



# City of Ann Arbor

301 E. Huron St.  
Ann Arbor, MI 48104  
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## Council Action

Resolution: R-14-030

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File Number: 14-0006

Enactment Number: R-14-030

Resolution Approving a Five Year Lease Between the City of Ann Arbor and the University of Michigan For City-Owned Property Behind 926 Mary Street (\$4000.00 annually) **(8 Votes Required)**

Whereas, The agreement between the City of Ann Arbor and the University of Michigan to lease 12 to 15 parking spaces on City-owned property behind 926 Mary Street, Lot 4, Block 4, J.F. Lawrence Subdivision has been a month-to-month agreement since 1987;

Whereas, The University utilizes these parking spaces for annual parking permits for its Fletcher Hall tenants;

Whereas, The rental rate of \$225.00 per month and the month-to-month terms have not been re-negotiated since the 1987 agreement;

Whereas, The City and the University wish to continue this rental arrangement; and

Whereas, The City and the University have negotiated new terms to include an annual rental lease and a new rental rate of \$4000.00 annually;

RESOLVED, That City Council approve a new lease agreement with the University of Michigan for a five year term at the rate of \$4000.00 annually, as outlined in the new Parking Lot Land Lease;

RESOLVED, That the Mayor and City Clerk are authorized to enter into the lease agreement as approved by the City Administrator and City Attorney; and

RESOLVED, That the City Administrator is authorized to take all administrative action necessary to execute this agreement.

At a meeting of the City Council on 1/21/2014, a motion was made by Margie Teall, seconded by Sabra Briere, that this Resolution R-14-030 be Approved. The motion passed.

PARKING LOT LAND LEASE

2014 THIS LAND LEASE ("Lease") made and entered into this 28 day of January 2013, between the CITY OF ANN ARBOR, a Michigan municipal corporation, with its address at 301 East Huron Street, Ann Arbor, Michigan 48107 (hereinafter "City") and the REGENTS OF THE UNIVERSITY OF MICHIGAN, a Michigan constitutional corporation, with its offices at 326 East Hoover Street, Ann Arbor, Michigan 48109 (hereinafter "University").

PRELIMINARY STATEMENT

The University entered into a month-to-month lease, effective May 1, 1987, of 12-15 parking spaces on City-owned property behind 926 Mary Street, Ann Arbor, Michigan (hereafter "Property"), more specifically described as:

Lot 4, Block 4, J.F. Lawrence's Addition; Dirt surface parking lot located at 926 Mary Street between Fletcher Hall (University property) and Mary Street polling site, 7<sup>th</sup> Ward, Public Hall (City property).  
Tax I.D. 09-09-32-103-020

The City is willing to continue to lease the Property on an annual, rather than monthly, basis and the University wishes to continue to lease the property and use it as a parking area for Fletcher Hall.

The City's lease of the Property and its retained rights under the lease for use of the Property as specified below are consistent with use of the Property for public purposes.

TERMS

In consideration of the lease payments and mutual promises contained herein, the City and the University confirm the terms and conditions upon which they individually and collectively will use and occupy the Property and the University's responsibilities for operation and maintenance of the Property as follows:

1. Term/Rent. Subject to the conditions specified below, City will make the Property available to the University for its use and occupancy:

(a) The term during which the Property will be made available (the "Term") will be for a period of five years, beginning on January 1, 2014 and terminating on December 31, 2019, unless terminated earlier pursuant to the terms of this Lease. The University shall have the option to renew its Lease of the Property on ninety (90) days advance written notice, for 2 successive 1-year periods upon the same terms and conditions herein, if mutually agreed upon in writing. Such options to renew are on the condition that a renegotiated lot lease rental amount shall be agreed upon for each 1-year option following the initial 5-year lease period.

(b) During the Term, the University shall pay to the City rent annually in the amount of Four Thousand Dollars (\$4000.00). Rent shall be due and payable no later than the first day of January of each year during term of the Lease. If the University fails to pay any amount it owes to the City under this Lease when that amount is due, the amount shall be assessed a one-time late charge in the amount of five percent (5%) of the late rental payment amount and shall be subject to a service charge until it is paid at the lesser of the rate of two percent (2%) per month or the highest rate permitted by law.

(c) During the Term, to the extent permitted by law, each party agrees to protect, defend and indemnify the other, its officers, agents, and employees from any and all liabilities, claims, liens, fines, demands and costs, including legal fees, of whatsoever kind and nature which may result in injury or death to any persons, including the respective parties own employees, and for loss or damage to any property, including property owned or in the care, custody or control of the respective party in connection with or in any way incident to or arising out of the occupancy, use, operations, performance or non-performance of work in connection with this Lease resulting in whole or in part from the negligent acts or omissions of the respective party, its officers, agents, and employees. This provision is not intended, and shall not be construed, to waive or limit any immunity defense which the respective governmental entity may have including but not limited to governmental immunity. In the event of joint or concurrent negligence of University and City, each shall pay its own costs and expenses incurred in defending against the action and each shall pay that portion of the loss or expense that its share bears to the total negligence by a court of competent jurisdiction.

It is acknowledged that each party self-insures its general liability exposures through a permanently funded non-cancelable program. During the Term, each party will procure and maintain such insurance policies or self-insurance coverage as will protect itself from all claims for bodily injuries, death or property damage which may arise in connection with their respective use of the Property under the terms of this Lease. Each party agrees to name the other as an "additional insured" on the policies but only to the extent of the negligence of the insured party, with respect to any action taken in connection with uses or requirements stated in Exhibit A. The respective parties shall be responsible to each other or the insurance companies insuring the respective parties for all costs resulting from both financially unsound insurance companies selected and their inadequate insurance coverage. If requested, a party shall furnish the requesting party with satisfactory certificates of self-insurance/insurance or a certified copy of the policy.

2. Conditions to Effectiveness. The commitment of City to lease the Property to the University on the terms specified in Section 1 is subject to the satisfaction of necessary approval of the lease and authorization of its execution by resolution of the governing body of City.

3. Default/Termination. The following will constitute events of default by University under this Lease:

(a) The failure by University to pay any rent within 30 days after the date for payment specified in Section 1(b); or

(b) The breach by University of any commitment under this Lease and the failure to remedy that breach within 30 days after the date that City delivers written notice identifying such breach and demanding such remedial action.

Upon the occurrence of an event of default, City, by further written notice to University, may terminate this Lease effective 30 days following the day of delivery of such notice. In such event, the obligation of City will terminate as of the effective date of such termination, University will remain liable to City for all rent accrued under this Lease through the effective date of termination and any damages incurred by City as a result of such default.

This lease will terminate if, at any time prior to the termination by expiration (Section 1), default (Section 3) or early termination (Section 4), the parties mutually agree, in writing executed by an authorized official of the parties, to terminate the Lease.

4. Early Termination. Should the City elect to sell the Property at any date in the future, the City reserves the right to terminate this Lease without penalty on ninety (90) days written notice to the University.

5. Assignment. University shall make no assignment under this Lease.

6. Binding Effect/No Third Party Benefits. This Lease is binding upon and shall inure to the benefit of the parties hereto. This Lease shall not be construed to create in any person or entity not a party, any right, claim, benefit or defense with respect to the parties, or in any party claiming by, through or under either of them, with respect to any loss, cost, damage, claim or cause of action arising under or pursuant to the terms of this Lease.

7. Notices. All notices permitted or required under this Lease shall be in writing and addressed to the parties at their addresses set forth above. Any such notice shall be sent by certified mail, return receipt requested, express overnight delivery requiring a signed delivery receipt, delivered personally or sent by facsimile. Any notice sent by certified mail, return receipt requested, will be deemed delivered on the third business day after mailing. Any notice sent by express overnight delivery will be deemed delivered on the following business day after delivering such notice to the carrier. Any notice given by personal delivery or by facsimile prior to 5:00 p.m. will be deemed delivered on the date of such delivery or, if 5:00 p.m. or later, on the next business day. Any notice which a party fails or refuses to accept will be deemed delivered on the date of such failure or refusal. The parties hereto may change their addresses for notice purposes by a notice sent in accordance with the provisions of this Lease, but no such address shall be a post office box.

8. Authority. The signatories on behalf of the parties hereto hereby represent and warrant to the other parties hereto that they are duly authorized to execute and deliver this Lease on behalf of such party and that this Lease is binding upon and enforceable against such party.

9. Applicable Law. This Lease shall be interpreted and construed in accordance with the laws of the State of Michigan.

10. Counterparts. This Lease may be executed in one or more counterparts, each of which will be deemed an original but all of which together shall constitute but one and the same Lease.

11. Amendments. No amendment, change or modification of any of the terms, provisions or conditions of this Lease will be effective unless made in writing and signed or initialed on behalf of the parties hereto by their duly authorized representatives.


12. Entire Agreement. This Lease constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and supersedes all negotiations, preliminary agreements and prior to contemporaneous discussions and understandings of the parties hereto in connection with the subject matter hereto.

REGENTS OF THE UNIVERSITY OF MICHIGAN, a Michigan constitutional corporation

By:   
Timothy P. Slottow

Its: Executive Vice-President and Chief Financial Officer

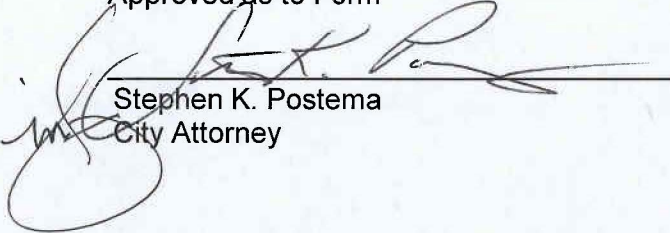
Approved as to Substance

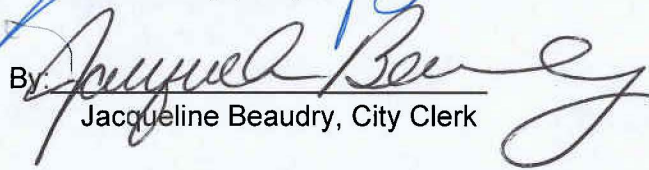
  
Steven D. Powers  
City Administrator

CITY OF ANN ARBOR, a Michigan municipal corporation

By:   
John Hieftje, Mayor

Approved as to Form

  
Stephen K. Postema  
City Attorney

By:   
Jacqueline Beaudry, City Clerk

## EXHIBIT A

For purposes of this Lease the use of the Property is subject to the restrictions identified here.

### A. Property Use Restrictions

1. The University shall use the Property only for a parking lot with fourteen spaces; no structures shall be built on the Property. The University shall have full authority as to the use of the Property, and the leased parking spaces therein, and may restrict the use of any space for University users, subject to the provisions of Section B below. Any restrictions concerning the use of the Property shall be posted on site.
2. The University shall, at its own expense, maintain the surface of the Property, including without limitation, asphalt repair and replacement; and provide all winter maintenance for snow and ice removal concerning the Property. If during the Term of this Lease, repairs or renovations are required to the Property which require temporary suspension of the use of the Property by the University, the University acknowledges and agrees that the City will not be responsible for providing alternate parking arrangements for affected University users. The University shall remain liable to the City for rent accrued under this Lease during any on-going repairs or restoration unless otherwise waived in writing by the City.
3. The University shall be responsible for installing and maintaining proper lighting and signage, at its sole expense, on the Property.
4. The University shall be responsible for parking enforcement for the Property. The City is not providing any security for the Property.
5. The University shall be responsible for the costs of any permit required for installation of signage, lighting or repairs/renovations to the Property.

### B. City Use of Property

During primary and general elections, the University shall cooperate with the City to make the Property available for short-term City election workers use.