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TO: Mayor and Council

FROM: Howard S. Lazarus, City Administrator

CC: Derek Delacourt Community Services Area Administrator  
Craig Hupy, Public Services Area Administrator  
Nick Hutchinson, City Engineer  
Brett Lenart, Planning Manager  
Cresson Sloten, Systems Planning Manager

SUBJECT: Council Agenda Responses

DATE: October 16, 2017

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**CA – 11 - Resolution to Authorize a Professional Services Agreements with Wade Trim Associates, Inc. for Project Management and Civil Engineering Services (estimated \$2,000,000.00 annual average)**

**Question:** Could staff please furnish a summary of bid responses from the qualified finalist firms? (Councilmember Westphal)

**Response:** This procurement process was a Request For Proposals (RFP), not a bid. Firms were required to submit fee schedules for their staff, but as they were not proposing on a specific project, they were not required to submit total “bid prices.” Therefore, a comparison of total bid prices cannot be provided. Interested firms submitted proposals and fee schedules, which were reviewed by City staff on a basis of qualifications, experience and cost. The following firms submitted proposals in response to this RFP: Alfred Benesch, OHM Advisors, Rowe, Spalding DeDecker, Stantec, and Wade Trim.

**Question:** Was the \$2 million proposed by staff or vendors? (Councilmember Westphal)

**Response:** The \$2 million figure is an estimate developed by City staff of a potential annual amount of work that may be assigned to the consultant. This figure developed based on past experience with similarly priced consultants, the number and types of projects expected to be assigned to the consultant, and the anticipated value of the typical project that may be assigned to the firm.

**Question:** Is there a dollar threshold beyond which council will be notified of expenditures from this contract? (Councilmember Westphal)

**Response:** This resolution and contract are not for a specific dollar value. The \$2 million figure was estimated to provide a general idea of the possible extent of the work on an annual basis. This contract establishes the City's relationship with the consultant, and establishes their fees. Once a project is assigned to the consultant, the consultant will prepare a proposal specific to that project, which will establish a scope of work and a budget for that project. Once reviewed by staff, this will become the basis for a professional services agreement (or "work statement") for that individual project. This process will be repeated for all projects assigned to the consultant, and will result in individual agreements for each project.

**Question:** Please comment on how the \$2 million amount compares to recent years' annual aggregate spending for engineering consulting and explain differential. (Councilmember Westphal)

**Response:** In FY17, Engineering spent approximately \$3.8 million on engineering related consulting services. The Engineering Unit has not before engaged consulting firms to provide this level of "turnkey" service. Previous consultants have been engaged to provide more specific services, such as providing surveying support, construction testing, or engineering design for a project that was already being managed by one of the City's Project Managers. Therefore, a look at recent years' expenditures on engineering consulting does provide an "apples to apples" comparison.

**Question:** Thank you for the responses to my questions about the Nixon Corridor project design and I'm pleased to see that is a project that would be covered under this agreement. In those email responses, it was indicated that the Corridor project design would begin in November, but the cover memo here suggests it may take time for the consultant to get up to speed. Can you please clarify - is it still expected the Nixon Corridor design work will begin next month? If not, when would you expect it to start? (Councilmember Lumm)

**Response:** The Nixon Corridor design work is still anticipated to begin in November.

**Question:** Also on CA-11, while I understand this is an "as needed" agreement, I was surprised by the magnitude of the estimated amount we may use (\$2M a year). Can you please share some metrics that provide perspective on the volume of project work

driving the need for the significant use of project management and engineering consulting services? (Councilmember Lumm)

**Response:** Please see above responses

**CA-14 - Resolution to Approve an Application to the Bloomberg Philanthropies 2017 Mayor Challenge**

**Question:** Regarding CA-14, it sounds like this could be a good source of creative strategies and thanks for taking the time to participate. As an applicant, do we automatically receive copies of the proposed ideas and solutions of the cities with the winning proposals? Also, "affordability" is a broad term so can you please provide a bit more specificity on what you're envisioning for the scope and focus of our application/proposal? (Councilmember Lumm)

**Response:** In the past, winning proposals have been highlighted on the Bloomberg Philanthropies website and we assume this will be the case in this competition. Regarding "Affordability", the proposal is exploring the potential use of underutilized land in the city to develop a variety of non-student affordable housing. The proposal explores creating an inventory of potential development sites, obtaining better data on commuters interested in living in Ann Arbor if they could afford to, and crowd-sourcing potential conceptual designs. If awarded \$100,000, the funds will be used to test some of the proposal ideas to develop a refined proposal for the larger award.

**C-1 - An Ordinance to Amend the Code of the City of Ann Arbor by Repeal of Chapter 15, Emergency and Disaster Management, Title I, of the Code and Adding a New Chapter 15, Emergency and Disaster Management, Title I of Said Code**

**Question:** Regarding C-1, it does not appear that there are any substantive differences in the ordinance compared with what was discussed at the recent work session, but can you please confirm that? If there are any substantive changes, can you please briefly elaborate on them? (Councilmember Lumm)

**Response:** The material presented at the work session was a summary of the Ordinance on Council's agenda. There are no differences between the information presented at the Work Session and the text of the Ordinance.

**C-2 - An Ordinance to Amend Chapter 55 (Zoning Ordinance) of Title V of the Code of the City of Ann Arbor to add Section 5:83 (Solar Energy Systems)**

**Question:** Q1. The cover memo indicates that "staff has conducted extensive research of local and national codes for solar arrays, a summary chart of select ordinances is

attached." The chart is not an attachment (just the ordinance itself and the staff report are attached), so can you please direct me to it or provide a copy of it. Also, can you please provide the data you've collected on all of the municipalities you researched and not just select ones? (Councilmember Lumm)

**Response:** The Solar comparison chart is attached. Systems Planning staff worked with the Urban Sustainability Director's Network of cities' documents and peer-sharing services in addition to obtaining technical assistance support through the US Department of Energy's solar program for help finding examples and comparisons. Planning staff built upon that data and did additional online research for comparable communities. Staff did not maintain a list of the communities that did not have a solar ordinance.

**Question:** Q2. The cover memo (top of page 2) states that screening is required "with a minimum of 80% opacity." The bottom of page 2 talks about "landscaping being a minimum of 50% opaque at the time of planting." Can you please clarify what the requirement is? (Councilmember Lumm)

**Response:** The requirement is for 80% opacity to screen the Solar Energy System (SES). However, acknowledging that plants grow, staff worked with Planning Commission to incorporate a vegetation growth period before any plants would need to be trimmed to prevent interference with the solar panel function. This language is based on similar language in Chapter 62 (Landscape and Screening) that is used in the Materials and Design Standards Section (Sect 5:606) for required landscape buffer materials. The effect is to allow a 50% landscape screen at installation that will achieve 80% screening in the future. A fence or other physical screen would need to achieve 80% opacity at installation.

**Question:** Q3. Typically when we are considering a planning-related item, the actual Planning Commission vote is referenced in the title. What was the Planning Commission vote on this ordinance and what was the vote on the amendment you reference in the cover memo that would have allowed SES in the front yard "only after it was demonstrated that no locations in the side or rear yard were acceptable"? (Councilmember Lumm)

**Response:** The final Planning Commission vote was 6-0 to approve the main original motion. The amendment referenced failed with a 3-3 vote of Planning Commission.

**Question:** Q4. Also on that same amendment Planning Commission did not approve, the cover memo indicates "staff and some Commission members stated concerns with the subjective nature of the decision." In staff's research of other ordinances, were there any examples of a similar requirement, and if so, can you please contact them to discuss if they have experienced issues in interpreting the requirement and how they've handled the issues? (Councilmember Lumm)

**Response:** Yes, there were other examples of similar 'subjective' provisions from other communities. If this ordinance is passed at First Reading, information can be sought from other community experience and shared with council at second reading.

**Question:** Q5. While I know there was a neighborhood meeting last Wednesday, how many other neighborhood meetings and/or public information meetings or input sessions have been conducted on this ordinance, and please provide information on where they were and about how many residents attended? Also, for comparison. how many public information meetings, neighborhood meetings, etc. were held on ADU's? (Councilmember Lumm)

**Response:** The draft ordinance was presented to the Planning Commission's Ordinance Review Committee on May 23<sup>rd</sup>, 2017. Staff then presented the draft ordinance to a joint working session of the Planning Commission and the Energy Commission on June 13, 2017. The revised ordinance was then presented to Planning Commission on July 18 and was postponed to the August 15 Planning Commission when it was recommended for approval. All meetings were open to the public with an opportunity for public comment. No separate neighborhood or public information meetings were held. A formal public hearing was held at the July 18 Planning Commission meeting with eight members of the public during public comment. Six neighborhood meetings were held in conjunction with proposed ADU Ordinance.

**Question:** Q6. The ordinance itself - in (3) standards (b) ground mounted Solar Energy System (SES) (vi) lot coverage - states that, "Solar energy systems shall not occupy greater than 35% of the required rear setback area." What exactly does that mean - I'm confused by setback "area". So does it mean a SES could be right at the lot line as long as it does not occupy more than 35% of the total required rear setback area (distance to lot line x width of lot)? Also, what are the lot coverage standards for side setback areas? (Councilmember Lumm)

**Response:** The required rear setback area is the area between the rear lot line and the required rear setback line which runs the whole width of the lot. This area can be less than the area of the total rear yard if a greater building setback is present. This is the same lot coverage requirement that exists currently for any detached accessory building in the rear setback area. All other regulations for accessory buildings apply, such as the required 3 foot minimum rear and side setback for accessory structures.

A Solar Energy System (SES) is not permitted in the required side setback area, but no additional coverage requirements apply to the remaining side yard outside the required setback.

**C-3 - An Ordinance to Amend Title VII of the Code of the City of Ann Arbor by Repealing Chapter 95 (Medical Marijuana Licenses for Medical Marijuana Dispensaries) of Title VII of the Code of the City of Ann Arbor and By Adding a New Chapter 96 (Medical Marijuana Facilities) to Title VII of the Code of the City of Ann Arbor**

**Question:** Regarding C-3, my recollection is that there was work that needed to be done at the state level in addition to municipalities adopting local ordinances. Can you please confirm if that's accurate and if so, provide a status update on what has occurred at the state level? (Councilmember Lumm)

**Response:** The Michigan Department of Licensing & Regulatory Affairs (LARA) issued an update in an advisory bulletin on October 12, 2017. LARA indicates it is subject to change.

According to the advisory bulleting applicants will be able to submit applications for state facilities licenses beginning December 15, 2017. A two-step application process will be used. The first step is "prequalification," which would include a full criminal and financial background investigation.

The second step would be "the license application." An applicant will be required to provide more specific information and additional documents, which includes, but is not limited to, "municipality approval and copy of the municipality's authorizing ordinance."

There would also be an option of submitting the information and documentation required for steps 1 and 2 simultaneously.

**DB-1 - Resolution to Approve DTE State Street Utility Substation Planned Project Site Plan, at 2551 South State Street (CPC Recommendation: Approval - 9 Yeas and 0 Nays)**

**Question:** Regarding DB-1, has the city received any concerns or objections from residents or neighbors on the proposal or were there any concerns/issues raised at the Planning Commission meeting? If so, can you please provide a brief summary? (Councilmember Lumm)

**Response:** One resident, who lives about a half mile north of the DTE site, asked about the multiple projects that DTE has planned for the area. The resident suggested that DTE establish a timeline on its website so that residents could be kept apprised of the status of various projects that DTE has planned for the area. Additionally, an adjacent property owner (along S. State Street) called Planning & Development Services just prior to the hearing to determine how the project would impact vegetation near her property. DTE representatives held a meeting with the property owner after the

Planning Commission hearing to answer her questions and discuss the impact of the project. Additionally, DTE met with representatives of Ann Arbor Public Schools to ensure that the school district understood the scope of the project.

Municipality	Front Yard	Maximum Lot Area coverage	Height Maximum	Setbacks	Screening Required
<b>Ann Arbor DRAFT</b>	Yes, Not in Required Front Setback Area	Yes, Maximum 35% of required front or rear open space	6 feet in front yard, 21 feet side or rear yard	3 feet in the side or rear yard, required side setback for front yard	Yes
<b>Evanston, IL</b>	No	Yes, 25% of primary building	10 feet	Same as Accessory Structures	No
<b>Madison, WI</b>	Yes	Yes	Height of principal building or 15 feet, whichever is less	Same as Accessory Structures	No
<b>Manchester Township, MI</b>	No	No	16 feet	10 feet from side or rear property line	No, but equipment shall not have adverse visual impact
<b>Seattle, WA</b>	Yes, same setbacks as principal structure	N/A	Same as principal structure	3 feet side, 15 feet rear	No
<b>Chapel Hill, NC</b>	No	No	N/A	8-17 feet (depending on district) from all property lines, possibly zero with special review	No



Municipality	Front Yard	Maximum Lot Area Coverage	Height Maximum	Setbacks	Screening Requirements
Troy	Yes, subject to site plan review	N/A	40 feet	N/A	No
Milan	No	N/A	40 feet	N/A	No
Chicago, IL	No	No	N/A	18 inches into required side setback 3 feet maximum into required rear setback	Yes
Fayetteville, NC	No	N/A	N/A	At least two feet from side or rear lot line	No
Massachusetts MODEL ordinance	Possibly, must be locate in the side or rear yard to the extent practicable	N/A	Same as Accessory Structures	Small – Half the required setback distance Medium or Large- 20 feet	N/A
Utah MODEL ordinance	No	No	Same as Accessory Structures	Same as Accessory Structures	No
New York State MODEL ordinance	No	Yes	Same as Accessory Structures	Same as Accessory Structures	No