1. City Council Special Meeting Agenda

   Documents: 5-07-2013 REVISED FINAL AGENDA.PDF

2. City Council Special Meeting Packet

   Documents: 05-07-2013 PACKET.PDF

REVISED – 5/6/13

CITY OF YPSILANTI
COUNCIL REGULAR AND BUDGET MEETING AGENDA
CITY COUNCIL CHAMBERS - ONE SOUTH HURON ST.
YPSILANTI, MI 48197
TUESDAY, MAY 7, 2013
6:00 P.M.

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. INTRODUCTIONS -

VII. PRESENTATIONS –

1. Proclamation honoring Jane Schmiedeke – Mayor Schreiber

2. Re-imagine Washtenaw Project Update – Nathan Voght, Economic Development Specialist

3. Family Dollar Update – Planner Teresa Gillotti

VIII. AUDIENCE PARTICIPATION

IX. MOTIONS/RESOLUTIONS/DISCUSSIONS -

1. Resolution No. 2013-052, approving Family Dollar purchase agreement.

2. Resolution No. 2013-073, approving appointments to Boards and Commissions.

X. AUDIENCE PARTICIPATION -

XI. REMARKS BY THE MAYOR -

XII. MINUTES

Resolution No. 2013-074, approving the minutes of April 23, 2013.

XIII. <u>LIASON REPORTS</u>

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

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

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

XVI. <u>COMMUNICATIONS FROM THE CITY MANAGER</u> –

XVII. <u>BUDGET SESSION</u> -

XVIII. <u>AUDIENCE PARTICIPATION</u> -

XIX. <u>REMARKS FROM THE MAYOR</u> –

XX. <u>ADJOURNMENT</u> –

A. Resolution No. 2013-075, adjourning the City Council Meeting.

REVISED – 5/6/13

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REQUEST FOR LEGISLATION
May 7, 2013

From: Teresa Gillotti, Planner II

Subject: Purchase agreement with Core Resources, LLC, for purchase and development of for .85 acres of Water Street (Park and Michigan Ave.) for Family Dollar Store

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Background

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.

On March 19, 2013, City Council entertained a purchase agreement for a larger parcel with a slightly different configuration, but agreed to wait on reconsideration until the City's Master Planning process was farther along, so that process could help inform the parcel size and/or building location and form.

Staff has worked with Core Resources a change to the conceptual site plan including a change in size of the parcel to accommodate the extension of Lincoln Street south onto the site while accommodating a second buildable lot to the south. Joe Fazio from Miller Canfield provided changes to the development agreement based on the changes to the conceptual site plan and parcel size and layout. Attached is a summary term sheet, conceptual site plan and revised development agreement (with changes indicated).

Relationship to previous and current planning efforts

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 .85 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 has completed two weeks 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 has developed a preliminary layout for the site which is shown below.

This grid plan mimics that of the existing street network, by pulling Parsons and South Street West into the site, as well as pulling down River and Lincoln Street south into the development area. The grid plan includes the development of A and B streets. "A" streets such as Michigan, Park and River would require 90-100% building along the frontages as well as 10 foot sidewalks and street trees, creating a form and look very similar to what is existing in the Historic Downtown. Parking is recommended in the rear of buildings (off "B" streets) and on-street, similar to downtown, Depot Town and West Cross. As the "A" streets would be primarily

designed for pedestrian no curb cuts would be allowed, pushing cars and car access to buildings to "B" streets.

Washington Street functions as an "A" street with buildings representing 90% of frontages, large pedestrian friendly sidewalks with street trees and no curb cuts along the block faces.

Staff worked with Core Resources to try to meet the intent; however, Family Dollar was resistant to the idea of parking in the rear, and also required a curb cut off Park Street rather than Parsons. Core Resources/Family Dollar are amenable to the streetscape treatments, sidewalk additions, and construction of Lincoln Street south to their property line. They have also agreed to license a portion of the southerly property for stormwater management purposes if necessary.

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

Seller:	City of Ypsilanti One South Huron Street Ypsilanti, MI 48197
Purchaser:	Ninety Nine 90, LLC 7795 Five Mile Road Cincinnati, Ohio 45230 Purchaser has the right to sign the Purchase Agreement to Family Dollar Stores of Michigan, Inc., without the consent of the Seller.
Parcel Location:	Approximately .85 acres on the corner of Park and Michigan Avenue
Use:	One story free standing Family Dollar Store
Purchase Price:	$210,000 [Same price per the original proposed Letter of Intent]
Deposit:	$3,500.00 due within five (5) days of execution.
Commission:	Buyer's broker, 5%, CBRE, 2.5% to be paid through previous agreement.
Seller's Deliverables:	All existing information regarding the Property.
Title Commitment and Policy:	Purchaser obligated to obtain its own title commitment and pay for its own policy. Purchaser obligated to obtain a Survey of the Property with legal description confirmation within 90 days from the effective date.
Contingency Period:	180 days from the effective date to inspect the Property, physical, environmental, title, survey, obtain committee approval from Family Dollar to the deal, and utility plans. Also during the Contingency Period, Purchaser is obligated to obtain: (i) all Governmental permits and approvals necessary to commence and complete development of the property, including PUD Approval, all at Purchaser's sole cost and expense.
Extensions of Contingency Period:	Two (2) Extension Periods of thirty (30) days each, Purchaser will pay to City an extension fee of $2,500 per extension exercised. The Deposit, and any extensions fees are non-refundable to the Purchaser (except in the event of a default by the City), but applicable to the Purchase Price at Closing.
Committee Approval:	Purchaser has the entire Contingency Period to obtain committee approval of the deal from Family Dollar.

Failure of contingencies:	In the event the Purchaser is not satisfied with the condition of the Property or able to obtain all of the governmental approvals necessary to proceed within the Contingency Period, the Purchaser may terminate the Purchase Agreement in writing and receive a refund of the Deposit.
Restrictive Covenant:	The City is agreeing to burden the balance of the Water Street property with an exclusive use restriction for the benefit of the Family Dollar parcel precluding the remaining property from being used as a variety discount store, like a Dollar General, Bonus Dollar, dd's Discounts, Deal$, Only Deals, 99 Cents Only, Dollar Tree, Fred's or Marc's. A big box discount department store, like a Target, Wal-Mart, K-Mart or Meijer is expressly allowed. If Family Dollar (or its successor by merger) fails to operate as a Family Dollar type store for a period of 6 months, other than in connection with a casualty or remodel, the Restrictive Covenant terminates.
Closing:	30 days following the expiration of the Contingency Period
City Closing Costs:	City to be responsible for (i) any transfer taxes and (ii) recording costs associated with any curative documents to cure conditions of title and (iii) recording costs for the Declaration of Restrictive Covenant
Tax prorations:	None, property is exempt from taxes.
Possession:	Delivered at closing
Covenant to Construct:	Purchaser has to commence construction/improvements within 6 months of closing and complete the improvements and open for business within the Property within 24 months of closing. If Purchaser does not satisfy the commencement of construction obligations, the City has the right to reacquire the property at the same price, plus the fair market value of the vertical improvements.
Commission:	Paid by the City to CBRE and Landmark Commercial Real Estate Services, Inc. per separate agreements. (no actual payment required to CBRE)
Purchaser's Default:	Purchaser's Default – City's sole remedy is to terminate the agreement and retain the Deposit and seek enforcement of any restoration and/or indemnification obligations of the Purchaser
City's Default:	Purchaser has the right to terminate and receive return of the Deposit or to specifically enforce the terms of the Agreement. Both parties waive the right to seek monetary damages due to a Default.
Construction of Lincoln Street:	Buyer to construction full movement street to City and MDOT standards to rear of parcel boundary. Buyer will maintain street until adjacent development occurs, at which time the street will be dedicated to the City.
Easements:	Buyer to provide easement for Park and Lincoln Street curb cuts, shared drive and access to southerly parcel
Storm Water	As the Buyer is proposing a smaller site than previously, the Buyer would

License:	license space on the southerly parcel to accommodate any storm water management requirements needed prior to construction of a shared storm water/water feature is defined and constructed in the rear of the Water Street site.

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. 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.

Recommendation: Approval. Staff recommends approval of the development agreement, but highly recommends City Council consider all future proposals for the Water Street redevelopment area with the goals and structure of the proposed gird layout and rules presented as part of the master planning process. This will ensure coordinated and consistently development throughout the site.

Comments and questions can be directed to Teresa Gillotti at tgillotti@cityofypsilanti.com or 734-483-9646.

ATTACHMENTS:

- Purchase Agreement
- Conceptual site plan
- Resolution

CITY MANAGER APPROVAL: ________________________ COUNCIL AGENDA DATE: _________

CITY MANAGER COMMENTS: __________________________

FISCAL SERVICES DIRECTOR APPROVAL: _____________________________________

AGREEMENT TO PURCHASE REAL ESTATE

THIS AGREEMENT TO PURCHASE REAL ESTATE (this "Agreement") is entered into by and between, **THE CITY OF YPSILANTI**, a Michigan municipal corporation, the address of which is One South Huron Street, Ypsilanti, Michigan 48197 (the "City"), and **NINETY NINE 90, LLC** and its Permitted Assigns (as defined below), an Ohio limited liability company, the address of which is 7795 Five Mile Road, Cincinnati, Ohio 45230 ("Purchaser").

R E C I T A L S:

A. The City is the owner of certain real property located in the City of Ypsilanti, Washtenaw County, Michigan, which is more particularly described on Exhibit A attached hereto and made a part hereof (the "Property").

B. The Property is part of an overall project known as the Water Street Redevelopment Project ("Water Street Project") located within the real property which is identified on Exhibit B attached hereto ("Overall Property"). The Overall Property not sold to the Purchaser hereunder is the "Retained Property". The Water Street Project is ~~being~~proposed to be developed in accordance with the~~ proposed~~ provisions of the Draft City of Ypsilanti Zoning Ordinance relating to the Commercial Redevelopment District and Residential Redevelopment District (the "Draft Ordinance"). The Draft Ordinance shall be used as guidance in the development of the Property, ~~resulting in~~as Purchaser pursues the rezoning of the Property pursuant to a Planned Unit Development as provided in Section 7 (d) below.

C. The City desires to sell and Purchaser desires to purchase the Property, upon the terms and conditions described below.

THEREFORE, in consideration of the mutual covenants and the undertakings described in this Agreement, the parties agree as follows:

1. **Agreement of Purchase and Sale.** The City agrees to sell to Purchaser, and Purchaser agrees to purchase, the Property, subject to and in accordance with the terms and conditions of this Agreement.

2. **Purchase Price.** The purchase price ("Purchase Price") for the Property shall be Two Hundred Ten Thousand and 00/100 ($210,000.00) Dollars. At Closing, as defined in Paragraph 9 below, Purchaser shall pay to the City the Purchase Price, subject to closing adjustments and prorations as provided in this Agreement.

3. **Earnest Money Deposit.** Within five (5) days from the date of Purchaser's receipt of a fully executed copy of this Agreement (the "Effective Date"), Purchaser shall deliver to Safetitle Agency, Inc., or other title company acceptable to the Seller (the "Title Company"), an earnest money deposit in the amount of Three Thousand Five Hundred Dollars and 00/100 ($3,500.00) Dollars (the "Deposit"). The Deposit shall be applied toward the Purchase Price. The Deposit shall otherwise be returned to Purchaser or retained by the City in accordance with the terms of this Agreement.

4. **Title; Survey.** Within thirty (30) days from the Effective Date, the Purchaser shall, at its cost, cause the Title Company to deliver to Purchaser a commitment for an ALTA Owner's Title Insurance Policy (the "Commitment") in the amount of the Purchase Price, bearing a date later than the Effective Date, and identifying the condition of title to the Property, together with copies of the instruments and documents referenced in the Commitment. In addition, within fifteen (15) days from the

Effective Date, the City shall make available to Purchaser a copy of the City's most-recent existing survey of the overall Property ("Survey"). Purchaser shall obtain, at its sole cost and expense, an updated ALTA Survey of the Property, certified to the City, Purchaser and Title Company and setting forth the legal description of the Property, the Access Drive (as defined in paragraph 13(a)) and the storm water detention license referenced in paragraph 7(c), and provide to the City a copy of such updated Survey within ninety (90) days from the Effective Date. The City shall advise Purchaser of any objections to the Survey and/or the legal description contained therein within ten (10) business days of receipt. If the City objects to the Survey, the parties will work in good faith to resolve same.

5. **Objections to Title and Survey.** During the Contingency Period, as defined in Section 6 below, as same may be extended as provided in Section 6, Purchaser shall have the right to object in writing to the condition of title to the Property as reflected in the Commitment and Survey. If Purchaser does not provide the City with its title objections within the initial 180 day Contingency Period, Purchaser shall be deemed to have waived all objections to the condition of title to the Property. The City shall have thirty (30) days from its receipt of any such written objections to advise Purchaser whether Seller will undertake to exert commercially reasonable efforts to cure such objections. The City shall be deemed to have cured a title objection if the City causes such matter to be removed from the Commitment as an exception to coverage or the Title Company agrees to insure Purchaser for such matter. If the City does not undertake to cure Purchaser's objections or after undertaking the obligation to attempt to cure same as provided above is unable to do so, Purchaser shall have the right to terminate this Agreement by providing written notice to the City within ten (10) days from the date of Seller's written notice that (i) the City will not undertake such cure efforts or (ii) if after having undertaken such efforts the City's written notice that it has not been able to cure same. If Purchaser terminates this Agreement in accordance with this Paragraph 5 and as provided in Section 6, Purchaser shall receive a refund of the Deposit and the parties shall have no further rights or obligations under this Agreement, except for Purchaser's restoration and indemnity obligations which shall survive.

6. **Contingency Period**

(a) **Contingency Period; Access.** Purchaser shall have a period of one hundred eighty (180) days from the Effective Date (the "Contingency Period") to inspect or cause to be inspected all elements and aspects of the Property, including, but not limited to, the physical and environmental condition of the Property, the Purchaser's acceptance that all utilities are available in sufficient capacity at the Property boundary or in close proximity thereto, in addition to confirmation and acceptance of any utility tap fees and/or utility credit requirements, to obtain Purchaser's client's and or tenant's final Real Estate Committee approval of the Purchaser's intended project and to pursue and obtain the Governmental Approvals (as defined below). The City shall provide Purchaser with ~~certain~~access to the existing information in the City's possession regarding the Property. Such information may be provided on a computer disc. The City does not make any representation or warranty regarding any such information, including, without limitation, any representation or warranty with respect to the completeness or accuracy of any such information. Purchaser, at its cost, shall have the right to inspect additional information regarding the Property which is located within the City's offices and is otherwise available to the public at mutually acceptable times and, if required by the City, with appropriate supervision by City staff. The City will reasonably cooperate with Purchaser in Purchaser's effort to obtain the Properties history, previous reports in the City's possession and/or physical condition of the Property, all without liability or cost. At all times during the term of this Agreement, the City grants to Purchaser, and those persons designated by Purchaser, the right to enter upon the Property in order to inspect the Property and to take soil borings and conduct engineering and environmental tests and studies. Purchaser shall provide to the attorney for the City, at no cost to the City, copies of ~~related~~any environmental analysis performed in connection with the Property (including a Baseline Environmental

Assessment ("BEA"), if Purchaser obtains a BEA, at least ten (10) days before filing with any state agency).

(b) **Restoration; Insurance; Indemnity.** During the Contingency Period Purchaser shall use all reasonable efforts to minimize any damage to the Property and, in the event any portion of the Property is disturbed or altered by virtue of Purchaser's investigations, Purchaser shall promptly, at its sole cost and expense, restore the Property to substantially the same or better condition that existed prior to such disturbance or alteration. Purchaser shall indemnify, defend and hold harmless the City from and against any and all claims, liabilities, suits, costs, expenses and damages, including reasonable attorneys' fees, arising out of the inspection activities of Purchaser or its agents, employees or contractors, and/or any construction liens filed by any of Purchaser's contractors, subcontractors or suppliers in connection with any such inspection activities. Prior to entering the Property, Purchaser shall provide the City with evidence of liability insurance in the amount of Two Million and 00/100 ($2,000,000.00) Dollars, which names the City as an additional insured party and provides coverage for all of Purchaser's activities within the Property, including Purchaser's indemnity obligations, and which insurance coverage cannot be cancelled or the amount of coverage reduced prior to Closing.

(c) **Confidentiality.** Purchaser shall keep the results of its environmental inspections and testing confidential and shall not disclose the contents of any environmental reports to any third party without the City's prior written consent not to be unreasonably withheld, including filing a Baseline Environmental Assessment with or submitting a remediation plan to the Michigan Department of Environmental Quality. Notwithstanding the foregoing, Purchaser shall have the right to disclose the results of its environmental testing and inspections to its assigns, clients, tenants, attorneys, environmental consultants and insurance carriers provided that such parties are advised in writing of Purchaser's confidentiality obligations regarding such information.

(d) **Expiration of the Contingency Period.** If Purchaser, in its sole and absolute discretion, determines that the condition of the Property is unsatisfactory or is unable to obtain the Governmental Approvals defined in Paragraph 6(a) or 7(a) and (b), Purchaser may, on or prior to the expiration of the Contingency Period, elect in writing to terminate this Agreement. If Purchaser elects timely to terminate this Agreement, the Deposit shall be returned to Purchaser and the parties shall have no further rights or obligations under this Agreement, except for Purchaser's restoration and indemnity obligations set forth herein which shall survive the termination of this Agreement. If Purchaser determines in its sole discretion at the expiration of the Contingency Period to extend the Contingency Period, the Purchaser shall have the right to extend for thirty (30) days (the "First Extension Period") the Contingency Period by providing notice to the City of such intentions and by tendering to the City with such election an extension fee (the "First Extension Fee") of $2,500.00. If Purchaser determines in its sole discretion at the expiration of the First Extension Period to extend the Contingency Period, Purchaser may, in its sole discretion, extend the Contingency Period (the "Second Extension Period") by providing written notice to the City of such desire to extend and by paying to the City an additional deposit amount (the "Second Extension Fee") of Twenty Five Hundred ($2,500.00) Dollars. The Deposit, the First Extension Fee and the Second Extension Fee shall be considered non-refundable to the Purchaser (except in the case of City's default) and fully applicable to the Purchase Price in the event of such extensions.

7. **Governmental Approvals**.

(a) **Governmental Approval Period.** During the Contingency Period, Purchaser shall diligently seek to obtain all governmental permits and approvals necessary to commence and complete the development of the Property, including the PUD Approval described in Paragraph 7(b) below (collectively, the "Governmental Approvals") upon terms and conditions acceptable to Purchaser and Purchaser's client or tenant in their sole and absolute discretion. Purchaser shall be responsible, at its sole cost and expense, for the preparation of all applications and related plans and instruments and all applicable filing, submission and permit fees related to the Governmental Approvals. Upon request, Purchaser shall provide to the City periodic updates with respect to the status of the Governmental Approvals.

(b) **Approval of Plans**. The Property shall be developed in accordance with the Planned Unit Development (PUD) process set forth beginning in Sec. 122-571 of the City Code of Ordinances using the Draft Zoning Ordinance attached hereto as Exhibit C (the "Zoning Requirements") as guidance. The Planned Unit developed and related site plan approval application will be completed and submitted by Purchaser to the Planning Commission and City Council for approval therefore during the Contingency Period. All plans shall be prepared and all permit applications shall be submitted pursuant to the City requirements. Nothing contained in this Agreement shall be deemed to be an approval by the City as to any matter, including, but not limited to an approval with respect the historical designation of any structure or any other improvement on the Property proposed by this Agreement, and the Purchaser shall be required to follow the process for obtaining approvals contained in the applicable City zoning or other ordinances. Purchaser acknowledges that as a condition of the issuance of approval of the PUD for the subject property, the City may require that the Developer undertake the following: (i) cause the Access Drive Improvements (as defined in Exhibit G) to be constructed pursuant to MDOT and City standards and extend same from Michigan Avenue to the southerly property line of the property; (ii) commit to install trees on the street frontages of Michigan, Park Street and the future Lincoln Street; (iii) install a six foot sidewalk on Lincoln Street within the Access Easement (hereinafter defined) and increase the sidewalk to a width of ten feet on Michigan Avenue and Park Street; (iv) cause the store entrance to be oriented toward Michigan Avenue; (v) install six foot windows on the Michigan Avenue frontage of the Improvement for the entire width of the frontage; and (vi) require Purchaser to grant to the lands south of the Property and north of Parsons Street a shared curb cut and Access Easement through the curb cuts proposed to be constructed on Lincoln and Park Streets within the Property. The above description of criteria for approval of the PUD shall not be construed as a limitation on the City's ability or right to require additional improvements or undertakings in connection with the Purchaser's PUD application or a waiver of any right to modify any of the foregoing limitations.

(c) **Storm Water Retention License**. During the Contingency Period, Purchaser shall engage in negotiations with the City concerning the City's willingness to grant to the Purchaser and the Property a license on, over and across part of the parcel south of the Property and north of Parsons Street for the installation, operation, maintenance and repair of a storm water retention facility to provide storm water detention for the Property to be developed.

(d) ~~(c)~~ **Failure to Obtain the Governmental Approvals.** If Purchaser does not provide written notice to Seller on or before the expiration of the initial 180 day Contingency Period that it has satisfied and/or waived the Contingencies set forth in Paragraphs 5 and 6 above (including that Purchaser has obtained the Governmental Approvals), this Agreement will automatically terminate and the Deposit shall be refunded to Purchaser. If Purchaser does not affirmatively waive the Contingencies and affirmatively elect to proceed after exercising the First Extension Period and/or Second Extension Period, then this Agreement will automatically terminate and the Deposit, the First and Second Extension Fees, shall be retained by Seller and the parties shall have no further rights or obligations under this Agreement, except for Purchaser's restoration and indemnity obligations which shall survive such termination. If Purchaser provides to City a written waiver of the Contingencies set forth in Paragraphs 6 and 7 (including the Governmental Approvals) then the Deposit and any Extension Fees shall be deemed nonrefundable (except shall be refunded to Purchaser if City defaults) and the parties shall proceed to closing in accordance with the terms hereof.

8. **Declaration of Restrictive Covenant**. At Closing, the City shall execute and record a declaration of restrictive covenant ("Declaration") against the Retained Parcel, that prohibits the Retained Parcel, for so long as Family Dollar, its successors or assigns, is open and operating a fully staffed and inventoried variety store, variety discount store, discount department store, dollar store, liquidation or close-out store on the Sale Property, from being used as any variety store, variety discount store, discount department store, dollar store, liquidation or close-out store, or any store similar to a Family Dollar store in operation or merchandise including, but not limited to, Dollar General, Bonus Dollar, dd's Discounts, Deal$, Only Deals, 99 Cents Only, Dollar Tree, Fred's, or Marc's (the "Exclusive Use Restriction"); provided, however, the Exclusive Use Restriction shall not prohibit any portion of the Retained Property from being used as (a) a big box discount department store (the term "big box discount department store" shall not include those stores listed above) which exceeds Thirty Thousand (30,000) square feet (like a Target, Meijer, Wal-Mart or Kmart), (b) a drug store, (c) a grocery store, (d) a toy store, (e) a hobby store, (f) a sporting goods store, (g) a card and gift store, (h) a hardware store, (i) a home improvement store, (j) an auto supply store, (k) an electronics store, (l) an office supply store, or (m) any other store selling a single category of merchandise, even though the category may be a broad one such as toys or hardware. The Declaration shall remain in full force and effect while Family Dollar is constructing a dollar store on the Sale Property, but shall automatically terminate in the event Family Dollar does not open within the period required by the Purchase Agreement. Once Family Dollar has opened, this Declaration shall automatically terminate when Family Dollar, its successors or assigns, fails to operate a fully staffed variety store, variety discount store, discount department store, dollar store, liquidation or close-out store on the Sale Property for period of 6 consecutive months or more, other than in connection with a renovation or restoration in connection with a casualty. This Declaration will not terminate in connection with a renovation or restoration so long as Family Dollar is diligently pursing such renovation or restoration. The form of the Declaration shall be substantially in the form attached hereto as Exhibit D.

9. **Closing.** The closing ("Closing") shall be consummated within thirty (30) days from the expiration of the Contingency Period, as same may be extended, on a date selected by Purchaser by providing written notice to City at least ten (10) business days prior to such date. The Closing shall take place at a time and location that is mutually agreeable to the parties. If the date for Closing falls on a Saturday, Sunday or legal holiday, Closing shall occur on the next immediately following business day.

10. **Closing Documents and Actions.** At Closing, the City shall execute and deliver to Purchaser (as required) and Purchaser shall execute and deliver to the City (as required) the following:

(a) **<u>Payment of Purchase Price</u>**. Purchaser shall deliver to the City the Purchase Price, together with the amount identified in Paragraph 11 below, subject to applicable adjustments and prorations as provided for in this Agreement.

(b) **<u>Covenant Deed</u>**. The City shall deliver to Purchaser a fully executed and recordable covenant deed for the Property in the form attached as Exhibit E, conveying to Purchaser fee simple marketable title to the Property, subject only to the Permitted Exceptions, a restrictive covenant that restricts the Property from being owned and/or used by any entity that would qualify the Property as exempt for ad valorem taxes and/or assessments ("Prohibited Uses") and the easements identified in Paragraph 13(a) below.

(c) **<u>Non-Foreign Person Affidavit</u>**. The City shall furnish Purchaser with an affidavit stating that the City is not a "Foreign Person" within the meaning of IRC Section 1445(f) (3), as amended.

(d) **<u>Closing Statement</u>.** The City and Purchaser shall execute and deliver to each other a Closing Statement showing the amount by which the Purchase Price shall be adjusted as of the

Closing date. The City shall pay all real property transfer taxes, fees to record any instruments necessary to cure Purchaser's title objections and the parties shall pay the fees and charges of their own representatives, agents or contractors. Purchaser shall pay the fees to record the easements identified in Paragraph 13(a) below, the Declaration and all escrow and other fees charged by the Title Company to close this transaction.

(e) **Title Insurance Policy**. The Purchaser shall order and pay for a policy of title insurance, without standard exceptions (provided that Purchaser provides the survey required by the Title Company to remove the standard survey exception and City is satisfied in its reasonable discretion with the form of the owner's affidavit requested by the Title Company), with coverage in an amount equal to the Purchase Price, subject only to the Permitted Exceptions, the Declaration identified in Paragraph 8 above and the easements identified in Paragraph 13(a) below. The Purchaser shall be responsible for obtaining any endorsements to such title policy desired by Purchaser and/or its assigns, at Purchaser's cost. The City shall deliver to the Title Company an Owners Affidavit and such other documents reasonably required by the Title Company (excluding any survey) to enable the Title Company to satisfy its Schedule B-1 requirements and to delete its standard exceptions and to provide a "marked-up" Commitment, dated as of the Closing date. The "marked-up" Commitment shall reflect Purchaser and/or its assigns as both fee simple title owner of the Property and the insured under said Commitment.

(f) **Easements**. Purchaser shall execute and deliver to each other the ~~City all~~ easement, license and other agreements required pursuant to Paragraph 13(a) below or required as a condition of Purchaser's obtaining PUD approval or any other Governmental Approval.

(g) **Declaration**. The City shall execute and record the Declaration identified on Paragraph 8 above.

(h) **Further Assurances**. The City and Purchaser and/or Purchaser's assigns shall execute such additional documents and instruments and take such further actions as may be reasonably necessary or desirable to consummate the sale of the Property in accordance with the terms of this Agreement.

11. **Taxes**.

(a) **Prorations**. The City shall be responsible for paying any and all real and personal property taxes, if any, payable in connection with the Property for the 2013 calendar year. The City shall also pay in full, on or before Closing, all current installments of special and other assessments which were established and constitute a lien against the Property.

(b) **Separate Tax Parcel**. Within thirty (30) days prior to the end of the Contingency Period, so long as the Purchaser has not terminated this Agreement, the City shall cause the Property to be rendered a separate and complete tax parcel. No split rights will be transferred to Purchaser.

12. **Possession; As-Is Condition**. At Closing, the City shall deliver to Purchaser or Purchaser's Permitted Assigns possession of the Property, free and clear of any rights or claims of possession by the City or any third party except for Permitted Exceptions. Purchaser acknowledges that the City has not made and Purchaser has not relied on any representation or warranty by the City other than those representations or warranties made to the City's actual knowledge, including, without limitation, any representation or warranty regarding the physical or environmental condition of the Property, the fitness of the Property for any particular purposes or the availability of any permits or approvals. Purchaser acknowledges that Purchaser has relied completely on its own investigations and

other due diligence activities to evaluate the condition of the Property and the availability of permits and approvals and that, at Closing, Purchaser will be accepting the Property in its then-current as-is, where-is condition, with all faults.

13. **Post-Closing Obligations**.

(a) ~~**Shared Access Drive Easement**~~**Future Lincoln Street**. At Closing, the Purchaser and City shall execute ~~a Shared~~ an Access Drive Easement Agreement (the "Easement Agreement") wherein the Purchaser shall agree to construct, at its sole cost and expense, the ~~shared~~ access drive identified on Exhibit F (the "~~Shared~~Access Drive") in accordance with the approved plans and specifications for the ~~Shared~~Access Drive as approved by the City and Purchaser. The form of the Easement Agreement shall be substantially in the form attached hereto as Exhibit G.

(b) Covenant to Construct, Open and Operate; Re-Purchase Option.

(i) Purchaser shall construct all improvements to and within the Property in accordance with the plans that have been approved by the City. Purchaser shall commence construction of such improvements within six (6) months from the Closing date and shall complete such improvements within twenty four (24) months from the Closing date. For purposes of the foregoing, commencement of construction shall mean that Purchaser has obtained all permits and approvals necessary for the construction of such improvements and that all necessary utility improvements and building footings have been installed. Purchaser agrees that Purchaser's business within the Property shall be fully stocked and fully staffed and Purchaser shall commence operation its business from the Property within twenty four (24) months from the Closing date.

(ii) In the event that Purchaser does not construct its improvements within the Property or open and/or commence to operate its business from the Property as provided in Paragraph 13(b)(i) above, the City shall have the option for a period of ninety (90) days from the date of such failure to commence work and provided that City has provided written notice within such ninety (90) day period to re-purchase the Property from Purchaser for a purchase price equal to the Purchase Price, together with an amount equal to the fair market value of the vertical improvements constructed by Purchaser within the Property. At the closing for any such re-purchase of the Property by the City, City shall be responsible for the payment of all transfer taxes payable in connection with such transaction and the title insurance premium for a title insurance policy issued by the Title Company. Upon Purchaser's completion of construction, such options to repurchase the Property shall have expired.

14. **Real Estate Commission.** City shall be responsible for the payment of the commission that is payable to (i) CBRE and (ii) Landmark Commercial Real Estate Services, Inc., in accordance with separate agreements between the City and each of the foregoing brokers. Subject to the foregoing, the City and Purchaser each represent and warrant to the other that they have not used the services of any other brokers in connection with this transaction. Each party agrees to indemnify and hold harmless the other party from and against any claim that a commission or fee is due to any broker who dealt with the party from whom indemnification is sought.

15. **Condemnation.** In the event that, prior to Closing, notice of any action, suit or proceeding shall be given for the purpose of condemning all or any portion of the Property, then Purchaser shall have the right to terminate its obligations under this Agreement within ten (10) days from its receipt of such notice of condemnation proceeding, and upon such termination, the proceeds resulting from the condemnation shall be paid to the City, and the Deposit shall promptly be returned to Purchaser and the parties shall have no further rights or obligations under this Agreement, except for Purchaser's

indemnity obligations, which shall survive. In the event Purchaser elects not to terminate this Agreement, at Closing, the condemnation proceeds shall be assigned and belong to Purchaser.

16. **Default.** In the event that Purchaser defaults in its obligations under this Agreement, the City shall be entitled to retain the Deposit paid by Purchaser. as liquidated damages, in addition to enforcing any restoration and/or indemnification obligations of the Purchaser hereunder. The Deposit having been retained by the City shall be considered the City's sole remedy in the event of such Purchaser default. In the event that the City defaults in its obligations under this Agreement, Purchaser may, as its sole remedy, at its option: (a) receive a refund of the Deposit; or (b) specifically enforce the terms and conditions of this Agreement.

17. **Purchaser's Representations, Warranties and Covenants**. Purchaser represents, warrants and covenants to the City as follows:

(a) **<u>Due Organization</u>**. Purchaser is limited liability company, duly organized under the laws of the State of Ohio, qualified to do business in Michigan and has the power to enter into this Agreement and purchase the Property.

(b) **<u>Power And Capacity</u>**. Purchaser has the full power, capacity, authority and legal right to execute and deliver this Agreement and to perform its obligations under this Agreement.

(c) **<u>Due Authorization</u>**. This Agreement has been duly authorized, executed and delivered by Purchaser and constitutes the legal, valid and binding obligation of Purchaser and/or Purchaser's assigns, enforceable in accordance with its terms. Prior to or at Closing, any and all documents required by this Agreement to be executed and delivered by Purchaser and/or Purchaser's Permitted Assigns shall have been duly authorized, executed and delivered by Purchaser and all such documents shall contain legal, valid and binding obligations of Purchaser and/or Purchaser's Permitted Assigns, enforceable in accordance with their terms.

18. **No Joint Venture.** No party is the agent, partner or joint venture partner of the other. No party has any obligation to the other except as specified in this Agreement.

19. **Non-Waiver.** The failure of a party to complain of any act or omission on the part of another party, no matter how long it may continue, shall not be deemed to be a waiver by any party to any of its rights hereunder except as expressly provided for in this Agreement. No waiver by any party at any time, expressed or implied, of any breach of any provision of this Agreement shall be deemed a waiver of a breach of any other provision. If any action by any party shall require the consent or approval of another party, the consent or approval of the action on any one occasion shall not be deemed a consent to or approval of that action on any subsequent occasion or a consent to or approval of any other action on the same or any subsequent occasion.

20. **Third Party Rights.** No party other than the City and Purchaser and their approved successors and assigns, shall have any right to enforce or rely upon this Agreement, which is binding upon and made solely for the benefit of the City and Purchaser, and their respective successors or assigns, and not for the benefit of any other party.

21. **Time.** TIME IS OF THE ESSENCE OF AND ALL UNDERTAKINGS AND AGREEMENTS OF THE PARTIES HERETO.

22. **Notices.** Any notice to be given or served upon any party to this Agreement must be in writing and shall be deemed to have been given: (a) upon receipt in the event of personal service by actual

delivery (including by telecopy or delivery service); (b) the first business day after posting if deposited in the United States mail with proper postage and dispatched by certified mail, return receipt requested; or (c) upon receipt if notice is given other than by personal service or by certified mail. All notices shall be given to the parties at the following addresses:

If To the City:	City of Ypsilanti One South Huron Street Ypsilanti, Michigan 48197 Attn: City Manager Fax No: ___________________
With A Copy To:	Joseph M. Fazio, Esq. Miller, Canfield, Paddock and Stone, P.L.C. 101 N. Main Street, 7th Floor Ann Arbor, Michigan 48104 Fax No: (734) 747-7147
If To Purchaser:	Ninety Nine 90, LLC 7795 Five Mile Road Cincinnati, Ohio 45230 Attn: ______________________ Fax No.: ___________________
With A Copy To:	___________________________ ___________________________ ___________________________ ___________________________ Attn: ______________________ Fax No.: ___________________

Any party to this Agreement may at any time change the address for notices to that party by giving notice in this manner.

23. **Days.** Whenever this Agreement requires that something be done within a specified period of days, that period shall (a) not include the day from which the period commences, (b) include the day upon which the period expires, (c) expire at 5:00 p.m. local time on the day upon which the period expires, and (d) unless otherwise specified in this Agreement, be construed to mean calendar days; provided, that if the final day of the period falls on a Saturday, Sunday or legal holiday, the period shall extend to the first business day thereafter.

24. **Severability.** If one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, that invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if the invalid, illegal or unenforceable provision had never been contained within the body of this Agreement.

25. **Entire Agreement.** This Agreement embodies the entire understanding between the parties with respect to the transaction contemplated herein. All prior or contemporaneous agreements, understandings, representations, warranties and statements, oral or written, are superseded by and merged into this Agreement. Neither this Agreement nor any of its provisions may be waived, modified or

amended except by an instrument in writing signed by the party against which enforcement is sought, and then only to the extent set forth in that instrument.

26. **Governing Law.** This Agreement shall be governed by and construed in accordance with the provisions of the laws of the State of Michigan.

27. **Captions.** Captions to paragraphs and sections of this Agreement have been included solely for the sake of convenient reference and are entirely without substantive effect.

28. **Successors and Assigns.** Purchaser shall not assign this Agreement to any third party other than Family Dollar Stores of Michigan Inc. ("Family Dollar"; "Permitted Assigns"), without the City's prior written consent. This Agreement shall be binding upon, and its benefits shall inure to, the parties hereto and their respective heirs, personal representatives, successors and assigns.

29. **Facsimile Signatures; Counterparts**. A facsimile of an original signature to this Agreement shall be deemed an original signature. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which shall constitute one agreement. The signature of any party to any counterpart shall be deemed to be a signature to, and may be appended to, any other counterpart.

30. **Offer Period**. The offer embodied in this Agreement shall remain irrevocable by Purchaser for a period of thirty (30) days from the date that a copy of this Agreement signed by Purchaser has been provided to the City. Purchaser acknowledges and agrees that this Agreement shall not be binding on the City until the City of Ypsilanti City Council has approved this Agreement pursuant to a public meeting and corresponding resolution and this Agreement has been signed by the Mayor of the City of Ypsilanti and any other parties required by the City Council or under applicable ordinances, laws, the Charter of the City of Ypsilanti and such resolution and that the foregoing thirty (30) day period is necessary to seek and obtain such approval.

31. **Force Majeure**. Any delay or failure in the performance by either party hereunder, other than the failure to close on the Closing Date, the failure to make any payment on the date required hereunder to be made or failure to exercise any extension of the Contingency Period on or before the date such exercise must be made, shall be excused if and to the extent caused by the occurrence of a Force Majeure. For purposes of this Agreement, Force Majeure shall mean a cause or event that is not reasonably foreseeable or otherwise caused by or under the control of the party claiming Force Majeure, including acts of God, fires, floods, explosions, riots, wars, hurricane, sabotage terrorism, vandalism. accident, restraint of government, governmental acts, injunctions, labor and material shortage, labor strikes, and other like events that are beyond the reasonable anticipation and control of the party affected thereby, despite such party's reasonable efforts to prevent, avoid, delay, or mitigate the effect of such acts, events or occurrences, and which events or the effects thereof are not attributable to a party's failure to perform its obligations under this Agreement.

THIS AGREEMENT has been executed by the parties hereto on the date set forth above.

"PURCHASER"

NINETY NINE 90, LLC,
an Ohio limited liability company

By:__________________________________

Its:__________________________________

Dated: _____________________

"THE CITY"

CITY OF YPSILANTI,
a Michigan municipal corporation

By:__________________________________

Its: Mayor

And

By:__________________________________

Its: _________________________________

Dated: ____________________ ("Effective Date")

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

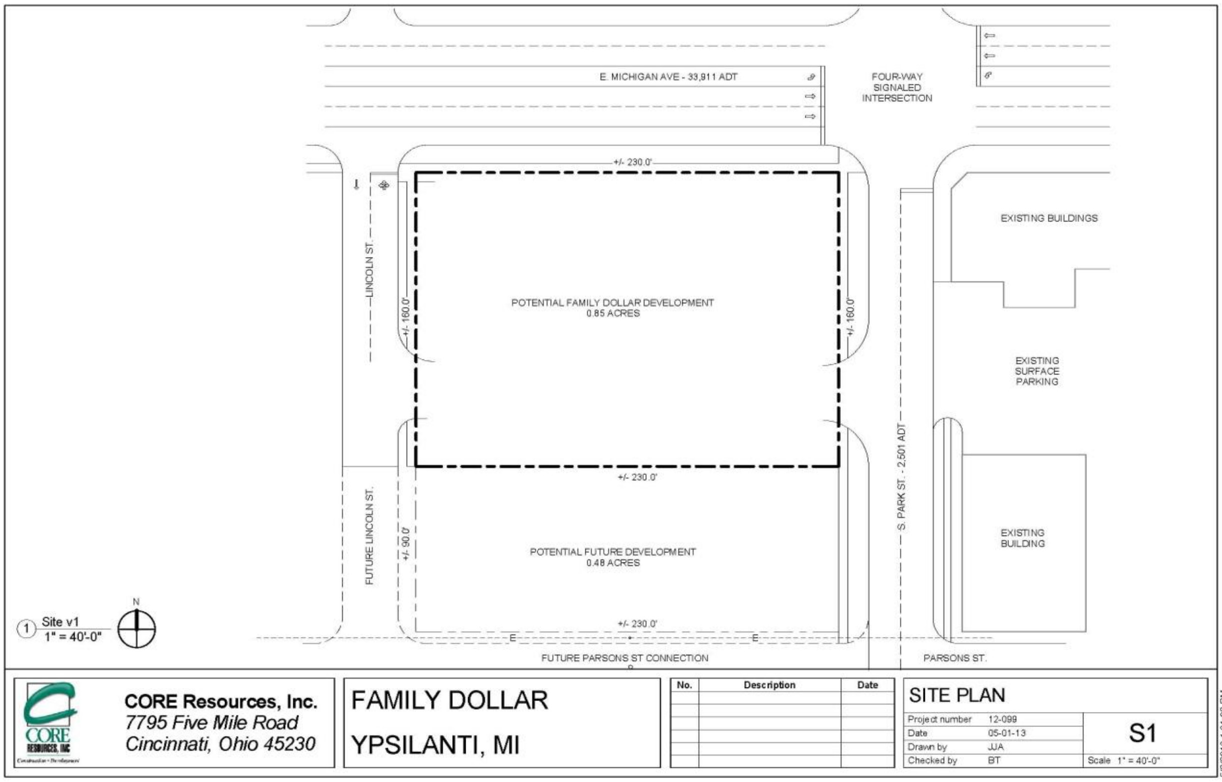


EXHIBIT B

DIAGRAM OF THE OVERALL PROPERTY

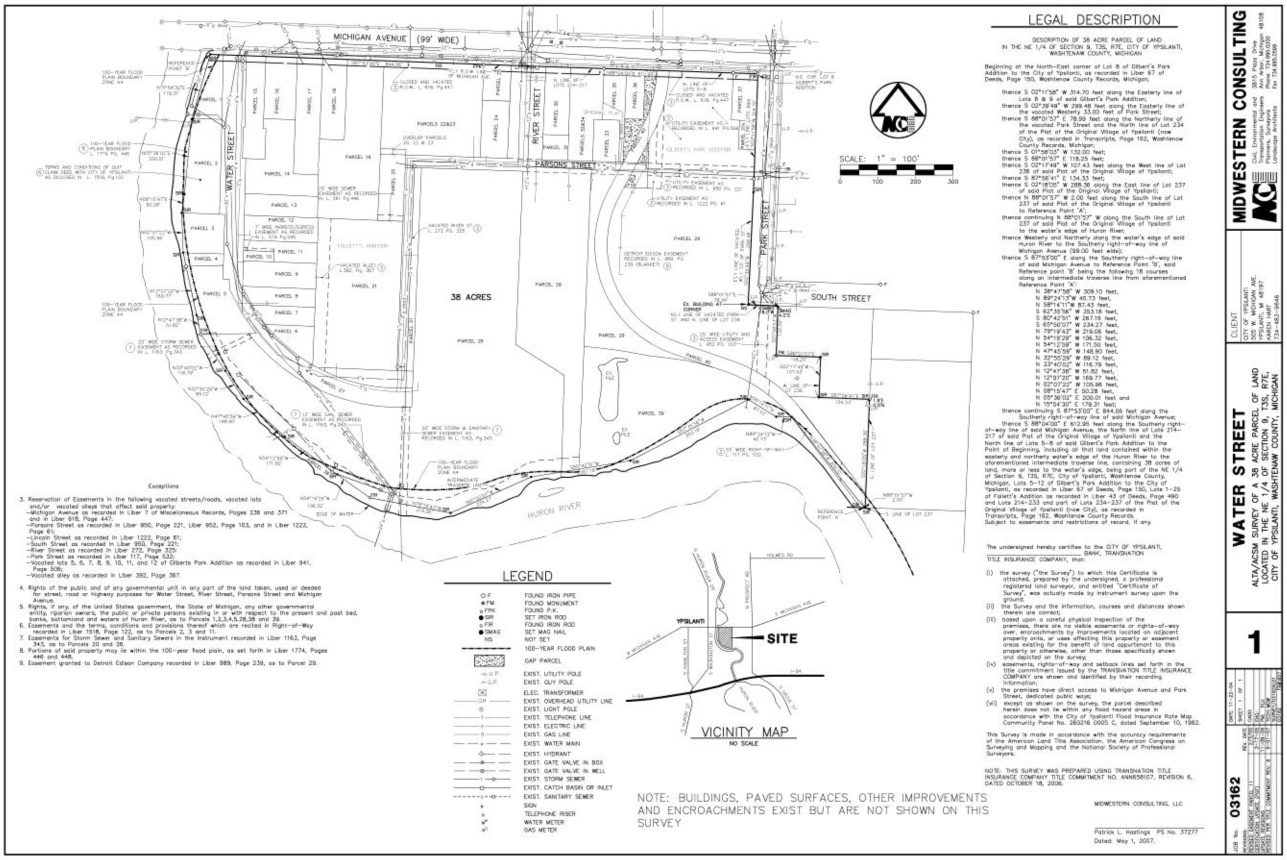


EXHIBIT C

NEW ZONING ORDINANCE

EXHIBIT D

RESTRICTIVE COVENANT AGREEMENT

DECLARATION OF RESTRICTIVE COVENANT

This transfer is exempt from taxation pursuant to MCLA 207.505(a) and MCLA 207.526(a), the consideration being less than One Hundred Dollars and pursuant to MCLA 207.505(l) and MCLA 207.526(n), confirming a title already vested in Grantee.

THIS DECLARATION (the "Declaration") is made by **THE CITY OF YPSILANTI**., a Michigan municipal corporation, of One South Huron Street, Ypsilanti, Michigan 48197 ("Declarant"), being the owner of property situated in the County of Washtenaw, and State of Michigan, described in Exhibit A attached hereto (the "Retained Property"):

Background

Declarant owns the Retained Property. Simultaneously upon execution of this Declaration, Declarant has sold the real property (the "Sale Property") described on attached Exhibit B to Ninety Nine 90, LLC (the "Purchaser"). As a condition of Purchaser's willingness to purchase the Sale Property, Declarant agreed to restrict the use of the Retained Property as follows:

Declarations

1. Use Restrictions. For so long as Family Dollar, its successors or assigns, is open and operating a fully staffed and inventoried variety store, variety discount store, discount department store, dollar store, liquidation or close-out store on the Sale Property, from being used as any variety store, variety discount store, discount department store, dollar store, liquidation or close-out store, or any store similar to a Family Dollar store in operation or merchandise including, but not limited to, Dollar General, Bonus Dollar, dd's Discounts, Deal$, Only Deals, 99 Cents Only, Dollar Tree, Fred's, or Marc's (the "Exclusive Use Restriction"); provided, however, the Exclusive Use Restriction shall not prohibit any portion of the Retained Property from being used as (a) a big box discount department store (the term "big box discount department store" shall not include those stores listed above) which exceeds Thirty Thousand (30,000) square feet (like a Target, Meijer, Wal-Mart or Kmart), (b) a drug store, (c) a grocery store, (d) a toy store, (e) a hobby store, (f) a sporting goods store, (g) a card and gift store, (h) a hardware store, (i) a home improvement store, (j) an auto supply store, (k) an electronics store, (l) an office supply store, or (m) any other store selling a single category of merchandise, even though the category may be a broad one such as toys or hardware.

2. Duration. This Declaration shall remain in full force and effect while Family Dollar is constructing a dollar store on the Sale Property, but shall automatically terminate in the event Family Dollar does not open within the period required by the Purchase Agreement. Once Family Dollar has opened, this Declaration shall automatically terminate when Family Dollar, its successors or assigns, fails to operate a fully staffed variety store, variety discount store, discount department store, dollar store, liquidation or close-out store on the Sale Property for period of 6 consecutive months or more, other than in connection with a renovation or restoration in connection with a casualty. This Declaration will not

terminate in connection with a renovation or restoration so long as Family Dollar is diligently pursing such renovation or restoration.

3. Enforcement. In the event of a violation or breach of this Declaration, Purchaser, and its successors and assigns, shall have the right to proceed at law or in equity to compel compliance with the Declaration or to prevent its violation or breach. The Declarant's obligation to Purchaser shall be limited to recording of this Declaration and Declarant's own acts which violate the Exclusive Use Restriction. Declarant shall have no personal liability to Purchaser, any successor owner of the Sale Property, or Family Dollar for any violation of this Declaration by any party other than Declarant.

4 Amendment. The provisions of this instrument may be amended or terminated, but only with the consent of the owner of the Sale Property.

IN WITNESS WHEREOF, the undersigned has executed this Declaration of Restrictive Covenant effective on the ____ day of __________, 2013.

The City of Ypsilanti, a Michigan municipal corporation.

By: ____________________________________

Its: Mayor

And

By: ____________________________________

Its: ____________________________________

STATE OF MICHIGAN)
)ss.
COUNTY OF WASHTENAW)

The foregoing instrument was acknowledged before me, a notary public, this _______ day of __________, 2013, by ____________________________, the Mayor of The City of Ypsilanti, a Michigan municipal corporation, on behalf of said corporation.

____
________________________________, Notary Public
__________________________ County, ___________
My commission expires: ________________________

STATE OF MICHIGAN)
)ss.
COUNTY OF WASHTENAW)

The foregoing instrument was acknowledged before me, a notary public, this _______ day of __________, 2013, by ____________________________, the Mayor of The City of Ypsilanti, a Michigan municipal corporation, on behalf of said corporation.

____
_________________________________, Notary Public
__________________________ County, ____________
My commission expires: ________________________

EXHIBIT E

COVENANT DEED

_______________________________SPACE ABOVE THIS LINE FOR RECORDING PURPOSES_______________________________

COVENANT DEED

Grantor, **City of Ypsilanti**, whose address is One South Huron Street, Ypsilanti, Michigan 48197, does hereby grant, bargain and convey to Grantee, **Ninety Nine 90, LLC**, whose address is ____, the following described real property situated in the City of Ypsilanti, County of Washtenaw, State of Michigan, more fully described as follows:

See attached Exhibit A

together with Grantor's interest in all and singular the rights, tenements, hereditaments, privileges and appurtenances thereunto belonging or in anywise appertaining ("Property"), and all of the estate, right, title, interest, claim or demand whatsoever, of Grantor, either in law or in equity, of, in and to the Property.

No portion of the Property shall be owned and/or used by any entity that would qualify the Property as exempt for ad valorem taxes and/or assessments.

Subject to conditions, restrictions, easements, limitations and rights-of-way of record, any liens for taxes not yet due and payable, any matters which would be disclosed by a current survey, zoning or other governmental restrictions.

Grantor grants to Grantee the right to make no divisions under Section 108 of the Land Division Act, Act No. 288 of the Public Acts of 1967.

Consideration is set forth on the Real Estate Transfer Tax Valuation Affidavit filed herewith.

Grantor will warrant and defend the conveyed premises against the lawful claims and demands of all persons claiming through Grantor but against no other person including predecessors in title.

______________________________signatures on the following page___________________________________

Dated this ______ day of ________________, 2013

City of Ypsilanti, a Michigan municipal corporation.

By: ___________________________________

Its: Mayor

And

By: ___________________________________

Its: ___________________________________

STATE OF MICHIGAN)
)ss.
COUNTY OF WASHTENAW)

The foregoing instrument was acknowledged before me, a notary public, this _______ day of __________, 2013, by ____________________________, the Mayor of The City of Ypsilanti, a Michigan municipal corporation, on behalf of said corporation.

____
________________________________, Notary Public
__________________________ County, ___________
My commission expires: ________________________

STATE OF MICHIGAN)
)ss.
COUNTY OF WASHTENAW)

The foregoing instrument was acknowledged before me, a notary public, this _______ day of __________, 2013, by ____________________________, the Mayor of The City of Ypsilanti, a Michigan municipal corporation, on behalf of said corporation.

____
________________________________, Notary Public
__________________________ County, ___________
My commission expires: ________________________

Drafted by and when recorded return to:

Exhibit A to Covenant Deed

Legal Description

EXHIBIT F

LOCATION OF THE SHARED DRIVE

EXHIBIT G

~~SHARED~~ ACCESS DRIVE EASEMENT AGREEMENT

~~RECIPROCAL~~ EASEMENT AGREEMENT

THIS ~~RECIPROCAL~~ EASEMENT AGREEMENT (this "Agreement") is made and entered into this ___ day of _______________, 2013, by and between FAMILY DOLLAR STORES OF MICHIGAN, INC. ("First Party") and the City of Ypsilanti, a Michigan municipal corporation ("Second Party").

WHEREAS, First Party is the owner of a tract of real property located in City of Ypsilanti, County of Washtenaw, State of Michigan, more particularly described on Exhibit A attached hereto and incorporated by reference (the "First Party Tract"), and intends to develop the First Party Tract to be used for retail purposes; and

WHEREAS, Second Party owns a tract of real property adjacent to and lying next to the First Party Tract, also located in City of Ypsilanti, County of Washtenaw, State of Michigan, more particularly described on Exhibit B attached hereto and incorporated herein by reference (the "Second Party Tract"); and

WHEREAS, ~~First Party and~~ Second Party ~~desire~~desires to grant to ~~each other~~First Party easements of access, ingress and egress to enable ~~each of them~~the First Party and their respective Permittees (as hereinafter defined) ~~to have~~ access over and through ~~their respective properties~~that portion of the Second Party Tract described on Exhibit C (the "Access Easement"); and

WHEREAS, First Party desires to construct a ~~driveway over a portion of~~road over the Access Easement Parcel, same being a part the Second Party Tract and Second Party is willing to grant a construction easement for the construction of the driveway; and

WHEREAS, the parties desire to enter into other agreements regarding the use of their respective parcels as set forth herein;

NOW, THEREFORE, in consideration of the above premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, agree as follows:

1. Grant of Construction Easement. Second Party hereby grants to First Party a temporary construction easement (the "Construction Easement") on, over and across that portion of the Second Party Tract depicted on Exhibit C (the "~~Cross Access Drive"). ~~Construction Easement Parcel") for the purpose of constructing the road and sidewalk improvements described on Exhibit __ (the "Access Drive Improvements") within the Access Road Parcel. The location of the ~~Cross~~Construction Access ~~Drive~~Easement is shown on the site plan (the "Site Plan") set forth in Exhibit C attached hereto and incorporated by reference. The Construction Easement shall be a temporary easement, existing for a

period of ~~—~~_____ days (the "Construction Period") beginning on the date (the "Commencement Date") that First Party commences construction of the ~~Cross~~ Access Drive Improvements. The Commencement Date shall be set forth in a written notice from First Party to Second Party given not less than ten (10) days prior to the Commencement Date. First Party shall construct the ~~Cross~~ Access Drive Improvements within the Access Easement Parcel during the Construction Period in a manner that will not unreasonably interfere with business operations on the Second Party Tract or with the orderly flow of traffic thereon. First Party shall obtain and pay for all permits, approvals and licenses necessary for the construction and use of the ~~Cross~~ Access Drive Improvements. The ~~Cross~~ Access Drive Improvements shall be constructed in accordance with all applicable laws, codes, ordinances and other requirements of governmental authorities having jurisdiction thereof. The ~~Cross~~ Access Drive Improvements shall be constructed in a good and workmanlike manner ~~and~~ in accordance with the Site Plan and pursuant to the specifications for roads and sidewalks and curbcuts owned by the City of Ypsilanti. First Party shall pay all costs or expenses related to the construction of the ~~Cross~~ Access Drive Improvements and shall not permit any lien to attach to the Second Party Tract or any part thereof. ~~Once constructed, First Party shall keep and maintain the Cross Access Drive located on the First Party Tract, and other vehicular drives and curb cuts located on the First Party Tract, in good condition and repair. Second Party shall keep and maintain the Cross Access Drive located on the Second Party Tract, and other vehicular drives and curb cuts located on the Second Party Tract, in good condition and repair.~~ The Construction Easement shall automatically terminate upon the expiration of the Construction Period; provided, however, in no event shall the Construction Period last more than one (1) year from the date of recordation of this Agreement. First Party shall indemnify, defend and hold Second Party harmless from and against any claims, losses, causes of action, and damages (including attorney's fees for counsel selected by Second Party) arising out of First Party's construction of the Cross Access Drive and use of the Construction Easement.

~~2)~~2. Grant of ~~Reciprocal~~ Easements of Access, Ingress and Egress ~~[and Parking]~~.

(a) ~~First~~Second Party hereby grants to ~~Second~~First Party, and their respective Permittees (as hereinafter defined), a perpetual, permanent, non-exclusive easement over and across ~~those portions of the First Party Tract improved from time to time for vehicular traffic, including 18-wheel tractor-trailer vehicles, (e.g., driveways and curb cuts), which easement shall be for use by Second Party for vehicular access, ingress and egress (but not parking on the Second Party Access Easement defined below) to and from the Second Party Tract and rights-of-way adjacent to the First Party Tract. Said easement shall hereinafter be referred to as the "Second Party Access Easement." (b) Second Party hereby grants to First Party, and their respective Permittees (as hereinafter defined), a perpetual, permanent, non-exclusive easement over and across those portions of the Second Party Tract improved from time to time for vehicular~~the Access Easement Parcel described on the attached Exhibit D for vehicular and pedestrian traffic (e.g., driveways and curb cuts), which easement shall be for use by First Party for vehicular access, ingress and egress (but not parking ~~on the First Party Access Easement defined below~~) to and from the First Party Tract ~~and rights-of-way adjacent to the Second Party Tract~~to Michigan Avenue. Said easement shall hereinafter be referred to as the "~~First Party~~ Access Easement."

(~~c~~b) Notwithstanding the above, the ~~Second Party~~ Access Easement ~~and the First Party Access Easement are~~is contingent upon the completion of construction of the ~~Cross~~ Access Drive Improvements in accordance with the requirements set forth in Section 1 above.

3. Covenants Running with the Land. The Access Easement herein granted by Second Party to First Party shall run with the land. Second Party hereby warrants and covenants with First Party that it has the right to convey such easements and that the easements are unencumbered except for easements and restrictions of record on the date hereof.

~~(a) The Second Party Access Easement herein granted by First Party to Second Party shall run with the land. First Party hereby warrants and covenants with Second Party that it has the right to convey such easements and that the easements are unencumbered except for easements and restrictions of record on the date hereof.~~

~~(b) The First Party Access Easement herein granted by Second Party to First Party shall run with the land. Second Party hereby warrants and covenants with First Party that it has the right to convey such easements and that the easements are unencumbered except for easements and restrictions of record on the date hereof and a mortgage in favor of ______________________________ (the "Lender").~~

4. Maintenance. First Party shall, at its sole cost and expense, maintain the ~~Cross-~~Access Drive Improvements until such time as the Access Drive Improvements are utilized by any party other than the First Party for access to any portion of the Second Party Tract ~~("Third Party Use")~~ Upon the commencement of any Third Party Use, the First Party and the third party shall share maintenance costs for the ~~Cross-~~Access Drive equally until the Access Drive or Access Drive Improvements can be dedicated. Further, upon the commencement of any Third Party Use, the Access Drive shall be dedicated and the Second Party shall cooperate with the First Party to accept such dedication as soon as practicable.. In the event any party fails to maintain, repair or replace the ~~Cross-~~Access Drive as set forth above, the other parties shall have the right to perform such maintenance, repair and/or replacement. If any party fails to reimburse the other party for maintenance, repair and/or replacement costs associated with the ~~Cross-~~Access Drive within thirty (30) days after demand for same is made, the party performing such maintenance, repair and/or replacement shall have the right, in addition to any other remedies at law or in equity, to file a lien for the unpaid amounts against the parcel owned by the party facility to reimburse, as applicable, which such lien shall be subordinate to any first mortgage lien. As used in this Agreement, the term "maintain" or "maintenance" shall mean to: (a) maintain (including periodic patching and resurfacing) the ~~Cross-~~Access Drive Improvements in a good and safe condition and state of repair; (b) replace the ~~Cross-~~Access Drive Improvements as needed to ensure that it is kept in a good and safe condition and state of repair; and (c) keep the ~~Cross-~~Access Drive free and clear from unreasonable accumulations of snow, ice, leaves, debris, litter or other obstructions. All maintenance, repair and/or replacement activities shall be performed in a lien-free, good and workmanlike manner and undertaken in such a manner so as not to unreasonably interfere with the use and enjoyment of the ~~Cross-~~Access Drive. Once the ~~Cross-~~Access Drive is dedicated, the maintenance obligations of the First Party and the any third party set forth herein shall terminate automatically.

5. Condemnation. Nothing in this Agreement shall be construed to give one party any interest in any award or payment made to the other party in connection with any exercise of eminent domain or transfer in lieu thereof affecting the other party's rights or giving the public or any government any rights. The parties may file collateral claims with the condemning authority for their losses that are separate and apart from the value of the land area and improvements taken.

6. Driveway Changes. First Party and Second Party each reserve the right to from time to time change the driveways and other traffic improvements located within their respective parcels other than the ~~Cross~~ Access Drive. In the event either party wishes to modify the location of the ~~Cross~~ Access Drive, the party must obtain the prior written consent of the other party, which may be granted or denied in that parties sole and exclusive discretion.

7. Permittees. As used herein, the term "Permittees" shall mean each party hereto, and their successors in title, and each of their respective tenants, employees, contractors, guests and invitees.

(Signature/Notary pages attached)

IN WITNESS THEREOF, the parties have executed this Agreement as of the day and year first above written.

<table>
<tr><td>WITNESSES AS TO FIRST PARTY:</td><td>FIRST PARTY:</td></tr>
<tr><td>Signed:___________________________
Print Name:_______________________

Signed:___________________________
Print Name:_______________________</td><td>«FD_Entity», «FD_Entity_Description»

By:______________________________
Print Name:_______________________
Title:____________________________

Dated:___________________________</td></tr>
<tr><td></td><td></td></tr>
<tr><td colspan="2">STATE OF «STATE_FULL_NAME»
COUNTY OF «COUNTY»

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by ______________________, the ___________________, of «FD_Entity», «FD_Entity_Description», freely and voluntarily under authority duly vested in him by said company. He/she is personally known to me or has produced ______________as identification.

WITNESS my hand and official seal in the County and State last aforesaid this _____ day of _______, 2012.

____
Notary Public

____
Typed, printed or stamped name of Notary Public

My Commission Expires: __________________</td></tr>
<tr><td></td><td></td></tr>
<tr><td></td><td></td></tr>
</table>

<table>
<tr><td>WITNESSES AS TO SECOND PARTY:</td><td>SECOND PARTY:</td></tr>
<tr><td>Signed:____________________________
Print Name:________________________

Signed:____________________________
Print Name:________________________</td><td>By:________________________________
Print Name:________________________
Title:______________________________

Dated:_____________________________</td></tr>
<tr><td></td><td></td></tr>
<tr><td colspan="2">STATE OF «STATE_FULL_NAME»
COUNTY OF «COUNTY»

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by _______________________, the ____________________, of _______________________________, a ___________________________________, freely and voluntarily under authority duly vested in him by said company. He/she is personally known to me or has produced _______________as identification.

WITNESS my hand and official seal in the County and State last aforesaid this _____ day of _______, 2012.

____
Notary Public

____
Typed, printed or stamped name of Notary Public

My Commission Expires: ___________________</td></tr>
<tr><td></td><td></td></tr>
<tr><td></td><td></td></tr>
</table>

TRACT - CONSENT AND SUBORDINATION OF LENDER

Lender Consent

____________________, a ______________________________ (*Type of Lender*), as holder of that certain ____ *(Mortgage, Deed of Trust, etc.)* dated ___________________________ with respect to the ________ **Tract**, hereby consents to the terms and conditions contained in this Agreement and subordinates the lien of said ____ *(Mortgage, Deed of Trust, etc.)* to this Agreement.

STATE OF ___________________:

COUNTY OF ______________:

The foregoing instrument was acknowledged before me on _____________, 2011 by ________________________________, the _____________________________ of ____________________________, a ____.

He/She is personally known to me, or produced _________________ as identification.

____

Notary Public, State of _________________

Name Printed:_________________________

My Commission expires: _______________

[NOTARIAL SEAL]

EXHIBIT A

Description of First Party Tract

EXHIBIT B

Description of Second Party Tract

<u>EXHIBIT C</u>

Site Plan

Document comparison by Workshare Professional on Tuesday, April 30, 2013 6:37:30 PM

Input:	
Document 1 ID	interwovenSite://AMERICAS/ACTIVE/20708161/11
Description	#20708161v11<ACTIVE> - Purchase Agreement - Family Dollar
Document 2 ID	interwovenSite://AMERICAS/ACTIVE/20708161/12
Description	#20708161v12<ACTIVE> - Purchase Agreement - Family Dollar
Rendering set	Standard

Legend:	
Insertion	
~~Deletion~~	
~~Moved from~~	
Moved to	
Style change	
Format change	
~~Moved deletion~~	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	72
Deletions	76
Moved from	4
Moved to	4
Style change	0
Format changed	0
Total changes	156

Resolution No. 2013-052
March 19, 2013
May 7, 2013 (REVISED)

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS, The Ypsilanti City Council approved a Letter of Intent for the sale of up to 1.25 acres in November of 2012; and

WHEREAS, Ypsilanti City staff have been working with **NINETY NINE 90, LLC** on behalf of Family Dollar on a 1.1 acre development on the SE corner of the Water Street Redevelopment Area (on Michigan and Park Streets); and

WHEREAS; Ypsilanti City Council approved an ordinance to sell Water Street on August 18, 2009; and

WHEREAS, Ypsilanti City Council has passed a resolution requiring a public hearing with every purchase offer for the Water Street Redevelopment Area in July 21, 2009; and

WHEREAS; Ypsilanti City Council has held a public hearing for a sale of a portion of the Water Street Redevelopment area to provide an opportunity for public input on March 19, 2013; and

WHEREAS: **NINETY NINE 90, LLC**, Family Dollar and the City have negotiated terms including a concept site plan, related building elevations, contingency and governmental approval periods as well as price for the land; and

WHEREAS **NINETY NINE 90, LLC** has agreed to the attached purchase agreement for the purchase and development of .85 acres for $210,000 for the development of a Family Dollar Store

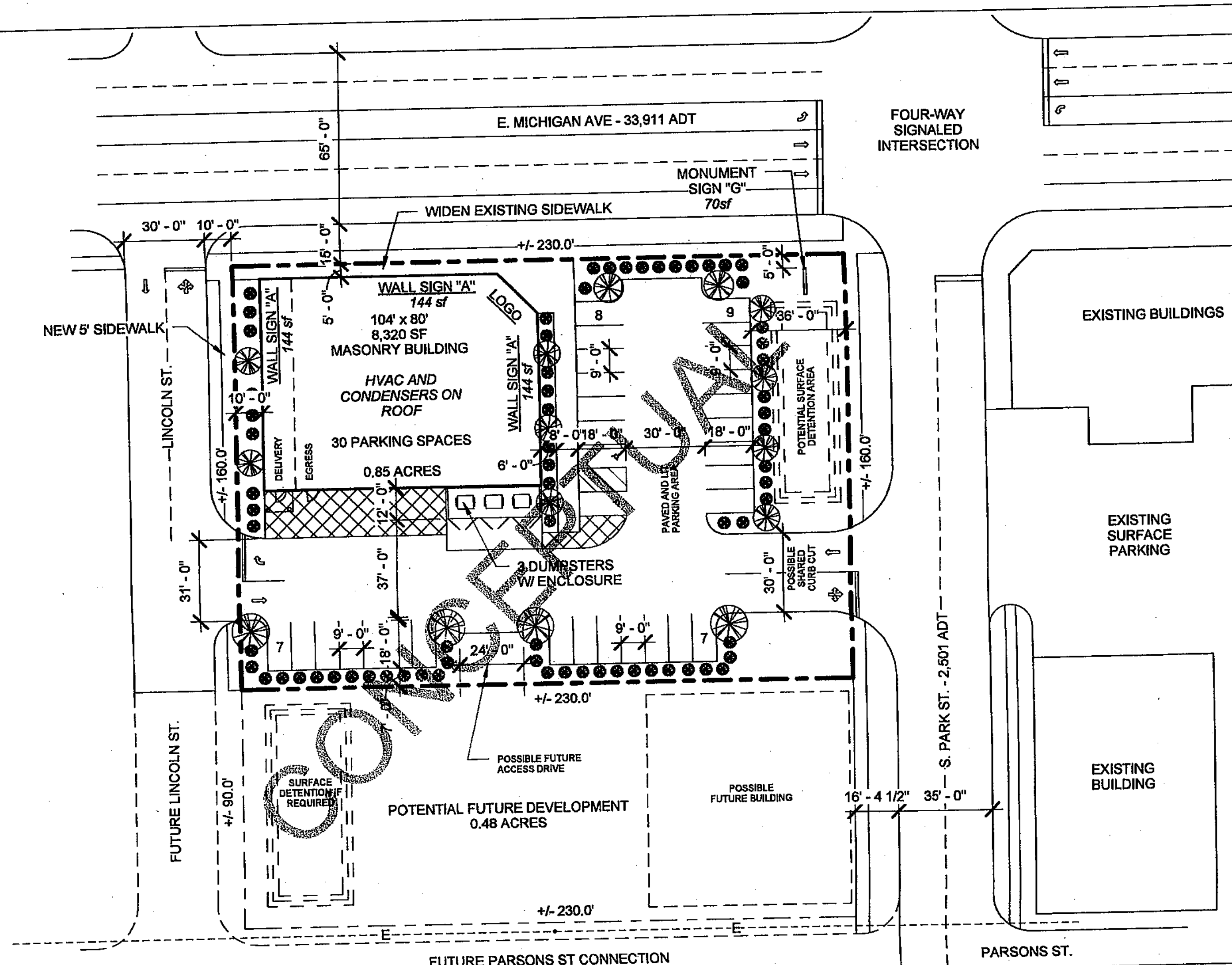
NOW, THEREFORE, BE IT RESOLVED THAT the Ypsilanti City Council approve the attached Purchase Agreement with **NINETY NINE 90, LLC** to sell and develop .85 acres of the Water Street Redevelopment Area as presented in the agreement and attachments; and

FURTHER, that the Mayor and City Clerk are authorized to sign the Purchase Agreement

OFFERED BY: ____

SUPPORTED BY: ____

YES: NO: ABSENT: VOTE:



1 Site v1
1" = 40'-0"

CORE Resources, Inc.
7795 Five Mile Road
Cincinnati, Ohio 45230

FAMILY DOLLAR
YPSILANTI, MI

No.	Description	Date

SITE PLAN

Project number	12-099	S1
Date	05-01-13	
Drawn by	JJA	
Checked by	BT	Scale 1" = 40'-0"

5/4/2013 3:40:58 PM

Resolution No. 2013 – 073
May 7, 2013

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

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

NAME	BOARD	TERM TO EXPIRE
Sally Lusk (reappointment) 1111 W. Clark Rd. Ypsilanti, MI 48198	**Huron River Watershed Council**	12/2/2014
Sally Lusk (new appointment) 1111 W. Clark Rd. Ypsilanti, MI 48198	**Ethics Board**	10/16/2013
Mark Bullard (reappointment) 37 Photo Ypsilanti, MI 48198	**Planning Commission**	5/1/2016

OFFERED BY: ______________________________

SUPPORTED BY: ______________________________

YES: NO: ABSENT: VOTE:

Statement by Sally Lusk for Huron River Watershed Council:
Sally Lechlitner Lusk, PhD, RN, FAAN, FAAOHN
Professor Emerita, The University of Michigan

BACKGROUND AND EXPERIENCE:

- Masters in Public Health Degree from the University of Michigan. Program included a focus on water quality and environmental health.
- Residence on the river with continuous observation of the river and its inhabitants.
- Personal investment in and concern for water quality..

GOALS (for Second Term):

- Keep Ypsilanti officials and community informed regarding pertinent issues related to the Huron River's passage through our city.
- Promote enactment of relevant ordinances to protect and enhance quality of the River.
- Inform the HRWC regarding concerns and interests of Ypsilanti's citizens and officials.

Statement by Sally Lusk for Ethics Board:
Sally Lechlitner Lusk, PhD, RN, FAAN, FAAOHN

Dr. Lusk, an Ypsilanti resident, is a Professor Emerita in the University of Michigan School of Nursing. She earned her BSN from Indiana University, and her MPH and PhD degrees from the University of Michigan. During her 34 years at the School of Nursing she conducted research to promote worker health and safety, taught courses to all levels of students, directed BSN and MS programs.

As a believer in good government delivered with integrity and transparency, she is interested in serving on the City's Ethics Board. According to the City Ordinance 819, the Board is to study ethical problems, make recommendations to the City Council, and may be asked to review complaints received by the City Attorney. Her ability to serve in this role is based on: an understanding of the structure and functioning of local government; experience with local and federal agencies; teaching of ethical principles in college courses; and a strong commitment to ensuring that the City of Ypsilanti delivers high quality services while observing the letter and spirit of laws and rules.

Dear Mayor Schreiber,

I truly appreciate your desire to reappoint me for another term on the City of Ypsilanti Planning Commission. It has been an honor serving my community and I believe that we have a high functioning group of commissioners from various disciplines and backgrounds.

Going forward I see many opportunities and challenges for Ypsilanti.
The development of the Master Plan will set the course for many years to come. The economy is improving and I see many projects on the horizon.

My goals for the future are to continue to support the mission & Vision of the Planning Commission.

<u>Mission & Vision</u>

To maintain and improve the quality of life in the City of Ypsilanti by providing excellent planning, zoning, preservation, and economic development services within available resources. To work creatively and collaboratively to enhance the natural and built environment of the City of Ypsilanti so that its population grows, its economy thrives, and it becomes the premier community of choice in Eastern Washtenaw County.

Ypsilanti is my home. I am raising my family here. I am redeveloping multiple properties in Ypsilanti and have a vested interest in the success of the City of Ypsilanti in cooperation with surrounding communities and various interest groups.

Thank you for honoring me with this opportunity to serve my community.
Please feel free to call on me for future appointments.

Regards,

Mark W. Bullard

Resolution No. 2013 – 074
May 7, 2013

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

That the Minutes of April 23, 2013 be approved.

OFFERED BY: ____

SUPPORTED BY: ____

YES: NO: ABSENT: VOTE:

Draft

CITY OF YPSILANTI
COUNCIL MEETING MINUTES
CITY COUNCIL CHAMBERS - ONE SOUTH HURON ST.
YPSILANTI, MI 48197
TUESDAY, APRIL 23, 2013
7:00 P.M.

I. CALL TO ORDER –

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

II. ROLL CALL –

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

Council Member Jefferson moved, supported by Council Member Moeller, to excuse the absence.

On a voice vote the motion carried.

III. INVOCATION –

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

IV. PLEDGE OF ALLEGIANCE –

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

V. AGENDA APPROVAL –

- *Added:* An update for the Grove reconstruction project, by Kent Early of OHM, was added to the presentations.

- *Moved:* Resolution No. 2013-067 from the consent agenda to follow the Grove reconstruction project update.

- *Added:* A closed session was added to the end of the agenda.

On a voice vote the agenda was approved as amended.

VI. INTRODUCTIONS –

Mayor Schreiber introduced Kent Early from OHM, Director of Public Services Stan Kirton, City Planner Teresa Gillotti, and former Council Member John Gawlas.

VII. PRESENTATIONS –

1. Proclamation for Jim Toy – Mayor Schreiber

   Mayor Schreiber read and presented the Proclamation for Jim Toy.

Mr. Toy stated that the City of Ypsilanti has advanced freedom and justice, without ceasing, for many oppressed individuals and groups, and will continue to do so. He said that, though the City's nondiscrimination policy has had detractors, who have tried to have it voided, it has been upheld by popular vote. He stated that there was a mountain of justice that we were climbing, hand in hand.

2. OHM Update for Grove Reconstruction Project – Kent Early

Mr. Early provided a brief update on the progress of the Grove reconstruction project. He stated that the road has been in significantly deteriorating condition for quite some time and they have been attempting to get funds to undertake the project for many years. He said that the funding was now available and they have begun designing the project, with the assistance of Ms. Gillotti and Mr. Kirton. He showed the proposed plans, discussed the suggestions from the Planning Commission, and explained that the proposed plans have been designed to ensure the federal funding would not be at risk. He stated that they anticipate a mid-to-late July start date for the construction of the project, which should take approximately three months.

Mayor Pro-Tem asked when the project would be completed, if it began in mid-to-late July.

Mr. Early answered mid-to-late October. He also said that, in order to speed up the construction project, they had limited the road to one-way traffic, as maintaining two-way traffic would increase the project timeline up to five months.

Mayor Pro-Tem Richardson asked if the direction of traffic would be going south.

Mr. Early answered that the direction of one-way traffic would be going north. He stated that this is because the road commission is doing a maintenance project in Ypsilanti Township, along with other ongoing projects, and it would be easier to detour traffic.

Council Member Murdock asked if the project would coordinate with the Ford Blvd. closure.

Mr. Early answered yes and stated that it was one of the things that had to be satisfied with the road commission before the permit was issued.

Council Member Murdock asked Mr. Lange where they would get the $40,000.

Mr. Lange answered that the $40,000 was in the budget, between the two years, and it was the federal portion of funds the City was waiting on.

Mayor Pro-Tem Richardson asked how to access locations along Grove Rd. when traffic was only heading northbound.

Mr. Early answered that taking Ecorse to Harris would get back to Grove. He said it is not preferred but it will help to speed up the project.

Council Member Murdock asked if the money for the project was coming out of the Major Streets fund.

Mr. Lange answered that he thinks that is correct. He said the federal grant pays for the project upfront and the City is billed for their portion.

Council Member Murdock stated that City Council had budgeted a transfer from the General Fund to the Major Streets fund to cover the City's portion, prior to Mr. Lange being hired, and when Mr. Lange was hired, and advised that the funds were not needed, Council did not follow through on the transfer.

Mr. Lange stated that there was enough fund balance in the Major Streets Fund to cover the project without the transfer.

a. Resolution No. 2013-067, authorizing the Director of Public Services and OHM to make application to MDOT to include the Forest Avenue Bridge on the 2016 State and Federal Local Bridge Programs for priority preventative maintenance.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

Whereas, the bridge located on Forest Ave. over the Huron River in the City of Ypsilanti was constructed in 1964; and

Whereas, the City of Ypsilanti had a bridge inspection completed in 2013, which notes significant deficiencies in the piers and slope protection as well as the bridge deck; and

WHEREAS, based on the findings and recommendations of the City's consulting engineers, Orchard, Hiltz and McCliment (OHM), the Director of Public Services recommends that the City Council authorizes the Director of Public Services and Orchard, Hiltz and McCliment to submit application to the Michigan Department of Transportation to include the Forest Avenue Bridge on the State and Federal Local Bridge – 2016 Local Bridge Program as a priority for preventative maintenance.

NOW THEREFORE BE IT RESOLVED THAT, the City is actively seeking financial participation to repair the Forest Avenue Bridge, and City Council authorizes the Director of Public Services and Orchard, Hiltz and McCliment to make application to the Michigan Department of Transportation to include the Forest Avenue Bridge on the 2016 State and Federal Local Bridge Programs for priority preventative maintenance.

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

Mr. Early provided a summary and background.

<u>SUMMARY & BACKGROUND</u>

The bridge located on Forest Avenue over the Huron River was constructed in 1964 and rehabilitated in 1995. The bi-annual bridge inspections conducted by Orchard, Hiltz and McCliment (OHM) in 2013 revealed significant deficiencies in the piers and slope protection. Also, noted were cracks developing in the concrete bridge deck. Over time, these cracks can allow moisture to penetrate and cause damage to the deck, routed joints and the beams. To increase the life of the structure it is recommended that an epoxy overlay be placed on the bridge deck to prevent moisture penetration.

Based on their bridge inspection OHM recommends that the City Council authorizes the Director of Public Services and Orchard, Hiltz and McCliment to submit application to the Michigan Department of Transportation to include the Forest Avenue Bridge on the State and Federal Local Bridge – 2016 Local

Bridge Program as a priority preventative project. The City will apply for priority preventative maintenance as opposed to priority rehabilitation which will be a less costly project.

Staff concurs with OHM and recommends City Council authorizes the Public Services Director and OHM to submit application for the 2016 Local Bridge Program.

Council Member Murdock asked if the Forest Avenue bridge was being recommended for the project as opposed to the Cross Street bridge, which, according to the ratings, was in more disrepair, because of the cost.

Mr. Early stated that the Cross Street bridge would cost close to $1 million just to address the necessary repairs.

Council Member Murdock asked why the Factory Street bridge was still listed as structurally deficient when work had been done three or four years prior.

Mr. Early answered that the MDOT rating for that bridge has not been updated since the project was completed.

Council Member Murdock asked if the funds had been awarded for the Prospect Street project.

Mr. Early answered that they had been awarded for 2014.

Council Member Murdock asked if the Forest Street project would be done in 2016.

Mr. Early answered yes.

Council Member Murdock confirmed that there would be no projects in 2015.

Mr. Early answered that 2015 was accounted for and the Cross Street bridge could potentially be a project for 2018.

Mr. Lange stated that he thinks it is important to take advantage of the ability to do heavy preventative maintenance instead of waiting for total reconstruction, due to the sharp increase in cost once the roads become heavily deteriorated.

On roll call, the vote to approve Resolution No. 2013-067 was as follows:

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

VOTE:

Yes: 6 No: 0 Absent: 1 (Vogt) Vote: Carried

3. Family Dollar Update – Planner Teresa Gillotti

Ms. Gillotti stated that the plan was to bring the Family Dollar agreement before Council and shared that there were delays in getting the agreement updated after the master planning sessions and the joint Planning Commission and City Council meeting. She stated that Core Resources agreed to push the date back which would allow the agreement to be presented, with potential changes to the concept plan, at the first meeting in May. She provided an overview of the potential changes to the concept plan.

Mayor Pro-Tem Richardson asked if the parking would be moved to the back.

Ms. Gillotti answered that it was a possibility.

Mayor Pro-Tem Richardson stated that she did not like that and thought the parking should stay where it is. She said that she did not like going to stores where the parking was in the back because she did not feel comfortable.

Ms. Gillotti asked if Mayor Pro-Tem Richardson felt more comfortable with the on-street parking on Michigan Avenue.

Mayor Pro-Tem Richardson stated that she still felt the parking should stay where it was and should not be moved to the back of the building.

Mr. Lange stated that, since utilities typically tear up the streets, they were getting into easements on the edges of the parcels. He said they were initially running the water and sewer lines on the streets but stated that it was a lot more efficient to tear up a sidewalk or a curb.

Mayor Schreiber stated that he liked all of the changes that had been presented because he felt they contributed to a walkable community, which is something he feels a lot of people value.

Council Member Jefferson asked why the orientation would be changed.

Ms. Gillotti answered that there would be more building frontage along Michigan Avenue while leaving an out-lot available for future development.

Council Member Jefferson stated that he agrees with the safety issues with having parking moved to the back of the building. He asked if the parking was in the same location as the stormwater drainage.

Ms. Gillotti answered that they were trying to have a collective stormwater drain that would serve as a feature for the entire site, which makes use of the flood plain, an area that is hard to build on, at the rear of the site. She stated that this would mean there did not have to be a detention pond on each site, though there would likely be one on this site because things were moving so quickly. She stated that the reason they have considered moving the parking to the rear of the building was because downtown has all on-street parking and the plan was to extend that down to this site.

Council Member Moeller asked if this was a grocery store.

Ms. Gillotti answered that it was a discount retail store that would have some food items.

Council Member Moeller asked if people would have carts and would have to walk from the front of the building to the parking lot in the back.

Ms. Gillotti answered that it would be a question of the extent of bulk purchasing that would be done at the store.

Council Member Jefferson asked if a back entrance would be possible.

Ms. Gillotti stated that similar retailers preferred a single point of entrance.

Mr. Lange stated that changing the orientation of the structure would avoid a blank wall facing the street, which would make the building more attractive from that vantage point.

Council Member Murdock asked what else had changed, since their last meeting, because he felt they had already postponed this at the last meeting, to allow time to accommodate for these changes.

Ms. Gillotti answered that a few things have been more refined, including distance from the sidewalk and where the frontages are located, to reflect the new concept site plan.

Council Member Murdock stated that he felt Core Resources was amenable to working out the details but it has not been done.

Ms. Gillotti stated that they had been discussing several concept plans but they wanted to wait until the joint Planning Commission and City Council meeting, which did not allow enough time to submit the agreement for tonight's council meeting.

Mayor Pro-Tem Richardson stated that she agreed with Council Member Murdock and she felt that an agreement had been made at their last meeting and it was only a matter of getting it in writing. She asked why so many changes were still being made as Council had been ready to vote on the matter at the last meeting.

Ms. Gillotti answered that the agreement was based on using the master plan changes as a guide, and they thought they would be able to get the agreement turned around in time for the meeting, but were unable to do so.

Mayor Pro-Tem Richardson stated that there were now going to be additional changes that Council would have to look over and go through, which may set off the agreement even further, and she was not happy about that.

Mayor Schreiber stated that Council did vote to delay the topic until this meeting and it is unfortunate that there were only four hours to work with the developer prior to the deadline for submitting the agreement for the meeting.

Mayor Pro-Tem Richardson stated that Council had delayed the topic in order to allow time to change the language of the agreement.

Council Member Murdock stated that he recalls having discussed all of these changes before and he does not feel like they are new, they are simply being refined. He said the only new change he sees is the stormwater drains, which he thinks is a great idea. He said he thinks they are in the same position they left off from at the last meeting.

Ms. Gillotti stated that some of the details, like a 10 ft. sidewalk instead of an 8 ft. sidewalk, are an additional cost to the developer, so they will have to go back and see if the changes will fit within their budget. She said they were trying to get the agreement set so that it reflected the concept site plan and the changes brought about through the master planning process, so that they would not have to make any changes once the project was underway.

Council Member Murdock stated that if they wait for the master plan process to be completed the project would be more than a year and a half out.

VIII. __AUDIENCE PARTICIPATION__ –

Mayor Schreiber read the rules for audience participation.

1. Gail Wolkoff, 1728 Whittier, stated that she is an educator and she works with youth all over the county. She said that this town has a lot of creative people and there are a lot of resources that can create change. She said there are a large number of youth in the area that are going to be going through a large change, due to the consolidation of the

school districts, and it is time to use the hope of the youth to encourage the creation of change to build up the community.

2. Barbara Hale stated that she has lived in the City since 1950 and she is here on behalf of her family. She shared that there are properties that neighbor some of her family's homes that have yards full of dog droppings, which spill over into their yards, and she would like the City to do something about it.

3. Carter Good, 961 Sherman, mentioned that he had previously read a letter from his son, who is currently living in Singapore, about the development of the Water Street site. He said that he had been galvanized by the conversation tonight, especially the comments made about the direction of the City and the hope that we should all have. He stated that Mayor Pro-Tem Richardson's concerns over the safety of the parking lot at the Family Dollar store were also shared by others during the Shape Ypsi meetings and said that safety was the number one value people wished for. He added that Ms. Gillotti's explanation of extending the downtown area's on-street parking, with additional parking in the rear, to the Family Dollar site would help people to see the City as one big unit.

4. Amy Strutz, 8 N. Mansfield, stated that the City of Ypsilanti was on track to become a solar destination and she would like to move forward and start looking at ways to get there. She mentioned the local group Go Solar, which wants to get 1,000 roofs in Ypsilanti to have solar panels on them, as a resource for the City. She stated that there are a lot of opportunities coming to Washtenaw County that could benefit the City if we establish ourselves as a strong supporter of solar energy.

5. Sandi Smith, resident of Ann Arbor and former City Council Member, stated that, as the current President of the Jim Toy Community Center, she wanted to thank City Council for their support of Jim Toy. She said that she also wanted to say how exciting the agenda was and she wanted to express her support for the AATA resolution.

IX. REMARKS BY THE MAYOR –

Mayor Schreiber stated that he appreciated Mr. Good's comments and agreed that safety has always been a concern and added that he feels the safety of downtown has improved because the streets are more walkable and there are more people living downtown.

Mayor Schreiber stated that he would be willing to support a resolution committing to 1,000 solar roofs by the year 2020, as suggested by Ms. Strutz.

Council Member Murdock stated that he has been in contact with Go Solar about a resolution and shared that they were going to get a draft back to him. He added that there was a study being done at Eastern Michigan University that would map the roofs that could go solar, and he thinks that the resolution may be on hold waiting for the study to be complete.

X. MINUTES –

Resolution No. 2013-063, approving the minutes of April 9, 2013.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

That the Minutes of April 9, 2013 be approved.

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

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

XI. CONSENT AGENDA – Resolution No. 2013-064

1. Resolution No. 2013-065, approving 517-521 Tyler Road Rezoning – Ordinance No. 1187 ***(Second Reading)***

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

THAT the proposed Ordinance entitled "517-521 Tyler Rezoning" be approved on Second and Final Reading.

2. Resolution No. 2013-066, approving license agreement between the City of Ypsilanti and Ford Motor Company to allow Ford Motor Company to continue environmental clean-up efforts on City property at the corner of Spring Street and Grove Road.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI that:

The certain License agreement between the City of Ypsilanti and Ford Motor Company to allow Ford Motor Company to continue environmental clean up efforts on City property at the corner of Spring Street and Grove Road in the City of Ypsilanti is approved and the Mayor and City Clerk are authorized to sign for the City, subject to the approval of the City Attorney.

4. Resolution No. 2013-068, approving appointments to Boards and Commissions.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

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

NAME	BOARD	TERM TO EXPIRE
Phil Hollifield (reappointment) 125 Hawkins St. Ypsilanti, MI 48197	**Planning Commission**	**5/1/2016**
John Bailey (reappointment) 514 Fairview Ypsilanti, MI 48197	**Zoning Board of Appeals**	**5/1/2016**
Rod Johnson (reappointment) 310 N. Grove Ypsilanti, MI 48198	**Planning Commission**	**5/1/2016**
Conan Malmer (new appointment) 913 Pleasant Dr. Ypsilanti, MI 48197	**Recreation Commission**	**4/23/2016**

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

On a voice vote the motion carried and the consent agenda was approved.

XII. RESOLUTIONS/MOTIONS/DISCUSSIONS –

1. Resolution No. 2013-069, approving request for membership in the Ann Arbor Transportation Authority (AATA).

City of Ypsilanti Request for Ann Arbor Transportation Authority Membership

WHEREAS The City of Ypsilanti has been providing public transportation service to Ypsilanti residents for decades through purchase of service agreements with the Ann Arbor Transportation Authority (AATA), and

WHEREAS AATA and has developed a long range service plan, and

WHEREAS AATA and several Washtenaw County communities have been looking to improve transit service through a regional effort, and

WHEREAS, in 2010 Ypsilanti voters overwhelmingly approved a 0.9789 transit charter millage by a three to one margin; and

WHEREAS, the transit charter millage provides a dedicated revenue stream for bus service and demonstrates a long-term commitment to public transportation by Ypsilanti citizens; and

WHEREAS, the City of Ypsilanti has reached the 20 mill state statutory limit under Section 5. (1) (a) of the State of Michigan Home Rule City Act 279 of 1909 and

WHEREAS the City of Ypsilanti must join a transit authority for the ability to increase transit funding; and

WHEREAS, Ypsilanti bus service can be improved by increasing frequency and hours of operation as demonstrated by a 30 percent ridership increase on AATA Route 4; and

WHEREAS, AATA is a transit authority formed by the City of Ann Arbor under the State of Michigan Public Act 55 of 1963; and

WHEREAS, PA 55 specifies a procedure for political subdivisions like the City of Ypsilanti to join AATA; and

WHEREAS, the City of Ypsilanti wishes to join AATA in return for contributing the entire Ypsilanti City charter transit millage to AATA; and

WHEREAS, expanding the AATA to include the City of Ypsilanti will strengthen the authority and provide options to improve bus service in Ypsilanti, Ann Arbor and throughout the County

NOW THEREFORE BE IT RESOLVED that the City of Ypsilanti requests membership in the Ann Arbor Transportation Authority in accordance with the State of Michigan Public Act 55 of 1963 and asks the AATA Board of Directors to approve the request.

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

Council Member Murdock stated that many people recognize the value of public transportation to our community and our economy. He said there have been difficulties with funding and he thinks the way to move forward is to have a regional authority. He stated that there has been an interest from other communities to join the transit authority and it makes sense for AATA to be the basis for the regional authority since they serve as the public transportation provider and designated agency for the area.

Mayor Schreiber stated that he appreciated Council Member Murdock's work on this and said that he is also in support of a regional transit authority. He said that he feels the County-wide regional authority did not work because it was too large and starting on a smaller scale makes the most sense. He said the Ann Arbor City Council Members understand that the City of Ypsilanti is a vital part of the AATA and helps to strengthen the urban core.

Attorney Barr stated that he, along with the City Attorney in Ann Arbor, had looked over the agreement and the language comports with the statute.

Mayor Pro-Tem Richardson stated that she also wanted to thank Council Member Murdock for his work on this and she feels it is long overdue.

Council Member Murdock stated that, over the last several months, the Mayor had been instrumental in moving this along as well. He shared that the urban core group was meeting this Thursday at the Saline City Hall, if anyone was interested in joining.

On roll call, the vote to approve Resolution No. 2013-069 was as follows:

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

VOTE:

Yes: 6 No: 0 Absent: 1 (Vogt) Vote: Carried

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

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

THAT the labor contract between the City of Ypsilanti and Ypsilanti Police Officers Association (P.O.A.M.) be adopted with the following changes:

<u>Existing Employees:</u>

1. **Four year Contract (July 1, 2012 — June 30, 2016)**
2. **No increase in wages.**
3. **Health Insurance:**
   a. **Employees will continue to have our current BCBS Community Blue PPO**

b. Health Care – Employee contributions toward health plan premium, prescription premium, wrap plan cost, and administrative costs shall be governed by PA 152 of 2011.

4. Pension:

a. Keep at a 3% multiplier and employee contribution at 10%.

b. Maximum pension 90% of FAC.

c. FAC calculation: The Overtime Adjustment Bonus of $1,500 and the one time only $500 signing bonus will not be included in the FAC.

5. Life Insurance: To increase from $30,000 - $60,000

6. Signing Bonus: The 18 current members of the POAM as of 1/01/2013 who are still actively employed by the City as of the date of ratification by all parties, will receive a one-time $500 signing bonus after the contract is ratified by all parties.

7. Dental and Vision Insurance: there will be a modest increase in the quality of these insurances for the 17 POAM members hired prior to 7/01/2012.

8. Overtime Issue: POAM Road Patrol works 104 hours of overtime per year. All POAM Officers will receive a one-time lump sum payment each April 1st in the amount of $1,500 starting April 2013 with the following exception: The Overtime Adjustment Bonus included in the new POAM contract effective July 1, 2012, will not be paid to employees hired after July 1, 2012, until they reach the pay classification of either PO1-3 or PSO1-3.

9. Public Safety Officers (PSO): The parties agree that the City, at its sole discretion, may create the Classification of Public Safety Officer (PSO). In the event that the City, at its sole discretion, creates the PSO Classification, the following shall apply:

***Premium*: In the event that the City elects to create the Classification of Public Safety Officers, unit members who become PSOs, will receive 7% above the Police Officer Wage Scale.**

***Public Safety Officers/Road Patrol*: All PSO's will be counted as assigned to Road Patrol as it relates to the number of part-time officers that**

the City is allowed to hire depending on how many officers are assigned to the Road Patrol.

PSO pay category: **Pay Step/Grades which apply to Public Safety Officers (PSO-1A through PSO3-1A) will not be counted or equate in any way to pay Category P03-1, the pay category that determines the rate of pay for Police Sergeants and Lieutenants. Pay Step/Grades which apply to Public Safety Officers (PSO-1A through PSO3-1A) shall not be used as the basis for pay for Police Sergeants and/or Lieutenants.**

10. **Drop Program 5%: Letter of Agreements should be placed in Union Contract along with DROP Program language and eliminate the 5% contribution for employees choosing to enter the DROP system. Subject to approval of the Retirement Board 5% accumulated contributions will be paid to any DROP participants as soon as feasible following ratification.**

11. **Note: Vacation Schedule (Section 32.3 #4 under General Provisions)**

    Existing employees shall be allowed to bid up to 4 weeks of vacation, with up to 2 weeks for each vacation bid based on the semi-annual shift bids. The process of bidding said vacations shall remain in effect as stated below under Field Services Bureau and Administrative Services Bureau with the exception that only up to 4 weeks of vacation a year can be bid upon. Five weeks of vacation will be restored after 2.5 years (January 1, 2015). Both parties agree to reserve the right to revisit this after 2 ½ years starting from the July 1, 2012.

<u>New Employees hired after July 1, 2012</u>
Please see Attachment A and B.

<u>Contract Language Changes</u>
Additional contract language changes were outlined in the packet provided to City Council previously. This will be found in the City of Ypsilanti Management Proposal to POAM Collective Bargaining Negotiations Final Draft, March 15, 2013. This will also be included in the new POAM Contract.

OFFERED BY: Council Member Jefferson
SUPPORTED BY: Mayor Schreiber

Mr. Lange provided a summary and background and gave a presentation on the proposed changes.

<u>SUMMARY & BACKGROUND</u>

We need to settle the POAM Contract at our earliest opportunity with the Union due to our last contract expiring June 30, 2012. We also need this contract settled as soon as possible because we need to hire additional police personnel. In order to do this, Council has directed that all new employees must be hired under the Tier 2 POAM Wage and Benefit package. The ratification of this contract is necessary for this to occur.

The net cost of settling a new POAM Contract must be as close to zero dollars as possible. This contract will achieve a significant savings to the City with regards to the new employee's Fire & Police Pension costs.

Another major item to be accomplished with regards to this contract was to write in the necessary language that will allow the POAM Union to incorporate the position of Public Safety Officer into their Union. This contract will accomplish this goal.

The YPOA membership met on Friday 3/22/2013 at 1830 to review and vote on City of Ypsilanti Management Proposal to POAM dated March 26, 2013. After a change on Item 8, Page 1, Overtime Issue, the membership had no further issues with the proposal and conducted a vote, the results of which were a majority in favor of accepting the proposal that was submitted.

For the reasons mentioned above, it is the City Manager's request that the City Council approve the resolution approving a new four year contract between the POAM Union and the City of Ypsilanti.

Council Member Murdock asked for clarification regarding whether the officers being counted had to be sworn officers or not.

Mr. Lange answered that all officers, including those out on leave or off for qualified training, were counted and said that those positions shall not be considered unfilled, so long as the City is taking ascertainable good-faith actions to fill a position, even though the budget only counts sworn officers.

Council Member Murdock asked if the City would have to hire three more full-time people before they could hire a part-time worker, based on this arrangement.

Mr. Lange answered yes and said the budget he is going to present would fund the current 17 workers plus two more. He said he knows the City needs more public safety officers and he is trying to get them as cost efficiently as possible.

Council Member Moeller stated that she appreciates the union supporting this, however she will not be voting for it because the public safety officer issue is in the contract and also because there is no raise, for four years, for any police officer. She said she understands that there is give and take involved with negotiations, and she understands the City's financial concerns, but she does not feel that any of it is the fault of the police officers. She stated that she is really unhappy that they are not getting a raise because she feels the citizens of Ypsilanti support their officers.

Council Member Robb stated that this is a bad contract because it does not include a cap on the pension contribution, which is the best thing we can do for the City. He said this is the reason he will vote no on this contract.

Council Member Murdock stated that on one hand Council is arguing that the contract was not giving the officers enough and on the other they are saying they are giving too much.

Mr. Lange stated that changing the retiree health insurance from a defined benefit to a defined contribution is a bigger driver of costs than the pension. He said that he agrees with Council Member Robb that the pension is an important issue, but feels that it is being assaulted.

Council Member Robb stated that he can back up what he says with numbers and argued that capping the pension sooner than later provided more benefit to the City, financially.

Mr. Lange stated that his plan saves $270,000 over the career of an officer.

Council Member Murdock argued that that was not true. He said the medical cost is for people who have already retired, which is going to go up 12% per year, and the new officers hired under this plan wouldn't result in savings for another 25 years. He stated the pension system will eventually bankrupt the City.

Mr. Lange stated that he feels the moves made in this contract are steps forward and those issues are not being ignored. He said the biggest single savings in the contract is the change in the multiplier for the contribution, the annuity waiver and the change from a defined benefit to a defined contribution.

Council Member Murdock stated that what we contribute for medical care only goes to the people that are retired so when the new workers retire they will be on a different system, but he reiterated that that won't happen for another 25 years.

Mr. Lange stated that this was the most conservative tier 2 possible and he said no new employees could be hired until this was taken care of, so he has taken care of it. He added that going from a 3% multiplier to a 2% multiplier is a huge reduction. He said he did not put us in this situation but he is trying to get us out of it.

Council Member Moeller asked if Council Member Murdock was suggesting this new benefit system be in place for all employees instead of only new hires.

Council Member Murdock answered that the pension plan we are under is unsustainable and the City will soon be paying more for pension than for service.

Council Member Moeller asked what his suggestion was.

Council Member Murdock answered that he was just pointing this out.

Council Member Moeller stated that she doesn't see how you can take benefits away from someone who is under a contract that was negotiated a long time ago, including current officers and the retirees. She stated that she had to support the City Manager on this. She added that she does not think police and fire should have to pay for mistakes that were made by Council. She said that she does not understand how Council Member Murdock would have this contract fixed without having the current employees give up benefits. She said the only way to do what Council Member Murdock seemed to be suggesting was to ask officers to give up their pension, reduce their pension multiplier and reduce their healthcare.

Mr. Lange stated that those are all the factors involved. He said there would be one employee under the new contract immediately, if passed, and then adding three more new officers would spread it out a little more. He defended the millage going up by saying that previously, when the mills were at 1.7, one mill was worth over $400,000 and now one mill isn't even worth $300,000.

Council Member Murdock stated that the actual cost of the pension is going up over 10% per year which is $125,000 a year. He said that doesn't have any relationship to millage or number of employees. He stated that dollars are dollars and we have to get them from somewhere.

Mr. Lange stated that he agreed, however it is harder to get that from a smaller economic base. He said he is not trying to be argumentative but this is the most complete tier 2 of any package out there.

Mayor Schreiber stated that it would be hard to negotiate something away that you had previously been working toward, like pensions for current employees. He stated that he does not think we could negotiate down to capping the pension or taking it away from current employees. He said our officers are understaffed and overstressed and if we are going to protect our citizens we need to do something about this. He stated that he would support this contract because he thinks it is a logical step that will help bring the City to solvency, though he thinks they will end up revisiting this issue for the 2016 contract. He said that he appreciates the unions negotiating with the City in good faith.

Council Member Robb stated that in the COAM contract the pension is capped at 16.2%, but we are hiring people, under the POAM contract, which is not capped. He mentioned that when those people are of a promotable age they will not want to be promoted and accept the benefit cut. He said we have to normalize this now.

Mayor Schreiber asked if it is true that it was easier to pass the COAM contract because there was turnover and we knew there were going to be new officers.

Council Member Robb asked how you would get people to accept being promoted from police officer, under the POAM contract where the City's contribution is uncapped, to COAM where it is capped. He asked how we would convince someone to take lesser benefits to get promoted. He said we are creating a problem where we will not be able to promote people into the command officers unit.

Mr. Lange stated that when you take it from a 3% multiplier to a 2% multiplier it reduces the exposure enormously.

Council Member Robb stated that the 2% multiplier is already in the command officer contract. He said that is not new and they had done it already, along with the 16.2% cap. He said that is why they need to keep the contracts the same, at least as far as this aspect goes.

Mr. Lange stated that there were a lot of things they were trying to get out of this contract and he got everything that he could.

On roll call, the vote to approve Resolution No. 2013-051 was as follows:

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

VOTE:

Yes: 3 No: 3 (Moeller, Murdock, Robb) Absent: 1 (Vogt) Vote: Failed

XIII. <u>LIASON REPORTS</u> –

A. SEMCOG Update:

- Mayor Pro-Tem Richardson stated there would be a meeting this upcoming Friday.

B. Washtenaw Area Transportation Study:

- Council Member Murdock stated that there is a meeting on the 2040 long-range plan tomorrow at 2:00 p.m. at Beezy's.

C. Washtenaw Metro Alliance:

- Council Member Robb stated there would be a meeting on the 6th.

D. Urban County:

- Mayor Schreiber stated that the meeting was today, which he had to miss due to the timing.

E. Freight House:

- Council Member Murdock stated that there should be a meeting, to review the final drawings and estimates, in the next week.

XIV. **COUNCIL PROPOSED BUSINESS** –

Mayor Pro-Tem Richardson

- Stated that she was not at the last Council meeting because she was attending the Michigan Municipal League Capital Conference where the Governor was speaking. She shared some of the topics he discussed and said that she thought the conference was good, but she said she was not encouraged by the Governor's report.

Council Member Robb

- Asked the City Attorney if a recent Supreme Court ruling for blood drawing in relation to drunken driving cases impacted the City's ordinance in any way.

  Attorney Barr answered that the Supreme Court case was a result of a Texas drunk driving case. He stated that Texas had a law requiring a search warrant before getting a blood draw from a suspected drunk driver and in this particular case the officer got the blood draw without the warrant. He said the court ruled that for regular traffic stops, unless it was in a situation of extreme emergency, a warrant is required before getting a blood draw. He stated that it does not change anything with our ordinance.

XV. **COMMUNICATIONS FROM THE MAYOR** –

Mayor Schreiber thanked City staff for the master plan update session last week. He stated that there will be a public meeting on Thursday with the Urban Core Transit Group to discuss the "Future of Transit".

A. Nominations to Boards and Commissions

Huron River Watershed Council
Sally Lusk (reappointment)
1111 W. Clark Rd.
Ypsilanti, MI 48198
Term expiration: 12/2/2014

Ethics Board
Sally Lusk (new appointment)
1111 W. Clark Rd.
Ypsilanti, MI 48198
Term expiration: 10/16/2013

Planning Commission
Mark Bullard (reappointment)
37 Photo
Ypsilanti, MI 48198
Term expiration: 5/1/2016

XVI. **COMMUNICATIONS FROM THE CITY MANAGER** –

1. Updated Council that a second Safer Grant had been turned in.

2. Stated that he was working with Police Chief Amy Walker on applying for new grants.

3. Said there would soon be a presentation with City staff and OHM regarding future projects.

4. Mentioned that the Collaboration Committee has met and he feels the meeting was productive.

5. Shared that of the 260 LED light conversions, 4 had already been completed. He added that they were waiting for critical information from one streetlight user along with some documentation from DTE, which they should have this week.

6. Shared that the tridge repair is underway.

7. Stated that he is working with Department of Public Services Director Stan Kirton on evaluating the DPS motor pool.

8. Said that the 2013-2014 budget is on schedule.

9. Shared that things are moving forward with Friends of Rutherford Pool, pending two conditions.

10. Mentioned that $225,000 of energy savings money will be used to enhance energy efficiency in the City Hall building.

11. Shared that SunDurance has turned in the final round application.

12. Mentioned that the next meeting would be Thursday, May 9th, which would be a joint budget session and regular Council meeting.

Council Member Murdock suggested changing the meeting to Tuesday, May 7th, and having a joint regular Council Meeting along with the budget session.

Council agreed to change the meeting to Tuesday, May 7th at 6:00 p.m.

Mr. Lange suggested having an additional budget session on Tuesday May 14th and a final joint regular meeting and budget session on Tuesday May 21st.

Council agreed to these meeting dates.

Council Member Murdock asked if a resolution was required to change the meeting date and add the additional meetings.

Attorney Barr stated that a resolution would be the cleanest way of going about the changes.

Council Member Murdock, supported by Mayor Pro-Tem Richardson, to move the meeting scheduled for Thursday May 9th to Tuesday May 7th.

On a voice vote the motion carried unanimously.

Council Member Jefferson shared that there is an open house at the Parkridge Community Center on Saturday from 11:00 a.m. to 2:00 p.m. and all are welcome. He also mentioned that there has been another application for a Medical Marijuana facility just north of the Huron St. exit off of I-94 and he is concerned about this and thinks Council should consider this.

XVII. <u>AUDIENCE PARTICIPATION</u> –

City of Ypsilanti Police Officer and President of the Ypsilanti Police Officer's Association Robert Peto thanked Mr. Lange and stated that this has been one of the most incredible and successful negotiations in his career and he feels they have accomplished more, on both sides, than they probably ever will from this point on. He also thanked Mayor Schreiber and Council Member Jefferson for their support. He stated that Council Member Moeller was very noble to say that they don't get paid enough but said they still needed her support on the contract. He said that while he understands the positions of Council Member Robb and Council Member Murdock he does not respect these positions, and he does not think they understand what the officers are giving up while their workload and stress level have continued to increase. He stated that he thinks this contract is mutually beneficial.

Mayor Schreiber asked if Council would like to grant Mr. Peto an additional three minutes to express his concerns.

Council agreed, unanimously, to allow Officer Peto additional time to speak.

Officer Peto stated that he does not feel Council understands the success they have had negotiating this contract and said that they have never come together like this. He stated that the negotiating sessions were initially very rough, until Mr. Lange got involved. He said Mr. Lange understands that something else needs to be done to get out of the situation we are in. He said they are strong as a police department but they are not strong enough to carry the weight of the entire City. He said he understands they are a big cost but they provide a huge service that cannot be provided if other municipalities have to come in and service our community. He said not all police departments are known for this same level of service and they get a lot of compliments from the residents for going above and beyond.

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

Mayor Schreiber stated that he sincerely appreciated the comments from Officer Peto.

XIX. <u>CLOSED SESSION</u> –

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

On roll call, the vote to adjourn to closed session was as follows:

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

VOTE:

Yes: 6 No: 0 Absent: 1 (Vogt) Vote: Carried

The meeting adjourned to closed session at 9:40 p.m.

The open session reconvened at 11:05 p.m.

Mayor Schreiber asked for a motion to extend the meeting to 11:30 p.m.

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

On a voice vote the motion carried unanimously.

Council Member Murdock moved, supported by Council Member Moeller, to approve a resolution directing City Staff to do an analysis of the switch from a defined benefit to a defined contribution pension plan and to look at ways to consolidate programs to reduce retiree medical costs.

Mr. Lange asked if they were looking for the same thing that they had just provided for the new employees.

Council Member Murdock stated it could be for new people, because there is a cost for that, and it could also be for existing people, though it may require further negotiation for that.

Council Member Moeller stated that a switch from defined benefit to defined contribution could simply freeze the pension that the workers currently have and lessen the future contributions the City makes.

Council Member Robb stated that it may be possible to buy-out someone who has only recently been employed and convert them to the new plan. He mentioned previous studies that the City had done investigating this and they learned that you cannot shut down a pension fund unless it is fully funded. He said sooner or later it will become advantageous to get new hires to switch.

Mr. Lange stated that the City hadn't paid any real money to the pension fund in 15 years.

Council Member Murdock stated that is true but it is rapidly declining.

Mr. Lange stated that he is curious to see if that will continue with the new tier 2.

Council Member Robb suggested calling the MERS representative and letting them know we would like to investigate what it would take to do this and they may be able to do a study.

Mayor Schreiber stated that he would be supporting this resolution because he feels this issue keeps coming up and a study would assist everyone in making a decision.

On roll call, the vote to approve a resolution directing City Staff to do an analysis of the switch from a defined benefit to a defined contribution pension plan and to look at ways to consolidate programs to reduce retiree medical costs was as follows:

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

VOTE:

Yes:	6	No: 0	Absent: 1 (Vogt)	Vote: Carried

Council Member Murdock moved, supported by Mayor Pro-Tem Richardson, to reconsider the vote on Resolution No. 2013-051.

Council Member Robb stated that he understands why Council Member Murdock is doing this but he feels it is still the same problem. He suggests waiting a few weeks so that staff can address the concerns brought up tonight.

On roll call, the vote to reconsider the vote on Resolution No. 2013-051 was as follows:

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

VOTE:

Yes:	5	No: 1 (Moeller)	Absent: 1 (Vogt)	Vote: Carried

Council Member Robb reiterated the fact that, if all goes as planned, there will be four new employees this year under the uncapped pension who, if they get promoted into COAM, will be asked to make up the 20% difference in the City's contribution to their pension. He said we are not going to get anyone who wants to be promoted into COAM. He said there is still a fundamental disconnect between the two contracts and he would like to wait until more research could be done to address this concern.

Mr. Lange stated he would try to get someone to help him with this.

Council Member Murdock stated that, as much as he would like to see the City's contribution to the pension fund have a cap, he thinks it would be a tough sell to hire people under a contract with a 16.2% cap.

Council Member Robb said that he hopes everyone supporting this will be front and center when the COAM contract is being re-negotiated.

Council Member Murdock stated that that wouldn't be for another year and a half.

Council Member Robb stated that Mr. Lange wants to re-negotiate it now.

Mr. Lange stated that he thinks there are a lot of savings that can be found from re-negotiating that contract.

On roll call, the vote to approve Resolution No. 2013-051 was as follows:

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

VOTE:

Yes: 4 No: 2 (Moeller, Robb) Absent: 1 (Vogt) Vote: Carried

XX. <u>ADJOURNMENT</u> –

1. Resolution No. 2013-070, adjourning the City Council Meeting.

OFFERED BY: Council Member
SUPPORTED BY: Council Member

On a voice vote the motion carried and the meeting adjourned at 11:20 p.m.

2012 City Council Budget Work Session Schedule
6:00-10:00 PM
City Council Chambers

Thursday, May 7, 2013

1. General Fund Revenues Review/Questions (FY 2012-13, FY 2013-14) –Ralph A. Lange

2. General Fund and Non-General Funds Expenditures Review/Questions (FY 2012-13, 2013-14)

Ralph A. Lange:
- City Manager Administration, and Community Service's Office – Page 12
- Street lightings Fund (219) – Pages 63 & 64

Frances McMullan:
- City Council Budget – Page 11
- Clerk's Office – Pages 13 & 14
- Treasurer – Pages 14 & 15
- Voter Registration – Page 16
- Administration Hearing Bureau – Page 29
- City Insurances – Page 36 & 37

Judi Smith:
- Human Resources – Page 19
- Unemployment – Page 36
- Worker's Compensation Fund (677) – Pages 147 to 149

Teresa Gillotti:
- Climate Action Plan – Page 18
- Building Department and Ordinance Enforcement - Pages 27 to 29
- Planning and Development – Page 33
- Washtenaw County Community Challenge Grant (Master Plan) – Page 34
- Historic District Commission – Page 36
- MSHDA CLG Grant CG12-418 – Page 36
- CDBG Water Activity Fund (252) – Pages 70 to 71
- Land Revolving Fund (412) – Pages 100 to 102

Stan Kirton:
- Public Building Maintenance – Page 17
- Energy Efficiency – Page 17
- DPS Administration – Page 30
- Parking Lots – Page 31
- DPS Parks – Pages 32 & 33
- Senior Center CDBG Grant – Page 34
- MNRTF Rutherford Pool Renovation Grant – Page 36
- Major Streets Fund – Pages 38 thru 54
- Local Streets Fund – Pages 55 thru 62
- Garbage Fund – Pages 65 thru 69

Marilou Uy:

- Finance-General Accounting – Page 13
- Assessing – Page 15
- Legal Services – Page 18 & 19
- Friends Groups (Senior Center & Parkridge) – Page 35
- Vacation & Sick-Page 36
- MTT and Charge backs – Page 37
- Transfers and Contributions – Page 37

<u>Tuesday, May 14, 2013</u>

3. General and Non General Fund Expenditures Review/Questions (FY 2012-13, 2013-2014)

Amy Walker:

- Police Services (Administration, Field Services, Bullet proof Vest Grant, Jaq Grant, COPS Grant, Parking Enforcement, Lawnet, Jaq DJBX 1476) – Pages 20 thru 24
- Special Events – Pages 30 & 31
- Police Special Revenue Fund (265) – Pages 72 to 74

Max Anthouard:

- Fire Services (Administration, Suppression) – Pages 25 to 27

Tim Colbeck;

- DDA Depot Town Fund (275) Pages 75 to 79
- DDA Downtown Fund (413) – Pages 103 to 105

Marilou Uy:

- General Obligation and Water Sewer Bonds – Pages 80-97and 112-135
- Capital Improvement Fund (414) – Page 106 to 109
- Economic Development Corporation (415) – Pages 110 to 111
- Sidewalk Fund (495) – Page 136 to 138
- Public Transit Fund (588) – Pages 139 to 140
- Motor Pool Fund (641) – Pages 141 thru 146
- Retirees' Benefits Fund (736) – Pages 154 to 157

<u>Tuesday, May 21, 2013</u>

4. Continuation of Non General Fund Expenditures Budget/Review, if necessary

City of Ypsilanti
Pride. Diversity. Heritage.

Resolution No. 2013-075
May 7, 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: