



TO: Mayor and Council

FROM: Craig Hupy, Public Services Area Administrator
Cresson Slotten, Systems Planning Manager
Lisa Turner-Tolbert, Acting Community Services Area Administrator
Robyn Wilkerson, Human Resources Director

CC: Tom Crawford, Interim City Administrator

SUBJECT: Council Agenda Responses

DATE: 6/6/16

CA – 8 – Resolution to Approve a Contract with Blue Star, Inc. for Property Demolition, Clean Up and Site Restoration at 3013 Huron River Drive (\$93,300.00)

Question: The living wage compliance notice in the packet has the effective dates of “APRIL 30, 2014 - ENDING APRIL 29, 2015.” Have the living wage rates been increased since April 29, 2015? Has the contractor agreed to pay the updated rates? (Councilmember Eaton)

Response: The living wage rate increased on April 30, 2016 and the contractor has agreed to pay the updated rates. An updated signed copy of the contractor’s living wage form is attached.

Question: What are the plans for the 24 acre site once it is cleaned-up and will the property be accessible as soon as the demolition/clean-up is completed? In terms of the endowment, is the \$476K amount referenced in the cover note the current balance and how do we plan to utilize the endowment going forward? (Councilmember Lumm)

Response: The real property and endowment funds received from the Donald Brokaw and Earldine R. Brokaw Foundation were transferred to the City of Ann Arbor at the dissolution of the Foundation on Order of Washtenaw County Probate Court. That Order specified that property was to be used as a public park and that an endowment

fund was to be established by the City of Ann Arbor Department of Parks and Recreation to be “used for the upkeep and maintenance of said real property for the use of the public.” Endowment funds may only be used for the purposes stated in the court order. The deed transferring the property to the City included the restriction that the property be used as a public park. The city will maintain the property as a natural area, which we plan to make accessible after clean up is complete.

The current balance of the endowment is \$446,000.

CA-11 – Resolution to Approve a Professional Services Agreement with Fishbeck, Thompson, Carr & Huber, Inc. for Water Treatment Professional Engineering Services (\$200,000.00) RFP-963

CA-12 – Resolution to Approve a Professional Services Agreement with Stantec Consulting Michigan, Inc. for Water Treatment Professional Engineering Services (\$200,000.00) RFP-963

CA-13 – Resolution to Approve a Professional Services Agreement with Tetra Tech of Michigan, PC for Water Treatment Professional Engineering Services (\$200,000.00) RFP-963

Question: The cover memos include the Maintenance and Capital Improvements millage as one of the funding sources. What would be the water treatment engineering-related services that would be paid for by Parks? (Councilmember Lumm)

Response: The Water Treatment Plant engineering staff provides services for dam maintenance, repairs and upgrades. Argo and Geddes Dams are 100% allocated to Parks and a portion of Geddes is allocated to Parks.

CA-24 – Resolution to Approve a Professional Services Agreement with CH2M Hill Engineers, Inc. for the Sanitary and Stormwater Systems Asset Management Plans (RFP No. 937, \$1,170,537.00)

Question: “The top four consultant teams were selected for follow-up presentations and interviews. The selection committee chose CH2M Hill Engineers, Inc. for this study based on their proposal, national experience with asset management, and their competitive fee schedule.” What were the bids received from the other three top consultant teams? (Councilmember Eaton)

Response: The following cost proposals were received from the other consultant teams in response to RFP No. 937:

Hubbell, Roth & Clark, Inc - \$929,698
Tetra Tech - \$1,097,960
Opus International Consultants - \$948,345

Question: As this is a large consulting contract (at \$1.2M), can you please provide a bit more detail than was provided in the cover memo on what this sanitary and storm asset management plan is, it's purpose and benefits, as well as the scope and deliverables for CH2M? (Councilmember Lumm)

Response: Like many other utility agencies throughout the nation, the City of Ann Arbor faces many challenges such as increased cost of services, aging infrastructure and the need to optimize investments in maintaining its assets. To address these challenges, the development of an Asset Management (AM) Plan will enable the City to prioritize capital projects, as well as optimize the operations and maintenance of its utility systems to minimize the life cycle costs of these assets.

The CH2M team will assist with the development of an AM program for evaluating the physical assets of the sanitary and stormwater collection systems to ensure safe and reliable service, while maximizing each asset's useful life in the most economical manner. Key tasks will include:

- Perform condition assessments of both the sanitary and stormwater systems
- Determine remaining life of these assets
- Analyze life cycle and replacement costs of the assets
- Determine target levels of service for the systems
- Determine criticality of the systems' assets (risk of failure)
- Optimize our operations and maintenance programs
- Establish sustainable funding strategy
- Engage key stakeholders and the public throughout the project

Additional details on the work plan and deliverables can be viewed in Exhibit A (Scope of Services) of the proposed professional services agreement with CH2M attached to this agenda item.

CA-27 – Resolution to Award a Contract to Margolis Companies, Inc. for the Purchase, Delivery and Planting of Trees along City Street Rights-of-Way (\$302,450.00; Bid No. ITB-4428)

Question: For large jobs like this, has the City considered breaking them into smaller bids so that small, local businesses might that do not have the capacity to bid the entire project could be competitive for a smaller portion of the project? (Councilmember Warpehoski)

Response: The ITB for this contract does not require a Bidder to bid on the entire project but rather Bidders provide pricing on the tree species listed on the bid form. Based on the bids received, the City can award the contract in any manner it chooses, per ITB 4428:

“The City will award the bid to the responsive and responsible bidders who best meet the City’s requirements and who offer the most advantageous combination of low price and highest qualifications for the criteria described in this ITB document. The work may not be awarded to the lowest bidder(s). The City may award the contract to multiple contractors.”

The City received two bids and Margolis Companies, a local company based in Ypsilanti, was the lowest responsible and responsive bidder and is being awarded the contract.

CA-28 – Resolution to Approve Amendment No. 3 to the Hosting Agreement with Ultimate Software Group, Inc., Amend the FY17 Budget and Appropriate Necessary Funds (\$57,450.00) for Retiree Medical Plan Participant Data Conversion to Satisfy Affordable Care Act Requirements (8 Votes Required)

Question: Is this tax reporting for retiree medical plan participants a new Affordable Care Act requirement or something we had just missed? Also, can you please remind me if we had decided to not change our HR/Payroll software or are we still planning on doing that? (Councilmember Lumm)

Response: 2015 was the first year of the new ACA reporting requirements. We distributed the required 1095C tax forms for all our active and retired employees who participated in our Health Care plans in 2015.

Last year, for retirees, we pulled the main data from the Blue Cross Blue Shield system and had to continually reconcile that data with our Employee Retirement System data. This was very time consuming and allowed room for data inconsistencies and inaccuracies. We used a Third Party Administrator, Group Associates, to compile, format the data, print and distribute the 1095C forms.

The purpose of this project is to allow us to consolidate all our Active and Retiree Medical enrollment data within Ultimate Software. This will allow us to centralize, administer and control all ACA current and future data requirements. We will also be using this data to track health care premiums, personal retiree information (such as addresses) and track dependent designations and enrollment. In addition, by owning the retiree data, we can ensure its’ accuracy for future reporting.

In terms of the new HR/ Payroll software, for a number of reasons, we will not be implementing a new system. We are working with the City Attorney’s Office to determine the best course of action.

B-1 – An Ordinance to Amend the Code of the City of Ann Arbor by Adding a New Chapter, Which Chapter Shall be Designated as Chapter 131, Commercial Quadricycles, of Title IX of Said Code

Question: Has the city experienced any problems related to alcohol consumption and commercial quadricycles? If so, what is the nature and/or the extent of these problems? (Councilmember Grand)

Response: AAPD has received one complaint regarding loud boisterous voices related to intoxication. A warning was given to operator and passengers.

Question: What is the rationale for requiring a driver's height and weight on their ID badges? (Councilmember Grand)

Response: This information was being requested to provide a complete description of the operator. The same information is requested on an identification badge by other communities regulating commercial quadricycles.

C-1- An Ordinance to Amend the Code of the City of Ann Arbor by Adding a New Chapter, Which Chapter Shall Be Designated Chapter 71, Pavement Sealant, of Title VI, Food and Health, of Said Code

Question: It is not completely clear to me what specifically is prohibited. In section 6:503 (prohibitions), it lists coal tar-based sealer and other high PAH content sealer product (which has a specific definition) as prohibited, but does not list asphalt-based sealer with >0.1% PAH as prohibited. Yet, 6:505 seems to say that can't use asphalt-based if PAH >0.1%. Can you please clarify the rules regarding asphalt based sealers. (Councilmember Lumm)

Response: The intent is to prevent the use of any high PAH sealcoat products from being used. The language is designed to anticipate any potential future materials with high PAH levels. With the backlash against coal tar, sealant product companies are developing new "non-coal tar" products (such as steam cracked petroleum) that are not coal tar but are still high in PAH content. Currently, all asphalt-based products that staff are aware of are below the >0.1% PAH threshold. Section 6:505 is worded as it is in case at some time in the future, there is a sealcoat mixture that can be called "asphalt-based" but has high PAH levels due to some additive or other change to the formula.

Question: The prohibitions cover the acts of applying, selling, contracting, and allowing. Does that mean an individual homeowner would be in violation and subject to a fine of up to \$10,000 if prohibited sealer is applied in their driveway, but he/she is unaware? In other words, is it somehow up to a homeowner to ensure prohibited sealer is not applied? (Councilmember Lumm)

Response: The prohibition against application of pavement sealant applies to actions taken by both property owners and commercial applicators on behalf of a property owner. Any person who violates the ordinance can be held to the penalty. If a homeowner is purchasing the sealant it is his/her responsibility to confirm that the sealant product contains less than 0.1% PAHs by weight. If a property owner is hiring a commercial applicator both the property owner and the commercial applicator are responsible for compliance with the ordinance under Section 6:503. A property owner in hiring a commercial applicator should make sure that their contract includes (1) acknowledgement of the terms of the ordinance (2) confirmation that the commercial applicator has registered with the City, and (3) hold harmless provision for the homeowner to avoid liability under the ordinance.

Question: The ordinance includes an annual registration process for any applicator including a notarized, sworn statement from any applicator. Is that process typical for the states and communities that have adopted similar prohibitions? Also, do we require sworn, notarized statements from any other vendors doing business in AA for any other purpose? (Councilmember Lumm)

Response: This requirement is modeled after City Code Chapter 70, *Manufactured Fertilizer*. Commercial fertilizer applicators are required to register with the City. A sworn, notarized statement is required as part of the registration under that ordinance.

As for other communities, Winnetka, IL requires registration for applicators. However, most cities and states look for infractions after the fact and require the company to remove the coal tar where it has been applied (via a process called shot blasting). This places a time and financial burden on the company. Registration can help reduce infractions from occurring in the first place. Because this work happens in a way that is hard to track, and differentiating among sealcoat products requires a lab test, preempting infractions is much more effective, and less onerous than trying to identify non-compliance after-the-fact or in any other way.

Question: The cover memo indicates that the “city, county, and UM have already reduced or halted the use of coal tar sealcoats”. There’s a big difference between reducing and halting, so can you please be more specific – do the City, County and UM fully comply with this ordinance now, and if not, what practices would need to change to be in compliance? (Councilmember Lumm)

Response: The City does not use coal tar sealants. The University of Michigan does not utilize seal coating as a pavement maintenance practice and hasn’t for some time, and therefore would be in compliance with the Ann Arbor ordinance. The Office of Infrastructure Management in Washtenaw County has changed its scope of work for pavement work to require contractors to use an asphalt-based sealcoat.

Question: The cover memo also indicates that asphalt-based sealers are as effective as coal tar and no higher cost. If that’s true, why would anyone use coal tar? (Councilmember Lumm)

Response: Staff has confirmed that the cost of the material is very similar between the two products on a per gallon basis and asphalt-based sealer can actually be cheaper. Many contractors and manufacturers claim that coal tar is the superior product, and surfaces can be recoated after 2-3 years rather than 1-2 years for the asphalt-based products. Those who apply asphalt-based products claim that if applied correctly, the quality of the sealcoat rivals that of coal tar products; and, that the products have come a long way over the past several decades and are much improved from when they first became available. However, there is a lot of allegiance within the industry to the coal tar products.

Question: In the information attached to the agenda item, it indicates that someone who lives next to coal tar sealed pavement has a cancer risk 38 times someone who does not. That doesn't sound right – is 38 times correct? (Councilmember Lumm)

Response: Yes, that is correct. This statistic comes from USGS (U.S. Geological Survey) research. The following excerpt is from their 2016 Fact Sheet on coal tar based sealcoat:

“The USGS partnered with a human-health-risk analyst to estimate the excess lifetime cancer risk associated with the ingestion of house dust and soil for people living adjacent to parking lots with and without coal-tar-based sealcoat. Excess cancer risk is the extra risk of developing cancer caused by exposure to a toxic substance. The excess cancer risk for people living adjacent to coal-tar-sealcoated pavement (1.1 cancer incidences for every 10,000 individuals exposed) was 38 times higher, on average (central tendency), than for people living adjacent to unsealed pavement. The central tendency excess cancer risk estimated for people living adjacent to coal-tar-sealcoated pavement exceeds the threshold generally considered by the EPA as making remediation advisable.

The assessment used measured concentrations of the B2 PAHs in house dust and soils adjacent to coal-tar-sealed pavement (adjusted for relative potency to the PAH benzo[a]pyrene), established house dust and soil ingestion rates, and the EPA-established slope factor to estimate the excess cancer risk. Much of the estimated excess risk comes from exposures to PAHs in early childhood (that is, 0–6 years of age). The study did not consider the excess cancer risk associated with exposure to the sealcoated pavement itself, which has PAH concentrations 10 or more times greater than in adjacent residence house dust or soils.”

The full publication is available at: <http://pubs.acs.org/doi/pdf/10.1021/es303371t>

Question: Do we have any other ordinances where civil fines for violation could be as much as \$10,000 for a single occurrence? (Councilmember Lumm)

Response: Yes. Two examples are Chapter 60 (Wetlands Preservation) and Chapter 63 (Storm Water Management and Soil Erosion and Sedimentation Control), which

include penalties up to \$10,000 for each day of violation, plus costs, plus equitable relief as may be ordered by the court.

DC-1 – Resolution to Disclose Information Regarding Potential Locations for a New Amtrak Train Station

Question: What are the reasons staff chose to not release (redact) the draft Alternative Analysis report for the train station? (Mayor Taylor)

Response: The City is a subgrantee of MDOT, which is the recipient of the federal grant for environmental review and preliminary engineering of the potential new rail station. The alternatives analysis portion of the environmental review is being prepared collaboratively by MDOT, the City, the City's consultant, and the Federal Railroad Administration (FRA). MDOT has indicated that it will not release any preliminary drafts and the City, as subgrantee, has followed this approach in order to preserve frank communication among the parties. The public will have an opportunity to comment on the final draft once FRA has authorized its release. The alternatives analysis will not be complete until this public comment has been collected and considered.

DC-4 – Resolution Opposing Oil Transport through the Enbridge Energy Line 5 Pipeline

Question: It seems that minimal staff time will be involved in being a BEE City, but can staff please confirm approximately how much time/effort can be expected with this designation and the related commitment? (Councilmember Lumm)

Response: This oil pipeline is the only one in the Great Lakes. There are oil pipelines in connecting channels, such as the St. Claire River, but there are no others in the Lakes themselves.

DC-5 – Resolution Designating Ann Arbor, Michigan a BEE CITY USA

Question: It seems that minimal staff time will be involved in being a BEE City, but can staff please confirm approximately how much time/effort can be expected with this designation and the related commitment? (Councilmember Lumm)

Response: As a BEE CITY USA® community City staff (NAP, Communications) would support the Environmental Commission in educational events and local pollinator habitat awareness efforts as well as the preparation of an annual report. At minimum, 10-15 hrs would be required for administrative and reporting support. In addition minimal Public Services staff time would be involved in the production and placement of a BEE CITY USA® street sign at an appropriate location within the City. It is difficult to estimate a prospective budget or staff hours for the educational component.

It is anticipated that the City would develop partnerships with other local community organizations and other designated communities, such as Leslie Science and Nature Center and the City of Ypsilanti, as well as use BEE CITY USA® model programming if available to reduce staffing commitments.

DC-6 – Resolution Affirming the City of Ann Arbor’s Participation in the Welcoming Communities Campaign

Question: Can you please provide some detail on specifically what would be expected of the City as a Welcoming Community and the amount of staff time required both in the application process if the City were so designated? (Councilmember Lumm)

Response: The application is relatively simple. Complete a brief online application, have periodic discussions with Welcoming America & other Welcoming communities, pay an annual due of approximately \$200, and affirm the goals of the Welcoming Communities campaign. Future more specific city goals/actions may be established by the community but are not required at this time. City assignment will be the Office of Community & Economic Development.

**CITY OF ANN ARBOR
LIVING WAGE ORDINANCE DECLARATION OF COMPLIANCE**

The Ann Arbor Living Wage Ordinance (Section 1:811-1:821 of Chapter 23 of Title I of the Code) requires that an employer who is (a) a contractor providing services to or for the City for a value greater than \$10,000 for any twelve-month contract term, or (b) a recipient of federal, state, or local grant funding administered by the City for a value greater than \$10,000, or (c) a recipient of financial assistance awarded by the City for a value greater than \$10,000, shall pay its employees a prescribed minimum level of compensation (i.e., Living Wage) for the time those employees perform work on the contract or in connection with the grant or financial assistance. The Living Wage must be paid to these employees for the length of the contract/program.

Companies employing fewer than 5 persons and non-profits employing fewer than 10 persons are exempt from compliance with the Living Wage Ordinance. If this exemption applies to your company/non-profit agency please check here [] No. of employees ____

The Contractor or Grantee agrees:

- (a) To pay each of its employees whose wage level is not required to comply with federal, state or local prevailing wage law, for work covered or funded by a contract with or grant from the City, no less than the Living Wage. The current Living Wage is defined as \$12.93/hour for those employers that provide employee health care (as defined in the Ordinance at Section 1:815 Sec. 1 (a)), or no less than \$14.43/hour for those employers that do not provide health care. The Contractor or Grantor understands that the Living Wage is adjusted and established annually on April 30 in accordance with the Ordinance and covered employers shall be required to pay the adjusted amount thereafter to be in compliance (Section 1:815(3)).

Check the applicable box below which applies to your workforce

- Employees who are assigned to any covered City contract/grant will be paid at or above the applicable living wage without health benefits
- Employees who are assigned to any covered City contract/grant will be paid at or above the applicable living wage with health benefits
- (b) To post a notice approved by the City regarding the applicability of the Living Wage Ordinance in every work place or other location in which employees or other persons contracting for employment are working.
- (c) To provide to the City payroll records or other documentation within ten (10) business days from the receipt of a request by the City.
- (d) To permit access to work sites to City representatives for the purposes of monitoring compliance, and investigating complaints or non-compliance.
- (e) To take no action that would reduce the compensation, wages, fringe benefits, or leave available to any employee covered by the Living Wage Ordinance or any person contracted for employment and covered by the Living Wage Ordinance in order to pay the living wage required by the Living Wage Ordinance.

The undersigned states that he/she has the requisite authority to act on behalf of his/her employer in these matters and has offered to provide the services or agrees to accept financial assistance in accordance with the terms of the Living Wage Ordinance. The undersigned certifies that he/she has read and is familiar with the terms of the Living Wage Ordinance, obligates the Employer/Grantee to those terms and acknowledges that if his/her employer is found to be in violation of Ordinance it may be subject to civil penalties and termination of the awarded contract or grant of financial assistance.

Blue Star, Inc
Company Name

[Signature] 5/1/16
Signature of Authorized Representative Date

Wendy Story office mgr
Print Name and Title

2995 Haverd Warren MI 48089
Address, City, State, Zip

510-427-9933 lstory@bluestardemo.com
Phone/Email address

Questions about this form? Contact Procurement Office City of Ann Arbor Phone: 734/794-6500