of Ypsilanti is the property owner of the Water Street Redevelopment Area and is seeking appropriate development projects; and

WHEREAS, Washtenaw County Parks and Recreation Commission (WCPRC) has submitted a Letter of Intent (LOI) to develop a Recreational Facility on up to 8 acres of the western portion of the site as included in Attachment A; and

WHEREAS, the proposed Recreational Facility development would create a public facility to benefit Ypsilanti and other Washtenaw County residents; and

WHEREAS, the development would provide additional infrastructure to benefit subsequent development.

NOW, THEREFORE, BE IT RESOLVED THAT the Ypsilanti City Council approves the attached Letter of Intent from Washtenaw County Parks and Recreation Commission to develop a Recreational Facility on a portion of the Water Street Redevelopment Area.

FURTHER, that the Mayor and City Clerk are authorized to sign the agreement to approval by the City Attorney.

OFFERED BY: Council Member Vogt
SUPPORTED BY: Council Member Bodary

Planner Teresa Gillotti and Washtenaw County Parks and Recreation Commission Director Bob Tetens were present to give an overview and answer questions from Council.

Staff reported that on October 4, 2011, Washtenaw County Parks and Recreation Commission (WCPRC) staff presented conceptual plans for a Recreational Facility on a portion of the Water Street Redevelopment Area. On October 18, 2011, staff presented a review of the initial plan and received direction from City Council to continue working towards a Letter of Intent (LOI) to develop the recreational facility within the Water Street Redevelopment Area.

City Staff has continued to meet and coordinate details of the LOI and at this point staff is recommending approval of the Letter of Intent (LOI) that would effectively take 8 acres of the property off the market for 18 months while City and WCPRC staff works out details of a development agreement for the Recreational Facility.

WCPRC has considered various locations on the site and is formally requesting that up to 8 acres being removed from the market as development plans and agreement is crafted. The area would be on the western portion of the site, and include Michigan Avenue and Huron River frontage. WCPRC has indicated to staff that they are interested in locating a facility of approximately 50,000 to 60,000 SF on Michigan Avenue frontage with parking in the rear. At this point, the exact size of the parcel is unknown until more design work has been completed. Final location of the building, parking and other amenities resulting in a total parcel size, will be determined during the term of the LOI. In addition to up to 8 acres for the Recreational Facility, WCPRC is also including in the LOI, development of a linear park extending along the Huron River with a depth of approximately 100 linear feet. This park is estimated to be between 2 and 3 acres in size. Its final development area will largely depend on MDEQ approvals.

The LOI specifies that infrastructure development, outside of the proposed Recreational Facility footprint be provided in lieu of purchase price. The details of this additional infrastructure plan will be determined at the point of the development agreement, however, this element is meant to further prepare the Water Street Redevelopment Area for subsequent development.

If adopted, the Letter of Intent (LOI) will be in effect for a period of up to 18 months to allow for coordinated planning of the project. The time period would allow WCPRC to coordinate financing, design, infrastructure plan for outside of the project area, and allow both the City and WCPRC to market the project as an opportunity for co-development. At the end of 18 months (or sooner) the intent is to present a full development agreement to City Council and WCPRC to transfer the property. The agreement will include the exact location and size of parcel, size and orientation of structure, proposed site plan and building design, timeline for approvals, permits and construction, plan for infrastructure development beyond parcel footprint, plans and timeline for linear park, roles and responsibilities, parcel transfer or long term lease and other legal responsibilities for development and opening of the Recreational Facility.

Regarding the approval process, staff said they previously forwarded information to council regarding the formal approval process for development proposals on the Water Street Redevelopment Area. A public hearing for the sale or transfer of property is included in the steps and detailed in Resolution 2009-149.

The approval process has been outlined in the request for legislation and upon approval the City and WCPRC staff will meet to determine the work plan for the project with tentative timeline. Quarterly updates will be provided to City Council as to the project planning.

Mr. Tetens stated this item was approved unanimously by the County Recreation Commission with very little discussion.

Council Member Bodary asked if the 18 months to begin could be reduced.

Mr. Tetens said there are a lot pieces to the puzzle and with approval they would proceed at a reasonable rate. He said the County will not accelerate and give a bad product. He said he doesn't know how long it will take to bring all of the players to the table.

Council Member Murdock asked what the development plan entails.

Mr. Tetens said the development plan will be worked out with the city.

Council Member Murdock said he doesn't feel 18 months is needed to work out a development plan.

Mr. Tetens said the County will proceed in good faith. He said he doesn't know how long or what the Department of Environmental Quality (DEQ) will require.

Council Member Murdock said he is surprised at the length of the schedule which was originally scheduled to begin construction in 2013.

Mr. Tetens said 18 months is a template to begin with. He said the County has multiple projects they are working on and needs to be comfortable internally to devote resources to this. He said the agreement is based on conceptual layouts and will require a lot of partners. He said some bonding is needed and the County is trying to get grant funds as well as private monies. He said the YMCA and EMU may be willing to partner on a portion of the project.

Mayor Pro-Tem Richardson said she is in favor of the proposed recreation center but is concerned about the location. She asked why is the County persistent on occupying the west corner which is the best piece and may take away other opportunities. She said the City is giving away the most desirable piece.

Mr. Tetens said the County selected the location due to visibility and because it will provide the best chance of success. He said the County is not willing to be the first to develop the site if that location is not allowed.

Mayor Pro-Tem Richardson said she prefers the recreation center be built on the east end and asked why that location was not considered.

Mr. Tetens said the County likes the northwest corner better and is looking at extending the entire corridor. He said the Commission is in agreement with the selected site.

Mayor Pro-Tem Richardson asked if the project would end if they were not allowed to use the northwest corner.

Mr. Tetens answered no and said they are willing to see how this will fit in. He said they received calls from developers right after the October presentation regarding in interest and this is due to the location. He said they feel this is the right project to serve as a catalyst for the site. He added that trail projects may be built by 2013 which is sooner than the building.

Mayor Schreiber thanked Mr. Tetens for attending the meeting and appreciated the support of the County and Commissioners. He said the western parcel was valued lower than the eastern portion and a number of people want this project to begin rolling. He said 18 months is the maximum and things should be rolling by then. He appreciated the County's commitment to the project.

Council Member Robb said in October a PowerPoint presentation showed a lot of green space on Michigan Avenue and Council would like a more urban feel. He asked Mr. Tetens if the Commission is willing to negotiate these things.

Mr. Tetens answered currently a farm themed roof is proposed with an upper floor. He said the building will not be built into a hill like the Ann Arbor facility. He said the building will be a little under 4 stories in height and they are willing to talk about the green space. He said they feel it would be nice to have some public space and said the design details can be discussed. He said he can't speak for all 10 commissioners because he is sure they want to build something that the entire community is proud of.

Council Member Murdock reiterated his concern about the 18 month window/deadline and said he doesn't think it should take that long. Given the discussion and pressure the city has taken on, he said he would like to shrink the window to 6 months and move the project along; otherwise they will take 18 months.

Mr. Tetens said it is possible that a substantive agreement could be reached in 6 months.

Ms. Gillotti said the purchase price would have to be determined. She said the permits, etc. are all laid out in a template and at the time of agreement a solid conceptual plan is needed.

Council Member Murdock said there is more of an incentive to move quickly with a shorter span.

Mr. Koryzno suggested City Council table the resolution to allow staff to consult with Mr. Tetens.

Council Member Robb said he is confused about what will occur within the 18 months and asked if there will there be a completed design or an idea of what will occur at the end of the 18 months.

Mr. Tetens said they expect to have a site plan sooner than that.

Council Member Robb asked if the additional issues need to be done in parallel with the site plan or will it be done after?

Mr. Tetens said the details will be worked out with the DEQ and some will be worked on concurrently. He said it is not the Commission's intention to delay but they can't afford to make mistakes. He said he doesn't feel it is necessary to put a time limit on it.

Council Member Murdock said he wants a target date.

Mr. Koryzno commented this is a well received project and he believes the Commission is sincere. He said he is not sure if 6 months is sufficient. He said staff is willing to work with them and suggested the city proceed and allow them to do due diligence. He said it takes time to do it right.

Council Member Robb said City Council's role is to say yes or no. He said the site plan is crucial and asked when will a decision be made based on site plan?

Ms. Gillotti said the time frame suggested is intended to allow for site plan, infrastructure plan, design of trails and connections, establish roles and responsibilities and allow time frames for approvals.

Council Member Robb said Council rejected Burger King based on site plan.

Ms. Gillotti stated it took 6-8 months for that whole process to occur.

Council Member Bodary suggested Council change the time frame to 9 months or sooner.

Council Member Murdock moved to change the time frame from 18 months to 6 months.

The motion died for lack of support.

On roll call, the vote to approve Resolution No. 2012-006 was as follows:

Council Member Murdock	Yes	Mayor Schreiber	Yes
Mayor Pro-Tem Richardson	Yes	Council Member Bodary	Yes
Council Member Robb	Yes	Council Member Jefferson	Yes
Council Member Vogt	Yes		

VOTE:

Yes: 7 No: 0 Absent: 0 Vote: Carried

Mayor Pro-Tem Richardson stated she voted yes with the exception of the location in which she objects to.

4. Resolution No. 2012-007, approving deficit elimination plan.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS, the City of Ypsilanti Comprehensive Annual Financial Report as of June 30, 2011 revealed that the 2003 General Obligation Unlimited Tax Bonds fund (341) has a deficit fund balance of $9,551; and

WHEREAS, Act 275 of the Public Acts of 1980 requires that a Deficit Elimination Plan be formulated by the City of Ypsilanti and filed with the State of Michigan, Department of Treasury; and

WHEREAS, such a plan was submitted on December 20, 2011, noting that it would be presented to the Ypsilanti City Council for approval January 10, 2012.

NOW, THEREFORE, BE IT RESOLVED that the City adopts the deficit elimination plan as submitted as required by the State of Michigan, Department of Treasury.

OFFERED BY: Council Member Jefferson
SUPPORTED BY: Council Member Bodary

Fiscal Services Director Uy gave the background.

Staff's report indicated that the Comprehensive Annual Financial Report for the City of Ypsilanti as of June 30, 2011 revealed that the 2003 General Obligation Unlimited Tax Bonds fund (341) has a deficit fund balance of $9,551 (please see page 67 of 2011 CAFR). The State of Michigan, Department of Treasury requires that the City of Ypsilanti formulate and file a financial plan to eliminate the deficit and present it to them. The plan was submitted to them by letter dated December 20, 2011, noting that it would be submitted to the Ypsilanti City Council for approval at this meeting.

The deficit in Fund 341 was the result of actual and estimated charge backs from Washtenaw County and estimated Michigan Tax Tribunal during the fiscal year. The deficit will be eliminated by adjusting Fiscal year 2012-2013 street millage rates.

On roll call, the vote to approve Resolution No. 2012-007 was as follow:

Mayor Pro-Tem Richardson	Yes	Council Member Bodary	Yes
Council Member Robb	Yes	Council Member Jefferson	Yes
Council Member Vogt	Yes	Council Member Murdock	Yes
Mayor Schreiber	Yes		

VOTE:

Yes: 7 No: 0 Absent: 0 Vote: Carried

5. Resolution No. 2012-008, adopting a "Five-Year Financial Plan".

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

Whereas, City Council has met and discussed the city's long term financial status; and

Whereas, the city's decline in taxable value coupled with declining population, lack of economic development on Water Street and legacy costs has created a financial crisis; and

Whereas, City Council has developed a five-year financial plan that addresses budget reductions, revenue generation and addressing long term debt; and

Whereas City Council has developed a schedule to implement the five-year financial plan.

Now therefore be it resolved, that the Ypsilanti City Council approves the attached five year financial plan including ballot issues to be placed on the May 2012 election.

OFFERED BY: Council Member Murdock
SUPPORTED BY: Council Member Robb

Council Member Murdock said the resolution is self-explanatory and is actually approving the schedule.

Mayor Pro-Tem Richardson said she recently looked at election results and they show that ballot issues don't do well in May. She encouraged Council not to rush and said May doesn't give adequate time for Council to educate the people. She said City Council needs to take time and do due diligence.

Council Member Robb said if not done in May how will Council go into the budgeting process.

Mayor Pro-Tem Richardson said Council would have to work around it and perhaps work at getting something that will have a better chance of passing.

Council Member Bodary said there are positives and negatives on both sides. He said the May election means an extra year's income of 1 million or more and runs the risk of losing the election due to inadequate time to educate; and a November election places it in the middle of a lot of other issues when it would be likely for voters to vote no.

Mayor Pro-Tem Richardson asked what about August?

Council Member Bodary said it would be difficult again because there would only be one issue on the ballot. He said he is not comfortable either way and people must take the time to read it and think about it.

Mayor Pro-Tem Richardson asked if the May election turnout has been looked at.

Council Member Bodary answered yes and said the turnout for August is not good either.

Mayor Schreiber said he talked with a lot of people and they do not understand the depth of the crisis. He said Council must have a good campaign with support from staff to do this. He said he feels having more people at the polls is better. He said any campaign must be clear about what will happen if approved or not. He said he is in favor of November because Council must get the information out.

Council Member Vogt agreed with Council Member Bodary about the difficulty that would be presented with either May or Augusts elections. He said he was leaning toward the May date until recently. He said he has listened to City Council and community activists and have been hearing from non-active people who will actually vote and represent the majority and they are divided. He said many are uncommitted and the arguments are in favor of November. He said there is a concern about the cost of a special election and he is leaning towards the November date. He said there are strong arguments on both sides and the oppositions can be discredited on the merits.

Council Member Murdock said cases can be made for any election cycle and this should have been done last year but it was postponed. He said one key issue to having a successful ballot question is having a Five-Year plan that makes sense. He said Council underestimates the populous. He said he has talked to a lot of people and thinks that if Council put its best case forward a successful campaign is possible. He said there are too many things in November and it will become confusing. He said enough work has been done on the Five-Year plan to do this. He pointed out that the development of an alternative Five-Year plan is needed. He concluded he feels the time is right to move forward.

Mayor Pro-Tem Richardson moved, supported by Council Member Jefferson to extend the meeting to 11:30 p.m.

On a voice vote the motion carried.

Council Member Jefferson agreed with the November date.

Mayor Richardson urged Council not to forget about August and said it gives Council more time to prepare the people.

Mayor Schreiber said he is not prepared to have a vote in May.

Mayor Pro-Tem Richardson said her choice is August but if it cannot be done she will go to May.

Council Member Vogt said August has the most negatives and he opposes that date strongly. He said it’s a gamble and either way he believes November is better. He said May is similar to August but not as bad.

On roll call, the vote to approve Resolution No. 2012-008 was as follows:

Council Member Robb	Yes	Council Member Jefferson	No
Council Member Vogt	No	Council Member Murdock	Yes
Mayor Schreiber	No	Mayor Pro-Tem Richardson	Yes
Council Member Bodary	Yes		

VOTE:

Yes: 4 No: 3 (Vogt, Schreiber, Jefferson) Absent: 0 Vote: Carried

Schreiber, Vogt and Jefferson indicated that their “no” vote doesn’t mean they are against the city income tax, but the timing of when the city income tax goes on the ballot.

6. Resolution No. 2012-011, approving Washtenaw County demolition of 310 Park Street.

WHEREAS, 310 Park Street, Ypsilanti, Michigan is a dangerous building; and

WHEREAS, the Dangerous Building Hearing Officer, with the consent of the owner ordered the building demolished; and

WHEREAS, Washtenaw County is ready to begin the demolition process.

NOW THEREFORE, IT IS RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI that: Washtenaw County is granted the permission and authority to enter the property at 310 Park Street, Ypsilanti, Michigan and begin and complete demolition, and take all necessary action therein.

OFFERED BY: Council Member Robb
SUPPORTED BY: Council Member Murdock

Council Member Murdock asked if there were three buildings.

Planner Gillotti answered there were four and this is the only privately owned building.

Council Member Murdock asked when the County will tear the building down.

Ms. Gillotti answered they are awaiting SHPO approval and getting costs for asbestos abatement.

On a roll call, the vote to approve Resolution No. 2012-011 was as follows:

Council Member Vogt	Yes	Council Member Murdock	Yes
Mayor Schreiber	Yes	Mayor Pro-Tem Richardson	Yes
Council Member Bodary	Yes	Council Member Robb	Yes
Council Member Jefferson	Yes		

VOTE:

Yes: 7 No: 0 Absent: 0 Vote: Carried

7. Resolution No. 2012-012, honoring City Manager Edward B. Koryzno.

WHEREAS, Edward B. Koryzno, Jr. has worked in Michigan local government for over 31 Years; and,

WHEREAS, City Manager Koryzno holds a Bachelors and Masters Degrees from Michigan State University; and

WHEREAS, in an effort to enhance his educational endeavors he additionally attended the University of Virginia's Senior Executive Institute; and

WHEREAS, Edward B. Koryzno, Jr. has been the City Manager of Ypsilanti since 1996; and

WHEREAS, in addition to serving in the City of Ypsilanti, City Manager Koryzno has served in the cities of Fenton, Grand Haven and the Village of Spring Lake; and

WHEREAS, City Manager Koryzno has demonstrated his professional leadership by currently serving as a Board Member of the Michigan Suburbs Alliance and Ypsilanti Public School Foundation and;

WHEREAS, in the past City Manager Koryzno was a Board Member of the Michigan Municipal Works Compensation Fund, former Michigan Municipal League Regional Officer and past President of the Michigan Local Government Association.

NOW THEREFORE BE IT RESOLVED, That the Ypsilanti City Council hereby expresses its sincere appreciation to City Manager Edward B. Koryzno, Jr. for his many years of service to the City of Ypsilanti and its residents.

BE IT FURTHER RESOLVED, That the Ypsilanti City Council wishes Mr. Koryzno well in his future leadership role.

OFFERED BY: Mayor Pro-Tem Richardson
SUPPORTED BY: Council Member Vogt

Mayor Pro-Tem Richardson pointed out that the resolution title states 31 years of service in Ypsilanti and said it is a total of 31 years in service. The city clerk was directed to remove 31 years from the title.

On a voice vote the resolution as amended was approved.

XIV. LIASON REPORTS

A. SEMCOG Update – Mayor Pro-Tem Richardson said there is a meeting coming up.
B. Washtenaw Area Transportation Study – Council Member Murdock said there is a meeting coming up to deal with employees' health care and they are asking to waive the 80/20.
C. Washtenaw Metro Alliance – Council Member Robb said a meeting is upcoming.
D. Urban Counties – Mayor Schreiber said there is no report since the last meeting.
E. Freight House – Council Member Murdock said the Friends finally got their CAD disc from the architect and revisions are being worked on to send to SHPO soon.

XV. COUNCIL PROPOSED BUSINESS

Murdock

Council Member Murdock said the pedestrian lights and push buttons are still not operating and the clock is not inoperable.

Mr. Koryzno said he spoke with Mr. Kirton and there is a problem with the parts for the clock. He said he would get an update for Council.

Council Member Murdock referred to Mr. Barfield's presentation and asked what steps would be necessary to have a discussion with staff on what the possibilities and variables are. He asked if staff has met with Mr. Barfield.

Mr. Koryzno said staff hasn't met with Mr. Barfield.

Ms. Gillotti asked Council what direction they prefer staff take.

Council Member Robb said we need to determine if it is legal what he is proposing to do and can it be done.

Council Member Bodary said Mr. Barfield would like the city to do the demolition.

Ms. Gillotti said one of the houses for demolition is on the dangerous buildings list and there have been no conversations with Mr. Barfield yet. She said there was a conversation regarding establishing a long term lease. She said the MOU would be similar to what is being worked on now with Rutherford pool.

Robb

Council Member Robb said thank you for the sign next to Sidetracks.

Council Member Vogt moved, supported by Council Member Bodary to extend the meeting to 11:45 p.m.

On a voice vote the motion carried and the meeting was extended.

Bodary

Council Member Bodary said a 15 minute presentation and resolution for the Mayor's Millennial Conference will be coming to Council at the first meeting in February meeting.

Mr. Bodary said there are issues coming up with the permitting for the new American Legion building on Ecorse Road and asked if they have been resolved.

City Attorney Barr said the issues have been resolved.

Jefferson

Council Member Jefferson asked if any bids have been received for the Senior Center kitchen remodeling.

Ms. Gillotti answered no.

Mr. Jefferson asked if the baseball diamond at Chidester is the city's property.

Mr. Koryzno answered no.

Mr. Jefferson expressed concern about the number of YHC closed meetings that are being held and asked why are they being held and whose calling them? He asked the City Manager to look into this and said he thinks they are in violation of the open meetings act. He expressed dissatisfaction with the lack of response to Council's request for minutes and documents.

XVI. COMMUNICATIONS FROM THE MAYOR

Mayor Schreiber said the YHC resident commissioner appointment is vacant and said he was given the name of Hershey Ballard and asked if Council has any comments before he nominates him.

XVII. COMMUNICATIONS FROM THE CITY MANAGER

Mr. Koryzno said the proposals have been received for the city income tax study and asked Council if they are available for a special meeting at 7:30 a.m. on February 17 to approve a contract for service.

Mr. Koryzno announced he and some council members will be meeting with HUD tomorrow.

Mr. Koryzno thanked City Council for the resolution and support over the years. He said he was honored to serve as City Manager of Ypsilanti. He added that Ypsilanti has been good to his family and the employees have been excellent during cut backs. He said he was privileged to have a great group of department heads and wished everyone great success.

Mayor Pro-Tem Richardson said it was a pleasure working with Mr. Koryzno and traveling with him to the MML conferences.

XVIII. AUDIENCE PARTICIPATION

1. Leonardo Christian wished Mr. Koryzno success.

2. Bob Levy thanked Mr. Koryzno for making the town the best it could be and said the city has a wonderful group of people working here. He wished M. Koryzno good luck and God's speed.

XIX. REMARKS FROM THE MAYOR

Mayor Schreiber wished Mr. Koryzno the best.

XX. ADJOURNMENT

Resolution No. 2012-013, adjourning the City Council Meeting.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

That the City Council Meeting be adjourned, on call, by the Mayor or two (2) members of Council.

OFFERED BY: Council Member Jefferson
SUPPORTED BY: Council Member Vogt

On a voice vote the motion carried. The meeting adjourned at 11:40 p.m.

Resolution No. 2012 – 021
February 7, 2012

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

That the following items be approved:

1. Resolution No. 2012-022, adopting the Millenial Vision and protocol for the City of Ypsilanti.

2. Resolution No. 2012-023, approving contract with MDOT for 2012 CMAQ Equipment Replacement Project.

3. Resolution No. 2012-024, authorizing execution of the Adoption Agreement, Amended Cafeteria Plan and renewal contract with BASIC for administrative assistance of the city's flex plan.

4. Resolution No. 2012-025, authorizing the City to retain Hartford Insurance to provide 457(b) deferred compensation services to city employees for the calendar year of January 1, 2012 through December 31, 2012.

OFFERED BY: ____

SUPPORTED BY: ____

YES: NO: ABSENT: VOTE:

REQUEST FOR LEGISLATION
February 1, 2012

To: Mayor and Council

From: Council Member Bodary

Subject: Millennial Mayors Congress

SUMMARY & BACKGROUND:

The Millennial Vision for Metro Detroit, passed by the Millennial Mayors Congress on December 3, 2011, outlines the Congress's vision for the region's future. It seeks to coordinate development and investment according to the regional priorities expressed by Millennial residents and guided by the wisdom of governmental officials. The vision is based in extensive research on what Millennials seek in a place where they can live, work and play. We believe that the goals expressed in this vision will make our region more attractive not only to young people but to current residents and talented workers.
On the next page is a draft of resolution that Ypsilanti can use to demonstrate its commitment to the Millennial Mayors Congress visioning protocol. Final language should be adapted to local preferences and conditions.

Once the resolution is passed through city council, we urge you to meet with Valerie Bieberich, program coordinator, and your Millennial representative, Sarah Demmon (and/or alternate Morgan Cox), to talk about how this vision might be incorporated into Ypsilanti's planning and policymaking. Implementation of this issue protocol is not about achieving all of these goals in a set amount of time—rather, it's about working together and using this framework to guide our decision-making. For Ypsilanti, this may take the form of implementing small projects recommended by the vision. It may mean incorporating these goals into your economic development plan. Or, it may simply mean hanging these on a wall somewhere and using them to prioritize and guide which policies and projects you tackle next.

RECOMMENDED ACTION: Approval

CITY MANAGER APPROVAL: ______________________ COUNCIL AGENDA DATE: 2-1-12

CITY MANAGER COMMENTS: ______________________

FISCAL SERVICES DIRECTOR APPROVAL: ______________________

Resolution No. 2012 –022
February 7, 2012

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS the City of Ypsilanti is one of 22 local governments participating in the Millennial Mayors Congress, a voluntary regional coalition of municipal leaders and young residents; and

WHEREAS Michael Bodary and Sarah Demmon are Ypsilanti's appointed representatives to the Millennial Mayors Congress; and

WHEREAS the Millennial Mayors Congress unanimously adopted the Millennial Vision for Metro Detroit on December 3, 2011 via the attached resolution in order to guide and coordinate future development according to the priorities of Millennial residents;

WHEREAS the City Council has determined that it is in the interests of the City of Ypsilanti, as a participating member of the Millennial Mayors Congress, to pursue the same goals for metro Detroit's future.

NOW THEREFORE IT IS RESOLVED that it is the goal of the City of Ypsilanti to work towards the shared goals for metro Detroit enumerated in the Millennial Vision for Metro Detroit.

IT IS FURTHER RESOLVED that the City Council instructs the City Manager and the [relevant staff person] to work with Michael Bodary, Sarah Demmon and the staff of the Millennial Mayors Congress to identify implementation steps, taking into account the specific conditions and priorities of the City of Ypsilanti.

OFFERED BY: ____

SUPPORTED BY: ____

YES: NO: ABSENT: VOTE:

MILLENNIAL VISION FOR METRO DETROIT

This agreement is made and entered into on December 3, 2011, by the Millennial Mayors Congress, a voluntary coalition of municipal leaders and residents of the cities listed below.

Whereas, the Millennial Mayors Congress believes it is necessary to engage diverse leadership across generations and geographies in order to improve the common prosperity of our region; and

Whereas, the Congress desires to voluntarily and collaboratively set forth the principles defined herein that illustrate their commitment to engage Millennials in the governmental process; and

Whereas, a regional vision based in the needs and desires of Millennial residents and guided by the wisdom of city officials will ensure that member cities are working collaboratively to address shared problems; and

Whereas, the Congress seeks to elevate sustainability, equitable opportunity and access, a creative and innovative environment, and openness to new people and ideas; and

Whereas, the Millennial Vision for Metro Detroit is based in extensive research of Millennial residents of metro Detroit and guided by the Congress's mission to empower young leaders;

Therefore, in consideration of the mutual agreements contained herein, the undersigned Congress representatives acknowledge the Millennial Vision for Metro Detroit as a guiding force for future development of metro Detroit and its member communities, and resolve to work together to promote these shared goals:

- A healthy, sustainable economy powered by **entrepreneurship and innovation**.
- An abundance of jobs across skill level and education, providing workers—especially young talent—with access to **diverse employment opportunities**.
- A vibrant region characterized by a network of **compact, mixed-use spaces**.
- Development, redevelopment and adaptive reuse that support and enhance existing neighborhoods and highlight the strong, **authentic character** of individual communities.
- A **regional transportation** network with many travel **choices,** including biking, walking and transit, that allows residents to easily, reliably and affordably **access** amenities across the metro area and within their own cities.
- An **equitable primary and secondary education system** in every community that prepares all students for the new economy.
- Affordable and accessible **higher education**.
- Representative, responsive, accessible and efficient **local government**.
- **Energy efficiency** and increased use of alternative energy sources.
- Abundant and healthy **open space, waterways and outdoor recreation** opportunities.

REQUEST FOR LEGISLATION
February 7, 2012

From: Stan Kirton, Public Services Director

Subject: Michigan Department of Transportation Contract No. 2012-0262 for 2012 CMAQ Equipment Replacement Project

SUMMARY & BACKGROUND:

The City submitted an application to the 2012 Congestion Mitigation and Air Quality (CMAQ) Program to purchase a less polluting diesel street sweeping truck to replace an older vehicle with high emissions. The funding was approved for this equipment purchase in 2012. The CMAQ funding for this purchase is capped at $215,000. The estimated cost for the new sweeper truck is $215,000. Approximately $3,000 in engineering costs was expended to calculate the reduction in emissions required for the application, City of Ypsilanti will not incur any additional costs for this purchase.

Staff solicited and received three (3) quotes for sweepers. Bell Equipment submitted a quote of $214,245 for an Elgin Whirlwind Street Sweeper; Fredrickson Supply submitted a quote of $203,750 for a TYMCO, Comdex 600 Regenerative Sweeper; AIS Construction Equipment submitted a quote of $214,909 for an Allianz Johnston VT650 Vacuum Sweeper. DPS staff road tested all three sweepers and thoroughly examined the features of each sweeper. Staff found the Allianz Johnston VT650 Vacuum Sweeper was superior in several key functions such as clearing debris clogs in the vacuum hoses easily and without climbing on the vehicle; basic operator maintenance such as the quick change brush replacement system that will increase productivity; corrosion proof electrical connections; stainless steel debris hopper and water tank with a comprehensive warranty that covers corrosion as well cracking and other desirable features. Input from our operators and the findings of the equipment evaluations were considered and it was determined that the Allianz Johnston VT650 Vacuum Sweeper would best serve the needs of the city.

Staff requests council approve the contract with MDOT to receive CMAQ Funds to purchase the Allianz Johnston VT650 Vacuum Sweeper.

RECOMMENDED ACTION: Approval

ATTACHMENTS: MDOT Contract No. 2012-0262, Resolution, Sweeper Bids

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CITY MANAGER APPROVAL:________________________ AGENDA DATE: February 7, 2012

CITY MANAGER COMMENTS: ____

FISCAL SERVICES DIRECTOR APPROVAL: ____

Resolution No. 2012 - 023
February 7, 2012

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS, Congestion Mitigation and Air Quality (CMAQ) funding has been programmed to replace the 1987 Elgin Eagle Street Sweeper in 2012; and

WHEREAS, it is necessary to enter into a contract with the Michigan Department of Transportation to receive the CMAQ Funds to purchase a 2012 Allianz Johnston VT650 Vacuum Street Sweeper;

NOW THEREFORE BE IT RESOLVED THAT the City Council approves the Michigan Department of Transportation Contract No. 2012-0262; and

THAT the Mayor and City Clerk are authorized to sign this contract and any change orders, subject to approval by the City Attorney, to facilitate the purchase of this vehicle.

OFFERED BY: ____

SUPPORTED BY: ____

YES: NO: ABSENT: VOTE:

☐ **Lansing**
3600 N. Grand River Ave.
Lansing, MI 48906
Telephone: (517) 321-8000

☐ **Saginaw**
4600 AIS Drive
Bridgeport, MI 48722
Telephone: (989) 777-0090

☐ **Northeast Detroit**
65809 Gratiot
Lenox, MI 48050
Telephone: (810) 727-7502

☐ **Grand Rapids**
600 44th Street, S.W.
Grand Rapids,MI 49548
Telephone: (616) 538-2400

☐ **Traverse City**
8300 M-72 East
Williamsburg, MI 49690
Telephone: (231) 267-5060

10/7/11

Service is the Other Half of A Great Product!

City of Ypsilanti
One South Huron St.
Ypsilanti, MI 48197
Attn: John Sherwood, Stan Kirton

John and Stan,

AIS is pleased to offer for your consideration a Johnston VT650 sweeper.
The sweeper will be equipped as follows:

Stainless Steel debris hopper 8.5 cu yd (Volumetric)
Stainless Steel water tank
Stainless Steel Shared fuel tank
Beltless Fluid Coupling w/ step-up gear driven fan transmission
    Full Five-Year Power Train Warranty
190 sq. in. Vacuum Nozzle for heavy leaf pick- up
    10" Diameter Vacuum Hose
    In-Cab Pneumatic Nozzle Opening for bulky material
144" wide sweeping path dual – 96" single
    28" Diameter Gutter brooms
    Steel Butter broom segments
    16"X50" Wide sweep broom
    In-Cab Variable Speed butter broom control
Top Mounted Catch Basin Cleaning Hose- 270 Degree Rotation
In-Cab or External dump controls
    Electric over hydraulic back up dump system
    Automatic Safety body prop
Centralized Weatherproof Systems locker w/ all solenoids and test ports
    Corrosion Proof electrical connectors – IP 67
    L.E.D.'s on all Solenoid Plugs
Sealed Auxiliary Engine Compartment for low sound levels
Water Spray Jets
    Gutter Brooms water spray jets

Wide sweep water spray jets

Vacuum nozzle water spray jets (two per side)
Auxiliary Engine – John Deere Turbocharged Diesel
Turbo III Precleaner
Ergo memory sweep button
Powasave/Thrust (Dual) - Save Broom life – In-Cab down Pressure
Rota tilt (Dual) allows reaching into deep curbs
Varibrush in/out control of gutter brooms in cab dual
VariBrush In/Out Control of Gutter Brooms in-cab dual
Super wash 8 gpm. 1500 psi.
Two additional water jets on vacuum nozzle right and left
Mirrors, Remote w/ clearance light and heat

Freightliner M2 Chassis

Total price $214,909.00

Respectfully submitted,

Jeff Ely

FREDRICKSON SUPPLY

11-28-11

City of Ypsilanti
One South Huron Street
Ypsilanti, MI 48197

Dear Sirs;

Thank you for the opportunity to supply TYMCO regenerative sweeper. TYMCO has set the standard in Regenerative air sweeping over 25 years with parts support, product development, and dealer service. Regenerative air sweeping by TYMCO has been independently tested and proven to outperform all mechanical and vacuum sweepers in production and environmental quality. Maintenance costs are greatly reduced with TYMCO sweepers with NO daily, weekly, or monthly grease points. We at Fredrickson Supply look forward to serving your sweeping needs.

Comdex 600
330 Gallons Water dust suppression
Easer cab and Engine accessibility
Excellent Turning Radius and Maneuverability
Hi/lo pressure wash down system
Gutter Broom tilt adjuster left – right
Abrasion Protection Package
High output water
Auto Sweep Interrupt
Dump switch in cab
Stainless Steel Hopper , Dust Separator, Blower Housing
Operator friendly ergonomics
Better Broom and rear Visibility
Hopper Drain
Electric wash down pump
BAH pick up head design
Hopper and BAH deluge
Pick up head curtain lifter
Reverse pick up head system
Rear Camera / Monitor System

2112 International 4300 M-7 2 speed
LED Alternating Warning Lights
LED lights – stop/ turn / tail
LED Arrow Stick
2- 12" Parabolic Mirrors
Air Dryer

Investment; (Delivered with full training) ------------------------ $203,750.00

Thank you for this opportunity, Should you have any questions regarding this quote please contact on my mobile # 248 770 7563.

David Carrico
Fredrickson Supply

Southeastern
EQUIPMENT CO., INC.

48545 Grand River Avenue
NOVI, MI 48374

Phone: 248-349-9922
Fax: 248-349-9191

NJPA CONTRACT
#031710

Phone:
Email:

QTY	Description	NJPA Price	Total
1	**Vacall AJV1215 12 Cubic Yard Vacuum Truck**	$171,777.63	
	Complete With;		
	Electric Back Up Alarm		
	Fenders		
	Mud Flaps Behind Rear Tires		
	Tow Hooks Front		
	Factory Mounting Tandem Axle		
	Powder Coat; Subframe, Power Frame, Reel Base		
	Front Reel With 800 ' Capacity (1" Hose)		
	OMSI Transfer Case		
	Vacuum Pump Direct Drive		
	Hydraulic Temperature Level Sight Eye		
	Hydraulic Filter/Valve Suction Side		
	Lockable Tool Box, Aluminum		
	Variable Piston Pump		
	Platform/Steps on Powerframe		
	Stainless Steel Float Ball Cage		
	Carbon Steel Splash Shield		
	Air Operated 4" Vacuum Relief, Panel & Handheld		
	Hose Reel w/50' 1/2" Hose/Gun, Driver MTD		
	Footage Counter On Reel Flange		
1	Debris Tank Galvanized	$4,218.24	
1	Float Level Indicator w/Stainless Steel Ball	$411.43	
1	Internal Tank Flusher-Full Flow	$2,339.19	
1	Internal Full Size Decant Screen	$525.35	
1	4" Brass Knife Valve/ Sludge Pump Inlet	$464.88	
1	Sludge Pump Rear Door 4"	$7,045.39	
1	6" Diameter x 12" Standpipe On Sludge Pump	$988.00	
1	2 1/2" Y-Strainer On Fill Line	$250.98	
1	Air Purge System	$361.58	
1	Cold Weather Recirculation Pump	$2,214.44	
1	Stainless Strainer Basket in Cyclone Seperator	$714.65	
1	Remote Grease Fitting For Boom Rototation	$2,343.34	

MICHIGAN DEPARTMENT OF TRANSPORTATION

CITY OF YPSILANTI

CONTRACT

This Contract is made this date of ____________________ by and between the Michigan Department of Transportation, hereinafter referred to as the "DEPARTMENT," and the City of Ypsilanti hereinafter referred to as the "AGENCY."

Section 1. PURPOSE

This Contract sets forth a grant from the Federal Highway Administration (FHWA) to the AGENCY under the Congestion Mitigation and Air Quality (CMAQ) Improvement Program for the purchase of one newer, less polluting diesel street sweeper truck to replace an older vehicle with high emissions, as set forth in Exhibit A, dated November 28, 2011, pages 1 through 2, attached hereto and made a part hereof, such vehicle purchase to be hereinafter referred to as the "PROJECT."

Section 2. SCOPE OF PROJECT

The AGENCY will undertake and complete the PROJECT in accordance with the terms and conditions of this Contract.

Section 3. ESTIMATED COST OF PROJECT

The PROJECT cost will be paid by CMAQ funds from the federal government. Federal CMAQ funds will be applied to the PROJECT costs at a federal participation ratio of 100 percent up to an amount not to exceed Two Hundred Fifteen Thousand Dollars ($215,000.00), as set forth in Exhibit A. The AGENCY will be responsible for all costs in excess of the FHWA funds shown above.

The DEPARTMENT may reduce the amount of this Contract if the amount of federal funds actually received is less than shown above.

Funding for this Contract is contingent upon approval of the funding by the FHWA, which is the prime contractor. The AGENCY (referred to in Exhibit I as the "REQUESTING PARTY") must comply with the applicable provisions of Exhibit I, "General Agreement Provisions for Federal Aid Projects," attached hereto and made a part hereof.

Section 4. ACCOUNTING RECORDS, DOCUMENTATION, AND REPAYMENT

The AGENCY will:

a. Establish and maintain accurate records, in accordance with generally accepted accounting principles, of all expenses incurred for which payment is sought or made under this Contract, said records to be hereinafter referred to as the "RECORDS." Separate accounts will be established and maintained for all costs incurred under this Contract.

b. Comply with the Single Audit Act of 1984, as amended, including, but not limited to, the Single Audit Amendments of 1996 (31 USC 7501-7507).

c. Comply with the requirements of the federal Office of Management and Budget (OMB) Circular A-133, as revised or amended, for agencies expending a total of Five Hundred Thousand Dollars ($500,000.00) or more in federal funds from one or more funding sources in their fiscal year, and will:

   i. Submit two copies of:

   - The Reporting Package
   - The Data Collection Form
   - The management letter to the agency, if one issued by the audit firm

   The OMB Circular A-133 audit must be submitted to the address below in accordance with the time frame established in the circular, as revised or amended.

   ii. Agencies expending less than Five Hundred Thousand Dollars ($500,000.00) in federal funds must submit a letter to the DEPARTMENT advising that a circular audit was not required. The letter will indicate the applicable fiscal year, the amount of federal funds spent, the name(s) of the DEPARTMENT federal programs, and the Catalog of Federal Domestic Assistance (CFDA) grant number(s). This information must also be submitted to the address below.

   Address: Michigan Department of Transportation
   Bureau of Finance and Administration
   Contract Services Division
   Service Prequalification Technician
   P.O. Box 30050
   Lansing, MI 48909

   iii. Agencies must also comply with applicable state laws and regulations relative to audit requirements.

iv. Agencies will not charge audit costs to the DEPARTMENT's federal programs that are not in accordance with the aforementioned OMB Circular A-133 requirements.

v. All agencies are subject to the federally-required monitoring activities, which may include limited scope reviews and other on-site monitoring.

vi. The federal award associated with this Contract is CFDA No. 11088 (Highway Planning and Construction), award year 2011, Federal Highway Administration, Department of Transportation.

d. Maintain the RECORDS for at least three (3) years from the date of final payment made by the DEPARTMENT under this Contract. In the event of a dispute with regard to the allowable expenses of any other issue under this Contract, the AGENCY will thereafter continue to maintain the RECORDS at least until that dispute has been finally decided and the time for all available challenges or appeals of that decision has expired.

e. Allow the DEPARTMENT or its representative to inspect, copy, or audit the RECORDS at any reasonable time after giving reasonable notice.

f. Assure compliance with subsections (a), (b), (c), (d), and (e) above for all subcontracted work.

Section 5. PROCUREMENT OF VEHICLE(S) BY THE AGENCY

The AGENCY will purchase the PROJECT equipment through its own local purchase process or through the State of Michigan Extended Purchasing Program.

If the AGENCY purchases vehicle(s) through the State of Michigan Extended Purchasing Program, the AGENCY is exempt from the contract approval process described in Section 6. When purchasing vehicle(s) from the State of Michigan Extended Purchasing Program, the AGENCY must follow the procedures outlined in the "Guidelines for State of Michigan Extended Purchasing Program," dated March 10, 2006, or as revised, attached hereto and made a part hereof by reference as if the same were repeated in full herein. When purchasing vehicles under the local purchase process, the AGENCY must follow the procedures outlined in the "Guidelines for Local Vehicle Purchase on State Administered Grants," dated March 10, 2006, or as revised, attached hereto and made a part hereof by reference as if the same were repeated in full herein, and is not exempt from the procedures set forth in Section 6.

Section 6. THIRD-PARTY CONTRACT PROCEDURES

Unless the AGENCY has been certified in accordance with Michigan State Transportation Commission policy, the AGENCY will submit to the DEPARTMENT for approval all contracts, including amendments, between the AGENCY and a party other than the DEPARTMENT that relate to this Contract that are estimated to be in excess of the dollar amount for third-party contracts identified in Michigan State Transportation Commission policy, prior to said contracts being signed by the AGENCY. The AGENCY will not enter into multiple contracts of lesser amounts for the purpose of avoiding such approval process.

DEPARTMENT approval does not constitute an assumption of liability, a waiver, or an estoppel to enforce any of the requirements of this Contract, nor will any such approvals by the DEPARTMENT be construed as a warranty of the third party's qualifications, professional standing, ability to perform the work being subcontracted, or financial integrity.

The AGENCY is responsible for the accuracy of the financial and non-financial data and reports submitted for reimbursement.

a. PROJECT-Related Procurement Documents: Any agency that is not certified in accordance with Michigan State Transportation Commission policy will submit to the DEPARTMENT copies of the following procurement documents for review and authorization by the DEPARTMENT prior to solicitation of bids over the dollar amount identified in Michigan State Transportation Commission policy:

    i. Invitation for Bids (IFBs) and bidders list.

    ii. Amendments to the above, to be submitted by the AGENCY prior to distribution.

    iii. Any specifications, plans, drawings, and/or quantity figures to be included in the IFBs.

b. Competitive Bidding: Any agency that is not certified in accordance with Michigan State Transportation Commission policy:

    i. Will document competitive quotations utilizing local procurement procedures for third-party contractual agreements equal to or less than the dollar amount identified in Michigan State Transportation Commission policy, except for purchases up to Twenty-Five Hundred Dollars ($2,500.00).

    ii. Will advertise for competitive bids on third-party contractual agreements over the dollar amount identified in Michigan State Transportation Commission policy, except for contracts for professional and consulting services.

    iii. Will submit to the DEPARTMENT the names of all qualified bidders or a list of proposals, the amount of each bid or proposal, and the identification of the one selected.

iv. May award a contract to a responsible bidder other than the lowest in price, provided that appropriate provision for such action is included in the IFB upon which bids are invited. Justification for such selection will be provided to the DEPARTMENT prior to the award of the contract.

Section 7. BILLINGS, PAYMENTS, AND AUDITS

The AGENCY may make requests for payment of allowable PROJECT costs. All costs must be in accordance with Title 49 CFR Part 18, incorporated herein by reference as if the same were repeated in full herein. In order to receive payments from the DEPARTMENT, the AGENCY must:

a. Request in writing reimbursement for any PROJECT costs incurred by the AGENCY. Vendor or contractor billings to the AGENCY must be submitted as supportive documentation for any items on the AGENCY's billing to the DEPARTMENT.

b. The DEPARTMENT will process payment to the AGENCY upon receipt of written request for reimbursement from the AGENCY as supported by documentation, as set forth in subsection (a), above.

c. Upon receipt of payment from the DEPARTMENT, the AGENCY will make payment to its vendor(s) immediately. The AGENCY will then submit proof of vendor payment to the DEPARTMENT. Upon receipt of proof of vendor payment by the AGENCY, the DEPARTMENT will bill the FHWA for the PROJECT costs.

d. If the FHWA denies payment of an invoice, the AGENCY will owe these funds to the DEPARTMENT. If the AGENCY fails to repay the overpayment or reach agreement with the DEPARTMENT on a repayment schedule within thirty (30) days, the AGENCY agrees that the DEPARTMENT will deduct all or a portion of the overpayment from any funds then or thereafter payable by the DEPARTMENT to the AGENCY under this Contract or any other agreement or payable to the AGENCY under the terms of 1951 PA 51, as applicable.

e. The AGENCY agrees that the costs reported to the DEPARTMENT for this Contract will represent only those items that are properly chargeable in accordance with this Contract. The AGENCY also certifies that it has read the Contract terms and has made itself aware of the applicable laws, regulations, and terms of this Contract that apply to the reporting of costs incurred under the terms of this Contract.

f. Within sixty (60) days after PROJECT completion or termination, the AGENCY will submit to the DEPARTMENT a billing designated as Final Billing to be charged against the Contract. Upon written request by the AGENCY to the DEPARTMENT within the sixty (60) day period, which request will include documentation of the circumstances that prevent timely submission of all billings that support the final billing, the DEPARTMENT may, in writing, extend the sixty (60) day period to a date certain. If the AGENCY fails to provide all billings and supporting documentation for the final billing sixty (60) days after the date of PROJECT completion or termination or before or upon the extended date certain established by the DEPARTMENT, the DEPARTMENT may elect not to accept any further billings, regardless of whether or not the costs are otherwise allowable under the Contract.

Section 8. AUDIT AND REPAYMENT

In the event that an audit performed by or on behalf of the DEPARTMENT indicates an adjustment to the costs reported under this Contract or questions the allowability of an item of expense, the DEPARTMENT will promptly submit to the AGENCY a Notice of Audit Results and a copy of the audit report, which may supplement or modify any tentative findings verbally communicated to the AGENCY at the completion of an audit.

Within sixty (60) days after the date of the Notice of Audit Results, the AGENCY will (a) respond in writing to DEPARTMENT indicating whether or not it concurs with the audit report, (b) clearly explain the nature and basis for any disagreement as to a disallowed item of expense, and (c) submit to the DEPARTMENT a written explanation as to any questioned or no opinion expressed item of expense, hereinafter referred to as the "RESPONSE." The RESPONSE will be clearly stated and will provide any supporting documentation necessary to resolve any disagreement or questioned or no opinion expressed item of expense. Where the documentation is voluminous, the AGENCY may supply appropriate excerpts and make alternate arrangements to conveniently and reasonably make that documentation available for review by the DEPARTMENT. The RESPONSE will refer to and apply the language of the Contract. The AGENCY agrees that failure to submit a RESPONSE within the sixty (60) day period constitutes agreement with any disallowance of an item of expense and authorizes the DEPARTMENT to finally disallow any items of questioned or no opinion expressed cost.

The DEPARTMENT will make its decision with regard to any Notice of Audit Results and RESPONSE within one hundred twenty (120) days after the date of the Notice of Audit Results. If the DEPARTMENT determines that an overpayment has been made to the AGENCY, the AGENCY will repay that amount to the DEPARTMENT or reach agreement with the DEPARTMENT on a repayment schedule within thirty (30) days after the date of an invoice from the DEPARTMENT. If the AGENCY fails to repay the overpayment or reach agreement with the DEPARTMENT on a repayment schedule within the thirty (30) day period, the AGENCY agrees that the DEPARTMENT will deduct all or a portion of the overpayment from any funds then or thereafter payable by the DEPARTMENT to the AGENCY under this Contract or any other agreement or payable to the AGENCY under the terms of 1951 PA 51, as applicable. Interest will be assessed on any partial payments or repayment schedules based on the unpaid balance at the end of each month until the balance is paid in full. The assessment of interest will begin thirty (30) days from the date of the invoice. The rate of interest will be based on the Michigan Department of Treasury common cash funds interest earnings. The rate of interest will be reviewed annually by the DEPARTMENT and adjusted as necessary based on the Michigan Department of Treasury common cash funds interest earnings. The AGENCY expressly consents to this withholding or offsetting of funds under those circumstances, reserving the right to file a lawsuit in the Court of Claims to contest the DEPARTMENT's decision only as to any item of expense the disallowance of which was disputed by the AGENCY in a timely filed RESPONSE.

Section 9. ASSIGNMENT OF FACILITY/PROJECT EQUIPMENT

Any assignment will require the prior written approval of the DEPARTMENT. Copies of the awarded "Certificate of Assignment" and "Certificate of Acceptance" will be furnished to the DEPARTMENT when the facility/PROJECT equipment and contract are assigned to another agency. Assignment does not relieve the AGENCY of its obligation under this Contract.

Section 10. INSPECTION OF FACILITY/PROJECT EQUIPMENT AND RECORDS

The AGENCY will permit the DEPARTMENT, the Comptroller General of the United States, and the Secretary of the United States Department of Transportation or their authorized representatives, agents, or employees to audit, review, and inspect any facility and all equipment purchased as part of the PROJECT, all transportation services rendered by the AGENCY by the use of such facility/equipment, and all relevant PROJECT records. Any approvals, reviews, and inspections of any nature by the DEPARTMENT will not be construed as a warranty or assumption of liability on the part of the DEPARTMENT. It is expressly understood and agreed that any such approvals are for the sole and exclusive purposes of the DEPARTMENT, which is acting in a governmental capacity under this Agreement, and that such approvals are a governmental function incidental to the PROJECT under this Agreement. Such inspection does not relieve the AGENCY of its obligations hereunder, nor is such inspection to be construed as a warranty of the propriety of the equipment, facility, services, or records. The AGENCY will also permit the above referenced persons to audit the books, records, and accounts of the AGENCY pertaining to the PROJECT.

Section 11. DISPOSITION AND USE OF FACILITY/PROJECT EQUIPMENT

The AGENCY agrees that the facility/PROJECT equipment will be used for public transportation purposes for the duration of its useful life and, if funded with federal and/or DEPARTMENT funds, will be used in accordance with federal procedures as set forth in Title 49 CFR Part 18. If, during the period of its useful life, any facility/PROJECT equipment is not used in said manner or is withdrawn from public transportation service, the AGENCY will immediately notify the DEPARTMENT in writing and will return such facility/PROJECT equipment to the DEPARTMENT in accordance with federal and/or DEPARTMENT procedures and will convey the title to said equipment to the DEPARTMENT.

During the period of this Contract, the AGENCY will maintain the facility/PROJECT equipment for the period of the useful life of such equipment. Maintenance will conform to the manufacturer's recommendations as to service and service intervals for such equipment. In addition, the AGENCY is required to submit a vehicle maintenance plan or plan revision, as directed by the DEPARTMENT, for review and approval by the DEPARTMENT. This vehicle maintenance plan, at a minimum, will include all of the components listed in the DEPARTMENT's "Preventive Maintenance Manual," dated May 1, 2000, or as revised, attached hereto and made a part hereof by reference as if the same were repeated in full herein. If the AGENCY revises its vehicle maintenance plan, said plan will be submitted for review and approval by the DEPARTMENT. The AGENCY will maintain supporting records documenting such maintenance. Representatives of the DEPARTMENT will have the right to conduct periodic inspection for the purpose of confirming proper maintenance pursuant to this section. Such inspection by the DEPARTMENT does not relieve the AGENCY of its obligations hereunder, nor is such inspection by the DEPARTMENT to be construed as a warranty as to the sufficiency of the maintenance but is undertaken for the sole use and information of the DEPARTMENT. The DEPARTMENT may withhold operating funds from the AGENCY for failure to maintain PROJECT equipment pursuant to this section until such time as the AGENCY meets the proper maintenance requirements as determined by the DEPARTMENT.

Facility/PROJECT equipment purchased under this Contract may, at the discretion of the DEPARTMENT, be incorporated into a new or consolidated public transportation service at the time such service is implemented.

At such time as the PROJECT equipment has exceeded its useful life, the AGENCY, with prior notification to the DEPARTMENT, will dispose of said equipment in accordance with DEPARTMENT and/or federal procedures. All proceeds from the disposal of PROJECT equipment will remain with the AGENCY and be used to support the provision of public transportation services.

It is further expressly agreed that it is the intent of the parties in entering into this Contract to create and give to the DEPARTMENT a security interest in any PROJECT equipment purchased pursuant to the terms of this Contract. It is expressly agreed that the DEPARTMENT will have and retain a security interest in any PROJECT equipment purchased pursuant to the terms of this Contract until the terms of this section have been met.

The AGENCY agrees and warrants that it will not allow any encumbrance, lien, security interest, mortgage, or any evidence of indebtedness to attach to or be perfected against any PROJECT equipment until all of its duties, obligations, and responsibilities are satisfied as required herein.

Section 12. INSURANCE

The AGENCY will carry and maintain for the life of the facility/PROJECT equipment, as a minimum, insurance or self insurance as set forth in Exhibit B, attached hereto and made a part hereof. Insurance payment for loss or damage will be made to the

DEPARTMENT. The AGENCY will also provide and maintain public liability and property damage insurance, insuring as they may appear the interests of all parties to this Contract against any and all claims that may arise out of the AGENCY's operation hereunder, as set forth in Exhibit B.

Section 13. INDEMNIFICATION

In addition to the protection afforded by any policy of insurance, the AGENCY agrees to indemnify and save harmless the State of Michigan, the Michigan State Transportation Commission, the DEPARTMENT, the FHWA, and all officers, agents, and employees thereof:

a. From any and all claims by persons, firms, or corporations for labor, services, materials, or supplies provided to the AGENCY in connection with this Contract; and

b. From any and all claims for injuries to or death of any and all persons, for loss of or damage to property, for environmental damage, degradation, and response and cleanup costs, and for attorney fees and related costs arising out of, under, or by reason of this Contract, except claims resulting from the sole negligence or willful acts or omissions of said indemnitee, its agents, or its employees.

The DEPARTMENT will not be subject to any obligations or liabilities by contractors of the AGENCY or their subcontractors or any other person not a party to the Contract without its specific consent and notwithstanding its concurrence in or approval of the award of any contract or subcontract or the solicitation thereof.

It is expressly understood and agreed that the AGENCY will take no action or conduct that arises either directly or indirectly out of its obligations, responsibilities, and duties under this Contract that results in claims being asserted against or judgments being imposed against the State of Michigan, the Michigan State Transportation Commission, the DEPARTMENT, and/or the FHWA.

In the event that the same occurs, it will be considered as a breach of this Contract, thereby giving the State of Michigan, the Michigan State Transportation Commission, the DEPARTMENT, and/or the FHWA a right to seek and obtain any necessary relief or remedy, including, but not limited to, a judgment for money damages.

Section 14. TERMINATION OR SUSPENSION

With regard to termination or suspension:

a. For any reason, the DEPARTMENT or the AGENCY may, by thirty (30) day written notice, suspend any or all of the rights and obligations under this Contract until such time as the event or condition resulting in such suspension has ceased or been corrected, or the DEPARTMENT may, by thirty (30) days written notice to the AGENCY, terminate any or all of the rights and obligations under this Contract.

b. Upon receipt of any notice of termination or suspension under this section and in accordance with FHWA and DEPARTMENT procedures as set forth in Title 49 CFR Part 18, the AGENCY will proceed promptly to carry out the actions required therein, which may, without limitation, include any or all of the following:

   i. Take all necessary action to keep to a minimum the further incurrence of eligible PROJECT costs, and

   ii. Furnish to the DEPARTMENT a statement of the status of the PROJECT, the inventory, and the PROJECT costs to date, as well as a proposed schedule, plan, and budget for terminating or suspending and closing out PROJECT activities and contracts and other undertakings, the costs of which are otherwise eligible as PROJECT costs. The closing out will be carried out in conformity with the latest schedule, plan, and budget approved by the DEPARTMENT or under the terms and conditions imposed by the DEPARTMENT for failure of the AGENCY to furnish a schedule, plan, and budget within a reasonable time. The closing out of DEPARTMENT financial participation in the PROJECT will not constitute a waiver of any claim that the DEPARTMENT may otherwise have arising out of this Contract.

Section 15. ACCESS

The AGENCY agrees to provide to the DEPARTMENT copies of all reports and data specified in the awarded FHWA grant and in Exhibit A. The AGENCY further agrees to provide access to the DEPARTMENT for all technical data, reports, other documents, and work in process pertaining to the PROJECT. Copies of technical data, reports and other documents will be provided by the AGENCY upon the DEPARTMENT's request.

Section 16. NONDISCRIMINATION AND DBE REQUIREMENTS

With regard to nondiscrimination and Disadvantaged Business Enterprise (DBE) requirements:

a. In connection with the acceptance of this Contract, the AGENCY (hereinafter in Appendix A referred to as the "contractor") agrees to comply with the State of Michigan provisions for "Prohibition of Discrimination in State Contracts," as set forth in Appendix A, dated June 2011, attached hereto and made a part hereof. This provision will be included in all subcontracts relating to this Contract.

b. During the performance of this Contract, the AGENCY, for itself, its assignees, and its successors in interest (hereinafter in Appendix B referred to as the "contractor") agrees to comply with the Civil Rights Act of 1964, being P.L. 88-352, 78 Stat. 241, as amended, being Title 42 USC Sections 1971, 1975a-1975d, and 2000a-2000h-6, and the Regulations of the Department of Transportation (49 CFR Part 21) issued pursuant to said Act, including Appendix B, dated June 2011, attached hereto and made a part hereof. This provision will be included in all subcontracts relating to this Contract.

c. The AGENCY will carry out the applicable requirements of the DEPARTMENT's DBE program and 49 CFR Part 26, including, but not limited to, those requirements set forth in Appendix C, attached hereto and made a part hereof.

Section 17. UNFAIR LABOR PRACTICES

In accordance with 1980 PA 278, MCL 423.321 *et seq.*, MSA 17.458(22) *et seq.*, the AGENCY, in the performance of this Contract, will not enter into a contract with a subcontractor, manufacturer, or supplier listed in the register maintained by the United States Department of Labor of employers who have been found in contempt of court by a federal court of appeals on not less than three (3) occasions involving different violations during the preceding seven (7) years for failure to correct an unfair labor practice, as prohibited by Section 8 of Chapter 372 of the National Labor Relations Act, 29 USC 158. The DEPARTMENT may void this Contract if the name of the AGENCY or the name of a subcontractor, manufacturer, or supplier utilized by the AGENCY in the performance of this Contract subsequently appears in the register during the performance period of this Contract.

Section 18. CERTIFICATION

For all contracts in excess of One Hundred Thousand Dollars ($100,000.00), the AGENCY certifies to the best of its knowledge and belief that:

a. No federal appropriated funds have been paid or will be paid by or on behalf of the AGENCY to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of

Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and/or the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal grant, the AGENCY will complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

c. The AGENCY will require that the language of this certification be included in the award documents for all third-party agreements (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients will certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification will be subject to a civil penalty of not less than Ten Thousand Dollars ($10,000.00) and not more than One Hundred Thousand Dollars ($100,000.00) for each such failure.

Section 19. PROMPT PAYMENT

The AGENCY agrees to pay each subcontractor for the satisfactory completion of work associated with the subcontract no later than ten (10) calendar days from the receipt of each payment the AGENCY receives from the DEPARTMENT. This requirement is also applicable to all sub-tier subcontractors and will be made a part of all subcontract agreements.

This prompt payment provision is a requirement of 49 CFR Part 26, as amended, and does not confer third-party beneficiary right or other direct right to a subcontractor against the DEPARTMENT. This provision applies to both DBE and non-DBE subcontractors.

The AGENCY further agrees that it will comply with 49 CFR Part 26, as amended, and will report any and all DBE subcontractor payments to the DEPARTMENT semi-annually in the format set forth in Appendix G, dated June 1, 2001, attached hereto and made a part hereof, or in any other format acceptable to the DEPARTMENT.

Section 20. ASSIGNMENT OF ANTITRUST RIGHTS

With regard to claims based on goods or services that were used to meet the AGENCY's obligation to the DEPARTMENT under this Contract, the AGENCY hereby irrevocably assigns its right to pursue any claims for relief or causes of action for damages sustained by the State of Michigan or the DEPARTMENT due to any violation of 15 USC, Sections 1 - 15, and/or 1984 PA 274, MCL 445.771 - .788, excluding Section 4a, to the State of Michigan or the DEPARTMENT.

The AGENCY shall require any subcontractors to irrevocably assign their rights to pursue any claims for relief or causes of action for damages sustained by the State of Michigan or the DEPARTMENT with regard to claims based on goods or services that were used to meet the AGENCY's obligation to the DEPARTMENT under this Contract due to any violation of 15 USC, Sections 1 - 15, and/or 1984 PA 274, MCL 445.771 - .788, excluding Section 4a, to the State of Michigan or the DEPARTMENT as a third-party beneficiary.

The AGENCY shall notify the DEPARTMENT if it becomes aware that an antitrust violation with regard to claims based on goods or services that were used to meet the AGENCY's obligation to the DEPARTMENT under this Contract may have occurred or is threatened to occur. The AGENCY shall also notify the DEPARTMENT if it becomes aware of any person's intent to commence, or of commencement of, an antitrust action with regard to claims based on goods or services that were used to meet the AGENCY's obligation to the DEPARTMENT under this Contract.

Section 21. INTEREST OF MEMBERS OF OR DELEGATES TO CONGRESS

No member of or delegate to the Congress of the United States will be admitted to any share or part of this Contract or to any benefit arising therefrom.

Section 22. PROHIBITED INTEREST

No member, officer, or employee of the AGENCY during his/her tenure or one (1) year thereafter will have any interest, direct or indirect, in this Contract or the proceeds thereof.

Section 23. POLITICAL ACTIVITY

The facility provided or obtained under this Contract will not be used for any partisan political or millage activity or to further the election or defeat of any candidate for public office.

Section 24. TERM OF CONTRACT

This Contract will be in effect from the date of award through October 30, 2012.

Costs for the PROJECT may not be incurred in advance of FHWA approval. Costs incurred for the PROJECT that are not approved by the FHWA or the DEPARTMENT will not be eligible for reimbursement and will remain the responsibility of the AGENCY.

Prior to expiration, the time for completion of performance under this Contract may be extended by the DEPARTMENT upon written request and justification from the AGENCY. Upon approval and authorization by the DEPARTMENT, a written amendment will be prepared and issued by the DEPARTMENT. Any such amendment will not operate as a waiver by the DEPARTMENT of any of its rights herein set forth.

The AGENCY agrees to notify the DEPARTMENT in writing of any significant events on a timely basis. A significant event is an event that may have significant potential impact on PROJECT progress, direction, control, or cost.

Section 25. CONFLICTS

In case of any discrepancies between the body of this Contract and any attachments hereto, the body of the Contract will govern.

Section 26. SIGNING AND APPROVAL

This Contract will become binding on the parties and of full force and effect upon signing by the duly authorized representatives of the AGENCY and the DEPARTMENT and upon adoption of a resolution approving said Contract and authorizing the signature(s) thereto of the respective representative(s) of the AGENCY, a certified copy of which resolution will be sent to the DEPARTMENT with this Contract, as applicable.

IN WITNESS WHEREOF, the parties have caused this Contract to be awarded.

CITY OF YPSILANTI

By: ______________________________

Title:

MICHIGAN DEPARTMENT OF TRANSPORTATION

By: ______________________________

Title: Department Director

Exhibit H
Nov 28, 2011

CONGESTION MITIGATION AND AIR QUALITY (CMAQ)
REQUIRED APPLICATION FORM (Hwy 15)

This form MUST be completed IN ITS ENTIRETY for a project to be considered for funding

Fiscal Year	2012	**Phase***	CON	**Control Section**	81063
BMP*		**EMP***		**Length (miles)**	
County	Washtenaw				
Region *(MDOT Region)*	University				
Route Name *(Trunkline, Street, Areawide, Countywide)*	Citywide				
Location Description *(Short description where the project is located)*	City of Ypsilanti				
Work Description *(Short description of work being performed. Please provide enough information for eligibility to be determined)*	Replace one older diesel street sweeper with a newer, less polluting diesel street sweeper.				
Applicant/Phone *(Project/System Manager)/Phone#*	Stan Kirton (734) 483-1421				
Jurisdiction *(State/Local/Transit)*	City of Ypsilanti				

Project Cost	Federal	State	Local	Total
	$215,000	0	0	$ 0.00 $215,000
Emission Calculations *(kg/day; (-) indicates emissions decrease, (+) indicates emissions increase)*	VOC 0	NOx -3.309	CO	PM2.5
(From calculations worksheets. Attach worksheets)				
Cost per Kilogram *(From worksheets)*	VOC N/A	NOx $18.05	CO	PM2.5

Additional Information:

Worksheet 00

Generic Cost Module for use with multiple worksheet projects or custom protocols

Directions: This form is used to calculate the cost effectiveness when adding up emissions from several worksheets for the same project application (multiple

Project Name: Street Sweeper Diesel Replacement Project

Submitter: City of Ypsilanti

Fiscal Year: 2012

Number of individual worksheets associated with this cost effectiveness calculation: This sheet plus attached calculation sheet

Cost Effectiveness Calculation for Multiple Worksheet Projects (340 Day per Year)

Line No.	Description of Data Item/Formula	VOC	NOx	CO	PM2.5
1	Design life of this project in years				
2	Total cost of the project (CMAQ plus match $)				
3	Emissions in KG/day (sum of all applicable worksheets)				
4	Conversion to tons per day (L3*0.0011)	0	0	0	0
5	Emissions reduction over the life of the project (Kg/Life) =H1*H3*340	0	0	0	0
6	Emissions reduction over the life of the project (Tons/Life) =H1*H4*340	0	0	0	0
7	Cost per ton over the design life (L2/L6)	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
8	Cost per Kg over the design life (L2/L5)	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!

Cost Effectiveness Calculation for Multiple Worksheet Projects (240 Day per Year)

Line No.	Description of Data Item/Formula	VOC	NOx	CO	PM2.5
1	Design life of this project in years	15	15		
2	Total cost of the project (CMAQ plus match $)	$215,000.00	$215,000.00		
3	Emissions in KG/day (sum of all applicable worksheets)	0	3.309		
4	Conversion to tons per day (L3*0.0011)	0	0.0036399	0	0
5	Emissions reduction over the life of the project (Kg/Life) =H1*H3*240	0	11912.4	0	0
6	Emissions reduction over the life of the project (Tons/Life) =H1*H4*240	0	13.10364	0	0
7	Cost per ton over the design life (L2/L6)	#DIV/0!	$16,407.65	#DIV/0!	#DIV/0!
8	Cost per Kg over the design life (L2/L5)	#DIV/0!	$18.05	#DIV/0!	#DIV/0!

EXHIBIT B

INSURANCE REQUIREMENTS

The AGENCY will comply with the following insurance requirements, as applicable:

1. Vehicle Insurance

   a. Motor vehicle insurance as required by P.A. 218 of 1956, as amended by P.A. 294 of 1972, the Michigan No-Fault Insurance Law.

      i. Personal Injury Protection (PIP) as required by MCL.500.3101(1).

      ii. Property Protection Insurance (PPI) as required by MCL.500.3101(1).

      iii. Residual Liability Insurance as required by MCL.500.3101(1).

      iv. Self-insurance may be utilized provided the appropriate coverages, limits, and Secretary of State certification are provided. A $1,000,000 minimum per occurrence limit should be carried.

   b. Collision coverage as provided in P.A. 218 of 1956, MCL 500.3037 and comprehensive coverage as provided in P.A. 218 of 1956, MCL 500.2102 shall be carried. Both collision coverage and comprehensive coverage will be for the actual cash value of the vehicle. The amount of deductible for these coverages will be determined by the AGENCY and will be payable by the AGENCY. The AGENCY with prior DEPARTMENT approval may self-insure the collision and comprehensive coverage.

   c. The coverages specified above will name the AGENCY and the DEPARTMENT as the insured.

   d. Before starting work, the AGENCY will give the DEPARTMENT a certificate of insurance certifying that at least the minimum coverages required herein are in effect and specifying that the coverages will not be canceled, nonrenewed, or materially changed by endorsement or through issuance of other policy(ies) of insurance without thirty (30) days advance written notice to the DEPARTMENT. Renewals will be procured at least thirty (30) days prior to expiration of said policies.

2. Facility and/or Equipment Insurance (Non-vehicle)

   a. Insurance - During the term of this Agreement, the AGENCY will:

i. Keep all buildings, improvements, and equipment in, on, or appurtenant to the transportation facility or premises at the commencement of construction and thereafter, including all alterations, building, rebuilding, replacements, changes, additions, and all improvements, insured against loss, and all perils, in an amount not less than ninety percent (90%) of the full replacement value thereof with a deductible not to exceed Ten Thousand Dollars ($10,000). The AGENCY will be responsible for the payment of any deductible. The AGENCY will maintain an annual inventory of all equipment purchased under this Agreement with current dollar values.

ii. Provide Commercial General Liability Insurance covering all operations by or on behalf of AGENCY against claims for personal injury (including bodily injury and death) and property damage in the minimum amount of One Million Dollars ($1,000,000) each occurrence, and Two Million Dollars ($2,000,000) general aggregate.

iii. Before starting work, the AGENCY will give the DEPARTMENT a certificate of insurance certifying that at least the minimum coverages required herein are in effect and specifying that the coverages will not be canceled, nonrenewed, or materially changed by endorsement or through issuance of other policy(ies) of insurance without thirty (30) days advance written notice to the DEPARTMENT. Renewals will be procured at least thirty (30) days prior to expiration of said policies.

b. Bonds

The AGENCY will require the successful bidder to procure and deliver to the AGENCY a Performance Bond and a Lien Bond each in an amount equal to the Agreement price, underwritten by a surety licensed to do business in Michigan, naming the AGENCY as the obligee. Such bonds will be delivered to the AGENCY prior to any construction work being performed.

EXHIBIT I

GENERAL AGREEMENT PROVISIONS FOR FEDERAL AID PROJECTS

1. General Provisions:

   A. The REQUESTING PARTY will comply with all FHWA requirements concerning special requirements of law, program requirements and other administrative requirements.

   B. To qualify for eligible cost, all work shall be documented in accordance with the requirements and procedures of the DEPARTMENT.

   C. Those projects funded with Federal monies will be subject to inspection at all times by the DEPARTMENT and the FHWA.

2. Federal Clean Air Act of 1970: The political subdivisions which are a party to this contract, on those Federally funded projects which exceed a total cost of $100,000.00 stipulate the following with respect to their specific jurisdictions:

   A. That any facility to be utilized in performance under or to benefit from this contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities issued pursuant to the requirements of the Federal Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended.

   B. That they each agree to comply with all of the requirements of Section 114 of the Federal Clean Air Act and Section 308 of the Federal Water Pollution Control Act, and all regulations and guidelines issued thereunder.

   C. That as a condition of Federal aid pursuant to this contract they shall notify the DEPARTMENT of the receipt of any advice indicating that a facility to be utilized in performance under or to benefit from this contract is under consideration to be listed on the EPA List of Violating Facilities.

3. Other Regulatory Requirements:

   A. The REQUESTING PARTY hereby assures and certifies that it will comply with the regulations, policies, guidelines and requirements of 49 CFR Part 18 (U.S. DOT Implementation of the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments or "Common Rule") as they relate to the application, acceptance and use of Federal Funds for this federally-assisted project.

B. The REQUESTING PARTY shall be responsible for the accurate and detailed accounting of the costs and expenses incurred in the performance of any part of the PROJECT work it agrees to undertake as provided within this contract. Said accounts shall be maintained in accordance with generally accepted government accounting principles and 49 CFR Part 18. Said accounts shall be made available for review and audit by the DEPARTMENT and, as required, by the FHWA and appropriate U.S. governmental agencies and shall be retained on file for a period of not less than three years from the date of the final payment for work conducted under this contract.

C. The REQUESTING PARTY shall comply with the Single Audit Act of 1984, P.L. 98-502, and OMB Circular A-133. All such audits are subject to the review and approval of the DEPARTMENT, the FHWA, and the Office of the Inspector General.

(1) Agencies expending a total of $500,000 or more in federal funds, from one or more funding sources in its fiscal year, shall comply with the requirements of the federal Office of Management and Budget (OMB) Circular A-133, as revised or amended.

The agency shall submit two copies of:

The Reporting Package
The Data Collection Form
The management letter to the agency, if one issued by the audit firm

The OMB Circular A-133 audit must be submitted to the address below in accordance with the time frame established in the circular, as revised or amended.

(2) Agencies expending less than $500,000 in federal funds must submit a letter to the Department advising that a circular audit was not required. The letter shall indicate the applicable fiscal year, the amount of federal funds spent, the name(s) of the Department federal programs, and the CFDA grant numbers(s). This information must also be submitted to the address below.

(3) Address: Michigan Department of Transportation
Bureau of Highways Technical Services
425 W. Ottawa, P.O. Box 30050
Lansing, MI 48909

(4) Agencies must also comply with applicable State laws and regulations relative to audit requirements.

(5) Agencies shall not charge audit costs to Department's federal programs which are not in accordance with the OMB Circular A-133 reqirements.

(6) All agencies are subject to the federally required monitoring activities, which may include limited scope reviews and other on-site monitoring.

4. Retention and Custodial Requirements for Records:

A. Financial records, supporting documents, statistical records and all other records pertinent to this instrument shall be retained for a period of 3 years, with the following exception:

(1) If any litigation, claim or audit is started before the expiration of the 3-year period, the records shall be retained until all litigation claims, or audit findings involving the records have been resolved.

(2) Records for nonexpendable property, if any, required with Federal Funds shall be retained for 3 years after its final disposition.

(3) When records are transferred to or maintained by FHWA, the 3-year retention requirement is not applicable to the recipient.

B. The retention period starts from the date of the submission of the final expenditure report.

C. The Secretary of Transportation and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers and records of the recipient, and its contractors and subcontractors, to make audits, examinations, excerpts and transcripts.

5. Equal Employment Opportunity:

A. The REQUESTING PARTY agrees to incorporate in all contracts having a value of over $10,000, the provisions requiring compliance with Executive Order 11246, as amended, and implementing regulations of the United States Department of Labor at 41 CFR 60, the provisions of which, other than the standard EEO clause and applicable goals for employment of minorities and women, may be incorporated by reference.

B. The REQUESTING PARTY agrees to ensure that its contractors and subcontractors, regardless of tier, awarding contractors and/or issuing purchase orders for material, supplies, or equipment over $10,000 in value will incorporate the required EEO provisions in such contracts and purchase orders.

C. The REQUESTING PARTY further agrees that its own employment policies and practices will be without discrimination based on race, color, religion, sex, national origin, handicap, or age; and that it has an affirmative action plan consistent with the Uniform Guidelines on Employee Selection Procedures, 29 CFR 1607, and the Affirmative Action Guidelines, 29 CFR 1608.

6. Copeland Act: All contracts in excess of $2,000 for construction or repair awarded by the REQUESTING PARTY and its contractors or subcontractors shall include a provision for compliance with the Copeland "Anti-Kick Back" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). This Act provides that each contractor or subcontractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, or give up any part of the compensation to which he is otherwise entitled. The REQUESTING PARTY shall report all suspected or reported violations to the DEPARTMENT.

7. Davis-Bacon Act: When required by the Federal program legislation, all construction contracts awarded by the REQUESTING PARTY and its contractors or subcontractors of more than $2,000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR, Part 5). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The REQUESTING PARTY shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The REQUESTING PARTY shall report all suspected or reported violations to the DEPARTMENT.

8. Contract Work Hours and Safety Standards Act: Where applicable, all contracts awarded by the REQUESTING PARTY in excess of $2,500 that involve the employment of mechanics or laborers, shall include a provision for compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR, Part 5). Under section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard workday of 8 hours and a standard workweek of 40 hours. Work in excess of the standard workday or workweek is permissible provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in the workweek. Section 107 of the Act, if applicable to construction work, provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

9. Access to Records: All negotiated contracts (except those of $25,000 or less) awarded by the REQUESTING PARTY shall include a provision to the effect that the recipient, FHWA, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions.

10. Civil Rights Act: The REQUESTING PARTY shall comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352), and in accordance with Title VI of that Act, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity for which the recipient received Federal financial assistance and shall immediately take any measures necessary to effectuate this Agreement. It shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) prohibiting employment discrimination where:

    A. The primary purpose of and instrument is to provide employment, or

    B. Discriminatory employment practices will result in unequal treatment of persons who are or should be benefiting from the grant-aided activity.

11. Nondiscrimination: The REQUESTING PARTY hereby agrees that, as a condition to receiving any Federal financial assistance from the Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. 2000d), related nondiscrimination statutes, and applicable regulatory requirements to the end that no person in the United States shall, on the ground of race, color, national origin, sex, handicap, or age, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity for which the REQUESTING PARTY receives Federal financial assistance. The specific requirements of the United States Department of Transportation standard Civil Rights assurances with regard to the States' highway safety programs (required by 49 CFR 21.7 and on file with the U.S. DOT) are incorporated in this grant agreement.

12. Rehabilitation Act: The REQUESTING PARTY shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, (29 U.S.C. 794, P.L. 93-112), and all requirements imposed by or pursuant to the regulations of the Department of Health, Education and Welfare (45 CFR, Parts 80, 81 and 84), promulgated under the foregoing statute. It agrees that, in accordance with the foregoing requirements, no otherwise qualified handicapped person, by reason of handicap, shall be excluded from participation in, be denied the benefit of, or be subject to discrimination under any program or activity receiving Federal financial assistance, and that it shall take any measures necessary to effectuate this Agreement.

APPENDIX A
PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS

In connection with the performance of work under this contract; the contractor agrees as follows:

1. In accordance with Public Act 453 of 1976 (Elliott-Larsen Civil Rights Act), the contractor shall not discriminate against an employee or applicant for employment with respect to hire, tenure, treatment, terms, conditions, or privileges of employment or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight, or marital status. A breach of this covenant will be regarded as a material breach of this contract. Further, in accordance with Public Act 220 of 1976 (Persons with Disabilities Civil Rights Act), as amended by Public Act 478 of 1980, the contractor shall not discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment or a matter directly or indirectly related to employment because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of the above covenants will be regarded as a material breach of this contract.

2. The contractor hereby agrees that any and all subcontracts to this contract, whereby a portion of the work set forth in this contract is to be performed, shall contain a covenant the same as hereinabove set forth in Section 1 of this Appendix.

3. The contractor will take affirmative action to ensure that applicants for employment and employees are treated without regard to their race, color, religion, national origin, age, sex, height, weight, marital status, or any disability that is unrelated to the individual's ability to perform the duties of a particular job or position. Such action shall include, but not be limited to, the following: employment; treatment; upgrading; demotion or transfer; recruitment; advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

4. The contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, age, sex, height, weight, marital status, or disability that is unrelated to the individual's ability to perform the duties of a particular job or position.

5. The contractor or its collective bargaining representative shall send to each labor union or representative of workers with which the contractor has a collective bargaining agreement or other contract or understanding a notice advising such labor union or workers' representative of the contractor's commitments under this Appendix.

6. The contractor shall comply with all relevant published rules, regulations, directives, and orders of the Michigan Civil Rights Commission that may be in effect prior to the taking of bids for any individual state project.

7. The contractor shall furnish and file compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission; said forms may also elicit information as to the practices, policies, program, and employment statistics of each subcontractor, as well as the contractor itself, and said contractor shall permit access to the contractor's books, records, and accounts by the Michigan Civil Rights Commission and/or its agent for the purposes of investigation to ascertain compliance under this contract and relevant rules, regulations, and orders of the Michigan Civil Rights Commission.

8. In the event that the Michigan Civil Rights Commission finds, after a hearing held pursuant to its rules, that a contractor has not complied with the contractual obligations under this contract, the Michigan Civil Rights Commission may, as a part of its order based upon such findings, certify said findings to the State Administrative Board of the State of Michigan, which State Administrative Board may order the cancellation of the contract found to have been violated and/or declare the contractor ineligible for future contracts with the state and its political and civil subdivisions, departments, and officers, including the governing boards of institutions of higher education, until the contractor complies with said order of the Michigan Civil Rights Commission. Notice of said declaration of future ineligibility may be given to any or all of the persons with whom the contractor is declared ineligible to contract as a contracting party in future contracts. In any case before the Michigan Civil Rights Commission in which cancellation of an existing contract is a possibility, the contracting agency shall be notified of such possible remedy and shall be given the option by the Michigan Civil Rights Commission to participate in such proceedings.

9. The contractor shall include or incorporate by reference, the provisions of the foregoing paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Michigan Civil Rights Commission; all subcontracts and purchase orders will also state that said provisions will be binding upon each subcontractor or supplier.

Revised June 2011

APPENDIX B
TITLE VI ASSURANCE

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

1. **Compliance with Regulations**: For all federally assisted programs, the contractor shall comply with the nondiscrimination regulations set forth in 49 CFR Part 21, as may be amended from time to time (hereinafter referred to as the Regulations). Such Regulations are incorporated herein by reference and made a part of this contract.

2. **Nondiscrimination**: The contractor, with regard to the work performed under the contract, shall not discriminate on the grounds of race, color, sex, or national origin in the selection, retention, and treatment 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 Regulations, including employment practices, when the contractor covers a program set forth in Appendix B of the Regulations.

3. **Solicitation for Subcontracts, Including Procurements of Materials and Equipment**: All solicitations made by the contractor, either by competitive bidding or by negotiation for subcontract work, including procurement of materials or leases of equipment, must include a notification to each potential subcontractor or supplier of the contractor's obligations under the contract and the Regulations relative to nondiscrimination 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 facilities as may be determined to be pertinent by the Department or the United States Department of Transportation (USDOT) in order to ascertain compliance with such Regulations or directives. If required information concerning the contractor is in the exclusive possession of another who fails or refuses to furnish the required information, the contractor shall certify to the Department or the USDOT, as appropriate, and shall set forth the efforts that it made to obtain the information.

5. **Sanctions for Noncompliance**: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Department shall impose such contract sanctions as it or the USDOT may determine to be appropriate, including, but not limited to, the following:

    a. Withholding payments to the contractor until the contractor complies; and/or

    b. Canceling, terminating, or suspending the contract, in whole or in part.

6. **Incorporation of Provisions**: The contractor shall include the provisions of Sections (1) through (6) in every subcontract, including procurement of material 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 Department or the USDOT 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 from a subcontractor or supplier as a result of such direction, the contractor may request the Department to enter into such litigation to protect the interests of the state. In addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Revised June 2011

(Revised October 1, 2005)

APPENDIX C

Assurances that Recipients and Contractors Must Make
(Excerpts from US DOT Regulation 49 CFR § 26.13)

A. Each financial assistance agreement signed with a DOT operating administration (or a primary recipient) must include the following assurance:

The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any US DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of US DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26 and as approved by US DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

B. Each contract MDOT signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of US DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

Michigan Department
Of Transportation
0165 (07/10)

Appendix G

Prime Consultant Statement of DBE Sub-Consultant Payments

Information required in accordance with 49 CFR §26.37 to monitor progress of the prime consultant in meeting contractual obligations to DBEs.

PRIME CONSULTANT	☐ CHECK IF PRIME IS MDOT-DBE CERTIFIED	AUTHORIZATION NO.	CONTRACT NO.
BILLING PERIOD:	Check if Final Payment ☐		JOB NO.

CERTIFIED DBE SUBCONSULTANT	SERVICES WORK PERFORMED	TOTAL CONTRACT AMOUNT	CUMULATIVE DOLLAR VALUE OF SERVICES COMPELTED	DEDUCTIONS	ACTUAL AMOUNT PAID TO DATE	ACTUAL AMOUNT PAID DURING THIS REPORTING PERIOD	DBE AUTHORZIED SIGNATURE (Final Payment Report Only)	DATE

As the authorized representative of the above prime consultant, I state that, to the best of my knowledge, this information is true and accurate

PRIME CONSULTANT'S AUTHORIZED REPRESENTATIVE (signature)	TITLE	DATEMDO

FOR MDOT USE ONLY

COMMENTS:

SPECIAL NOTE: "Prime Consultant or Authorized Representative" refers to recipients of federal funds as defined at 49 Code of Federal Regulations Part 26

MDOT 0165 (07/10)

INSTRUCTIONS

PRIME CONSULTANT OR AUTHORZIED REPRESENTATIVE:

This statement reports the actual dollar amounts of the project cost earned by and paid to DBE subconsultants. Complete and submit to the Payment Analyst with each billing and within 20 days of receipt of final payment. Some forms may be blank if no payment was made since the previous billing.

For "Contract No., Authorization No.," and "Job No." as appropriate, use the numbers assigned by MDOT.

For "Period Covered," report the calendar days covered by the billing.

For "Services Work Performed" report the main service performed by the subconsultant during the reporting period.

For "Total Contract Amount" report the total amount of the contract between the prime consultant and the subconsultant.

For "Cumulative Dollar Value of Services Completed" report the total amount the subconsultant has earned since beginning this project.

For "Deductions," report deductions made by the prime consultant to the subconsultant's "Cumulative Dollar Value of Services Completed" for retainage, bond or other fees, materials, services or equipment provided to the subconsultant according to mutual, prior agreement (documentation of such agreement may be required by MDOT).

For "Actual Amount Paid to Date," report cumulative actual payments made to the subconsultant for services completed.

For "Actual Amount Paid During this Report Period" report actual payments made to the subcontractor for services during this reporting period.

"Provide "DBE Authorized Signature" for final payment only.

Be sure to sign, title and date this statement.

MDOT PAYMENT ANALYST:

Complete "Comments" if necessary, sign date and forward to the Office of Business Development within seven (7) days of receipt.

MDOT Office of Business Development
P.O. Box 30050
Lansing, Michigan 48909
Questions about this form? Call Toll-free, 1-866-DBE-1264

REQUEST FOR LEGISLATION
February 7, 2012

To: Mayor and Council

From: Judi Smith

Subject: Basic Flex Plan

BACKGROUND:

The City of Ypsilanti began offering the Cafeteria Plan under Section 125 of the Internal Revenue Code of 1986 to employees on July 1, 2008, and has contracted with BASIC to administer the program.

The flex plan offers its employees an opportunity to enroll in a flexible spending account to offset the cost of medical benefits. The flex plan provides tax savings to employees by reducing out-of-pocket expenses for co-pays, prescriptions, etc.

Participating employees avoid federal, state, local, and FICA taxes for all flexible spending account dollars. In addition, these pre-tax deductions by participating employees also save the employer's matching payroll taxes (Social Security & Medicare).

In the past, participation in the program was approved administratively by the City Manager. City staff is bringing this to Council because BASIC has requested an approved resolution from City Council to continue to administer the program. Staff is requesting Council authorize the Interim Manager to execute the Adoption Agreement and Amended Cafeteria Plan, appoint a plan administrator and contract with BASIC to provide assistance to the plan administrator in establishing and maintaining the plan from January 1, 2012 through December 31, 2012.

RECOMMENDED ACTION: Approval

INTERIM CITY MANAGER APPROVAL: ___________________ COUNCIL AGENDA DATE: 2-7-12

INTERIM CITY MANAGER COMMENTS: __________________________

FISCAL SERVICES DIRECTOR APPROVAL: _____________________________________

Resolution No. 2012 - 024
February 7, 2012

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS, the Ypsilanti City Council deems it to be in the best interest of its employees and officers to adopt, amend or restate its Cafeteria Plan under Section 125 of the Internal Revenue Code of 1986, as amended.

WHEREAS, the City Council hereby adopts and approves this Cafeteria Plan as amended or restated to become effective as of 01/01/2012, pursuant to the Adoption Agreement and Cafeteria Plan which are attached hereto.

NOW THEREFORE BE IT RESOLVED, that the Interim City Manager of the City of Ypsilanti is authorized to execute the Adoption Agreement and Amended Cafeteria Plan, and other documents and agreements as may be necessary to implement the Plan.

OFFERED BY: ______________________________

SUPPORTED BY: ______________________________

YES: NO: ABSENT: VOTE:

CAFETERIA PLAN

PREMIUM REDUCTION OPTION *PLUS*

FLEXIBLE SPENDING ACCOUNTS

PLAN DOCUMENT

AS ADOPTED BY

CITY OF YPSILANTI

TABLE OF CONTENTS

PREAMBLE

Effective as of the date set forth in the Adoption Agreement, the Employer identified in the Adoption Agreement has established the Cafeteria Plan (the "Plan" or “Cafeteria Plan”) for its Employees for purposes of providing eligible Employees with the opportunity to choose from the Benefit Package Options available under the Plan. The Plan is intended to qualify as a cafeteria plan under the provisions of Code Section 125. The Employer shall indicate in the Adoption Agreement whether the Employer intends for the Plan to qualify as a “simple cafeteria plan” for purposes of Code Section 125(j).

The Adoption Agreement is incorporated by reference and is made a part of this plan document. In addition, there are appendices attached to these documents that describe the terms of the Health Flexible Spending Account and the Dependent Care Flexible Spending Account. To the extent adopted by the Employer (as set forth in the Adoption Agreement), each appendix is incorporated into and made a part of this plan document.

ARTICLE I
DEFINITIONS

1.01 "Affiliated Employer" means any entity who is considered with the Employer to be a single employer in accordance with Code Section 414(b), (c), or (m).

1.02 "After-tax Contribution(s)" means amounts withheld from an Employee's Compensation pursuant to a Salary Reduction Agreement after all applicable state and federal taxes have been deducted. Such amounts are withheld for purposes of purchasing one or more of the Benefit Package Options available under the Plan.

1.03 "Anniversary Date" means the first day of any Plan Year.

1.04 "Benefit Credits" means any amount that the Employer, in its sole discretion, may contribute on behalf of each Participant to provide benefits for such Participant and his or her Dependents, if applicable, under one or more of the Benefit Package Option(s) offered under the Plan. The amount of employer contribution that is applied towards the cost of the Benefit Package Option(s) for each Participant and/or level of coverage shall be subject to the sole discretion of the Employer and may be adjusted upward or downward at any time at the contributing Employer's sole discretion. The amount shall be calculated for each Plan Year in a uniform and nondiscriminatory manner and may be based upon the Participant's dependent status, commencement or termination date of the Participant's employment during the Plan Year, and such other factors as the Employer shall prescribe. To the extent set forth in the Summary Plan Description or enrollment material, the Employer may make Benefit Credits available to Participants and allow Participants to allocate the Benefit Credits among the various Benefit Package Options offered under the Plan in a manner set forth in the Summary Plan Description or enrollment material. In no event will any Benefit Credit be disbursed to a Participant in the form of additional, taxable Compensation except as otherwise provided in the Summary Plan Description or enrollment material.

1.05 "Benefit Package Option(s)" means those Qualified Benefits available to a Participant under this Plan as set forth in the Adoption Agreement.

1.06 "Board of Directors" means the Board of Directors or other governing body of the Employer (the "Board"). The Board of Directors, upon adoption of this Plan, appoints the Plan Administrator to act on the Employer's behalf in all matters regarding the Plan.

1.07 "Change in Status" means any of the events described in the Summary Plan Description, as well as any other events included under subsequent changes to Code Section 125 or regulations issued under Code Section 125, that the Plan Administrator (in its sole discretion) decides to recognize on a uniform and consistent basis as a reason to change the election mid-year. Note: See the Summary Plan Description for requirements that must be met to permit certain mid-year election changes on account of a Change in Status.

1.08 "Code" means the Internal Revenue Code of 1986, as amended.

1.09 "Compensation" means the cash wages or salary paid to an Employee by the Employer.

1.10 "Dependent" means any individual who is a tax dependent of the Participant as defined generally in Code Section 152(a); however, that in the case of health benefits, a Dependent shall be defined as set forth in Code Section 105(b) and the regulations issued under Code Section 106. For purposes of Dependent Care FSA (if offered under the Plan) a Dependent shall also be defined as in Code Section 21(e)(5) (i.e., dependent of the parent with custody for the greatest portion of the year).

1.11 "Effective Date" of the Plan means the date specified in the Adoption Agreement that this Plan was established**.** If this Plan is Amended and Restated, the Amended and Restated effective date will be the date of this document as set forth below.

1.12 "Employee" means an individual who the Employer classifies as a common-law employee and who is on the Employer's W-2 payroll, but does not include any of the following: (a) any leased employee (including, but not limited to, those individuals defined in Code § 414(n)); (b) an individual classified by the Employer as a contract worker or independent contractor; (c) an individual classified by the Employer as a temporary employee or casual employee, whether or not any such persons are on the Employer's W-2 payroll; and (d) any individual who performs services for the Employer but who is paid by a temporary or other employment agency such as "Kelly," "Manpower," etc., or any employee covered under a collective bargaining agreement, except as otherwise provided for in the collective bargaining agreement.

1.13 "Employer" means the Employer identified in the Adoption Agreement as the sponsoring employer and any Affiliated Employer who adopts the Plan pursuant to authorization provided by the Employer. Notwithstanding the previous sentence when the Plan provides that the Employer has a certain power (e.g., the appointment of a third party administrator, entering into a contract with a third party insurer, or amendment or termination of the plan) the term "Employer" shall mean only the Employer identified as the Plan Sponsor. Affiliated Employers who adopt the Plan shall be bound by the Plan as adopted and subsequently amended unless they clearly withdraw from participation herein.

1.14 "ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended.

1.15 "Highly Compensated Individual" means an individual defined under Code Section 125(e), as amended, as a "highly compensated individual" or a "highly compensated employee."

1.16 "Key Employee" means an individual who is a "key employee" as defined in Code Section 125(b)(2), as amended.

1.17 "Participant" means an Employee who becomes a Participant pursuant to Article II.

1.18 "Plan" means this Cafeteria Plan, as set forth herein.

1.19 "Plan Administrator" means the person(s) or Committee identified in the Summary Plan Description that is appointed by the Employer with authority, discretion, and responsibility to manage and direct the operation and administration of the Plan. If no such person is named, the Plan Administrator shall be the Employer.

1.20 "Plan Year" shall be the period of coverage set forth in the Summary Plan Description.

1.21 "Pre-tax Contribution(s)" means amounts withheld from an Employee's Compensation pursuant to a Salary Reduction Agreement before any applicable state and federal taxes have been deducted. The amounts are withheld for purposes of purchasing one or more of the Benefit Package Options available under the Plan. This amount shall not exceed the premiums or contributions attributable to the most costly Benefit Package Option afforded hereunder, and for purposes of Code Section 125, shall be treated as an Employer contribution (this amount may, however, be treated as an Employee contribution for purposes of state insurance laws).

1.22 "Qualified Benefit" means any benefit excluded from the Employee's taxable income under Chapter 1 of the Code other than Sections 106(b), 117, 124, 127, or 132 and any other benefit permitted by the Income Tax Regulations (i.e., any group-term life insurance coverage that is includable in gross income by virtue of exceeding the dollar limitation on nontaxable coverage under Code Sec. 79). Notwithstanding the previous sentence, long-term care insurance is not a "Qualified Benefit."

1.23 "Qualified Reservist Distribution" means a distribution to an individual of all or a portion of the balance in such individual's Health Flexible Spending Account if:

(i) while a Participant, such individual was, by reason of being a member of a reserve component (as defined in section 101 of title 37, United States Code), ordered or called to active duty for a period of 180 days or more, or for an indefinite period, and

(ii) such distribution is made during the period beginning on the date of such order or call and ending on the last date that reimbursements could otherwise be made under the Health Flexible Spending Account for the Plan Year which includes the date of such order or call.

1.24 "Salary Reduction Agreement" means the actual or deemed agreement pursuant to which an eligible Employee or Participant elects to contribute his share of the cost of chosen Benefit Package Options with Pre-tax or After-tax Contributions and/or Benefit Credits (if offered under the Plan) in accordance with Article III herein. If the Employer utilizes an interactive voice response (IVR) system or web-based program for enrollment, the Salary Reduction Agreement may be maintained on an electronic database in accordance with all applicable federal and/or state laws.

1.25 "Spouse" means an individual who is legally married to a Participant (and who is treated as a spouse under the Code), but for purposes of the Dependent Care Spending Account Plan provisions, shall not include an individual who, although married to the Participant, files a separate federal income tax return, maintains a separate, principal residence from the Participant during the last six months of the taxable year, and does not furnish more than one-half of the cost of maintaining the principal place of abode of the Qualifying Individual.

1.26 "Summary Plan Description" or "SPD" means the Flexible Benefits Plan SPD and all appendices incorporated into and made a part of the SPD that is adopted by the Employer and attached to this Plan Document as Attachment I, as amended from time to time. The SPD and appendices are incorporated hereto by reference.

1.27 "Student" means an individual who, during each of five (5) or more calendar months during the Plan Year, is a full time student at any college or university, the primary function of which is the conduct of formal instruction, and which routinely maintains a regular faculty and curriculum and normally has an enrolled student body in attendance at the location where its educational activities are regularly presented.

ARTICLE II
ELIGIBILITY AND PARTICIPATION

2.01 Eligibility to Participate. Each Employee who satisfies the eligibility requirements set forth in the Adoption Agreement shall be eligible to participate in this Plan as of the Plan Entry Date set forth in the Adoption Agreement. Eligibility to participate in this Plan means only that the Eligible Employee is entitled to contribute his share of the cost of applicable Benefit Package Options for which he is eligible with Pre-tax Contributions. The provisions of this Article are not intended to override any eligibility requirement(s) or waiting period(s) specified in the applicable Benefit Package Options and the terms of eligibility and participation for the Benefit Package Option(s) offered under the Plan shall be subject to the requirements specified in the governing documents of the Benefit Package Options.

2.02 Termination of Participation. Participation shall terminate on the earliest of the dates set forth in the SPD.

2.03 Qualifying Leave Under the Family and Medical Leave Act. Notwithstanding any provision to the contrary in this Plan, if a Participant goes on a qualifying leave under the Family and Medical Leave Act of 1993 (the "FMLA"), then to the extent required by the FMLA, the Participant will be entitled to continue the Participant's Benefit Package Options that provide health coverage (including Health Flexible Spending Account benefits to the extent offered under the Plan) on the same terms and conditions as if the Participant were still an active Employee. The requirements for continuing coverage, procedures for FMLA leave and payment option(s) provided by the Employer (as described above), will be set forth in the SPD and will be administered in accordance with the regulations issued under Code Section 125 and in accordance with the FMLA.

2.04 Non-FMLA Leave. If a Participant goes on an unpaid leave of absence that does not affect eligibility under this Plan or the Benefit Package Options chosen by the Participant, then the Participant will continue to participate and the contributions due for the Participant will be paid by one or more of the payment options described in the SPD and implemented by the Employer on a uniform and consistent basis in accordance with the Employer's internal policy and procedure. If a Participant goes on an unpaid leave that affects eligibility under this Plan or the Benefit Package Options chosen by the Participant, the election change rules in Section 3.04 will apply. If such policy requires coverage to continue during the leave but permits a Participant to discontinue contributions while on leave, the Participant will, upon returning from leave, be required to repay the contributions not paid by the Participant during the leave.

ARTICLE III
PREMIUM ELECTIONS

3.01 Election of Contributions. A Participant may elect any combination of Pre-tax Contributions or After-tax Contributions (to the extent set forth in the enrollment material) to fund any Benefit Package Option available under the Plan, provided that only Qualified Benefits may be funded with Pre-tax Contributions. The Employer may, but is not required to, allocate Benefit Credits to one or more Benefit Package Options offered under the Plan and to the extent set forth in the SPD or enrollment material, may allow the Participants to allocate his allotted share of Benefit Credits among the various Benefit Package Options in a manner set forth in the SPD or enrollment material.

3.02 Initial Election Period.

(a) **Currently Eligible Employees.** An Employee who is eligible to become a Participant in this Plan as of the Effective Date must complete, sign and file a Salary Reduction Agreement with the Plan Administrator (or its designated third party administrator as set forth on the Salary Reduction Agreement) during the election period (as specified by the Plan Administrator) immediately preceding the Effective Date of the Plan in order to become a Participant on the Effective Date. The elections made by the Participant on this initial Salary Reduction Agreement shall be effective, subject to Section 3.04, for the Plan Year beginning on the Effective Date.

(b) **New Employees and Employees Who Have Not Yet Satisfied The Plan's Waiting Period**. An Employee who becomes eligible to become a Participant in this Plan after the Effective Date must complete, sign and file a Salary Reduction Agreement with the Plan Administrator (or its designated third party administrator as set forth on the Salary Reduction Agreement) during the Initial Election Period set forth in the SPD or the enrollment material. Participation will commence under this Plan as set forth in the SPD. Coverage under the component Benefit Package Options will be effective in accordance with the governing provisions of such Benefit Package Options.

(c) **Failure to Elect.** An eligible Employee who fails to complete, sign and file a Salary Reduction Agreement in accordance with paragraph (a) or (b) above during an initial election period may become a Participant on a later date in accordance with Section 3.03 or 3.04.

3.03 Annual Election Period. Each Employee who is a Participant in this Plan or who is eligible to become a Participant in this Plan shall be notified, prior to each Anniversary Date of this Plan, of his right to become a Participant in this Plan, to continue participation in this Plan, or to modify or to cease participation in this Plan, and shall be given a reasonable period of time in which to exercise such right: such period of time shall be known as the Annual Election Period. The date on which the Annual Election Period commences and ends will be set forth in the SPD or the enrollment material. An election is made during the Annual Election Period in the manner set forth in the SPD. The consequences of failing to make an election during the Annual Election Period will be set forth in the SPD.

3.04 Change of Elections. A Participant shall not make any changes to the Pre-tax Contribution amount or, where applicable, to the Participant's elected allocation of Benefit Credits except under the circumstances set forth in the SPD and for changes made during the Annual Election Period, changes caused by termination of employment or cessation of eligibility, and changes pursuant to the Family and Medical Leave Act. Except as provided in the SPD for HIPAA special enrollment rights arising from the birth, adoption, or placement for adoption of a child, all election changes shall be effective on a prospective basis only (i.e., election changes will become effective no earlier than the first day of the first pay period coinciding with or immediately following the date that the election change was filed) but, as determined by the Plan Administrator, election changes may become effective later to the extent the coverage in the applicable component plan commences later.

3.05 Impact of Termination of Employment on Election or Cessation of Eligibility. Termination of employment or cessation of eligibility shall automatically revoke any Salary Reduction Agreement. Except as provided below, if revocation occurs under this Section 3.05, no new election with respect to Pre-Tax Contributions may be made by such Participant during the remainder of the Plan Year except as set forth in the SPD.

ARTICLE IV
PREMIUM PAYMENTS AND CREDITS AND DEBITS TO ACCOUNTS

4.01 Source of Benefit Funding. The cost of coverage under the component Benefit Package Options shall be funded by Participant's Pre-tax and/or After-tax Contributions and/or any Benefit Credits provided by the Employer. The required contributions for each of the Benefit Package Options offered under the Plan shall be made known to employees in enrollment materials. Pre-tax or After-tax Contributions (as elected by the Employee on the Salary Reduction Agreement and permitted by the Employer) shall equal the contributions required from the Participant less any available Benefit Credits allocated thereto by the Employer, or where applicable, the Participant for coverage of the Participant or the Participant's Spouse or Dependents under the Benefit Package Options elected by the Participant under this Plan. Amounts withheld from a Participant's Compensation as Pre-tax Contributions or After-tax Contributions shall be applied to fund benefits as soon as administratively feasible. The maximum amount of Pre-tax Contributions, plus any Benefit Credits made available by the Employer, shall not exceed the aggregate cost of the Benefit Package Options elected.

4.02 Reduction of Certain Elections to Prevent Discrimination. If the Plan Administrator determines, before or during any Plan Year, that the Plan may fail to satisfy for such Plan Year any requirement imposed by the Code or any limitation on Pre-tax Contributions allocable to Key Employees or to Highly Compensated Individuals, the Plan Administrator shall take such action(s) as he deems appropriate, under rules uniformly applicable to similarly situated Participants, to assure compliance with such requirement or limitation. Such action may include, without limitation, a modification or revocation of a Highly Compensated Individual's or Key Employee's election without the consent of such Employee.

ARTICLE V
BENEFITS

5.01 Qualified Benefits. The maximum benefit a Participant may elect under this Plan shall not exceed the sum of the aggregate maximum premium and/or contribution for all Benefit Package Option(s) set forth in the Adoption Agreement.

5.02 Cash Benefit. To the extent that a Participant does not elect to have the maximum amount of his Compensation contributed as a Pre-tax Contribution or After-tax Contribution hereunder, such amount not elected shall be paid to the Participant in the form of normal Compensation payments; provided, however, that any applicable Benefit Credits may not be received in the form of cash compensation, except as otherwise provided for in the SPD or the enrollment material.

ARTICLE VI
PLAN ADMINISTRATION

6.01 Allocation of Authority. The Board of Directors or applicable governing body (or an authorized officer of the Employer) appoints a Plan Administrator that keeps the records for the Plan and shall control and manage the operation and administration of the Plan. The Plan Administrator shall have the exclusive right to interpret the Plan and to decide all matters arising thereunder, including the right to make determinations of fact, and construe and interpret possible ambiguities, inconsistencies, or omissions in the Plan and the SPD issued in connection with the Plan. All determinations of the Plan Administrator with respect to any matter hereunder shall be conclusive and binding on all persons. Without limiting the generality of the foregoing, the Plan Administrator shall have the following powers and duties:

(a) To require any person to furnish such reasonable information as he may request for the purpose of the proper administration of the Plan as a condition to receiving any benefits under the Plan;

(b) To make and enforce such rules and regulations and prescribe the use of such forms as he shall deem necessary for the efficient administration of the Plan;

(c) To decide on questions concerning the Plan and the eligibility of any Employee to participate in the Plan and to make or revoke elections under the Plan, in accordance with the provisions of the Plan;

(d) To designate other persons to carry out any duty or power which may or may not otherwise be a fiduciary responsibility of the Plan Administrator, under the terms of the Plan. Such entity will be referred to as a third party administrator and shall be identified in the SPD;

(e) To keep records of all acts and determinations, and to keep all such records, books of account, data and other documents as may be necessary for the proper administration of the Plan;

(f) To do all things necessary to operate and administer the Plan in accordance with its provisions.

6.02 Provision for Third-Party Plan Service Providers. The Plan Administrator, subject to approval of the Employer, may employ the services of such persons, as it may deem necessary or desirable, in connection with the operation of the Plan, and may rely upon all tables, valuations, certificates, reports and opinions furnished thereby. Such entity will be identified in the SPD as a third party administrator. Unless otherwise provided in the service agreement, obligations under this Plan shall remain the obligation of the Employer.

6.03 Fiduciary Liability. To the extent permitted by law, the Plan Administrator shall not incur any liability for any acts or for failure to act except for their own willful misconduct or willful breach of this Plan.

6.04 Compensation of Plan Administrator. Unless otherwise determined by the Employer and permitted by law, any Plan Administrator who is also an employee of the

Employer shall serve without compensation for services rendered in such capacity, but the Employer shall pay all reasonable expenses incurred in the performance of their duties.

6.05 Bonding. Unless otherwise determined by the Employer, or unless required by any federal or state law, the Plan Administrator shall not be required to give any bond or other security in any jurisdiction in connection with the administration of this Plan.

6.06 Payment of Administrative Expenses. The Employer currently pays all reasonable expenses incurred in administering the Plan.

6.07 Funding Policy. The Employer shall have the right to enter into a contract with one or more insurance companies for the purposes of providing any Benefit Package Options offered under the Plan and to replace any of such insurance companies or contracts. Any dividends, retroactive rate adjustments, or other refunds of any type that may become payable under any such insurance contract shall not be assets of the Plan but shall be the property of, and shall be retained by, the Employer. The Employer will not be liable for any loss or obligation relating to any insurance coverage except as is expressly provided by this plan. Such limitation shall include, but not be limited to, losses or obligations that pertain to the following:

(a) Once insurance is applied for or obtained, the Employer will not be liable for any loss which may result from the failure to pay premiums to the extent premium notices are not received by the Employer;

(b) To the extent premium notices are received by the Employer, the Employer's liability for the payment of such premiums will be limited to such premiums and will not include liability for any other losses which result from such failure;

(c) The Employer will not be liable for the payment of any insurance premium or any loss that may result from the failure to pay an insurance premium if the benefits available under this plan are not enough to provide for such premium cost at the time it is due. In such circumstances, the Employee will be responsible for, and see to, the payment of such premiums. The Employer will undertake to notify a Participant if available benefits under this plan are not enough to provide for an insurance premium, but will not be liable for any failure to make such notification;

(d) When employment ends, the Employer will have no liability to take any step to maintain any policy in force except as may be specifically required otherwise in this plan, and the Employer will not be liable for or responsible to see to the payment of any premium after employment ends.

ARTICLE VII
CLAIMS PROCEDURES

The Plan has established procedures for reviewing claims denied under this Plan and those claims review procedures are set forth in the SPD. The Plan’s claim review procedures set forth in the SPD shall only apply to issues germane to the pre-tax benefits available under this Plan (i.e., such as a determination of: a Change in Status; change in cost or coverage; or eligibility and participation matters under this Cafeteria Plan document), and to the extent offered under the Plan, claims for benefits under the Reimbursement Accounts.

ARTICLE VIII
AMENDMENT OR TERMINATION OF PLAN

8.01 Permanency. While the Employer fully expects that this Plan will continue indefinitely, due to unforeseen, future business contingencies, permanency of the Plan will be subject to the Employer's right to amend or terminate the Plan, as provided in Sections 8.02 and 8.03, below. Nothing in this Plan is intended to be or shall be construed to entitle any Participant, retired or otherwise, to vested or non-terminable benefits.

8.02 Employer's Right to Amend. The Employer reserves the right to amend at any time any or all of the provisions of the Plan. All amendments shall be made in writing and shall be approved by the Employer in accordance with its normal procedures for transacting business (e.g., by approval by the Board of Directors through a meeting or unanimous consent of all Board members). Such amendments may apply retroactively or prospectively as set forth in the amendment. Each Benefit Package Option shall be amended in accordance with the terms specified therein, or, if no amendment procedure is prescribed, in accordance with this section. Any amendment made by the Employer shall be deemed to be approved and adopted by any Affiliated Employer.

8.03 Employer's Right to Terminate. The Employer reserves the right to discontinue or terminate the Plan without prejudice at any time and for any reason without prior notice. Such decision to terminate the Plan shall be made in writing and shall be approved by the Employer in accordance with its normal procedures for transacting business. Affiliated Employers may withdraw from participation in the Plan, but may not terminate the Plan.

8.04 Determination of Effective Date of Amendment or Termination. Any such amendment, discontinuance or termination shall be effective as of such date as the Employer shall determine.

ARTICLE IX
GENERAL PROVISIONS

9.01 Not an Employment Contract. Neither this Plan nor any action taken with respect to it shall confer upon any person the right to continue employment with any Employer.

9.02 Applicable Laws. The provisions of the Plan shall be construed, administered and enforced according to applicable federal law and the laws of the State of the Employer’s primary domicile to the extent not preempted.

9.03 Requirement for Proper Forms. All communications in connection with the Plan made by a Participant shall become effective only when duly executed on any forms as may be required and furnished by, and filed with, the Plan Administrator.

9.04 Multiple Functions. Any person or group of persons may serve in more than one fiduciary capacity with respect to the Plan.

9.05 Tax Effects. Neither the Employer, nor the Plan Administrator makes any warranty or other representation as to whether any Pre-tax Contributions made to, or on behalf of, any Participant hereunder will be treated as excludable from gross income for local, state, or federal income tax purposes. If for any reason it is determined that any amount paid for the benefit of a Participant or Beneficiary are includable in an Employee's gross income for local, federal, or state income tax purposes, then under no circumstances shall the recipient have any recourse against the Plan Administrator or the Employer with respect to any increased taxes or other losses or damages suffered by the Employees as a result thereof. The Plan is designed and is intended to be operated as a "cafeteria plan" under Section 125 of the Code.

9.06 Gender and Number. Masculine pronouns include the feminine as well as the neuter genders, and the singular shall include the plural, unless indicated otherwise by the context.

9.07 Headings. The Article and Section headings contained herein are for convenience of reference only, and shall not be construed as defining or limiting the matter contained thereunder.

9.08 Incorporation by Reference. The actual terms and conditions of the separate component Benefit Package Options offered under this Plan are contained in separate, written documents governing each respective benefit, and shall govern in the event of a conflict between the individual plan document, and this Plan as to substantive content. To that end, each such separate document, as amended or subsequently replaced, is hereby incorporated by reference as if fully recited herein. In addition, the SPD for this Plan contains many of the actual terms and conditions of this Plan. To that end, the SPD, as amended from time to time, is incorporated herein.

9.09 Severability. Should a court of competent jurisdiction subsequently invalidate any part of this Plan, the remainder thereof shall be given effect to the maximum extent possible.

9.10 Effect of Mistake. In the event of a mistake as to the eligibility or participation of an Employee, or the allocations made to the account of any Participant, or the amount of distributions made or to be made to a Participant or other person, the Plan Administrator shall, to the extent it deems possible, cause to be allocated or cause to be withheld or accelerated, or otherwise make adjustment of, such amounts as will in its judgment accord to such Participant or other person the credits to the account or distributions to which he is properly entitled under the Plan. Such action by the Administrator may include withholding of any amounts due the Plan or the Employer from Compensation paid by the Employer.

HEALTH FLEXIBLE SPENDING ACCOUNT
APPENDIX A TO THE CAFETERIA PLAN

Health Flexible Spending Account Appendix

If identified as a Benefit Package Option in the Adoption Agreement, the Employer identified in the Adoption Agreement has established this Health Flexible Spending Account (the Health FSA) to help provide full and complete medical care for those Employees who participate in the Employer's Cafeteria Plan ("Plan") and who, pursuant to the election procedures set forth in the Plan, choose to contribute to a Health FSA established pursuant to this document. This Health FSA is intended to provide reimbursement of certain Eligible Medical Expenses incurred by the Participant and his eligible Dependents. The Employer intends that the Health FSA qualify as a Code Section 105 self-insured medical reimbursement plan, and that the benefits provided under the Health FSA be eligible for exclusion from the Participant's income for federal income tax purposes under Section 105(b) of the Code. This Health FSA is a component of, and incorporated by reference into, the Cafeteria Plan and Articles VI, VIII and IX of the Cafeteria Plan document apply also to this Health FSA.

This Health Flexible Spending Account Appendix only applies to the extent Health Flexible Spending Account has been identified as a Benefit Package Option in the Adoption Agreement.

ARTICLE IA
DEFINITIONS

Unless otherwise specified, terms that are capitalized in this Appendix A have the same meaning as the defined terms in the Cafeteria Plan. The definitions of terms defined in this Appendix A, but not defined in the Cafeteria Plan, shall be applicable only with respect to this Appendix A. To the extent a term is defined both in the Cafeteria Plan and in this Appendix A, the term as defined in the Cafeteria Plan shall govern the interpretation of the Cafeteria Plan and the term as defined in this Appendix A shall govern the interpretation of this Health FSA.

1.01A "Dependent" means any individual who is a tax dependent of the Participant as defined in Code Section 105(b).

1.02A "Eligible Medical Expenses" means those expenses that are eligible for reimbursement under this Health FSA as set forth in the SPD.

1.03A "Health Care Reimbursement" shall have the meaning assigned to it by Section 4.01A of this Health FSA.

1.04A "Highly Compensated Individual" means an individual defined under Code Section 105(h) or 125(e), as amended, as a "highly compensated individual" or a "highly compensated employee."

1.05A "Reimbursement Account" shall be the funding mechanism by which amounts are withheld from an Employee's Compensation and retained for future Health Care Reimbursement (as defined in Section 1.03A herein). No money shall actually be allocated to any individual Participant Account(s); any such Account(s) shall be of a memorandum nature, maintained by the Administrator for accounting purposes, and shall not be representative of any identifiable trust assets. No interest will be credited to or paid on amounts credited to the Participant Account(s).

ARTICLE IIA
ELIGIBILITY AND PARTICIPATION

2.01A Eligibility to Participate. Each Employee who satisfies the eligibility requirements set forth in the Adoption Agreement shall be eligible to participate in this Health FSA as of the Plan Entry Date set forth in the Adoption Agreement.

2.02A Termination of Participation. Participation shall terminate on the earliest of the dates set forth in the SPD.

2.03A Qualifying Leave Under the Family and Medical Leave Act. Notwithstanding any provision to the contrary in this Health FSA, if a Participant goes on a qualifying leave under the Family and Medical Leave Act of 1993 (the "FMLA"), then to the extent required by the FMLA, the Participant will be entitled to continue the Participant's coverage under this Health FSA on the same terms and conditions as if the Participant were still an active Employee. The requirements for continuing coverage, procedures for FMLA leave and payment option(s) provided by the Employer (as described above) will be set forth in the SPD and will be administered in accordance with the regulations issued under Code Section 125 and in accordance with the FMLA.

2.04A Non-FMLA Leave. If a Participant goes on an unpaid leave of absence that does not affect eligibility under this Health FSA, then the Participant will continue to participate and the contributions due for the Participant will be paid by one or more of the payment options described in the SPD and implemented by the Employer on a uniform and consistent basis in accordance with the Employer's internal policy and procedure. If a Participant goes on an unpaid leave that affects eligibility under this Health FSA, the election change rules in Section 3.03A of this Health FSA will apply. If such policy requires coverage to continue during the leave but permits a Participant to discontinue contributions while on leave, the Participant will, upon returning from leave, be required to repay the contributions not paid by the Participant during the leave.

ARTICLE IIIA
ELECTION TO PARTICIPATE

3.01A Initial Election Period.

(a) **Currently Eligible Employees.** An Employee who is eligible to become a Participant in this Health FSA as of the Effective Date must complete, sign and file a Salary Reduction Agreement with the Plan Administrator (or its designated third party administrator as set forth on the Salary Reduction Agreement) during the election period (as specified by the Plan Administrator) immediately preceding the Effective Date of the Health FSA in order to become a Participant on the Effective Date. The elections made by the Participant on this initial Salary Reduction Agreement shall be effective, subject to Section 3.02A, for the Plan Year beginning on the Effective Date.

(b) **New Employees and Employees Who Have Not Yet Satisfied The Health FSA's Waiting Period**. An Employee who becomes eligible to become a Participant in this Health FSA after the Effective Date must complete, sign and file a Salary Reduction Agreement with the Plan Administrator (or its designated third party administrator as set forth on the Salary Reduction Agreement) during the Initial Election Period set forth in the SPD or the enrollment material. Participation will commence under this Health FSA as set forth in the SPD (but in no event prior to the election).

(c) **Failure to Elect.** An eligible Employee who fails to complete, sign and file a Salary Reduction Agreement in accordance with paragraph (a) or (b) above during an initial election period may become a Participant on a later date in accordance with Section 3.02A or 3.03A.

3.02A Annual Election Period. Each Employee who is a Participant in this Health FSA or who is eligible to become a Participant in this Health FSA shall be notified, prior to each Anniversary Date of this Health FSA, of his right to become a Participant in this Health FSA, to continue participation in this Health FSA, or to modify or to cease participation in this Health FSA, and shall be given a reasonable period of time in which to exercise such right: such period of time shall be known as the Annual Election Period. The date on which the Annual Election Period commences and ends will be set forth in the SPD or the enrollment material. An election is made during the Annual Election Period in the manner set forth in the SPD. The consequences of failing to make an election during the Annual Election Period will be set forth in the SPD.

3.03A Change of Elections. A Participant shall not make any changes to his or her election except for election changes permitted under the SPD, and for changes made during the Annual Election Period, changes caused by termination of employment or cessation of eligibility and changes pursuant to the Family and Medical Leave Act. Except as provided in the SPD for HIPAA special enrollment rights arising from the birth, adoption, or placement for adoption of a child, all election changes shall be effective on a prospective basis only (i.e., election changes will become effective no earlier than the first day of the first pay period coinciding with or immediately following the date that the election change was filed) but, as determined by the Plan Administrator, election changes may become effective later.

3.04A Impact of Termination of Employment or Cessation of Eligibility on Election. Termination of employment or cessation of eligibility shall automatically revoke any Salary Reduction Agreement. Except as provided below, if revocation occurs under this Section 3.04A, no new election with respect to the Health FSA may be made during the remainder of the Plan Year except as set forth in the SPD.

3.05A Reduction of Certain Elections to Prevent Discrimination. If the Plan Administrator determines, before or during any Plan Year, that the Health FSA may fail to satisfy for such Plan Year any requirement imposed by the Code or any limitation on Highly Compensated Individuals, the Plan Administrator shall take such action(s) as he deems appropriate, under rules uniformly applicable to similarly situated Participants, to assure compliance with such requirement or limitation.

ARTICLE IVA
REIMBURSEMENTS

4.01A Health Care Reimbursement. Each Participant's Health FSA will be credited for Health Care Reimbursement with amounts withheld from the Participant's Compensation and any Benefit Credits allocated thereto by the Employer or where applicable, the Participant. The Account will be debited for Health Care Reimbursements disbursed to the Participant in accordance with Article V of this document. The entire amount elected by the Participant on the Salary Reduction Agreement as an annual amount for the Plan Year for Health Care Reimbursement less any Health Care Reimbursements already disbursed to the Participant for Expenses incurred during the Plan Year shall be available to the Participant at any time during the Plan Year without regard to the balance in the Health Care Account (provided that the periodic contributions have been made). Thus, the maximum amount of Health Care Reimbursement at any particular time during the Plan Year will not relate to the amount that a Participant has had credited to his Health FSA. In no event will the amount of Health Care Reimbursements in any Plan Year exceed the annual amount specified for the Plan Year in the Salary Reduction Agreement for Health Care Reimbursement. Any amount credited to the Health Care Account shall be forfeited by the Participant and restored to the Employer if it has not been applied by the end of the Run-out period set forth in the SPD to provide Health Care Reimbursement for expenses incurred during the Plan Year, or has not been used to make a Qualified Reservist Distribution as set forth in the SPD. Notwithstanding the foregoing, the Employer has the discretion to establish a grace period following the end of the Plan Year during which amounts unused as of the end of the Plan Year may be used to reimburse Eligible Medical Expenses incurred during the grace period. In no event can the grace period exceed two (2) months and fifteen (15) days following the end of the Plan Year. If adopted, all amounts allocated to the Health FSA during a Plan Year that are not used to reimburse Eligible Medical Expenses incurred during the Plan Year and/or the Grace Period, or to make a Qualified

Reservist Distribution, shall be forfeited. Amounts so forfeited shall be used in a manner that is permitted within the applicable Department of Labor ("DOL") or Internal Revenue Service ("IRS") regulations. The maximum annual reimbursement under the Health FSA shall be set forth in the SPD. The Employer may establish a minimum annual reimbursement amount as set forth in the SPD.

If adopted by the Employer, the Employer will make Qualified Reservist Distributions to the extent that the Participant satisfies all election requirements established in accordance with applicable law and the Employer's internal policies and procedures. Requests for a Qualified Reservist Distribution must be made on or after the date of the order or call to duty but before the last day of the Plan Year (or grace period, if applicable) during which the order or call to duty occurred. The Employer must receive a copy of the order or call to active duty prior to making a Qualified Reservist Distribution. A Qualified Reservist Distribution shall be made within a reasonable period of time after receiving a request and processing any claims submitted prior to the Qualified Reservist Distribution request, but in no event shall such period be more than sixty (60) days. The amount of the Qualified Reservist Distribution shall be equal to the amount set forth in the SPD Notwithstanding any other provision of this Plan, an individual who has selected a Qualified Reservist Distribution shall be considered to have made such election as an alternative to COBRA or USERRA coverage continuation for the Health Flexible Spending Account (except as may otherwise be required by applicable law).

4.02A Receiving Health Care Reimbursement. Payment shall be made to the Participant in cash as reimbursement for Eligible Medical Expenses incurred by the Participant or his Dependents while he is a Participant during the Plan Year (or during the grace period to the extent adopted by the Employer) for which the Participant's election is effective provided that the substantiation requirements of Section 4.03A herein are satisfied. However, if the Employer so chooses, the participant may choose to make payment for eligible medical expense with an benefits payment card arrangement. The terms of the benefit payment card arrangement, if applicable, will be set forth in the SPD.

4.03A Substantiation of Expenses. Each Participant must submit an expense for reimbursement in accordance with the terms of the SPD and provide the required substantiation set forth in the SPD or as otherwise requested by the Plan Administrator (or its designee).

4.04A Repayment of Excess Reimbursements. If, as of the end of any Plan Year, it is determined that a Participant has received payments under this Health FSA that exceed the amount of Eligible Medical Expenses that have been substantiated by such Participant during the Plan Year as required by Section 4.03A herein or reimbursements have been made in error (e.g. reimbursements were made for expenses incurred for the care of an individual who was not a qualifying individual), the Plan Administrator shall recoup the excess reimbursements in one or more of the following ways: (i) The Plan Administrator shall give the Participant prompt written notice of any such excess amount, and the Participant shall repay the amount of such excess to the Employer within sixty (60) days of receipt of such notification. (ii) The Plan Administrator may offset the excess reimbursement against any other Eligible Medical Expenses submitted for reimbursement (regardless of the Plan Year in which submitted) (iii) withhold such amounts from the Participant's pay (to the extent permitted under applicable law). If the Plan Administrator is unable to recoup the excess reimbursement through the means set forth in (i) – (iii), the Plan Administrator will notify the Employer that the funds could not be recouped and the Employer will treat the excess reimbursement as it would any other bad business debt.

Similarly, if, as of the end of the period for making a Qualified Reservist Distribution, it is determined that a Participant has received a distribution under this Plan that exceeds the amount allowable for a Qualified Reservist Distribution for the applicable Plan Year, the Plan Administrator shall give the Participant prompt written notice of any such excess amount, and the Participant shall repay the amount of such excess to the Employer within sixty (60) days of receipt of such notification.

4.05A Reimbursement Following Cessation of Participation. Participants in the Health FSA may submit claims for reimbursement for Eligible Medical Expenses incurred during the Plan Year and before the date of participation in the Health FSA ceases so long as the claim is submitted prior to the end of the run out period set forth in the SPD. Unless a COBRA election is made as set forth in the SPD, Participants shall not be entitled to receive reimbursement for Eligible Medical Expenses incurred after employment and/or eligibility ceases under this Section. Any unused reimbursement benefits at the expiration of the Plan Year (as set forth in the SPD) shall be treated in accordance with Section 4.01A.

4.06A Coordination of Benefits Under the Health FSA. The Health FSA is intended to pay benefits solely for otherwise unreimbursed medical expenses (subject to Qualified Reservist Distributions, if adopted by the Employer). Accordingly, it shall not be considered a group health plan for coordination of benefits purposes, and its benefits shall not be taken into account when determining benefits payable under any other plan.

4.07A Disbursement Reports. The Plan Administrator shall issue directions to the Employer concerning all benefits that are to be paid from the Employer's general assets pursuant to the provisions of the Health FSA.

4.08A Timing of Reimbursements. Reimbursements shall be made as soon as administratively feasible after the Plan Administrator or its designee has received the required forms.

4.09A Statements. The Plan Administrator, or its designated third party administrator, may periodically furnish each Participant with a statement, showing the amounts paid or expenses incurred by the Employer in providing Health Care Reimbursement under the Health FSA.

4.10A Post-Mortem Payments. Any benefit payable under the Health FSA after the death of a Participant shall be paid to his surviving Spouse, or if no spouse, to his estate. If there is doubt as to the right of any beneficiary to receive any amount, the Plan Administrator may retain such amount until the rights thereto are determined, without liability for any interest thereon.

4.11A Non-Alienation of Benefits. Except as expressly provided by the Administrator, no benefit under the Health FSA shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge, and any attempt to do so shall be void. No benefit under the Health FSA shall in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements, or torts of any person.

4.12A Mental or Physical Incompetency. Every person receiving or claiming benefits under the Health FSA shall be presumed to be mentally and physically competent and of age until the Plan Administrator receives a written notice, in a form and manner acceptable to it, that such person is mentally or physically incompetent or a minor, and that a guardian, conservator, or other person legally vested with the care of his estate has been appointed.

4.13A Inability to Locate Payee. If the Plan Administrator is unable to make payment to any Participant, or other person to whom a payment is due under the Health FSA, because he cannot ascertain the identity or whereabouts of such Participants or other person after reasonable efforts have been made to locate such person, such payment and all subsequent payments otherwise due to such Participant, or other person, shall be forfeited after a reasonable time after the date any such payment first became due.

4.14A Tax Effects of Reimbursements. Neither the Employer, nor the Plan Administrator makes any warranty or other representation as to whether any reimbursements or Qualified Reservist Distributions made under the Health FSA will be treated as excludable from gross income for local, state, or federal income tax purposes. If, for any reason, it is determined that any amount paid for the benefit of a Participant or Beneficiary are includable in an Employee's gross income for local, federal, or state income tax purposes, then under no circumstances shall the recipient have any recourse against the Plan Administrator or the Employer with respect to any increased taxes or other losses or damages suffered by the Employees as a result thereof. The Health FSA is designed, and is intended to be operated, as a self-insured medical reimbursement plan under Section 105 of the Code.

4.15A Forfeiture of Unclaimed Reimbursement Account Benefits. Any Health FSA Reimbursement Account benefit payments that are unclaimed (e.g., uncashed benefit checks) by the close of the Plan Year following the Plan Year in which the Eligible Medical Expense was incurred (or such earlier period established by the Employer) shall be forfeited.

ARTICLE VA
FUNDING AGENT

The Health FSA shall be funded with amounts withheld from Compensation pursuant to Salary Reduction Agreements, and/or Benefit Credits provided by the Employer, if any. The Employer will apply all such amounts, without regard to their source, to pay for the welfare benefits provided herein as soon as administratively feasible and to the extent applicable, shall comply with all applicable regulations promulgated by the DOL, taking into consideration any enforcement procedures adopted by the DOL.

ARTICLE VIA
CLAIMS PROCEDURES

The Plan has established procedures for reviewing claims denied under this Health FSA, and those claims review procedures are set forth in the SPD.

ARTICLE VIIA
CONTINUATION COVERAGE UNDER COBRA

The SPD includes COBRA continuation of coverage provisions that shall be applicable to the Health FSA to the extent the plan sponsor is subject to COBRA (as it amended ERISA, the Code, and the Public Health Service Act).

ARTICLE VIIIA
HIPAA PRIVACY AND SECURITY

8.01A Scope and Purpose. The Health FSA (the "Plan") will use protected health information ("PHI") to the extent of, and in accordance with, the uses and disclosures permitted by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). Specifically, the Plan will use and disclose PHI for purposes related to health care treatment, payment for health care, and health care operations as set forth below.

8.02A Effective Date. This Article VIII is effective on April 14, 2003 (or such later effective date of the Privacy Rules with respect to the client).

8.03A Use and Disclosure of PHI.

(a) **General.** The Plan will use PHI to the extent of, and in accordance with, the uses and disclosures permitted by HIPAA, including, but not limited to, health care treatment, payment for health care, health care operations, and as required by law. The Privacy Notice will list the specific uses and disclosure of PHI that will be made by the Plan.

(b) **Disclosure to the Employer.** The Plan will disclose PHI to the Employer, or where applicable, an Affiliate only upon receipt of written certification from the Employer that:

(i) The Plan document has been amended to incorporate the provisions in this Article VIII; and

(ii) The Employer agrees to implement the provisions in Section 8.04A herein.

8.04A Conditions Imposed on Employer. Notwithstanding any provision of the Plan to the contrary, the Employer agrees:

(a) Not to use or disclose PHI other than as permitted or required by this Article VIII or as required by law;

(b) To ensure that any agents, including a subcontractor to whom the Employer provides PHI received from the Plan, agree to the same restrictions and conditions that apply to the Employer with respect to PHI received or created on behalf of the Plan;

(c) Not use or disclose an individual's PHI for employment-related purposes (including hiring, firing, promotion, assignment or scheduling) unless authorized by the Individual;

(d) Not to use or disclose an Individual's PHI in connection with any other non-health benefit program or employee benefit plan of the Employer unless authorized by the Individual;

(e) To report to the Plan any use or disclosure of PHI that is inconsistent with this Article VIII, if it becomes aware of an inconsistent use or disclosure;

(f) To provide Individuals with access to PHI in accordance with 45 C.F.R. § 164.524;

(g) To make available PHI for amendment and incorporate any amendments to PHI in accordance with 45 C.F.R. § 164.526;

(h) To make available the information required to provide an accounting of disclosures in accordance with 45 C.F.R. § 164.528;

(i) To make internal practices, books, and records relating to the use and disclosure of PHI received from the Plan available to the Secretary of Health and Human Services for purposes of determining the Plan's compliance with HIPAA;

(j) If feasible, to return or destroy all PHI received from the Plan that the Employer maintains in any form, and retain no copies of such PHI when no longer needed for the purpose for which disclosure was made. If return or destruction is not feasible, limit further uses and disclosures to those purposes that make the return or destruction infeasible; and

(k) To ensure adequate separation between the Plan and Employer as required by 45 C.F.R. § 164.504(f)(2)(iii) and described in this Article VIII.

(l) To implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic PHI (other than enrollment/disenrollment information) and it will ensure that any agents or subcontractors to whom it provides such electronic PHI agrees to implement reasonable and appropriate safeguards to protect the information.

8.05A Designated Employees Who May Receive PHI. In accordance with the Privacy Rules, only certain Employees who perform Plan administrative functions may be given access to PHI. Those Employees who have access to PHI from the Plan are listed in the Privacy Notice, either by name or individual position.

8.06A Restrictions on Employees with Access to PHI. The Employees who have access to PHI listed in the Privacy Notice may only use and disclose PHI for Plan Administration functions that the Employer performs for the Plan, as set forth in the Privacy Notice, including but not limited to: quality assurance, claims processing, auditing, and monitoring.

8.07A Policies and Procedures. The Employer will implement Policies and Procedures setting forth operating rules to implement the provisions hereof.

8.08A Organized Health Care Arrangement. The Plan Administrator intends the Plan to form part of an Organized Health Care Arrangement along with any other Benefit under a covered health plan (under 45 C.F.R. § 160.103) provided by the Employer.

8.09A Privacy and Security Official. The Plan shall designate a Privacy and a Security Official, who will be responsible for the Plan's compliance with HIPAA's Privacy and Security Rules. The Privacy Official and the Security Official may be the same individual. The Privacy and Security Officials are responsible for ensuring the Plan's compliance with HIPAA's Privacy and Security Rules. The Privacy and Security Official may contract with, or otherwise utilize, the services of attorneys, accountants, brokers, consultants, or other third party experts as the Privacy and Security Official deems necessary or advisable.

8.10A Noncompliance. The Employer shall provide a mechanism for resolving issues of noncompliance, including disciplinary sanctions for personnel who do not comply with the provisions of this Article VIII.

8.11A Definitions. As used in this Article VIII, each of the following capitalized terms shall have the respective meaning given below:

"Individual" means the person who is the subject of the heath information created, received or maintained by the Plan or Employer.

"Organized Health Care Arrangement" means the relationship of separate legal entities as defined in 45 C.F.R. §160.103.

"Privacy Notice" means the notice of the Plan's privacy practices distributed to Plan participants in accordance with 45 C.F.R. § 164.520, as amended from time to time.

"Privacy Rules" means the privacy provisions of HIPAA and the regulations in 45 C.F.R. Parts 160 and 164.

"Protected Health Information or PHI" means individually identifiable health information as defined in 45 C.F.R. § 160.103.

8.12A Interpretation and Limited Applicability. This Article VIII serves the sole purpose of complying with the requirements of HIPAA and shall be interpreted and construed in a manner to effectuate this purpose. Neither this Article VIII nor the duties, powers, responsibilities, and obligations listed herein shall be taken into account in determining the amount or nature of the Benefits provided to any person covered under this Plan, nor shall they inure to the benefit of any third parties. To the extent that any of the provisions of this Article VIII are no longer required by HIPAA, they shall be deemed deleted and shall have no further force or effect.

8.13A Services Performed for the Employer. Notwithstanding any other provision of this Plan to the contrary, all services performed by a business associate for the Plan in accordance with the applicable service agreement shall be deemed to be performed on behalf of the Plan and subject to the administrative simplification provisions of HIPAA contained in 45 C.F.R. parts 160 through 164, except services that relate to eligibility and enrollment in the Plan. If a business associate of the Plan performs any services that relate to eligibility and enrollment to the Plan, these services shall be deemed to be performed on behalf of the Employer in its capacity as Plan Sponsor and not on behalf of the Plan.

DEPENDENT CARE FLEXIBLE SPENDING ACCOUNT
APPENDIX B TO THE CAFETERIA PLAN

PREAMBLE

If identified as a Benefit Package Option in the Adoption Agreement, the Employer identified in the Adoption Agreement has established this Dependent Care Flexible Spending Account (the Dependent Care FSA) to help provide dependent care assistance for those Employees who participate in the Employer's Cafeteria Plan ("Plan") and who, pursuant to the election procedures set forth in the Plan, choose to make contributions to a Dependent Care Reimbursement Account established pursuant to this Dependent Care FSA. This Dependent Care FSA is intended to provide reimbursement of certain Eligible Employment Related Expenses incurred by the Participant for care of a Qualifying Individual. The Employer intends that the Dependent Care FSA qualify as a Code Section 129 dependent care assistance plan, and that the benefits provided under the Dependent Care FSA be eligible for exclusion from the Participant's income for federal income tax purposes under Section 129 of the Code. This Dependent Care FSA is a component of, and incorporated by reference into, the Cafeteria Plan **("**Cafeteria Plan") and Articles VI, VIII and IX of the Cafeteria Plan document applying also to this Dependent Care FSA.

This Dependent Care Flexible Spending Account Appendix only applies to the extent Dependent Care Spending Account has been identified as a Benefit Package Option in the Adoption Agreement.

ARTICLE IB
DEFINITIONS

Unless otherwise specified, terms that are capitalized in this Appendix B to the Cafeteria Plan have the same meaning as the defined terms in the Cafeteria Plan. The definitions of terms defined in this Appendix B, but not defined in the Cafeteria Plan, shall be applicable only with respect to this Appendix B. To the extent a term is defined both in the Cafeteria Plan and in this Appendix B, the term as defined in the Cafeteria Plan shall govern the interpretation of the Cafeteria Plan and the term as defined in this Appendix B shall govern the interpretation of this Dependent Care FSA.

1.01B "Dependent" means any individual who is a tax dependent of the Participant as defined the Summary Plan Description for the Dependent Care FSA.

1.02B "Dependent Care Reimbursement" shall have the meaning assigned to it by Section 4.01B of this Dependent Care FSA.

1.03B "Earned Income" means all income derived from wages, salaries, tips, self-employment, and other Compensation (such as disability or wage continuation benefits), but only if such amounts are includible in gross income for the taxable year. Earned income does not include any other amounts excluded from earned income under Code Section 32(c)(2), such as amounts received under a pension or annuity, or pursuant to workers' compensation.

1.04B "Eligible Employment Related Expenses" means those expenses that would be considered to be employment-related expenses under Section 21(b)(2) of the Code (relating to expenses for household and dependent care services necessary for gainful employment) if paid for by the Employee to provide Qualifying Services other than amounts paid to:

(a) an individual with respect to whom a Dependent deduction is allowable under Code Sec. 151(c) to the Participant or his Spouse;

(b) the Participant's Spouse or the Qualifying Individual's parent; or

(c) a child (as defined in Code Section 152(f)(1)) of the Participant who is under 19 years of age at the end of the taxable year in which the expenses were incurred.

1.05B "Highly Compensated Individual" means an individual defined under Code Section 414(q), as amended, as a "highly compensated individual" or a "highly compensated employee."

1.06B "Reimbursement Account(s)" shall be the funding mechanism by which amounts are withheld from an Employee's Compensation and retained for future Dependent Care Reimbursement (as defined in Section 1.02B herein). No money shall actually be allocated to any individual Participant Account(s); any such Account(s) shall be of a memorandum nature, maintained by the Administrator for accounting purposes, and shall not be representative of any identifiable trust assets. No interest will be credited to or paid on amounts credited to the Participant Account(s).

1.07B "Qualifying Individual" means a person as described in the SPD for whom an Eligible Employment Related Expense may be reimbursed under this Dependent Care FSA.

1.08B "Qualifying Services" means services relating to the care of a Qualifying Individual that enable the Participant or his Spouse to remain gainfully employed which are performed:

(a) in the Participant's home; or

(b) outside the Participant's home for (1) the care of a Dependent of the Participant who is under age 13, or (2) the care of any other Qualifying Individual who resides at least eight (8) hours per day in the Participant's household. If the expenses are incurred for services provided by a dependent care center (i.e., a facility that provides care for more than 6 individuals not residing at the facility), the center must comply with all applicable state and local laws and regulations.

ARTICLE IIB
ELIGIBILITY AND PARTICIPATION

2.01B Eligibility to Participate. Each Employee who satisfies the eligibility requirements set forth in the Adoption Agreement shall be eligible to participate in this Dependent Care FSA as of the Plan Entry Date set forth in the SPD.

2.02B Termination of Participation. Participation shall terminate on the earliest of the dates set forth in the SPD.

2.03B Qualifying Leave Under the Family and Medical Leave Act. Notwithstanding any provision to the contrary in this Dependent Care FSA, if a Participant goes on a qualifying leave under the Family and Medical Leave Act of 1993 (the "FMLA"), then to the extent required by the FMLA, the Participant will be entitled to continue the Participant's coverage under this Dependent Care FSA in accordance with the SPD. The requirements for continuing coverage, procedures for FMLA leave and payment option(s) provided by the Employer (as described above) will be set forth in the SPD and will be administered in accordance with the regulations issued under Code Section 125 and in accordance with the FMLA.

ARTICLE IIIB
ELECTION TO PARTICIPATE

3.01B Initial Election Period.

(a) **Currently Eligible Employees.** An Employee who is eligible to become a Participant in this Dependent Care FSA as of the Effective Date must complete, sign, and file a Salary Reduction Agreement with the Plan Administrator (or its designated third party administrator as set forth on the Salary Reduction Agreement) during the election period (as specified by the Plan Administrator) immediately preceding the Effective Date of the Dependent Care FSA in order to become a Participant on the Effective Date. The elections made by the Participant on this initial Salary Reduction Agreement shall be effective, subject to Section 3.02B, for the Plan Year beginning on the Effective Date.

(b) **New Employees and Employees Who Have Not Yet Satisfied the Dependent Care FSA's Waiting Period**. An Employee who becomes eligible to become a Participant in this Dependent Care FSA after the Effective Date must complete, sign, and file a Salary Reduction Agreement with the Plan Administrator (or its designated third party administrator as set forth on the Salary Reduction Agreement) during the Initial Election Period set forth in the SPD or the enrollment material. Participation will commence under this Dependent Care FSA as set forth in the SPD (but in no event prior to the election).

(c) **Failure to Elect.** An eligible Employee who fails to complete, sign, and file a Salary Reduction Agreement in accordance with paragraph (a) or (b) above during an initial election period may become a Participant on a later date in accordance with Section 3.02B or 3.03B.

3.02B. Annual Election Period. Each Employee who is a Participant in this Dependent Care FSA, or who is eligible to become a Participant in this Dependent Care FSA shall be notified, prior to each Anniversary Date of this Dependent Care FSA, of his right to become a Participant in this Dependent Care FSA, to continue participation in this Dependent Care FSA, or to modify or to cease participation in this Dependent Care FSA, and shall be given a reasonable period of time in which to exercise such right: such period of time shall be known as the Annual Election Period. The date on which the Annual Election Period commences and ends will be set forth in the SPD or the enrollment material. An election is made during the Annual Election Period in the manner set forth in the SPD. The consequences of failing to make an election during the Annual Election Period will be set forth in the SPD.

3.03B Change of Elections. A Participant shall not make any changes to his or her election except for election changes permitted under the SPD, changes made during the Annual Election Period, changes caused by termination of employment or cessation of eligibility, and changes pursuant to the Family and Medical Leave Act. All election changes shall be effective on a prospective basis only (i.e., election changes will become effective no earlier than the first day of the first pay period coinciding with or immediately following the date that the election change was filed) but, as determined by the Plan Administrator, election changes may become effective later to the extent the coverage in the applicable component plan commences later.

3.04B Impact of Termination of Employment on Election or Cessation of Eligibility. Termination of employment or cessation of eligibility shall automatically revoke any Salary Reduction Agreement. Except as provided below, if revocation occurs under this Section 3.04B, no new election with respect to the Dependent Care FSA may be made during the remainder of the Plan Year except as set forth in the SPD.

3.05B Reduction of Certain Elections to Prevent Discrimination. If the Plan Administrator determines, before or during any Plan Year, that the Dependent Care FSA may fail to satisfy, for such Plan Year, any requirement imposed by the Code or any limitation on Highly Compensated Individuals, the Plan Administrator shall take such action(s) as he deems appropriate, under rules uniformly applicable to similarly situated Participants, to assure compliance with such requirement or limitation.

ARTICLE IVB
REIMBURSEMENTS

4.01B Dependent Care Reimbursement. To the extent offered under the Plan, each Participant's Dependent Care FSA will be credited for Dependent Care Reimbursement with amounts withheld from the Participant's Compensation, and any Non-elective Contributions allocated thereto by the Employer or where applicable, the Participant. The Dependent Care

Account will be debited for Dependent Care Reimbursements disbursed to the Participant in accordance with Article V of this document. In the event that the amount in the Account is less than the amount of reimbursable claims at any time during the Plan Year, the excess part of the claim will be carried over into following months within the same Plan Year, to be paid out as the Dependent Care Account balance becomes adequate. In no event will the amount of Dependent Care Reimbursements exceed the amount credited to the Dependent Care Account for any Plan Year. Any amount allocated to the Dependent Care Account shall be forfeited by the Participant and restored to the Employer if it has not been applied by the end of the Run-out Period set forth in the SPD to provide Dependent Care Reimbursement for Eligible Day Care Expenses incurred during the Plan Year. The Employer has the discretion to establish a grace period following the end of the Plan Year during which amounts unused as of the end of the Plan Year may be used to reimburse Eligible Day Care Expenses incurred during the grace period. In no event can the grace period exceed two (2) months and fifteen (15) days following the end of the Plan Year. All amounts allocated to the Dependent Care FSA that are not used to reimburse Eligible Day Care Expenses incurred during the Plan year and/or the Grace Period shall be forfeited. Amounts so forfeited shall be used in a manner that is not prohibited by applicable federal or state law. The maximum annual reimbursement amount shall be set forth in the SPD. The Employer may establish a minimum annual reimbursement amount as set forth in the SPD.

4.02B Receiving Dependent Care Reimbursement. Payment shall be made to the Participant in cash as reimbursement for Eligible Employment Related Expenses incurred by him while a Participant, during the Plan Year (or the grace period, if adopted by the Employer) for which the Participant's election is effective, provided that the substantiation requirements of Section 4.03B herein are satisfied.

4.03B Substantiation of Expenses. Each Participant must submit an expense for reimbursement in accordance with the terms of the SPD.

4.04B Repayment of Excess Reimbursements. If, as of the end of any Plan Year, it is determined that a Participant has received payments under this Dependent Care FSA that exceed the amount of Eligible Employment Related Expenses that have been substantiated by such Participant during the Plan Year as required by Section 4.03B herein, the Plan Administrator shall give the Participant prompt written notice of any such excess amount, and the Participant shall repay the amount of such excess to the Employer within sixty (60) days of receipt of such notification.

4.05B Reimbursement Following Cessation of Participation. Participants in the Dependent Care FSA may submit claims for reimbursement for Eligible Employment Related Expenses incurred during the Plan Year and before the date of participation in the Dependent Care FSA ceases so long as the claim is submitted prior to the end of the run out period set forth in the SPD. To the extent set forth in the SPD, Participants may submit claims for reimbursement of Eligible Employment-Related Expenses incurred during the Plan Year and after they cease participation so long as such claims are submitted prior to the end of the run out period. Any unused reimbursement benefits at the expiration of the Plan Year (as set forth in the SPD) shall be treated in accordance with Section 4.01B.

4.06B Disbursement Reports. The Plan Administrator shall issue directions to the Employer concerning all benefits that are to be paid from the Employer's general assets pursuant to the provisions of the Dependent Care FSA.

4.07B Timing of Reimbursements. Reimbursements shall be made as soon as administratively feasible after the required forms have been received by the Plan Administrator or its designee.

4.08B Statements. The Plan Administrator, or its designated third party administrator, may periodically furnish each Participant with a statement, showing the amounts paid or expenses incurred by the Employer in providing Dependent Care Reimbursement under the Dependent Care FSA.

4.09B Post-Mortem Payments. Any benefit payable under the Dependent Care FSA after the death of a Participant shall be paid to his surviving Spouse, otherwise, to his estate. If there is doubt as to the right of any beneficiary to receive any amount, the Plan Administrator may retain such amount until the rights thereto are determined, without liability for any interest thereon.

4.10B Non-Alienation of Benefits. Except as expressly provided by the Administrator, no benefit under the Dependent Care FSA shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge, and any attempt to do so shall be void. No benefit under the Dependent Care FSA shall in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements, or torts of any person.

4.11B Mental or Physical Incompetency. Every person receiving or claiming benefits under the Dependent Care FSA shall be presumed to be mentally and physically competent and of age until the Plan Administrator receives a written notice, in a form and manner acceptable to it, that such person is mentally or physically incompetent or a minor, and that a guardian, conservator, or other person legally vested with the care of his estate has been appointed.

4.12B Inability to Locate Payee. If the Plan Administrator is unable to make payment to any Participant or other person to whom a payment is due under the Dependent Care FSA because he cannot ascertain the identity or whereabouts of such Participants or other person after reasonable efforts have been made to identify or locate such person, such payment and all subsequent payments otherwise due to such Participant or other person shall be forfeited after a reasonable time after the date any such payment first became due.

4.13B Tax Effects of Reimbursements. Neither the Employer, nor the Plan Administrator makes any warranty or other representation as to whether any reimbursements made under the Dependent Care FSA will be treated as excludable from gross income for local, state, or federal income tax purposes. If, for any reason, it is determined that any amount paid for the benefit of a Participant or Beneficiary are includable in an Employee's gross income for local, federal, or state income tax purposes, then under no circumstances shall the recipient have any recourse against the Plan Administrator or the Employer with respect to any increased taxes or other losses or damages suffered by the Employees as a result thereof. The Dependent Care FSA is designed and is intended to be operated as a dependent care assistance plan under Section 129 of the Code.

4.14B Forfeiture of Unclaimed Reimbursement Account Benefits. Any Dependent Care FSA Reimbursement Account benefit payments that are unclaimed (e.g., uncashed benefit checks) by the close of the Plan Year following the Plan Year in which the Eligible Employment Related Expense was incurred (or such other period adopted by the Employer) shall be forfeited.

ARTICLE VB
FUNDING AGENT

The Dependent Care FSA shall be funded with amounts withheld from Compensation pursuant to Salary Reduction Agreements, and/or Benefit Credits provided by the Employer, if any. The Employer will apply all such amounts, without regard to their source, to pay for the welfare benefits provided herein as soon as administratively feasible and shall comply with all applicable regulations.

ARTICLE VIB
CLAIMS PROCEDURES

The Plan has established procedures for reviewing claims denied under this Dependent Care FSA and those claims review procedures are set forth in the SPD.

IN WITNESS WHEREOF, the Employer has executed this Cafeteria Plan and Appendices as of the date set forth below.

____
Employer Representative

____
Date

REQUEST FOR LEGISLATION
February 7, 2012

To: Mayor and Council

From: Judi Smith

Subject: Hartford 457 (b) Plan

SUMMARY & BACKGROUND:

A 457 plan, also known as a Deferred Compensation Plan (DCP), is a retirement plan adopted in accordance with Section 457 of the Internal Revenue Code to allow employees to voluntarily save for retirement with pre-tax dollars. The plan is funded solely with employee salary deduction contributions.

In the past, participation in the program was approved administratively by the City Manager. City staff is bringing this to Council because Hartford has requested an approved resolution from City Council to continue to offer this program to city employees.

The City believes it is in the best interest of its employees to continue to offer a 457(b) Deferred Compensation Plan and request City Council approve the attached resolution to retain Hartford Insurance Company to provide these services to City employees for the calendar year of January 1, 2012 through December 31, 2012.

RECOMMENDED ACTION: Approval

ATTACHMENTS: Resolution

CITY MANAGER APPROVAL: ____________________ COUNCIL AGENDA DATE: 2-7-12

CITY MANAGER COMMENTS: ____________________

FISCAL SERVICES DIRECTOR APPROVAL: ____________________

Resolution No. 2012 - 025
February 7, 2012

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS, City Council of the City of Ypsilanti deems it to be in the best interest of its employees to continue to offer a 457 (b) Deferred Compensation Plan; and

WHEREAS, the City Council acknowledges and does hereby declare the intention of the Hartford Insurance Company to continue the Plan, but reserves the right to terminate or amend the Plan at any time with Hartford Insurance; and

RESOLVED, that the Human Resources Department of the City of Ypsilanti will make this benefit known to all City employees and provide them with contact information to enroll in this supplemental benefit .

NOW THEREFORE BE IT RESOLVED THAT the Ypsilanti City Council authorizes the Human Resources Department to retain Hartford Insurance to provide 457 (b) Deferred Compensation Services to City employees for the calendar year of January 1, 2012 through December 31, 2012.

OFFERED BY: ____

SUPPORTED BY: ____

YES: NO: ABSENT: VOTE:

REQUEST FOR LEGISLATION

DATE: February 1, 2012

FROM: Karl Barr VBS7

SUBJECT: Hamilton Crossing

SUMMARY/BACKGROUND

The second phase of this project will be financed with a loan from the Michigan State Housing Development Authority (MSHDA). In order to close this loan, MSHDA is looking for clarifications in several documents relating to the property. These are:

1. In the MOU between the City and the YHC, the City retains a right of first refusal to purchase the property if it is sold to a non-affiliated entity. MSHDA is concerned that through this right of first refusal, the City could become the owner, and thus the borrower on the MSHDA loan. MSHDA can only make loans to Limited Dividend Housing Associations so the City is not a qualified borrower under the MSHDA loan. MSHDA is therefore requiring that this right of first refusal be subordinated to their loan. If the property were to be sold and the City wanted to exercise its right of first refusal, the City would have to purchase the property with its own financing; the City could not assume the existing MSHDA debt. If MSHDA were to foreclose, again the City would have to purchase the property using a different debt source than the MSHDA loan. Approval of the resolution which subordinates the city's right of first refusal to the MSHDA loan is requested.

2. In the PUD, MSHDA is looking for clarification that the Phase 1 lender and investor are not responsible for the completion of Phase 2 of the property. Ypsilanti's zoning code requires that different parcels zoned through a PUD have some commonality of control and that common entity is ultimately responsible for the completion of the entire property. A subsidiary of the YHC is the general partner of the partnership that owns each phase. As the general partner, they are responsible for the completion and operations of both phases. In each phase, this responsibility is supported by a strong third party property manager and investor, lender and asset manager oversight. The clarification that MSHDA seeks is that they, as lender to Phase 1, do not have responsibilities to Phase 2. This was the original intent in the PUD, and it is clear in the document that Phase 2 is not responsible for Phase 1 but the reverse is not clear. This clarification does not in any way reduce the YHC's responsibilities or alter the

roles of the property manager, and the lenders and investors for each phase. Approval of the resolution which clarified Section 1.8.1 of the PUD is requested.

3. State law requires that the City approve the financing for YHC-developed properties and the planned financing for both phases is attached. Approval of this financing (closed and in place for Phase 2 and committed for Phase 1) is requested.

ATTACHMENTS: Resolution

Exhibit A-1 – Legal Descrioption
Exhibit A-2 – Planned Unit Development Agreement
Exhibit A-3 – Financing Sources
Exhibit A-4 – Procedures and Requirements for Transfers Involving Authority – Financed Developments. (MSHDA's Resale Policy)

RECOMMENDED ACTION: Approval of the attached resolution

DATE RECEIVED:________________ AGENDA ITEM NO.

CITY MANAGER COMMENTS:

FOR AGENDA OF:____________ FINANCE DIR. APPROVAL

COUNCIL ACTION TAKEN:

Resolution No. 2012-026
February 7, 2012

BE IT RESOLVED THAT, the City of Ypsilanti approves the actions described below with respect to the development of a multifamily residential housing complex formerly known as Parkview Apartments (Phase 1) on the property located in Ypsilanti, Michigan described on Exhibit "A-1" (the "Project").

WHEREAS, Ypsilanti Housing Commission (YHC) acquired the Project for nominal consideration from the U.S. Department of Housing and Urban Development ("HUD") as part of a foreclosure sale, which was deeded to Revision Parkview LLC ("Parkview"), a wholly owned subsidiary of YHC, to redevelop the Project in two separate phases;

AND WHEREAS, Michigan State Housing Development Agency ("MSHDA") has asked the City, Parkview and YHC to clarify certain provisions in various agreements prior to approval of its financing to Hamilton Crossing Limited Dividend Housing Association Phase 1 Limited Partnership, a Michigan limited partnership ("Partnership");

THEREFORE BE IT RESOLVED, that the City of Ypsilanti finds the Project, which is included in the Agreement for Approval of Purchase of Parkview Apartments between the City of Ypsilanti and the Ypsilanti Housing Commission dated June 15, 2010 ("Purchase Agreement"), is subject to the City's right of first refusal provided in Section 3 of the Purchase Agreement ("First Refusal"). The City of Ypsilanti subordinates its First Refusal Right to the interests of the Partnership and MSHDA so long as MSHDA has any interest in the Project and further agrees that the First Refusal Right shall be subject to MSHDA's *Procedures and Requirements for Transfers Involving Authority-Financed Developments* dated June 27, 2007, incorporated herein as Exhibit A-4, as may be amended from time to time;

FURTHER RESOLVED, the Project is benefited by the Planned Unit Development Agreement dated June 7, 2011, a copy of which is attached hereto as Exhibit "A-2" and made a part hereof ("PUD Agreement"). The PUD Agreement relates to a "Phase 1 Property" and separate "Phase 2 Property", as such terms are defined therein. The Project is the Phase 1 Property described in the PUD Agreement. Parkview is the "Phase 1 Developer" as defined in the PUD Agreement. Parkview is conveying the Project to the Partnership. The terms, provisions and conditions of the PUD Agreement applicable to the Phase 1 Property shall be deemed a restrictive covenant which shall run with the land and be binding upon and inure to the benefit of the Partnership; provided, however, that the Partnership shall not be bound by or subject to the obligations, terms or conditions set forth in Section 1.8.1 of the PUD Agreement. The obligation to complete development of the Phase 1 Property and the Phase 2 Property belongs to both Parkview and the YHC, not the Partnership;

.

FURTHER RESOLVED, that financing relative to the Phase 1 Property and Phase 2 Property, as each are defined in the PUD Agreement, a summary of which is attached hereto as Exhibit "A-3" is approved by the City in accordance with its rules and regulations; and

FURTHER RESOLVED, that all actions taken to date in furtherance of the foregoing resolutions are hereby ratified and approved.

OFFERED BY: ____

SUPPORTED BY: ____

YES: NO: ABSENT: VOTE:

<u>EXHIBIT A-1</u>

PROPERTY DESCRIPTION

OWNER REQUEST YPC 48W-360A PHASE " I " COM AT SW COR OF LOT 14, ENDER'S SUB, TH N 15-06-00W 4.20 FT, TH N 01-59-00 E 213.12 FT TO A POB, TH CONT N 01-59-00 E 248.07 FT, TH N 08-40-00 E 113.62 FT, TH S 88-00-00 E 367.52 FT, TH S 02-16-31 W 112.60 FT, TH S 88-19-59 E 48.42 FT, TH S 02-14-45 W 302.34 FT, TH N 88-02-05 W 121.07 FT, TH S 61-56-18 W 9.50 FT, TH N 88-02-24 W 52.78 FT, TH S 01-58-32 W 13.10 FT, TH N 88-07-38 W 67.99 FT, TH N 01-51-34 E 68.81 FT, TH N 88-15-49 W 101.33 FT, TH N 01-47-12 E 3.77 FT, TH N 88-12-09 W 75.65 FT TO THE POB. PT OF PARKRIDGE SUB, ENDERS SUB, THE WILLSON SUB, H.W. LARZELLER'S ADD, AND FRENCH CLAIMS 680 & 690. 3.76 AC.
SPLIT ON 06/21/2011 FROM 11-11-39-470-001;

EXHIBIT A-2

EXHIBIT A-3

Due to the scarcity of financing for affordable housing redevelopments, the Parkview redevelopment is being financed with two separate financings. These separate lenders required the lot to be split, as accomplished under the PUD.

The two phases are (or will be) financed as follows:

Phase 2 (closed in July 2011 and under construction) – all financing sources closed

Construction Financing:	
Key Bank (construction lender – repaid with LIHTC equity)	$ 4,281,748
Permanent Financing:	
Washtenaw County HOME Funds	40,000
HUD Upfront grant	2,960,000
Low Income Housing Tax Credit equity – (9% credits) Boston Financial	7,013,000
Total Budget	$ 10,013,000

Phase 1 (closing in January 2012) – all financing sources either closed or committed

Construction Financing:	
MSHDA tax-exempt construction financing (paid down with LIHTC equity)	$ 4,420,800
Permanent Financing:	
MSHDA tax-exempt permanent financing	2,771,367
Washtenaw County HOME and NSP Funds	463,214
HUD Upfront grant	2,800,000
HUD EDI grant	147,000
Low Income Housing Tax Credit equity (4% credits) – Great Lakes Cap Fund	2,854,514
Total Budget	$ 9,036,095

EXHIBIT A-1

PROPERTY DESCRIPTION

OWNER REQUEST YPC 48W-360A PHASE " I " COM AT SW COR OF LOT 14, ENDER'S SUB, TH N 15-06-00W 4.20 FT, TH N 01-59-00 E 213.12 FT TO A POB, TH CONT N 01-59-00 E 248.07 FT, TH N 08-40-00 E 113.62 FT, TH S 88-00-00 E 367.52 FT, TH S 02-16-31 W 112.60 FT, TH S 88-19-59 E 48.42 FT, TH S 02-14-45 W 302.34 FT, TH N 88-02-05 W 121.07 FT, TH S 61-56-18 W 9.50 FT, TH N 88-02-24 W 52.78 FT, TH S 01-58-32 W 13.10 FT, TH N 88-07-38 W 67.99 FT, TH N 01-51-34 E 68.81 FT, TH N 88-15-49 W 101.33 FT, TH N 01-47-12 E 3.77 FT, TH N 88-12-09 W 75.65 FT TO THE POB. PT OF PARKRIDGE SUB, ENDERS SUB, THE WILLSON SUB, H.W. LARZELLER'S ADD, AND FRENCH CLAIMS 680 & 690. 3.76 AC.
SPLIT ON 06/21/2011 FROM 11-11-39-470-001;

EXHIBIT

Blumberg No. 5118

A-2

06/02/2011

PLANNED UNIT DEVELOPMENT AGREEMENT

City of Ypsilanti, Michigan

This Planned Unit Development Agreement is made this 7 day of June, 2011 by and between REVISION PARKVIEW LLC, a Michigan limited partnership, whose address is 601 Armstrong Drive, Ypsilanti, Michigan 48197-5281 ("Phase 1 Developer") REVISION PHASE 2 LIMITED PARTNERSHIP, a Michigan limited partnership, whose address is 601 Armstrong Drive, Ypsilanti, Michigan 48197-5281 ("Phase 2 Developer") (the Phase 1 Developer and the Phase 2 Developer, collectively known as the "Developer") and the CITY OF YPSILANTI, MICHIGAN, a Michigan municipal corporation, whose address is One South Huron Street, Ypsilanti, Michigan 48197 ("City").

RECITALS:

A. The Project (as defined in Section C, below) will be developed in two phases by two developers working in conjunction with Revision Parkview, LLC to develop and operate the Project.

B. Phase 1 Developer is the owner of a parcel of real estate located in the City of Ypsilanti, Washtenaw County, Michigan, more particularly described on Exhibit A, attached hereto (the "Property"). Developer desires to divide the Property into two parcels. The first parcel shall consist of 70 units and shall be more particularly described on Exhibit B, attached hereto (the "Phase 1 Property"). The second parcel shall consist of 74 units and the community building and shall be more particularly described on Exhibit C, attached hereto (the "Phase 2 Property").

C. Phase 1 Developer desires to develop the Phase 1 Property as a multi-family residential apartment complex (the "Phase 1 Project").

D. Phase 2 Developer shall acquire title to the Phase 2 Property. Phase 2 Developer desires to develop the Phase 2 Property as a multi-family residential apartment complex including the community building (the "Phase 2 Project"). The Phase 1 Project and the Phase 2 Project are collectively known as the "Project".

E. Phase 1 Developer and Phase 2 Developer desire to develop the Project under the Zoning Ordinance, identified as Article IX of the City of Ypsilanti Code of Ordinances, , as amended (the "Zoning Ordinance"), as a Planned Unit Development utilizing R-4 multi-family, high density, residential project as the base zoning district.

F. The City Planning Commission recommended and City Council, in strict compliance with the Zoning Ordinance, as amended, rezoned the Phase 1 Property and the Phase 2 Property to a Planned Unit Development, finding that such reclassification properly achieved the purposes of the Zoning Ordinance, including the encouragement of innovation in land use, the promotion of efficient provision of public services and utilities, the provision of adequate housing, increased protection of natural resources, quality architecture and integrated site design.

G. The City has found and concluded that the uses and future development plans and conditions shown on the approved PUD Site Plan, prepared by Fusco, Shaffer & Pappas, Inc., dated May 25, 2011, being Job No. __________ attached as Exhibit D ("PUD Plan"), are reasonable and promote the public health, safety and welfare of the City, and that they are consistent with the plans and objectives of the City, consistent with surrounding uses of land, and consistent with Planned Unit Development requirements and approval.

NOW, THEREFORE, Developer and City, in consideration of the mutual promises and covenants contained herein, agree as follows, which shall constitute the PUD development agreement that shall govern the Project:

1. GENERAL TERMS.

1.1 RECITALS. Developer and the City acknowledge and represent that the foregoing recitals are true, accurate and binding on the respective parties and are an integral part of this Agreement.

1.2 ZONING DISTRICT. The City acknowledges and represents that the Project is zoned Planned Unit Development and, for purposes hereof, it shall be referred to as Hamilton Crossing. The PUD district, in effect on the date hereof requires the minimum measurements: a lot width of 45 feet, front yard setback (Harriet Street) of 25 feet, street side yard setbacks (Hamilton and Perry Streets) of 15 feet minimum, and a rear yard setback of 25 feet to the adjacent residential.

1.3 SITE PLAN APPROVAL. The final site plan, a copy of which is included in PUD Plan attached as Exhibit D and made a part hereof, has been approved by the City pursuant to the Zoning Ordinance.

1.4 CONDITIONS OF FINAL SITE PLAN APPROVAL. Developer and City acknowledge that the final site plan approval for the Project incorporates conditions and requirements of the City for approval of the Site Plan, that were recommended by the City Planning Commission, City planning department and the City's consultants, which must be fulfilled by the Developer during construction of the Project. All conditions of site plan approval are incorporated by reference and made a part of this Agreement.

1.5 AGREEMENT RUNNING WITH THE LAND. The terms, provisions and conditions of this Agreement shall be deemed to be of benefit to the Project described herein, shall be deemed a restrictive covenant which shall run with the land and be binding upon and inure to the benefit of the parties, their successors and assigns and any parties who, now or in the future, have any right, title or interest in the land or the Project, or any portion thereof; and may not be modified or rescinded except as may be agreed to in writing by the City, the Developer and/or their respective successors and assigns. This restrictive covenant shall be incorporated by the appropriate executed instruments into the title of the Project. Anything to the contrary herein notwithstanding, no person who is neither a party hereto or the successor or assignee of a party shall be deemed an intended contractual beneficiary of this Agreement or have the right to commence any lawsuit or proceeding to enforce this Agreement or any portion thereof.

1.6 DEED RESTRICTIONS. The Developer shall provide for, comply with, and enforce all applicable Building and Use Restrictions for the Project, as required by the City, and attached hereto as Exhibit E. The City shall retain the right, but shall have no obligation, to enforce the provisions of said documents if the City determines enforcement to be necessary in the interests of public health, safety or welfare. Any amendments to the deed restrictions must be approved by the City in those instances where the deed restrictions provide for City's approval, which approval shall not be unreasonably withheld.

1.7 OWNERSHIP. Phase 1 Developer represents and warrants to City that Phase 1 Developer is undertaking the Phase 1 Property for its own account with no present intention to convey the Phase 1 Property to any party that would not itself qualify as an appropriate owner of a project pursuant to the Planned Unit Development requirements of the Zoning Ordinance and specific conditions of approval. Phase 2 Developer represents and warrants to City that Phase 2 Developer is undertaking the Phase 2 Property for its own account with no present intention to convey the Phase 2 Property to any party that would not itself qualify as an appropriate owner of a project pursuant to the Planned Unit Development requirements of the Zoning Ordinance and specific conditions of approval.

1.8 MANAGEMENT. Developer represents and warrants to City that Developer shall ensure the Project is adequately managed and in a manner that ensures ongoing compliance with applicable laws and restrictions. Developer shall make certain that proper management of all aspects of the site occurs including performing all required and regular maintenance of all site improvements, buildings, landscaping, parking and other areas. Developer shall ensure that occupants do not create nuisances to surrounding uses, the neighborhood or community. In the event the Phase 1 Developer fails at any time to properly manage the Phase 1 Project, in the sole and absolute discretion of the City, in accordance with this Agreement, the City may serve written notice upon the Phase 1 Developer setting forth the manner in which Phase 1 Developer has failed to properly manage the Phase 1 Project. Should Phase 1 Developer fail to take action to address the stated deficiencies, this shall be considered a violation of this Agreement by the Phase 1 Developer. Either party may enforce this agreement in any court of proper jurisdiction.

In the event the Phase 2 Developer fails at any time to properly manage the Phase 2 Project, in the sole and absolute discretion of the City, in accordance with this Agreement, the City may serve written notice upon the Phase 2 Developer setting forth the manner in which Phase 2 Developer has failed to properly manage the Phase 2 Project. Should Phase 2 Developer fail to take action to address the stated deficiencies, this shall be considered a violation of this Agreement by the Phase 2 Developer. Either party may enforce this Agreement in any court of proper jurisdiction

1.8.1 In accordance with Zoning Ordinance Section 122-573's requirement that the proposed development shall be under single ownership or control such that there is a single person or entity having responsibility for completing the project, Phase 1 Developer will be responsible for the ensuring completion and operation of the entire Project on the Phase 1

Property and Phase 2 Property in conformance with City Ordinances, the PUD Plan and this Agreement..

1.9 PROPERTY TAXES. The parties acknowledge, reaffirm and agree to abide by the commitment made in the Agreement for Approval of Purchase of Parkview Apartments, dated June 15, 2010, between the City and the Ypsilanti Housing Commission (Copy of Agreement attached as Exhibit F) that the Phase 1 Property and Phase 2 Property shall remain subject to all applicable taxes, including real estate taxes, subject to a fair assessment of multi-family property with restricted rents. However, a payment in lieu of taxes authorized by statute may be negotiated for the Phase 2 Property only in the circumstance where the application for Low-Income Housing Tax Credit financing requires such in order for financing to be available to the Project.

2. **PROVISIONS REGARDING DEVELOPMENT.**

2.1 PERMITTED USES. The Property shall only be used for multi-family residential purposes in accordance with the City Zoning Ordinance's R4 Multiple-Family Residential District regulations, including such amenities as may be constructed by Developer in accordance with the approved Site Plan, including, but not limited to, a community building and tot lots, and in accordance with the ordinances of the City of Ypsilanti.

2.1.1 The Project shall consist of 144 apartment units, consisting of a total of 313 bedrooms. Each one bedroom unit shall consist of approximately 650 – 1,100 square feet; each two bedroom unit shall consist of approximately 850 – 1,400 square feet; each 3 bedroom unit shall consist of approximately 950 – 1,300 square feet. Additional zoning specifications applicable to the Project are:

Lot Area – Phase 1	3.76 Acres / 163,830 s.f.
Lot Area – Phase 2	5.16 Acres / 224,564 s.f.
Lot Width – Phase 1	Approximately 45 feet
Lot Width – Phase 2	Approximately 429 feet
Front Setback	25 feet (North)
Side (street) Setback Side Setback	15 feet (East) 15 feet (West)
Rear Setback	25 feet (South)
Building Height	35' 6" feet mean (3 stories)
Distance Between Buildings	20 feet between buildings
Maximum Lot Coverage	45 %
Maximum Impervious Surface Ratio	52%

2.2 EXEMPTIONS. The following exemptions to Zoning Ordinance requirements are deemed to be granted and shall apply to the Project:

2.2.1 Developer may exceed the existing non-conforming number of rooms by up to nine (9) in order to provide an adequate number of barrier free apartments in a variety of types including a three bedroom unit.

2.2.2 Developer may reduce the required number of parking places by 7, providing a total of 170 parking spaces per the approved site plan. This exemption was approved due to the addition of improved landscaping in the Hamilton Street side yard, the addition of bicycle parking, the future addition of a bus stop on Harriet Street, and pedestrian access to all public streets.

2.2.3 20' foot lights shall be allowed as the existing lights are full cut-off dark sky compliant lights in all parking areas except for parking lot D which abuts an R2 neighborhood as shown on the staff review dated April 6, 2011. Developer shall not exceed the 16' maximum height requirement for lights in lot D.

2.2.4 The Project is allowed to have a sign larger than what is permitted in the R4 district as shown on the approved site plans. All other signs shall conform to the City's sign regulations.

2.2.5 The Project is allowed a two (2%) percent increase in the maximum impervious surface ratio due to the removal of asphalt and the addition of patios, porches and a community building, all which will improve the quality of the Project.

2.2.6 The Project is allowed dumpster enclosures in the Hamilton Street side setback as shown on the site plan as the proposed berm provides adequate screening from Hamilton Street.

2.2.7 Up to four (4) parking spaces may be located in the Hamilton Street side yard within the street side yard setback as the spaces are on existing impervious surface, are screened by the proposed berm and provide parking for the community building expansion.

2.3 PEDESTRIAN EASEMENT. Developer shall grant a permanent pedestrian access easement from Monroe and Perry Streets to the proposed bus stop on Hamilton Street to be included in Exhibit G.

2.4 LANDSCAPING. Developer shall be responsible for installing and maintaining all landscaping according to the approved Site Plan. Developer shall also be responsible for removing any debris that is deposited in the landscape areas of the Project and shall maintain the areas to ensure that they are free of trash, rubbish or unsightly weeds and shall maintain the landscaping in an attractive state.

2.4.1 The Project shall conform to the landscaping plan dated May 25, 2011 included in the PUD Plan.

2.4.2 Trees shown to be preserved on the final PUD Plan shall be protected by Developer from damage and encroachment during all phases of construction and development and, if damaged or removed, shall be replaced.

2.4.3 In the event the Phase 1 Developer fails at any time to preserve, maintain or keep up the landscape areas, or any other improvements including lighting, fencing, parking, etc. in accordance with this Agreement, the City may serve written notice upon the Phase 1

Developer setting forth the manner in which the Phase 1 Developer has failed to maintain or preserve the landscape areas or other improvements of in the Phase 1 Project in accordance with this Agreement. In the event the Phase 2 Developer fails at any time to preserve, maintain or keep up the landscape areas, or any other improvements including lighting, fencing, parking, etc. in accordance with this Agreement, the City may serve written notice upon the Phase 2 Developer setting forth the manner in which the Phase 2 Developer has failed to maintain or preserve the landscape areas or other improvements of in the Phase 2 Project in accordance with this Agreement.

Such notice from the City shall include a demand that deficiencies in maintenance or preservation be cured within thirty (30) days of the notice. If the deficiencies set forth in the original notice, or any modification thereof, are not cured within such thirty (30) day period or any extension thereof, the City, in order to prevent the landscape areas or other improvements from becoming a nuisance, may, but is not obligated to, enter upon the Phase 1 Project or the Phase 2 Project, as the case may be, and perform the required maintenance or otherwise cure the deficiencies. The City's cost to perform any such maintenance or cure, together with a surcharge equal to fifteen (15) percent for administrative costs, shall be a lien on the property and assessed to the owner of the Project phase at the time such maintenance or cure is performed, or its successors or assigns, placed on the next City tax roll as a special assessment, and collected in the same manner as general property taxes. Phase 1 Developer or Phase 2 Developer, as the case may be, shall join in a recordable document to be recorded in the chain of title in the records of the Washtenaw County Register of Deeds that gives notice of the lien rights set out in this paragraph, and such developer shall notify any purchaser or new owner of this provision.

Nothwithstanding anything to the contrary set forth herein, the failure of the Phase 1 Developer to comply with any provisions of this Agreement with respect to the Phase 1 Project shall not constitute a default by the Phase 2 Developer under this Agreement.

2.5 LIGHTING. The Project shall conform to the lighting plan dated May 25. 2011 included in the PUD Plan.

2.6 CONSTRUCTION ACCESS. Developer shall take all reasonable measures requested by the City to reduce any dust created by trucks traveling to and from the construction site, which measures may include, brining the construction site, when requested by the City, as well as deploying a water truck on site when dust conditions create a nuisance during the site development stage of construction, the expense of which shall be born exclusively by the Developer.

2.7 UNDERGROUND UTILITIES. Developer shall install all electric, telephone and other communication systems underground in accordance with requirements of the applicable utility company and applicable City ordinances.

2.8 REMOVAL OF CONSTRUCTION DEBRIS. Developer shall remove all discarded building materials and rubbish at least once each month during construction of the Project and within one month of completion of construction. No burning of discarded construction material shall be allowed on site.

3. **MISCELLANEOUS.**

3.1 PERMITS AND FEES. Prior to commencing construction on the Phase 1 Project, Phase 1 Developer shall obtain all necessary permits from all municipal, county, state or federal authorities with jurisdiction over the Phase 1 Project or an aspect thereof as are necessary to undertake that particular phase of construction. In addition, Phase 1 Developer shall pay all proper permit and inspection fees imposed the any governmental authority exercising proper jurisdiction over the Phase 1 Project.

Prior to commencing construction on the Phase 2 Project, Phase 2 Developer shall obtain all necessary permits from all municipal, county, state or federal authorities with jurisdiction over the Phase 2 Project or an aspect thereof as are necessary to undertake that particular phase of construction. In addition, Phase 2 Developer shall pay all proper permit and inspection fees imposed the any governmental authority exercising proper jurisdiction over the Phase 2 Project.

3.2 APPROVAL. This Agreement has been approved through action of the City Council at a duly scheduled meeting.

3.3.1 PARCELS. For financing purposes, the Project consists of two phases and the Project site has been split into the Phase 1 Property and the Phase 2 Property. However, the parties contemplate and agree that as long as the owners of the Phase 1 Property and Phase 2 Property remain related, then the Phase 1 Property and Phase 2 Property shall be recombined in the future after the Building and Use Restrictions provided for in Section 1.6 hereof and the income restrictions expire or are terminated. For this reason, the Project has been reviewed and approved as a single, comprehensive development and not as separate development sites. Phase 2 Developer shall be responsible for initiating the necessary process to recombine the Phase 1 Property and the Phase 2 Property into a single parcel upon the later of the following events: (a) the Building and Use Restrictions and income restrictions expire; or (b) the Building and Use Restrictions and income restrictions are terminated. Regardless of any change in ownership or whether and when the Phase 1 Property and Phase 2 Property are later recombined, the Phase 1 Property and the Phase 2 Property, and the Phase 1 Project and the Phase 2 Project, shall remain subject to the terms, provisions and conditions of this Agreement in accordance with Section 1.5 hereof.

3.4 CERTIFICATES OF OCCUPANCY. Phase 1 Developer and Phase 2 Developer shall obtain separate certificates of occupancy for each building in the Phase 1 Project and the Phase 2 Project, respectively. Additionally site level Certificates of Occupancy shall be obtained for each phase separately.

3.5 DEVELOPER AND OWNER APPROVAL. The signers on behalf of Phase 1 Developer and Phase 2 Developer below represent by their signatures that they represent and have authority to bind all owners of legal and equitable title in the Project.

3.6 GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan.

3.7 MODIFICATIONS. This Agreement may not be modified, replaced, amended or terminated without the prior written consent of the parties to this Agreement. Developer and the City shall be entitled to modify, replace, amend or terminate this Agreement, without requiring the consent of any other person or entity whatsoever, regardless of whether such person has any interest in the Project, including mortgagees and others, except with respect to the Phase 2 Project. Prior to any modification to this Agreement pertaining to the Phase 2 Project, request for consent shall be sent to Boston Financial Investment Management, LP, 101 Arch Street, 13th Floor, Boston, MA 02110, with a copy to Holland & Knight LLP, 10 St. James Avenue, Boston, MA 02116.

3.8 CONTINUING REVIEW. The Developer shall be required to review conformance of this Agreement with City Officials and/or designated City consultants at such time as deemed reasonably necessary by the City acting through its building inspection department until completion of the Project. The Phase 1 Property and the Phase 2 Property shall be reviewed by the City as one parcel for planning and zoning purposes.

3.9 ASSIGNABILITY. Developer shall have the right to assign this Agreement to any other third party, without the consent of City; provided, however, that in the event of such assignment, Developer shall provide written notice of the assignment to City within five (5) business days of the Assignment but such assignment shall not release Developer from its obligations hereunder. Any future owner(s) and occupant(s) shall be subject to and bound by the PUD Plan and this Agreement.

3.10 APPLICABILITY OF CITY ORDINANCES. Except as set forth in the PUD Plan and this Agreement, the project shall be developed in accordance with City ordinances. In the event the PUD Plan or this Agreement are inconsistent with the City's ordinances, regulations or standards, then the PUD Plan and this Agreement shall control. The parties acknowledge and understand that modifications may be requested to vary from the strict requirements of City ordinances and design standards. Subject to Section 3.11, below, the City Council shall make all decisions on such requests.

3.11 MINOR MODIFICATIONS. During the course of final design, engineering and development, the need for modifications to the PUD Plan may arise which may include, for example, modifications to building sizes, shapes and elevations. Minor changes to the final PUD Plan may be approved by City staff without referral to the Planning Commission or City Council provided that the plans and drawings do not materially diverge from the final PUD Plan, this Agreement and the City's design standards. Any modifications that City staff believes are not minor shall be submitted to City Council for approval after Planning Commission review and recommendation.

3.12 SEVERABILITY. In the event any provision of this Agreement is determined by a court to be unlawful, unenforceable or invalid for any reason, the remaining provisions shall remain in full force and effect.

3.13 COUNTERPARTS; RECORDING. This Agreement may be executed in counterparts, each of which shall be deemed an original, and such counterparts shall together comprise a single Agreement. A copy of this Agreement shall be recorded at the Washtenaw County Register of Deeds.

3.14 CANCELLATION. In the event Developer, prior to construction, notifies the City in writing that Developer is abandoning or otherwise not proceeding with the Project, or if Developer does not obtain a building permit and commence substantial construction within two (2) years from the date of this Agreement, then the City may, by written notice to Phase 1 Developer and Phase 2 Developer, cancel this Agreement.

3.15 NO PARTNERSHIP. This Agreement shall not be deemed to create a partnership or joint venture between Developer and the City

IN WITNESS WHEREOF, Phase 1 Developer, Phase 2 Developer and City have executed this Planned Unit Development Agreement effective as of the date first-above written.

REVISION PARKVIEW LLC, a Michigan limited liability company

By: Ypsilanti Housing Commission, its sole member

By: ______________________

Its: President

REVISION PHASE 2 LIMITED PARTNERSHIP, a Michigan limited partnership

By: YHC Parkview, Inc., a Michigan corporation, its Managing General Partner

By: ______________________

Its: President

CITY OF YPSILANTI, MICHIGAN, a Michigan municipal corporation

By: ______

Its: Mavor

By:

Frances M[illegible]

Its: City Clerk

EXHIBIT A

DESCRIPTION OF PROPERTY

(PER ALTA COMMITMENT NO. 623180B, PREPARED BY CAPITAL FUND TITLE SERVICES, LLC, DATED DECEMBER 9, 2010)

BEGINNING AT THE SOUTHWEST CORNER OF LOT 14, ENDER'S SUBDIVISION, AS RECORDED IN LIBER 10 OF PLATS, PAGE 17, WASHTENAW COUNTY RECORDS; THENCE ALONG THE EASTERLY LINE OF PERRY STREET IN THE FOLLOWING COURSES: NORTH 15° 06' WEST 4.20 FEET, NORTH 1° 59' EAST 461.19 FEET, AND NORTH 8° 40' EAST 113.62 FEET TO A POINT WHICH IS 18.0 FEET SOUTHERLY OF THE SOUTHERLY LINE OF HARRIET STREET AS IT IS NOW LAID OUT AND USED; THENCE SOUTH 88° 00' EAST 451.07 FEET ALONG A LINE WHICH IS 18.0 FEET SOUTHERLY OF AND PARALLEL TO THE SOUTHERLY LINE OF HARRIET STREET TO A POINT 2 FEET WEST OF THE WESTERLY LINE OF HAMILTON STREET; THENCE SOUTH 1° 49' WEST 437.41 FEET PARALLEL TO THE WESTERLY LINE OF HAMILTON STREET; THENCE SOUTH 75° 08' 45" WEST 0.92 FEET ALONG THE NORTHERLY LINE OF FRENCH CLAIM NO.680 TO THE WESTERLY LINE OF HAMILTON STREET AND THE NORTHERLY LINE OF A FORMER ALLEY IN PARKRIDGE SUBDIVISION AS RECORDED IN LIBER 1 OF PLATS, PAGE 27, WASHTENAW COUNTY RECORDS; THENCE SOUTH 15° 07' EAST 136.72 FEET ALONG THE WESTERLY LINE OF HAMILTON STREET TO THE NORTHERLY LINE OF MONROE AVENUE; THENCE SOUTH 14° 26' WEST 68.97 FEET TO THE NORTHEAST CORNER OF LOT 365 IN PARKRIDGE SUBDIVISION; THENCE SOUTH 15° 07' EAST 129.01 FEET ALONG THE EASTERLY LINE OF SAID LOT 365 AND SAID EASTERLY LINE EXTENDED TO THE CENTERLINE OF AN ALLEY; THENCE SOUTH 74° 52' WEST 450.48 FEET ALONG THE CENTERLINE OF AN ALLEY; THENCE NORTH 15° 14' 35" WEST 129.14 FEET ALONG THE WESTERLY LINE AND THE EXTENSION OF THE WESTERLY LINE OF LOT 373 OF SAID PARKRIDGE SUBDIVISION TO THE SOUTHERLY LINE OF MONROE AVENUE; THENCE NORTH 14° 36' 05" WEST 60.00 FEET TO THE SOUTHWEST CORNER OF LOT 474 IN PARKRIDGE SUBDIVISION; THENCE NORTH 15° 06' WEST 138.94 FEET ALONG THE WESTERLY LINE OF SAID LOT 474 AND THE EASTERLY LINE OF PERRY STREET, AS NOW LAID OUT AND USED, TO THE PLACE OF BEGINNING, BEING A PART OF ENDER' S SUBDIVISION AS RECORDED IN LIBER 10 OF PLATS, PAGE 17, WASHTENAW COUNTY RECORDS, A PART OF THE WILSON SUBDIVISION AS RECORDED IN LIBER 1 OF PLATS, PAGE 44, WASHTENAW COUNTY RECORDS, EXCEPTING THAT PART VACATED AS RECORDED IN LIBER 268, PAGE 556, WASHTENAW COUNTY RECORDS, A PART OF H.W. LARZELERE'S ADDITION TO YPSILANTI AS RECORDED IN LIBER 41 OF DEEDS, PAGE 453, WASHTENAW COUNTY RECORDS, AND PART OF PARKRIDGE SUBDIVISION AS RECORDED IN LIBER 1 OF PLATS, PAGE 27, WASHTENAW COUNTY RECORDS, TOWN 3 SOUTH, RANGE 7 EAST, CITY OF YPSILANTI, WASHTENAW COUNTY, MICHIGAN; EXCEPTING LOT 483, PARKRIDGE

SUBDIVISION, AS RECORDED IN LIBER 1 OF PLATS, PAGE 27, WASHTENAW COUNTY RECORDS.

AND

LOT 483
(PER QUIT CLAIM DEED, L. 4831, P. 436)

LOT 483, PARKRIDGE SUBDIVISION, AS RECORDED IN LIBER 1 OF PLATS, PAGE 27, WASHTENAW COUNTY RECORDS.

EXHIBIT B

DESCRIPTION OF PHASE 1 PROPERTY

Land in the City of Ypsilanti, Washtenaw County, Michigan, described as:

A PART OF FRENCH CLAIM 690, CITY OF YPSILANTI, WASHTENAW COUNTY, MICHIGAN BEING ALL OF LOTS 6 THROUGH 9, AND LOTS 18 THROUGH 21, ALSO PART OF LOTS 2 THROUGH 5, 10, 11 AND 17 OF "ENDER'S SUBDIVISION" AS RECORDED IN LIBER 10, PAGE 17 OF PLATS, WASHTENAW COUNTY RECORDS; ALSO ALL OF LOTS 30 THROUGH 37, AND PART OF LOTS 29, 38, AND 39 OF "THE WILLSON SUBDIVISION" AS RECORDED IN LIBER 1, PAGE 44 OF PLATS, WASHTENAW COUNTY RECORDS; ALSO PART OF LOT 65 OF "H. W. LARZELLER'S ADDITION TO YPSILANTI" AS RECORDED IN LIBER 41, PAGE 453 OF DEEDS, WASHTENAW COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AT THE SOUTHWEST CORNER OF LOT 14 OF SAID "ENDER'S SUBDIVISION", SAID CORNER BEING ON THE EAST LINE OF PERRY STREET (50 FEET WIDE); THENCE THE FOLLOWING TWO (2) COURSES ALONG SAID EAST LINE: (1) N15°06'00"W, 4.20 FEET, (2) N01°59'00"E, 213.12 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID EAST LINE THE FOLLOWING TWO (2) COURSES: (1) N01° 59' 00"E, 248.07 FEET, AND (2) N08° 40' 00"E, 113.62 FEET TO A POINT ON THE SOUTH LINE OF HARRIET STREET (84 FEET WIDE); THENCE ALONG SAID SOUTH LINE S88° 00' 00"E, 367.52 FEET; THENCE S02° 16' 31"W, 112.60 FEET; THENCE S88° 19' 59"E, 48.42 FEET;
THENCE S02° 14' 45"W, 302.34 FEET; THENCE N88° 02' 05"W, 121.07 FEET;
THENCE S61° 56' 18"W, 9.50 FEET; THENCE N88° 02' 24"W, 52.78 FEET; THENCE S01° 58' 32"W, 13.10 FEET; THENCE N88° 07' 38"W, 67.99 FEET; THENCE N01° 51' 34"E, 68.81 FEET; THENCE N88° 15' 49"W, 101.33 FEET; THENCE N01° 47' 12"E, 3.77 FEET; THENCE N88° 12' 09"W, 75.65 FEET TO THE POINT OF BEGINNING AND CONTAINING 3.76 ACRES.

SUBJECT TO EASEMENTS OR RESTRICTIONS OF RECORD, IF ANY, SUBJECT TO THE RIGHT OF THE PUBLIC OVER THE LAND PLATTED AS PUBLIC STREETS AND ALLEYS.

EXHIBIT C

DESCRIPTION OF PHASE 2 PROPERTY

Land in the City of Ypsilanti, Washtenaw County, Michigan, described as:

A PART OF FRENCH CLAIMS 680 AND 690, CITY OF YPSILANTI, WASHTENAW COUNTY, MICHIGAN BEING ALL OF LOTS 12 THROUGH 16, ALSO PART OF LOTS 10, 11 AND 17 OF "ENDER'S SUBDIVISION" AS RECORDED IN LIBER 10, PAGE 17 OF PLATS, WASHTENAW COUNTY RECORDS; ALSO ALL OF LOT 28, AND PART OF LOT 29 OF "THE WILLSON SUBDIVISION" AS RECORDED IN LIBER 1, PAGE 44 OF PLATS, WASHTENAW COUNTY RECORDS; ALSO PART OF LOT 65 OF "H. W. LARZELLER'S ADDITION TO YPSILANTI" AS RECORDED IN LIBER 41, PAGE 453 OF DEEDS, WASHTENAW COUNTY RECORDS; ALSO ALL OF LOTS 365 THROUGH 373 AND LOTS 474 THROUGH 483 OF "PARK RIDGE SUBDIVISION" AS RECORDED IN LIBER 1, PAGE 27 OF PLATS, WASHTENAW COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF LOT 14 OF SAID "ENDER'S SUBDIVISION", SAID CORNER BEING ON THE EAST LINE OF PERRY STREET (50 FEET WIDE); THENCE THE FOLLOWING TWO (2) COURSES ALONG SAID EAST LINE: (1) N15°06'00"W, 4.20 FEET, AND (2) N01° 59' 00"E, 213.12 FEET; THENCE S88° 12' 09"E, 75.65 FEET; THENCE S01° 47' 12"W, 3.77 FEET; THENCE S88° 15' 49"E, 101.33 FEET; THENCE S01° 51' 34"W, 68.81 FEET; THENCE S88° 07' 38"E, 67.99 FEET; THENCE N01° 58' 32"E, 13.10 FEET; THENCE S88° 02' 24"E, 52.78 FEET; THENCE N61° 56' 18"E, 9.50 FEET; THENCE S88° 02' 05"E, 121.07 FEET; THENCE N02° 14' 45"E, 302.34 FEET; THENCE N88° 19' 59"W, 48.42 FEET; THENCE N02° 16' 31"E, 112.60 FEET TO A POINT ON THE SOUTH LINE OF HARRIET STREET (84 FEET WIDE); THENCE ALONG SAID SOUTH LINE S88° 00' 00"E, 83.55 FEET TO A POINT ON THE WEST LINE OF HAMILTON STREET (VARIABLE WIDTH); THENCE THE FOLLOWING FIVE (5) COURSES ALONG SAID WEST LINE: (1) S01°49'00"W, 437.41 FEET, (2) S75°08'45"W, 0.92 FEET, (3) S15°07'00"E, 136.72 FEET, (4) S14°26'00"W, 68.97 FEET, (5) S15°07'00"E, 129.01 FEET; THENCE ALONG THE CENTERLINE OF AN ALLEY (16 FEET WIDE) OF SAID "PARK RIDGE SUBDIVISION" S74°52'00"W, 450.48 FEET; THENCE N15°14'35"W, 129.14 FEET TO THE NORTHWEST CORNER OF LOT 373 OF SAID "PARK RIDGE SUBDIVISION", SAID POINT ALSO BEING ON THE SOUTH LINE OF MONROE STREET (60 FEET WIDE); THENCE N14°36'05"W, 60.00 FEET TO THE SOUTHWEST CORNER OF LOT 474 OF SAID "PARK RIDGE SUBDIVISION", SAID POINT ALSO BEING THE INTERSECTION OF THE NORTH LINE OF SAID MONROE STREET AND THE EAST LINE OF SAID PERRY STREET; THENCE N15°06'00"W, 138.94 FEET TO THE POINT OF BEGINNING AND CONTAINING 5.16 ACRES.

SUBJECT TO EASEMENTS OR RESTRICTIONS OF RECORD, IF ANY, SUBJECT TO THE RIGHT OF THE PUBLIC OVER THE LAND PLATTED AS PUBLIC STREETS AND ALLEYS.

EXHIBIT D

PUD PLAN, final revision May 25, 2011

EXHIBIT E

DEED RESTRICTIONS

EXHIBIT F

Agreement for Approval of Purchase of Parkview Apartments (June 15, 2010)

EXHIBIT G

PERMANENT PEDESTRIAN ACCESS EASEMENT

To be ~~recorded~~ filed

PUBLIC ACCESS EASEMENT AGREEMENT

This PUBLIC ACCESS EASEMENT AGREEMENT (this "Agreement") is made and entered into this 7th day of June, 2011, by and between REVISION PARKVIEW LLC, a Michigan limited liability company, whose address is 601 Armstrong Drive, Ypsilanti, Michigan 48197-5281 and REVISION PHASE 2 LIMITED PARTNERSHIP, a Michigan limited partnership, whose address is 601 Armstrong Drive, Ypsilanti, Michigan 48197-5281 (collectively, "Grantor"), and the CITY OF YPSILANTI, MICHIGAN, a Michigan municipal corporation, whose address is One South Huron Street, Ypsilanti, Michigan 48197 ("Grantee").

The following recitals of fact are a material part of this instrument:

A. Grantor is the owner of an improved parcel described in Exhibit A attached hereto (the "Property"). The Property is subject to that certain Planned Unit Development Agreement entered into on even date herewith between Grantor as Developer and Grantee as the City (the "PUD Agreement").

B. Grantee is requiring that Grantor permit members of the public ingress and egress across the Property to access a public transit stop to be constructed on Hamilton Street along the eastern boundary of the Property.

C. The location of the proposed easement is shown and described on Exhibit B attached hereto (the "Easement Property").

NOW, THEREFORE, in consideration of One Dollar ($1.00) cash in hand paid, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by both parties hereto, Grantor and Grantee hereby agree as follows:

1. GRANT OF ACCESS EASEMENT. Grantor hereby grants to Grantee, its successors and assigns, a perpetual non-exclusive ingress egress easement (the "Easement") on, over, and across the Easement Property for members of the public to access a public transit stop to be located on the western edge of the Hamilton Avenue right of way, abutting the eastern edge of the Property, to and from the southwest corner of the Property at the intersection of Perry Avenue and Monroe Avenue.

2. NATURE OF ACCESS. The Easement may be used only to provide pedestrian and other non-motorized access between the public transit stop to be located on the western edge of the Hamilton Avenue public right of way and the intersection of Perry Avenue and Monroe Avenue. Nothing herein shall permit Grantee or any member of the public to loiter or otherwise remain (other than momentarily) within the Easement Property.

3. RUNNING OF BENEFITS AND BURDENS. All provisions of this instrument, including the benefits and burdens, shall run with the land and are binding upon and shall inure to the benefit of the respective owners from time to time and to their tenants, licensees and invitees.

4. PUD AGREEMENT CONTINGENCY. This Agreement shall be of no force or effect until such time as the PUD Agreement has been approved by the City and properly recorded. If the Grantor's right to develop the Property in accordance with the PUD Agreement is denied by the City through any action, then this Agreement shall be terminated and of no further effect.

5. TRANSIT STOP CONTINGENCY. This Agreement shall be of no force or effect until such time as a public transit stop has been constructed and placed in operation on the western edge of the Hamilton Avenue right of way abutting the Property. This Agreement shall continue in force and effect only so long as a public transit stop remains in operation in said location.

6. DURATION. This Agreement, the easements declared and granted herein, and all provisions, covenants, obligations and restrictions contained herein shall continue perpetually and shall not be canceled or terminated except as set forth in Section 4, above, or by a written and duly recorded agreement executed by the Grantee.

7. COUNTERPARTS. This Agreement may be executed in multiple counterparts, all of which together shall constitute one and the same Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands as of the date first set forth above.

GRANTOR:

REVISION PARKVIEW LLC, a Michigan limited liability company

BY:
Walter Norris, Jr.
ITS: President

STATE OF MICHIGAN)
)
COUNTY OF WASHTENAW)

The foregoing instrument was executed before me this 7th day of June, 2011, by Walter Norris, Jr., President of Revision Parkview LLC, on behalf of said limited liability company.

REVISION PHASE 2 LIMITED PARTNERSHIP,
a Michigan limited partnership

BY: YHC Parkview, Inc., a Michigan corporation
ITS: Managing General Partner

By:
Walter Norris/Jr.
Its: President

STATE OF MICHIGAN)
)
COUNTY OF WASHTENAW)

The foregoing instrument was executed before me this 7th day of June, 2011, by Walter Norris, Jr., President of YHC Parkview, Inc., Managing General Partner of Revision Phase 2 Limited Partnership, on behalf of said limited partnership.

ED R GOLEMBIEWSKI
Notary Public, State of Michigan
County of Washtenaw
My Commission Expires 01-25-2013
Acting in the County of Washtenaw

Notary Public
State of Michigan, County of Washtenaw
My Commission Expires: 1/25/13

GRANTEE:

CITY OF YPSILANTI, MICHIGAN, a Michigan municipal corporation

By:
Paul Schreiber, Mayor

And By:

Frances M. McMullen, Notary Public
State of Michigan, County of Washtenaw
My Commission Expires 10/25/2013
Acting in the County of Washtenaw

STATE OF MICHIGAN)
)
COUNTY OF WASHTENAW)

The foregoing instrument was executed before me this 7th day of June, 2011, by Paul Schreiber, Mayor of the City of Ypsilanti, Michigan, on behalf of the City of Ypsilanti, Michigan.

Notary Public
State of Michigan, County of Washtenaw
My Commission Expires: 10-25-13

STATE OF MICHIGAN)
)
COUNTY OF WASHTENAW)

The foregoing instrument was executed before me this 7th day of June, 2011, by Frances McMullen, [redacted] Clerk of the City of Ypsilanti, Michigan, on behalf of the City of Ypsilanti, Michigan.

ED R GOLEMBIEWSKI
Notary Public, State of Michigan
County of Washtenaw
My Commission Expires 01-25-2013
Acting in the County of Washtenaw

Notary Public
State of Michigan, County of Washtenaw
My Commission Expires: 1/25/2013

This Instrument Was Prepared By:
David Kleinfelter
Reno & Cavanaugh, PLLC
424 Church Street, Suite 1750
Nashville, Tennessee 37219

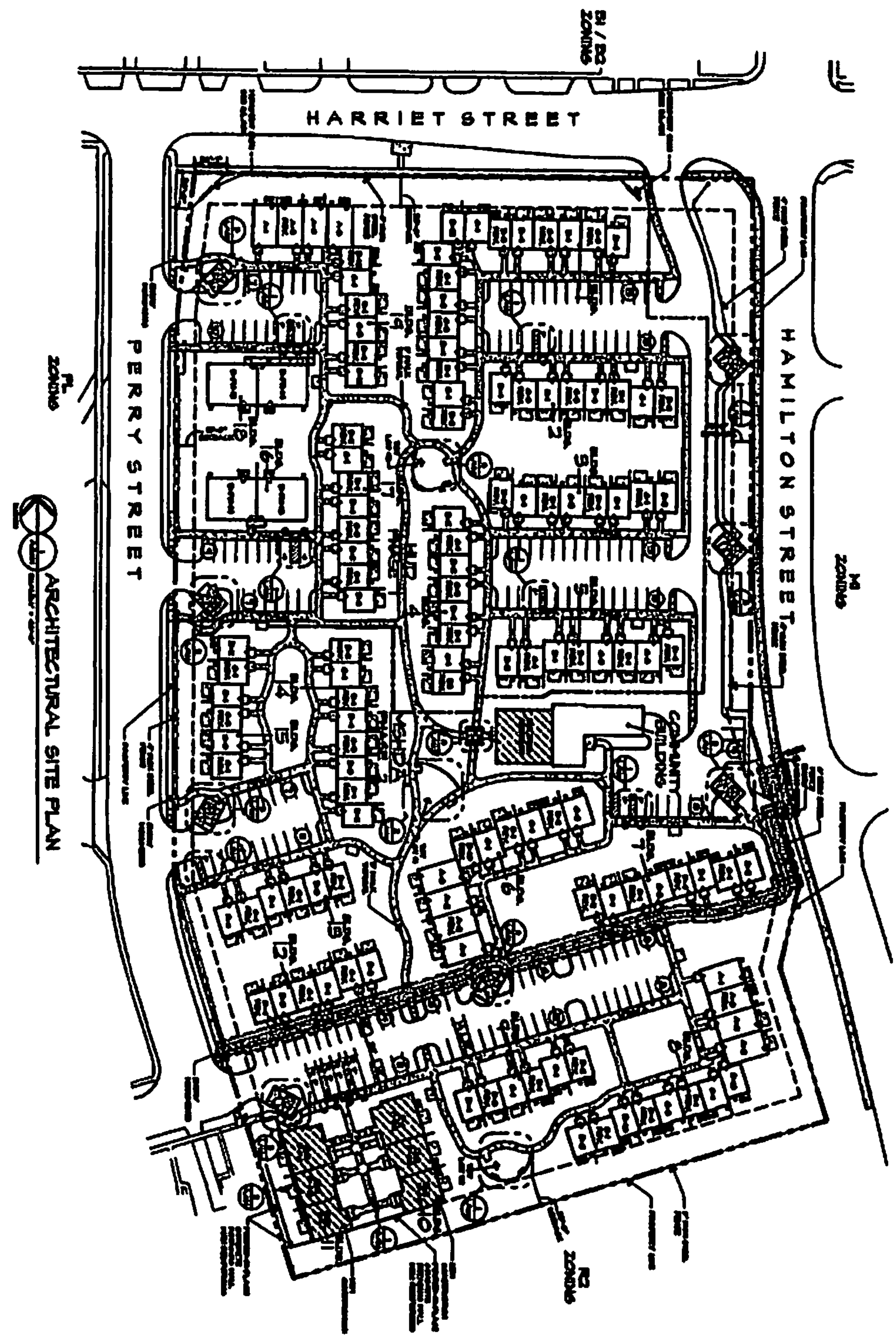
EXHIBIT A

The Property

EXHIBIT B

Easement Property

See attached.



RENOVATION OF
HAMILTON CROSSING
PHASE 2

YPSILANTI MICHIGAN

A.S.101

EXHIBIT A-3

Due to the scarcity of financing for affordable housing redevelopments, the Parkview redevelopment is being financed with two separate financings. These separate lenders required the lot to be split, as accomplished under the PUD.

The two phases are (or will be) financed as follows:

Phase 2 (closed in July 2011 and under construction) – all financing sources closed

Construction Financing:	
Key Bank (construction lender – repaid with LIHTC equity)	$ 4,281,748
Permanent Financing:	
Washtenaw County HOME Funds	40,000
HUD Upfront grant	2,960,000
Low Income Housing Tax Credit equity – (9% credits) Boston Financial	7,013,000
Total Budget	$ 10,013,000

Phase 1 (closing in January 2012) – all financing sources either closed or committed

Construction Financing:	
MSHDA tax-exempt construction financing (paid down with LIHTC equity)	$ 4,420,800
Permanent Financing:	
MSHDA tax-exempt permanent financing	2,771,367
Washtenaw County HOME and NSP Funds	463,214
HUD Upfront grant	2,800,000
HUD EDI grant	147,000
Low Income Housing Tax Credit equity (4% credits) – Great Lakes Cap Fund	2,854,514
Total Budget	$ 9,036,095

EXHIBIT
A-4

PROCEDURES AND REQUIREMENTS FOR TRANSFERS INVOLVING AUTHORITY-FINANCED DEVELOPMENTS

June 27, 2007

I. Applicability

The following procedures and requirements apply to any transfers of

(i) the ownership of, or
(ii) an interest in the mortgagor, or is "principals", for

any development which is and will continue to be financed with a mortgage loan under the Authority's direct loan, passthrough or Special Housing Programs. "Workout(s)," and "preservation transaction(s)" may be subject to additional conditions and adjusted fees. A "Workout" means any transaction(s) in which the Authority modifies its first mortgage loan or otherwise grants financial assistance or relief to a mortgagor in order to remedy the mortgagor's inability to operate the development successfully. Fees charged for "preservation transactions" will be determined by the Authority's Preservation Policies. A "preservation transaction" is one which involves or results in extension or other modification of the low income occupancy restrictions affecting the development.

THIS POLICY IS INTENDED TO REPLACE AND SUPERCEDE THE AUTHORITY'S "PROCEDURES AND REQUIREMENTS FOR TRANSFERS INVOLVING AUTHORITY-FINANCED DEVELOPMENTS" DATED FEBRUARY 27, 2002.

II. General Requirements

A. Any purchaser of a development or newly constituted mortgagor must be one of the following:

1. A limited dividend housing association, which includes a limited dividend housing association limited partnership and a limited dividend housing association limited liability company;
2. A limited dividend housing corporation; or
3. A nonprofit housing corporation.

B. The organizational documents of the purchaser, newly constituted mortgagor or mortgagor in which interests are to be transferred must be satisfactory to the Authority and, at a minimum, must include provisions required by the Authority Act.

C. The purchaser or newly constituted mortgagor and any party acquiring an interest as a general partner, managing member or manager within the mortgagor (a "principal"), whether or not currently holding an interest in the mortgagor, must be satisfactory to the Authority and meet the criteria for experience and financial condition established by the Authority.

D. No selling mortgagor or withdrawing principal will be released from its obligations to the Authority without prior written approval.

E. Any substitute or remaining partners who acquire the interest of a withdrawing partner must assume responsibility for the obligations of the withdrawing partner.

F. The purchaser or newly constituted mortgagor and any new principal must obtain HUD 2530 clearance, if required by HUD.

G. In general, no transfer of the ownership of (i) a development or (ii) any interest in the mortgagor which results in the creation of an unrelated party to the mortgagor for purposes of Treas. Reg. §1.150-1(d)(2)(v) will be permitted during the six-month period prior to nor the six-month period following a refinancing or refunding of the bonds financing the development owned by the mortgagor.

H. In general, use of "Secondary Financing" will be acceptable, provided that the criteria listed below are met. "Secondary Financing" means any additional debt or obligation other than the Authority's loan(s) that the mortgagor must repay. These requirements do not apply to any debt owed by individual partners or members of the mortgagor which is not secured by a lien on the Development, or its property, funds or assets.

1. During the term of any Authority mortgage, repayment may not be made from development funds, other than limited dividend distributions.
2. Secondary financing cannot be secured by a lien on the development or any of the development's property, funds or assets.
3. The Authority and the mortgagor may agree upon other repayment terms as part of a preservation or workout agreement.
4. The Authority has the right to approve any change in ownership of the development that might occur as a result of the mortgagor's default on the Secondary Financing.

I. Authority staff will perform a physical and financial review of the development. If financial, physical or other problems are noted, approval of the proposed transfer may require either that identified problems be remedied prior to completion of the transfer, or that transaction proceeds be escrowed

III. Submission and Closing Requirements

A. The owner or purchaser must submit an application, in such form as required by the Authority, and include the following information:

1. a detailed description of the proposed transaction;
2. a description of the structure of the mortgagor and any new or restructured principals before and after the transaction;
3. documentation that the purchaser and all principals meet the Authority's experience and financial requirements;
4. if applicable, HUD 2530 clearance requests for the purchaser and/or new principals;
5. if applicable, approval of the transfer of any subordinate financing or grants;
6. deposit of review fee, if required; and
7. other information as deemed necessary by the Authority.

B. At the closing of the transaction, the purchaser must:

1. execute all necessary loan documents;
2. provide evidence of the mortgagor's qualifications as an eligible borrower;
3. provide title insurance and meet other legal requirements required for Authority mortgage loans;
4. submit an opinion of its attorney satisfactory to the Authority;
5. if applicable, provide HUD 2530 clearance and evidence, satisfactory to the Authority, that HUD has approved the transfer of subsidy contracts; and
6. pay the balance of the review fee, if required.

IV. Review and Approval

A. Transfers Requiring Full Staff Review and Authority Board or Executive Director Approval

1. **Types of Transactions Covered**
All transfers of development ownership and complete transfers of all ownership interest in the mortgagor will be presented to the Asset Review Committee and then to the Authority Board for review and approval unless an exception in sections IV.B, C or D applies. Projects financed under the Authority's Supportive Housing Program ("SH Projects"), and projects that are financed under the Authority's MI HOME Program ("MI HOME Projects"), that were not originally approved by the Board, and existing Authority-financed group homes for people with developmental or other disabilities will be subject to all conditions in this section IV.A, except that such transfers will not be reviewed by the Asset Review Committee and may be approved by the Executive Director.

2. **Review**
At a minimum, Authority staff will conduct a review for compliance with State and Federal rules and regulations. Additionally, Authority staff will review the Monthly Income and Expenditure Reports, Mortgage Servicing Statements, the Annual Certified Audit, the Annual Physical Inspection and the Capital Needs Assessment, if any. In the event that problems are identified, approval of the transfer of a project may be conditioned on one or more of the following:

    a. resolving compliance issues;
    b. resolving mortgage delinquency;
    c. fully funding tax, insurance and replacement reserve escrows; or
    d. obtaining sufficient funds to correct deferred maintenance.

3. **Fees**
Generally a fee of $10,000 will be charged for all transactions governed by the terms of this section IV.A.1. However, the fee will be $3,000 for MI HOME Projects that did not originally go to the Board for approval, and whose mortgage loan had an original principal amount less than $500,000. A $1,000 non-refundable deposit will be required with the original application. The Authority, or the Executive Director in the case of SH Projects or MI HOME Projects that were not originally approved by the Board, may, at its discretion, agree to waive or reduce this fee.

B. <u>Transfers of Interest Requiring Full Staff Review and Executive Director Approval</u>

1. **Types of Transactions Covered**

The following transfers of interest in the mortgagor or its principals will be presented to the Asset Review Committee, for review and approval, unless there is an exception set forth in section IV.C or D. Proposed transfers involving MI HOME or SH Projects will be presented to the Special Housing Division and the Office of Legal Affairs, for review and approval, unless there is an exception set forth in section IV.C or D. All proposed transfers covered by this section IV.B will then be forwarded to the Executive Director for review and approval.

a. Transfers of all the interest of, or a controlling interest in, a general partner or the admission, removal or withdrawal of a general partner of a limited partnership mortgagor.
b. Transfers of all the interest of, or a controlling interest in, a manager or managing member, or the admission, removal or withdrawal of a manager or managing member of a limited liability company mortgagor.
c. All transfers of a controlling interest in a corporate mortgagor or in any entity which owns all of, or a controlling interest in, a corporate mortgagor.
d. The admission, removal or withdrawal of a general partner in a partnership that is general partner, manager or managing member of the mortgagor.
e. The appointment, removal or resignation of a manager or managing member of a limited liability company that is a general partner, manager or managing member of the mortgagor.
f. The transfer of a controlling interest in a corporation that is the general partner, manager or managing member of the mortgagor.

For purposes of this section IV.B, the questions of whether a transfer involves a "controlling interest" in an entity, or whether a party is a "controlling" party, will be determined by the Director of Legal Affairs based upon the terms of the entity's organizational documents.

2. **Review**

For all transactions listed in this section IV.B, the Authority staff will conduct a review for compliance with State and Federal rules and regulations. Additionally, Authority staff will review the Monthly Income and Expenditure Reports, Mortgage Servicing Statements, the Annual Certified Audit, the Annual Physical Inspection and the Capital Needs Assessment, if any. In the event that problems are identified, approval of the transfer of interests in the mortgagor or its principals may be conditioned upon resolution of those problems.

3. **Fees**

Generally, a fee of $3,000 will be charged for transactions listed in this section IV.B. A $1,000 non-refundable deposit will be required with the original request for approval. The Executive Director may, in his or her discretion, agree to waive or reduce this fee.

C. Transfers of Interest Requiring Limited Staff Review and Executive Director Approval

For purposes of sections IV.C. and D, the percentage of ownership interest in the mortgagor or its principals will be determined by the percentages of interest in any of profits and losses, distributions, voting rights, residuals, tax credits or cash flow being transferred.

1. **Types of Transactions Covered**
Unless an exception set forth in Section IV.D applies, any transfer or series of transfers in which at least twenty-five percent (25%), but less than one hundred percent (100%), of the ownership interest in the mortgagor or any of its principals is transferred within a two-year period but which:

   a. involves only the interest(s) of limited partner(s) of a limited partnership mortgagor or non-managing member(s) of a limited liability company mortgagor, or
   b. involves only the interests of a minority of the number of the members or directors (in a corporation organized on a membership or directorship basis) or percentage of the shareholders (in a corporation organized on a stock basis) of a corporate mortgagor;

   may be approved by the Executive Director without Board approval, if all requirements necessary for approval of the proposed transfer have been met.

2. **Review**
At a minimum, Authority staff will conduct a review for compliance with State and Federal rules and regulations. Additionally, Authority staff will review Mortgage Servicing Statements. In the event that problems are identified, approval of the transfer of an interest in a mortgagor or its principals may be conditioned on one or more of the following:

   a. resolving compliance issues;
   b. resolving mortgage delinquency; or
   c. fully funding tax and insurance escrows.

3. **Fees**
Generally, a fee of $2,000 will be charged for transactions which require approval by the Executive Director under this subsection. A $1,000 non-refundable deposit will be required with the original transaction request. The Executive Director may, in his or her discretion waive or reduce this fee.

D. Transactions Requiring Only Approval by the Director of Legal Affairs and Minimal Review

1. **Types Of Transactions Covered**

   a. Transfers of project ownership or interest in the mortgagor for mortgagors owning projects financed under the passthrough program.
   b. Transfers of the right to receive a particular benefit from the ownership interest rather than the ownership interest itself, such as an assignment of the right to receive distributions.
   c. Transfers of ownership resulting from the death, divorce, incompetency,

dissolution, bankruptcy, or insolvency of the owner of the interest.

d. Transfers of ownership interest in the mortgagor or its principals where the party owning the interest is withdrawing at the request of the Authority, or due to a violation of the Authority's loan documents or policies or state or federal law, or due to a violation of the entity's organizational documents, or where required by a court order or judgment.

e. Any transfer or series of transfers in which less than twenty-five percent (25%) of the ownership interest in the mortgagor or its principals is transferred within a two-year period and which:

   (i) involves only the interest of limited partner(s) of a limited partnership mortgagor or non-managing member(s) of a limited liability company mortgagor, or

   (ii) involves only the interests of a minority of the number of the members or directors (in a corporation organized on a membership or directorship basis) or percentage of the shareholders (in a corporation organized on a stock basis) of a corporate mortgagor.

f. The transfer of all or a portion of the ownership interest of an investor limited partner or member of the mortgagor where (i) the proposed substitute limited partner or member is specifically identified in the document of organization approved by the Authority for mortgage loan closing, and (ii) the transfer occurs within the six-month period following the closing of the Authority's mortgage loan.

g. Transfers by a limited or general partner in a partnership, a member of a limited liability company or the holders of an interest in a corporation that do not result in the acquisition of a controlling interest by another existing partner, member or interest holder in the mortgagor and in which no new person or entity is acquiring an interest in or being admitted to the mortgagor.

h. Transfers of an ownership interest in the mortgagor or change in the form of the mortgagor organization where the Director of Legal Affairs determines:

   (i) the transfer or change in the mortgagor entity or its principals is insubstantial in effect, and

   (ii) there is little likelihood that the transaction will detrimentally affect the ability of the mortgagor to fulfill its obligations to repay the Authority mortgage loan and successfully operate the development.

   This includes (but is not limited to) transactions such as the conversion of a limited partnership mortgagor to a limited liability company as permitted by law or the transfer of an individual's ownership interest to a trust controlled by that individual.

i. Transfers of project ownership, or interest in the mortgagor for mortgagors owning projects, where the first mortgage loan is fully insured by FHA or other federal agency.

2. **Review**

At a minimum, staff will determine that all general requirements set forth in Section II that are necessary for approval of the proposed transfer have bea satisfied.

3. **Fees**

No fee will be charged for the review and authorization of these proposed transfers.

E. Transactions Involving Developments Financed as Homes for Alternative Intermediate Services for the Mentally Retarded (AIS/MR) and Requiring Executive Director Approval

Except for situations falling under section IV. D above, the Special Housing Division will review transfers of ownership interests in AIS/MR homes to determine the physical condition of the home and the financial status of the development's mortgage loan. The Office of Legal Affairs will review the proposed transfer for compliance with Authority and legal requirements. Once the reviews are complete, the Executive Director may approve the transfer. Prior to the transfer, the sponsor must resolve all deficiencies discovered in the course of the reviews. The sponsor must pay a fee of $3,000, with a $1,000 non-refundable deposit required with the original request. The Executive Director may, in his or her discretion, agree to waive or reduce the fee.

Resolution No. 2012 - 027
February 7, 2012

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

Resolution concerning city income tax.

RESOLVED by the Council of the City of Ypsilanti that the following ballot question be placed before the electorate for their adoption or rejection at an election to be held on Tuesday, May 8, 2012:

ADOPTION OF UNIFORM CITY INCOME TAX

Shall Ordinance No. 1169 adopting the Uniform City Income Tax Ordinance, which imposes an annual rate of tax on corporations and resident individuals of 1%, and on non-resident individuals of .5%, effective January 1, 2013, be approved?

Yes ( )

No ( )

IT IS FURTHER RESOLVED that the City Clerk shall do and perform all acts required by the Charter and the laws of the state relative to the giving of notice of such election and of the registration of electors therefore; make all necessary arrangements for the registration of electors for said election and the holding of elections and obtain the approval of all required persons or bodies as to the form in which said ballot question shall be presented to the electors.

IT IS FURTHER RESOLVED that, as part of the Notice of Registration and Notice of Election, the proposed ballot question be published in full in The Ypsilanti Courier the official newspaper of the City of Ypsilanti.

IT IS FURTHER RESOLVED that the canvass and determination of the votes upon the ballot question be made in accordance with the Charter and the state laws applicable thereto.

OFFERED BY: ______________________________

SUPPORTED BY: ______________________________

YES: NO: ABSENT: VOTE:

REQUEST FOR LEGISLATION
February 7, 2012

FROM: John Hansen, Interim City Manager

SUBJECT: FY 2012 – 2013 Budget Priorities

SUMMARY & BACKGROUND:

Article V. (Finance), Section 5.02 (Preparation and submission of budget) of the Ypsilanti City Charter states, "The City Council shall instruct the City Manager concerning the priorities of the City that the budget for the next year must address. The instructions shall be incorporated in a resolution adopted at the first meeting in February." City Council met with staff during four special meetings to develop the priorities in accordance with the Charter provisions. The attached resolution contains the strategies that Council deemed a priority.

RECOMMENDED ACTION: Approval

ATTACHMENT: Proposed Budget Priorities Resolution

City Manager Approval: ____________________ Council Agenda Date: 2/7/12

City Manager Comments:

Finance Director Approval: _________________

Resolution No.2012 –028
February 7, 2012

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS, the City Charter requires that each year in February, City Council provides the City Manager by resolution the budget priorities for the next fiscal year.

NOW THEREFORE BE IT RESOLVED, in accordance with Section 5.02 of the City Charter, the following direction is hereby given:

That the City Manager shall present City council with a balanced Resources Allocation Plan for Fiscal Year 2011-2012 using the following organizational values, goals and action strategies:

Organizational Values

Three fundamental values continue to underlie our work together on behalf of the citizens of and visitors to the City of Ypsilanti.

1. ***Open, transparent and accessible decision-making***
   We are committed to openness and transparency in our decision-making, doing whatever we can to ensure that information is available to the public in a timely fashionand in a manner that is easily understood, and providing opportunities for public engagement and participation in decision-making.

2. ***Fiscal solvency and sustainability***
   We are committed to ensuring the long-term financial stability of the City. Our budget decisions must reflect a balance between short and long-term considerations, and we will work to reduce the costs of city services to the extent we can while maintaining effective city services and a sound infrastructure.

3. ***Customer Friendly Service***
   We are committed to providing services to residents and visitors in a customer friendly fashion, ensuring that service processes are effective and understandable, being responsive to requests for service to the extent we can consistent with procedures and resources, and ensuring that people recognize the limits of our ability to respond.

Budget Priorities for FY 2011-2012

During City Council's second goal setting session held on November 29, 2011, Council arrived at a consensus on a number of issues. The most significant was the combination of revenue and budget reduction strategies to balance the FY 2012-13 and FY 2014 budgets. The objective of the December 13^{th} meeting is to review and finalize the Council's goals for the next year. Formal adoption of Council's budget priorities will take place at the February 6, 2012 Council meeting. Staff is exploring cost reduction alternatives for next fiscal year and will provide these in conceptual form prior to the February 6, 2011 Council meeting.

I am consolidating Council's proposed long and short term goals in an effort to make these as straightforward as possible and to reflect Council's agreement on the major components of a broader financial strategy. I believe a consolidated version of the goals initially proposed would benefit both Council and the staff, particularly, because an Interim Manager will be preparing and recommending the new budget. Council has also suggested that Council's primary goal be to a plan to balance revenues and expenses for the next five years. I have incorporated this suggestion into the recommended goals.

Below is the list of goals initially proposed by city council. Some of the proposed goals listed would be considered and pursued under the action plans or budget reductions while other items may prove to be too costly after further investigation.

Action Plans	Evaluate During Budget
Preparation	
Income Tax	Consolidation
Water Street Millage	Public Safety
Storm Water Utility	Hybrid Fire Department
Budget Reductions	Reductions of 1%, 3%, 5%
Collective Bargaining Negotiations	Communication Strategy
Street Light Special Assessment	Alternative Budget
Projections	
Conversion to LED Street Lights	Sale of Assets
Use General Fund, Fund Balance	Consolidation of City Offices
	Department of Treasury
Alternatives	

Based upon Council discussions, I am recommending Council's primary goal as "develop a five-year plan to balance the general fund budget" and the strategies discussed at the last goal setting session action plans related to that goal.

Proposed Fiscal Year 2012-13 City Council Goal

1. Develop a Five-Year Plan to Balance General Fund Revenues and Expenses

Action Plans:

a. Place a city income tax proposal on the ballot

b. Place a Water Street Millage on the ballot

c. Consider a Storm Water Utility

d. Reduce FY 2012-13 General Fund Budget expenses in the amount of $650,000

e. Attain collective bargaining concessions from employee unions

f. Balance FY 2012-13 General Fund budget by using fund balance contribution of $620,000

*g. Create a Street Light Special Assessment District ***

h. Convert street lights in the city to LED lights

i. Sell Surplus City Assets

j. Continue Internal Reorganization and Cooperative Intergovernmental Relationships.

**Assumes the shift of street lighting costs from the General Fund through a Special Assessment District, as part of the $650,000 of budget reductions for FY 2012-13.

OFFERED BY: ______________________________

SUPPORTED BY: ______________________________

YES: NO: ABSENT: VOTE:

Frances McMullan

From: Mayor Paul Schreiber [mayor@cityofypsilanti.com]
Sent: Tuesday, January 31, 2012 9:49 PM
To: Frances McMullan
Cc: Lautenbach, Dan; Murphy, Murph; 'Cameron, Andy'; John Hansen
Subject: Board and Commission Nominations for February 7

Hi Frances,

Please add the following nominations under **Communications from the Mayor** for the February 7th Ypsilanti city council meeting.

Planning Commission
Dan Lautenbach (reappointment)
106 Oakwood
Ypsilanti, MI 48197
Term Expires: 5/1/2015

Planning Commission
Richard Murphy (reappointment)
406 Florence
Ypsilanti, MI 48198
Term Expires: 5/1/2015

Planning Commission
Cheryl Zeullig (reappointment)
702 Collegewood
Ypsilanti, MI 48197
Term Expires: 5/1/2015

Ypsilanti Community Utilities Authority
Andrew Cameron (new appointment replacing Deedra Climer who resigned)
1313 W. Cross
Ypsilanti, MI 48197
Term Expires: 12/1/2012

Thanks!

Paul

Paul Schreiber
Mayor, City of Ypsilanti
734-277-5446

Statement by Daniel Lautenbach:
I'd be happy to serve on the planning commission again.

Goals include:

- Continue to participate in evaluating planning needs for the city as they arise using the city's zoning ordinances and master plan documents,
- Participate in the new master plan development process,
- Advocate for complete streets in future development efforts,
- Promote regional transportation needs that can increase livability within Ypsilanti,
- Increase the taxable value of properties within the City
- Promote new development of infill properties within the city while maintaining the characteristics of neighborhoods as zoned.

Best regards,
Dan

Statement by Richard Murphy:
I am quite willing to be reappointed to the Ypsilanti Planning Commission! My goals as a Planning Commissioner for the next 3-year term include:

* The recent HUD Community Challenge grant award to Washtenaw County includes funding for master planning for Ypsilanti over the next three years. I would like to help shape the master planning work to result in a plan that preserves and emphasizes the community's core values and assets (such as the Huron River, the historic district, and the campus neighborhoods) while providing a flexible framework to address the rapidly changing circumstances that the city faces.

* Over the past few years, we have made several updates to the zoning ordinance to make it more user-friendly (to both staff and property owners/developers alike) and more focused on the actual goals of the community, such as creating adaptive reuse PUD provisions, clarifying and broadening the place of arts & creative uses, and overhauling the sign ordinance. I would like to see this work continued, with the parking chapter my personal top priority: the current requirements (mostly 30+ years old, similar to the sign ordinance) pose both regulatory (time) and cost hurdles to nearly every applicant who comes before the planning commission, and nearly every site plan is granted a waiver from some portion of the parking requirements. I believe there is substantial room to clarify and reduce the parking requirements to more closely match community needs while also reducing the barriers to entry for a new business or developer.

* While Water Street remains the community's clear top priority for development, there are numerous other opportunities around the city that could be more tactically positioned to stabilize and grow the city's tax base (and vibrancy). In past years, Council's goalsetting has included items like, "anticipate and establish priorities for redevelopment projects", with lists of priority sites. I think such an approach could have a lot of value if approached in coordination by the Council and Planning Commission, in order to ensure zoning, potential incentives, and marketing on the sites are appropriate to both the city's goals and the market. (e.g. http://www.cityofypsilanti.com/Portals/0/docs/Mayor%20and%20City%20Council/councilgoals2005.pdf)

Thanks,
Murph.

Statement by Andrew Cameron:
I graduated with a bachelor's in history from U-M in 1998, with relevant coursework in calculus, statistics, economics, and accounting.

After graduation I worked as a business systems consultant at U-M for two years, becoming a lead on a campus-wide help desk during the period U-M was replacing all of its legacy central administrative data systems and converting to Peoplesoft/Oracle enterprise systems for Financials, HR, and Student Records. The first year or so was largely focused on understanding and supporting the Financial systems and reporting. Around this time I also worked evenings part-time auditing U-M credit card statements for Accounts Payable for 2-3 years.

For the last 11 years I've worked in U-M's central Office of the Registrar as a Business Systems Analyst Senior. My small group is directly responsible or provides immediate source data for a large range of institutional, state, NCAA, and federal reporting requirements. I'm also the primary support for student data and reporting needs for 200-300 employees, and am generally considered one of a handful of institutional student data experts on campus.

My goals for my term on the YCUA board include being an effective advocate for the city's interests, and building on our current cooperation with the Township. I also think YCUA's online communications (web site), while a rich source of information, deserves some attention.

Resolution No. 2012 - 029
February 7, 2012

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

That the City Council Meeting be adjourned, on call, by the Mayor or two (2) members of Council.

OFFERED BY: ____

SUPPORTED BY: ____

YES: NO: ABSENT: VOTE: