1. City Council Regular Meeting Agenda

   Documents: 4-9-13 FINAL AGENDA .PDF

2. City Council Regular Meeting Packet

   Documents: 04-09-13 PACKET.PDF

CITY OF YPSILANTI
COUNCIL MEETING AGENDA
CITY COUNCIL CHAMBERS - ONE SOUTH HURON ST.
YPSILANTI, MI 48197
TUESDAY, APRIL 9, 2013
6:00 P.M. – CLOSED SESSION
7:30 P.M. – OPEN SESSION

I. CALL TO ORDER -

II. ROLL CALL -

Council Member Jefferson	P A	Council Member Robb	P A
Council Member Moeller	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. AGENDA APPROVAL -

VI. CLOSED SESSION (6:00 to 7:30 p.m.)

Closed Session to discuss collective bargaining OMA 15.268, Section 8(c).

VII. INTRODUCTIONS -

VIII. PRESENTATIONS -

1. Proclamation honoring Jane Schmiedeke – Mayor Schreiber

2. Go Solar Presentation – Catherine M. Baxter

3. Grove Road Update - Marcus McNamara, OHM Advisor

IX. ORDINANCES – FIRST READING

Ordinance No. 1187

1. 517-521 Tyler Road Rezoning
   A. Resolution No. 2013-056, determination
   B. Open public hearing
   C. Resolution No. 2013-057, close public hearing

IX. AUDIENCE PARTICIPATION -

X. REMARKS BY THE MAYOR

XI. MINUTES

Resolution No. 2013-058, approving the minutes of March 19, 2013

XII. RESOLUTIONS/MOTIONS/DISCUSSIONS

1. Resolution No. 2013-059, approving DTE lease and easement for Solar Array on City landfill.

2. Resolution No. 2013-060, approving three-year contract with Abraham & Gaffney for Professional Auditing Services beginning fiscal year June 30, 2013 through June 30, 2015.

3. Resolution No. 2013-061, approving engagement letter with Rehmann Robson for accounting services.

4. Resolution No. 2013-051, approving POAM contract.

XIII. LIASON REPORTS

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

XIV. COUNCIL PROPOSED BUSINESS –

XV. COMMUNICATIONS FROM THE MAYOR –

Nominations:

Planning Commission
Phil Hollifield (reappointment)
125 Hawkins St.
Ypsilanti, MI 48197
Expires: 5/1/2016

Zoning Board of Appeals
John Bailey (reappointment)
514 Fairview
Ypsilanti, MI 48197
Expires: 5/1/2016

Planning Commission
Rod Johnson (reappointment)
310 N. Grove
Ypsilanti, MI 48198
Expires: 5/1/2016

Recreation Commission
Conan Malmer (new appointment)
913 Pleasant Dr.
Ypsilanti, MI 48197
Expires: 4/23/2016

XVI. COMMUNICATIONS FROM THE CITY MANAGER –

XVII. AUDIENCE PARTICIPATION -

XVIII. REMARKS FROM THE MAYOR –

XIX. ADJOURNMENT –

A. Resolution No. 2013-062, adjourning the City Council Meeting.

CITY OF YPSILANTI
COUNCIL MEETING AGENDA
CITY COUNCIL CHAMBERS - ONE SOUTH HURON ST.
YPSILANTI, MI 48197
TUESDAY, APRIL 9, 2013
6:00 P.M. – CLOSED SESSION
7:30 P.M. – OPEN SESSION

I. CALL TO ORDER -

II. ROLL CALL -

Council Member Jefferson	P A	Council Member Robb	P A
Council Member Moeller	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. AGENDA APPROVAL -

VI. CLOSED SESSION (6:00 to 7:30 p.m.)

Closed Session to discuss collective bargaining OMA 15.268, Section 8(c).

VII. INTRODUCTIONS -

VIII. PRESENTATIONS -

1. Proclamation honoring Jane Schmiedeke – Mayor Schreiber

2. Go Solar Presentation – Catherine M. Baxter

3. Grove Road Update - Marcus McNamara, OHM Advisor

IX. ORDINANCES – FIRST READING

Ordinance No. 1187

1. 517-521 Tyler Road Rezoning
   A. Resolution No. 2013-056, determination
   B. Open public hearing
   C. Resolution No. 2013-057, close public hearing

IX. AUDIENCE PARTICIPATION -

X. REMARKS BY THE MAYOR

XI. MINUTES

Resolution No. 2013-058, approving the minutes of March 19, 2013

XII. RESOLUTIONS/MOTIONS/DISCUSSIONS

1. Resolution No. 2013-059, approving DTE lease and easement for Solar Array on City landfill.

2. Resolution No. 2013-060, approving three-year contract with Abraham & Gaffney for Professional Auditing Services beginning fiscal year June 30, 2013 through June 30, 2015.

3. Resolution No. 2013-061, approving engagement letter with Rehmann Robson for accounting services.

4. Resolution No. 2013-051, approving POAM contract.

XIII. LIASON REPORTS

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

XIV. COUNCIL PROPOSED BUSINESS –

XV. COMMUNICATIONS FROM THE MAYOR –

Nominations:

Planning Commission
Phil Hollifield (reappointment)
125 Hawkins St.
Ypsilanti, MI 48197
Expires: 5/1/2016

Zoning Board of Appeals
John Bailey (reappointment)
514 Fairview
Ypsilanti, MI 48197
Expires: 5/1/2016

Planning Commission
Rod Johnson (reappointment)
310 N. Grove
Ypsilanti, MI 48198
Expires: 5/1/2016

Recreation Commission
Conan Malmer (new appointment)
913 Pleasant Dr.
Ypsilanti, MI 48197
Expires: 4/23/2016

XVI. COMMUNICATIONS FROM THE CITY MANAGER –

XVII. AUDIENCE PARTICIPATION -

XVIII. REMARKS FROM THE MAYOR –

XIX. ADJOURNMENT –

A. Resolution No. 2013-062, adjourning the City Council Meeting.

OHM
Advancing Communities

ARCHITECTS. ENGINEERS. PLANNERS.

April 2, 2013

City of Ypsilanti
One South Huron Street
Ypsilanti, Michigan 48197

Attention: Mr. Stan Kirton

Regarding: Grove Street Reconstruction - Project Update

Dear Mr. Kirton:

OHM is scheduled to present the final construction drawings at an upcoming City Council meeting. We have prepared this summary of the basic project information as well as a brief summary of the funding status. We hope this will be useful to Council in advance of the presentation.

The project is a complete reconstruction of Grove Street from the south side of the I-94 bridge to the City/Township border just south of Emerick Street. The road will be replaced with an asphalt cross section with concrete curb and gutter. New guardrail will be installed on the west side of the road. Sidewalk gaps will be filled on the east side of the road. The road will consist of three 12' travel lanes (one each direction with reciprocal turn lane) and two 4' dedicated on-street bike lanes. The project is scheduled to be completed this construction season. The traffic control plan calls for the road to be open one-way northbound only for the duration of construction.

As part of the complete streets ordinance, OHM presented the project to the Planning Commission for review and comment. The following suggestions from the Planning Commission were incorporated into the final plans:

1. Providing concrete sidewalk along the east side of Grove Street for the entire project length.
2. Including a midblock crosswalk with appropriate signs and pavement markings.
3. Including on-street bike lanes in each direction.

The Planning Commission had also requested narrowing the vehicle travel lanes from 12' to 11'. OHM proposed this modification to MDOT, but the request was denied based on the truck traffic demands and Federal Highway requirements.

OHM has been working with the City since 2009 attempting to secure funding for this project. In 2011 Surface Transportation funding of $352,000 was allocated for the 2014 construction season. Since the original allocation an additional $100,000 has been secured for the project, and the funding advanced to 2013. The City now has $452,000 of Federal Aid allocated in the current fiscal year.

Please contact us if you have any questions. We will be in attendance at the next council meeting to present the final plans and answer any questions.

Sincerely,

[redacted]

cc: Teresa Gillotti, City Planner

OHM Advisors
34000 PLYMOUTH ROAD
LIVONIA, MICHIGAN 48150
T 734.522.6711
F 734.522.6427
OHM-Advisors.com

DATE

GROVE STREET PAVEMENT
EMERICK TO I-94
PAVING PLAN

SHEET
1

REVISIONS:

REQUEST FOR LEGISLATION
April 9, 2013

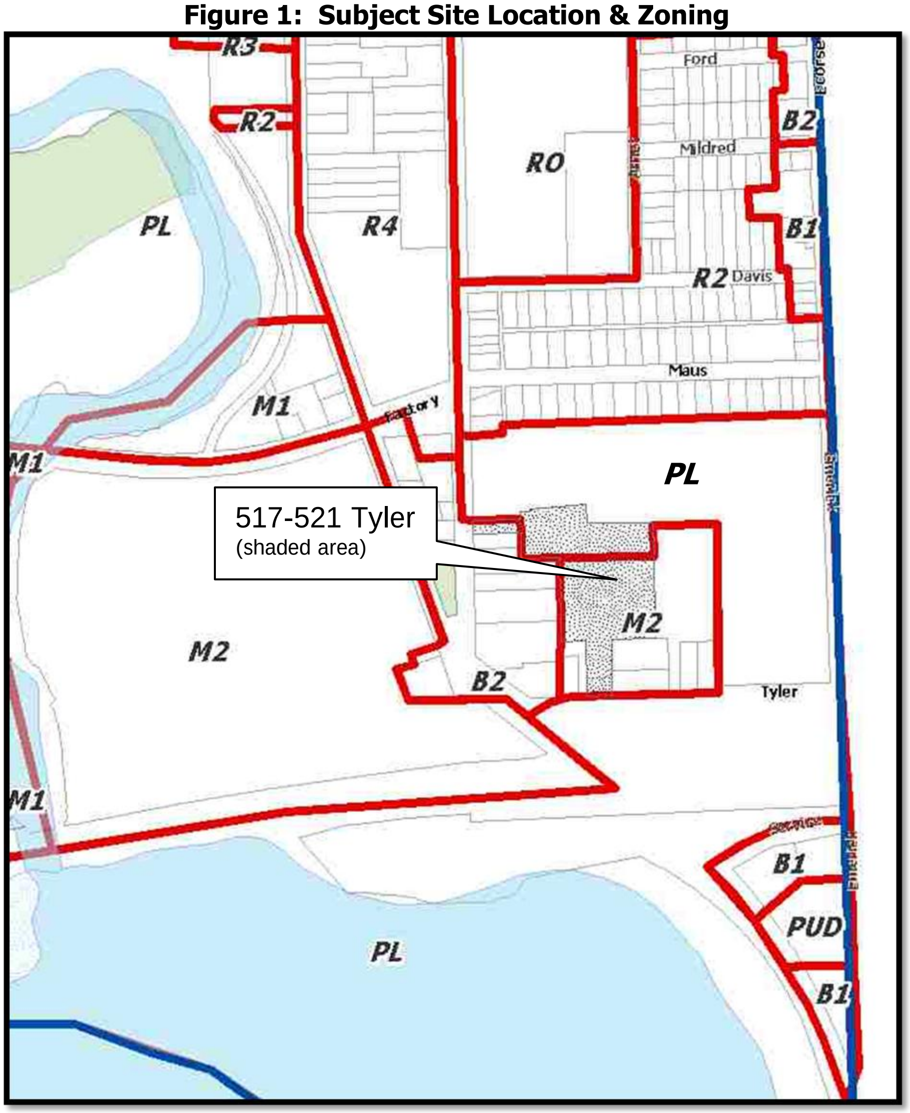
From: Bonnie Wessler, Planner I

Subject: Rezoning of 517-521 Tyler, portions PL to M2

SUMMARY & BACKGROUND:

The current owner has applied for a rezoning of 521-517 Tyler from B2, Community Business, and PL, Public Land, to M2, General Manufacturing; Planning Commission has recommended that only that portion currently zoned PL be rezoned to M2, as seen below.

Figure 1: Subject Site Location & Zoning



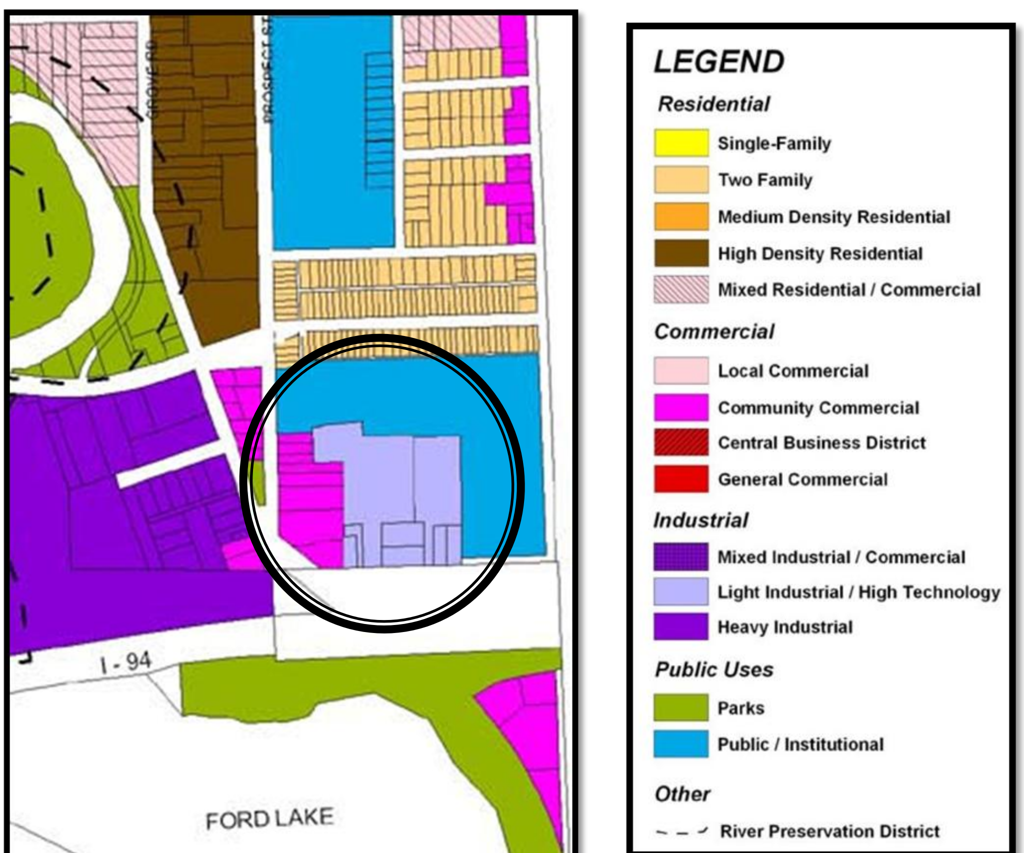
The parcel is currently used as a self-storage facility, with living quarters for a resident manager and truck rentals available. As some of the storage buildings are in the area zoned PL, they are considered a legal nonconforming use of legal nonconforming structures; this limits their ability to be rebuilt, per sections 122-205 and 122-206 of the zoning ordinance. The applicant is seeking rezoning in order to reduce the nonconformity, thereby removing barriers to refinancing, rebuilding, or future expansion.

The area bounded by the east-west alley south of Maus, Emerick, Tyler, and Prospect was rezoned in the mid-1990s to the current B2/M2/PL configuration from M1 as part of a City-wide zoning ordinance update. It appears that the parcel boundaries on the map used for this exercise were out of date or otherwise incorrect. A 1986 Washtenaw County equalization print shows the northern boundary of this site as it is today; the plat/parcel-based zoning maps apparently used in the rezoning effort show a different boundary, reflected in the boundary of the zones. Staff discovered the error as part of a routine zoning verification request by the owner. The owner is requesting the rezoning in order to refinance the parcel. Staff views this rezoning as means to address the previous administrative zoning boundary issue.

When an applicant requests rezoning, also called a map amendment, Planning Commission is obligated to review that request in the context of the neighborhood and the Master Plan. This area is within the "Gateway Area / Perry Neighborhood," and the Future Land Use Map, excerpted below, shows the site as partially community commercial, the equivalent of B2, but with the majority of the site master planned for light industrial/high technology.

The master plan recommended a light manufacturing district; that district's purpose is "to provide locations for wholesale activities, warehouses, and industrial operations which produce minimal external impacts that are detrimental in any way to other uses in the district." It is roughly equivalent to M1, Light Manufacturing. The storage facility would be consistent with the intent of M1 zoning; however, current uses of other, adjacent M2-zoned areas area do not fit with the M1 goal. Thus, Planning Commission recommend pursuing only the requested rezoning for this specific site, rather than that of the area as a whole.

Figure 2: Future Land Use Designations



Planning Commission held a public hearing at its 16 January 2013 meeting, and notice was given in accordance with the ordinance. A representative of the owner was present; no neighbors attended. Consideration was given to rezoning both the B2 and the PL portions of the site to M2, but as the B2 portion of the site contains no structures and is contiguous with B2-zoned areas, Planning Commission recommends re-zoning only that portion of the property currently zoned PL to M2.

RECOMMENDATION

The Planning Commission recommends that the City Council rezone that portion of 517-521 Tyler currently zoned PL, Public Land, to M2, General Manufacturing.

Please contact Bonnie Wessler, Planner I, with any questions you may have regarding this rezoning at 734-483-9646 or by email to wesslerb@cityofypsilanti.com.

RECOMMENDED ACTION: Approval

ATTACHMENTS: 16 Jan 2013 staff report to Planning Commission
Excerpt from 16 Jan 2013 adopted Planning Commission minutes
Zoning text amendment ordinance and resolutions

CITY MANAGER APPROVAL: ____________________________ COUNCIL AGENDA DATE: __________

CITY MANAGER COMMENTS: ____________________________

FISCAL SERVICES DIRECTOR APPROVAL: ____

City of Ypsilanti
Planning and Development Department
10 January 2013

Staff Review of Rezoning Application
National Storage Centers Rezoning
517-521 Tyler Rd

Applicant:	Maurice Pogoda Tyler Industries, Inc 30301 Northwestern Hwy, Ste 300 Farmington Hills, MI 48334
Project:	National Storage Centers Rezoning
Application Date:	10 December 2012
Location:	North side of Tyler Rd, between Prospect and Emerick St
Zoning:	Current: M2, General Manufacturing PL, Public Land B2, Community Business
Master Plan:	Light Industrial/High Technology (M1, per p 72) Community Commercial (B2, per p 72)
Action Requested:	Rezone to M2, General manufacturing
Staff Recommendation:	Partial Approval.

PROJECT AND SITE DESCRIPTION

Rezoning is requested for a single, 4.3-acre parcel. The property is currently used as a self-storage facility, with living quarters for a resident manager, and truck rentals available. Zoning on the site is currently split; some of the storage buildings are in a portion of the site that is zoned PL, Public Land. The storage buildings are thus considered legal nonconforming. The applicant is seeking rezoning for the entirety of the site to M2, General Manufacturing, to eliminate those nonconformities, thus removing barriers to refinancing, rebuilding, or future expansion.

The area bounded by the east-west alley south of Maus, Emerick, Tyler, and Prospect was rezoned in the mid-1990s to the current B2/M2/PL configuration from M1 as part of a City-wide zoning ordinance update. It further appears that the parcel boundaries on the map used for this exercise were out of date or otherwise incorrect. A 1986 Washtenaw County equalization print shows the northern boundary of this site as it is today; the plat/parcel-based zoning maps apparently used in the rezoning effort show a different boundary, reflected in the boundary of the zones.

Staff discovered the error as part of a routine zoning verification request by the owner. The owner is requesting the rezoning in order to refinance the parcel. Staff views this rezoning application as means for correction to the previous administrative zoning boundary issue.

Figure 1: Subject Site Location & Zoning

Figure 2: Site Aerial (2010)

Figure 3: Topography (2ft contours, Washtenaw County database)

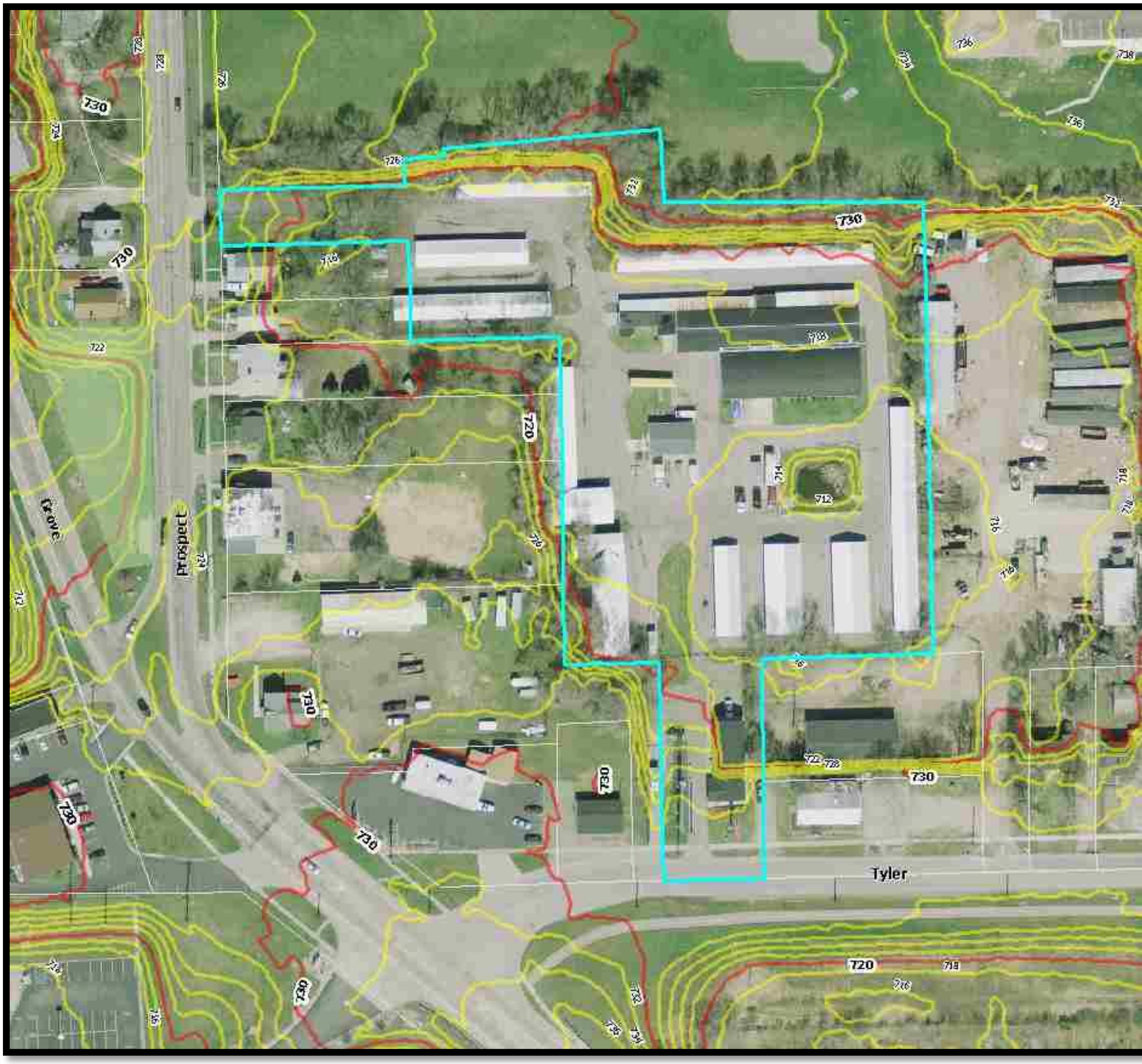
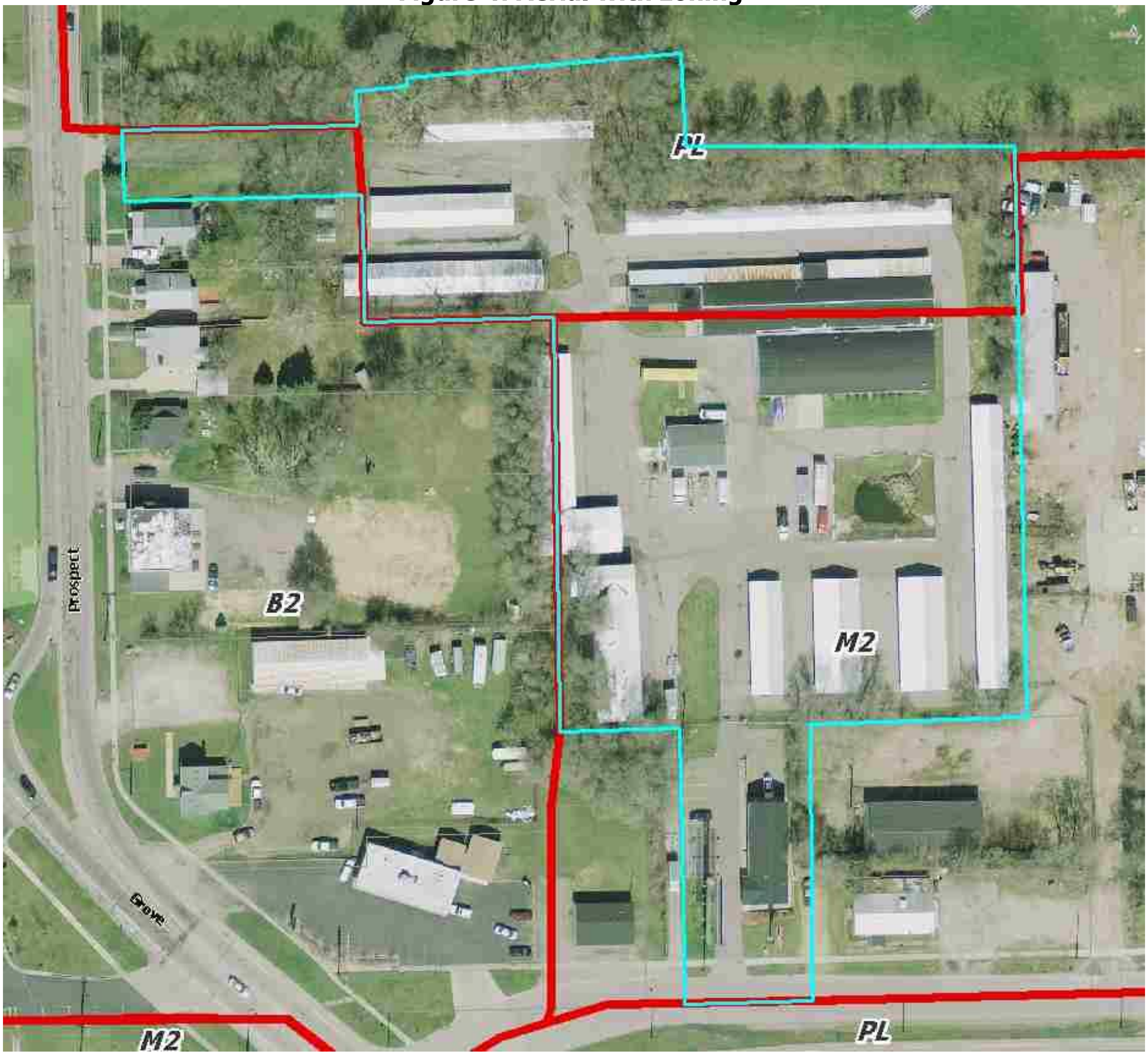


Figure 4: Aerial with zoning



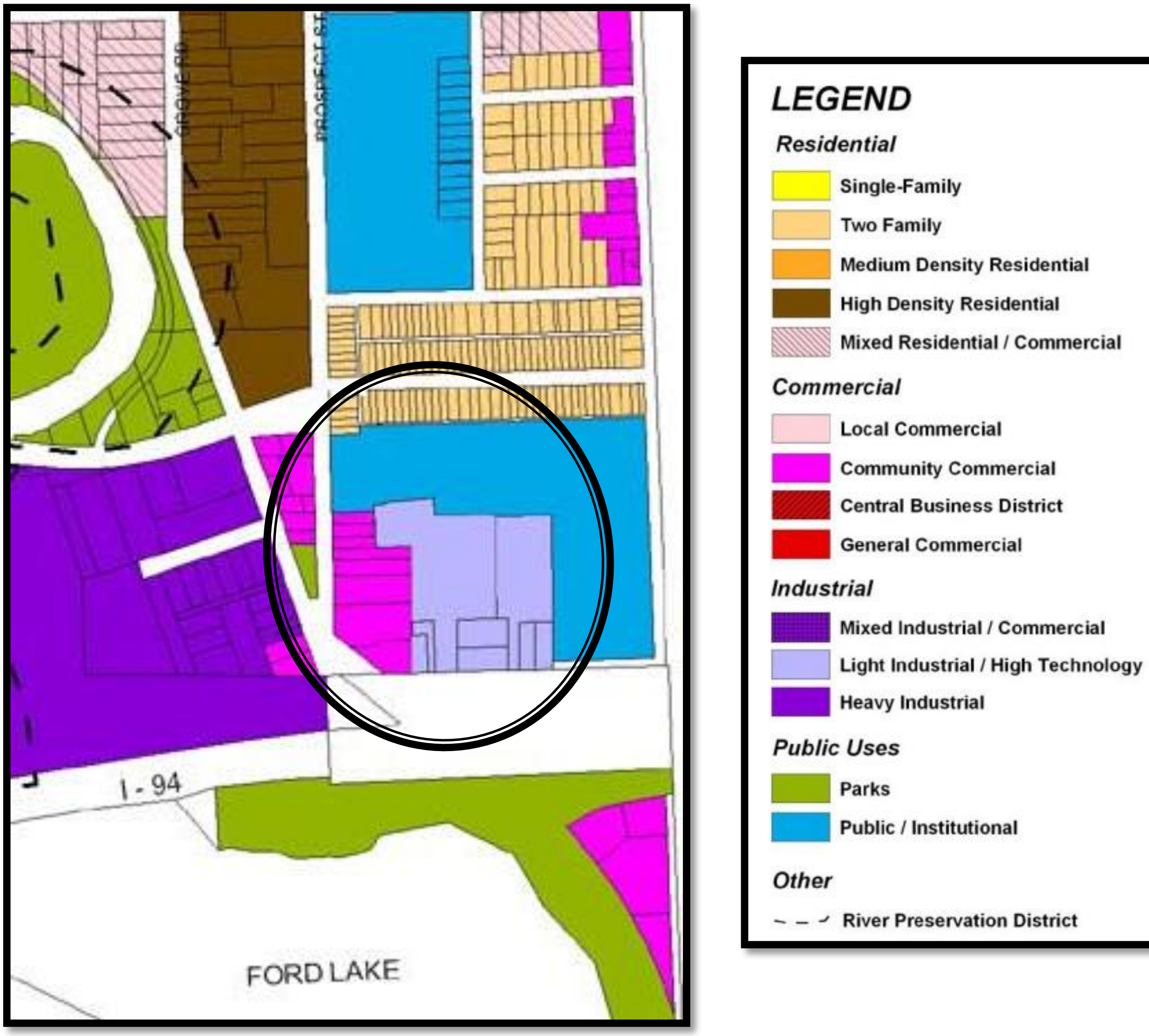
Note: aerial is skewed slightly to the west of parcel boundaries. All buildings on the site are fully on the subject site. The west property line (at Prospect) should be approximately flush with the sidewalk.

MASTER PLAN

The subject property is within the "Gateway Area / Perry Neighborhood." Goals for this neighborhood include "creating a positive entry into the City via design, landscaping, and signage; improving the linkages between neighborhoods and Downtown; upgrading the commercial properties along East Michigan Avenue; preventing unwanted land uses along West Michigan Avenue; and improving and redeveloping the existing housing stock." This site is not within any specific target area.

The future land use map, below, shows the site as partially Community Commercial, the equivalent of B2; but with the majority of the site master planned for light industrial/high technology.

Figure 5: Future Land Use Designations



EXISTING LAND USE AND ZONING

Only one parcel is under consideration for rezoning; it is currently used a self-storage facility, with living quarters for a resident manager, and truck rentals available. The majority of the site is zoned M2, with a significant portion in the PL district and a smaller portion in the B2 district.

Figure 6: Surrounding Land Use and Zoning

	LAND USE	ZONING
NORTH	High School (Washtenaw International Baccalaureate)	PL, Public Land
EAST	Retail (525 Tyler, vacant) Machine shop (527 Tyler, landscaping contractor's office Mobile home recycling (529 Tyler)	M2, General Industrial
SOUTH	I-94	PL, Public Land
WEST	Retail (513 Tyler, vacant) Construction (345 S Prospect) Church (333 S Prospect) One-and-Two family homes	M2, General Manufacturing B2, Community Business

Traffic

On Grove south of Tyler, counts totaled approximately 7700 vehicles per day in 2006. On South Prospect south of Spring, counts totaled approximately 7600 vehicles per day in 2004. There is a sidewalk at the Prospect St frontage.

On Tyler west of Redwood, in a residential neighborhood about half a mile east of the site, traffic counts totaled about 1000 cars in 2001. There is a sidewalk along the north side of Tyler and a shared-use path to the south.

REZONING IMPLICATIONS

INTENT

The stated purpose of **M2** zoning is to provide "locations for general or heavy industrial activities" and that "permitted activities or operations will produce external impacts."

The stated purpose of **B2** is to provide "for major retail shopping areas outside the downtown area… the uses permitted are intended to accommodate both the general retail consumer and the needs and services of the automobile travelling consumer, and are to be limited in hours of operation."

Note: The portion of the site that is currently zoned B2 does not contain any structures. It currently serves as an access/service drive for the site; there is an 8'-10' grade change that would affect placement of any structures. It is approximately 50' x 170'.

The stated purpose of **PL** zoning is to "classify publicly-owned uses, and permits the normal principal and incidental uses required to carry out governmental functions and services.

The master plan recommended **light manufacturing** district's stated purpose is "to provide locations for wholesale activities, warehouses, and industrial operations which produce minimal external impacts that are detrimental in any way to other uses in the district."

The storage facility as it exists would be consistent with the intent of M1 zoning; however, current uses of other M2-zoned areas in the adjacent area do not fit with the M1 ideal. Thus, staff has chosen to pursue only the requested rezoning for this specific site, rather than addressing the zoning of the area as a whole.

REZONING CONSIDERATIONS

The following are generally accepted criteria for evaluating a rezoning request and staff responses to each:

1) *Is the proposed change consistent with the goals, policies and future land use map of the City of Ypsilanti Master Plan?*
   The Master Plan recommends that the future use of this parcel be "light industrial/high tech" roughly equivalent to M1 per the equivalency table on page 72 of the Master Plan. Light Industrial/High Tech is described as the following:

   > The light industrial/high-tech district is designed to primarily accommodate wholesale activities, warehouses, and industrial operations whose external and physical effects are restricted to the immediate area having only a minimal effect on surrounding districts. This designation is also structured so as to permit the manufacturing, compounding, processing, packaging, and assembly of finished or semi-finished products from previously prepared materials. Research and hi-tech uses are also included in this designation, so long as the impacts are minimal. Because many of the areas with this designation are not located along major thoroughfares, the uses in this designation can be serviced by small trucks only." *(p 70).*

   The change from PL to M2, consistent with the remainder of the site, would enable the light industrial use to continue operations and to expand &/or remodel. Although the existing (and proposed expansion) M2 zoning allows more intense uses than indicated in the future land use map, other limitations on this site, such as the grade, stormwater, and availability of water/sewer, would likely deter them.

   The B2 Community Business portion is designated Community Commercial in the future land use map, correlating to the current zoning and can remain B2.

2) *Is there evidence that the owner(s) cannot receive a reasonable return on investment through developing the property with one of the uses permitted under the current zoning?*
   The property is currently developed and is existing nonconforming. Under the existing ordinance and PL zoning, those buildings being used for the self-storage use that are completely destroyed (cost to rebuild exceeds SEV) would not be able to rebuilt, per §122-205(4). This stands in contrast to those buildings extant in the M2 district, where any buildings that are (legal) nonconforming would be able to be rebuilt, provided such construction is completed within 18 months and is diligently pursued to completion, per §122-206(b)(4). Thus, the issue is not that of proximate economic return but long-term economic viability.

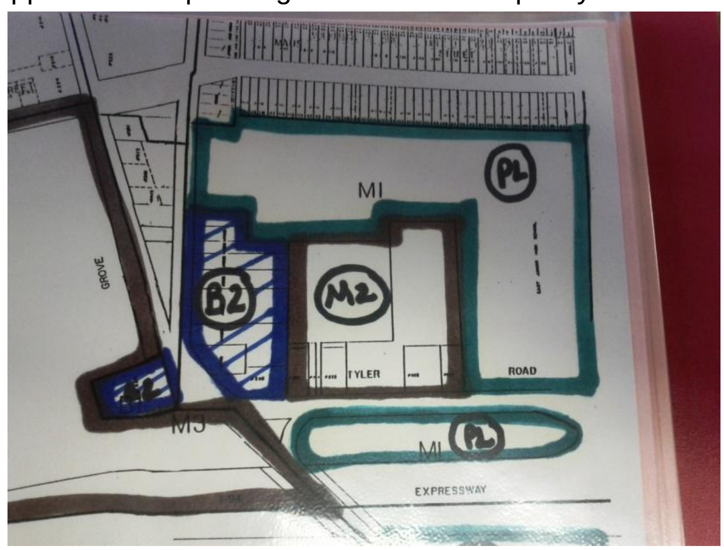
3) *Are the uses permitted in the proposed zoning district compatible with existing surrounding land uses?*
   Yes. The self-storage site has low traffic volumes, low daily use, low noise, and few other externalities; it is, however, space-intensive and possibly considered unsightly. The majority of this use exists below-grade, is fenced, and has minimal on-street presence, consisting of a caretaker house/office, two driveways, a billboard, and signage on the Tyler frontage.

4) *Are city utilities and services sufficient to accommodate the uses permitted in the proposed zoning designation?*
Perhaps. For the current use, utilities are sufficient. Should a more-intense use be proposed, there may be issues of sanitary sewer availability; the neighboring use at 527 Tyler was found by YCUA to have no access, as the nearest access was more than 200' distant.

5) *Can the existing street system safely and efficiently accommodate the expected traffic generated by uses permitted in the proposed zoning district?*
Yes. Per ITE trip generation rates, a single-bay automotive repair use generates up to ten trips per day. Per those same standards, a *new* car sales establishment with one sales person would generate up to twenty trips per day.

6) *Is there apparent demand for the types of uses permitted in the proposed zoning district compared to the amount of land in the City currently zoned and available to accommodate the demand?*
Yes. There are currently two self-storage facilities within Ypsilanti. Due to EMU, there is a relatively high demand baseline; both facilities in Ypsilanti appear to be operating at or near full capacity.

7) *The boundaries of the requested rezoning district are reasonable in relationship and development of the site will be able to meet the dimensional regulations for the proposed zoning district.*
Yes. The boundaries for rezoning encompass an area which was part of the property during the 1994 rezoning, which appears to have attempted to follow existing property lines in this block. It is reasonable to assume that had this office had correct information available, the portions of this property currently zoned PL would have been zoned M2.



8) *If the rezoning is appropriate, is the proposed designation the most appropriate considering all other districts, from the City's perspective?*
Yes.

9) *If the rezoning request is for a specific use, is rezoning the land more appropriate than amending the list of permitted or special land uses in the current zoning district to allow the use?*
Yes.

10) *Will the requested rezoning create an isolated and unplanned "spot zone"?*
No.

STAFF RECOMMENDATION

Staff recommends the Planning Commission recommend partial ***approval*** of the rezoning for 519-521 Tyler with the following findings:

1. The rezoning is consistent with the goals and policies of the 1998 Master Plan.
2. The proposed zoning of the site is consistent with existing and planned surrounding zoning districts and land uses.
3. Utilities and services as they exist are adequate for the self-storage and accessory uses.
4. The proposed boundary for the rezoning is appropriate, based on the existing character of the site, the uses permitted in the proposed and existing zoning districts, natural features, and the character and use of adjacent properties.
5. The rezoning will not result in an unplanned and isolated spot-zone.
6. The adjacent M2, General Manufacturing, designation is the most appropriate for this property.
7. The portion of the site currently designated B2, Community business retain the existing zoning designation.

Bonnie Wessler
Planner I, Community Development Department

c.c. File

PLANNING COMMISSION
MEETING MINUTES
January 16, 2013
CITY COUNCIL CHAMBER
7:00 P.M.

I. CALL TO ORDER

The meeting was called to order at 7:06 p.m.

II. ROLL CALL

Present: R Johnson, B. Lenart, G. Clark, M. Bullard, R. Murphy, P. Hollifield, C. Zuellig

Absent: K. Weger (excused) D. Lautenbach (excused)

Staff: Teresa Gillotti, City Planner
Bonnie Wessler, Planner I
Nan Schuette, Executive Secretary

III. APPROVAL OF MINUTES – December 19, 2012

Commissioner Murphy moved to approve the minutes of December 19, 2012 (Support: P. Hollifield) and the motion carried unanimously.

IV. AUDIENCE PARTICIPATION

None

V. PUBLIC HEARING ITEMS & PRESENTATIONS

517-521 Tyler – Rezoning Request

Ms. Wessler stated that this site is approximately 4.3 acres near S. Grove. The property currently has three different zoning designations, M2, PL and B2. The applicant is requesting rezoning to M2 for the full property to unify the zoning. The Master Plan use for this area is M1 light industrial/high technology and B2 for the area that is adjacent to S. Prospect. She gave some history on the site; in mid-1990, the entire block was rezoned to the current divided category of zoning from general manufacturing when they re-did the zoning code. It is staff's current belief that the maps that were available to planners at the time were not particularly accurate and although the planners did intend to follow the existing lot lines when they rezoned the area, they were unable to do so and that is why the lot line is split between M2, B2 and PL. Staff is suggesting that the portion of the site that is currently zoned PL be rezoned to M2, the portion that is currently M2 remain M2 and the portion that is currently zoned B2 remain B2.

Commissioner Johnson asked about the use of the property and Ms. Wessler responded that there is no change of use proposed.

Commissioner Bullard moved to open the public portion of the hearing (Support: G. Clark) and the motion carried unanimously.

John George, representative for Pagoda Management Company – was in attendance to respond to any questions on this request. He stated that they would like to have all of this property rezoned to M2. They are trying to refinance and the banks prefer all one zoning.

Commissioner Johnson stated that it is staff's opinion that it would not be appropriate to rezone the B2 property but is suggesting that all of the other property be rezoned to M2, which is consistent with the bulk of the property. The B2 does not fit into a M2 category and he is inclined to accept staff's findings.

Commissioner Murphy asked the width of the driveway section and the applicant responded that it was 50 ft x170 ft and 10 ft grade change down to Prospect.

Commissioner Murphy moved to close the public portion of the hearing (Support: B. Lenart) and the motion carried unanimously.

After a number of comments on past rezoning and questions to staff on conformity with the Master Plan and other concerns, Commissioner Murphy moved that the Planning Commission recommend to City Council approval of the request for rezoning for 519-521 Tyler with the following findings:

1. The proposed zoning of the site is consistent with existing and planned surrounding zoning districts and land uses.
2. Utilities and services as they exist are adequate for the self-storage and accessory uses.
3. The proposed boundary for the rezoning is appropriate, based on the existing character of the site.
4. The rezoning will not result in an unplanned and isolated spot-zone.
5. The adjacent M2 General Manufacturing designation is the most appropriate for this property.
6. This excludes the portion of the property that fronts on S. Prospect the dimensions of which are 50' x 170', east to west
7. The rezoning is consistent with the apparent legislative intent of the 1994 Master Plan zoning of the property.

The motion was supported Commissioner Zuellig. A roll call vote was taken and carried with a vote of 6:1. Commissioner Lenart opposed.

Ordinance No. 1187

An Ordinance Entitled "TYLER REZONING"

THE CITY OF YPSILANTI ORDAINS:

That the north portion of 517-521 Tyler, tax code ID# 11-11-10-360-023, currently zoned PL, Public Land be rezoned to M2, General Manufacturing.

MADE, PASSED, AND ADOPTED BY THE YPSILANTI CITY COUNCIL THIS___________ DAY OF _______________, 2013

____
FRANCES MCMULLAN, City Clerk

Attest

I do hereby confirm that the above Ordinance No. __________was published in the Ypsilanti Courier on the _____ day of __________, 2013.

____
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 __________, 2013.

____
FRANCES MCMULLAN, City Clerk

Notice Published: __March 21, 2013________________
First Reading: ___April 9, 2013_____________________
Second Reading: _________________________________
Published: _____________________________________
Effective Date: _________________________________

Resolution No. 2013 -056
April 9, 2013

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

THAT the proposed Ordinance entitled "517-521 Tyler Rezoning" be approved on **First Reading.**

OFFERED BY: ____________________

SUPPORTED BY: ____________________

YES: NO: ABSENT: VOTE:

Resolution No. 2013 - 057
April 9, 2013

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

THAT the public hearing on the proposed Ordinance entitled "517-521 Tyler Rezoning" be officially closed**.**

OFFERED BY: ______________________________

SUPPORTED BY: ______________________________

YES: NO: ABSENT: VOTE:

CITY OF YPSILANTI
COUNCIL MEETING AGENDA
CITY COUNCIL CHAMBERS - ONE SOUTH HURON ST.
YPSILANTI, MI 48197
TUESDAY, APRIL 9, 2013
6:00 P.M. – CLOSED SESSION
7:30 P.M. – OPEN SESSION

I. CALL TO ORDER -

II. ROLL CALL -

Council Member Jefferson	P A	Council Member Robb	P A
Council Member Moeller	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. AGENDA APPROVAL -

VI. CLOSED SESSION (6:00 to 7:30 p.m.)

Closed Session to discuss collective bargaining OMA 15.268, Section 8(c).

VII. INTRODUCTIONS -

VIII. PRESENTATIONS -

1. Proclamation honoring Jane Schmiedeke – Mayor Schreiber
2. Go Solar Presentation – Catherine M. Baxter
3. Grove Road Update - Marcus McNamara, OHM Advisor

IX. ORDINANCES – FIRST READING

Ordinance No. 1187

1. 517-521 Tyler Road Rezoning
   A. Resolution No. 2013-056, determination
   B. Open public hearing
   C. Resolution No. 2013-057, close public hearing

IX. AUDIENCE PARTICIPATION -

X. REMARKS BY THE MAYOR

XI. MINUTES

Resolution No. 2013-058, approving the minutes of March 19, 2013

XII. RESOLUTIONS/MOTIONS/DISCUSSIONS

1. Resolution No. 2013-059, approving DTE lease and easement for Solar Array on City landfill.

2. Resolution No. 2013-060, approving three-year contract with Abraham & Gaffney for Professional Auditing Services beginning fiscal year June 30, 2013 through June 30, 2015.

3. Resolution No. 2013-061, approving engagement letter with Rehmann Robson for accounting services.

4. Resolution No. 2013-051, approving POAM contract.

XIII. LIASON REPORTS

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

XIV. COUNCIL PROPOSED BUSINESS –

XV. COMMUNICATIONS FROM THE MAYOR –

Nominations:

Planning Commission
Phil Hollifield (reappointment)
125 Hawkins St.
Ypsilanti, MI 48197
Expires: 5/1/2016

Zoning Board of Appeals
John Bailey (reappointment)
514 Fairview
Ypsilanti, MI 48197
Expires: 5/1/2016

Planning Commission
Rod Johnson (reappointment)
310 N. Grove
Ypsilanti, MI 48198
Expires: 5/1/2016

Recreation Commission
Conan Malmer (new appointment)
913 Pleasant Dr.
Ypsilanti, MI 48197
Expires: 4/23/2016

XVI. COMMUNICATIONS FROM THE CITY MANAGER –

XVII. AUDIENCE PARTICIPATION -

XVIII. REMARKS FROM THE MAYOR –

XIX. ADJOURNMENT –

A. Resolution No. 2013-062, adjourning the City Council Meeting.

On November 20, 2012, City Council approved a Letter of Intent with Core Resources, LLC, the development partner with Family Dollar, to purchase and develop an approximately 8,320 square feet. The Letter of Intent was signed on 12-10-12 with the duration of 90 days or until a purchase agreement was secured, whichever is sooner.

Staff has worked with Core Resources on a few modifications to the concept plan as well as on the purchase agreement with the help of Miller Canfield, which has provided an attached term sheet summarizing the terms and conditions.

<u>Relationship to previous and current planning efforts:</u>

The last formal plan for development of the entire Water Street Redevelopment area was the Freed plan in 2006. At that time a single developer proposed mixed use and single story commercial development on Michigan Avenue and a mix of residential products through the site. The area Family Dollar is requesting to purchase is 1.1 acres on the hard corner of Michigan and Park Streets. In the Freed plan, the area is represented by "Block E" and a potential use identified was that of a one-story drug store with an area of 1.45 acres.

The Master Plan process going on now, Shape Ypsilanti just completed a week of workshops and other public meetings and input sessions including studio time with the design team. A frequent discussion topic was not only a land use, infrastructure and design plan for Water Street, but also a discussion of how a new layout or Master Plan for the Water Street Redevelopment area would integrate Family Dollar. At this point the consultant team is looking into a way to integrate the project with the future plan, but may suggest a reorientation of the building and/or change in the parcel size to integrate the parcel into a future scheme.

Staff will be following up with Family Dollar, the consultant team and council on any particular changes that may impact the development agreement by Tuesday's Council meeting.

Below is a summary of the offer from Family Dollar Stores (as presented by subsidiary Core Resources, Inc.)

Location: Park and E. Michigan (see attachments)

Building size: Approx 8,320 square feet

Use: Discount retail

Investment: Approx: $800,000 in improvements, not counting land cost.

Purchase Price: $210,000

Commission: Buyer's broker, 5%, CBRE, 2.5% to be paid through previous agreement.

Staff has been working with developer on the form of the building and a conceptual site plan corresponding to the previously proposed zoning for the site. Key features include:

Setbacks: 10 foot maximum setback on Park and E. Michigan frontages

Access: Shared use drive, to be built by developer subject to MDOT requirements

Utilities: Expected to pull from Michigan Ave. or Park Street and paid for by the developer

Façade: Brick or brick form construction on street and parking lot frontages, as well as windows on street and parking lot frontages (excluding south side)

Parking: Meets maximums set in draft zoning, and is preferred by developer

Stories: One

Comparable Development:

The closest comparable within the City is the AutoZone (2166 Washtenaw). It currently has a similar size and operates within a similar discount retail vein. The taxable value of the property is 341,900 for a 7,864 sf building. Based on this and referencing some slightly larger pharmacies, the estimated taxable value for the proposal is $350,000 - $400,000 which would result in an estimated $30,000 a year in taxes.

Next steps:

At this point, approving the purchase agreement would contractually obligate the City, per the terms and conditions provided in the agreement as presented and the contingency and governmental approvals periods will begin. These approvals would be subject to the existing Master Plan and zoning ordinance. If City Council is interested in waiting for further design and infrastructure plan for Water Street to be presented as part of the Master Plan process, it may request to delay the decision, or the City may chose to decline the proposal.

If approved, the agreement would be executed immediately. City staff would begin amendments to the Brownfield Plan which would be presented and potentially approved during the governmental approvals period as well. Core Resources would immediately begin work on a survey and legal description, followed closely by development of a formal Planned Unit Development and site plan submission as well as other related approval. According to Core Resources' stated timeline, construction would be expected this summer.

Ms. Gillotti asked Mr. Fazio to explain the terms of the agreement.

Mr. Fazio reviewed the terms of the agreement.

Mayor Schreiber asked how flexible the agreement was in regard to the exact location of the Family Dollar.

Mr. Fazio stated that the purchase agreement references the existing zoning ordinances and Master Plan of the City and does not contemplate a material or significant change to the current master planning goals.

Council Member Vogt asked what, exactly, would be considered a competing use that would be excluded or barred. He asked if it included any other retail uses or simply another Family Dollar.

Mr. Fazio explained that paragraph 8 of the purchase agreement addresses the scope and extent of competing uses and stated that, currently, it is a use restriction that relates to the same basic business model as Family Dollar, and there is a list of identified businesses currently operating under that model. He mentioned that there are specific exclusions, expressly mentioned in the contract, which would allow other businesses to operate in the nearby area.

Mayor Pro-Tem Richardson asked if the property was tax exempt because of the tax proration amounts included in the documentation.

Mr. Fazio stated that the property is currently exempt because the City owns it and there would be no tax proration when the sales transaction closes.

Mayor Schreiber asked if there had been any discussion with the developer regarding the ShapeYpsi master planning process that just started.

Mr. Fazio said he would let Mr. Tippman speak on behalf of the developer, however, it was his understanding that the developer is willing to accommodate changes in the site configuration as well as the orientation of the building, within certain limitations.

Ms. Gillotti pointed out details of the site plan, showing examples of what the proposed building would look like, and discussed changes to the building that had been previously proposed. She pointed out the difficulties in planning for a second story before plans for the second story were created, as it is hard to know what would be needed that far down the road. She mentioned that the closest similar project was the AutoZone on Washtenaw Avenue.

Ms. Gillotti mentioned the ShapeYpsi project that was currently underway and stated that a goal of the master planning project is to have a plan for the Water Street site and be able to codify it.

Mr. Tippman stated that he has discussed building flexibility into the agreement to accommodate the City's desires.

Ms. Gillotti shared what the next steps would be, if City Council wished to move forward with the project, beginning with signing the agreement and getting all necessary approvals.

Council Member Vogt stated that he was a little unclear on how a contract could be signed, with specific terms, and still allow for flexibility.

Ms. Gillotti stated that a disclosure would be added to the agreement which would state that the City was going through the master planning process. She added that the general layout for the Water Street plan would be known by mid-April, and that would be used as the basis for the site plan of this project. She stated that the agreement could contain a few essential items that could be left open for discussion based on changes the City might like to make to the site plan.

Council Member Vogt stated that it was his understanding that size, shape and layout would be the main items that have flexibility.

Ms. Gillotti confirmed this.

Mr. Tippman explained the normal process includes signing a contract, which begins a contingency period during which title is ordered and surveys are conducted. He stated that, in this case, it is suggested that the contingency period be extended until the property can be defined and a survey can be completed.

Mr. Lange asked how long the contingency period might last.

Ms. Gillotti stated that, while the master plan probably wouldn't be adopted until June, the third week of April is when the designers would begin working on the layout for Water Street, and since this project is only concerned with one corner of the property, it is likely that that corner could be defined by that time, which would prevent the developer from having to wait until the entire master plan was adopted.

B. Open public hearing

1. Dave Heikkinen, a business owner in the City, stated that he was a part of the ShapeYpsi meetings and he does not know how the project can be moved forward before the master planning process is complete. He added that he has talked to a lot of people and there is not a lot of support for the Family Dollar store in the Water Street area and he felt the City needed to maximize the value of the property.

2. Carter Good, 961 Sherman, read a letter from his son, who grew up studying Water Street, who works with the Urban Redevelopment Authority in Singapore. The letter that the City should have a high set of standards for the Water Street property and further stated that the author feels the Water Street site is the most important development zone within the City.

C. Close public hearing

Mayor Pro-Tem Richardson moved, supported by Council Member Jefferson, to close the public hearing.

On a voice vote the motion carried.

Council Member Vogt stated that originally he thought anything was better than nothing on the Water Street property. He said that he now feels Council should consider what the standard of the entire site should be and he feels they should delay getting into an agreement and let the master planning process complete before proceeding with a project, rather than having the project dictate the master planning process. He echoed the sentiments of the audience members who spoke during the public hearing and proposed Council table this topic until the master planning is done and approved.

Council Member Vogt moved, supported by Council Member Moeller, to table Resolution No. 2013-052, approving Family Dollar purchase agreement.

Council Member Murdock stated that this would cut off all discussion on the matter.

Council Member Vogt stated that was not his intention, but at some point he felt the discussion should be halted and the resolution tabled to a later date.

Council Member Vogt moved, supported by Council Member Moeller, to withdraw his previous motion to table Resolution No. 2013-052, approving Family Dollar purchase agreement.

Council Member Murdock asked Ms. Gillotti what needed to be added to the agreement to give it the flexibility the City desired.

Ms. Gillotti stated that the Governmental Approvals section (7b) could include a disclosure regarding the master planning process and how this may result in a modification of the planned development strategy for the Water Street project. She added that another measure would be to add in a date when the contingency period would start, which would allow time to determine the exact size of the parcel and the structure, as well as where the structure would go on the site.

Mr. Tippman stated that it would turn the agreement into an "option" on both parties' part to proceed with the project, until they could reach an agreement on some critical issues relating to how the development would move forward. He added that he doesn't think there is much flexibility on this particular parcel, with respect to the master plan and configuration of the structure on the property.

Council Member Murdock asked if the language we currently have is adequate.

Mr. Fazio stated that it would require drafting some additional language as well as taking a look at some current language that would need to be eliminated, that referenced an easement on the property, which would no longer be relevant if the building was reoriented on the site.

Mayor Pro-Tem Richardson asked if we have a current master plan in place that includes the Water Street site.

Ms. Gillotti answered there is a narrative in the master plan that includes permitted uses of the site but there is no formal layout or accepted infrastructure plan.

Mayor Pro-Tem Richardson stated that the site has been sitting there for close to ten years now and she feels we shouldn't hold up the project just because we are in the middle of a new master planning process. She added that she is in support of the project and feels the Family Dollar store would be a natural progression into the other retail shops in the surrounding area.

Council Member Jefferson stated that he feels it is a good idea to move forward and not delay the project any longer. He added that adding roadways to connect the parts of the City that are divided by the river would increase walkability and enhance business opportunities, and he sees this as an opportunity to put in those roads. He said he had communicated with the consultants and the project could be designed to match the new master plan. He said he feels the only delay would be to get the language drafted.

Mr. Tippman stated that the agreement currently says the roadway would be a private drive that would be constructed and maintained by Family Dollar until the additional parcel was sold and developed, when both parcels would share in the maintenance of the roadway.

Council Member Murdock stated that he feels the Family Dollar store fits with the City's vision and plan for the property and he thinks Council should move forward with the project.

Council Member Vogt stated that he thinks it would be risky and inappropriate to try and move forward with the agreement too quickly. He said that he doesn't think anything would be unnecessarily delayed by tabling the resolution, as it would likely be late-April or early-May before the details of the agreement were completed, anyhow.

Mayor Schreiber stated that the developer is looking for support and reliability from the City and he does support the Family Dollar project and wants to see it move forward to fit with the grid structure that has been brought up as a part of the master planning process. He asked Ms. Gillotti what options Council had to incorporate that kind of language in the agreement and what steps would need to be taken to do so.

Ms. Gillotti stated that the matter would have to be brought back before Council, which could occur during a regular scheduled meeting or a special meeting. She stated that she thinks the changes to the agreement could be completed within a week's time.

Mr. Fazio stated this would be true as long as the direction was to align the roads and re-orient the site plan.

Ms. Gillotti stated the language would need to include a master plan disclosure, with a contingency period that lasts until the end of April, when the parcel size and building orientation would be known and a new concept site plan could be created, if necessary. She said the purchase agreement could then be approved while still allowing a period of time to work out the necessary details.

Mayor Schreiber stated that the other option would be to wait until the end of April when the changes could be included in the actual agreement.

Ms. Gillotti answered yes, however, that option would not allow the developer to begin their process and move forward.

Mayor Schreiber asked the developer if approving the agreement next week would give the predictability needed to move forward with the project.

Mr. Tippman replied the advantage of that option is that it would save several weeks of time. He added that he wanted to respectfully remind Council that all of the parties involved had signed a Letter of Intent 90 days ago and, at some time during the passing of that 90 day period, one of the parties had decided to change their mind. He stated that this left the other party with a deal that was different from the one they had 90 days ago.

Mayor Schreiber stated that he appreciated their flexibility.

Mr. Fazio asked if the agreement would need to come back before Council if the agreement was approved with language that referenced a future date, when the master planning process was closer to completion.

Mayor Schreiber answered yes, Council would need to approve the agreement again, at that time.

Mr. Fazio stated it is another contingency that needed to be clarified.

Mayor Schreiber stated that it was turning a one-step process into a two-step process.

Mayor Pro-Tem Richardson asked for clarification on whether a special Council meeting next week would take care of this contingency.

Ms. Gillotti stated that the special meeting would allow all parties involved to sort out details until the end of April, at which point an amended agreement would need to be approved.

Mayor Schreiber stated that he feels this will enhance Family Dollar's viability as well, as Water Street gets developed. He added that he feels Family Dollar is a good use for the property as there is a diverse group of people that would utilize the store.

Mr. Tippman said nothing would help Family Dollar more than having a walkable community surrounding the store.

Mr. Lange stated that he would like the roadway to be moved over 50 ft., so that it will be in line with the street grid, and still be built by the developer to the standard required to be a public street, so that it may be used as such in the future.

Mr. Tippman said that he only mentioned the different options and locations for the roadway so that Council would consider that when moving forward.

Council Member Vogt moved, supported by Council Member Moeller, to table Resolution No. 2013-052, approving Family Dollar purchase agreement.

Mayor Schreiber asked if Council Member Vogt wanted to table the resolution or simply delay it.

Council Member Vogt stated that it would be delayed at least a week, anyhow, but he would like to wait until the master planning process is complete. He said his proposal was to not make a decision until that time so that Council can make a judgment about how the project would fit into the new master plan. He added that he feels May would be a good time to review the project again.

Council Member Moeller asked Attorney Barr if there was a difference between tabling the resolution and delaying it.

Attorney Barr stated that the motion, as he understands it, is to table the resolution to a definite time, which would be the first meeting in May.

On a roll call, the vote to table Resolution No. 2013-052, approving Family Dollar purchase agreement, to the first City Council Meeting in the month of May, was as follows:

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

VOTE:

Yes: 2 No: 5 (Jefferson, Murdock, Richardson, Robb, Schreiber) Absent: 0 Vote: Failed

Council Member Murdock stated that the next scheduled Council meeting is on April 9, 2013 and, while he didn't mind if Council held a special meeting next week, he would not be able to attend.

Mayor Pro-Tem Richardson stated that she would like to have another meeting as soon as Ms. Gillotti and Mr. Fazio are able to draft the proper language for the agreement, so that the developer could begin moving forward on their end.

Mr. Tippman suggested continuing with the contract as is, without adding or changing any language, but insert new exhibits, that would define the new parcel as being aligned with Parsons and Lincoln streets, and a new concept site plan that would establish the building footprint. He suggested this happen in time to bring it all before Council for the second meeting in April.

Council Member Murdock, supported by Mayor Pro-Tem Richardson moved to table Resolution No. 2013-052, approving Family Dollar purchase agreement to the April 23, 2013 Council meeting.

On a roll call, the vote to table Resolution No. 2013-052, approving Family Dollar purchase agreement, to the April 23, 2013 Council meeting, was as follows:

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

VOTE:

Yes: 5 No: 2 (Moeller, Robb) Absent: 0 Vote: Carried

VIII. AUDIENCE PARTICIPATION –

Mayor Schreiber read the rules for audience participation.

1. Carter Good, 961 Sherman, gave his thanks for being allowed to participate and share the letter from his son. He said that his family cares very much for the City of Ypsilanti.

2. Dave Heikkinen, 133 W. Michigan, stated that he really likes the ShapeYpsi process and thinks there has been a lot of great discussion. He mentioned that one of his concerns was the scheduling of one of the meetings on Friday at 5:00 p.m., as it made it very difficult for business owners, and others, to attend. He said it would be nice for the City to be cognizant of people's schedules. He added that he had been a part of a discussion about Park St. and how it could play an important role because it travels south and catches the bend in the river, which has been seen as a significant feature of the Water Street property. He stated that there is a lot of discussion to be had about the property and he is glad Council has delayed the Family Dollar project until more discussion can take place. He added that he does not want Council to forget the bigger picture because he thinks their sights are set too low, in terms of the potential that the property has. He said he would like Ypsilanti to pursue the type of development that Ann Arbor is getting because he feels Ypsilanti has more to offer, including Eastern Michigan University, prime location, accessibility, lower prices, the river, and a train station. He said he feels we continue to sell ourselves short and he does not understand why. He suggested getting the community involved with the real estate agents to help with the marketing of the Water Street property.

IX. REMARKS BY THE MAYOR –

Mayor Schreiber stated that he appreciated the comments of Mr. Good and Mr. Heikkinen. He said he thinks there is an excellent group of people working on the ShapeYpsi project and feels that there will be a lot of good ideas for the City as a whole.

Council Member Vogt stated that he also appreciated the comments from the audience and said there are a lot of subtleties that he feels need to addressed regarding the Water Street property and that is why he feels it is a good idea to take time considering them.

X. MINUTES –

Resolution No. 2013-050, approving the minutes of February 26 and March 5, 2013

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

That the Minutes of February 26, and March 5, 2013 be approved.

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

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

XI. ORDINANCES – SECOND READING –

1. Resolution No. 2013-046, approving Ordinance No. 1183A – Text Amendment: Food production, processing and sales ordinance

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

THAT the proposed ordinance entitled "FOOD PRODUCTION AMENDMENTS" be approved on Second and Final Reading.

Ordinance is on file in the Clerk's office.

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

Ms. Gillotti stated that the only change to the ordinance was that all references to hoophouses and greenhouses have been removed from the ordinance. She said that what is left in the ordinance are gardens and community gardens. She mentioned that there were special use standards that would apply to some of the gardens. She added that the gardens in the residential areas are meant for interim uses and not for long-term agricultural use. She reviewed the setback requirements and other property requirements for maintaining a garden on the premises. She mentioned that if at any time someone were to invoke the Right to Farm Act, to protect the gardens or community gardens, it would nullify that section of the ordinance.

Council Member Vogt asked if there were any restrictions to changing the rules if Council decides that some part of the ordinance is inappropriate.

Ms. Gillotti said the same process they were following now, to revise the ordinance, could be done again in the future if Council felt the need to do so.

Council Member Vogt asked if the 3 foot setback applied to islands located between the sidewalk and street.

Ms. Gillotti stated that the ordinance does not regulate that space, which is public right-of-way, so if someone wants to plant there they need to notify the Department of Public Services. She said there is a process for the planting of street trees, and growing in that space should not be done without City approval.

Council Member Vogt asked if the City had standards for what was allowed in those spaces.

Ms. Gillotti stated that there is not a formal process, aside from the one for street trees, other than the fact that permission is supposed to be received before planting in those spaces. She gave an example of a neighbor she knows who keeps a beautiful garden in an island between the street and the sidewalk and said that if the City did not deem her use of the space appropriate, notice would not be required prior to mowing it down.

Council Member Vogt stated that he knew of a property on Louise that had plants growing all over the front yard, not just in the island, that has been ticketed multiple times but still has plants that are growing. He said he is not sure what the City would do if people were given even more incentive to grow plants but not maintain or care for them. He asked Ms. Gillotti how the City should deal with this.

Ms. Gillotti used the example of planting on a vacant lot and said that if the gardens become dilapidated there is a section of the ordinance relating to the maintenance of the gardens that would allow the City to follow up with the violators and ticket them if they are found guilty of non-compliance.

Council Member Vogt stated that he feels this is still subjective and could lead to a court battle.

Ms. Gillotti stated that they will be asking people who come in with garden plans to sketch out the plants so that the City can know what the setbacks will be and that can be referred to if the property becomes non-compliant.

Council Member Moeller asked if people could grow on vacant lots right now, if the ordinance were not passed.

Ms. Gillotti stated that there is nothing that explicitly allows it now.

Council Member Moeller asked if there was anything that would prevent an owner of a vacant lot from using it for a garden.

Ms. Gillotti stated that in single family zones no gardens are allowed. She said there is a gray area and a lot of people have begun to plant on their properties, but are being told they are doing so at their own risk.

Council Member Moeller asked if corn is allowed to be grown on front yards currently.

Ms. Gillotti stated that there is nothing, currently, that says whether or not corn is allowed to be grown. She said the landscaping provisions in this ordinance include edible plants and raised garden beds.

Mayor Pro-Tem Richardson expressed concern over gardening in the front yards of residential properties and would like to see it only allowed on side and rear yards. She also stated that she would like to see the setback requirement on vacant lots increased to 6 feet. She said she wants to encourage people to garden, but she also wants to keep a nice and neat looking city, which is impossible when all sorts of produce is growing in the front yard. She asked Ms. Gillotti what the setbacks for were for composting.

Ms. Gillotti said it was subject to the setback requirements of the underlying district.

Council Member Murdock asked if there is an ordinance regulating composting.

Ms. Gillotti stated that she was not familiar with one but she would look into it.

Mayor Schreiber stated that he is going to support this resolution. He said he believes everyone has seen examples of finely manicured lawns as well as examples of lawns that have not been well maintained. He said there are gardens that can be attractive and still include things like tomatoes. He added that the community in Ypsilanti is very interested in growing their own food and this ordinance will allow them to do so while also attracting other people who want to live in a city that support this.

Mayor Pro-Tem Richardson stated that she will support the ordinance, with the recommendations she has made.

Mayor Pro-Tem Richardson moved to amend the ordinance to only allow gardening on the side and rear yards and change the setback requirements on vacant lots from 3 feet to 6 feet.

Mayor Schreiber asked Attorney Barr if the ordinance would have to be republished.

Attorney Barr stated that if the motion passes he feels it should be republished.

Mayor Pro-Tem Richardson said she tried to make these same statements at the first reading of the ordinance and felt her recommendations were ignored and she was told she could address them on the second reading of the ordinance.

Council Member Moeller seconded Mayor Pro-Tem Richardson's motion.

Council Member Murdock stated that he thinks these are good things for the community and necessary to allow folks to grow food where they live, which is very useful. He said he would oppose the amendment because of these reasons.

Mayor Schreiber stated he would be opposing it also.

On a roll call, the vote to amend the ordinance to only allow gardening on the side and rear yards and change the setback requirements on vacant lots from 3 feet to 6 feet, was as follows:

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

VOTE:

Yes: 3 No: 4 (Murdock, Robb, Vogt, Schreiber) Absent: 0 Vote: Failed

Ms. Gillotti discussed the changes made to the ordinance as they related to food processing in the different allowable districts.

Council Member Robb asked if the City planned to enforce these regulations or just create policy.

Ms. Gillotti said the City plans to enforce them.

Council Member Vogt stated that because it is a matter of public health and safety the County would have to be involved.

Council Member Robb stated that there were already ordinances that were just a matter of policy and were not currently being enforced and he feared this would be the same.

Ms. Gillotti stated that there are a lot of ordinances to enforce and the City enforces as many as they can. She continued to further discuss the food processing portion of the ordinance as it related to manufacturing districts.

On a roll call, the vote to approve Resolution No. 2013-046, approving Ordinance No. 1183A – Text Amendment: Food production, processing and sales ordinance, was as follows:

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

Council Member Jefferson Yes

VOTE:

Yes: 5	No: 2 (Moeller, Richardson)	Absent: 0	Vote: Carried

XII. RESOLUTIONS/MOTIONS/DISCUSSIONS –

1. Resolution No. 2013-053, approving Fischer-Honda purchase agreement.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS, The Ypsilanti City Council desires to continue the Border to Border trail through the City limits; and

WHEREAS, the City has indicated in its Parks plan and non-motorized plan a need to link Riverside Park and the Water Street Redevelopment area; and

WHEREAS, the City has received a 2011 Natural Resources Trust Fund grant and related commitments for the construction of a pedestrian bridge; and

WHEREAS, the bridge will cross the Huron River from Riverside Park to a corner of the existing Fischer Honda property.

NOW, THEREFORE, BE IT RESOLVED THAT the Ypsilanti City Council approve the attached access easement between the City of Ypsilanti and Fischer Honda to ensure an area for the landing of the pedestrian bridge; and

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

OFFERED BY: Council Member Moeller
SUPPORTED BY: Council Member Jefferson

Ms. Gillotti gave the background.

Background:

The City received a grant in 2011 to construct a pedestrian bridge from Riverside Park to the Water Street Redevelopment Area. In collaboration with Washtenaw County Parks and Recreation Commission (WCPRC), the City is pursuing the bridge crossing from Riverside Park to a corner of the Fischer Honda Dealership parcel on the east side of the Huron River.

Bob Tetens from WCPRC had initiated conversations previously with the owner of Fischer Honda, and Mr. Fischer expressed interest in providing a portion of his property for such an effort. Mr. Fischer requested an appraisal of the property and the City Assessor provided an initial estimate. A formal appraisal followed, which valued the area of the permanent easement at 28,000. Mr. Fischer agreed to the price as well as the cost of the appraisal which was $3,500.

Washtenaw County Parks and Recreation Commission met on Tuesday, March 12 and approved funding in the amount of $31,500 to cover the cost of the easement and the appraisal. Note that the easement agreement covers both the permanent and a temporary easement for the property, and the easement would be held by the City of Ypsilanti.

This easement or other permanent access is required per the State of Michigan's Natural Resources Trust Fund grant guidelines.

Council Member Murdock asked if the resolution could add the fact that the County will be paying for the project.

Ms. Gillotti stated that was fine.

Council Member Moeller and Council Member Jefferson agreed with this change as they had, respectfully, supported and seconded the resolution.

On a roll call, the vote to approve Resolution No. 2013-053, approving Fischer-Honda purchase agreement, was as follows:

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

VOTE:

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

2. Resolution No. 2013-054, declaring March 23, 2013 "Earth Hour Day" in the City of Ypsilanti.

Whereas, The Ypsilanti community is deeply concerned about the impacts of climate disruption and believes that energy efficiency and natural resource conservation are important elements to combating climate change;

Whereas, A significant and growing number of Ypsilanti residents engage in energy conservation activities such as turning off non-essential lights, recycling, choosing sustainable transportation, and weatherizing their homes and businesses;

Whereas, Ypsilanti City Council recently adopted a comprehensive Climate Action Plan that includes recommendations to reduce our energy consumption and green house gas emissions;

Whereas, Earth Hour is both an international and local symbolic event organized by World Wildlife Fund to raise awareness about climate change issues, to encourage businesses, individuals and government to take actions to reduce their carbon emissions and their impact on the environment in their daily lives and operations;

Whereas, Earth Hour asks all citizens, businesses, government agencies, and commercial and non-commercial establishments to turn off all non-essential lighting for one hour beginning at 8:30 pm on March 23, 2013 and to encourage citizens and businesses to commit to actions they can take in the coming year to reduce their carbon footprints and conserve energy;

Whereas, Earth Hour will be used as a tool to inform local residents and businesses about existing information and tools

already available within the community to assist them in increasing energy efficiency and decreasing emissions and use of natural resources;

Whereas, Extinguishing or dimming non-essential lights in City Hall and other City facilities and urging businesses and citizens to do the same will send a clear message that the people of Ypsilanti in the State of Michigan in the United States of America are concerned about climate change, stand with the rest of the world in seeking solutions and are demanding that elected leaders act immediately to take measures that will help fight global climate change; and

RESOLVED, That Ypsilanti City Council endorses efforts by World Wildlife Fund through Earth Hour to raise awareness around global climate change and energy efficiency;

RESOLVED, That Ypsilanti City Council encourages city employees to turn off or dim all nonessential lighting in city government buildings and public landmarks for the hour between 8:30 and 9:30 PM on March 23, 2013 to conserve energy and raise awareness about global climate change as part of the city-wide energy conservation event: Earth Hour; and

RESOLVED, That Ypsilanti City Council asks all citizens, businesses, government agencies, and commercial and non-commercial establishments to turn off all non-essential lighting for one hour beginning at 8:30 pm on March 23, 2013 and to commit to actions they can take in the coming year to reduce their carbon footprints and conserve energy; and

RESOLVED, That Ypsilanti City Council directs the City Manager to share this resolution with Eastern Michigan University to encourage their participation; and

RESOLVED, That Ypsilanti City Council declares March 23, 2013 to be "Earth Hour Day" in the City of Ypsilanti.

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

On a roll call, the vote to approve Resolution No. 2013-054, declaring March 23, 2013 "Earth Hour Day" in the City of Ypsilanti, was as follows:

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

VOTE:

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

XIII. <u>LIASON REPORTS</u> –

A. SEMCOG Update: March General Assembly on 3/21/2013
B. Washtenaw Area Transportation Study: Meeting on 3/20/2013

- Additional funds have become available allowing Grove Road project funds for 2014 to be used this year, thus saving the City from having to borrow the funds from Ypsilanti Township.

C. Washtenaw Metro Alliance: No meeting this week.
D. Urban County: No meeting since last Council meeting.
E. Freight House: Some discussion on the number of doors required for the Freight House.

Mayor Schreiber asked if there was any chance to hold weddings at the Freight House in the near future.

Council Member Murdock stated that would not be feasible at this point. He mentioned that the drawings were almost done and the previous mention of it being open in May was a bit premature.

XIV. COUNCIL PROPOSED BUSINESS –

Mayor Pro-Tem Richardson

- Mayor Pro-Tem Richardson stated that since the City was hiring it ought to also try restoring the 5% pay cut that many employees took when the furlough days were implemented.

- Stated that she saw there was another Medical Marijuana Dispensary that was trying to open and she would like to see a moratorium on any new dispensaries.

Council Member Moeller

- Mentioned that she would be attending the College Heights Neighborhood Association meeting with Council Member Vogt.

- Stated she appreciated how quickly staff handles the complaints that she gives to the City Manager from citizens in her Ward.

Council Member Vogt

- Stated that he also wanted to thank staff for taking care of various issues.

Council Member Jefferson

- Stated that he has received multiple complaints, which he has reported to the Building Department, about the property located at 210 S. Hamilton, about work being done and allowing occupancy without the proper permits.

XV. COMMUNICATIONS FROM THE MAYOR –

Go Solar Community Forum

Mayor Schreiber stated that he wanted to thank staff and said that he was impressed with the ShapeYpsi discovery process.

XVI. COMMUNICATIONS FROM THE CITY MANAGER –

- Reported the sale of the City Crown Victoria.

- Provided update on the Streetlight Report.

- Stated he is in the middle of his first budget process.
- Shared that the Collaboration Committee will be meeting in a couple of weeks.
- Addressed concerns over the website and the City's image. Stated that Ms. Savage will be working on website content.
- City Clerk Frances McMullan provided a report on the Clerk-Treasurer office consolidation.

Mayor Schreiber asked for a motion to extend the meeting.

Council Member Vogt moved, supported by Council Member Jefferson, to extend the meeting for 10 minutes.

On a voice vote the motion carried.

XVII. <u>AUDIENCE PARTICIPATION</u> –

None

XVIII. <u>REMARKS FROM THE MAYOR</u> –

None

XIX. <u>ADJOURNMENT</u> –

A. Resolution No. 2013-055, 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 and the meeting adjourned at 11:01 p.m.

REQUEST FOR LEGISLATION
April 9, 2013

From: Teresa Gillotti, Planner II

Subject: DTE Easement/Lease for Solar Array application with SunDurance

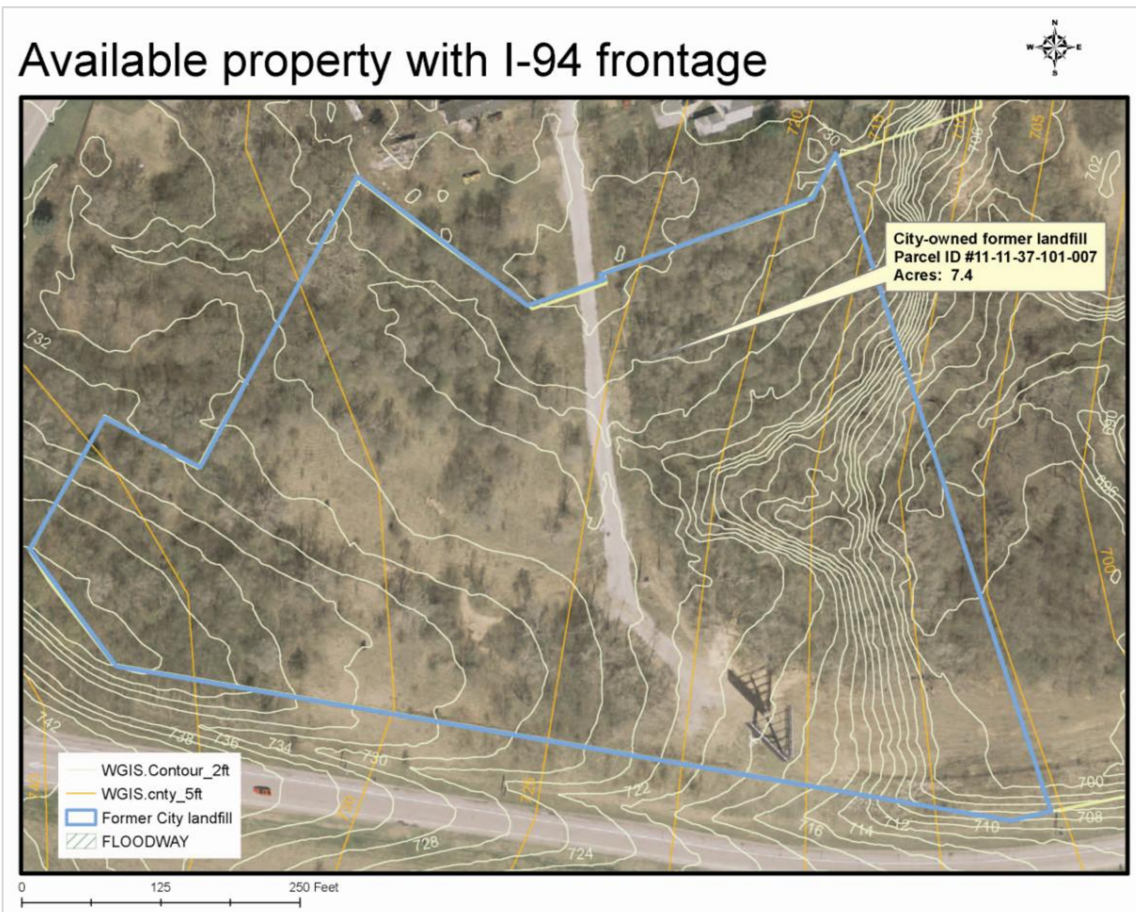
---

Background

On December 4, 2013, Ypsilanti City Council approved a Letter of Intent with SunDurance Systems for the development of a solar array on the City's former landfill as part of a request for proposals issued by DTE for sites and solar power generating systems. The proposal, including the City landfill property has passed the first cut, and as part of the second stage of proposals to DTE, the City is being asked to approve a lease/agreement for the project in advance of DTE's final selection.

As a reminder, the DTE RFP indicated that developers of the project should select sites that have high visibility and be within the DTE service area, with emphasis on locations in the City of Detroit.

Proposals will be compared to each other for final selection



based on various factors including location, price, etc. SunDurance has since been refining the proposal based on feedback from DTE. The initial proposal submitted was for a 1.3 MW installation. DTE has indicated to SunDurance that they are interested in a smaller installation on this site, preferably around the 750 watts. SunDurance asked that the City approve two different sized installations as options DTE can consider in weighing the proposal (below).

As per the terms of the LOI, the City received $2,000 from SunDurance for continuing to hold the property for this potential development.

Current proposal

The majority of the elements previously discussed will remain the same. As the site was a former City landfill, the proposed array will be a ground-mounted, fixed-tilt system, requiring minimal or no penetration of the surface of the site. As noted, SunDurance is requesting two options for sizing/locating the array as depicted in the exhibits below. Both options are included in the attached easement/lease agreement with slightly varying rental rates.

Option 1 – 750 kW system to be located west of existing access road

Option 2 – 1000 kW system located on both sides of existing access road

DTE Lease/Agreement

As was noted in the previously approved LOI, the project itself would require a 20-year lease between the property owner (City) and DTE with the potential to extend each year for 10 years.

Basic details follow:

Lease Payments:	A one-time construction payment of Twenty Thousand Dollars ($20,000.00) shall be made within thirty days of execution of the Lease. After commercial operation of the System at the Premises, Lessee agrees to pay Customer annually by December 1st for each year of the Term the sum of Forty Four Thousand Dollars ($44,000.00 for 1000 kW system or $40,000 for 750 kW system.
Lease Term:	20 years, subject to Lessee's option to extend the Lease for 10 additional and successive 1 year periods.
Removal penalty:	If the City determined that the land would be better suited for another use(s) and wanted to move the solar array, the City

	would be responsible for all relocation expenses up to $500,000.
Personal Property Tax	The lease (as in the LOI) indicates that if the State of Michigan exempts or otherwise extinguishes Personal Property tax, DTE will be responsible for a payment in lieu of taxes
Final size/location determination	The final executed lease/easement will include the final area which will be finalized in the zoning approval phase.
Access	Existing access easement to digital billboard will be maintained.

City approval process and next steps

If the proposal is selected, SunDurance would submit site plans and a Planned Unit Development application for approval with the City. The PUD process would first go to Planning Commission for a recommendation and then to City Council for a public hearing and approval. DTE is still interested in a project going into service by the end of the calendar year.

Landfill history and environmental issues

City ownership of the former landfill occurred prior to 1949. The estimated closure date of the Landfill is between 1957 and 1967. The closure did not include a formal sealing or capping of the landfill, and the property is known to have environmental contamination although it is not known to what extent. Initial testing was undertaken by the Traverse Group in 1998, but it did not include a formal Phase I or Phase Ii environmental assessment.

Since the LOI was adopted the City received two grants from the Downriver Community Conference as part of our membership in the Washtenaw County Brownfield Redevelopment. The first grant covered costs of a Phase I environmental assessment. The second grant, currently underway, will involve sampling of the landfill site, and should provide information as to the extent of the landfill area, as well as a more detailed picture of existing contaminants on-site. Staff will be following up with DEQ as the process proceeds to make sure due diligence procedures are being followed.

RECOMMENDED ACTION: Approval

ATTACHMENTS:

- Signed Letter of Intent between SunDurance and City of Ypsilanti
- DTE Easement/Lease agreement
- Resolution

SOLAR POWER EASEMENT AGREEMENT

This Solar Power Easement Agreement ("Agreement") is made and entered into as of this ____ day of ____, 2013____ ("Effective Date") by and between The City of Ypsilanti, a Michigan Home Rule City, having its offices located at 1 South Huron Street, Ypsilanti, Michigan 48197,("Customer"), and DTE Electric Company, a Michigan corporation, having its offices located at One Energy Plaza, Detroit, Michigan 48226 ("DTE"). Customer and DTE may be referred to herein in the singular as a "Party" and collectively as the "Parties".

WITNESSETH:

The following is a recital of the facts underlying the execution of this Agreement:

A. Whereas, Customer agrees to allow DTE to develop a photovoltaic project including, but not limited to, DTE's installation, maintenance and operation of the photovoltaic systems described in Schedule A-1 and Schedule A-2 ("System") at Customer's facility located at 70 Kramer ("Premises"); and Customer's Premises is further described in Schedule E.]

B. Whereas, DTE shall, at its sole cost and expense, engineer, procure and install any and all equipment in connection with the System.

NOW, THEREFORE, the Parties agree as follows:

1. Term:

    a. The term of this Agreement ("Term") shall commence on the Effective Date and shall continue for a period of Twenty (20) years after the date the System is placed in service and generates electric power ("In Service Date") as provided in the amendment contemplated by Section 3(a) below, except as such Term may be earlier terminated as provided herein, and subject to DTE's right to extend the Term for periods of one (1) year each ("Renewal Period") upon the expiration of the initial Term or a Renewal Period, as the case may be, by written notice to Customer not later than sixty (60) days prior to the expiration of the initial Term or a Renewal Period, as the case may be, up to but not exceeding ten (10) Renewal Periods.

    b. At the expiration or earlier termination of the Term, DTE shall be afforded a period of one hundred eighty (180) days in which to remove the System and any other DTE Property (as defined herein) from the Easement Area (as defined herein) and Premises and restore the Easement Area and the Premises to the condition that existed prior to such installation, provided that for roof mounted systems, DTE shall not be responsible for normal wear and tear, regardless of whether caused by the System or otherwise.

2. System:

a. DTE shall, at its sole cost and expense, install and maintain the System upon, under and over the Premises in the location described in Schedule B-1 and Schedule B-2 ("Easement Area").

b. DTE agrees that with respect to all its facilities, apparatus and equipment installed on the Easement Area, it will enter the same for taxation in its own name and pay any taxes levied thereupon. DTE will remit and bear the expenses of any taxes assessed and levied against personal property installed on the Easement Area and owned and/or possessed by DTE. In the event that the State of Michigan exempts or otherwise extinguishes Personal Property tax, DTE will be responsible for a payment in lieu of taxes equal to that of the personal property tax upon point of completion at the previously applicable personal property tax rate for the relevant jurisdiction and subject to current depreciation in subsequent years.

c. The System will be owned, operated and maintained by DTE and will operate without the involvement of Customer.

d. All energy, including capacity, generated by the System shall remain the sole and exclusive property of DTE.

e. DTE shall, at its sole cost and expense, periodically inspect, clean, maintain, repair and replace the System at intervals determined by DTE to be necessary or desirable.

3. Easement Area:

a. The location of the Easement Area, as described and identified in Schedule B-1 and Schedule B-2, is an approximate location of the Easement Area. Schedule B-1 is the Easement Area for a 750 Kilowatt System and Schedule B-2 is the Easement Area for a 1000 Kilowatt System. The final size of the system shall be determined by DTE and indicated to Customer no later than the final zoning approval by Customer. Customer and DTE each agree that DTE may substitute an as-built survey for the description of the Easement Area identified on Schedule B by recording an amendment to this Agreement executed by Customer and DTE that identifies the In Service Date of the System.

b. The Easement Area shall be configured in a manner which allows DTE to construct, at its sole option and expense, a fence around the System. DTE shall have the right to restrict access to the Easement Area, subject to the rights of parties of record for recorded easement over the parcel for ingress, egress and access to existing electronic highway sign.

4. Right of Utilization: Customer hereby grants DTE an exclusive easement for the Term to install, inspect, maintain, repair, and replace the System at, upon, under and over the Easement Area, together with:

a. the right of DTE to install, maintain, renew, and inspect, during the Term of this Agreement, the System as DTE determines to be necessary or desirable;

b. the right of DTE for reasonable access to receive, unload, store, warehouse and protect all materials, tools and equipment on the Premises, as needed, and a lay down area on the Premises during construction of the System;

c. the right of DTE to provide, install, and maintain through or under the Premises during the Term of this Agreement such cables, electric lines, ducts, transformers, and other apparatus as may, in the opinion of DTE, be necessary or desirable for connecting the System to or for the benefit of DTE's electrical system; and

d. a non-exclusive easement for ingress and egress to and from the Easement Area to DTE and its employees, agents, contractors and subcontractors, at all times during the Term of this Agreement, to enter that portion of the Premises described in Schedule B and do thereon such acts and things as may be necessary or desirable for the purpose of installing, inspecting, maintaining, repairing, replacing and removing the System, electric lines or other ancillary equipment or apparatus.

Customer shall at all times have the right to make such use of the Premises as shall not be inconsistent with the exercise by DTE of the rights herein granted.

5. Customer Review of Plans and Specifications: Prior to construction of the System, Customer shall review and approve DTE's plans and specifications for the System, which approval shall not be unreasonably withheld or delayed. Customer shall not grant any licenses, easements, leases or rights of way, whether recorded or unrecorded, which may interfere with DTE's use of the Easement Area to operate the System.

6. Operation, Maintenance and Repair of System: DTE will operate, maintain and repair the System during the Term of this Agreement at the sole cost and expense of DTE. DTE shall provide reasonable notice to Customer prior to any maintenance and repair activities that may interfere with Customer's operations at the Premises, provided that in the event DTE needs emergency access after regular business hours, DTE shall contact Customer and Customer shall provide immediate access to the Easement Area. All work performed by DTE in connection with the installation, operation, maintenance and repair of the System shall be performed in accordance with all applicable federal, state and local laws, rules, regulations and ordinances.

7. Compensation: DTE shall pay Customer as described in Schedule C.

8. Credits, Rebates and Incentives: All federal and state tax credits, renewable energy credits, including all renewable energy attributes and/or benefits, payments, grants, rebates, incentive payments, or other credits paid as a result of the design, installation, and/or operation of the System (hereinafter "Incentives") shall inure to the exclusive benefit of and become the exclusive property of DTE. Customer will cooperate in good faith as necessary to enable DTE to obtain all available Incentives. Apart from Customer's cooperation as set forth above, DTE shall be solely responsible for securing and receiving any Incentives.

9. Ownership. The System and all alterations, additions, improvements or installations made thereto by DTE and all personal property of DTE used in connection with the installation, operation and maintenance of the System, electric lines, ducts or other

apparatus related to the System are, and shall be and remain, the personal property of DTE ("DTE Property"). In no event shall any DTE Property be deemed a fixture, nor shall Customer, nor anyone claiming by, through or under Customer (including, but not limited to, any present or future mortgagee of Customer) have any rights in or to the DTE Property at any time. For a System mounted on the roof of the Premises, ownership of any ladder or climbing apparatus installed in connection with the installation of the System, and left in place, shall transfer to Customer upon completion of cleanup of the Easement Area and punch list items.

10. Termination of Agreement for Convenience: DTE shall have the right to terminate this Agreement upon thirty (30) days written notice to Customer at any time during the Term. In the event that DTE terminates this Agreement, DTE shall be provided reasonable time to remove the System and restore the Easement Area to its original condition prior to the installation of the System, except for normal wear and tear. DTE shall have no further obligations to Customer and Customer shall have no further obligations to DTE.

11. Full-Service Bundled Customer: Customer agrees that Customer shall be and remain during the Term of this Agreement a full-service bundled customer of DTE at Customer's location at 1 South Huron Street, Ypsilanti, Michigan 48197 ("Full-Service Bundled Location") by satisfying all of its electric power needs at such location through electric power generated, distributed and transmitted by DTE ("Full-Service Bundled Customer"). Customer shall not sell, transfer or lease the Full-Service Bundled Location to any person or entity that is not a Full-Service Bundled Customer of DTE. In the event Customer sells, transfers or leases the Full-Service Bundled Location to any person or entity that is not a Full-Service Bundled Customer of DTE or Customer closes or abandons the Full-Service Bundled Location, Customer or Subsequent Occupant, as defined in paragraph 14 below, agrees that for the remainder of the Term of this Agreement, Customer or subsequent Occupant, as applicable, shall provide a mutually-agreed upon property that shall be Full-Service Bundled Customer.

12. Customer's Compliance with Applicable Laws: Customer, at its sole cost and expense, shall comply with all applicable federal, state and local laws, rules, regulations and ordinances relating to the ownership and occupancy of the Premises.

13. Customer's Obligations:

    a) Customer shall at all time during the Term of this Agreement use commercially reasonable efforts to maintain the Premises in good condition and repair, provided that DTE shall be responsible for the System and any vegetation management for a ground mounted System as further set forth in Section 6 and/or otherwise in this Agreement. Customer shall not interfere with or cause or permit any interference with the System, electric lines, ducts, or other apparatus related to the System and shall take all reasonable steps to ensure that no third party(s), excluding contractors or others performing maintenance or repairs for Customer, access the Easement Area.

14. Sale/Transfer/Lease of Premises: In the event of Customer's sale, transfer or lease of the Premises, the purchaser, transferee or lessee (collectively "Subsequent Occupant") of the Premises shall be bound by this Agreement and Subsequent Occupant shall be a Full-Service Bundled Customer at the Premises for the remainder of the Term, it being the intent of the Parties that this Agreement shall be binding upon and inure to the benefit of the Parties' successors and assigns, and that the covenants contained herein, including but not limited to Sections 4 and the requirement that any Subsequent Occupant shall be a Full-Service Bundled Customer at the Premises or at the mutually agreed upon location identified in paragraph 11 above for the remainder of the Term, shall run with the land. Customer agrees that DTE shall have the right, without the further consent, approval or signature of Customer, to execute and record a short form of memorandum of this Agreement in the office of the Register of Deeds for the county in which the Premises are located in the form set forth at Schedule D. When this Agreement expires or in the event this Agreement is terminated as provided herein, DTE agrees to record a memorandum discharging the notice in the office of the Register of Deeds for the county in which the property is located.

15. Removal/Relocation of the System:

a. The Parties further agree that in the event that Customer closes or abandons the Premises or Customer elects to relocate the System to another Customer location, as provided below, during the Term of this Agreement, Customer shall reimburse DTE for the cost of relocating the System ("Removal Costs" as defined below) to (i) another Customer location acceptable to DTE, in its sole discretion, or (ii) if a Customer location is not available, then any third party location that is acceptable to DTE, in its sole discretion. Removal Costs shall include all costs and expenses incurred by or on behalf of DTE in connection with removal of the System from the existing Premises and repair or maintenance of the Premises, if applicable, and installation and testing of the System at such substitute premises and all applicable interconnection fees and expenses at the substitute premises, as well as costs of a new title search, other out of pocket expenses, and loss of revenue or other damages DTE may suffer as a result of such removal, provided that such costs shall not exceed $ five hundred thousand $500,000.00 ("Maximum Removal Cost"). The Maximum Removal Cost shall be adjusted as follows:

Years 6-10 – 100% of Maximum Removal Cost
Years 11-15 – 75% of Maximum Removal Cost
Years 16-20 -50% of Maximum Removal Cost

In the event that no acceptable location is identified, after closure, abandonment or a request for relocation, Customer shall reimburse DTE in the amount of the Maximum Removal Cost. Notwithstanding anything stated to the contrary in this Agreement, Customer shall not relocate the System for the first five (5) years after the In Service Date unless the Customer ceases operations at the Premises.

b. If the Premises are closed or abandoned or Customer elects to relocate the System pursuant to Section 15a above, DTE shall have a period of one hundred eighty (180) days to remove the System from the Premises. A separate written agreement shall govern the reinstallation of the System at the alternate location, which shall include the time frame of the reinstallation.

16. Force Majeure: Neither Party hereto shall be liable to the other for any failure of performance due to causes beyond its reasonable control, the occurrence of which could not have been prevented by the exercise of due diligence ("Force Majeure"), such as acts of God, acts of the other party, acts of civil or military authority, fires, floods, earthquakes, epidemics, windstorms, explosions, natural disasters, sabotage, wars, riots, strikes, work stoppages, labor disputes, or changes in laws or regulations; provided, however, that written notice of such Force Majeure event (including the anticipated duration of the delay caused by a Force Majeure event) shall be given by the affected Party to the other Party as soon as possible after the event or occurrence (but in no event more than thirty (30) days thereafter).

17. Customer's Default: A failure by Customer to perform or comply with any of the terms and conditions of this Agreement may be considered an event of default by Customer under this Agreement (hereinafter "Event of Default by Customer") at the option of DTE. If an Event of Default by Customer occurs, DTE shall notify Customer in writing of such default. Customer shall have thirty (30) days following written notice by DTE to cure the default unless by the nature of such default a longer period to cure is required, in which event Customer shall not be in default if it commences to cure the default within thirty (30) days of receipt of notice from DTE and diligently proceeds to cure the default thereafter. If an Event of Default by Customer has not been cured within such period, DTE shall have the right to terminate this Agreement, in which event Customer shall compensate DTE in accordance with Section 15a above; provided, however, if this termination occurs prior to the fifth anniversary of the In Service Date, Customer shall be liable to reimburse DTE for the Maximum Removal Cost.

18. DTE's Default: A failure by DTE to perform or comply with any of the terms and conditions of this Agreement may be considered an event of default by DTE under this Agreement (hereinafter "Event of Default by DTE") at the option of Customer. If an Event of Default by DTE occurs, Customer shall notify DTE in writing of such default. DTE shall have thirty (30) days following written notice by Customer to cure the default unless by the nature of such default a longer period to cure is required, in which event DTE shall not be in default if it commences to cure the default within thirty (30) days of receipt of notice from Customer and diligently proceeds to cure the default thereafter. If an Event of Default by DTE has not been cured within such period, Customer shall have the option to terminate this Agreement by written notice to DTE. Upon termination of this Agreement, DTE shall have one hundred eighty days (180) from the date of DTE's receipt of Customer's written notice of termination to remove the System from the Premises.

19. Assignment: Customer not may assign its rights and obligations under this Agreement to a purchaser, transferee or lessee of the Premises without DTE's prior consent, subject to Section 11 above. DTE may assign its rights and obligations under this Agreement to a subsidiary or affiliate of DTE without the prior consent or approval of Customer. DTE may assign its rights and obligations under this

Agreement to a party other than a subsidiary or affiliate of DTE with Customer's prior written consent, which shall not be unreasonably withheld or delayed.

20. Insurance:

    a. Upon execution of this Agreement and as otherwise requested by DTE, Customer shall provide DTE with Certificate(s) of Insurance evidencing insurance for personal injury and property damage, including contractual liability insurance, with combined limits of not less than $2,000,000 Dollars per occurrence is in effect and naming DTE as an additional insured under all such policies. Customer affirms to DTE that such insurance coverage will remain in effect during the term of the Agreement.

21. Indemnity:

    a. To the extent permitted by law, Customer covenants and agrees that it will indemnify, defend and hold harmless DTE, its employees, officers, agents, contractors and subcontractors (collectively "DTE Indemnified Parties"); from and against any and all claims, losses, damage, (other than incidental, indirect, or consequential damages), costs, charges, expenses, (including, without limitation, fees and expenses of attorneys, expert witnesses and other consultants), liens, settlements or judgments, including interest thereon, whether to any person, including invitees and licensees of Customer, its employees, contractors and/or suppliers (collectively "Customer Parties"), or property or both, arising directly or indirectly out of or in connection with the negligent actions or omissions or willful misconduct of Customer Parties in connection with their presence upon or use of the Easement Area and/or Educational Area. Without limiting the foregoing, said indemnification obligation includes claims involving Customer Parties who are injured while on and around, or while going to and from, the Easement Area and/or Educational Area of the System.

    b. DTE covenants and agrees that it will indemnify, defend and hold harmless Customer, its employees, officers, agents, contractors and subcontractors, from and against any and all claims, losses, damage, (other than incidental, indirect, or consequential damages); costs, charges, expenses, (including, without limitation, fees and expenses of attorneys, expert witnesses and other consultants); liens, settlements or judgments, including interest thereon, whether to any person, or property or both, arising directly or indirectly out of or in connection with the negligent actions or omissions or willful misconduct of the DTE Indemnified Parties arising out of the installation, use for electric power generation and/or maintenance of DTE's System within the Easement Area and/or Educational Area.

    c. In the event a court of competent jurisdiction determines that Customer is not permitted by law to indemnify DTE as agreed in sub-paragraph 21 a, above, then the respective indemnification obligations of both Customer and DTE shall be terminated and held for naught, and neither Customer nor DTE shall have the obligation to indemnify the other under this Agreement.

22. No Consequential Damages: Neither Party hereto shall be responsible to the other for incidental, indirect, or consequential damages, including, but not limited to, loss of profits or revenue.

23. Confidentiality: Neither Party shall make any disclosure of any information related to this Agreement without the specific prior written consent of the other, except for such disclosures to the Parties' lenders, creditors, officers, employees, agents, consultants, attorneys and accountants as may be necessary to permit each Party to perform its obligations hereunder and as required to comply with applicable laws, rules and regulations , including but not limited to the Michigan Freedom of Information Act (MFOIA). Customer agrees to apply all relevant MFOIA exemptions to the information related to this Agreement, minimize the number of copies made of this Agreement, and Customer agrees to notify DTE immediately of any MFOIA request received by Customer for information related to this Agreement so that DTE may take whatever actions DTE deems necessary to protect and preserve the confidentiality of this Agreement and related information.

24. Public Announcement: The Parties shall consult with each other prior to issuing any public announcement, statement or other disclosure with respect to this agreement and neither Party shall issue any such public announcement, statement or other disclosure without first having written consent of the other Party, except as may be required by law.

25. Governing Law: This Agreement shall be governed and shall be interpreted in accordance with the laws of the State of Michigan.

26. Severability: Should any provision of this Agreement be or become invalid, ineffective or unenforceable in whole or in part, the validity, effectiveness and enforceability of the remaining provisions shall not be affected thereby.

27. Notices: All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, by means of an overnight courier service or by facsimile to the address set forth below, or such other address as a Party shall designate by written notice in the manner set forth herein, and shall be deemed received upon the earlier of *(i)* if mailed, two (2) business days after the posting by a United States Post Office; *(ii)* if personally delivered, the date of delivery to the address of the person to receive such notice; *(iii)* if sent by courier service, two (2) business day after delivery to such courier service;

    If to DTE:

    DTE Electric Company
    One Energy Plaza
    Detroit, Michigan 48226
    Attention:

    With a copy to:

DTE Electric Company
One Energy Plaza
688 WCB
Detroit, Michigan 48226
Attention: Office of the General Counsel

If to Customer:

Mr. Ralph A. Lange
Ypsilanti City Manager
1 South Huron Street, Ypsilanti, MI 48197

With a copy to:

Teresa Gillotti
City Planner, City of Ypsilanti,
1 South Huron Street, Ypsilanti, MI 48197

and

John M. Barr
Ypsilanti City Attorney
105 Pearl Street, Ypsilanti, MI 48197

28. <u>Counterparts</u>: This Agreement may be executed in one (1) or more counterparts, and all the counterparts shall constitute but one (1) and the same Agreement, notwithstanding that all parties hereto are not signatory to the same or original counterpart.

29. <u>Non-Waiver</u>: Unless otherwise expressly provided in this Agreement, no waiver by Customer or DTE of any provision hereof shall be deemed to have been made unless expressed in writing and signed by Customer or DTE, as the case may be. No delay or omission in the exercise of any right or remedy accruing to Customer or DTE, as the case may be, upon any breach under this Agreement shall impair such right or remedy or be construed as a waiver of any such breach theretofore or thereafter occurring. The waiver by Customer or DTE of any breach of any term, covenant or condition herein stated shall not be deemed to be a waiver of any other term, covenant or condition.

30. <u>Captions:</u> Section titles or captions contained in this Agreement are inserted as a matter of convenience and for reference only, and in no way define, limit, extend or describe the scope of this Agreement.

31. <u>Exhibits:</u> All Schedules attached hereto shall be incorporated herein by reference as if

set out herein in full.

32. Entire Agreement: This Agreement, together with all schedules and exhibits attached hereto or mentioned herein, shall constitute the entire Agreement between the parties and may not be amended, modified or terminated except by a writing signed by the Parties hereto. This Agreement and the Schedules hereto wholly supersede any and all oral statements, representations or agreements made by the Parties to this Agreement. This Agreement shall become binding when executed by Customer and DTE.

33. Survival: The provisions of Section 21 hereof shall survive the termination of this Agreement for a period of two (2) years.

34. Construction of Agreement: This Agreement is the product of negotiations between the Parties and shall not be construed as being drafted by one Party as opposed to the other.

[signature page follows]

IN WITNESS WHEREOF, and intending to be legally bound, the Parties hereto subscribe their names to this instrument on the date first written above.

CITY OF YPSILANTI

By:___________________________________

Paul Schreiber, Mayor

____

Frances McMullan
Ypsilanti City Clerk

DTE ELECTRIC COMPANY,
a Michigan corporation

____
Authorized Signature of DTE

____
Print Name

____
Print Title

Customer Acknowledgment

STATE OF MICHIGAN)
)§
COUNTY OF WASHTENAW)

The foregoing instrument was acknowledged before me this day of , , by Paul Schreiber, Mayor the of the City of Ypsilanti and Frances McMullan, City Clerk of the City of Ypsilanti.by ,

____
Notary Public
Washtenaw County, State of Michigan
My Commission Expires:__________
Acting in Washtenaw County, Michigan

DTE Acknowledgment

STATE OF MICHIGAN)
)§
COUNTY OF WAYNE)

The foregoing instrument was acknowledged before me this day of , , by , the of DTE Electric Company, a Michigan corporation, on behalf of the Corporation.

____
Notary Public
Wayne County, State of Michigan
My Commission Expires:__________
Acting in __________ County, Michigan

Schedule A-1 – Description of Photovoltaic System
750 kW System

Customer Name: The City of Ypsilanti

Customer Address:

1 South Huron Street, Ypsilanti, Michigan 48197

System Size (Nameplate kW DC): 750 kW

Mounting Option: ☐ Roof: Ballasted ☐ Roof: Structure-tied ☒ Ground

Proposed PV Technology: ☒ Mono/Poly Crystalline ☐ Thin-Film

Tilt: ___20_______° (90° is vertical, 0° is flat)

Orientation: ___180__________° (180° is south, 90° is east, 270° is west)

Area required for installation (sq.ft.): 112,500

Array Location Description: Located at City of Ypsilanti former landfill property as further described in Schedule B-2Inverter Location: ☐ Indoor ☒ Outdoor

Inverter Location Description: Located at the entrance to the site adjacent to the access road.

Point of Interconnection: Located at the entrance to the site adjacent to the equipment pad and the access road.

Description of PV Mounting System: Ground mounted system utilizing ballasts to avoid penetration of the existing landfill.

Additional Project Requirements: ____

____

Schedule A-2 - Description of Photovoltaic System
<u>1000 kW System</u>

Customer Name: The City of Ypsilanti

Customer Address: 1 South Huron Street, Ypsilanti, Michigan 48197

System Size (Nameplate kW DC): 1000 kW

Mounting Option: ☐ Roof: Ballasted ☐ Roof: Structure-tied ☒ Ground

Proposed PV Technology: ☒ Mono/Poly Crystalline ☐ Thin-Film

Tilt: __20________° (90° is vertical, 0° is flat)

Orientation: __180___________° (180° is south, 90° is east, 270° is west)

Area required for installation (sq.ft.): 149,500

Array Location Description: Located at City of Ypsilanti former landfill property as further described in Schedule B-2

Inverter Location: ☐ Indoor ☒ Outdoor

Inverter Location Description: Located at the entrance to the site adjacent to the access road.

Point of Interconnection: Located at the entrance to the site adjacent to the equipment pad and the access road.

Description of PV Mounting System: Ground mounted system utilizing ballasts to avoid penetration of the existing landfill.

Additional Project Requirements: ____

Schedule B-1 - Easement Area
750 kW System

It is the intent of the Parties that 750 kW System will occupy the land located west of the existing access road on the Premises and the land located east of the access road will remain vacant after construction of the System is completed. The land area east of the access road may be used for laydown and staging during construction at DTE's option.

<u>Insert Drawings</u>

Schedule B-2 - Easement Area
1000 kW System

It is the intent of the Parties that 1000 kW will utilize land on both sides of the existing access road as shown in the attached drawing.

<u>Insert Drawings</u>

Schedule C - Compensation

A. Construction Payment: DTE agrees to pay Customer the sum of $20,000.

B. Annual Payment: After commercial operation of the System at the Premises, DTE agrees to pay Customer annually by December 1st for each year of the Term the Annual Payment as follows:

1000 Kilowatt System: $44,000.

750 Kilowatt System: $40,000

Schedule D –
MEMORANDUM OF SOLAR POWER EASEMENT AGREEMENT

THIS MEMORANDUM OF SOLAR POWER EASEMENT AGREEMENT (this "Memorandum") is made and entered into as of ___________ ____, 20__, by and between The City of Ypsilanti ("Grantor"), and the DTE Company, a Michigan corporation ("Grantee"). (Grantor and Grantee are referred to collectively herein as the "Parties".)

WITNESSETH:

A. On the date hereof, the Parties have entered into a Solar Power Easement Agreement (the "Agreement") pursuant to which Grantor grants to Grantee an exclusive easement for the installation, maintenance, operation, inspection, repair and replacement of certain photovoltaic systems and related cables, electrical lines, ducts, transformers and other equipment, [__________________]of the Easement Area described in Exhibit A attached hereto and incorporated herein by reference, together with the right of ingress and egress to and from the Easement Area described in the Agreement.

B. The term of the Agreement commences on the Effective Date and will continue in full force and effect for a period of twenty (20) years from the In Service Date (as defined in the Agreement) with ten (10) one-year renewal options, unless earlier terminated as provided in the Agreement. The Agreement further provides that during the term, the Grantee, and its successor owners, shall obtain electricity for the premises, or an alternative location as provided in the Agreement, as a full-service bundled customer of Company.

C. The Parties desire to execute this Memorandum, which is to be recorded in order that third parties may have notice of the interests of Grantee in the Easement Area and of the existence of the Agreement and of certain easement rights granted to Grantee in the Easement Area as part of the Agreement.

NOW, THEREFORE, in consideration of the payments and covenants provided in the Agreement to be paid and performed by Grantee, Grantor hereby grants to Grantee the easements as described in the Agreement, on, over, under and across the Easement Area, all on the terms and conditions set forth in the Agreement. All of the terms, conditions, provisions and covenants of the Agreement are hereby incorporated into this Memorandum by reference as though fully set forth herein, and the Agreement and this Memorandum shall be deemed to constitute a single instrument or document. Should there be any inconsistency between the terms of this Memorandum and the Agreement, the terms of the Agreement shall prevail. The Agreement contains the entire agreement of the Parties with respect to the subject matter thereof, and any prior or contemporaneous agreements, discussions or understandings, written or oral (including, without limitation, any options or agreements for easements previously entered into by the Parties with respect to the Easement Area), are superseded by the Agreement and shall be and hereby are released, revoked and terminated.

[signature page follows]

IN WITNESS WHEREOF, Grantor and Grantee have executed this Memorandum as of the day and year first above written

GRANTOR

BY:___________________________
NAME: _________________________

ITS:___________________________

GRANTEE

DTE Electric Company, a Michigan corporation

BY:___________________________
NAME: _________________________

ITS:___________________________

Acknowledged before me in ________________County, Michigan on ______________________, 20__,
by _____________________________________the_____________________________________
of ____, a ____________________.

Notary's
Stamp:__________________________________

(Notary's name, county and date commission expires)

Notary's
Signature:______________________________

Acknowledged before me in Wayne County, Michigan, on _________________________, 20__,
____ of DTE Electric Company,
a Michigan corporation, for the corporation.

Notary's
Stamp __________________________________

(Notary's name, county, and date commission expires)

Notary's
Signature_______________________________

Prepared by: Blair A. Person, Lewis & Munday, 660 Woodward Avenue, Suite 2490, Detroit, Michigan 48226.
When recorded return to: Heather A. Betts, DTE, One Energy Plaza, 688 WCB, Detroit, Michigan 48226

Exhibit A
Easement Area

Schedule E

Customer’s Premises – Legal Description

December 4, 2012
Ralph A. Lange, City Manager
City of Ypsilanti
1 South Huron Street
Ypsilanti, MI 48197

Re: Proposal to Lease City Owned Property for Solar Project

Dear Mr. Lange:

The purpose of this Letter of Intent is to define the commercial terms by which SunDurance Energy, LLC ("SunDurance") and the City of Ypsilanti (the "City") will cooperate on the development and subsequent proposal to The Detroit Edison Company ("DTE") for a solar photovoltaic power facility ("System") located on land owned by the City as further described in Attachment A. SunDurance will propose to develop, engineer and construct the System in response to DTE's recent Request for Proposals ("RFP"). The DTE RFP Schedule and expected development schedule for the System is outlined below:

Phase 1 RFP Proposal Responses Due	December 21, 2012
Short List Notification for Phase 2	January 18, 2013
Phase 2 Conference Call – (Invite only)	Estimated end of January, 2013
Phase 2 Proposals Responses Due	Anticipated 45 days from Phase 2 conference call
Project In Service Date	Targeted December 31, 2013

Upon a successful proposal, subject to DTE approval, DTE would be the owner of System and Lessee of the referenced real estate (hereinafter referred to as the "Real Estate") owned by the City.

SunDurance proposes that its option (the "Option") and the subsequent lease agreement between the City and DTE (the "Lease") would be subject to all of the terms, covenants and conditions set for in this Letter of Intent, subject to DTE approval:

Option Period	Through final selection by DTE in the RFP process and final Lease, expected to be May 2013 or earlier.
Option Payment:	Two Thousand Dollar non-refundable payment ($2,000.00) paid to the City within sixty (60) days of notification from DTE that the proposal has been selected for Phase 2 of the RFP.

Lease Payments:	A one-time construction payment of Twenty Thousand Dollars ($20,000.00) shall be made within thirty days of execution of the Lease. After commercial operation of the System at the Premises, Lessee agrees to pay Customer annually by December 1st for each year of the Term the sum of Forty Four Thousand Dollars ($44,000).
Lease Term:	20 years, subject to Lessee's option to extend the Lease for 10 additional and successive 1 year periods.

1. **Due Diligence:** City shall deliver to SunDurance any available information pertaining to the site including but not limited to site surveys, historical information, environmental assessments, and information pertaining to existing uses that restrict the use of the property in any way. City will allow access to the property such that SunDurance can perform any due diligence at its own discretion.

2. **Exclusivity**: During the Option Period, neither you or your representatives, will (i) solicit or engage in discussions or negotiations with any party other than SunDurance relating to the installation or operation of a solar generation facility on this property; (ii) provide information or assistance to, or otherwise encourage or facilitate, any party relating to the installation or operation of a solar facility; or (iii) enter into any arrangement, agreement or commitment relating to the installation or operation of a solar facility, in each case with any party other than SunDurance or its agents.

3. **Option Term**: The agreement will expire after the Option Period unless mutually extended by written agreement of both parties.

4. **Costs**: SunDurance shall be responsible for all costs and the performance of all work related to the design and construction of the System. Upon executing the Lease, DTE would be responsible for all costs and the performance of all work related to the operation, monitoring and maintenance of the System.

5. **Taxes**: DTE will be responsible for all personal property and real estate taxes that are assessed and due on the equipment and demised premises leased. In the event that the State of Michigan exempts or otherwise extinguishes Personal Property tax, DTE will be responsible for a payment in Lieu of taxes equal to that of the personal property tax upon point of completion and subject to current depreciation in subsequent years.

6. **Use**: SunDurance shall have the right to construct the System and DTE shall have the right to operate, access, monitor and maintain the System, including all panels, inverters, fuses, transformers, wiring, racking, meters and other improvements related to the facility, for the duration of the Lease term.

SUNDURANCE ENERGY

7. Cooperation: City will use reasonable efforts at all times and in a timely manner in assisting SunDurance and DTE with any and all matters pertaining to the satisfaction of the terms of this letter and any and all subsequent agreements.

8. Time is of the Essence: This letter of intent (LOI) and the terms contained therein, shall be binding on the parties, once fully executed by the Parties.

9. Access: SunDurance and DTE will provide access to existing digital billboard tenant and not interfere with existing digital billboard viewshed.

10. Environmental or Other Assessment: SunDurance will be responsible for any costs related to additional Phase I, Phase II, BEA or geotechnical assessments needed to approve and or complete proposed project.

11. Site Condition: The parties understand that the subject property is filled-in land and was used as a city landfill for many years. City makes no representation or warranty of the fitness of the property for any particular use, and any party, contractor, purchaser, licensee, lessee or user must do their own due diligence and environmental investigation, research and testing. City will provide any available information and cooperate in any environmental investigation. Any required remediation related to the use of the solar array will be the sole responsibility of said parties and not of the City. Notwithstanding the foregoing, neither SunDurance or DTE will assume the existing environmental liability of the subject property.

This LOI is a recitation of our general understanding of this transaction and will bind obligations between SunDurance and the City. The Parties will work in cooperation until the above described transaction has been made the subject of a mutually acceptable and executed Lease Agreement between the City and DTE.

Accept[redacted]

By:
Date: PAUL T. SCHREIBER, MAYOR
DEC. 13, 2012

Accepted and Agreed, SunDurance Energy

By: [redacted]
Name: ALLEN BUCKMAN
Date: 12/14/2012

SunDurance Energy, LLC
AN AFFILIATE OF THE CONTI GROUP
2045 Lincoln Highway, Edison NJ 08817
T: 732.520.5000 F: 732.520.5199
www.SunDuranceEnergy.com
An Equal Opportunity Employer

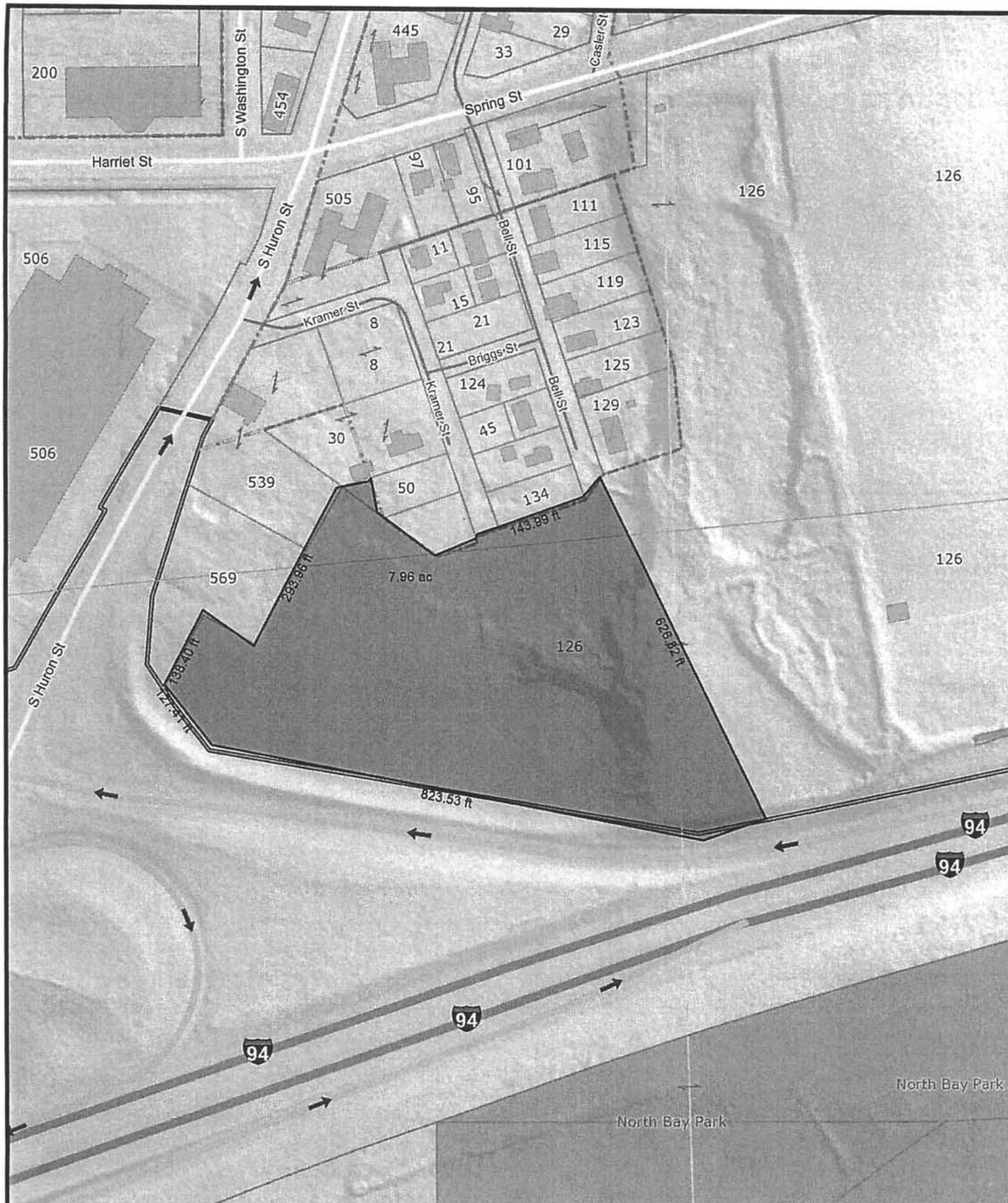
Attachment A

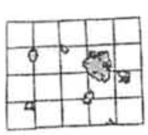
Site Area Description – Lease Area

SunDurance Energy, LLC
AN AFFILIATE OF THE CONTI GROUP
2045 Lincoln Highway, Edison NJ 08817
T: 732.520.5000 F: 732.520.5199
www.SunDuranceEnergy.com
An Equal Opportunity Employer

A part COMMENCING AT THE POINT OF INTERSECTION OF CENTER LINE HURON STREET AND CENTER LINE MONROE AVENUE; THENCE S31°00'40"W 264.09 FEET ALONG THE CENTER LINE OF HURON STREET; THENCE S58°59'20"E 183.00 FEET FOR A POINT OF BEGINNING; THENCE S31°0040"W 552.09 FEET; THENCE S05°49'30"W 242.31 FEET; THENCE S89°17'50"E 817.67 FEET; THENCE N72°31'50"E 420.64 FEET; THENCE N16°45'40"W 834.79 FEET; THENCE S57°04'20"W 43.37 FEET; THENCE S72°18'40"W 175.24 FEET; THENCE S30°32'00"W 15.22 FEET; THENCE S74°12'00"W 67.52 FEET; THENCE N54°24'35"W 50.20 FEET; THENCE N38°27'20"W 126.9 FEET; THENCE S76°38'30"W 41.38 FEET; THENCE N50°39'30"W 4.52 FEET; THENCE S31°00'40"W 301.41 FEET; THENCE N58°59'20"W 86.0 FEET TO PLACE OF BEGINNING. EXCEPTING THAT PART OF THE SOUTH 248.00 FEET OF THE NORTH HALF OF FRENCH CLAIM 680 INCLUDED IN THE ABOVE DESCRIPTION WHICH WAS HERETOFORE SOLD TO THE MICHIGAN STATE HIGHWAY DEPARTMENT FOR HIGHWAY PURPOSES. SAID ABOVE DESCRIBED PARCEL CONTAINING 13.97477 ACRES OF LAND MORE OR LESS TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS OVER THE SOUTH 22 FEET OF THE FOLLOWING DESCRIBED LAND TO-WIT: COMMENCING AT POINT OF INTERSECTION OF THE CENTER LINES OF HURON STREET AND MONROE AVENUE; THENCE S31°00'40"W 264.09 FEET; THENCE S58°59'20"E 269.00 FEET; THENCE N31°00'40"E 301.41 FEET; THENCE N50°45'20"W 271.80 FEET; THENCE S31°00'40"W 76.89 FEET TO PLACE OF BEGINNING, City of Ypsilanti, Washtenaw County, State of Michigan.

Tax Parcel ID No.: 11-11-37-101-007





0 106.21 212.4 424.9 Feet

1: 2,549

12/11/2012

Geographic Information System

NOTE: Parcels may not be to scale.

The information contained in this cadastral map is used to locate, identify and inventory parcels of land in Washtenaw County for appraisal and taxing purposes only and is not to be construed as a "survey description". The information is provided with the understanding that the conclusions drawn from such information are solely the responsibility of the user. Any assumption of legal status of this data is hereby disclaimed.

THIS MAP REPRESENTS PARCELS AT THE TIME OF PRINTING. THE OFFICIAL PARCEL TAX MAPS ARE MAINTAINED SOLELY BY THE WASHTENAW COUNTY EQUALIZATION DEPARTMENT AND CAN BE OBTAINED BY CONTACTING THAT OFFICE AT 734-222-6662.

Resolution No. 2013-059
April 9, 2013

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS, The Ypsilanti City Council seeks to put underutilized City property to productive use; and

WHEREAS, DTE has issued a request for proposal for development of a solar array in a highly visible location; and

WHEREAS: SunDurance Energy has approached the City to utilize the former City Landfill, parcel ID # 11-11-37-101-007 as part of their proposal to DTE for the construction a Solar Array; and

WHEREAS: the City of Ypsilanti approved a Letter of Intent with SunDurance for development of the solar array on the former City Landfill site on Dec. 4, 2012; and

WHEREAS upon selection the attached 20-year lease agreement will be executed for up to 4.5 acres for either $40,000 or $44,000/year depending on final size of the installation as depicted in the attached lease/easement agreement;

NOW, THEREFORE, BE IT RESOLVED THAT the Ypsilanti City Council approve the attached easement/lease agreement between the City of Ypsilanti and DTE for the potential development of a solar array on the City former landfill property; and

FURTHER, that the Mayor and City Clerk are authorized to sign the easement /ease agreement upon selection, with approval from the City Attorney.

OFFERED BY: ____

SUPPORTED BY: ____

YES: NO: ABSENT: VOTE:

REQUEST FOR LEGISLATION

FROM: **MARILOU T. UY**
FINANCE DIRECTOR

SUBJ: **PROFESSIONAL SERVICES – CITY AUDITORS FOR THE CITY OF YPSILANTI**

DATE: **April 9, 2013**

The revised Ypsilanti City Code, under the Independent Annual Audit, Section 5.14 of the City Charter, requires a change in auditing firm after a five-year continuous auditing service. Past practice has been to contract three years with the option to extend the contract for an additional two years at the discretion of the City. The auditing firm, Rehmann Robson, has served the City of Ypsilanti for five years.

Requests for Proposal were posted at www.mitn.info (The Michigan Inter-governmental trade network) on November 19, 2012. Seven proposals were received on January 22, 2013, with the following results:

AUDITING FIRMS	FULL AUDIT 3-YEAR PROPOSAL	WITH ASSISTANCE FROM REHMANN
Abraham & Gaffney, P.C.	$153,100	$123,025
Yeo & Yeo, P.C., CPA	$166,800	$148,800
Stewart, Beauvais & Whipple	$170,000	$120,000
Alan C. Young & Associates, P.C.	$188,345	$148,840
Plante Moran, PLLC	$193,500	$149,850
UHY LLP	$196,700	$196,650
Andrews Hooper Pavlik PLC	$216,000	$178,500

The criteria used to evaluate the proposals was as follows:

Qualification	30%
Prior auditing experience	30%
References	30%
Proposed fee	10%
Total	100%

We examined each firm's involvement in municipal activities, municipal experience of staff assigned to audit, expertise in GASB 34, experience with the Government Finance Officers Association (GFOA) certificate of achievement award, knowledge of the current Statement of Auditing Standards which will enable them to provide advice and assistance in preparing the City to meet new Auditing Standards with which we need to comply by June 30, 2014. We also compared the number of municipalities currently being audited and their other governmental experiences. Reference checks were made regarding meeting deadlines as required by state and federal requirements, staff turnover, staff knowledge in municipal accounting and auditing, principal or partner involvement with the audit, and the overall assessment of the audit firm. Finally, we compared the audit fees. Three firms completed the Living Wage Ordinance compliance report.

After summarizing our evaluations, I recommend awarding Abraham & Gaffney, P.C. a three-year engagement for a total cost of $123,025. My recommendation was based upon the overall criteria, their qualifications, their experience and expertise with municipalities, their current and prior clients' stellar recommendations, and their proposed fee. The approval of the contract will be contingent upon the City Attorney's review as to form.

Please feel free to contact me at 734-483-1105 or by e-mail at muy@cityofypsilanti.con if you have questions.

RECOMMENDED ACTION: Approval

ATTACHMENTS: Proposed Resolution

CITY MANAGER APPROVAL:______________________________

COUNCIL AGENDA DATE: April 9, 2013

CITY MANAGER COMMENTS:

FINANCE DIRECTOR APPROVAL:__________________________

The City of Ypsilanti has adopted Ordinance 892, which requires any person(s) receiving financial benefit from the City of Ypsilanti to pay their employees a living wage. Financial benefit shall mean (1) any contract to primarily furnish services in the amount of $10,000, or more, in any 12 month period, or (2) the receipt of grant money, financial assistance, or a tax abatement in the amount of $10,000, or more, in any 12 month period. Financial benefit does not include maintenance services purchased at the time of the purchase of equipment.

Every person that receives a financial benefit from or through the City of Ypsilanti shall pay a living wage to all persons who work on the contract or who work in (or whose base of employment is in) the workplace or location that receives the grant money, tax abatement, or financial assistance. Living Wage is defined as wages of $12.96 per hour when health care is not provided, and $11.05 per hour when health care is provided.*

Please complete the sections listed below. **Section A is mandatory.**

By completing **Section B**, you certify that your contract or agreement with the city of Ypsilanti is ***not*** subject to Ordinance 892.

By completing **Section C**, you certify that your contract, agreement, or other form of financial assistance ***is*** subject to Ordinance 892. As a requirement of the Ordinance, the City's Human Resources Department may request proof of compliance with the Ordinance. **You are required to furnish the Human Resources Department with copies of payroll records within 10 days of a written request. Failure to comply with the request may cause the contract to be modified or terminated to comply with the provision of the Living Wage Ordinance, including withholding of moneys in amount equal to Living Wages not paid in accordance with this Ordinance, and the City may also take action to recover the amount of any contract provided to any person found to have violated the Ordinance.**

Violation of this Ordinance is punishable by fines of not more than $500/violation plus costs, with each day being considered a separate violation. Additionally, The City of Ypsilanti has the right to modify, terminate, cancel, or suspend a contract if the Ordinance is violated.

SECTION A – COMPANY INFORMATION	
Company Name & Contact Person Abraham & Gaffney, P.C. Alan D. Panter, CPA	Street Address, City, State, Zip Code 2601 Cambridge Court, Suite 201 Auburn Hills, MI 48326
Telephone Number 517 3581-6836	Contract for: Audit Services 2013-2015
Date Prepared 04/04/2013	City Department Finance

SECTION B - NOT SUBJECT TO ORDINANCE 892	
I hereby swear that this is a true and correct document and I am an authorized representative of this company.	
SIGNATURE:	DATE:

SECTION C - SUBJECT TO ORDINANCE 892	
I hereby swear that this is a true and correct document and I am an authorized representative of this company.	
SIGNATURE: [redacted]	DATE: 04/04/2013

SECTION D – AUTHORIZED CITY REPRESENTATIVE CERTIFICATION (DEPARTMENT SUBMITTING CONTRACT)	
I, ____________________________, as the City Representative for the above contract do hereby affirm that this was prepared in accordance with the City of Ypsilanti charter, ordinances and bid specifications.	
SIGNATURE:	DATE:

SECTION E – CERTIFICATION OF RECEIPT	
I, __________________, do hereby certify that I have received this notice for compliance with Ordinance 892, and if the Ordinance in fact applies to this contract, I will insure compliance by requesting payroll records from the company once the contract is approved by City Council.	
SIGNATURE:	DATE:

SECTION F – CERTIFICATION OF COMPLIANCE	
I, __________________, do hereby certify that I requested and received payroll records from the company listed in Section A, and they do comply with the provision of Ordinance 892.	
SIGNATURE:	DATE:

*Health Care Benefits includes those paid for by the employer or making an employer contribution toward the purchase of health care.

Resolution No. 2013-060
April 9, 2013

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS the City of Ypsilanti Council under the Ypsilanti City Code requires a change in auditing firms after a five-year continuous annual auditing of the City; and

WHEREAS the Finance Department posted the Requests for Proposals on at www.mitn.info (The Michigan Inter-governmental trade network) on November 19, 2013; and

WHEREAS Abraham & Gaffney completed the living wage ordinance compliance report; and

WHEREAS Abraham & Gaffney's proposal for a three-year contract was $123,025 that includes audit and reporting services for the City of Ypsilanti, Economic Development Corporation, Downtown Development Authority, Single Audit, Police and Fire Retirement System, provide advice and assistance in preparing the City to meet the current Statement of Auditing Standards; and assist in preparing comprehensive annual financial reports for submission to Government Finance Officers Association (GFOA) to participate in Certificate of Excellence award.

NOW THEREFORE BE IT RESOLVED that the Ypsilanti City Council approve a three-year contract with Abraham & Gaffney in the amount of $123,025 for Professional Auditing Services beginning with fiscal year ending June 30, 2013, through June 30, 2015.

OFFERED BY:____

SUPPORTED BY:____

YES: NO: ABSENT: VOTE:

REQUEST FOR LEGISLATION

FROM: **MARILOU T. UY**
FINANCE DIRECTOR

SUBJ: **REQUEST FOR APPROVAL OF ACCOUNTING SERVICES ENGAGEMENT OF REHMANN ROBSON FOR THE CITY OF YPSILANTI**

DATE: **April 9, 2013**

The Accounting Supervisor for the City of Ypsilanti will be retiring effective June 30, 2013. We expect to hire a replacement for her to begin training by the end of April. This position includes a very broad range of responsibilities and will take the new person several months to learn and perform the required duties efficiently.

To facilitate the transition, Rehmann Robson has offered to provide some of these services as outlined in the attached agreement on an hourly fee basis. As our outgoing audit firm they are familiar with the City's finances. The outlined services are primarily related to the City's Fiscal Year 2012-2013 Audit. Rehmann has extensive knowledge of GAAP and GASB standards and has helped the City achieve award winning status for the Comprehensive Annual Financial Report during their tenure as our auditors. The duration of this agreement is for two years which should be enough time for the new person to learn the necessary standards and procedures for implementing them. As noted in the proposed agreement, I would determine which tasks we need Rehmann's help with and monitor the work.

Based on their experience, expertise, and high quality of services, I recommend City Council approve the attached two year agreement with Rehmann Robson to assist us with General Accounting Services.

Please feel free to contact me at 734-483-1105 or by e-mail at muy@cityofypsilanti.con if you have questions.

RECOMMENDED ACTION: Approval

ATTACHMENTS: Proposed Resolution

CITY MANAGER APPROVAL:______________________________

COUNCIL AGENDA DATE: April 9, 2013
CITY MANAGER COMMENTS:

FINANCE DIRECTOR APPROVAL:__________________________

Resolution No. 2013-061
April 9, 2013

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS The Accounting Supervisor for the City of Ypsilanti will be retiring June 30, 2013; and

WHEREAS The new General Accountant will not have time to learn all of the GASB standards and procedures for their implementation prior to commencement of the fiscal year 2012-2013 audit; and

WHEREAS Rehmann Robson is familiar with the City of Ypsilanti of finances, GAAP and GASB standards, and CAFR preparation; and

WHEREAS The agreement between Rehmann Robson and the City of Ypsilanti has been approved by the City's legal counsel as to form.

NOW THEREFORE BE IT RESOLVED that the Ypsilanti City Council approve a two-year agreement with Rehmann Robson to perform general accounting services under the direction of the Fiscal Services Director.

OFFERED BY:____

SUPPORTED BY:______________________________________

YES: NO: ABSENT: VOTE:

Financial Outsourcing Service Engagement Letter

March 18, 2013

City of Ypsilanti
One South Huron Street
Ypsilanti, Michigan 48197

We are pleased to confirm our understanding of the financial outsourcing services we are to provide the City of Ypsilanti, Michigan relative to fiscal years ending June 30, 2013 and 2014. We will provide the year-end accounting and report preparation services listed in the attached Outsourcing Fee Proposal. Our fees will be billed at actual hours based on the hourly rates specified in the attached Proposal. We will advise the City on a weekly basis of actual annual engagement hours and will not exceed those estimated hours in total without first consulting with the City and obtaining the City's approval for incurring any additional hours and fees.

City of Ypsilanti Responsibilities

Management of the City of Ypsilanti is responsible for establishing and maintaining effective internal controls, including internal controls over compliance, and for ongoing monitoring activities, to help ensure that appropriate goals and objectives are met and that there is reasonable assurance that government programs are administered in compliance with compliance requirements. Management is also responsible for the selection and application of accounting principles; for the fair presentation in the financial statements of the financial position and the changes in financial position and cash flows in conformity with accounting principles generally accepted in the United States of America; and for compliance with applicable laws and regulations and the provisions of contracts and grant agreements.

The City is responsible for designating a qualified management-level individual to be responsible and accountable for overseeing our services under this financial outsourcing engagement.

Administration, Fees and Other

The City acknowledges that: (a) Rehmann Robson, the City and others, if any, participating in this engagement may correspond or convey documentation via Internet e-mail unless the City expressly requests otherwise; (b) no party has control over the performance, reliability, availability, or security of Internet e-mail; and (c) Rehmann Robson shall not be liable for any loss, damage, expense, harm or inconvenience resulting from the loss, delay, interception, corruption, or alteration of any Internet e-mail due to any reason beyond Rehmann Robson's reasonable control.

The City may request that we perform additional services not addressed in this engagement letter or the attached Outsourcing Fee Proposal. If this occurs, we will communicate with management regarding the scope of the additional services and the estimated fees. We also may issue a change order form or a separate engagement letter covering the additional services. In the absence of any other written communication from us documenting such additional services, our services will continue to be governed by the terms of this engagement letter.

We will invoice for our services no less frequently than monthly based on the actual hours worked. In accordance with our firm policies, work may be suspended if the City's account becomes 30 days or more overdue and will not be resumed until the account is paid in full or we have a definitive payment agreement approved by our firm administrator in Saginaw, Michigan. If we elect to terminate our services for non-payment, the City will be obligated to compensate us for all time expended and to reimburse us for out-of-pocket expenditures through the date of termination. Our terms and conditions impose a late charge of 1 1/2% per month, which is an annual percentage rate of 18%. Balances not paid within 30 days of the receipt of invoice are past due and a late charge of 1 1/2% will be applied to the entire past due amount.

We acknowledge the City's right to terminate our services at any time and the City acknowledges our right to resign at any time, provided in either instance that the terminating party provides thirty days advance written notice of such termination.

The City consents to Rehmann Robson's use of the City's name and a factual description of the services to be performed by Rehmann Robson under this agreement in Rehmann Robson's advertising and promotional materials and other proposal opportunities.

We appreciate the opportunity to be of service to the City of Ypsilanti and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

[redacted]

ACKNOWLEDGEMENT:

This letter correctly sets forth the understanding of the ***City of Ypsilanti***.

Name:______________________________________

Title:______________________________________

Date:______________________________________

Example

REHMANN
CHANGE ORDER

Client: City of Ypsilanti

Date:

Project Description (and estimated completion date, if appropriate):

____

____

____

____

____

Estimated Additional Fees: $________________

We believe it is our responsibility to exceed the City's expectations. This Change Order is being prepared because performance by us of the above project and/or additional service efforts was not anticipated in our original agreement, dated ______________. The estimated fees for the above project have been mutually agreed upon by the City, and Rehmann. It is our goal to ensure that the City is never surprised by the price for any Rehmann service and, therefore, we have adopted the Change Order Policy. The estimated additional amount above is due and payable upon completion of the project described.

If management agrees with the above project description and the estimated fee amount, please authorize and date the Change Order below. A copy is enclosed for the City's records. Thank you for letting us serve the City.

Agreed to and accepted:

____
Officer signature

____
Printed Name

____
Title

____
Date

City of Ypsilanti
Outsourcing Fee Proposal

	Hours					
	Principal $250	Sr Mgr $180	Senior $120	Staff $80	Total	Fees
Year-end accounting services						
Year-end accruals/adjustments:						
Cash	-	-	-	2	2	$ 160
A/R	-	-	-	4	4	320
Inventory / prepaid / resale	-	-	-	2	2	160
OPEB	-	-	4	-	4	480
Capital assets	-	-	4	16	20	1,760
A/P	-	-	-	4	4	320
Accrued wages	-	-	-	2	2	160
IBNR estimates	2	-	2	-	4	740
Compensated absences	-	-	-	2	2	160
Debt	-	-	2	6	8	720
Unearned revenue	-	-	-	2	2	160
Pension workpapers	-	-	2	4	6	560
GASB 34 adjustments	-	-	16	8	24	2,560
SEFA	-	-	2	4	6	560
Project management	-	8	-	-	8	1,440
Auditor assistance	-	12	-	12	24	3,120
	2	20	32	68	122	13,380
Year-end report preparation						
CAFR:						
Financial statements	12	-	-	26	38	5,080
Notes	12	-	-	32	44	5,560
MD&A	2	-	-	6	8	980
Transmittal letter	-	-	-	2	2	160
Statistical section	2	-	-	20	22	2,100
Other audit reports (DDA and PFP)	2	-	-	8	10	1,140
Form F-65	1	-	-	5	6	650
Qualifying statements	-	-	-	2	2	160
GFOA application and response	1	-	-	2	3	410
Project management	5	-	-	-	5	1,250
Auditor assistance	8	-	-	12	20	2,960
	45	-	-	115	160	20,450
	47	20	32	183	282	$ 33,830

Addendum to Contract for Financial Outsourcing Services

The City of Ypsilanti, One South Huron Street, Ypsilanti MI 48197, a Michigan municipal corporation (hereinafter "City") and Rehmann Robson, CPAs, professional auditing and accounting firm, of 675 Robinson Road, Jackson, MI 49203 (hereinafter "Contractor") agree as follows:

1. City hereby hires Contractor to provide financial outsourcing services to the City of Ypsilanti. Contractor agrees to provide such services according to the terms of this contract.

2. Financial outsourcing shall be supplied in the time and manner as specified in a certain engagement letter dated March 18, 2013.

3. Payment shall be made as set forth in the engagement letter.

4. Work shall be done on premises at One South Huron Street, Ypsilanti, Michigan, and at such other place as the parties shall mutually agree. No books or original records shall be removed from the premises without approval.

5. All work shall be done in a highly professional manner pursuant to applicable standards.

6. Work relative to a particular fiscal year end (such as June 30, 2013) shall, by example, begin by July 1, 2013 (and each fiscal year thereafter) and shall be finished prior to December 31, 2013 (and each fiscal year thereafter).

7. The term of this contract shall be for a minimum of two fiscal year cycles (being for the fiscal years ending June 30, 2013 and 2014).

8. Standard of Performance. The Contractor shall perform the contract faithfully and diligently and perform the services in a competent, professional, satisfactory and proper manner and during the contract term or extensions thereof, use every best effort and endeavor to promote the interests of the City and devote such time, attention, skill, knowledge and ability as is necessary to most effectively and efficiently carry out and perform the contract.

9. The parties understand and agree that the City may terminate this contract at any time with thirty (30) days advance written notice. In such event the Contractor will be compensated for work already completed.

10. This contract is to be performed in Washtenaw County, Michigan, and all legal venue shall exclusively lie therein.

11. The parties agree that time is of the essence in the performance of this Contract by the Contractor.

12. Each provision of this contract shall be separately enforceable and in the event that a court of competent jurisdiction determines or adjudges that any provision of this contract is invalid or illegal, such decision shall not effect the rest of the contract which shall remain in full force and effect.

13. This Agreement shall be governed by and construed in accordance with the laws of Michigan.

14. Independent Contractor. The relationship of the Contractor to the City is and shall continue to be that of an independent contractor and no liability or benefits such as worker's compensation, pension rights, or other rights or liabilities arising out of or related to a contract for hire or employer/employee relationship shall arise or accrue to either party as a result of the performance of this contract.

15. Waiver of Liability. The Contractor hereby waives any claim against the City and agrees not to hold the City liable for any personal injury or damage incurred by it, its employees or associates on this project which is not held by a court of competent jurisdiction to be directly attributable to the sole and/or gross negligence or malicious intentional conduct of any employee of the City acting within the scope of their employment. It further agrees to hold the City harmless from any such claim by its employees or associates.

16. For the purpose of the hold harmless indemnity and insurance provisions contained in this contract, the term "City" shall be deemed to include the City of Ypsilanti and all other associated, affiliated, allied or subsidiary entities, or commissions, officers, agents, representatives and employees.

17. The following Indemnification Agreement shall be, and is hereby, a provision of the Contract and shall be endorsed on the reverse sides of all certificates of insurance:

    "The Contractor agrees to protect, defend, indemnity and hold the City and its officers, employees and agents free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings or causes of action of every kind and character in connection with or arising directly or indirectly out of this Agreement and/or the performance hereof. Without limiting the generality of the foregoing, any and all such claims, etc., relating to personal injury, death, damage to property, defects in materials or workmanship, actual or alleged infringement of any patent, trademark, copy right (or application for any thereof) or any other tangible or intangible personal or property right, or any actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation, or decree of any court, shall be included in the indemnity hereunder. The Contractor further agrees to investigate, handle, respond to, provide defense for and defend any such claims, etc., at his sole expense and agrees to bear all other costs and expenses related thereto, even if it (claims, etc.) is groundless, false or fraudulent."

18. Insurance. See attached (attachment A).

19. Conflict of Interest. The Contractor covenants that neither said corporation nor any officer, agent or employee of the corporation has any interest nor shall they acquire any interest, directly or indirectly, which would conflict in the manner or degree of performance with the contract.

20. Contingent Fees. The Contractor warrants it has not employed or retained any company or person other than bonafide employees working solely for the Contractor, to solicit or secure this contract, and that it has not paid or agreed to pay any company, or person, other than a bonafide employee working solely for the Contractor, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award of

making this contract. For breach or violation of this warranty, the City shall have the right to annul the contract without liability or, at its discretion, to deduct from the fees due the Contractor, or otherwise, recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

21. Equal Opportunity. The Contractor has knowledge of and agrees to comply with the provisions of the Ypsilanti City Ordinance 538, *Affirmative Action.*

22. The Contractor further agrees to perform this contract in accord with all federal, state and local laws and will not discriminate against any person on the basis of race, sex, color, national origin, religion, handicap status, heights, weight, marital status, or other criteria which is not relevant to the particular job.

23. The Contractor further agrees not to discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, disability as set forth in the American's With Disability Act, age, height, weight, or marital status (except insofar as it relates to a bonafide or occupational qualification reasonable necessary to the normal operation of the business). Breach of this provision may be regarded as material breach of the agreement.

24. Davis-Bacon Act. Pursuant to the Davis-Bacon Act, Title 40, UCS Section 276A-276A-5 to the extent applicable the rates of wages paid to employees of the Contractor on this work shall be the prevailing wages for this locality to all class of workers employed by the Contractor on this improvement.

25. Living Wage.

A. Living Wages be paid according to the Ypsilanti Living Wage Ordinance No. 892 (the "Ordinance"); suitable notices be posted in the work place; and evidence of compliance including payroll records be provided to the Ypsilanti Personnel Department within 10 days of written request from the Ypsilanti Personnel Department.

B. In the event of violation of the provisions of the Ordinance or this contract this contract may be modified or terminated to comply with the provisions of the Ordinance, including withholding of moneys in amount equal to Living Wages not paid in accordance with the Ordinance and the City may also take action to recover the amount of the contract provided to any person found to have violated the Ordinance.

C. Any employee shall have a separate cause of action to enforce the provisions of this contract and the Ordinance and any rights conferred under the Ordinance, in law and or equity, and any court of competent jurisdiction upon proper proof and the prevailing of the employee in such action, shall award actual damages, wage restitution, interest and actual attorney fees.

D. The City shall have the right to enforce this contract and The Ordinance in law or equity by court process including specific performance.

26. This contract and attachments hereto are the sole contract and agreement between the parties. Any changes, additions or deletions shall not be effective or actionable unless they are in writing signed by the parties.

IN WITNESS WHEREOF, the undersigned have set their hands this _____ day of March, 2013.

In the presence of:

REHMANN ROBSON, CPA

______________________________ BY: ______________________________

Mark Kettner, CPA, Principal, Contractor

____

City OF YPSILANTI, a Michigan
Municipal Home-rule City

______________________________ BY: ______________________________

Paul Schreiber, Mayor

______________________________ BY: ______________________________

Frances McMullan, Jr., City Clerk

APPROVED AS TO FORM:

____

JOHN M. BARR P-10475
Ypsilanti City Attorney

Addendum Attachment A - Insurance

4. The Contractor prior to commencing work shall provide at his own cost and expense the following insurance to the City in insurance companies licensed and/or approved in the State of Michigan, which insurance shall be evidenced by certificates and/or policies as determined by the City. All policies and certificates of insurance shall be approved by the Department of City Manager of the City prior to the inception of any work.

5. Each certificate or policy shall require that, thirty days prior to cancellation or material change in the policies, notice thereof shall be given to the City of registered mail, return receipt requested, for all of the following stated insurance policies. All such notices shall name the Contractor and identify the contract number.

6. All property losses shall be made payable to and adjusted with the City.

7. In order to determine financial strength and reputation of insurance carriers, all companies providing the coverages required shall be licensed or approved by the Insurance Bureau of the State in which the work is performed and shall have a financial rating not lower than XI and a policyholder's service rating no lower than B+ as listed in A.M. Best's Key Rating Guide, current edition. Certificates of insurance shall note A.M. Best's Rating. Companies with ratings lower than B+:XI will be acceptable only upon written consent of the Owner.

8. All policies and certificates of insurance of the Contractor shall contain the following clauses:

   a. The clause "other insurance provision" in a policy in which the City is named as an insured, shall not apply to the City.

   b. The insurance companies issuing the policy or policies shall have no recourse against the City (including its agents and agencies as aforesaid) for payment of any premiums or for assessments under any form of policy.

   c. Any and all deductibles in the above described insurance policies shall be assumed by and be for the account of, and at the sole risk of the Contractor.

   d. The City (at its option) shall be listed as an Additional Named Insured on the following insurance coverages provided by the Contractor:

      Comprehensive General Liability
      Automobile Liability

9. The Contractor shall maintain at its own expense during the term of this Contract the following insurance:

   a. Worker's Compensation insurance with Michigan statutory limits and employers' liability insurance with minimum limits of $100,000 each accident.
   b. General Liability insurance with a minimum limit of liability per occurrence of $1,000,000 Combined Single Limit (Bodily Injury/Property Damage).

This insurance shall indicate on the Certificate of Insurance the following coverages: (a) Premises – Operations, (b) Products and Completed Operations, (c) Broad Form Contractual, and (d) Broad Form Liability Endorsement.

c. Automobile Liability insurance with minimum limits of liability, per occurrence, of $500,000 Combined Single Limit (Bodily Injury/Property Damage) unless otherwise indicated in the "Special Conditions" of the Contract specifications. This insurance shall include for bodily injury and property damage the following coverages: owned automobiles, hired automobiles and non-owned automobiles.

   The insurance shall provide minimum limits of liability per occurrence of $500,000. Combined Single Limit. Said insurance shall provide that the term "Owner" or City shall be deemed to include all authorities, boards, bureaus, commissions, divisions, departments, districts and offices of the City and the individual members, employees and agents thereof in their official capacities.

d. Professional Services. Contractor shall provide professional liabilities (errors and omissions) insurance, with minimum limits of $300,000 each occurrence.

e. Disability Benefits: The Contractor shall provide proof of compliance with the Disability Benefits Law. (If applicable).

f. Additional insurance may be required on an individual basis for extra hazardous contracts and specific service agreements. If such additional insurance is required for a specific contract, that requirement will be described in the "Special Conditions" of the contract specifications.

10. If any of the Property and Casualty insurance requirements are not complied with at their renewal dates, payments to the Contractor will be withheld until those requirements have been met, or at the option of the City the City may pay the Renewal Premium and withhold such payments from any moneys due the Contractor

11. In the event that claims in excess of the insured amounts provided herein, are filed by reason of any operations under the Contract, the amount of excess of such claims, or any portion thereof, may be withheld from payment due or to become due the Contractor until such time as the Contractor shall furnish such additional security covering such claims as may be determined by the City

12. If at any time any of the foregoing policies shall be or become unsatisfactory to the City to form or substance, or if a company insuring any such policy shall be or become unsatisfactory to the City, the Contractor shall upon notice to that effect from the City promptly obtain a new policy, submit the same to the City Manager for approval and submit a certificate thereof as herein provided. Upon failure of the Contractor to furnish, deliver and maintain such insurance as above provided, this Contract, at the election of the City may be forthwith declared suspended, discontinued or terminated. Failure of the Contractor to take out and/or maintain or the taking out and/or maintenance of any required insurance, shall not relieve the Contractor from any liability under the Contract, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations of the Contractor concerning indemnification.

Planning Commission
Phil Hollifield (reappointment)
125 Hawkins St.
Ypsilanti, MI 48197
Expires: 5/1/2016

Zoning Board of Appeals
John Bailey (reappointment)
514 Fairview
Ypsilanti, MI 48197
Expires: 5/1/2016

Planning Commission
Rod Johnson (reappointment)
310 N. Grove
Ypsilanti, MI 48198
Expires: 5/1/2016

Recreation Commission
Conan Malmer (new appointment)
913 Pleasant Dr.
Ypsilanti, MI 48197
Expires: 4/23/2016

Statement by Phil Hollifield:
Hello Paul.
Yes I'm looking forward to serving another term. It has been my pleasure to serve my community and the city itself, along with serving on the master plan committee. With this insight I will be more empowered to serve the city, for a better Ypsilanti.
Thank you
Phil

Statement by John Bailey:
Good morning Paul. I would like to continue on the ZBA, which I have been on since 2004. I will strive to provide quality representation to the City and uphold and enforce our zoning ordinances while treating our citizens fairly.

Statement by Rod Johnson:
To be emailed when available.

Resolution No. 2013-062
April 9, 2013

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: