

The YouTube channel “City of Franklin WI” will be live streaming the Common Council meeting so that the public will be able to view and listen to the meeting.  
<https://www.youtube.com/c/CityofFranklinWIGov>

CITY OF FRANKLIN  
COMMON COUNCIL MEETING  
FRANKLIN CITY HALL – COMMON COUNCIL CHAMBERS  
9229 WEST LOOMIS ROAD, FRANKLIN, WISCONSIN  
AGENDA\*  
TUESDAY, FEBRUARY 1, 2022, AT 6:30 P.M.

- A. Call to Order and Roll Call.
- B.
  - 1. Citizen Comment Period.
  - 2. Mayoral Announcement: A Proclamation in Support and Recognition of February 2022 as “American Heart Month”.
- C. Approval of Minutes:
  - 1. Regular Common Council Meeting of January 18, 2022.
  - 2. Special Common Council Meeting of January 25, 2022.
- D. Hearings.
- E. Organizational Business.
- F. Letters and Petitions.
- G. Reports and Recommendations:
  - 1. Consent Agenda:
    - (a) Request to Purchase Replacement Inspection Services Vehicle in the Amount of \$28,467.
    - (b) Request from the Director of Health and Human Services to Approve a Contract to Continue to Administer the Retail Food and Recreation Programs for the Wisconsin Department of Agriculture, Trade, and Consumer Protection.
    - (c) Polling Location Facility Usage/Indemnity Agreement with St. Martin of Tours Church.
  - 2. Approve a Three-Year Property Assessment Services Contract with Accurate Appraisal, LLC.
  - 3. A Motion to Rescind or Amend Resolution No. 2017-7318, a Resolution to Waive Water Extension to Serve a Lot in the 5000 Block of W. Minnesota Avenue.
  - 4. A Preliminary Resolution Declaring Intent to Exercise Special Assessment Powers Granted by Section 207-15 of the Municipal Code and Section 66.0701 of the State Statutes for Installation of a Water Main on S. 50th Street from the Intersection of W. Minnesota Avenue to a Point of Connection Approximately 250 Feet South on S. 50th Street and Also Along W. Minnesota Avenue from a Point of Connection at the Intersection of S. 51st

Common Council Meeting Agenda

February 1, 2022

Page 2

Street to the Intersection of S. 49th Street and Then to a Point of Termination Approximately 50 Feet North of W. Minnesota Avenue and Setting the Public Hearing Date for April 4, 2022 at 6:30 P.M.

5. Standards, Findings and Decision of the City of Franklin Common Council Upon the Application of Stephen R. Mills, President of Bear Development, LLC, Applicant, for a Special Exception to Certain Natural Resource Provisions of the City of Franklin Unified Development Ordinance.
6. Acceptance of Public Improvements in Conjunction with the “Development Agreement for Tax Incremental Financing District No. 6 Public Improvements and Ryan Meadow Subdivision.”
7. Approval of a Job Description for the Position of Laborer.
8. Watermain Project on S. Lovers Lane from W. St Martins Road to 7911 S. 100th Street.
9. Water Survey for Frontage Road Along S. Lovers Lane (U.S. 45/STH 100) from W. Herda Place to S. Phyllis Lane.
10. A Resolution to Enter a License with Wisconsin Electric Power Company to Use Their Property for a Linear Park from S. 116th Street/W. Mayers Drive to Municipal Boundary with Muskego.
11. Status Update for the S. 116th Street Trail in the WISDOT 2022-2026 Transportation Alternatives Program (TAP).
12. A Resolution for the Design and Implementation of the Streambank and Wetland Restoration on Private Properties in the 7300 Block of S. 35th Street (TKN 761-9992-002, 761-9994-005, & 761-9997-003) in Cooperation with Root-Pike Watershed Initiative Network.
13. A Resolution for the Design and Implementation of the Wetland Restoration at Water Tower Park 8120 S. Lovers Lane Road (TKN 801-9986-000) in Cooperation with Root-Pike Watershed Initiative Network.
14. A Resolution Declaring Official Intent to Reimburse Expenditures up to \$11.05 Million, from Proceeds of Future Borrowing.
15. An Ordinance to Amend Ordinance 2021-2486, an Ordinance Adopting the 2022 Annual Budget for the Capital Outlay Fund to Provide \$15,819.25 of Appropriation and Funding Resource for the Purchase of One Additional LUCAS-3 Automatic Chest Compression Device, and Common Council Approval to Purchase the Device.
16. Recommendation from the Committee of the Whole Meeting of January 31, 2022:
  - (a) Demonstration of the LUCAS Device (Lund University Cardiac Assist System) by the Fire Department.
  - (b) Kueny Architects, LLC Status Update Concerning the Department of Public Works and Fire Needs Assessment Services Project.

H. Licenses and Permits.

Miscellaneous Licenses from License Committee Meeting of February 1, 2022.

I. Bills.

Request for Approval of Vouchers and Payroll.

Common Council Meeting Agenda

February 1, 2022

Page 3

J. Adjournment.

\*Supporting documentation and details of these agenda items are available at City Hall during normal business hours

[Note Upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services  
For additional information, contact the City Clerk's office at (414) 425-7500 ]

REMINDERS:

February 3	Plan Commission Meeting	7:00 p.m.
February 15	Spring Primary (Whitnall School District Only)	7:00 a.m. – 8:00 p.m.
February 15	Common Council Meeting	6:30 p.m.
February 17	Plan Commission Meeting	7:00 p.m.

**BLANK PAGE**

# City of Franklin Proclamation

---

## A PROCLAMATION IN SUPPORT AND RECOGNITION OF FEBRUARY 2022 AS “AMERICAN HEART MONTH”.

---

WHEREAS, According to the American Heart Association, heart disease is a leading cause of death in the United States for both men and women; and according to the Centers for Disease Control and Prevention, one person dies every 37 seconds from heart disease and one in three American adults live with some form of heart disease; and

WHEREAS, Heart disease is preventable by targeting risk factors such as smoking, high cholesterol levels, and maintaining normal blood pressure; and

WHEREAS, the global COVID-19 disease pandemic poses significantly high risk to individuals with cardiovascular disease; and public awareness of preventative measures is essential for heart health, it is vital to support accessible heart healthy resources in our community; and

WHEREAS, February being American Heart Month, a federally designated event, it is time to remind Franklin residents to focus on their hearts, and ways to prevent cardiovascular disease, by adopting healthy habits; and

WHEREAS, The Mayor and Common Council support the Franklin Fire Department, by providing for a 100% paramedic staff level, the only Milwaukee County department with this distinction, and by purchasing a LUCAS device for each of the three MED units; and

WHEREAS, the Franklin Health Department and Volition Franklin Youth will be participating in heart healthy focused activities throughout the month of February by creating heart shaped valentines sharing smoking and vaping prevention messaging with their peers and community members; and

WHEREAS, the Franklin Health Department and Volition Franklin will be partnering with the Franklin Fire Department to facilitate a hands only CPR learning session for the general community and offering options to sign up for a future CPR course for certification; and

WHEREAS, the Franklin Health Department will offer free walk-in blood pressure screenings each Tuesday in February from 10-11am in the Health Department; and the Franklin Public Library is offering heart healthy lifestyle programming such as yoga, stress management programs and healthy cooking classes.

NOW, THEREFORE, BE IT RESOLVED, That I, Mayor Steven R. Olson proclaim February 2022, as American Heart Month in the City of Franklin.

---

Stephen R. Olson, Mayor

**BLANK PAGE**

CITY OF FRANKLIN  
COMMON COUNCIL MEETING  
JANUARY 18, 2022  
MINUTES

- ROLL CALL                    A.            The regular meeting of the Common Council was held on January 4, 2022 and called to order at 6:30 p.m. by Mayor Steve Olson in the Franklin City Hall Council Chambers, 9229 W. Loomis Road, Franklin, Wisconsin. On roll call, the following were in attendance: Alderman Ed Holpfer, Alderman Daniel Mayer, Alderwoman Kristen Wilhelm, Alderwoman Shari Hanneman, Alderman Mike Barber and Alderman John R. Nelson. Also present were City Engineer Glen Morrow, Dir. of Administration Peggy Steeno, City Attorney Jesse A. Wesolowski and City Clerk Sandra Wesolowski.
  
- CITIZEN COMMENT        B.1.            Citizen comment period was opened at 6:32 p.m. and closed at 6:52 p.m.
  
- MAYORAL ANNOUNCEMENT    B.2.            Mayor Olson presented a Proclamation Declaring our Substantial Appreciation and Respect for and to Adam Brett Walker II for His Incredible Achievements in Life and for Being our Most Valuable Player.
  
- MINUTES  
JAN. 18, 2022                C.            Alderwoman Wilhelm moved to approve the minutes of the regular Common Council meeting of January 4, 2022, as presented at this meeting. Seconded by Alderman Barber. All voted Aye; motion carried.
  
- CONSENT AGENDA        G.1.            Alderwoman Wilhelm moved to approve the following Consent Agenda items:
  
- RESCHEDULE  
4/5/2022 MTG.                (a)            Reschedule Common Council Meeting of April 5, 2022, to April 4, 2022, due to the Spring Election;
  
- 1-YR. TOWING  
CONTRACT EXT.                (b)            Approve one-year extension of Towing Contract with N&S Towing, Inc. for 2022-2023;
  
- RIFLES FOR POLICE  
SWAT TEAM                    (c)            Authorize the Police Department to purchase 7 SWAT rifles from the Police Department Firearm Supplies account for an expenditure of up to \$13,000;
  
- CHEST  
COMPRESSION  
DEVICES                        (d)            Authorize the Fire Department to purchase two additional LUCAS-3 automatic chest compression devices from the manufacturer Stryker, in the amount of \$31,638.50;
  
- DPW SALE OF  
SURPLUS  
EQUIPMENT                    (e)            No action required on the results of the Department of Public Works Sale of Surplus Equipment included in the Common Council meeting packet; and

- EMAIL ARCHIVING (f) Authorize the purchase of an Intradyn 4TB IA10 email archiving  
APPLIANCE appliance at a total cost of \$13,425, as budgeted for in the 2022  
Information Services Computer Equipment Capital Outlay Budget and  
1 year of Software Maintenance and Support and CloudSync DR  
Cloud-Based Backup for the appliance at a total cost of \$8,079, as  
budgeted for in the 2022 Information Services Equipment Maintenance  
Budget.
- Seconded by Alderman Holpfer. All voted Aye; motion carried.
- RES. 2022-7714 G.2. Alderwoman Hanneman moved to approve Resolution No. 2022-7714,  
RATIFICATION OF A A RESOLUTION IN RATIFICATION OF A PROCLAMATION  
PROCLAMATION TO RESURRECT, REVIVE, REINSTATE AND EXTEND THE  
EXTENSION OF COVID-19 THE TIME PERIOD OF THE PUBLIC HEALTH EMERGENCY  
PROVIDED FOR IN RESOLUTION NO. 2021-7703, IN PART  
ENTITLED A RESOLUTION IN RATIFICATION OF A  
PROCLAMATION TO EXTEND THE TIME PERIOD OF THE  
PUBLIC HEALTH EMERGENCY PROVIDED FOR IN  
RESOLUTION NO. 2020-7653, IN PART ENTITLED A  
RESOLUTION TO AMEND A RESOLUTION IN RATIFICATION  
OF A PROCLAMATION DECLARING A PUBLIC HEALTH  
EMERGENCY IN RESPONSE TO THE CORONAVIRUS DISEASE  
2019 (COVID-19), AS AMENDED AND IN PART WITH REGARD  
TO THE OMICRON VARIANT SURGE, UNTIL FEBRUARY 15,  
2022. Seconded by Alderman Mayer. All voted Aye; motion carried.
- COVID UPDATE G.2.(a) No action was taken on the COVID update distributed by the Franklin  
Director of Health and Human Services/Health Officer.
- FTE TO REPLACE G.3. Alderwoman Wilhelm moved to approve the following: Adjust  
EMT WITH authorized staffing full-time equivalencies (FTEs) to replace the sole  
FIREFIGHTER- current Firefighter-Emergency Medical Technician (EMT) with a  
PARAMEDIC Firefighter-Paramedic. Seconded by Alderman Mayer. All voted Aye;  
motion carried.
- BALLPARK G.4. No action was taken following the presentation of Project updates by  
COMMONS UPDATE Mike Zimmerman, Ballpark Commons.
- RES. 2022-7715 G.5. Alderwoman Hanneman moved to approve Resolution No. 2022-7715,  
SPECIAL USE FOR A RESOLUTION IMPOSING CONDITIONS AND RESTRICTIONS  
FOOD PROCESSING FOR THE APPROVAL OF A SPECIAL USE TO ALLOW A 310,485  
OPERATION AT W. SQUARE FOOT "OFFICE/LIGHT INDUSTRIAL FLEX SPACE" TO  
OAKWOOD RD. AND DEVELOP A FOOD PROCESSING OPERATION, INCLUDING  
S. 27TH ST. (SAPUTO THE PROVISION OF MATERIALS DELIVERY, PROCESSING,



CHEESE USA, INC.  
APPLICANT)

PACKAGING AND DISTRIBUTION OF FOOD PRODUCTS, WITH SUPPORTING OFFICE AND EMPLOYEE WELFARE FACILITIES UPON PROPERTY LOCATED ON THE EASTERN HALF OF THE PARCEL AT THE INTERSECTION OF WEST OAKWOOD ROAD AND SOUTH 27TH STREET, OTHERWISE KNOWN AS LOT 2 OF CERTIFIED SURVEY MAP NO. 9362, ZONED PLANNED DEVELOPMENT DISTRICT NO. 39 (MIXED USE BUSINESS PARK). Seconded by Alderwoman Wilhelm. On roll call, all voted Aye. Motion carried.

ORD. 2022-2492  
CREATE UDO  
SECTION 15-3.0445  
PDD NO. 40  
(CAPE CROSSING)

G.6.

Alderman Nelson moved to refer back to Plan Commission for review of each question and answer and review of soil report, an Ordinance to Create Section 15-3.0445 of the Franklin Unified Development Ordinance Establishing Planned Development District No. 40 (Cape Crossing) and to Rezone Property From R-3 Suburban/Estate Single-Family Residence District and C-1 Conservancy District to Planned Development District No. 40 (12200 West Ryan Road). Seconded by Alderman Mayer.

Alderwoman Hanneman moved to call the question. Seconded by Alderman Barber. On roll call to call the question, Alderman Holpfer, Alderwoman Hanneman, and Alderman Barber voted Aye; Alderman Mayer, Alderwoman Wilhelm, and Alderman Nelson voted No. Mayor Olson broke the tie by Aye; motion carried.

For the vote on the main motion, Alderman Mayer, Alderwoman Wilhelm, and Alderman Nelson voted Aye; Alderman Holpfer, Alderwoman Hanneman, and Alderman Barber voted No. Mayor Olson broke the tie by voting No; motion failed.

Alderwoman Hanneman then moved to adopt Ordinance No. 2022-2492, AN ORDINANCE TO CREATE SECTION 15-3.0445 OF THE FRANKLIN UNIFIED DEVELOPMENT ORDINANCE ESTABLISHING PLANNED DEVELOPMENT DISTRICT NO. 40 (CAPE CROSSING) AND TO REZONE PROPERTY FROM R-3 SUBURBAN/ESTATE SINGLE-FAMILY RESIDENCE DISTRICT AND C-1 CONSERVANCY DISTRICT TO PLANNED DEVELOPMENT DISTRICT NO. 40 (12200 WEST RYAN ROAD). Seconded by Alderman Barber. On roll call, Alderman Barber, Alderwoman Hanneman, and Alderman Holpfer voted Aye; Alderman Nelson, Alderwoman Wilhelm, and Alderman Mayer voted No. Mayor Olson broke the tie by voting Aye; motion carried.

- SENIOR CITIZENS TRAVEL UPDATE      G.7.      Alderwoman Wilhelm moved to accept and place on file the Franklin Senior Citizens Travel Program Update for 2021 year end. Seconded by Ald. Barber. All voted Aye; motion carried.
- WI DNR URBAN FORESTRY GRANT      G.8.      Alderwoman Wilhelm moved to authorize the Department of Public Works to accept and use the Wisconsin Department of Natural Resources Urban Forestry Grant funds and matching funds provided by the City of Franklin. Seconded by Alderman Mayer. All voted Aye; motion carried.
- ATC COMMUNITY PLANTING GRANT      G.9.      Alderwoman Wilhelm moved to authorize the Department of Public Works to accept and use the American Transmission Company Community Planting Program grant funds as specified by the terms of the grant. Seconded by Alderman Mayer. All voted Aye; motion carried.
- RES. 2022-7816 CONTRACT WITH HAUSCH DESIGN AGENCY, LLC FOR SEWER PROJECT MESSAGING PROGRAM      G.10.      Alderwoman Hanneman moved to adopt Resolution No. 2022-7816, A RESOLUTION TO ENTER INTO A CONTRACT WITH HAUSCH DESIGN AGENCY, LLC TO DEVELOP A MESSAGING PROGRAM FOR FRANKLIN SEWER UTILITIES PROJECT/PRIVATE PROPERTY INFILTRATION & INFLOW REDUCTION PROJECT FOR \$31,000, subject to liability insurance changes as authorized by the Director of Administration. Seconded by Alderwoman Wilhelm. All voted Aye; motion carried.
- RES. 2022-7817 AGREEMENT WITH R.A. SMITH FOR WATERMAIN PROJECT TID NO. 6 (W. RYAN RD.)      G.11.      Alderwoman Hanneman moved to adopt Resolution No. 2022-7817, A RESOLUTION FOR A PROFESSIONAL SERVICES AGREEMENT WITH R.A. SMITH, INC. FOR A W. RYAN ROAD WATERMAIN PROJECT SERVING TAX INCREMENT DISTRICT NO. 6 FOR \$142,900 and to further direct Staff to bid project in 2022. Seconded by Alderwoman Wilhelm. All voted Aye; motion carried.
- Alderman Nelson vacated his seat at 8:52 p.m. and returned to his seat at 8:54 p.m.
- PRELIMINARY RES. SPECIAL ASSESSMENT FOR WATER MAIN IN S. 50TH ST. AND W. MINNESOTA AVE.      G.12.      Alderwoman Wilhelm moved to authorize staff to prepare a bid for the South 50th Street stub with a north/south water stub extending to West Minnesota Avenue, and to include an alternate bid, for an east/west water line along West Minnesota Avenue between South 51st and South 49th Streets, and further to survey the affected residents per Resolution No. 93-3955, which includes providing costs estimates at the time of survey, based on the alternate bid results; returning to the Common Council on the first meeting of each month with a brief update until the project(s) are complete. Seconded by Alderman Nelson. Alderwoman Wilhelm withdrew her motion and Alderman

Nelson withdrew his second. All voted in favor of allowing the motion to be withdrawn.

Alderman Wilhelm then moved to have the City Engineer survey property owners as appropriate and return to the Common Council with Resolution No. 2017-7318 for reconsideration. Seconded by Alderman Nelson. All voted Aye; motion carried.

Mayor Olson vacated his seat at 9:11 p.m. and returned to his seat at 9:25 p.m.

LICENSES AND  
PERMITS

H. Alderman Nelson moved to approve the following:

Grant 2021-2022 Operator License to: Shannon Corcoran, Jessica Deangelis, Amanda Losiniecki, Jena Obarski ; and

Grant 2021-2022 Day Care License to Mrs. Rikki's Structured Daycare, 11224 W Forest Home Ave, Lisa Norgel, President, with verification on complete background check.

Seconded by Alderman Wilhelm. All voted Aye; motion carried.

Alderman Wilhelm vacated her seat at 9:27 p.m. and returned to her seat at 9:35 p.m. (during Item G.13.).

VOUCHERS AND  
PAYROLL

I. Alderman Barber moved to approve the following: City vouchers with an ending date of January 14, 2022 in the amount of \$997,909.56 and payroll dated January 14, 2022 in the amount of \$530,393.98 and payments of the various payroll deductions in the amount of \$305,413.68, plus City matching payments and estimated payroll dated January 28, 2022 in the amount of \$425,000 and payments of the various payroll deductions in the amount of \$608,000, plus City matching payments and Property Tax disbursements with an ending date of January 14, 2022 in the amount of \$30,367,419.99 and approval to release property tax settlements in the amount of \$56,889,648.04. Approval to release payment to Milliman Inc. in the amount of \$8,000. Seconded by Alderman Hanneman. On roll call, Alderman Holpfer, Alderman Mayer, Alderman Hanneman, Alderman Barber, and Alderman Nelson voted Aye; Alderman Wilhelm was Absent. Motion carried.

CLOSED SESSION  
AMENDMENT TO  
TID NO. 7 DEV.  
AGREEMENT/VELO

G.13. Alderman Barber moved to enter closed session at 9:31 p.m. pursuant to Wis. Stat. § 19.85(1)(e), to deliberate upon a Potential Amendment to Tax Incremental District No. 7 Development Agreement Between the City of Franklin and Velo Village

VILLAGE  
APARTMENTS LLC

Apartments LLC (Developer), the negotiation of Agreement terms and the investing of public funds in relation thereto, for competitive and bargaining reasons, and to reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate. Seconded by Alderwoman Hanneman. On roll call, Alderman Nelson, Alderman Barber, Alderwoman Hanneman, Alderman Mayer, and Alderman Holpfer voted Aye; Alderwoman Wilhelm was Absent. Motion carried.

Alderwoman Wilhelm returned to her seat at 9:35 p.m.

Upon re-entering open session at 9:50 p.m. Alderman Nelson moved to authorize staff to execute an amendment to the Tax Incremental District No. 7, a Development Agreement between the City of Franklin and Velo Village Apartments LLC, accepting a revised contingent payment clause in which the City/TID #7 would receive a \$4 million payment, and directing staff to work with its outside legal counsel to: (1) draft an appropriate amendment to ensure that the funds are available for City use only for eligible project costs and to protect the taxpayers in the case any applicable TIDs are distressed, and (2) establish a plan for the use of the funds to be approved by the Common Council. Seconded by Alderman Barber. On roll call, all voted Aye. Motion carried.

ADJOURNMENT

- J. Alderman Barber moved to adjourn the meeting at 9:52 p.m. Seconded by Alderwoman Hanneman. All voted Aye; motion carried.

CITY OF FRANKLIN  
SPECIAL COMMON COUNCIL MEETING  
JANUARY 25, 2022  
MINUTES

- ROLL CALL I. The special meeting of the Common Council was held on January 25, 2022 and called to order at 6:30 p.m. by Mayor Steve Olson in the Franklin City Hall Hearing Room, 9229 W. Loomis Road, Franklin, Wisconsin. On roll call, the following were in attendance: Alderman Ed Holpfer, Alderman Dan Mayer, Alderwoman Kristen Wilhelm, Alderwoman Shari Hanneman, Alderman Mike Barber, and Alderman John R. Nelson. Also present were City Engineer Glen Morrow, Director of Administration Peggy Steeno, City Attorney Jesse A. Wesolowski, and City Clerk Sandra Wesolowski.
  
- CITIZEN COMMENT II. Citizen comment period was opened at 6:31 p.m. and closed at 6:31 p.m.
  
- FRANKLIN COMMUNITY ADVOCATES, ET AL V. CITY OF FRANKLIN, AND STRAUSS BRANDS, LLC* III. Alderwoman Hanneman moved to enter closed session at 6:32 p.m. pursuant to Wis. Stat. § 19.85(1)(g), to confer with legal counsel for the Common Council who is rendering advice concerning strategy to be adopted by the body with respect to the subject litigation, *Franklin Community Advocates, et al. v. City of Franklin and Strauss Brands, LLC*, Milwaukee County Circuit Court, Case No. 20-CV-7031, and to reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate. Seconded by Alderman Holpfer. On roll call, all voted Aye. Motion carried.  
  
Upon reentering open session at 7:50 p.m., Alderwoman Hanneman moved to proceed as discussed in closed session. Seconded by Alderman Barber. All voted Aye; motion carried.
  
- ADJOURNMENT IV. Alderman Barber moved to adjourn the special meeting at 7:50 p.m. Seconded by Alderman Holpfer. All voted Aye; motion carried.

**BLANK PAGE**

<p><b>APPROVAL</b></p> <p><i>slw</i></p>	<p><b>REQUEST FOR COUNCIL ACTION</b></p>	<p><b>MEETING DATE</b></p> <p><b>2/1/2022</b></p>
<p><b>REPORTS &amp; RECOMMENDATIONS</b></p>	<p><b>Request to Purchase Replacement Inspection Services Vehicle in the Amount of \$28,467</b></p>	<p><b>ITEM NUMBER</b></p> <p><b>G.1.(a)</b></p>

*Background*

Included in the 2022 Budget is funding for an Inspection Services vehicle to replace a 2011 Jeep Liberty which is Vehicle #771 in the Department's fleet of vehicles.

*Analysis*

The purchase would be considered part of the regular ten-year replacement of vehicles, through the Equipment Replacement Fund. Mileage on Vehicle #771 is currently 55,653. Staff has secured a quote in the amount of \$28,467 for a 2022 Ford Explorer, under the State of Wisconsin vehicle purchase program, which offers advantageous pricing to the City. Delivery of the new vehicle is unknown at this time and is not typically determined until the order is placed. Staff would anticipate a delivery date 5 to 7 months after the order is placed.

*Recommendation*

Staff is recommending approval to purchase a 2022 Ford Explorer in the amount of \$28,467 to replace Vehicle #771 with funding provided by the 2022 Fund 42 Equipment Replacement Fund (42.0231.5811 Inspection Services Auto Equipment).

**COUNCIL ACTION REQUESTED**

Motion to approve the purchase of a 2022 Ford Explorer in the amount of \$28,467 to replace Vehicle #771 with funding provided by the 2022 Fund 42 Equipment Replacement Fund (42.0231.5811 Inspection Services Auto Equipment).



## Ewald Automotive Group

Scott Kussow | 262-567-5555 | [skfleet@ewaldauto.com](mailto:skfleet@ewaldauto.com)

# City of Franklin

**Prepared For: Scott Satula**

414-425-0084

[ssatula@franklinwi.gov](mailto:ssatula@franklinwi.gov)

Vehicle: [Fleet] 2022 Ford Explorer (K8B) Base 4WD







# Ewald Automotive Group

Scott Kussow | 262-567-5555 | skfleet@ewaldauto.com

Vehicle: [Fleet] 2022 Ford Explorer (K8B) Base 4WD ( / Complete )

## Quote Worksheet

	<b>MSRP</b>
Base Price	\$35,245 00
Dest Charge	\$1,295 00
Total Options	\$525 00
	<b>Subtotal</b>
	<b>\$37,065.00</b>
	<b>Subtotal Pre-Tax Adjustments</b>
	<b>\$0.00</b>
Less Customer Discount	(\$8,598 00)
	<b>Subtotal Discount</b>
	<b>(\$8,598.00)</b>
Trade-In	\$0 00
	<b>Subtotal Trade-In</b>
	<b>\$0.00</b>
	<b>Taxable Price</b>
	<b>\$28,467.00</b>
Sales Tax	\$0 00
	<b>Subtotal Taxes</b>
	<b>\$0.00</b>
	<b>Subtotal Post-Tax Adjustments</b>
	<b>\$0.00</b>
	<b>Total Sales Price</b>
	<b>\$28,467.00</b>

### Comments:

2022 Ford Explorer Base 4wd to your specs as detailed, (similar to '21 order) Registration fees are not included Delivery can be estimated in 180-210 days from receipt of your order

\_\_\_\_\_  
Dealer Signature / Date

\_\_\_\_\_  
Customer Signature / Date

This document contains information considered Confidential between GM and its Clients uniquely The information provided is not intended for public disclosure Prices specifications and availability are subject to change without notice and do not include certain fees, taxes and charges that may be required by law or vary by manufacturer or region Performance figures are guidelines only and actual performance may vary Photos may not represent actual vehicles or exact configurations Content based on report preparer's input is subject to the accuracy of the input provided  
Data Version 15537 Data Updated Jan 10 2022 10 25:00 PM PST

**BLANK PAGE**

APPROVAL <i>Slw</i>	REQUEST FOR COUNCIL ACTION	MEETING DATE 2/1/2022
Reports and Recommendations	A motion from the Director of Health and Human Services authorizing proper officials for the City of Franklin to sign the contract to continue to administer the retail food and recreation programs for the Wisconsin Department of Agriculture, Trade, and Consumer Protection.	ITEM NUMBER  <b>G.1.(b)</b>

**Background:** Since 2007 Franklin Health Department (FHD) has been a local agent for inspection services and maintained agreements with the WI Department of Health Services and DATCP. The FHD environmental health program completed their Evaluation and Standardization process with DATCP in late 2021 and is approved to continue as a State Agent for the next three years.

DATCP has released their new three-year contracts beginning on July 1, 2022 which will run through June 30, 2025. Without extension of the contract with DATCP, all licensing and inspection services by FHD will cease on June 30, 2022

**Analysis:** Continuation of this contract ensures our licensed retail food and recreational establishments continue to be inspected by a local inspector. These establishments also have a local point of contact for questions and technical assistance in interpreting state and local ordinances. FHD has been an agent city in good standing with DHS and DATCP for over 10 years. Local infrastructure has been created to license and inspect all permitted establishments. In addition, FHD staff have completed all required trainings, self-assessments, standardizations, and state mandated evaluations to continue in this program.

**Options:**

1. Authorize the Director of Health and Human Services to sign the DATCP contract.
2. Decline DATCP contract and end agent city inspection service agreement.

**Fiscal Note:** Local service is essentially unaltered. Required changes in policy and procedure manual can be completed by existing staff and available resources. While there is no fiscal impact to the City or our licensed establishments in 2022, this 3-year contract includes a 1% increase in 2023 and another 1% in 2024 in reimbursement costs to DATCP which may necessitate increasing license fees in those years.

**COUNCIL ACTION REQUESTED**

The Director of Health and Human Services requests a motion authorizing proper officials for the City of Franklin to sign the contract to continue to administer the retail food and recreation programs for the Wisconsin Department of Agriculture, Trade, and Consumer Protection.

Health Department: CD

**MEMORANDUM OF AGREEMENT  
BETWEEN  
THE STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION  
AND  
CITY OF FRANKLIN HEALTH DEPARTMENT**

**THIS MEMORANDUM OF AGREEMENT (“MOA”)** is made and entered into for the period **07/01/2022** through **06/30/2025** (“Performance Period”) by and between the Wisconsin Department of Agriculture, Trade and Consumer Protection (“DATCP”), whose principal business address is 2811 Agriculture Dr., P.O. Box 8911, Madison, WI 53708-8911 and **CITY OF FRANKLIN HEALTH DEPARTMENT (“Agent”)**, whose service address is **9229 West Loomis Road, Franklin, WI 53132-9630**, for the purpose of addressing issues of mutual interest to the parties regarding Wis. Stat. §§ 97.41 and 97.615 and Wis. Admin. Code ch. ATCP 74. The Agent's jurisdiction under this MOA includes the following geographic area(s): **City of Franklin**. The Department shall issue a future MOA to the Agent by January 1, of the last fiscal year of the current MOA. The Agent shall commit to continue as the Department’s Agent for the future MOA period, by signing and returning the MOA by March 1, of the last fiscal year of the current MOA.

**RECITALS:**

**WHEREAS**, the issues of mutual interest include an integrated food safety system and safe operation of retail food, lodging, and recreational establishments within the State of Wisconsin; and

**WHEREAS**, the intention of this MOA is to provide a framework for the provision of services for the inspection, licensing, complaint and foodborne illness investigation for retail food, lodging, and recreational establishments as an Agent for the DATCP; and

**WHEREAS**, the primary outcome intended by this MOA is to improve the level of service and consistency for providing inspections, licensing, complaint and foodborne illness investigations for retail food, lodging, and recreational establishments; and

**WHEREAS**, the parties intend to clarify their relationship to establish a common understanding

regarding their roles, responsibilities, and procedures that will facilitate the best provision of services between our agencies; and

**WHEREAS**, the DATCP has authority under Wis. Stat. §§ 97.41 and 97.615 and Wis. Admin. Code ch. ATCP 74, authorizing the DATCP to enter into a written contract designating a local health department, defined in Wis. Stat. § 250.01 (4), to act as the DATCP’s local Agent to administer the retail food, lodging, and recreational establishment program for the purpose of enforcing Wis. Stat. § 97.30 and Subchs. III and IV of ch. 97, and the applicable provisions of the Wisconsin Administrative Code, and

**NOW, THEREFORE**, DATCP and the Agent hereby resolve and agree they will mutually support and adhere to the following principles, and exert their best efforts in doing so.

**I. PURPOSE.**

The Agent hereby agrees to protect public health and safety, as the Agent of the DATCP under Wis. Stat. § 97.30 and Subchs. III and IV of ch. 97, and Wis. Admin. Code ch. ATCP 74, and the terms and conditions of this MOA. The Agent agrees to issue licenses to, inspect, and regulate retail food establishments, campgrounds, recreational and educational camps, public swimming pools and water attractions, hotels, motels, tourist rooming houses, and bed and breakfast establishments, as specified in this MOA, enforcing all applicable provisions of the Wisconsin Statutes and Administrative Code and associated DATCP policies, interpretive memos and procedures including, but not necessarily limited to, Wis. Stat. § 97.30 and Subchs. III and IV of ch. 97, and Wis. Admin. Code chs. ATCP 72 (Hotels, Motels, and Tourist Rooming Houses), 73 (Bed and Breakfast Establishments), 74 (Local Agents and Regulation), 75 (Retail Food Establishments) and its Appendix (Wisconsin Food Code), 76 (Safety, Maintenance, and Operation of Public Pools and Water Attractions), 78 (Recreational and Educational Camps), and 79 (Campgrounds). If the Agent inspects individual vending machines, the Agent will receive reimbursement from the DATCP.

The DATCP agrees to fulfill its responsibilities to the Agent required by Wis. Stat. § 97.30 and

Subchs. III and IV of ch. 97, Wis. Admin. Code ch. ATCP 74, and this MOA.

Pursuant to Wis. Admin. Code § ATCP 74.06 (7), the DATCP shall whenever feasible provide notice to an Agent program at least one fiscal year before making any changes to Department policies and procedures not specified in the MOA that would adversely affect the budget of an Agent program.

This MOA incorporates any amendments to the statutes or administrative rules cited in this MOA, as well as any additional statutes or rules, related to retail food, lodging, and recreational establishment licensing that may be enacted or adopted during the term of this MOA. The Agent agrees that all of its obligations under this MOA include any of these amendments, enactments or adoptions.

A. **Meetings and Consultation.** Both parties agree to meet as needed, to identify issues of mutual concern and discuss strategies to address identified issues.

B. **Designation of Contacts.** The Agent agrees to identify its primary spokesperson to the DATCP, and the DATCP agrees to do the same for discussion of all topics identified in this agreement.

## **II. SCOPE OF WORK.**

### **A. DEFINITIONS**

1. **Agent** means a local health department (LHD) as defined in Wis. Stat. § 250.01 (4), that has entered into a MOA with the DATCP and is authorized under the terms of that MOA to administer a retail food establishment, lodging, and recreational safety regulatory program, pursuant to Wis. Stat. §§ 97.41 and 97.615 (2), in the local health department's area of jurisdiction.

2. **Agent Program** means the retail food establishment, lodging, and recreational safety regulatory program operated by an Agent.

3. **Agent Program Plan** means the plan developed by the Agent for the administration of the Agent program and enforcement of Wis. Stat. § 97.30 and Subchs. III and IV of ch. 97, related provisions of the Wisconsin Administrative Code, and any applicable local ordinances or

regulations cited in its enforcement actions for the types of facilities for which the Agent has been delegated Agent status.

4. **Agent Standard** means a member of the Agent’s inspection staff, responsible for leading standardization exercises, as prescribed in the DATCP’s Standardization Manual, for the environmental health inspection personnel in the Agent’s jurisdiction, who has successfully completed the initial standardization process, is current in their inspection standardization maintenance exercises, and has received a letter of completion from the DATCP.

5. **Complaint** means an allegation, presented to an Agent or the DATCP, of a possible public health hazard or violation of any provision of the Wisconsin Statutes and Administrative Code indicated in this contract or a local public health ordinance or regulation.

6. **Conflict of interest** means a conflict between the private interests and the official responsibilities of a person in a position of trust. As provided in Wis. Stat. § 19.59 (1), a conflict of interest occurs when the exercise of a person's official responsibilities gives the person the opportunity to obtain financial gain or anything of substantial value for the private benefit of himself or herself, his or her immediate family, or an organization with which he or she is associated.

7. **DATCP** means the Wisconsin Department of Agriculture, Trade and Consumer Protection.

8. **Enforcement Action** means a statutorily-authorized action imposed on a licensee for non-compliance with a provision of the Wisconsin Statutes or Administrative Code, or a local public health ordinance or regulation. Enforcement actions include, but are not limited to, holding orders, citations, forfeitures, temporary orders, license suspension, or revocation of a license.

9. **Establishment or Facility** means a retail food establishment, hotel, motel, tourist rooming house, bed and breakfast establishment, food vending machine, camping resort or other campground, recreational educational camp, public swimming pool or water attraction licensed pursuant to Wis. Stat. ch. 97.



10. **Fiscal Year** means July 1 of one year through June 30 of the next year.
11. **Follow up Inspection** means a non-mandatory inspection by the Agent to ensure non-critical violations, cited in a routine inspection, have been corrected by a licensee.
12. **Foodborne Disease Outbreak** means the occurrence of two or more cases of a similar illness of persons, resulting from the ingestion of a common food.
13. **Inspection Fee** means a fee charged by the Agent program, the amount of which is reasonably related to the cost of performing an assessment of an establishment's compliance with the statutes and rules, under which a license is granted, including the following:
  - a. An inspection in an establishment not under the DATCP's regulatory authority.
  - b. An Agent inspection in its jurisdiction of a DATCP licensed mobile or temporary retail food establishment.
14. **Inspector** means any employee inspecting establishments for the DATCP, or the Agent under the jurisdiction of an Agent program.
15. **License** means the legal authority granted by the DATCP or its Agent to operate an establishment.
16. **Licensee** means the person or entity licensed to operate an establishment.
17. **Local Public Health Ordinance or Regulation** means an ordinance adopted by a village, city or county, or a regulation adopted by a local board of health, as the DATCP's Agent, pursuant to Wis. Stat. § 97.41 (7) or 97.615 (2) (g).
18. **MOA** means a signed, written agreement between a local health department and the DATCP setting forth the obligations of each party in the operation of an Agent program.
19. **Memorandum of Understanding (MOU)** means an agreement between the DATCP and another state agency for designating each agency's responsibilities in shared governance. Examples include agreements with the department of public instruction and the department of natural resources.
20. **New Agent** means an Agent that has entered into its first contract with the DATCP or

an Agent that has applied to reenter into a contract with the DATCP after termination of a previous contract.

21. **Person** means an individual, married couple, legal entity of a partnership, corporation, or limited liability company, municipality, county, town, or state or local agency.

22. **Pre-licensing Inspection** means an inspection that must be completed before a license is granted and the licensee may begin operating an establishment.

23. **Program Evaluation** means an assessment by the DATCP of the Agent’s adherence to the provisions of this MOA.

24. **Registered Environmental Health Specialist/Registered Sanitarian or REHS/RS** means a person who holds an REHS/RS credential awarded by the National Environmental Health Association.

25. **Registered Sanitarian or RS** means an individual who is a Wisconsin-registered sanitarian, pursuant to Wis. Stat. §440.98 and Wis. Admin. Code. chs. SPS 174 to 177, or is recognized as a registered environmental health specialist/registered sanitarian.

26. **Reimbursement** means the portion of the license fee, collected by the Agent, that is remitted to the DATCP, pursuant to Wis. Stat. § 97.41 (5) or 97.615 (2) (e).

27. **Reinspection** means a mandatory or administrative inspection to ensure that a priority, critical or recurring violation has been corrected. A reinspection shall be conducted as soon as possible, based on the scheduled date for correction(s). An applicable reinspection fee may be required per Agent policy. A reinspection will be required as identified in the DATCP’s reinspection criteria for retail food and recreational facilities.

28. **Routine inspection** means the annual evaluation of a licensee’s operation of its establishment.

29. **Sanitarian** means a person who is qualified to conduct inspections as an Agent of the DATCP and meets the requirements under Wis. Admin. Code § ATCP 74.08 (2).

30. **Standard** means a DATCP (state standard) or Agent employee (Agent standard) who

is certified as correctly interpreting and enforcing one or more of Wis. Admin. Code chs. ATCP 72, 73, 75 and its Appendix, 76, 78, and 79.

31. **Standardization exercise** means an evaluation conducted by a standard to determine if a sanitarian is correctly interpreting and enforcing one or more of Wis. Admin. Code chs. ATCP 72, 73, 75 and its Appendix, 76, 78, and 79.

32. **Standardization (initial)** means a sanitarian’s first successful completion of required field standardization exercises by using risk based inspection methods, as specified in the DATCP’s Standardization Manual.

33. **Standardization (maintenance)** means a sanitarian’s successful completion of field standardization exercises by using risk based inspection methods, required every three years to maintain standardization certification, as specified in the DATCP’s Standardization Manual.

34. **State Fees** means the DATCP’s fees in Wis. Stat. §§ 97.41 (5) and 97.615 (2) (e), levied to recoup DATCP costs related to setting standards for, monitoring and evaluating the activities of, and providing education and training to, Agent local health departments.

35. **State License Fees** means the license fees set by the DATCP, pursuant to Wis. Stat. §§ 97.30 (3) and (3m), 97.613, and 97.67 (4).

36. **Waterborne Disease Outbreak** means the occurrence of two or more cases of a similar illness of persons after the ingestion of drinking water from the same source, or after exposure to water from the same source used for recreational purposes, and for which epidemiologic evidence implicates water as the probable source of the illness.

## B. ISSUING LICENSES

1. Any establishment that is selling, holding, or distributing food and exempt from the requirement to hold a retail food establishment license, pursuant to Wis. Stat. § 97.30 (2) (b), is under the regulatory authority of the DATCP and may not be licensed, charged a fee, or inspected in any manner related to food, dairy, or meat processing, or wholesale or retail food operations by the Agent.

2. The Agent shall require a person who applies for, or a licensee who requests renewal of, a license to include, at a minimum, the following information:

- a. Name of the Individual, Married Couple or Legal Entity who will hold the license and a complete street address.
- b. Doing business as name (DBA). Name and complete address of the establishment.
- c. License number and expiration date of any current license.
- d. Type of Establishment, for licensing purposes
- e. Numbers of units, rooms, or sites and complexity, if applicable.

3. A license issued by the Agent shall expire on June 30 of each year, except that a new license issued during the period beginning on April 1 and ending on June 30 shall expire on June 30 of the following year (15-month license), except as follows: The Agent of a city of the 1st class that has entered into a Contract with the DATCP may issue a required license for a retail food establishment or bed and breakfast establishment at any time during the year, which shall expire one year from the date of its issuance.

4. The Agent, as required in Wis. Stat. § 97.605 (4), shall allow for the holder of a license to transfer the license to:

- a. An individual who is an immediate family member if the holder is transferring operation of a hotel, tourist rooming house, bed and breakfast establishment, or vending machine to the immediate family member.

- b. A sole proprietorship that reorganizes as a business entity or a business entity that reorganizes as either a sole proprietorship or a different type of business entity may transfer a license issued under this section for operation of a hotel, tourist rooming house, bed and breakfast establishment, or vending machine commissary to the newly formed business entity or sole proprietorship if the following conditions are satisfied:

- i. The hotel, tourist rooming house, bed and breakfast establishment, or vending machine commissary remains at the location for which the

license was issued.

- ii. At least one individual who had an ownership interest in the sole proprietorship or business entity to which the license was issued has an ownership interest in the newly formed sole proprietorship or business entity.

5. The Agent, as required in Wis. Stat. § 97.67 (2) shall allow a license to be transferred from an individual to:

- a. An immediate family member, as defined in s. 97.605 (4) (a) 2., if the individual is transferring operation of the campground, camping resort, recreational or educational camp, or public swimming pool to the immediate family member.

- b. A sole proprietorship that reorganizes as a business entity, as defined in s. 179.70 (1), or a business entity that reorganizes as a sole proprietorship or a different type of business entity may transfer a license issued under this section for a campground, camping resort, recreational or educational camp, or public swimming pool to the newly formed business entity or sole proprietorship if all of the following conditions are satisfied:

- i. The campground, camping resort, recreational or educational camp, or public swimming pool remains at the location for which the license was issued.

- ii. At least one individual who had an ownership interest in the sole proprietorship or business entity to which the license was issued has an ownership interest in the newly formed sole proprietorship or business entity.

6. The Agent, as required in Wis Admin. Code § ATCP 75.06 (1) and (5) shall require a retail food establishment license upon any change of operator. The Agent shall waive the preinspection fee under the following conditions:

- a. The new license holder is an immediate family member, as defined in s. 97.605 (4) (a) 2., if the individual is transferring operation of the retail food establishment to an immediate family member.

b. A sole proprietorship that reorganizes as a business entity, as defined in s. 179.70 (1), or a business entity that reorganizes as a sole proprietorship or a different type of business entity to the newly formed business entity or sole proprietorship if all of the following conditions are satisfied:

i. The retail food establishment remains at the location for which the license was issued.

ii. At least one individual who had an ownership interest in the sole proprietorship or business entity to which the license was previously issued has an ownership interest in the newly formed sole proprietorship or business entity.

c. Initial inspection of micro-market. The DATCP or its agent may issue a license for a new retail food establishment that is a micro-market before it inspects the new retail food establishment that is a micro-market for compliance with this chapter. Before one year after the date that the DATCP or its agent issues a license for a new retail food establishment that is a micro-market, it shall inspect the new retail food establishment for compliance with this chapter.

7. The Agent shall notify the DATCP when, in the performance of its duties, it encounters an unlicensed establishment that falls under the DATCP's licensing and inspection authority.

8. The DATCP shall notify the Agent when, in the performance of its duties, it encounters an unlicensed establishment that falls under the Agent's licensing and inspection authority.

9. The Agent shall honor, without issuing an additional license in its own jurisdiction, all licenses issued by the DATCP or other Agent jurisdictions for a mobile retail food establishment. The following shall also apply:

a. The mobile retail food establishment license and service base license shall be issued by the jurisdiction where the service base is located or the address where the mobile unit is stored, if a service base variance is granted by the DATCP, or as specified in sub. b.

b. The Agent or the DATCP issuing the mobile retail food establishment service base license may allow another jurisdiction to issue the mobile retail food establishment license, if the mobile retail food establishment operates solely outside the jurisdiction where the mobile service base is located.

c. Enforcement activities for all operations of the mobile retail food establishment shall be conducted by the licensing entity, regardless of where the establishment may operate within the State. Inspection reports generated by other jurisdictions may be used to support enforcement activities.

d. The licensee shall immediately correct any violations posing an immediate danger to public health found on site or the inspecting regulatory authority shall issue a temporary closure order at time of inspection.

e. An inspection fee may be charged by any Agent program conducting an inspection on a mobile retail food establishment unit licensed by another jurisdiction. The fee shall be based on the reasonable cost to conduct the inspection.

f. Current out-of-state mobile retail food establishments shall continue to maintain a DATCP-issued license unless the DATCP determines that the license should be held by another jurisdiction.

10. An Agent shall honor, without issuing an additional license in its own jurisdiction, all licenses issued by the DATCP or other Agent jurisdictions for a transient retail food establishment.

The following shall also apply:

a. The transient retail food establishment license shall be issued in the jurisdiction in which the operator is located or the temporary event occurs.

b. Enforcement activities for all operations of the transient retail food establishment shall be conducted by the licensing entity, regardless of where the establishment may operate within the State. Inspection reports generated by other jurisdictions may be used to support enforcement activities.

c. The licensee shall immediately correct any violations posing an immediate danger to public health found on site or the inspecting regulatory authority shall issue a temporary closure order at time of inspection.

d. An inspection fee may be charged by any Agent program conducting an inspection on a transient retail food establishment licensed by another jurisdiction. The fee shall be based on the reasonable cost to conduct the inspection.

e. Current out-of-state temporary retail food establishments shall continue to maintain a DATCP -issued license unless the DATCP determines that the license should be held by another jurisdiction.

### C. INSPECTIONS

The Agent Program sanitarians shall inspect all establishments covered in the contract for compliance with Wis. Stat. § 97.30, subchs. III and IV of Wis. Stat. ch. 97, and Wis. Admin. Code chs. ATCP 72, 73, 75 and its Appendix, 76, 78, and 79.

1. The Agent Program shall follow standard inspection methods, procedures, policies and guidance documents as prescribed by the DATCP.

2. Each fiscal year the Agent shall conduct one routine inspection of each licensed establishment under its jurisdiction, except for vending machines and transient retail food establishments. The Agent may propose a different inspection frequency to the DATCP which may only be implemented if approved by the DATCP in writing. Examples include:

a. Micro-market inspections.

b. An inspection frequency based on risk, as long as the number of inspections performed equals the number of licenses issued by the jurisdiction.

3. The Agent Program shall perform a pre-licensing inspection of a license applicant's establishment for compliance with all applicable ordinances, rules, and statutes. The pre-licensing inspection shall be conducted before the applicant is issued a license and conducts business, except as specified for micro-markets in Wis. Stat. § 97.30 (2) (d).



4. The DATCP may conduct inspections at an establishment in the Agent Program's jurisdiction for all of the following purposes:

- a. Training or standardization of DATCP staff or Agent Program staff.
- b. In response to an emergency.
- c. For monitoring and evaluating the Agent Program's licensing, inspection, and enforcement program.
- d. At the request of the Agent Program.

5. Whenever feasible, the DATCP shall notify the Agent of the DATCP's intent to inspect an establishment in the Agent program's jurisdiction. The Agent may accompany the DATCP during such inspections.

6. The Agent may elect, in writing to the DATCP, to inspect vending machines.

7. The Agent shall give priority to pre-licensing inspections, inspections involving emergency complaints, food or waterborne illness investigations, and re-inspections.

8. A routine inspection shall be unannounced except when it is necessary that the owner or operator be present for the inspection, or when the Agent is conducting a follow-up inspection, reinspection or other activity where having the owner or operator present is important for continued compliance.

9. Every effort shall be made to conduct inspection activities during times when normal business practices and procedures can be observed to access active managerial control.

10. If a routine inspection is performed in conjunction with another investigation, separate inspection reports shall be completed for the investigation and the routine inspection. Each report shall be signed by the environmental health inspection staff and the licensee, or licensee's designated person in charge.

11. The Agent shall perform inspection duties required by, and in compliance with, the DATCP's MOU's. The DATCP will provide the Agent a copy of each MOU it executes.

12. The Agent may, with written approval from the DATCP, enter into written contracts

with other units of government or other persons to perform inspection activities related to enforcement responsibilities under this MOA. The Agent assumes ultimate responsibility for the performance and quality of the inspections and for the enforcement of all applicable provisions of the Wisconsin Statutes and Administrative Code under this MOA.

13. The Agent shall not charge an inspection fee for a routine inspection of any establishment licensed by the Agent.

14. The Agent shall use the DATCP's electronic software program for conducting and documenting inspections. If the Agent has been the DATCP's Agent before April 1, 2009, the Agent may use the DATCP's electronic software program or the DATCP -approved paper forms for conducting inspections. The DATCP will provide, maintain and support this software. The Agent may be responsible for additional user licenses or development costs specific to the Agent's program.

#### D. INSPECTION DOCUMENTATION

The Agent shall complete inspection activities and reports as outlined in the DATCP's inspection documentation policy and procedure for retail, lodging, and recreational programs.

#### E. COMPLAINTS AND FOODBORNE DISEASE INVESTIGATIONS.

1. The Agent shall investigate every complaint that it receives against any licensee under its jurisdiction. The Agent shall prioritize and investigate complaints according to the procedures in this section and procedures adopted by the Agent program under the contract with the DATCP. The complaints shall be addressed in decreasing order of priority as follows:

a. An allegation indicating a serious or imminent public health hazard is associated with a licensee or establishment under the Agent Program's jurisdiction.

b. An allegation indicating a potential public health problem, that is neither a serious nor an imminent public health hazard, is associated with a licensee or establishment under the Agent Program's jurisdiction.

c. An allegation of a violation, not indicating a public health hazard, associated with

a licensee or establishment under the Agent Program’s jurisdiction.

2. The Agent shall notify and consult with the DATCP and other affected agencies having jurisdiction, as necessary, about complaints or foodborne or waterborne diseases that may be of significant concern to those agencies. The Agent Program shall coordinate complaint investigations, as necessary, with other agencies having jurisdiction.

3 The Agent shall conduct an investigation if there is a complaint concerning a retail food establishment exempt from the requirement to hold a license, as defined in Wis. Admin. Code § ATCP 75.063, within its jurisdiction, or upon DATCP request.

4. Each complaint, and documentation of a complaint investigation, shall be physically or electronically linked with the establishment licensing and inspection information.

5. When the Agent receives information that indicates a foodborne or waterborne disease outbreak has occurred, the Agent shall conduct an investigation. In conducting the investigation, the Agent shall follow the criteria in Wisconsin’s Foodborne and Waterborne Disease Outbreak Investigation Manual. The Agent shall conduct an investigation of the facility linked to the outbreak, as soon as epidemiological evidence links that facility with the outbreak. In addition:

a. The Agent shall notify the Department of Health Services’ (DHS) Communicable Disease Epidemiology Section (CDES.)

b. The Agent shall notify the DATCP via the Emergency Responses mailbox.  
[datcpfoodcomplaintsemergencyresponse@wisconsin.gov](mailto:datcpfoodcomplaintsemergencyresponse@wisconsin.gov)

c. Upon the Agent's request, the DATCP shall assist in the investigation.

d. In the event the outbreak becomes cross-jurisdictional, the DATCP, in coordination with DHS CDES, will coordinate the activities of the Agent and other governmental agencies in order to most quickly and effectively end the outbreak.

e. In order for the DATCP to share foodborne illness outbreak information with the agent, the agent shall enter into a long term Food, Feed and Cosmetic 20.88 agreement with the US Food and Drug Administration (FDA). This agreement allows FDA to share confidential

commercial information (CCI), personal privacy information (PPI), and pre-decisional information (PDI) during a foodborne illness outbreak investigation. These agreements shall be completed and filed with FDA.

6. The Agent, if requested by the DATCP, shall conduct effectiveness checks pertaining to product recalls or other situations in which food must be removed from sale or service.

7. Agent participation and involvement with the National Environmental Assessment Reporting System (NEARS).

a. An Agent that has two or more foodborne illness outbreaks in its jurisdiction during the previous MOA period shall provide a qualified and trained sanitarian to conduct NEARS investigations in their jurisdiction.

b. Any Agent is welcome to participate even if not meeting the criteria in par. a.

c. The DATCP shall assist in any NEARS investigation if requested by the agent.

d. The agent shall accompany the DATCP during a NEARS investigation in their jurisdiction.

#### F. ENFORCEMENT

1. The Agent Program shall take necessary actions to enforce the provisions of Wis. Stat. § 97.30 and subchs. III and IV of Wis. Stat. ch. 97 and related administrative rules in Wis. Admin. Code chs. ATCP 72, 73, 75 and its Appendix, 76, 78, and 79, and any local ordinances or regulations, adopted pursuant to Wis. Stat. §§ 97.41 (7) and 97.615 (2) (g), for establishments over which the Agent Program has been delegated authority under the MOA when an observation is made including, but not limited to, the following:

a. An immediate danger to public health as required in Wis. Stat. §§ 97.12 and 97.65.

b. Noncompliance with written inspection orders.

c. Continued repeat violations noted on inspection reports.

d. Operating without a required establishment license.

2. Enforcement actions may include license revocation; license suspension; fines or

civil forfeitures; temporary or final orders to close; temporary or final hold orders on equipment, food, processes, or establishments; and the placement of conditions on licenses or the voiding of a license.

3. The Agent Program shall maintain a written enforcement policy that is distributed to its inspection staff and shall make it available to the DATCP during evaluations, whenever it is substantively changed, or upon request.

4. The Agent Program shall notify the DATCP, in writing within 10 days, after taking any enforcement action against an establishment involving license suspension, license revocation, or court or administrative actions.

5. The Agent Program shall be responsible for costs incurred in enforcement actions taken in the Agent Program's jurisdiction.

6. If the DATCP has notified the Agent Program of deficiencies by any licensee, in complying with the enforcement provisions of this chapter or any other rules or statutes applicable under the contract, and the Agent Program does not act expeditiously or take effective action with the licensee, the DATCP may act, pursuant to Wis. Stat. §§ 97.12, and 97.65, to enforce compliance with this chapter.

7. The DATCP shall provide technical assistance to the Agent for enforcement activities upon the Agent's request.

8. The Agent program may deny, suspend, or revoke a license or impose conditions on a license, as provided in Wis. Stat. § 93.06 (7) and (8). Except as otherwise provided by statute, rule, or local ordinance, the suspension or revocation of a license shall comply with the prior notice requirements of Wis. Stat. § 227.51.

#### G. SAMPLING

1. The Agent shall take samples requested by the DATCP for routine sampling schedules or in association with a food or waterborne outbreak.

2. Routine sampling requested by the DATCP may include any of the following:

- a. Monitoring sampling.
- b. Surveillance sampling.
- c. “For Cause” sampling.

3. The Agent Program may conduct any requested sample analyses in a laboratory certified by the DATCP, pursuant to Wis. Admin. Code ch. ATCP 77 for those analyses. All costs associated with collecting and analyzing these samples shall be assumed by the Agent Program.

4. The Agent Program shall share laboratory results with the DATCP.

5. If the Agent Program does not have the laboratory capability to perform required analyses, or chooses not to perform those analyses, it shall submit samples to the DATCP’s Bureau of Laboratory Services for analysis. The Agent Program shall assume the cost of collecting samples and shipping them to the DATCP’s laboratory. The DATCP shall assume the cost of the laboratory analysis of those samples.

#### H. STAFFING

1. The Agent Program shall have sufficient employees to implement the program according to the terms of this MOA.

2. Except as specified in Par. 4, each sanitarian employed by the Agent Program shall meet one of the following requirements:

a. Is RS-eligible, which means having met one of the following criteria:

i. Holding a baccalaureate or higher degree in environmental health from an accredited college or university and completing at least 30 semester or 45-quarter hour academic credits in environmental, physical, biological, chemical, or environmental health courses.

ii. Holding a baccalaureate or higher degree in physical or biological sciences from an accredited college or university and completing at least 30 semester or 45 quarter hour academic credits in environmental, physical, biological, chemical, or environmental health courses.

iii. Holding a baccalaureate or higher degree from an accredited college or university.

iv. Holding an associate degree from an accredited college, community college or technical institute in environmental, physical, biological, or chemical sciences; or

b. Is an RS in training; or

c. Holds a valid Wisconsin Registered Sanitarian or REHS/RS credential.

3. The Agent Program shall employ at least one Registered Sanitarian to conduct inspections and supervise any inspectors or sanitarians who are not registered sanitarians. The Agent Program shall only hire sanitarians who are Registered Sanitarians or will become Registered Sanitarians within five years after the date of hire. Inspectors or sanitarians who were employed by the Agent Program prior to July 1, 2018, and are not eligible to become Registered Sanitarians within five years, shall perform inspections under the supervision of a Registered Sanitarian and shall be deemed competent to perform inspections by passing standardization exercises.

4. Only Tourist Rooming House (TRH) inspections may be conducted by personnel who either do not have an RS credential or will not be eligible to obtain the RS credential within five years provided that:

a. A RS-credentialed employee supervises the non-credentialed employees; and

b. Each TRH license is inspected at least once every five years by an employee who has the RS credential or will be eligible to obtain the RS credential within five years; and

c. A written plan of implementation and tracking for TRH inspections shall be provided to the DATCP for review and approval; and

d. Each year, the TRH inspection tracking documentation shall be provided in the self-assessment for review by the DATCP.

e. The individual conducting the TRH inspections has met the minimum training requirements for TRH inspections in the DATCP's training manual.

5. If an Agent Program loses its only Registered Sanitarian, the Agent Program shall hire a Registered Sanitarian replacement within 120 days or, upon the Agent's written request, the DATCP may allow the Agent additional time to hire a qualified replacement. A replacement who is

not a Registered Sanitarian may be hired, if approved by the DATCP, if the Agent has a signed agreement with another Agent for a Registered Sanitarian to provide supervisory oversight and the replacement hire shall become a Registered Sanitarian within six months of being hired. A copy of the supervisory oversight contract shall be provided to the DATCP and shall include the amount of time allotted for oversight activities and what specific duties the supervising Registered Sanitarian will provide.

6. The Agent shall designate a sanitarian or Registered Sanitarian, as required by the DATCP, to undergo the standardization exercise evaluating enforcement of Wis. Admin. Code ch. ATCP 75 Appendix as prescribed in the DATCP's Standardization Manual. After successfully completing the exercises, the staff person shall be designated as the Agent Standard. As the DATCP develops standardization processes for programs other than the retail food program, the Agent will comply with the standardization process in those programs.

7. The Agent Standard shall perform DATCP-required exercises with the DATCP to maintain his or her status as the Agent Standard, as prescribed in the DATCP's Standardization Manual.

8. The Agent Standard shall perform standardization and maintenance exercises with other sanitarians in their jurisdiction, using procedures specified by the DATCP's Standardization Manual.

9. The Agent is required to send at least one sanitarian or Registered Sanitarian to attend training provided by the DATCP.

10. An employee of the Agent shall participate on DATCP rulemaking and policy advisory committees when requested.

11. The Agent may not permit an employee to conduct an inspection in a situation in which the employee, a member of his or her family, or an organization with which the employee is associated or has a financial interest or where the employee's relationship with any person at the inspected establishment could cause the employee not to be able to conduct an objective, unbiased



inspection

12. The Agent Program is solely responsible for all employment-related issues involving the persons it employs in the program and for the actions or omissions of the Agent Program's employees, except as otherwise provided by law.

13. Upon the Agent's request, the DATCP shall provide technical assistance and training to Agent staff.

I. EDUCATIONAL OUTREACH

The Agent will cooperate with the DATCP in conducting training programs for licensees and employees of establishments located in its jurisdiction.

**III. REPORTS AND RECORDS.**

A. If the Agent Program is not using the DATCP's electronic licensing and inspection program, the Agent shall maintain current records for each licensed facility within its jurisdiction. Records shall include the name, address, ID number and type of establishment or facility and contain at least the latest three years of inspection reports, follow-up investigation reports, reports of enforcement actions, confirmed complaint follow-ups and summaries, foodborne disease outbreak and follow-up investigation information, and approvals of variance requests, Hazard Analysis Critical Control Point ("HACCP") plans and waivers.

B. If the Agent is not using the DATCP's electronic inspection and licensing software, the Agent shall use inspection report forms approved by the DATCP for all pre-licensing inspections, routine inspections, re-inspections, and follow-up inspections.

C. The Agent shall submit reports as requested by the DATCP. The DATCP may review or request a copy of any inspection report, correspondence, or order served on any licensee within the Agent's jurisdiction; annual program budget reports, projections, and any other report the DATCP determines it needs to monitor the Agent's performance, including, but not limited to, Center for Disease Control and Prevention ("CDC") risk factor reports, self-assessments, or any other required reports, pursuant to Wis. Stat. § 97.41 (7) or 97.615 (2) (g) or Wis. Admin. Code ch. ATCP 74.

D. The Agent Program shall accurately and completely document the cost of the Agent's program that is administered under the contract with the DATCP. The cost may include direct costs for licensing, inspection, complaint handling and investigation, enforcement, information management, reporting, and any other activities carried out within the limits of the MOA with the DATCP. The costs may also include documented indirect costs normally associated with the program. These costs may include staff, equipment, facilities, contract service, and other documented costs allocated to the program. Upon request, the Agent shall provide copies of these records to the DATCP.

E. By the 10th of the month immediately following the month in which the Agent issues a license, or receives notification from a licensee of a change affecting its license, the Agent shall provide a report of all such license issuances and changes to the DATCP. This requirement also applies to transient retail food establishments, as defined in Wis. Admin. Code ch. ATCP 75. This reporting requirement is satisfied by the Agent's use of the DATCP's electronic licensing and inspection software.

F. By September 30th of each year, the Agent shall give the DATCP a complete list of the names and addresses of the licensees to whom licenses were issued by the Agent during the previous fiscal year. This reporting requirement is satisfied by the Agent's use of the DATCP's electronic licensing and inspection software.

G. Within 10 days after the date on which it takes place, the Agent shall report to the DATCP, in writing, any change in the assignment of a supervisor of the environmental health inspection personnel who are not currently Wisconsin Registered Sanitarians/REHS and any change in the organization of the inspection staff, including authority line changes. If the Agent employs only one or two sanitarians, the Agent shall report any change in assignment of environmental health inspection personnel who are providing services under this Contract.

H. The Agent shall submit a completed CDC Risk Factor Tracking Sheet annually to the DATCP for the purpose of enabling the DATCP to determine the types of violations found in

facilities throughout the State of Wisconsin. This reporting requirement is satisfied by the Agent's use of the DATCP's electronic licensing and inspection software.

I. As required by Wis. Admin. Code ch. ATCP 74, the Agent shall maintain and keep readily available for use by inspection staff and review by the DATCP, a copy of its Agent Program Plan. The plan shall include, at a minimum, all the components identified in Wis. Admin. Code ch. ATCP 74 and any other information the DATCP requests in writing that it determines is necessary or relevant for its review of the plan. The minimum components include:

1. Employee positions that will issue licenses or conduct investigations and inspections.
2. Staffing and budget plans for issuing licenses, conducting investigations and inspections, providing technical assistance, and enforcing applicable state statutes and rules and local ordinances.
3. A list of the licenses that may be issued by the Agent. A local ordinance may combine and expand license categories, so long as those categories include all of the types of establishments that shall be licensed under this MOA.
4. A list of the fees to be charged by the Agent to licensees. A local ordinance may establish local license fees that differ from fees charged under Wis. Admin. Code chs. ATCP 72, 73, 75 and its Appendix, 76, 78, and 79, for licenses issued by the DATCP. All license fees shall be based on the Agent's reasonable program costs, pursuant to Wis. Stat. § 97.41 (4).
5. A description of the inspection and enforcement program to be implemented by the Agent, including a copy of applicable village, city, or county ordinances or regulations.
6. Procedures to ensure cooperation between the Agent and appropriate federal, state, local, and tribal agencies in the event of a natural disaster or other emergency.
7. Procedures for investigating complaints concerning licensees under this Contract and unlicensed activity that may require licensing and inspection.
8. Procedures for notifying the DATCP when the Agent receives information or a complaint concerning an establishment that may need to be licensed or inspected by the DATCP

within the Agent’s geographical area.

9. Procedures, including cooperation with the DATCP, for investigating reports of suspected foodborne disease.

10. Procedures to ensure the time period within which the Agent will make a determination on an application for a license does not exceed 30 days following receipt of a complete application.

11. Any other information that the DATCP may reasonably require for its review of the Agent’s program plan.

**IV. REIMBURSEMENT TO THE DATCP FOR STATE FEES COLLECTED BY AGENT**

A. The Agent shall reimburse the DATCP for the state fees from the license fees the Agent collects, as provided under sub. B.

B. The state fees shall not exceed 20% of the state license fees the DATCP sets by administrative rule for the types of facilities for which the Agent issues licenses. The calculation of the state fees is based on state license fees only, not preinspection, reinspection and inspection fees.

C. As of the date of this MOA, the state fees are 10% of the state license fees. The DATCP may increase the state fees up to 20% of the state license fees by announcing a change in the percentage one year prior to the licensing year for which the change applies. Retail food, lodging, and recreational establishment license fee reimbursement shall be:

1. A fee equal to 10% of the applicable state license fee, regardless of the license fee actually charged by the local Agent, if the Agent prepares and submits to the DATCP, by September 30 of that year, an annual self-assessment as required by Wis. Stat. §§ 97.41 and 97.615.

2. Starting July 1, 2023, A fee equal to 11% of the applicable state license fee, regardless of the license fee actually charged by the local Agent, if the Agent prepares and submits to the DATCP, by September 30 of that year, an annual self-assessment as required by Wis. Stat. §§ 97.41 and 97.615.

3. Starting July 1, 2024, A fee equal to 12% of the applicable state license fee, regardless of the license fee actually charged by the local Agent, if the Agent prepares and submits to the DATCP, by September 30 of that year, an annual self–assessment as required by Wis. Stat. §§ 97.41 and 97.615.

4. A fee equal to 20% of the applicable state license, regardless of the license fee actually charged by the Agent, if the Agent fails to submit the annual self-assessment as required under Section VII, to the DATCP, by September 30 of that year. A fee payment under this paragraph does not exempt the Agent from the duty to prepare and submit an annual self–assessment.

D. The DATCP shall provide the Agent with a reimbursement summary form to be used by the Agent to identify all the facilities for which the Agent has issued licenses during the licensing year. The summary shall be formatted by the Agent to include the complexity assessment rating assigned to each retail food establishment licensed during the licensing year.

E. State fees for each licensee shall be based on the state license fee, determined by the license category as follows:

1. Retail Food Establishments - using Wis. Admin. Code § ATCP 75.08 Table B.
2. Lodging and Recreation Facilities – using Wis. Admin. Code chs. ATCP 72, 73, 76, 78 and 79.

F. No later than September 30 of each year, the Agent shall return the completed summary form and reimburse the DATCP for the state fees.

G. If the Agent Program has contracted with the DATCP, pursuant to Wis. Stat. § 97.41 and Wis. Admin. Code § ATCP 74.06, for the DATCP to collect fees and issue licenses, the Agent Program shall pay the DATCP for the actual cost of providing these services.

#### **V. REIMBURSEMENT BY THE DATCP FOR VENDING INSPECTIONS**

A. The Agent shall submit a list of vending machine inspections it conducted during the previous fiscal year to the DATCP, no later than September 30 unless the DATCP in its sole discretion extends the deadline for submission, to receive reimbursement from the DATCP for performing the inspections.

B. No later than September 30 of the next fiscal year, the DATCP shall reimburse the Agent for inspections of vending machines during the previous fiscal year, as required in Wis. Stat. § 97.615 (1). If the DATCP extends the deadline for submitting inspection information, the DATCP may reimburse the Agent up to 30 days after receiving this information. The reimbursement amount for vending machine inspections is the portion that remains after deducting the DATCP's clerical and automated licensing processing costs from the license fee.

C. Fee reimbursements for the inspection of vending machines moved from one Agent's jurisdiction to another Agent's jurisdiction will be credited to the Agent making the first inspection during the fiscal year.

## **VI. COSTS**

The total license fees the Agent collects may not exceed the Agent's reasonable costs of issuing licenses to, making investigations and inspections of, and providing education, training and technical assistance to licensed establishments, plus the state fees.

## **VII. EVALUATION AND TRAINING**

A. At least once each year, the Agent Program shall submit a self-assessment in a format determined by the DATCP. The DATCP may waive the self-assessment requirement in a year where the DATCP conducts an evaluation. The DATCP shall evaluate the Agent Program based on the following required information in the self-assessment:

1. The Agent Program's compliance with the MOA terms.
2. The Agent Program's progress in meeting program standards adopted by the DATCP.
3. The Agent Program's records and reports required pursuant to Wis. Admin. Code § ATCP 74 20.

B. The DATCP shall conduct an evaluation, at least once every three years, to assess the Agent's compliance with the provisions of this MOA, program standards set by the DATCP, and applicable statutes and administrative rules. The DATCP may conduct the evaluation process at any reasonable time and shall give the Agent reasonable advance notice. The evaluation process shall include an office

component and a field component. The office component shall include, but is not limited to, review of ordinances, regulations, inspection reports, budget information, and other required documentation. The field component shall include DATCP personnel performing maintenance standardization with the sanitarian who is the Agent Standard, as well as evaluating other sanitarians, if applicable.

C In addition to the required evaluation, the DATCP may perform additional evaluations of the Agent’s performance at any reasonable time with reasonable advance notice.

D. The DATCP shall provide the Agent program with the DATCP’s written findings based on the review of the self–assessment or an evaluation. The DATCP may, as deemed necessary, increase the evaluation frequency.

E. The Agent shall submit to the DATCP any required corrective action plan detailing how the Agent will meet MOA requirements.

F. The DATCP shall review the corrective action plan and may make additional comments or approve the corrective action plan if deemed acceptable.

G. The Agent shall document progress on the approved corrective action plan on their next one or two yearly self-assessments as necessary.

H. The Agent shall incorporate the approved corrective action plan in its Agent Program Plan.

I. If the Agent fails to meet the conditions specified in the corrective action plan, the DATCP shall:

1. Notify the Agent, in writing, of the deficiencies in meeting the corrective action plan and place the MOA in a conditional status with a deadline for the Agent to meet the corrective action plan conditions

- 2 Remove conditional status of the MOA if deficiencies are corrected within the conditional time period

3. Notify the Agent of its intent to terminate the MOA and revoke Agent status, as provided pursuant to Wis. Admin Code § ATCP 74.26, if deficiencies remain uncorrected after a conditional deadline has passed.

4. The Agent may request a hearing on the termination in writing, as provided in Wis. Admin. Code § ATCP 1.03 (3), with the request including the information required in Wis. Admin. Code § ATCP 1.06. The DATCP shall hold a hearing, if requested by Agent, within 15 days after the DATCP receives the request, unless the Agent agrees to a different date.

J. Notwithstanding these provisions, the DATCP may exercise its right to immediately suspend a MOA, pursuant to Wis. Admin. Code § ATCP 74.26 (3), to protect public health or safety.

### VIII. NONDISCRIMINATION

A. In connection with the performance of work under this MOA, the Agent agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in Wis. Stat. § 51.01(5), sexual orientation as defined in Wis. Stat. § 111.32(13m), or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the Agent shall take affirmative action to ensure equal employment opportunities. The Agent shall post in conspicuous places, available for employees and applicants for employment, notices to be provided by the DATCP setting forth the provisions of the nondiscrimination clause.

B. Pursuant to s. 16.75(10p), Wis. Stats., Agent agrees it is not, and will not for the duration of the contract, engage in a prohibited boycott of the State of Israel as defined in s. 20.931(1)(b). State agencies and authorities may not execute a contract and reserve the right to terminate an existing contract with a organization that is not compliant with this provision. This provision applies to contracts valued \$100,000 or over.

C. Pursuant to 2019 Wisconsin Executive Order 1, Agent agrees it will hire only on the basis of merit and will not discriminate against any persons performing a contract, subcontract or grant because of military or veteran status, gender identity or expression, marital or familial status, genetic information or political affiliation.



D. The DATCP assumes no liability for the job safety or welfare of the Agent employees, or for the actions or omissions of the Agent employees relating to the administration of the retail food and recreational program, except as otherwise provided by law.

#### **IX. PRIVACY AND CONFIDENTIAL INFORMATION**

A Definitions: The following definitions apply to this section.

1. “Confidential Information” : means all tangible and intangible information and materials, including all Personally Identifiable Information, being disclosed in connection with this MOA, in any form or medium (and without regard to whether the information is owned by the State or by a third party), that satisfy at least one of the following criteria:

- a. Personally Identifiable Information as defined in sub. 2;
- b. Information not subject to disclosure under Wis. Stat. ch. 19, subch. II, Public Records and Property, that is related to the DATCP’s employees, customers, technology (including data bases, data processing and communications networking systems), schematics, specifications, and all information or materials derived therefrom or based thereon; or
- c. Information expressly designated as confidential in writing by the DATCP.

2. “Personally Identifiable Information” means an individual’s last name and the individual’s first name or first initial, in combination with, and linked to, any of the following elements, if the element is not publicly available information and is not encrypted, redacted, or altered in any manner that renders the element unreadable:

- a. The individual’s Social Security number;
- b. The individual’s Driver’s License number or state identification number,
- c. The number of the individual’s financial account, including a credit or debit card account number or any security code, access code, or password that would permit access to the individual’s financial account;
- d. The individual’s DNA profile, or
- e. The individual’s unique biometric data, including fingerprint, voice print, retina or

iris image, or any other unique physical representation, and any other information protected by state or federal law.

3. “Corrective Action Plan” means a plan, developed by the Agent and approved by the DATCP, that the Agent must follow in the event of any threatened or actual use or disclosure of any Confidential Information not specifically authorized by this MOA, or in the event that any Confidential Information is lost or cannot be accounted for by the Agent.

**B. Duty of Non-Disclosure and Security Precautions**

1. The Agent shall not use Confidential Information for any purpose other than the limited purposes set forth in this MOA and all related and necessary actions taken in fulfillment of the obligations thereunder. The Agent shall not disclose such Confidential Information to any persons other than those Agent Representatives who have a business-related need to have access to such Confidential Information in furtherance of the limited purposes of this MOA and who have been apprised of, and agree to maintain, the confidential nature of such information in accordance with the terms of this MOA. The Agent shall be responsible for the breach of this MOA by any said Representatives.

2. The Agent shall institute and maintain such security procedures as are reasonable to maintain the confidentiality of the Confidential Information while in its possession or control including transportation or transmission, whether physically or electronically.

3. The Agent shall insure that all indications of confidentiality contained on or included in any item of Confidential Information shall be reproduced by the Agent on any reproduction, modification, or translation of such Confidential Information. If requested by the DATCP, Agent shall make a reasonable effort to add a proprietary notice or indication of confidentiality to any tangible materials within its possession that contain Confidential Information of the DATCP, as directed.

4. The Agent shall return to the DATCP all Personally Identifiable Information it maintains, possesses or controls, collected on behalf of this MOA, upon termination of this MOA and

shall destroy all copies.

C. **Legal Disclosure.** If Agent or any of its Representatives shall be under a legal obligation in any administrative, regulatory or judicial circumstance to disclose any Confidential Information, the Agent shall give the DATCP’s Office of Legal Counsel prompt notice thereof (unless it has a legal obligation to the contrary) to allow the DATCP to inspect the Confidential Information and seek a protective order or other appropriate remedy. In the event that such protective order or other remedy is not obtained, Agent and its Representatives shall furnish only that portion of the information that is legally required and shall disclose the Confidential Information in a manner reasonably designed to preserve its confidential nature. Agent or its representatives shall not be obligated to wait on any action or inaction by the DATCP, under this section, at any time when Agent is required to release information under other authority of law.

D. **Unauthorized Use, Disclosure or Loss**

1. Immediately upon becoming aware of any threatened or actual use or disclosure of any Confidential Information that is not specifically authorized by this MOA, or that any Confidential Information has been lost or is unaccounted for, the Agent shall notify the DATCP’s Office of Legal Counsel of the problem. Such notice shall include, to the best of the local Agent’s knowledge at that time, the persons affected, their identities and the Confidential Information disclosed.

2. The Agent shall take immediate steps to mitigate any harmful effects of the unauthorized use, disclosure or loss. The Agent shall cooperate with the DATCP’s efforts to seek appropriate injunctive relief or to otherwise prevent or curtail such threatened or actual breach, or to recover the Confidential Information, including complying with a Corrective Action Plan.

**X. TERM, TERMINATION, REVOCATION OR SUSPENSION OF AGENT MOA**

A. The term of this MOA shall be a period of three years, commencing on the effective date set forth above.

B. **TERMINATION.** The DATCP or the Agent may terminate this MOA upon 90 days written notice to the other party. The notice shall specify the reasons for termination and the last

day the Agent will have Agent status. By such termination, no party may nullify obligations incurred prior to the effective date of termination. The 90 days' notice requirement may be waived by mutual written consent of the parties.

B. REVOCATION. If the DATCP finds that the Agent has failed to comply with the requirements for Agent status under Wis. Stat. §§ 97.41(2) or 97.615 (2) (b), Wis. Admin. Code ch. ATCP 74, or the terms and conditions of this MOA, the DATCP may revoke Agent status, as provided by statute, upon 90 days written notice to the Agent. The notice shall specify the reasons for revocation and the last day that the Agent will have Agent status.

C. SUSPENSION. If the DATCP finds that suspension of this MOA is necessary to protect the public's health or safety, the DATCP may immediately suspend this MOA upon notice to the Agent. The Agent may request a hearing on the suspension in writing, as provided in Wis. Admin. Code § ATCP 1.03 (3), including the information required in Wis. Admin. Code § ATCP 1.06. The DATCP shall hold a hearing, if requested by Agent, within 15 days after the DATCP receives the request, unless the Agent agrees to a different date. The suspension shall remain in effect until the final hearing decision is issued.

D REIMBURSEMENT UPON TERMINATION OR REVOCATION:

1. Vending: If this MOA is terminated or revoked, the Agent shall receive reimbursement for inspections of vending machines performed under the MOA up to and including the date of termination or revocation.

2. Other Licenses: If this MOA is terminated or revoked, the Agent shall reimburse the DATCP for the prorated amount, for the remainder of the fiscal year, of all license fees received by the Agent. The reimbursement shall be based on this formula: Days left in fiscal year/365 times the state license fees for all the establishments the Agent has licensed.

E. TRANSFER OF RECORDS. Upon termination or revocation of this MOA, the Agent shall transfer all inspection and enforcement records to the DATCP.

IN WITNESS WHEREOF, DATCP and CITY OF FRANKLIN HEALTH DEPARTMENT have executed this MOA as of the date this MOA is signed by DATCP. This MOA may be executed in multiple originals, which together shall constitute a single agreement. The parties agree to accept a handwritten signature or an electronic signature that complies with Wis. Stat. ch. 137 to execute this MOA.

CITY OF FRANKLIN HEALTH DEPARTMENT

DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION

**BY:** \_\_\_\_\_  
[Name of Signatory]

**BY:** \_\_\_\_\_  
Amy Millard

**TITLE:** \_\_\_\_\_

**TITLE:** Deputy Administrator

**DATE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**BLANK PAGE**

<p style="text-align: center;"><b>APPROVAL</b></p> <p style="text-align: center;"><i>slw</i></p>	<p style="text-align: center;"><b>REQUEST FOR COUNCIL ACTION</b></p>	<p style="text-align: center;"><b>MEETING DATE</b></p> <p style="text-align: center;"><b>2/01/2022</b></p>
<p style="text-align: center;"><b>REPORTS AND RECOMMENDATIONS</b></p>	<p style="text-align: center;"><b>Polling Location Facility Usage/Indemnity Agreement With St. Martin of Tours Church</b></p>	<p style="text-align: center;"><b>ITEM NUMBER</b></p> <p style="text-align: center;"><b>G.1.(c)</b></p>

Since 2008, the City has used St. Martin of Tours Church as a polling location for Aldermanic District 6. Attached is a Facility Usage/Indemnity Agreement with St. Martin of Tours Church for 2022 elections to be held on February 15 (Whitnall School District Primary), April 5 (Spring Election), August 9 (Partisan Primary), and November 8 (General Election). Staff is requesting approval of the Agreement, subject to review by the City Attorney.

**COUNCIL ACTION REQUESTED**

Motion to approve the Facility Usage/Indemnity Agreement with St. Marin of Tours Church for use of their location as a polling site on February 15, April 5, August 9, and November 8, 2022, subject to review by the City Attorney.

# **FACILITY USAGE/INDEMNITY AGREEMENT**

The Facility Usage/Indemnity Agreement must be used when non-parish sponsored or affiliated groups use parish facilities on a short-term basis such as one day or a week. The following groups are examples of non-parish sponsored or affiliated groups that must sign the Facility Usage/Indemnity Agreement:

1. Knights of Columbus, American Legion or other similar organizations that use parish facilities for meetings or fundraisers.
2. AAU sport teams or non-parish sponsored sport classes/clinics.
3. Parishioner and non-parishioner families that rent or use parish facilities for wedding receptions, family reunions, anniversary parties or other similar activities. (In lieu of signing the Facility Usage/Indemnity Agreement, a parishioner or non-parishioner family would be eligible to purchase "special event" liability coverage through your parish via Catholic Mutual.) Please note that funeral luncheons are parish sponsored events.
4. Any other organization, municipality or county organization that uses parish facilities for a meeting or function that is non-parish sponsored.

The Facility Usage/Indemnity Agreement requires the facility user to provide the parish with a certificate of insurance documenting general liability coverage in the amount of \$1,000,000 per occurrence. This certificate of insurance must name your parish as an additional insured. It is not adequate to obtain a certificate of insurance that names the parish as a "certificate holder."

It is often asked what criteria an organization must meet to be parish sponsored or affiliated. In the event of an insurance claim involving a potential non-parish sponsored activity, the following questions would be asked to further determine if a group was parish sponsored and eligible for insurance coverage:

1. Did the parish have full control over the group or function?
2. Did any costs or fees associated with the function flow through parish accounts?
3. Was the function or group open to all parish members?
4. Was the purpose of the function or group to facilitate learning, raise revenue for the parish or provide a social service on behalf of the parish?
5. Was the teacher or leader of the group a parish volunteer or employee?

In general, a group that does not meet the definition of an affiliated organization or is unable to answer the above five questions in the affirmative would not be parish sponsored. Accordingly, that group must sign the Facility Usage/Indemnity Agreement and supply the parish with the necessary insurance documentation.



**FACILITY USAGE/INDEMNITY AGREEMENT**

PARISH: St. Martin of Tours

FACILITY USER: City of Franklin

DATES OF FACILITY USAGE: February 15, 2022, April 5, 2022, August 9, 2022 & November 8, 2022.

TYPE OF FACILITY USAGE: Elections

The above named FACILITY USER agrees to defend, protect, indemnify and hold harmless the above named PARISH against and from all claims or causes of action arising from the use of the facility and operations of the above named FACILITY USER including claims initiated by third parties or claims arising from the actions of its employees, agents, family members, officers, volunteers, partners, organizational members or associates.

FACILITY USER agrees to provide a certificate of insurance to the PARISH which provides evidence of general liability coverage of not less than One Million Dollars (\$1,000,000) per occurrence. FACILITY USER also agrees to have the PARISH named as an "Additional Insured" on its general liability policy for the DATES OF FACILITY USAGE in relationship to the TYPE OF FACILITY USAGE for claims which arise out of FACILITY USER'S operations or are brought against the PARISH by FACILITY USERS' employees, agents, partners, family members, students, customers, function attendees, guests, invitees, organizational members or associates. FACILITY USER also agrees to ensure that its liability insurance policy will be primary in the event of a covered claim or cause of action against PARISH.

If and only if FACILITY USER fails to comply with the above (second) paragraph, then the above named FACILITY USER agrees to protect, defend, hold harmless and fully indemnify the above named PARISH for any claim or cause of action whatsoever arising out of or related to the usage which takes place during the above identified DATE(S) OF FACILITY USAGE that is brought against the PARISH by the above named FACILITY USER or its employees, agents, partners, family members, students, customers, function attendees, guests, invitees, organizational members or associates, whether such claim arises from the alleged negligence of the PARISH, its employees or agents, or the negligence of the FACILITY USER.

SIGNED BY: \_\_\_\_\_  
Must be an official agent of FACILITY USER)

NAME AND TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

**EXHIBIT A TO FACILITY USAGE/INDEMNITY AGREEMENT**  
**COVID-19 LIABILITY RELEASE AND HOLD HARMLESS**  
**AGREEMENT**

City of Franklin \_\_\_\_\_ (Unaffiliated Organization) in consideration of being granted permission on February 15, 2022, April 5, 2022, August 9, 2022 & November 8, 2022 (date/s) to use real property owned by St. Martin of Tours Parish during the Coronavirus Pandemic, does hereby promise to forever protect, defend, hold harmless and fully indemnify the above named Parish and its employees, agents, volunteers, officers, directors, parent corporations, subsidiaries, and insurers/third party administrators from any and all claims or causes of actions in any way related to COVID-19, brought by any person or entity, arising out of or related to the use of Parish property, including but not limited to all claims and causes of action based on the alleged negligence of the Parish, the negligence of its employees, agents, and volunteers or other third parties, or my own negligence.

Authorized Representative of Unaffiliated Organization

CITY OF FRANKLIN

BY \_\_\_\_\_  
Stephen R. Olson, Mayor

Dated: \_\_\_\_\_

ATTEST:

BY \_\_\_\_\_  
Sandra L. Wesolowski, City Clerk

Dated: \_\_\_\_\_

BY \_\_\_\_\_  
Brian Tomczak, Director of  
Finance and Treasurer

Dated: \_\_\_\_\_

APPROVED AS TO FORM:

BY \_\_\_\_\_  
Jesse A. Wesolowski, City  
Attorney

Dated: \_\_\_\_\_

**EXHIBIT B TO FACILITY USAGE/INDEMNITY AGREEMENT**  
**COVID-19 PROTOCOLS**

1. **Safety Protocols.** Unaffiliated Organization hereby agrees to adopt thorough and detailed COVID-19 safety protocols for any and all of its activities in the facility.

2. **Cleaning.** Upon request of the Parish as indicated in the checkboxes below, Unaffiliated Organization hereby agrees to clean and sanitize the areas of usage in the facility after the conclusion of the dates of facility usage, and further agrees to be solely responsible for all costs and materials necessary to complete said cleaning and sanitizing. In the event that no boxes are checked below, it shall be deemed that cleaning was not requested by the Parish.

Cleaning requested by Parish

Cleaning NOT requested by Parish

Authorized Representative of Unaffiliated Organization

CITY OF FRANKLIN

BY \_\_\_\_\_  
Stephen R. Olson, Mayor

Dated: \_\_\_\_\_

ATTEST:

BY \_\_\_\_\_  
Sandra L. Wesolowski, City Clerk

Dated: \_\_\_\_\_

BY \_\_\_\_\_  
Brian Tomczak, Director of  
Finance and Treasurer

Dated: \_\_\_\_\_

APPROVED AS TO FORM:

BY \_\_\_\_\_  
Jesse A. Wesolowski, City  
Attorney

Dated: \_\_\_\_\_



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
12/27/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> R & R Insurance Services, Inc N14 W23900 Stone Ridge Drive  Waukesha WI 53188	<b>CONTACT NAME</b> Karlie Davis <b>PHONE (A/C, No, Ext)</b> (262) 574-7000 <b>FAX (A/C, No)</b> (262) 574-7080 <b>E-MAIL ADDRESS</b> Karlie.Davis@rrins.com
	<b>INSURER(S) AFFORDING COVERAGE</b> INSURER A <b>LWMMI</b> INSURER B <b>United Heartland - LWMMI</b> INSURER C INSURER D INSURER E INSURER F
<b>INSURED</b> City of Franklin 9229 W Loomis Rd  Franklin WI 53132	<b>NAIC #</b>

**COVERAGES** **CERTIFICATE NUMBER:** 22/23 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED NOTWITHSTANDING ANY REQUIREMENT TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS EXCLUSIONS AND CONDITIONS OF SUCH POLICIES LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER			40226	1/1/2022	1/1/2023	EACH OCCURRENCE \$ 10,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 10,000,000 GENERAL AGGREGATE \$ PRODUCTS COMP/OP AGG \$ OTHER \$
A	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			40226	1/1/2022	1/1/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 10,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Medical Payments \$ 10,000
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ OTHER \$
B	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes describe under DESCRIPTION OF OPERATIONS below Y/N <input checked="" type="checkbox"/> N/A			0900065376	1/1/2022	1/1/2023	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 100,000 E.L. DISEASE EA EMPLOYEE \$ 100,000 E.L. DISEASE POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule may be attached if more space is required)

### CERTIFICATE HOLDER

### CANCELLATION

<b>**For Informational Purposes Only**</b>	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS
	<b>AUTHORIZED REPRESENTATIVE</b> S Huibregtse/AP691 <i>Scott Huibregtse</i>

© 1988-2014 ACORD CORPORATION. All rights reserved.

<p><b>APPROVAL</b></p> <p><i>slw</i></p>	<p><b>REQUEST FOR COUNCIL ACTION</b></p>	<p><b>MEETING DATE</b></p> <p><b>2/1/2022</b></p>
<p><b>REPORTS &amp; RECOMMENDATIONS</b></p>	<p><b>Approve a Three-Year Property Assessment Services Contract with Accurate Appraisal, LLC</b></p>	<p><b>ITEM NUMBER</b></p> <p><b>G.2.</b></p>

**BACKGROUND**

The City of Franklin has been under contract with its current Property Assessment Services Provider, Tyler Technologies, for quite a few years, as records have been found on the same dating back to 2001. The contracts in place between 2001 and 2021 have varied in duration, from one-year agreements to three-year agreements, with the existing agreement being a three-year agreement, expiring on December 31, 2021. As such, staff initiated a Request for Proposals (RFP) in late 2021.

Two qualified companies responded to the RFP, and interviews were held regarding the same.

Tyler Technologies currently provides: (1) Assessor Services, meaning the company performs the role of the City's Statutory Assessor; (2) Annual Maintenance Services, meaning the company performs all necessary and required assessment maintenance services, including clerical staffing in the Assessor's Office during the City's normal business hours which began in 2016; and (3) Revaluation Services, meaning the company performs an Interim Market Update Revaluation of all taxable real property in the City on an annual basis.

**ANALYSIS**

The services currently provided are as follows:

1. Assessor Services, meaning the company performs the role of the City's Statutory Assessor;
2. Annual Maintenance Services, meaning the company performs all necessary and required assessment maintenance services, including clerical staffing in the Assessor's Office during the City's normal business hours which began in 2016; and
3. Revaluation Services, meaning the company performs an Interim Market Update Revaluation of all taxable real property in the City on an annual basis.

The City believes this is the strongest assessment services model, and wishes to continue in this manner. However, there will be a renewed effort to help Franklin property owners better understand the process and its relation to property taxes paid moving forward.

The goals that staff set out to achieve through the RFP process are as follows:

- A change to the timing of future agreements to better align with the timing of the typical annual State and local assessment processes.
- A change to bring the timing of the assessment process more in line with the State's formal process, ensuring that the City meets the statutory deadlines with regard to reporting, so that there are less adjustments over the years due to the timing of information received by the State. While this may not be able to be accomplished in the first year of a new agreement due to the timing of the expiration of the existing agreement, it is goal to achieve by the end of the agreement period.
- A review of pricing and a possible recalibration of fees.

In regard to the existing agreement, the City currently paid an annualized fee of \$213,500 for these services in 2021, broken down as follows: Assessor Services - \$88,500; Annual Maintenance Services - \$91,200; and Revaluation Services - \$33,800. In addition, the City is responsible for the assessment software and maintenance, computers, printers, office supplies, and postage with regard to assessment services, for a total of approximately \$230,000 annually when new equipment is not needed. The funding source for this agreement is the City's General Fund.

Throughout the RFP process, staff accepted proposals, conducted interviews, and checked references of the responding firms. Working through that process, it became evident that both responding firms were qualified and capable to partner with the City over the next three-year period to provide these services to the community. However, there were a few distinctions between the firms that made one firm stand out over the other as determining factors in this decision:

- An established education and communication plan regarding assessment services;
- A strong base to provide back-up coverage if/when needed, on an ongoing basis;
- The ability to meet statutory deadlines so that there are not subsequent year corrections which affect the City's Tax Increment Financing Districts;
- The ability to change the timing of the agreement to better match the assessment process to preserve flexibility for future agreements; and
- The ability to provide stronger web presence.

In addition, the cost comparison of the two firms, over the next three-year period is as follows:

	<u>3-Year Agreement</u>	<u>5-Year Agreement</u>
• Accurate Appraisal, LLC -	\$611,600	\$1,031,600
• Tyler Technologies -	\$672,100	\$1,181,900

As the above noted priorities were contemplated and confirmed through the interview and reference checks, it was determined that Accurate Appraisal, LLC would be the most prudent choice to partner with the City to provide these important services over the next three-year period.

#### **RECOMMENDATION**

Staff is recommending partnering with Accurate Appraisal, LLC, to provide assessment services for the community over the next three-year period, with the contract commencing in the near future and running through August 31, 2024, with the potential of two, one-year extensions.

### **COUNCIL ACTION REQUESTED**

Motion to approve a three-year property assessment services contract with Accurate Appraisal, LLC, with the contract commencing in the near future and running through August 31, 2024, with the potential of two, one-year extensions; and to authorize the Director of Administration to execute an agreement for the same using the City's standard contract form.

# INTRODUCTION

We appreciate the opportunity to serve the City of Franklin!

For over 21 years, Accurate Appraisal has continuously improved the assessment experience through **innovation, education, and technology**. We understand your community is unique, therefore we provide assessment solutions tailored to fit your community's needs



We firmly believe that every property owner comes first. They should be part of the assessment process and not just an end result. We work hard to make sure **everyone is treated fairly and equitably**.

## TRANSPARENCY

is our core principle in educating and empowering those we serve.

## OUR CORE VALUES:

### 1. WE ARE FAMILY

We have an unwavering loyalty to each other and our customers. We Respect & Encourage each other and appreciate uniqueness. We value and support each other's health, safety and work/life balance.

### 2. ALWAYS TRANSPARENT

We are Open & Honest in ALL interactions, sharing our data, processes, information, mistakes, and victories. We hold each other accountable. Our availability to our customers and family members is abundant.

### 3. EMBRACE GROWTH & INNOVATION

We are comfortable being uncomfortable while striving to get better every day. We foster and enhance customer relationships while seeking to learn and develop. We offer to teach and mentor customers and family members.

### 4. BE ADMIRABLE

We guard our integrity by doing the right thing-ALWAYS. We strive for quality and precision in our work, our products, and our services. We act like owners and honor our word and commitments. We choose candor, respect, and kindness.

### 5. WE ARE A BOATLOAD OF FUN!

Positivity is our attitude of choice. We have infectious spirits bringing enthusiasm and excitement to all we do. We are passionate and value diversity and inclusion. There's no reason too small to celebrate.

## Our Mission:

Engaging our employees to collaborate, educate, and deliver the most reliable and transparent assessment solutions through innovation, communication and technology.



# OUR HISTORY

Accurate was **founded 21 years ago** on **complete Transparency and Communication.**

For many years it was common practice for assessors to suppress information from the public. This resulted in a lack of understanding and mistrust within the community. The founders of Accurate recognized these shortcomings and began pioneering **new innovative assessment standards.**

Over the years we have developed web-based digital property record cards, created web-based scheduling options, and built our own CAMA to update data digitally in the field. With a combined experience of **over 180 years**

## 2000 - 2005

20 municipalities  
Building digital data online  
New Website  
Full Value Service Options  
Blend Options - more affordable and budget friendly

## 2010 - 2015

90 Municipalities  
Started building proprietary CAMA  
Still growing - added more employees

## 2005 - 2010

75 municipalities  
Built online scheduling  
Moved to new location on Midway Rd  
Growing - added new employees

## 2015 - 2020

100+ municipalities  
Digital in the field  
CAMA software Prolorem launches  
Live assessor certified customer service  
Intentional community education plan

At Accurate we make a concerted effort to connect and learn the nuances of each community. There is no **"cookie-cutter"** way to assess unique communities. We tailor our services to fit the needs of everyone we serve. **Here is a small sample:**

## ASSESSMENT EXPERIENCE

### UNIQUE ASSESSMENTS

Views of the Capital Building - Dane County  
Views of the lake - Fontana  
Bayshore Mall - Glendale  
Access to the Chain of Lakes - Dayton  
All of Menominee County  
Dock-O-Miniums - Fontana

### CORPORATE BUSINESS

Secura - Fox Crossing  
Johnson Controls - Glendale  
Foth - De Pere  
Miron - Fox Crossing  
Cleary Building - Greenville  
Humana Insurance - De Pere

## TAX EXEMPT EXPERIENCE

St Norbert College - De Pere  
Divine Savior Hospital - Portage  
Skadden Retirement Services - Stoughton

## DISTRIBUTION/WAREHOUSING

WALMART Distribution center - Beaver Dam  
Amazon - Greenville  
TARGET - Oconomowoc

## ALL INCLUSIVE SERVICES

- Real and personal property roll cards posted online
- Digital property information with photos online
- Assessment data integrated into your website
- Telephone and Virtual appointments
- Cloud based CAMA system with dedicated support
- LIVE Customer Service - roll assessor certified
- Online appointment scheduler
- Multiple assessors all open book to keep waiting to a minimum
- Access to a dedicated assessor certified Account Manager
- Customized videos and educational materials
- Active live chat function available on our website
- Dedicated quality management
- Virtual walk-through options
- Maintenance inspections





# EDUCATION IS KEY

**Your community matters to us.** We provide the best community education plans through customized content that educates and **puts property owners first!**

**Our #1 priority is transparency.** We share our process and inform your community to reduce stress and give property owners the freedom and flexibility to communicate with us on their time

Most assessors will do the bare minimum and send notices, then wait for the community to contact them with questions and concerns. **This one-way channel of communication is not transparent** and leaves property owners scrambling to figure out what is going on. Often times this creates a rift between property owners, the municipality and the assessor

**Our education plan puts your community first.** We will use every avenue social media, board meetings, newsletters, post card mailings, custom videos. you name it, we do it!

## EXPERIENCE OUR EDUCATION PLAN:

### 1. SOCIAL MEDIA



Utilize your channels of social media to educate on the process of assessments. We mix this with a schedule of postings over the coming year to let property owners know what to expect and the status of the current market. Involving the community ensures we have two-way communication through the assessment process.



### 2. COUNCIL MEETINGS

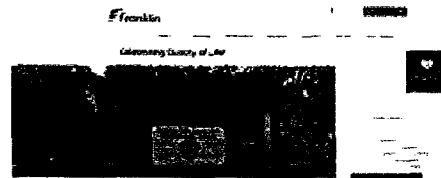


Your community will inevitably have questions about how assessments work. We will attend council meetings to educate your members, arming them with the knowledge they need to explain the annual revaluation assessment process with property owners.

### 3. NEWSLETTER

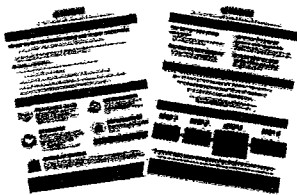
Writing articles that address assessments, what to expect, and the schedule of social media postings keep your community engaged. We can invite readers to sign up for text alerts or email updates throughout the year.

### 4. WEBSITE



Updating your website with a custom video helps explain what a revaluation is and what to expect. We can build links to property record cards and education FAQ for the annual revaluation. The community utilizes your website as a resource; we serve them best by keeping them up to date.

### 5. NOTICES



A notice of new value will be mailed to every property owner. Inserted with the notice will be an Understanding Your Assessment information sheet explaining the assessment process with QR codes, links to videos, an online appointment scheduler, and access to our customer service team.



### 6. OPEN BOOK & BOR

We will offer over the phone Open Book appointments as well as in person options. For in person Open Book, property owners will be greeted with a TV slideshow with assessment videos playing. We provide computers for property owners to review the roll and for find their record cards.

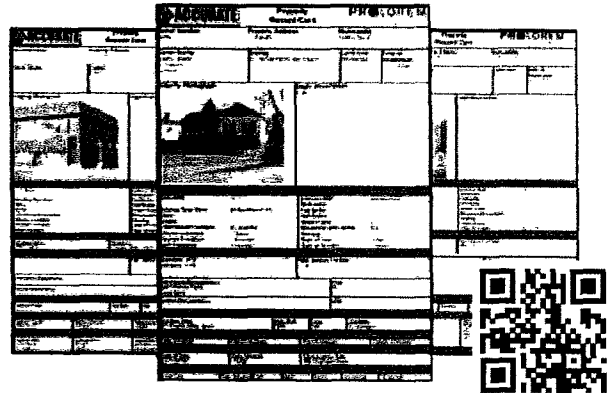


# SOFTWARE

Our proprietary CAMA system is completely **CLOUD BASED**.

There are no costs to use our software and convert your current digital data. We have 3 IT specialists that will review and convert data quickly and easily.

All property card has **images and detailed information** about each parcel. They are available on our website **FREE** to you and your community **24/7**.



Scan QR to check out a live example!



Our assessors are trained to **assess properties on their tablet in the field**, eliminating errors from re-entering data. There is no need to take handwritten notes back to the office to update and value on a property. Our CAMA is the only software that updates property record cards in real time.

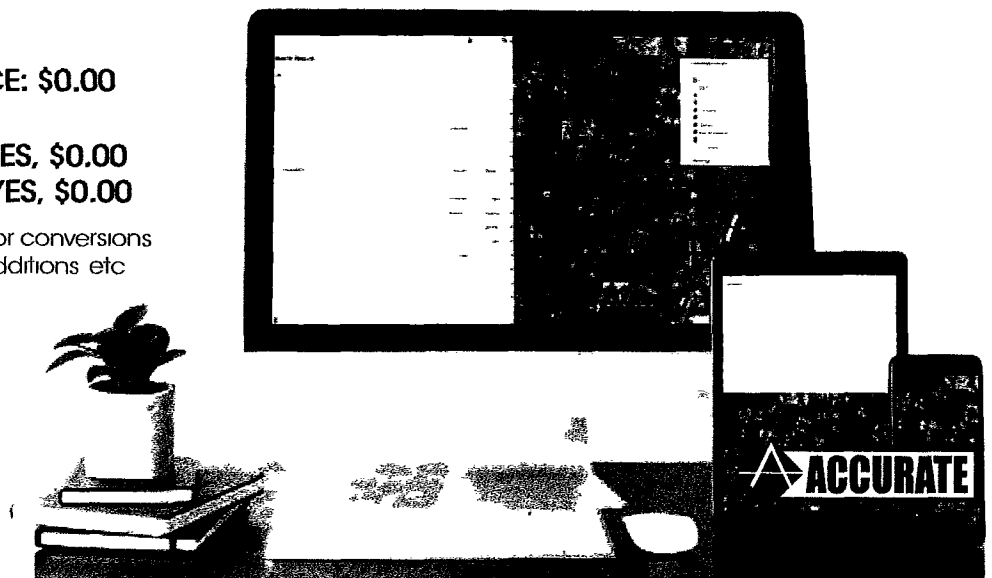
Accurate has **converted data into Prolorem** from multiple forms of CAMA systems including Market Drive, Tyler Technologies, GVS, TC Win, and many more. Our on-staff IT integrates multiple platforms like GIS, Apex Sketching Tool, iWorQ, etc to streamline our process. Because our software is proprietary we have the ability to add or remove features you request at no additional cost.

## PROLOREM

### A REVOLUTION IN ASSESSING SOFTWARE

SOFTWARE COST: \$0.00  
LICENSING/MAINTENANCE: \$0.00  
SOFTWARE:  
INTEGRATION ABILITY: YES, \$0.00  
CONVERSION ABILITY: YES, \$0.00

There are never additional costs for conversions, updates, licensing, integrations, additions, etc.



# PORTFOLIO OF WORK

We serve a variety of municipalities across the state. From small towns to large cities. No matter the size of the community or the number of parcels there is one thing that matters most to us. Our focus is on one thing **Putting property owners first.**

MUNICIPALITY	TYPE	POPULATION	EQ VALUE	PARCELS	SERVICE
Manitowoc	City	32,936	1,392,199,900	12,374	BLEND
De Pere	City	24,893	1,618,168,000	7,664	FULL VALUE
Fox Crossing	Village	18,892	1,198,650,600	6,246	FULL VALUE
Onalaska	City	18,712	1,405,385,500	5,895	BLEND
Cudahy	City	18,200	904,066,900	5,877	FULL VALUE
Oconomowoc	City	16,847	1,898,997,800	6,160	FULL VALUE
Beaver Dam	City	16,476	740,557,500	5,545	FULL VALUE
River Falls	City	15,800	934,801,400	1,368	BLEND
Whitewater	City	14,517	433,367,500	2,607	FULL VALUE
Shorewood	Village	13,338	1,418,231,600	3,848	BLEND
Stoughton	City	13,134	937,153,400	4,427	FULL VALUE
Glendale	City	12,779	1,065,226,500	5,030	BLEND
Platteville	City	12,537	390,522,000	2,820	BLEND
Brown Deer	Village	11,964	674,445,400	4,264	BLEND
Greenville	Town	11,874	1,218,445,000	4,445	FULL VALUE
Harrison	Village	11,532	1,128,775,500	4,307	BLEND
Burlington	City	10,668	670,648,100	3,435	FULL VALUE
Oregon	Village	10,390	1,121,101,700	3,634	FULL VALUE
Portage	City	10,365	408,028,900	3,181	FULL VALUE

Scan QR to for full list of the communities we serve.



#### **BLEND**

Years of maintenance with a market revaluation at least one year of the contract

#### **FULL VALUE**

A market revaluation performed every year

#### **MAINTENANCE**

Review of permits new construction splits etc

#### **Maintenance:**

Accurate inspects all permits, new construction and any demolitions. Every sale will be entered and reviewed. If there are changes to condition or missing information we will update the data to reflect. Any request for inspection from your community will also be visited. We also perform discovery, therefore if we see a property in the city that comes to attention we will flag it for a field visit.

#### **Annual Market Revaluation (Full Value):**

During the annual market revaluation we will complete all of our maintenance inspections, check permits, and review sales. We will then break down each property by neighborhood, style, age, location etc. Each will be evaluated and re-assessed to its new fair market value. A notice of new value will be mailed to the property owners along with an understanding your assessment flyer. It is important that we start our education for each new assessment year many months before notices are mailed. This ensures everyone knows what to expect and they can ask us questions early in the process. Please see (Education Is Key page) in this proposal for our plan.



**BLANK PAGE**

<b>APPROVAL</b> <i>slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MTG. DATE</b> February 1, 2022
Reports & Recommendations	<b>A MOTION TO RESCIND OR AMEND RESOLUTION  2017-7318 A RESOLUTION TO WAIVE WATER  EXTENSION TO SERVE A LOT ON 5000 BLOCK OF  W. MINNESOTA AVENUE</b>	<b>ITEM NO.</b>  <b>G.3.</b>

**BACKGROUND**

On November 7, 2017, Common Council passed Resolution 2017-7318 that allowed a 3-lot Certified Survey Map to be created without the need to connect to public water, provided that when water is available, the home would have one-year to connect. The developer/owner is in the process of constructing the home.

Currently, there is consideration of a watermain project that would trigger the need to connect and the property owner is requesting that the City rescind the requirements stipulated in the resolution.

**ANALYSIS**

The previous Council Action is attached for review of the issues. There are three options for consideration of how to address the current request regarding Resolution 2017-7318.

1. Common Council could rescind the previous resolution. If a watermain project is constructed, this property would be treated like any other property under consideration for special assessment charges.
2. Common Council could amend the previous resolution to modify terms of the resolution. For example, instead of a one-year timeframe, connection might be required within ten years.
3. Common Council could take no action on the request and enforce the requirements stipulated therein. The current owner is the same person that made the commitments in 2017. One could note that he understood the conditional approval to develop a lot and construct a home on that lot, and proceeded with that understanding.

Of note, Staff met with the property owner, Mr. Gudgeon. He prefers to rescind the previous resolution. Furthermore, he is agreeable to participate in the W. Minnesota Avenue watermain project like the rest of the benefited properties.

**OPTIONS:**

- A) Rescind
- B) Reconsider
- C) No Action

**FISCAL NOTE**

This decision will have an impact on an anticipated special assessment report.

**RECOMMENDATION**

(Option A) Motion to rescind Resolution 2017-7318 a resolution to waive water extension to serve a lot on 5000 block of W. Minnesota Avenue.

Department of Engineering GEM

STATE OF WISCONSIN : CITY OF FRANKLIN : MILWAUKEE COUNTY

RESOLUTION NO. 2017-7318

A RESOLUTION TO WAIVE WATER EXTENSION TO SERVE A LOT IN THE 5000 BLOCK OF W. MINNESOTA AVENUE AT THIS TIME AND REQUIRE THE PROPERTY OWNERS OF THIS LOT TO CONNECT TO PUBLIC WATER WITHIN ONE YEAR OF CONSTRUCTION OF A PUBLIC WATER MAIN EXTENDED TO THE PROPERTY

-----

WHEREAS, David Gudgeon and James L. Loudon have been working on a 3-lot land division on the property of the northeast corner of S. 51st Street and W. Minnesota Avenue; and

WHEREAS, Common Council approved the CSM with a condition that the applicant shall request that the City extend public water facilities to serve Lot 3. If rejected, Lot 3 may be developed with a private well-water system. A statement shall be added to Sheet 1 of the Certified Survey Map to indicate whether the land is being served by public sanitary sewer and water or public sanitary sewer only; and

WHEREAS, staff has determined that extension of the public water supply system to loop it through the neighborhood is burdensome for development of one created lot; and

WHEREAS, the owner, and its successors will be required to connect to public water within one year of construction of a public water main extended to the created lot.

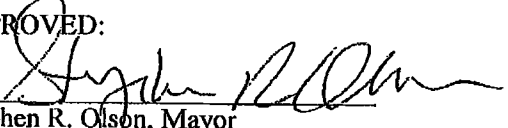
NOW, THEREFORE BE IT RESOLVED by the Mayor and Common Council of the City of Franklin that it would be in the best interest of the City to waive water extension a lot in the 5000 block of W. Minnesota Avenue at this time.

FURTHERMORE BE IT RESOLVED that the property owners of lot 3 be required to connect to public water within one year of construction of a public water main extended to the property.

Introduced at a regular meeting of the Common Council of the City of Franklin the 8<sup>th</sup> day of November, 2017, by Alderman Wilhelm.

PASSED AND ADOPTED by the Common Council of the City of Franklin on the 7th day of November, 2017.

APPROVED:

  
Stephen R. Olson, Mayor

ATTEST:

  
Sandra L. Wesolowski, City Clerk

AYES 6      NOES 0      ABSENT 0

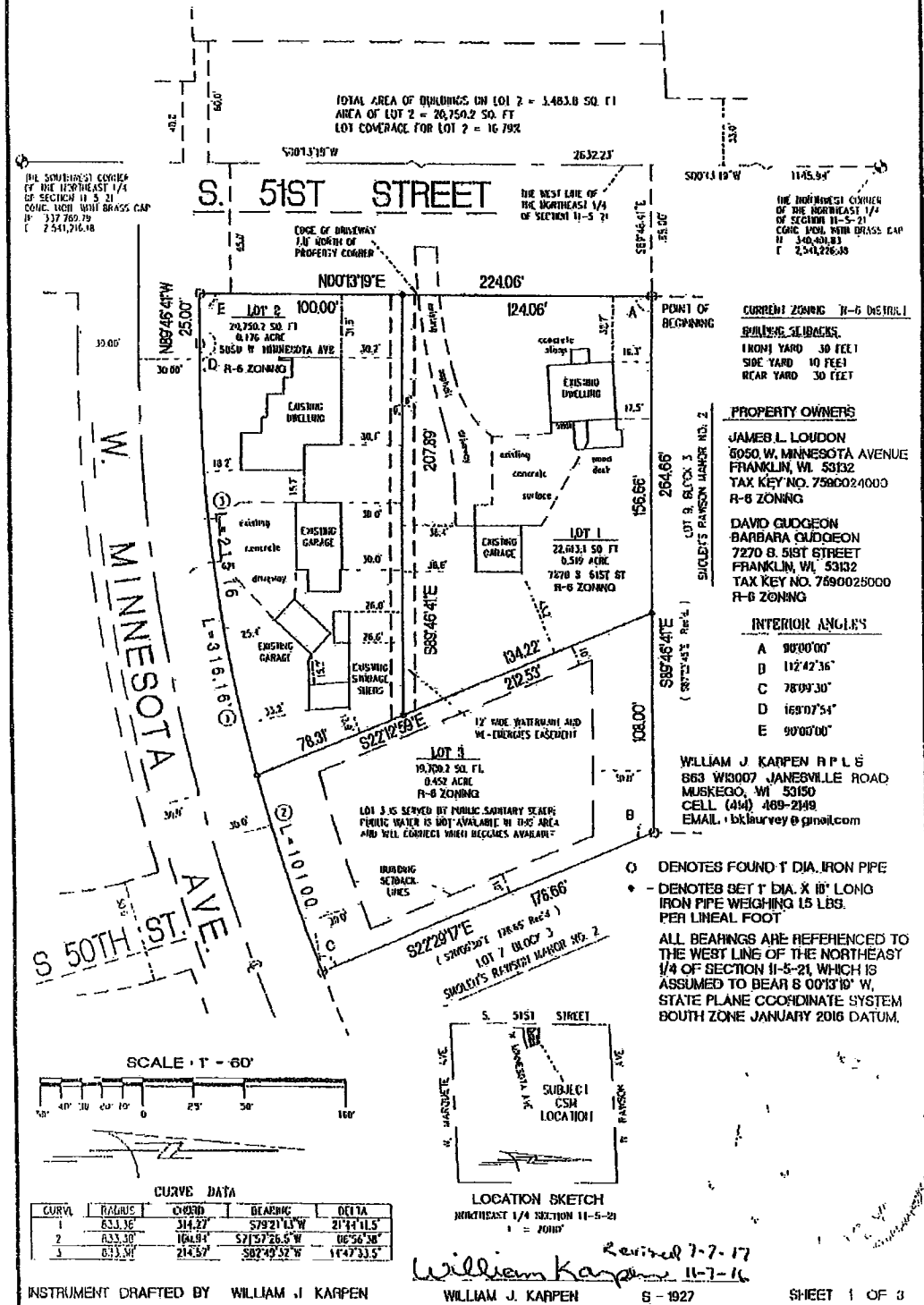
6/17/17

11-7-16

ALPOMANI

MILWAUKEE COUNTY CERTIFIED SURVEY MAP NO. \_\_\_\_\_

BEING A DIVISION OF LOT 8, BLOCK 3, IN SMOLEN'S RAWSON MANOR NO 2 AND THE EAST TWENTY FIVE FEET OF THE VACATED SERVICE ROAD ADJOINING ON THE WEST, IN THE NORTHEAST 1/4 OF SECTION 11, TOWN 5 NORTH, RANGE 21 EAST, IN THE CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN



THE SOUTHWEST CORNER OF THE NORTHEAST 1/4 OF SECTION 11-5-21 CONC. MON. WITH BRASS CAP H 337 789.79 I 7 541,216.18

THE WEST LINE OF THE NORTHEAST 1/4 OF SECTION 11-5-21

THE NORTHWEST CORNER OF THE NORTHEAST 1/4 OF SECTION 11-5-21 CONC. MON. WITH BRASS CAP H 340-000.83 I 2,340,226.38

CURRENT ZONING R-6 DISTRICT  
 FRONT YARD 30 FEET  
 SIDE YARD 10 FEET  
 REAR YARD 30 FEET

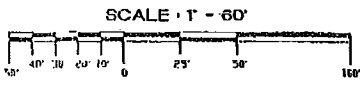
PROPERTY OWNERS  
 JAMES L. LOUDON  
 6050 W. MINNESOTA AVENUE  
 FRANKLIN, WI 53132  
 TAX KEY NO. 7590024000  
 R-6 ZONING  
 DAVID GUDGEON  
 BARBARA GUDGEON  
 7270 S. 51ST STREET  
 FRANKLIN, WI 53132  
 TAX KEY NO. 7590025000  
 R-6 ZONING

INTERIOR ANGLES  
 A 90°00'00"  
 B 112°42'36"  
 C 78°09'30"  
 D 168°07'54"  
 E 90°00'00"

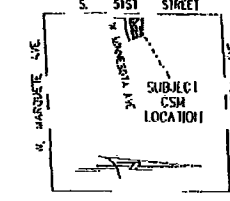
WILLIAM J. KARPEN R.P.L.S.  
 863 W8007 JANEVILLE ROAD  
 MUSKEGO, WI 53150  
 CELL (414) 489-2148  
 EMAIL: wjkurvey@gmail.com

- DENOTES FOUND 1" DIA. IRON PIPE
- DENOTES SET 1" DIA. X 10' LONG IRON PIPE WEIGHING 15 LBS. PER LINEAL FOOT

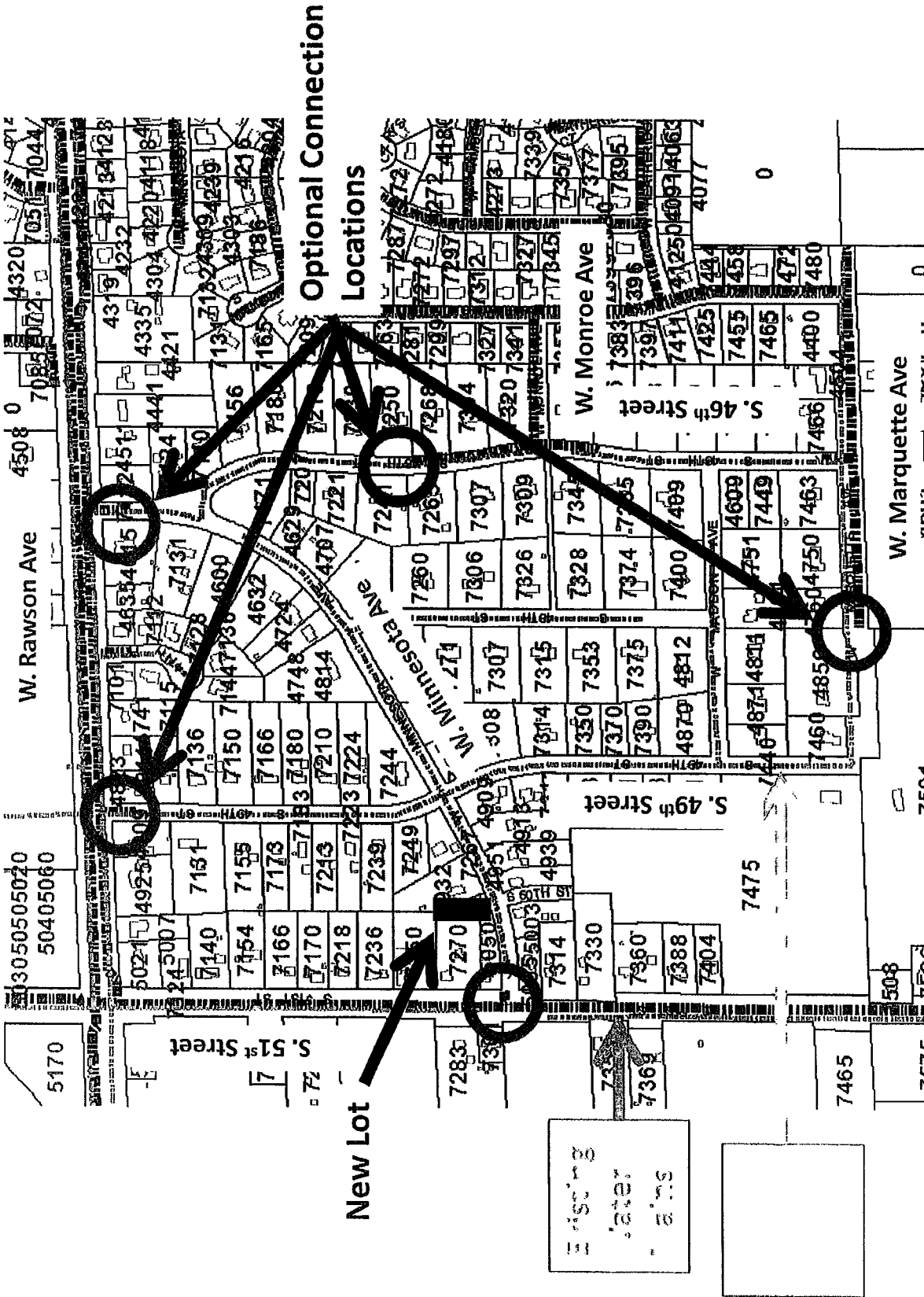
ALL BEARINGS ARE REFERENCED TO THE WEST LINE OF THE NORTHEAST 1/4 OF SECTION 11-5-21, WHICH IS ASSUMED TO BEAR 8 00°13'10" W, STATE PLANE COORDINATE SYSTEM SOUTH ZONE JANUARY 2016 DATUM.



CURVE	RADIUS	CHORD	BEARING	DELTA
1	633.36	314.27	S79°21'41"W	21°14'11.5"
2	633.36	164.84	S71°52'28.5"W	06°56'38"
3	633.36	214.57	S82°49'52"W	14°47'31.5"



William Karpen  
 Revised 7-7-17  
 11-7-16



Optional Connection Locations

New Lot

51st St  
49th St  
46th St

51st St  
49th St  
46th St



APPROVAL	REQUEST FOR COUNCIL ACTION	MEETING DATE August 20, 2019
REPORTS AND RECOMMENDATIONS	<p align="center"><b>REQUEST FOR COUNCIL ACTION TO DEVELOP A WATER MAIN EXTENSION PROJECT ALONG S. 50TH STREET AND W. MINNESOTA AVENUE AND AN ENGINEER'S REPORT FOR SPECIAL ASSESSMENT OF 4932, 4939, 4951, 5003 AND EMPTY LOT ON W. MINNESOTA AVENUE (TAX KEY NOS: 759 0023 000, 759 0038 000, 759 0039 000, 759 0034 000, AND 759 0024 003)</b></p>	ITEM NUMBER

**BACKGROUND**

On April 16, 2019, Common Council directed Staff to have an adjacent developer prepare cost estimates for design, permitting and construction of water main along S. 50th Street to W. Minnesota Avenue and to S. 51st Street and further to survey properties in the vicinity of S. 50th Street and W. Minnesota Avenue and S. 51st Street for interest in public water service.

Staff worked with the Alderwoman of the District on the attached survey to the residents.

The letter was sent out the following addresses.

- 4932 W Minnesota - Return Survey for/against new water main, subject to assessment*
- 4939 W Minnesota - Return Survey for/against new water main, subject to assessment*
- 4951 W Minnesota - Return Survey for/against new water main, subject to assessment*
- 5003 W Minnesota - Return Survey for/against new water main, subject to assessment*

- 5050 W Minnesota - (Some confusion- they are a current water customer)*
- 5055 W Minnesota - Survey not required, water available on 51<sup>st</sup>, no assessment*

*New Lot on W. Minnesota - Survey not required, must connect if extended, subject to assessment*

As directed, Staff discussed the project budget with the adjacent developer. The cost for design in 2019 would be below \$20,000 as Franklin would ask the developer of Oakridge to provide the design in conjunction with their project located northeast of Marquette Avenue and S. 51st Street. The cost for extension of the water main to be constructed in 2020 is estimated to be approximately \$120,000. Five property owners would be assessed in 2020 for an estimated \$86,000. Repayments over multiple years are likely.

**ANALYSIS**

Note that although the survey was sent out to seven properties, only four responses were expected. The expected responses were as follows:

- 2 NOT interested in having water service from the City of Franklin
  - 4932 W. Minnesota Avenue
  - 4939 W. Minnesota Avenue
- 0 May be interested in having water service available, please provide more information
- 1 Definitely interested in having Franklin water service
  - 5003 W. Minnesota Avenue
- 1 No Response
  - 4951 W. Minnesota Avenue

Note that under a private agreement, there is a shared well at 5003 W. Minnesota that also serves 4939, 4951, and 5055 W. Minnesota. The property with the well that has to maintain the well should be given more weight in the survey. With the other construction activity in the neighborhood, including the reconstruction of S. 50<sup>th</sup> Street, this is an ideal time to extend the water to these homes and eliminate well system(s) for the area.

**OPTIONS**

- A. Direct Staff to develop engineer's report and other processes to develop a water extension project and special assess affected properties.
- B. Decide not to proceed with a City-led water main project at this time.
- C. Refer back to Staff with further direction.

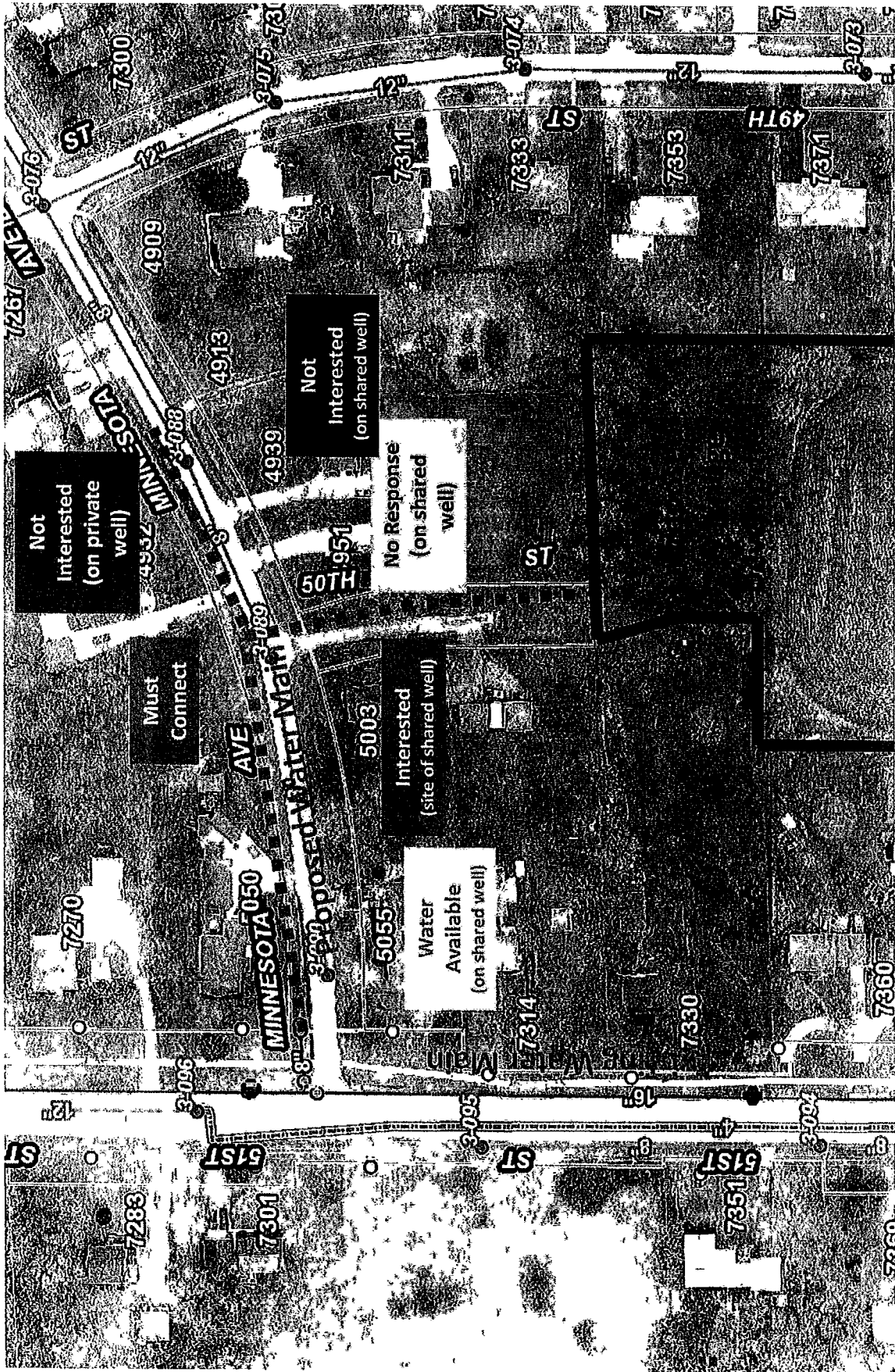
**FISCAL NOTE**

The Utility Development Fund has resources to fund a water main extension. The Capital Improvement fund has a \$500,000 appropriation for water main extensions.

**COUNCIL ACTION REQUESTED**

(Option A) Direct Staff to develop a water main extension project along S. 50<sup>th</sup> Street and W. Minnesota Avenue and an Engineer's Report in accordance with Municipal Code Section 207-15 for special assessment of 4932, 4939, 4951, 5003 and empty lot on W. Minnesota Avenue (Tax Key Nos: 759 0023 000, 759 0038 000, 759 0039 000, 759 0034 000, and 759 0024 003)

Engineering: GEM



Not Interested (on private well)

Must Connect

Not Interested (on shared well)

No Response (on shared well)

Interested (site of shared well)

Water Available (on shared well)

**BLANK PAGE**

<b>APPROVAL</b> <i>slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MTG. DATE</b> February 1, 2022
<b>Reports &amp; Recommendations</b>	A PRELIMINARY RESOLUTION DECLARING INTENT TO EXERCISE SPECIAL ASSESSMENT POWERS GRANTED BY SECTION 207-15 OF THE MUNICIPAL CODE AND SECTION 66.0701 OF THE STATE STATUTES FOR INSTALLATION OF A WATER MAIN ON S. 50 <sup>TH</sup> STREET FROM THE INTERSECTION OF W. MINNESOTA AVENUE TO A POINT OF CONNECTION APPROXIMATELY 250 FEET SOUTH ON S. 50 <sup>TH</sup> STREET AND ALSO ALONG W. MINNESOTA AVENUE FROM A POINT OF CONNECTION AT THE INTERSECTION OF S. 51 <sup>ST</sup> STREET TO THE INTERSECTION OF S. 49 <sup>TH</sup> STREET AND THEN TO A POINT OF TERMINATION APPROXIMATELY 50 FEET NORTH OF W. MINNESOTA AVENUE AND SETTING THE PUBLIC HEARING DATE FOR APRIL 4, 2022 AT 6:30 P.M.	<b>ITEM NO.</b>  <b>G.4.</b>

**BACKGROUND**

On January 18, 2022, Common Council discussed a preliminary resolution declaring intent to exercise special assessment for a watermain project in the vicinity of S. 50<sup>th</sup> Street and W. Minnesota Avenue- item G.12. Common Council directed Staff to survey/resurvey property owners as appropriate to see if the project should be extended.

**ANALYSIS**

Staff passed out a letter to 22 properties along W. Minnesota Avenue and S. 49<sup>th</sup> Street to solicit input in an accelerated manner. Input was received with in-person meetings, telephone calls, and/or emails. The attached exhibit graphically shows the responses. An updated exhibit will be presented at the Common Council meeting if additional responses are received prior to the meeting. The responses received as of 9:00 a.m. January 28, 2022, are as follows:

<b>Address</b>	<b>Name</b>	<b>Comment</b>
5003 W. Minnesota Ave	Kennedy	Y- Wants water
5000 W. Minnesota Ave	Gudgeon	Y- Wants water / depends*
4951 W. Minnesota Ave	Distefano	--- no response
4939 W. Minnesota Ave	Petrie	Y- Wants water
4932 W. Minnesota Ave	Turner	N- Does not want water
4913 W. Minnesota Ave	Sunset Bank	*** no response
7267 S. 49 <sup>th</sup> Street	Petrie	--- no response
7244 S. 49 <sup>th</sup> Street	Wimmer	Y- Wants water
4909 W. Minnesota Ave	Bangart	--- no response
7300 S. 49 <sup>th</sup> Street	Kimlicka	N- Does not want water
7308 S. 49 <sup>th</sup> Street	Crimmins	N- Does not want water
7311 S. 49 <sup>th</sup> Street	Gidlund	**** no response
7314 S. 49 <sup>th</sup> Street	Fiel	N- Does not want water
7333 S. 49 <sup>th</sup> Street	Howell	--- no response
7350 S. 49 <sup>th</sup> Street	Call	Y- Wants water**
7353 S. 49 <sup>th</sup> Street	Keller	N- Does not want water
7370 S. 49 <sup>th</sup> Street	Czarnik	*** no response
7371 S. 49 <sup>th</sup> Street	Simcic	N- Does not want water
7390 S. 49 <sup>th</sup> Street	Ratliff	N- Does not want water
7393 S. 49 <sup>th</sup> Street	Grunze	--- no response
7411 S. 49 <sup>th</sup> Street	Kwiatkowski	N- Does not want water
4870 W. Madison Ave	Brockel	N- Does not want water

*\* 5000 W. Minnesota Aveune gave a mixed response that he was in favor of the project, but depends on what the neighbors desire. This is the property that is discussed elsewhere on the agenda regarding a prior resolution to connect within one year should a watermain be constructed*

*\*\* 7350 S. 49<sup>th</sup> Street was in favor of water but wanted to confirm with a call back. No call received at the time of publishing.*

*\*\*\* Some properties are reported to be owned by a bank, are rentals, or are undergoing severe personal issues and understandably, no responses were received*

Note that neighbors across W. Minnesota Avenue (4932 and 4939) have conflicting votes. Any decision to serve / not serve one of these two properties will comply the other neighbor to abide against their will. Considering that 4939 will need water since they are on a shared well provided by a property (5003) that will receive water, Staff suggests that the need for water should outweigh the desire not to have water. Thus, extending the watermain to the property line of 4932 W. Minnesota Avenue and 7267 S. 49<sup>th</sup> Street is appropriate and consistent with the overall need of the neighborhood.

The owner of 7244 S. 49<sup>th</sup> Street was enthusiastically in favor of water and the owner of 7300 S. 49<sup>th</sup> Street was not in favor of water service. So, if the intersection is served without service to the south, it is suggested that a stub north be constructed. This does not assist in looping, but does work towards the overall goal of the city of providing public water to all homes.

Considering the responses, Staff suggests that an appropriate watermain project include:

- the system previously proposed to loop S. 50<sup>th</sup> Street and S. 51<sup>st</sup> Street (solid blue line shown in the exhibit),
- extension of watermain along W. Minnesota Avenue to S. 49<sup>th</sup> Street (dotted yellow line),
- stub north along S. 49<sup>th</sup> Street approximately 50 feet from W. Minnesota Avenue (dotted white line)

If a decision to proceed with any special assessment is made, a consulting agreement is anticipated to appear at the next Common Council meeting so that the project may be finalized and bid.

#### **FISCAL NOTE:**

Per the previous estimate, there is \$140,000 in the 2022 budget for this project and an additional \$200,000 for miscellaneous water extension projects.

The project would also include roadway improvements for S. 50th Street that would not be part of the special assessment, per past practice.

#### **OPTIONS:**

- A. Proceed with special assessment process to prepare engineering report and notify five property owners as identified at the January 18, 2022 Common Council meeting. Or
- B. Modify the previous resolution to reflect a project as recommended by Staff. Or
- C. Other direction to Staff.

#### **RECOMMENDATION**

(Option B) Motion to adopt Resolution 2022-\_\_\_\_\_ a preliminary resolution declaring intent to exercise special assessment powers granted by Section 207-15 of the Municipal Code and Section 66.0701 of the State Statutes for installation of a water main on S. 50<sup>th</sup> Street from the intersection of W. Minnesota Avenue to a point of connection approximately 250 feet south on S. 50<sup>th</sup> Street and also along W. Minnesota Avenue from a point of connection at the intersection of S. 51<sup>st</sup> Street to the intersection of S. 49<sup>th</sup> Street and then to a point of termination approximately 50 feet north of W. Minnesota Avenue and setting the Public Hearing date for April 4, 2022 at 6:30 p.m.

**EXHIBIT**

**Accelerated Survey for Water  
Minnesota / 49th Street**

**Y**

**Wants Water Project**

**N**

**Does not want Water Project**

**N/A**

**Did not Respond**

**N/A**

**Understandably No Response**



APPROVAL <i>slw</i>	<b>REVISED</b> <b>REQUEST FOR COUNCIL ACTION</b>	<del>MTG. DATE</del> <del>January 18, 2022</del>
Reports & Recommendations	A PRELIMINARY RESOLUTION DECLARING INTENT TO EXERCISE SPECIAL ASSESSMENT POWERS GRANTED BY SECTION 207-15 OF THE MUNICIPAL CODE AND SECTION 66.0701 OF THE STATE STATUTES FOR INSTALLATION OF A WATER MAIN ON S. 50 <sup>TH</sup> STREET FROM THE INTERSECTION OF W. MINNESOTA AVENUE TO A POINT OF CONNECTION APPROXIMATELY 250 FEET SOUTH ON S. 50 <sup>TH</sup> STREET AND ALSO ALONG W. MINNESOTA AVENUE FROM A POINT OF CONNECTION AT THE INTERSECTION OF S. 51 <sup>ST</sup> STREET TO A POINT OF TERMINATION APPROXIMATELY 250 FEET EAST OF S. 50 <sup>TH</sup> STREET AND SETTING THE PUBLIC HEARING DATE FOR APRIL 5, 2022 AT 6:30 P.M.	<del>ITEM NO.</del> <del>G.12.</del>

**BACKGROUND**

On August 20, 2019, Common Council directed Staff to develop a water main extension project along S. 50th Street and W. Minnesota Avenue and an Engineer's Report in accordance with Municipal Code §207-15. for special assessment of 5003 W. Minnesota Avenue and vacant lot (now 5000 W. Minnesota Avenue) (Tax Key Nos: 795-0034-000 and 759-0024-003).

This issue was interwoven in related work of two developments, now one, and the design/construction of W. Marquette Avenue. The related work is at a point such that it is now appropriate to complete the widening/improvement of S. 50th Street and the looping and extension of the watermain to homes along W. Minnesota Avenue.

Pursuant to Municipal Code Section 207-15, it is necessary to adopt a preliminary resolution with intention to exercise special assessment powers for the project. A Public Hearing must be conducted after an Engineer's Report is prepared.

**ANALYSIS**

**~~This neighborhood has already been surveyed and a personal meeting with the residents and Alderwoman Wilhelm expanded the number of properties previously in favor of this project. This neighborhood was surveyed prior to August 20, 2019 direction to Staff. After August 20, 2019, a personal meeting with the affected residents and Alderwoman Wilhelm was held. As a result of that personal meeting, two property owners who voted "no" changed their mind and expressed a desire to be included in the project, thus the number of properties previously in favor of this project has been expanded.~~**

The **five** benefited properties include 4932, 4939, 4951, 5000 and 5003 W. Minnesota Avenue. Other properties are believed to be existing water utility customers or have access to the water distribution system. These five property owners would be notified of a public hearing.

There is a dated estimate for the water improvements. Considering the volatility of recent construction costs, it is advisable that a new estimate be prepared. A contract for a consultant to finalize the plans and specifications, bid and administer the construction is expected to be ready for authorization at the February 2, 2022, Common Council meeting. To facilitate the new estimate, an Engineer's report for this project should be ready by the March 1, 2022 Common Council meeting.

It is recommended that a public hearing for this project be established for the Common Council meeting on March 1, 2022, at 6:30 p.m.

Pursuant to past practice, it is recommended that these property owners also will be offered an optional 10-year interest free deferment if they don't wish to connect at this time, then a 6%, 12-year payment that starts when deferment ends or connection occurs, whichever is earliest.



One could note that it has been a few years since the previous survey was conducted. There may be other properties that are interested in public water service. Common Council may consider delaying this project process long enough to resurvey the neighboring properties to the east. Note that 1) a survey is not a binding commitment and not an obligation for Common Council to do/not do a project. And 2) a long delay in the process may put ability to construct this project in 2022.

**FISCAL NOTE:**

Per the previous estimate, there is ~~\$60,000~~ **\$140,000** in the 2022 budget for this project and an additional ~~\$500,000~~ **\$200,000** for miscellaneous water extension projects.

The project would also include roadway improvements for S. 50<sup>th</sup> Street that would not be part of the special assessment, per past practice.

**OPTIONS:**

- A. Proceed with special assessment process to prepare engineering report and notify affected property owners
- B. Resurvey- or Survey additional properties.
- C. Other direction to Staff

**RECOMMENDATION**

(Option A) Motion to adopt Resolution 2022-\_\_\_\_\_ a preliminary resolution declaring intent to exercise special assessment powers granted by Section 207-15 of the Municipal Code and Section 66.0701 of the State Statutes for installation of a water main on S. 50<sup>th</sup> Street from the intersection of W. Minnesota Avenue to a point of connection approximately 250 feet south on S. 50<sup>th</sup> Street and also along W. Minnesota Avenue from a point of connection at the intersection of S. 51<sup>st</sup> Street to a point of termination approximately 250 feet east of S. 50<sup>th</sup> Street and setting the Public Hearing date for April 5, 2022 at 6:30 p.m.

STATE OF WISCONSIN : CITY OF FRANKLIN : MILWAUKEE COUNTY

RESOLUTION NO. 2022- \_\_\_\_\_

A PRELIMINARY RESOLUTION DECLARING INTENT TO EXERCISE SPECIAL ASSESSMENT POWERS GRANTED BY SECTION 207-15 OF THE MUNICIPAL CODE AND SECTION 66.0701 OF THE STATE STATUTES FOR INSTALLATION OF A WATER MAIN ON S. 50<sup>TH</sup> STREET FROM THE INTERSECTION OF W. MINNESOTA AVENUE TO A POINT OF CONNECTION APPROXIMATELY 250 FEET SOUTH ON S. 50<sup>TH</sup> STREET AND ALSO ALONG W. MINNESOTA AVENUE FROM A POINT OF CONNECTION AT THE INTERSECTION OF S. 51<sup>ST</sup> STREET TO A POINT OF TERMINATION APPROXIMATELY 250 FEET EAST OF S. 50<sup>TH</sup> STREET AND SETTING THE PUBLIC HEARING DATE FOR APRIL 5, 2022 AT 6:30 P.M.

-----  
WHEREAS, the Common Council has determined that it is expedient and necessary for the best interests of the City, its people and the property affected thereby that the following permanent improvements be made as described in this preliminary resolution.

NOW, THEREFORE BE IT RESOLVED by the Mayor and Common Council of the City of Franklin.

1. The Common Council declares its intent to exercise police powers granted to it by law and adjudge that it is necessary for the health, safety and welfare of the public and affected property owners that a public work of improvement be made for the installation of water main on S. 50<sup>th</sup> Street from the intersection of W. Minnesota Avenue to a point of connection approximately 250 feet south on S. 50<sup>th</sup> Street and also along W. Minnesota Avenue from a point of connection at the intersection of S. 51<sup>st</sup> Street to a point of termination approximately 250 feet east of S. 50<sup>th</sup> Street.
2. The Common Council in this process exercises its power to levy special assessments under its police power as authorized in Section 207-15 of the Municipal Code and Section 66.0701 of the Wisconsin Statutes.
3. The Common Council further declares that all assessments may be paid in one (1) payment when the work is completed, or in the next succeeding tax roll, or in the number of annual installments as determined by the Common Council.
4. The Common Council further declares that the amount assessed against any property for this improvement shall be upon a reasonable basis as determined by the Common Council.
5. That the City Engineer and/or his authorized representative is directed to prepare the report as described in Section 207-15.E. of the Municipal Code for the installation of a water main in the location described above.
6. Upon completion of such report the City Engineer and/or his authorized representative is directed to file a copy thereof in the Office of the City Clerk for public inspection.

7. That the City Clerk is directed to schedule and give notice of a Public Hearing to be conducted by the Mayor and Common Council in accordance with the provisions of Section 207-15.I. of the Municipal Code.

Introduced at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2022 by Alderman \_\_\_\_\_.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

APPROVED:

\_\_\_\_\_  
Stephen R. Olson, Mayor

ATTEST:

\_\_\_\_\_  
Sandra L. Wesolowski, City Clerk

AYES \_\_\_\_\_ NOES \_\_\_\_\_ ABSENT \_\_\_\_\_

**BLANK PAGE**

<p style="text-align: center;">APPROVAL</p> <p style="text-align: center;"><i>slw</i></p>	<p style="text-align: center;">REQUEST FOR COUNCIL ACTION</p>	<p style="text-align: center;">MEETING DATE</p> <p style="text-align: center;">02/01/2022</p>
<p style="text-align: center;">REPORTS &amp; RECOMMENDATIONS</p>	<p style="text-align: center;"><b>STANDARDS, FINDINGS AND DECISION OF THE CITY OF FRANKLIN COMMON COUNCIL UPON THE APPLICATION OF STEPHEN R. MILLS, PRESIDENT OF BEAR DEVELOPMENT, LLC, APPLICANT, FOR A SPECIAL EXCEPTION TO CERTAIN NATURAL RESOURCE PROVISIONS OF THE CITY OF FRANKLIN UNIFIED DEVELOPMENT ORDINANCE</b></p>	<p style="text-align: center;">ITEM NUMBER</p> <p style="text-align: center;"><b>G.5.</b></p>

The applicant’s Natural Resource Special Exception (NRSE) request is for impacts to wetland setback and buffer for the development of duplex homes. The initial request was for temporary impacts to 23,970 square feet of wetland buffer and an unspecified quantity of wetland setback, and for permanent impacts to 1,350 square feet of wetland buffer and 3,586 square feet of wetland setback. On January 12, 2022 the applicant amended this request to allow for 25,320 square feet of temporary buffer impact (an additional 1,350 square feet) and provided information about impacts proposed if a reduced front yard setback was approved by the Board of Zoning and Building Appeals (BZBA). (See attachment: “Applicant Impact Request”).

At their meeting on January 12, 2022, the Environmental Commission reviewed this Special Exception to natural resource provisions of the Unified Development Ordinance. The Commission recommended approval of with conditions as set forth in the attached City of Franklin Environmental Commission document.

At their January 19, 2022 meeting, the BZBA approved a request by the applicant to allow for a reduction in the required front yard setback for this development from 25 feet to 20 feet. This reduction likewise allowed for a reduction in the degree of permanent impacts to natural resources.

The public hearing for this item was opened at the regular meeting of the Plan Commission on January 20, 2022. Members of the public spoke at the public hearing with concerns related to flooding on neighboring properties. Following a properly noticed public hearing, the following action was approved: motion to recommend approval of the revised request by Stephen R. Mills, president of Bear Development, LLC Natural Resource Features Special Exception, to allow for only temporary impacts to wetland setback and buffer, pursuant to the Standards, Findings and Decision recommended by the Plan Commission and Common Council consideration of the Environmental Commission recommendations.

In addition, the Plan Commission adopted a motion to “to add conditions of approval to require that the applicant provide for repair of the pond drainage tile/pipe between the pond edge and the outlet at Ryan Road, subject to a revised conservation easement; and for the removal of buckthorn with a minimum expenditure of \$10,000.”

The Plan Commission's recommendations have been reflected in the Decision section of the attached draft Standards, Findings, and Decision document.

On March 14, 2018, the applicant received permission to place 37,500 cubic yards of fill on the site under City of Franklin Permit I20180438. Fill was placed in the wetland setback and buffer. The Standards Findings and Decision item 3.b requires a finding that the NRSE will "Not effectively undermine the ability to apply or enforce the requirement with respect to other properties (§UDO-15-10.0208B2.c.ii)." Section 2, item 5, requires a finding by the Common Council as to the "degree of noncompliance" under §UDO-15-10-10.0208B2.d.v. that this NRSE would allow (See Plan Commission Staff Report section on "Ability to Enforce" for further information).

As set forth, the draft Standards, Findings and Decision does not include a finding for these items. Direction is needed from the Council to decide if this NRSE:

- A) DOES undermine the City's ability to enforce natural resource protections; or,
- B) DOES NOT undermine the City's ability to enforce natural resource protections.

Staff notes that the Standards, Findings, and Decision of the Common Council is set forth as an approval.

The Staff Report to Plan Commission and related materials are attached for further information on the nature of the natural resource impact request.

### **COUNCIL ACTION REQUESTED**

Adopt a finding that this special exception does [does not] allow for a degree of noncompliance under §UDO-15-10-10.0208B2.d.v. that will effectively undermine the ability of the City of Franklin to apply or enforce the requirement with respect to other properties (§UDO-15-10.0208B2.c.ii).

AND

Adopt the standards, findings and decision of the City of Franklin Common Council upon the application of Stephen R. Mills, President of Bear Development, LLC, applicant, for a special exception to certain natural resource provisions of the City of Franklin Unified Development Ordinance.

**Boomtown LLC NRSE - 12000 W. Loomis Rd.**  
**Applicant Impact Request in Square Feet**

Original	25' Front Yard Setback	
	Permanent	Temporary
Wetland	0	0
Wetland Buffer	1,350	23,970
Wetland Setback	3,586	?

1/12/2022	Revised		20' Front Yard Setback <i>Requires BZBA Approval</i>	
	Permanent	Temporary	Permanent	Temporary
Wetland	0	0	0	0
Wetland Buffer	1,350	25,320	0	25,320
Wetland Setback	3,586	?	1,105	?

**Recommended by Plan Comission**

	20' Front Yard Setback	
	Permanent	Temporary
Wetland	0	0
Wetland Buffer	0	25,320
Wetland Setback	0	0

*Redraft 1/25/22*

Standards, Findings and Decision  
of the City of Franklin Common Council upon the Application of Stephen R. Mills,  
President of Bear Development, LLC, applicant, for a Special Exception  
to Certain Natural Resource Provisions of the City of Franklin  
Unified Development Ordinance

Whereas, Stephen R. Mills, President of Bear Development, LLC, applicant, having filed an application dated September 3, 2021, for a Special Exception pursuant to Section 15-9.0110 of the City of Franklin Unified Development Ordinance pertaining to the granting of Special Exceptions to Stream, Shore Buffer, Navigable Water-related, Wetland, Wetland Buffer and Wetland Setback Provisions, and Improvements or Enhancements to a Natural Resource Feature; a copy of said application being annexed hereto and incorporated herein as Exhibit A; and

Whereas, the application having been reviewed by the City of Franklin Environmental Commission and the Commission having made its recommendation upon the application, a copy of said recommendation dated January 12, 2022 being annexed hereto and incorporated herein as Exhibit B; and

Whereas, following a public hearing before the City of Franklin Plan Commission, the Plan Commission having reviewed the application and having made its recommendation thereon as set forth upon the report of the City of Franklin Planning Department, a copy of said report dated January 20, 2022 being annexed hereto and incorporated herein as Exhibit C; and

Whereas, the property which is the subject of the application for a Special Exception is located at 12000 West Loomis Road, zoned R-8 Multiple-Family Residence District and C-1 Conservancy District, and such property is more particularly described upon Exhibit D annexed hereto and incorporated herein; and

Whereas, Section 15-10.0208B. of the City of Franklin Unified Development Ordinance, as amended by Ordinance No. 2003-1747, pertaining to the granting of Special Exceptions to Stream, Shore Buffer, Navigable Water-related, Wetland, Wetland Buffer and Wetland Setback Provisions, and Improvements or Enhancements to a Natural Resource Feature, provides in part: “The decision of the Common Council upon any decision under this Section shall be in writing, state the grounds of such determination, be filed in the office of the City Planning Manager and be mailed to the applicant.”

Now, Therefore, the Common Council makes the following findings pursuant to Section 15-10.0208B.2.a., b. and c. of the Unified Development Ordinance upon the application for a Special Exception dated September 3, 2021, by Stephen R.



Mills, President of Bear Development, LLC, applicant, pursuant to the City of Franklin Unified Development Ordinance, the proceedings heretofore had and the recitals and matters incorporated as set forth above, recognizing the applicant as having the burden of proof to present evidence sufficient to support the following findings and that such findings be made by not less than four members of the Common Council in order to grant such Special Exception.

1. That the condition(s) giving rise to the request for a Special Exception were not self-imposed by the applicant (this subsection a. does not apply to an application to improve or enhance a natural resource feature): *but rather, the applicant notes that the site is already impacted by fill Wetland delineations from 2014 show the existing wetland complexes in the same general locations as 2021; the development cannot proceed as designed without impacts to wetland setback and buffer.*

2. That compliance with the stream, shore buffer, navigable water-related, wetland, wetland buffer, and wetland setback requirement will:

a. be unreasonably burdensome to the applicant and that there are no reasonable practicable alternatives: *The applicant notes that the site is already impacted by fill The zoning classification (R-8 Multifamily) and allowable site intensity for the property allow for greater intensity of use, however the site access and configuration, and required setbacks create constraints on the placement of buildings and other infrastructure; or*

b. unreasonably and negatively impact upon the applicant's use of the property and that there are no reasonable practicable alternatives: *The applicant notes that the site is already impacted by fill. The parcel is currently vacant; the proposed use has been affirmed through a rezoning to R-8 Multifamily (ORD 2021-2480), and the applicant has completed a Concept Review and Certified Survey Map approval in seeking this development approval.*

3. The Special Exception, including any conditions imposed under this Section will:

a. be consistent with the existing character of the neighborhood: *the proposed development with the grant of a Special Exception as requested will be consistent with the existing character of the neighborhood, and the applicant states that "The proposed impact and resulting development will be consistent with the neighborhood and consistent with the existing zoning and Comprehensive Plan " Surrounding properties include future industrial and developing residential uses; and*

b. not effectively undermine the ability to apply or enforce the requirement with respect to other properties: *The applicant states that "The situation and conditions related to this project are unique as the affected property was a properly permitted to impact the wetland buffer/setback Applying the wetland setback/buffer at this point*

*serves no purpose and does not protect the actual wetland resources Other properties seeking the same relief would need to meet similar standards ”*

*Placement of fill on site was at the request of Bear Development to “raise the sites and help with future development plans (Ruffing, A 2018, January 14).”*

*According to the Natural Resource Protection Plan (NRPP) submitted on January 10, 2022, fill was placed in the wetland setback and buffer under City of Franklin Permit I20180438 Fill permits for Wisconsin DOT project were approved by the City of Engineering Department. City approvals for fill impacts to wetland setback and buffer were not sought by the applicant at that time.*

*The limits of impacts proposed for this Special Exception align with impacted areas under the fill permit*

*The site has since experienced significant degradation and impacts by invasive species. Fill permits for Wisconsin DOT project were approved by the City of Engineering Department.*

c. be in harmony with the general purpose and intent of the provisions of this Ordinance proscribing the requirement: *Applicant represents that the unique circumstances involved with this request is what the NRSE process was intended for; and*

d. preserve or enhance the functional values of the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback in co-existence with the development: *(this finding only applying to an application to improve or enhance a natural resource feature): not applicable.*

The Common Council considered the following factors in making its determinations pursuant to Section 15-10.0208B.2.d. of the Unified Development Ordinance.

1. Characteristics of the real property, including, but not limited to, relative placement of improvements thereon with respect to property boundaries or otherwise applicable setbacks: *The applicant states that “The improvements will not negatively affect surrounding properties ” Proposed impacts will occur within the site and do not extend past the property line*

2. Any exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district: *The applicant states that “The exceptional, extraordinary or unusual circumstance is that the resource being impacted has already been impacted and the property has been included in a TID Project Plan*

*whereby the resulting improvements are necessary to generate tax increment ” Tax Increment Districts must include a residential component*

3. Existing and future uses of property; useful life of improvements at issue; disability of an occupant: *The proposed use has been affirmed through a rezoning to R-8 Multifamily (ORD 2021-2480), and the applicant has completed a Concept Review and Certified Survey Map approval in seeking this development approval*

4. Aesthetics: *The applicant states that “There will be no negative impact to aesthetics The resulting development will be a residential neighborhood with required street trees and significant green space.”*

5. Degree of noncompliance with the requirement allowed by the Special Exception: *The applicant states that “Considering the that the area of impact was previously disturbed, the NRSE is not over-reaching ”*

*Placement of fill on site was at the request of Bear Development to “raise the sites and help with future development plans (Ruffing, A 2018, January 14) ”*

*According to the NRPP submitted on January 10, 2022, fill was placed in the wetland setback and buffer under City of Franklin Permit I20180438 Fill permits for Wisconsin DOT project were approved by the City of Engineering Department City approvals for fill impacts to wetland setback and buffer were not sought by the applicant at that time.*

*The limits of impacts proposed for this NRSE align with impacted areas under the fill permit.*

*The site has since experienced significant degradation and impacts by invasive species.*

6. Proximity to and character of surrounding property: *Proposed impacts will occur within the site and do not extend past the property line The applicant notes that “Applicant owns the adjacent properties to the east and south W Ryan Road separates neighboring land to the north, a WE Energies ROW separates neighboring land to the west and a remnant WDOT parcel is located to the west ”*

7. Zoning of the area in which property is located and neighboring area: *Surrounding zoning consists of Single and Multifamily Residential There is an area of M-1 Limited Industrial District to the southeast*

8. Any negative affect upon adjoining property: *No negative affect upon adjoining property is perceived Proposed impacts will occur within the site and do not extend past the property line.*

9. Natural features of the property: *The applicant does not propose impacts to natural resource features beyond those included in this request*

10. Environmental impacts: *The applicant states that "There are no other environmental impacts associated with the NRSE."*

11. A recommendation from the Environmental Commission as well as a review and recommendation prepared by an Environmental Commission-selected person knowledgeable in natural systems: *The Environmental Commission recommendation and its reference to the report of January 12, 2022 is incorporated herein*

12. The practicable alternatives analysis required by Section 15-9.0110C.4. of the Unified Development Ordinance and the overall impact of the entire proposed use or structure, performance standards and analysis with regard to the impacts of the proposal, proposed design solutions for any concerns under the Ordinance, executory actions which would maintain the general intent of the Ordinance in question, and other factors relating to the purpose and intent of the Ordinance section imposing the requirement: *The Plan Commission recommendation and the Environmental Commission recommendation address these factors and are incorporated herein*

#### Decision

*Upon the above findings and all of the files and proceedings heretofore had upon the subject application, the Common Council hereby grants a Special Exception for such relief as is described within Exhibit C, upon the conditions:*

- 1) that the natural resource features and mitigation areas upon the properties to be developed be protected by a perpetual conservation easement to be approved by the Common Council prior to any development within the areas for which the Special Exception is granted prior to the issuance of any Occupancy Permits;*
- 2) that the applicant obtain all other necessary approval(s) from all other applicable governmental agencies prior to any development within the areas for which the Special Exception is granted;*
- 3) that all development within the areas for which the Special Exception is granted shall proceed pursuant to and be governed by the approved Natural Resource Protection Plan and all other applicable plans for Stephen R Mills, President of Bear Development, LLC, applicant, and all other applicable provisions of the Unified Development Ordinance.*
- 4) that the applicant shall provide plans for management of wetland setback that conforms to the standards of §15-4 0102I for appropriate plantings. Turf grasses are prohibited. Other grasses or native plantings are acceptable. Non-vegetative cover is permitted in areas subject to erosion. Management and implementation information shall be included on development plans including landscape plans subject to the review of the Department of City Development*

- 5) *that the applicant shall place boulders or other markers to demarcate the wetland setback on the property*
- 6) *that the applicant shall make required technical corrections (UDO §15-4.0102 and §15-7.0200) to Natural Resource Protection Plans including information about the limits of fill and related grading from fill permit I20201541, subject to staff approval, prior to the commencement of any land disturbance.*
- 7) *that the applicant shall clarify the amount of temporary grading impacts*
- 8) *that the applicant incur only temporary impacts to wetland setback and buffer, which shall be restored to the standards of UDO §15-4 0102I for wetland setback and UDO §15-4.0103B5 for wetland buffer.*
- 9) *That the applicant provide for repair of the pond drainage tile/pipe between the pond edge and the outlet at Ryan Road, subject to a revised conservation easement; and for the removal of buckthorn with a minimum expenditure of \$10,000*

*The duration of this grant of Special Exception is permanent*

Introduced at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

APPROVED:

\_\_\_\_\_  
Stephen R. Olson, Mayor

ATTEST:

\_\_\_\_\_  
Sandra L. Wesolowski, City Clerk

AYES \_\_\_\_\_ NOES \_\_\_\_\_ ABSENT \_\_\_\_\_

**City of Franklin Environmental Commission**

TO: Common Council  
DATE: January 12, 2022  
RE: Special Exception application review and recommendation  
APPLICATION: Stephen R. Mills, President of Bear Development, LLC,  
Applicant, dated: September 3, 2021  
(12000 West Loomis Road)

**I. §15-9.0110 of the Unified Development Ordinance Special Exception to Natural Resource Feature Provisions Application information:**

1. Unified Development Ordinance Section(s) from which Special Exception is requested: *The applicant is requesting an exception from §15-4.0101 Natural Resource Protection Standards, and §15-4 0102 Natural Resource Features Determination which require that identified natural resources features be protected from impacts of development.*
2. Nature of the Special Exception requested (description of resources, encroachment, distances and dimensions): *The Special Exception is being requested to allow for impacts to wetland buffer, consisting of 23,979 SF of temporary grading impact and 1,350 SF of permanent building footprint; and to 3,586 of permanent wetland setback impact related to building footprint.*
3. Applicant's reason for request: *To allow building footprints to be located within the Wetland Buffer and Setback*
- 4 Applicant's reason why request appropriate for Special Exception: *The applicant states that "The City of Franklin Plan Commission and City Council has approved a zoning classification and Certified Survey Map for this property The intended use of the property is condominium neighborhood.*

*The applicant has completed a wetland delineation for the property It was discovered that the property includes wetlands that have expanded due to the fill operation that occurred in 2018 The expansion of the wetlands, artificially, has impacted the buildable area of the site*

*Please note that the permitted fill was placed in the wetland setback and buffer, before a development plan was drafted The fill was placed within the guidelines of a permit granted by the City of Franklin*

*The disturbance within the Wetland Buffer and Setback already exists The Applicant is not proposing any impact to the wetland resource, but simply*

*requesting that buildings be placed within the Buffer and Setback which has already been impacted*

*No permits from either the Wisconsin Department of Natural Resources or the US Army Corps of Engineers are required, as no impact to the wetlands will occur ”*

**II. Environmental Commission review of the §15-9.0110C.4.f. Natural Resource Feature impacts to functional values:**

1. Diversity of flora including State and/or Federal designated threatened and/or endangered species: *The wetland buffer and setback consist of commercial landscape seed mix used to restore the property after the filling operation Restoration was done as a permit condition In 2014 prior to the filling operation, Wetland 1, W-1, a SEWRPC Isolated Natural Resource Area, was described as “predominantly native sedge meadow and shallow marsh communities.” Subsequently in 2021 a new delineation finds that that this wetland has been impacted by invasive species*
2. Storm and flood water storage: *The property is not in a designated floodplain or floodway.*
3. Hydrologic functions: *The applicant states that “the wetland setback/buffer does not have a hydrologic function ” City of Franklin ordinances protect these areas of natural resources as essential to the health of a wetland*
4. Water quality protection including filtration and storage of sediments, nutrients or toxic substances: *The applicant states that “the site will be fully restored and stabilized after project grading We anticipate the area between the wetland and future home will be left natural, as it includes a significant slope ”*
5. Shoreline protection against erosion: *Not applicable, impacts to shoreline or shoreline buffer are not proposed*
6. Habitat for aquatic organisms: *Not applicable*
7. Habitat for wildlife: *The applicant states that “wildlife habitat will not be impacted The impact to the wetland buffer/setback was an agricultural field before the filling operation occurred ” In 2014 prior to the filling operation, Wetland 1 (W-1), which contains SEWRPC Isolated Natural Resource Area, was described as “predominantly native sedge meadow and shallow marsh communities ” Subsequently in 2021 a new delineation finds that that this wetland has been impacted by invasive species*

8. Human use functional value: *The applicant states that "the proposed areas of impacts are not being used for any type of human use " At this time, the property is vacant*
9. Groundwater recharge/discharge protection: *The applicant states that "Groundwater and surface water will continue to drain to the peripheral wetlands " As part of the development proposal stormwater detention facilities meeting the standards of the UDO will be required*
10. Aesthetic appeal, recreation, education, and science value: *The applicant states that "there is no educational or scientific function to the impacted areas There is no aesthetic appeal " The current site condition is a vacant site impacted by fill*
11. State or Federal designated threatened or endangered species or species of special concern: *The applicant states that the "owners are not aware of any State or Federal designated threatened or endangered species on our site " Wetland delineation reports do not provide information about endangered species*
12. Existence within a Shoreland: *Not applicable, impacts to shoreline buffer are not proposed*
13. Existence within a Primary or Secondary Environmental Corridor or within an Isolated Natural Area, as those areas are defined and currently mapped by the Southeastern Wisconsin Regional Planning Commission from time to time: *The wetland identified as Wetland 1 (W-1), also contains SEWRPC Isolated Natural Resource Areas indicating the presence of important habitat and species Impacts to the Isolated Natural Resource Area are not proposed*

**III. Environmental Commission review of the §15-10.0208B.2.d. factors and recommendations as to findings thereon:**

1. That the condition(s) giving rise to the request for a Special Exception were not self-imposed by the applicant (this subsection a. does not apply to an application to improve or enhance a natural resource feature): *The applicant notes that the site is already impacted by fill Wetland delineations from 2014 show the existing wetland complexes in the same general locations as 2021, the development cannot proceed as designed without impacts to wetland setback and buffer*
2. That compliance with the stream, shore buffer, navigable water-related, wetland, wetland buffer, and wetland setback requirement will:
  - a. be unreasonably burdensome to the applicants and that there are no reasonable practicable alternatives: *The applicant notes that the site is already impacted by*



*fill The zoning classification (R-8 Multifamily) and allowable site intensity for the property allow for greater intensity of use, however the site access and configuration, and required setbacks create constraints on the placement of buildings and other infrastructure.*

*, or*

- b. *unreasonably and negatively impact upon the applicants' use of the property and that there are no reasonable practicable alternatives: The applicant notes that the site is already impacted by fill The parcel is currently vacant; the proposed use has been affirmed through a rezoning to R-8 Multifamily (ORD 2021-2480), and the applicant has completed a Concept Review and Certified Survey Map approval in seeking this development approval*

3. The Special Exception, including any conditions imposed under this Section will:

- a. *be consistent with the existing character of the neighborhood: The applicant states that "The proposed impact and resulting development will be consistent with the neighborhood and consistent with the existing zoning and Comprehensive Plan" Surrounding properties include future industrial and developing residential uses; and*

- b. *not effectively undermine the ability to apply or enforce the requirement with respect to other properties: The applicant states that "The situation and conditions related to this project are unique as the affected property was a properly permitted to impact the wetland buffer/setback Applying the wetland setback/buffer at this point serves no purpose and does not protect the actual wetland resources Other properties seeking the same relief would need to meet similar standards", and*

*Placement of fill on site was at the request of Bear Development to "raise the sites and help with future development plans (Ruffing, A. 2018, January 14) " The site has since experienced significant degradation and impacts by invasive species Fill permits for Wisconsin DOT project were approved by the City of Engineering Department Approvals for fill impacts to wetland setback and buffer were not sought by the applicant at that time*

*It is not possible to determine the extent of impact to wetland setback or buffer without complete information about the limits of fill on the property, which the applicant has not provided as of January 6, 2022.*

*§UDO-15-10 0208B2 c u requires that an exception, if granted "Not effectively undermine the ability to apply or enforce the requirement with respect to other properties "*

- c. be in harmony with the general purpose and intent of the provisions of this Ordinance proscribing the requirement: *Applicant represents that the unique circumstances involved with this request is what the NRSE process was intended for, and*
- d. preserve or enhance the functional values of the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback in co-existence with the development (*this finding only applying to an application to improve or enhance a natural resource feature*): *not applicable*

**IV. Environmental Commission review of the §15-10.0208B.2.a., b. and c. factors and recommendations as to findings thereon:**

1. Characteristics of the real property, including, but not limited to, relative placement of improvements thereon with respect to property boundaries or otherwise applicable setbacks: *The applicant states that “The improvements will not negatively affect surrounding properties.” Proposed impacts will occur within the site and do not extend past the property line*
2. Any exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district: *The applicant states that “The exceptional, extraordinary or unusual circumstance is that the resource being impacted has already been impacted and the property has been included in a TID Project Plan whereby the resulting improvements are necessary to generate tax increment ” Tax Increment Districts must include a residential component*
3. Existing and future uses of property; useful life of improvements at issue; disability of an occupant: *The proposed use has been affirmed through a rezoning to R-8 Multifamily (ORD 2021-2480), and the applicant has completed a Concept Review and Certified Survey Map approval in seeking this development approval*
4. Aesthetics: *The applicant states that “There will be no negative impact to aesthetics The resulting development will be a residential neighborhood with required street trees and significant green space.”*
5. Degree of noncompliance with the requirement allowed by the Special Exception:

*The applicant states that “Considering the that the area of impact was previously disturbed, the NRSE is not over-reaching ”*

*Placement of fill on site was at the request of Bear Development to “raise the sites and help with future development plans (Ruffing, A 2018, January 14) ” The site has since experienced significant degradation and impacts by invasive species Fill permits for Wisconsin DOT project were approved by the City of Engineering*

*Department Approvals for fill impacts to wetland setback and buffer were not sought by the applicant at that time*

*It is not possible to determine the extent of impact to wetland setback or buffer without complete information about the limits of fill on the property, which the applicant has not provided as of January 6, 2022*

6. Proximity to and character of surrounding property: *Proposed impacts will occur within the site and do not extend past the property line The applicant notes that "Applicant owns the adjacent properties to the east and south W Ryan Road separates neighboring land to the north, a WE Energies ROW separates neighboring land to the west and a remnant WDOT parcel is located to the west "*

7. Zoning of the area in which property is located and neighboring area: *Surrounding zoning consists of Single and Multifamily Residential There is an area of M-1 Limited Industrial District to the southeast*

8. Any negative affect upon adjoining property: *Proposed impacts will occur within the site and do not extend past the property line*

9. Natural features of the property: *The applicant does not propose impacts to natural resource features beyond those included in this request*

10. Environmental impacts: *The applicant states that "There are no other environmental impacts associated with the NRSE "*

#### **V. Environmental Commission Recommendation:**

The Environmental Commission has reviewed the subject Application pursuant to §15-10.0208B. of the Unified Development Ordinance and makes the following recommendation:

1. The recommendations set forth in Sections III. and IV. Above are incorporated herein.
2. The Environmental Commission recommends [approval] [denial] of the Application upon the aforesaid recommendations for the reasons set forth therein.
3. The Environmental Commission recommends that should the Common Council approve the Application, that such approval be subject to the following conditions:
  - a) The applicant shall submit conservation easements for areas of preserved natural resources (§15- 4.0103.B.1.d, §15-7.0201.H) for

Common Council review and approval, prior to any land disturbing activities.

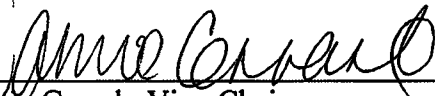
- b) The applicant shall obtain all necessary approvals from Federal and State regulatory agencies, (§15-10.0208.B.3) prior to any land disturbing activities.
- c) The applicant shall provide plans for management of wetland setback that conforms to the standards of §15-4.0102I for appropriate plantings. Turf grasses are prohibited. Other grasses or native plantings are acceptable. Non-vegetative cover is permitted in areas subject to erosion. Management and implementation information shall be included on development plans including landscape plans subject to the review of the Department of City Development.
- d) The applicant shall place boulders or other markers to demarcate the wetland setback on the property.
- e) The applicant shall make required technical corrections (UDO §15-4.0102 and §15-7.0200) to Natural Resource Protection Plans including information about the limits of fill and related grading from fill permit I20201541, subject to staff approval, prior to the commencement of any land disturbance.
- f) The applicant shall clarify the amount of temporary grading impacts are greater under a reduced setback option.

The above review and recommendation was passed and adopted at a regular meeting of the Environmental Commission of the City of Franklin on the 12<sup>th</sup> day of January, 2022.

Dated this 17 day of January, 2022.

  
\_\_\_\_\_  
Linda Horn, Chairman

Attest:

  
\_\_\_\_\_  
Jamie Groark, Vice-Chairman



## CITY OF FRANKLIN



## REPORT TO THE PLAN COMMISSION

Meeting of January 20, 2022

## Natural Resource Special Exception

---

**RECOMMENDATION:** Recommended conditions of approval of are incorporated into the decisions section of the draft Standards, Findings, and Decision of the Common Council

---

<b>Project Name:</b>	12000 W Loomis Road NRSE
<b>Project Location:</b>	12000 W Loomis Road (Tax Key No: 891 9011 000 & 891 9011 000)
<b>Property Owner:</b>	Boomtown LLC
<b>Applicant:</b>	S.R. Mills, Boomtown LLC
<b>Agent:</b>	Dan Szczap, Boomtown LLC
<b>Current Zoning:</b>	R-8 – Multiple-Family Residence District
<b>2025 Comprehensive Plan:</b>	Commercial, Residential-Multifamily and Areas of Natural Resources
<b>Applicant’s Action Requested:</b>	Recommendation to the Plan Commission for approval of the Natural Resource Special Exception Application.
<b>Planner:</b>	Marion Ecks, Associate Planner

---

On September 3, 2021, the applicant submitted an application requesting approval of a Natural Resource Special Exception to allow for grading and construction related to the development of a residential neighborhood consisting of single-story duplexes. Data about the extent/amount of the request was provided on October 27, 2021. The request is for impacts to wetland setback and buffer; impacts to wetlands and Isolated Natural Resource Area on the site or other natural resources are not proposed at this time.

**Project Description:**

This site is part of a complex of developments located in the southwest quadrant of the City of Franklin, in Tax Increment District 6. The area includes a new industrial park and single-family residential subdivision. It is generally identified in the Comprehensive Master Plan as a “Business Park;” the specific property is identified for future land use of multifamily residential and commercial uses, with areas of natural resources.

The applicant proposes 13 building pads on this 15.61-acre property to accommodate 13 single-story buildings and a total of 26 homes with attendant parking facilities (garages). The development will be located on a new cul-de-sac with a single access point on Ryan Road, and stormwater facilities in roughly the southwest corner of the lot. Site Intensity calculations have been prepared (§15-3.0500), and the proposed development meets specifications regarding density and “site intensity” or the balance of developed land to open space. The applicant has stated that feedback from a Concept Review of the development with the City of Franklin Common Council encouraged a single-story home type. The proposed development will be

served by municipal water and public sanitary sewer. The property is also adjacent to the future City of Franklin 116<sup>th</sup> Street Trail which makes up the northwest property line.

The property is currently vacant; the proposed use has been affirmed through a rezoning of the entire property to R-8 Multifamily (ORD 2021-2480), to remove C-1 Conservancy zoning. The applicant has completed a Concept Review and Certified Survey Map approval in seeking this development approval.

A Natural Resource Protection Plan (NRPP) has been completed for the development as part of these approvals. The property contain wetlands, a portion of a pond, young woodlands, and Southeastern Wisconsin Regional Plan Commission (SEWRPC) designated “Isolated Natural Resource Area” indicating the presence of significant wildlife and natural resources communities. Wetland delineations were completed by assured delineators in 2014 by R.A. Smith National Inc. (R.A. Smith National Inc. RASN Project No. 1140273), and in 2021 by Heartland Ecological Group Inc. (Heartland Ecological Group Inc. Project No. 20180093).

#### Variance Application

The applicant has submitted a request for a Variance from the Unified Development Ordinance (UDO) Table 15-3.0209A, which describes required setbacks of the R-8 Multiple-Family Residence District, to allow for a reduced front yard setback of 20 feet for the entire development. The minimum required front yard setback for single-family and two-family homes is 25 feet. The item is scheduled for the January 19, 2022 meeting of the Board of Zoning and Building Appeals (BZBA); information about the decision of the BZBA will be provided at the Plan Commission meeting on January 20, 2022.

If approved, the variance will allow for a reduction in proposed permanent wetland buffer impacts to zero. The applicant has provided two versions of the Natural Resource Protection Plan for Commission review reflecting this alternative. At their January 12, 2022 meeting, the Environmental Commission adopted a motion to recommend approval of the reduction of front yard setbacks to a 20 foot setback to the BZBA.

#### Fill Permit

On March 14, 2018, the applicant received permission to place 37,500 cubic yards of fill on the site under City of Franklin Permit I20180438, as part of a road project for the redevelopment of S. 108<sup>th</sup> St. The placement of fill on site was at the request of Bear Development to “raise the sites and help with future development plans (Ruffing, A. 2018, January 14).” The applicant obtained appropriate approvals from the WI Department of Natural Resources at that time, and fill permits were approved by the City of Franklin Engineering Department. According to the NRPP submitted on January 10, 2022, fill limits are the same as the limits of impacts proposed for this NRSE. Fill was placed in the wetland setback and buffer, but City approvals for fill impacts to wetland setback and buffer were not sought by the applicant at that time.

#### **NATURAL RESOURCE SPECIAL EXCEPTION REQUEST**

The applicant has provided the attached Natural Resource Special Exception Application, Questionnaire, Project Description, and associated information.

The requested Natural Resource Special Exception is for property bearing Tax Key No. 891 9011 000 & 891 9011 000. The NRSE request is to allow for impacts to wetland buffer, and setback of Wetland 1 (W-1) and Wetland 2 (W-2). Wetland 1 is 69,696 square feet (1.60 acres) located on the west side of the property and includes SEWRPC Isolated Natural Resource Area. Wetland 2 is 97,138.8 square feet (2.23 acres) and located on the east side of the property. Only a portion of this wetland is on the property. On January 12, 2022, the applicant provided a revised request. Specifically, the request is for impacts to:

	25' Option		20' Option	
	Permanent	Temporary	<i>Requires BZBA Approval</i>	
	Permanent	Temporary	Permanent	Temporary
<b>Wetland</b>	0	0	0	0
<b>Wetland Buffer</b>	1,350	25,320	0	25,320
<b>Wetland Setback</b>	3,586	0	1,105	0

Staff recommends that the applicant clarify whether any temporary impacts to the wetland setback are proposed.

The applicant has obtained verification from the Army Corps of Engineers that the parcel does not contain waters of the United States.

Conservation easements must be submitted for all natural resources to be protected. Staff further recommends that wetland setbacks shall have conservation signage or boulders placed to delineate the area(s) as protected and unbuildable. Restoration is proposed for areas of disturbance in accordance with §15-4.0102I for appropriate plantings.

Ability to Enforce

The UDO requires that an exception, if granted “Not effectively undermine the ability to apply or enforce the requirement with respect to other properties (§UDO-15-10.0208B2.c.ii),” and that the Common Council make a determination as to the “degree of noncompliance” under §UDO-15-10-10.0208B2.d.v. that the exception will allow.

The applicant states in their NRSE questionnaire responses that “The situation and conditions related to this project are unique as the affected property was a properly permitted to impact the wetland buffer/setback. Applying the wetland setback/buffer at this point serves no purpose and does not protect the actual wetland resources. Other properties seeking the same relief would need to meet similar standards.”

Placement of fill on site was at the request of Bear Development to “raise the sites and help with future development plans (Ruffing, A. 2018, January 14).” Fill permits for Wisconsin DOT project were approved by the City of Engineering Department. Approvals for fill impacts to wetland setback and buffer were not sought by the applicant at that time. According to the NRPP submitted on January 10, 2022, fill limits are the same as the limits of impacts proposed for this NRSE. Fill was placed in the wetland setback and buffer.

The applicant is seeking approval for impacts related to this current residential development on a site they describe as “previously impacted;” however, the prior impacts were at their behest, with their permission and in the interest of forwarding their development goals by creating a graded site condition.

The site has experienced infestation by invasive species during the applicant’s ownership. W-1, a SEWRPC Isolated Natural Resource Area, is described in the 2014 wetland delineation provided by the applicant as “predominantly native sedge meadow and shallow marsh communities (R.A. Smith National Inc. RASN Project No. 1140273).”

In NRSE questionnaire responses, the applicant describes these wetlands as “low-quality” and stated this area is “previously impacted” by fill, in particular noting the presence of invasive species (Page 2). In 2021 the new wetland delineation finds that that this wetland has been impacted by invasive species such as purple loosestrife (Heartland Ecological Group Inc. Project No. 20180093 Pg. 9).

Invasive species gain a foothold in areas of disturbed soils. The Wisconsin DNR notes that “There is no better opportunity for invasive plants to establish themselves than on newly disturbed soil following construction (Thompson et al., 2010).” In addition, invasive species spread through the transportation of soils and other materials.

Approval of this NRSE without consideration of these facts would set a precedent that other developers may emulate, to circumvent local ordinances. Should the City choose to grant approval of this exception, Staff recommends that the applicant provide for removal of invasive species and restoration of native wetland species in Wetlands 1 and 2 as remedy. The Environmental Commission recommended an alternative condition that the applicant provide an invasive species management plan for the wetland setback and buffer. Their recommendation is reflected in the draft Standards, Findings, and Decision.

#### Alternative Site Configurations

In evaluating the request, UDO requires an analysis of alternative designs of a site, and allows for an exception if there are “no reasonable practicable alternatives (§15-10.0208B2.b.i and .ii).”

Per the staff report for the Variance application:

“The applicant could accommodate duplex homes on the side of the cul-de-sac road without the need of this variance by reducing the building footprint. In the R-8 zoning district, the minimum living area set by the UDO for a single-story dwelling unit is 1,250 sf, therefore 2,500 sf for a duplex, while the proposed building pads range from 4,200 sf to 6,000 sf (from 70 x 60 feet to 80 x 75 feet).

The building footprint may be reduced even more with two-story duplexes, the minimum first floor living area for these is 1,900 sf (950 sf per unit). In this case, the proposed building footprint is more than 2 times the minimum living area.”

Applicant responses in the NRSE questionnaire regarding possible alternatives that “The compliance with the wetland buffer/setback cannot be achieved. This is an “after the fact” situation. Fill was permitted to be placed in this area and the impacts to the wetland



setback/buffer already exists (Page 8).” The applicant states in responses to staff comments that “proceeding with a multi-story apartment plan was not supported by the Common Council during Concept Plan discussions (Page 5).

#### Natural Resource Protection Plan

A few technical corrections to the Natural Resource Protection Plans are required including clarification to the amount of each requested impact, and inclusion of required basic information (§15-7.0201, §15-7.0200, etc.). The NRPP for the reduced setback should also include complete information about temporary impacts to due to grading or clarify if they are no longer necessary.

#### Environmental Commission Review and Recommendation

Pursuant to Section 15-10.0208 of the Unified Development Ordinance (UDO), all requests for a Natural Resource Special Exception shall be provided to the Environmental Commission for its review and recommendation. The Environmental Commission reviewed this request for a Natural Resources Special Exception at their January 12, 2022 meeting. At that meeting, they adopted the attached Environmental Commission Special Exception Review and Recommendation.

Recommended conditions are also incorporated into the draft Standards, Findings and Decision

Prior to the meeting of the Environmental Commission, staff recommended a condition that “the applicant shall provide for removal of invasive species and restoration of native wetland species in Wetlands 1 and 2,” and that “the applicant shall provide for financial sureties for implementation of restoration, as permitted by §15-4.0103.D.” These conditions were deleted. The proposed condition C regarding restoration and maintenance of wetland setback and buffer was amended to allow for grasses or native plantings, and to require that management and implementation information be provided to staff.

Recommended conditions of approval have also been incorporated into the draft Standards, Findings and Decision of the Common Council.

#### CONCLUSION

Staff and Environmental Commission recommendations for proposed conditions of approval are incorporated into the decisions section of the draft Standards, Findings, and Decision of the Common Council as recommended conditions of approval.

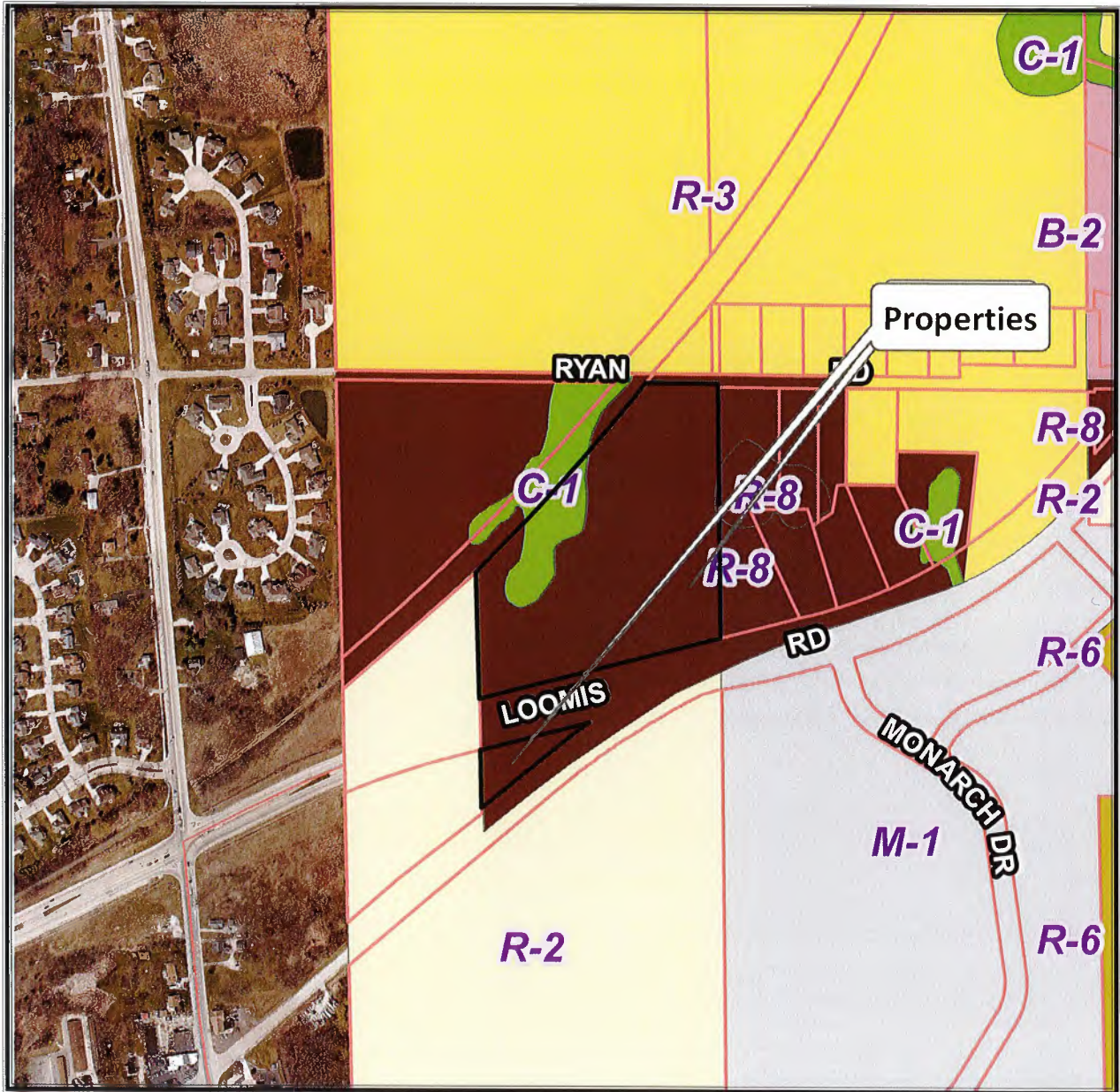
Per Section 15-10 0208 of the Unified Development Ordinance (UDO), the applicant shall have the burden of proof to present evidence sufficient to support a Natural Resource Special Exception (NRSE) request. The applicant has presented evidence for the request by answering the questions and addressing the statements that are part of the Natural Resource Special Exception (NRSE) application. The applicant’s responses to the application’s questions and statements are attached for your review.

Also attached is a copy of the document titled, “City of Franklin Environmental Commission” that reflects the review of the Environmental Commission which must be forwarded to the Common Council. The questions and statements on this document correspond with the Natural Resource Special Exception (NRSE) application questions and statements that the applicant has answered and addressed

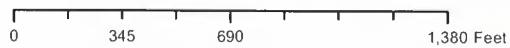
## References

Thompson, A. L., Luthin, C. S., A., G. M. P., & Watermolen, D. J., Wetland Restoration Handbook for Wisconsin Landowners<sup>60</sup> (2010). Madison, WI; Bureau of Integrated Science Services, Wisconsin Dept. of Natural Resources.

12000 W. Loomis Road  
TKNs 891 9011 000 & 891 9012 000

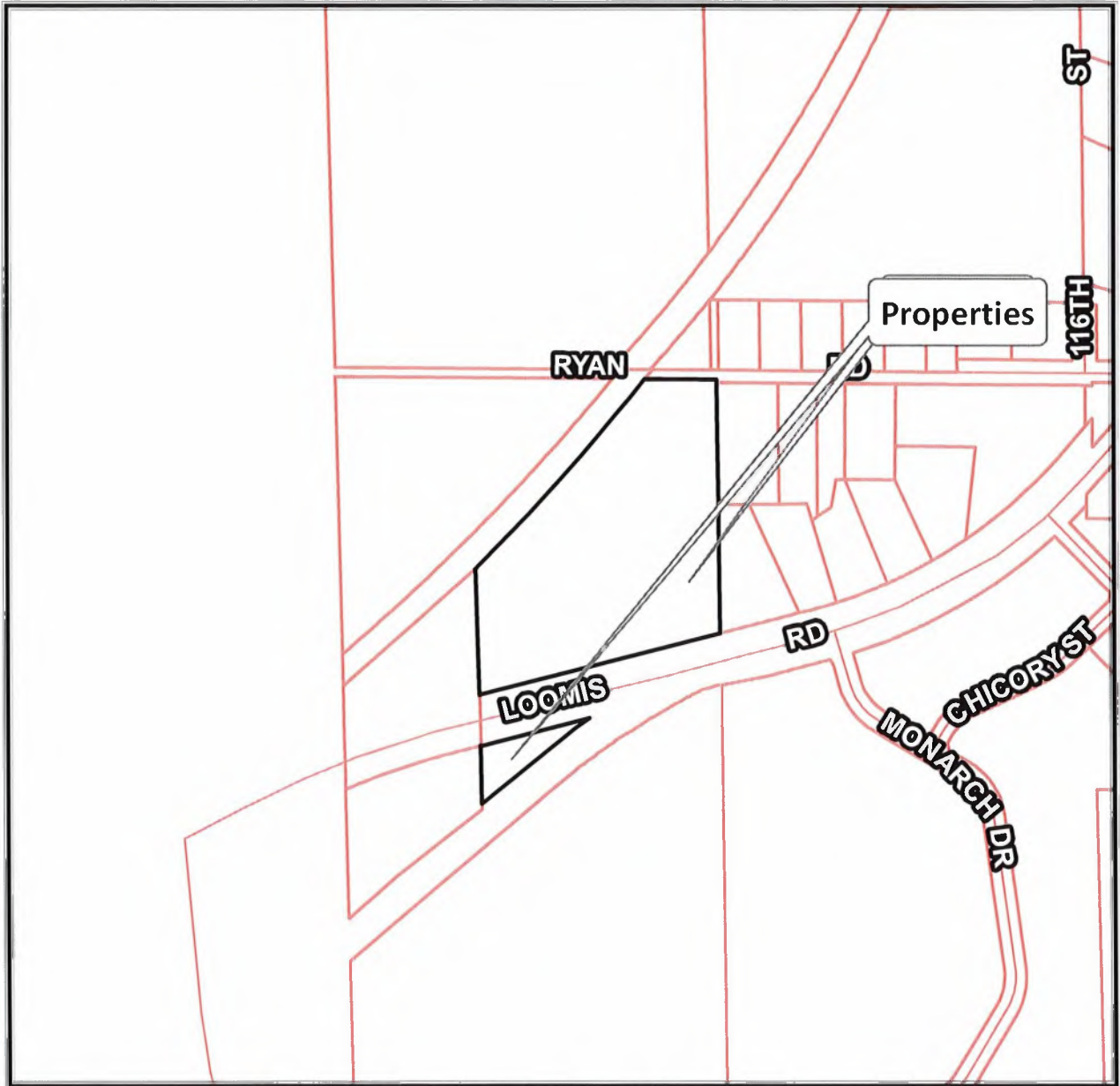


Planning Department  
(414) 425-4024



*This map shows the approximate relative location of property boundaries but was not prepared by a professional land surveyor. This map is provided for informational purposes only and may not be sufficient or appropriate for legal, engineering, or surveying purposes.*

12000 W. Loomis Road  
TKNs 891 9011 000 & 891 9012 000



**Planning Department**  
**(414) 425-4024**



2021 Aerial Photo

*This map shows the approximate relative location of property boundaries but was not prepared by a professional land surveyor. This map is provided for informational purposes only and may not be sufficient or appropriate for legal, engineering, or surveying purposes.*

*Draft 1/20/22*

Standards, Findings and Decision  
of the City of Franklin Common Council upon the Application of Stephen R. Mills,  
President of Bear Development, LLC, applicant, for a Special Exception  
to Certain Natural Resource Provisions of the City of Franklin  
Unified Development Ordinance

Whereas, Stephen R. Mills, President of Bear Development, LLC, applicant, having filed an application dated September 3, 2021, for a Special Exception pursuant to Section 15-9.0110 of the City of Franklin Unified Development Ordinance pertaining to the granting of Special Exceptions to Stream, Shore Buffer, Navigable Water-related, Wetland, Wetland Buffer and Wetland Setback Provisions, and Improvements or Enhancements to a Natural Resource Feature; a copy of said application being annexed hereto and incorporated herein as Exhibit A; and

Whereas, the application having been reviewed by the City of Franklin Environmental Commission and the Commission having made its recommendation upon the application, a copy of said recommendation dated January 12, 2022 being annexed hereto and incorporated herein as Exhibit B; and

Whereas, following a public hearing before the City of Franklin Plan Commission, the Plan Commission having reviewed the application and having made its recommendation thereon as set forth upon the report of the City of Franklin Planning Department, a copy of said report dated January 20, 2022 being annexed hereto and incorporated herein as Exhibit C; and

Whereas, the property which is the subject of the application for a Special Exception is located at 12000 West Loomis Road, zoned R-8 Multiple-Family Residence District and C-1 Conservancy District, and such property is more particularly described upon Exhibit D annexed hereto and incorporated herein; and

Whereas, Section 15-10.0208B. of the City of Franklin Unified Development Ordinance, as amended by Ordinance No. 2003-1747, pertaining to the granting of Special Exceptions to Stream, Shore Buffer, Navigable Water-related, Wetland, Wetland Buffer and Wetland Setback Provisions, and Improvements or Enhancements to a Natural Resource Feature, provides in part: “The decision of the Common Council upon any decision under this Section shall be in writing, state the grounds of such determination, be filed in the office of the City Planning Manager and be mailed to the applicant.”

Now, Therefore, the Common Council makes the following findings pursuant to Section 15-10.0208B.2.a., b. and c. of the Unified Development Ordinance upon the application for a Special Exception dated September 3, 2021, by Stephen R.

Mills, President of Bear Development, LLC, applicant, pursuant to the City of Franklin Unified Development Ordinance, the proceedings heretofore had and the recitals and matters incorporated as set forth above, recognizing the applicant as having the burden of proof to present evidence sufficient to support the following findings and that such findings be made by not less than four members of the Common Council in order to grant such Special Exception.

1. That the condition(s) giving rise to the request for a Special Exception were not self-imposed by the applicant (this subsection a. does not apply to an application to improve or enhance a natural resource feature): *but rather*, \_\_\_\_\_

2. That compliance with the stream, shore buffer, navigable water-related, wetland, wetland buffer, and wetland setback requirement will:

a. be unreasonably burdensome to the applicant and that there are no reasonable practicable alternatives: \_\_\_\_\_, *or*

b. unreasonably and negatively impact upon the applicant's use of the property and that there are no reasonable practicable alternatives: \_\_\_\_\_

3. The Special Exception, including any conditions imposed under this Section will:

a. be consistent with the existing character of the neighborhood: *the proposed development with the grant of a Special Exception as requested will be consistent with the existing character of the neighborhood, and*

b. not effectively undermine the ability to apply or enforce the requirement with respect to other properties: \_\_\_\_\_, *and*

c. be in harmony with the general purpose and intent of the provisions of this Ordinance proscribing the requirement: \_\_\_\_\_, *and*

d. preserve or enhance the functional values of the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback in co-existence with the development: *(this finding only applying to an application to improve or enhance a natural resource feature)*

The Common Council considered the following factors in making its determinations pursuant to Section 15-10.0208B.2.d. of the Unified Development Ordinance.

1. Characteristics of the real property, including, but not limited to, relative placement of improvements thereon with respect to property boundaries or otherwise applicable setbacks: \_\_\_\_\_

2. Any exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district: \_\_\_\_\_
3. Existing and future uses of property; useful life of improvements at issue; disability of an occupant: \_\_\_\_\_
4. Aesthetics: \_\_\_\_\_
5. Degree of noncompliance with the requirement allowed by the Special Exception: \_\_\_\_\_
6. Proximity to and character of surrounding property: \_\_\_\_\_
7. Zoning of the area in which property is located and neighboring area: *Residential*
8. Any negative affect upon adjoining property: *No negative affect upon adjoining property is perceived*
9. Natural features of the property: \_\_\_\_\_
10. Environmental impacts: \_\_\_\_\_
11. A recommendation from the Environmental Commission as well as a review and recommendation prepared by an Environmental Commission-selected person knowledgeable in natural systems: *The Environmental Commission recommendation and its reference to the report of \_\_\_\_\_ is incorporated herein.*
12. The practicable alternatives analysis required by Section 15-9.0110C.4. of the Unified Development Ordinance and the overall impact of the entire proposed use or structure, performance standards and analysis with regard to the impacts of the proposal, proposed design solutions for any concerns under the Ordinance, executory actions which would maintain the general intent of the Ordinance in question, and other factors relating to the purpose and intent of the Ordinance section imposing the requirement: *The Plan Commission recommendation and the Environmental Commission recommendation address these factors and are incorporated herein*

### Decision

*Upon the above findings and all of the files and proceedings heretofore had upon the subject application, the Common Council hereby grants a Special Exception for such relief as is described within Exhibit C, upon the conditions*

- 1) *that the natural resource features and mitigation areas upon the properties to be developed be protected by a perpetual conservation easement to be approved by the*

- Common Council prior to any development within the areas for which the Special Exception is granted prior to prior to any land disturbing activities ,*
- 2) that the applicant obtain all other necessary approval(s) from all other applicable governmental agencies prior to any development within the areas for which the Special Exception is granted,*
  - 3) that all development within the areas for which the Special Exception is granted shall proceed pursuant to and be governed by the approved Natural Resource Protection Plan and all other applicable plans for Stephen R Mills, President of Bear Development, LLC, applicant, and all other applicable provisions of the Unified Development Ordinance*
  - 4) that the applicant shall provide plans for management of wetland setback that conforms to the standards of §15-4 0102I for appropriate plantings Turf grasses are prohibited Other grasses or native plantings are acceptable Non-vegetative cover is permitted in areas subject to erosion Management and implementation information shall be included on development plans including landscape plans subject to the review of the Department of City Development*
  - 5) that the applicant shall place boulders or other markers to demarcate the wetland setback on the property*
  - 6) that the applicant shall make required technical corrections (UDO §15-4 0102 and §15-7 0200) to Natural Resource Protection Plans including information about the limits of fill and related grading from fill permit I20201541, subject to staff approval, prior to the commencement of any land disturbance*
  - 7) that the applicant shall clarify the amount of temporary grading impacts*

*The duration of this grant of Special Exception is permanent*

Introduced at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

APPROVED:

\_\_\_\_\_  
Stephen R. Olson, Mayor

ATTEST:

\_\_\_\_\_  
Sandra L. Wesolowski, City Clerk

AYES \_\_\_\_\_ NOES \_\_\_\_\_ ABSENT \_\_\_\_\_



**City of Franklin Environmental Commission**

TO: Common Council  
DATE: January 12, 2022  
RE: Special Exception application review and recommendation  
APPLICATION: Stephen R. Mills, President of Bear Development, LLC,  
Applicant, dated: September 3, 2021  
(12000 West Loomis Road)

**I. §15-9.0110 of the Unified Development Ordinance Special Exception to Natural Resource Feature Provisions Application information:**

1. Unified Development Ordinance Section(s) from which Special Exception is requested: *The applicant is requesting an exception from §15-4 0101 Natural Resource Protection Standards, and §15-4 0102 Natural Resource Features Determination which require that identified natural resources features be protected from impacts of development*
2. Nature of the Special Exception requested (description of resources, encroachment, distances and dimensions): *The Special Exception is being requested to allow for impacts to wetland buffer, consisting of 23,979 SF of temporary grading impact and 1,350 SF of permanent building footprint, and to 3,586 of permanent wetland setback impact related to building footprint*
3. Applicant’s reason for request: *To allow building footprints to be located within the Wetland Buffer and Setback.*
- 4 Applicant’s reason why request appropriate for Special Exception: *The applicant states that “The City of Franklin Plan Commission and City Council has approved a zoning classification and Certified Survey Map for this property The intended use of the property is condominium neighborhood*

*The applicant has completed a wetland delineation for the property It was discovered that the property includes wetlands that have expanded due to the fill operation that occurred in 2018 The expansion of the wetlands, artificially, has impacted the buildable area of the site*

*Please note that the permitted fill was placed in the wetland setback and buffer, before a development plan was drafted The fill was placed within the guidelines of a permit granted by the City of Franklin*

*The disturbance within the Wetland Buffer and Setback already exists The Applicant is not proposing any impact to the wetland resource, but simply*

*requesting that buildings be placed within the Buffer and Setback which has already been impacted*

*No permits from either the Wisconsin Department of Natural Resources or the US Army Corps of Engineers are required, as no impact to the wetlands will occur ”*

**II. Environmental Commission review of the §15-9.0110C.4.f. Natural Resource Feature impacts to functional values:**

1. Diversity of flora including State and/or Federal designated threatened and/or endangered species: *The wetland buffer and setback consist of commercial landscape seed mix used to restore the property after the filling operation. Restoration was done as a permit condition. In 2014 prior to the filling operation, Wetland 1, W-1, a SEWRPC Isolated Natural Resource Area, was described as “predominantly native sedge meadow and shallow marsh communities ” Subsequently in 2021 a new delineation finds that that this wetland has been impacted by invasive species*
2. Storm and flood water storage: *The property is not in a designated floodplain or floodway*
3. Hydrologic functions: *The applicant states that “the wetland setback/buffer does not have a hydrologic function ” City of Franklin ordinances protect these areas of natural resources as essential to the health of a wetland*
4. Water quality protection including filtration and storage of sediments, nutrients or toxic substances: *The applicant states that “the site will be fully restored and stabilized after project grading We anticipate the area between the wetland and future home will be left natural, as it includes a significant slope ”*
5. Shoreline protection against erosion: *Not applicable, impacts to shoreline or shoreline buffer are not proposed*
6. Habitat for aquatic organisms: *Not applicable*
7. Habitat for wildlife: *The applicant states that “wildlife habitat will not be impacted The impact to the wetland buffer/setback was an agricultural field before the filling operation occurred ” In 2014 prior to the filling operation, Wetland 1 (W-1), which contains SEWRPC Isolated Natural Resource Area, was described as “predominantly native sedge meadow and shallow marsh communities ” Subsequently in 2021 a new delineation finds that that this wetland has been impacted by invasive species*

8. Human use functional value: *The applicant states that “the proposed areas of impacts are not being used for any type of human use ” At this time, the property is vacant*
9. Groundwater recharge/discharge protection: *The applicant states that “Groundwater and surface water will continue to drain to the peripheral wetlands ” As part of the development proposal stormwater detention facilities meeting the standards of the UDO will be required*
10. Aesthetic appeal, recreation, education, and science value: *The applicant states that “there is no educational or scientific function to the impacted areas There is no aesthetic appeal ” The current site condition is a vacant site impacted by fill*
11. State or Federal designated threatened or endangered species or species of special concern: *The applicant states that the “owners are not aware of any State or Federal designated threatened or endangered species on our site ” Wetland delineation reports do not provide information about endangered species*
12. Existence within a Shoreland: *Not applicable, impacts to shoreline buffer are not proposed*
13. Existence within a Primary or Secondary Environmental Corridor or within an Isolated Natural Area, as those areas are defined and currently mapped by the Southeastern Wisconsin Regional Planning Commission from time to time: *The wetland identified as Wetland 1 (W-1), also contains SEWRPC Isolated Natural Resource Areas indicating the presence of important habitat and species Impacts to the Isolated Natural Resource Area are not proposed*

**III. Environmental Commission review of the §15-10.0208B.2.d. factors and recommendations as to findings thereon:**

1. That the condition(s) giving rise to the request for a Special Exception were not self-imposed by the applicant (this subsection a. does not apply to an application to improve or enhance a natural resource feature): *The applicant notes that the site is already impacted by fill Wetland delineations from 2014 show the existing wetland complexes in the same general locations as 2021, the development cannot proceed as designed without impacts to wetland setback and buffer*
2. That compliance with the stream, shore buffer, navigable water-related, wetland, wetland buffer, and wetland setback requirement will:
  - a. be unreasonably burdensome to the applicants and that there are no reasonable practicable alternatives: *The applicant notes that the site is already impacted by*

*fill The zoning classification (R-8 Multifamily) and allowable site intensity for the property allow for greater intensity of use, however the site access and configuration, and required setbacks create constraints on the placement of buildings and other infrastructure*  
*, or*

b. unreasonably and negatively impact upon the applicants' use of the property and that there are no reasonable practicable alternatives: *The applicant notes that the site is already impacted by fill The parcel is currently vacant, the proposed use has been affirmed through a rezoning to R-8 Multifamily (ORD 2021-2480), and the applicant has completed a Concept Review and Certified Survey Map approval in seeking this development approval*

3. The Special Exception, including any conditions imposed under this Section will:

a. be consistent with the existing character of the neighborhood: *The applicant states that "The proposed impact and resulting development will be consistent with the neighborhood and consistent with the existing zoning and Comprehensive Plan" Surrounding properties include future industrial and developing residential uses, and*

b. not effectively undermine the ability to apply or enforce the requirement with respect to other properties: *The applicant states that "The situation and conditions related to this project are unique as the affected property was a properly permitted to impact the wetland buffer/setback. Applying the wetland setback/buffer at this point serves no purpose and does not protect the actual wetland resources Other properties seeking the same relief would need to meet similar standards", and*

*Placement of fill on site was at the request of Bear Development to "raise the sites and help with future development plans (Ruffing, A 2018, January 14) " The site has since experienced significant degradation and impacts by invasive species Fill permits for Wisconsin DOT project were approved by the City of Engineering Department Approvals for fill impacts to wetland setback and buffer were not sought by the applicant at that time*

*It is not possible to determine the extent of impact to wetland setback or buffer without complete information about the limits of fill on the property, which the applicant has not provided as of January 6, 2022*

*§UDO-15-10 0208B2 c u requires that an exception, if granted "Not effectively undermine the ability to apply or enforce the requirement with respect to other properties "*

- c. be in harmony with the general purpose and intent of the provisions of this Ordinance proscribing the requirement: *Applicant represents that the unique circumstances involved with this request is what the NRSE process was intended for, and*
- d. preserve or enhance the functional values of the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback in co-existence with the development (*this finding only applying to an application to improve or enhance a natural resource feature*): *not applicable*

**IV. Environmental Commission review of the §15-10.0208B.2.a., b. and c. factors and recommendations as to findings thereon:**

1. Characteristics of the real property, including, but not limited to, relative placement of improvements thereon with respect to property boundaries or otherwise applicable setbacks: *The applicant states that “The improvements will not negatively affect surrounding properties ” Proposed impacts will occur within the site and do not extend past the property line*
2. Any exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district: *The applicant states that “The exceptional, extraordinary or unusual circumstance is that the resource being impacted has already been impacted and the property has been included in a TID Project Plan whereby the resulting improvements are necessary to generate tax increment ” Tax Increment Districts must include a residential component*
3. Existing and future uses of property; useful life of improvements at issue; disability of an occupant: *The proposed use has been affirmed through a rezoning to R-8 Multifamily (ORD 2021-2480), and the applicant has completed a Concept Review and Certified Survey Map approval in seeking this development approval*
4. Aesthetics: *The applicant states that “There will be no negative impact to aesthetics The resulting development will be a residential neighborhood with required street trees and significant green space ”*
5. Degree of noncompliance with the requirement allowed by the Special Exception:

*The applicant states that “Considering the that the area of impact was previously disturbed, the NRSE is not over-reaching ”*

*Placement of fill on site was at the request of Bear Development to “raise the sites and help with future development plans (Ruffing, A 2018, January 14) ” The site has since experienced significant degradation and impacts by invasive species Fill permits for Wisconsin DOT project were approved by the City of Engineering*

*Department Approvals for fill impacts to wetland setback and buffer were not sought by the applicant at that time*

*It is not possible to determine the extent of impact to wetland setback or buffer without complete information about the limits of fill on the property, which the applicant has not provided as of January 6, 2022*

6. Proximity to and character of surrounding property: *Proposed impacts will occur within the site and do not extend past the property line The applicant notes that “Applicant owns the adjacent properties to the east and south. W. Ryan Road separates neighboring land to the north, a WE Energies ROW separates neighboring land to the west and a remnant WDOT parcel is located to the west ”*

7. Zoning of the area in which property is located and neighboring area: *Surrounding zoning consists of Single and Multifamily Residential There is an area of M-1 Limited Industrial District to the southeast*

8. Any negative affect upon adjoining property: *Proposed impacts will occur within the site and do not extend past the property line*

9. Natural features of the property: *The applicant does not propose impacts to natural resource features beyond those included in this request*

10. Environmental impacts: *The applicant states that “There are no other environmental impacts associated with the NRSE ”*

#### **V. Environmental Commission Recommendation:**

The Environmental Commission has reviewed the subject Application pursuant to §15-10.0208B. of the Unified Development Ordinance and makes the following recommendation:

1. The recommendations set forth in Sections III. and IV. Above are incorporated herein.
2. The Environmental Commission recommends [approval] [denial] of the Application upon the aforesaid recommendations for the reasons set forth therein.
3. The Environmental Commission recommends that should the Common Council approve the Application, that such approval be subject to the following conditions:
  - a) The applicant shall submit conservation easements for areas of preserved natural resources (§15- 4.0103.B.1.d, §15-7.0201.H) for

Common Council review and approval, prior to any land disturbing activities.

- b) The applicant shall obtain all necessary approvals from Federal and State regulatory agencies, (§15-10.0208.B.3) prior to any land disturbing activities.
- c) The applicant shall provide plans for management of wetland setback that conforms to the standards of §15-4.01021 for appropriate plantings. Turf grasses are prohibited. Other grasses or native plantings are acceptable. Non-vegetative cover is permitted in areas subject to erosion. Management and implementation information shall be included on development plans including landscape plans subject to the review of the Department of City Development.
- d) The applicant shall place boulders or other markers to demarcate the wetland setback on the property.
- e) The applicant shall make required technical corrections (UDO §15-4.0102 and §15-7.0200) to Natural Resource Protection Plans including information about the limits of fill and related grading from fill permit I20201541, subject to staff approval, prior to the commencement of any land disturbance.
- f) The applicant shall clarify the amount of temporary grading impacts are greater under a reduced setback option.

The above review and recommendation was passed and adopted at a regular meeting of the Environmental Commission of the City of Franklin on the 12<sup>th</sup> day of January, 2022.

Dated this \_\_\_\_ day of January, 2022.

\_\_\_\_\_  
Linda Horn, Chairman

Attest:

\_\_\_\_\_  
Jamie Groark, Vice-Chairman



Date of Application: \_\_\_\_\_

## NATURAL RESOURCE SPECIAL EXCEPTION APPLICATION

Complete, accurate and specific information must be entered. *Please Print.*

<b>Applicant (Full Legal Name[s]):</b> Name: <u>S.R. Mills</u> Company: <u>Boomtown, LLC</u> Mailing Address: <u>4011 80th Street</u> City / State: <u>Kenosha, WI</u> Zip: <u>53142</u> Phone: <u>(262) 949-3788</u> Email Address: <u>dan@beardevelopment.com</u>  <b>Project Property Information:</b> Property Address: _____ Property Owner(s): <u>Boomtown, LLC</u>  Mailing Address: <u>4011 80th Street</u> City / State: <u>Kenosha, WI</u> Zip: <u>53142</u> Email Address: <u>dan@beardevelopment.com</u>	<b>Applicant is Represented by (contact person) (Full Legal Name[s]):</b> Name: <u>Daniel Szczap</u> Company: <u>Bear Development</u> Mailing Address: <u>4011 80th Street</u> City / State: <u>Kenosha, WI</u> Zip: <u>53142</u> Phone: <u>(262) 949-3788</u> Email Address: <u>dan@beardevelopment.com</u>  Tax Key Nos: <u>891-9993-000, 891-9996-000 and 891-997-000</u>  Existing Zoning: <u>R-8</u> Existing Use: <u>Agriculture</u> Proposed Use: <u>Two Family Ranch Condominiums</u> Future Land Use Identification: <u>Commercial, MF Residential and Areas of Natural Resources</u>
--	---

\*The 2025 Comprehensive Master Plan Future Land Use Map is available at: <http://www.franklinwi.gov/Home/Resources/Documents/Maps.htm>

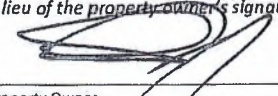
Natural Resource Special Exception Application submittals for review must include and be accompanied by the following:  
 (See Section 15-10.0208 of the Unified Development Ordinance for review and approval procedures.)  
<http://www.franklinwi.gov/Home/Planning/UnfiledDevelopmentOrdinanceUDO.htm>

- This Application form accurately completed with original signature(s). Facsimiles and copies will not be accepted.
- Application Filing Fee, payable to City of Franklin:  \$500
- Legal Description for the subject property (WORD.doc or compatible format).
- Seven (7) complete collated sets of Application materials to include:
  - One (1) original and six (6) copies of a written Project Narrative.
  - Three (3) **folded** full size, drawn to scale copies (at least 24" x 36") of the Plat of Survey (as required by Section 15-9.0110(B) of the Unified Development Ordinance).
  - Three (3) **folded** full size, drawn to scale copies (at least 24" x 36") of the Natural Resource Protection Plan (See Sections 15-4.0102 and 15-7.0201 for information that must be denoted on or included with the NRPP).
  - Four (4) **folded** reduced size (11"x17") copies of the Plat of Survey and Natural Resource Protection Plan.
- Three copies of the Natural Resource Protection report, if applicable. (see Section 15-7.0103Q of the UDO).
- One copy of all necessary governmental agency permits for the project or a written statement as to the status of any application for each such permit.
- Email (or CD ROM) with all plans/submittal materials. *Plans must be submitted in both Adobe PDF and AutoCAD compatible format (where applicable).*

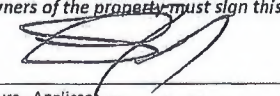
- Upon receipt of a complete submittal, staff review will be conducted within ten business days.
- Natural Resource Special Exception requests require review by the Environmental Commission, public hearing at and review by the Plan Commission, and Common Council approval prior to recording with Milwaukee County Register of Deeds.

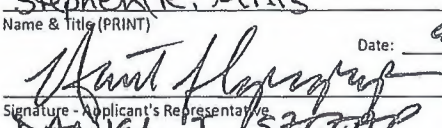
The applicant and property owner(s) hereby certify that: (1) all statements and other information submitted as part of this application are true and correct to the best of applicant's and property owner(s)' knowledge; (2) the applicant and property owner(s) has/have read and understand all information in this application; and (3) the applicant and property owner(s) agree that any approvals based on representations made by them in this Application and its submittal, and any subsequently issued building permits or other type of permits, may be revoked without notice if there is a breach of such representation(s) or any condition(s) of approval. By execution of this application, the property owner(s) authorize the City of Franklin and/or its agents to enter upon the subject property(ies) between the hours of 7:00 a.m. and 7:00 p.m. daily for the purpose of inspection while the application is under review. The property owner(s) grant this authorization even if the property has been posted against trespassing pursuant to Wis. Stat. §943.13.

*(The applicant's signature must be from a Managing Member if the business is an LLC, or from the President or Vice President if the business is a corporation. A signed applicant's authorization letter may be provided in lieu of the applicant's signature below, and a signed property owner's authorization letter may be provided in lieu of the property owner's signature[s] below. If more than one, all of the owners of the property must sign this Application).*

Signature - Property Owner  
  
 Name & Title (PRINT) Stephen R. Mills  
 Date: 9/1/21

Signature - Property Owner  
 Name & Title (PRINT) \_\_\_\_\_  
 Date: \_\_\_\_\_

Signature - Applicant  
  
 Name & Title (PRINT) Stephen R. Mills  
 Date: 9/1/21

Signature - Applicant's Representative  
  
 Name & Title (PRINT) DANIEL J. SZCZAP  
 Date: 9/1/21



December 29, 2021

Ms. Marion Ecks  
Associate Planner  
City of Franklin  
9229 W. Loomis Road  
Franklin, Wisconsin 53132

RE: Boomtown, LLC NRSE Response

Dear Ms. Ecks:

We are in receipt of your Review Letter dated December 15, 2021, regarding the Boomtown, LLC application for Natural Resource Special Exception. Please accept this letter and the enclosed materials as our formal response.

**Project Narrative**

Boomtown, LLC is seeking a Natural Resource Exception for a property located between W. Ryan Road and STH 36 bearing Tax Key Number 891-9011-000. The purpose and need of the NRSE is to except certain natural resource protection standards found in the Unified Development Ordinance to accommodate a residential condominium project and a proposed City of Franklin multi-use trail.

Boomtown, LLC is respectfully requesting approval of the NRSE for lands defined as Wetland Setback and Wetland Buffer in the UDO. The subject request does not include any impacts to delineated wetlands. Further, the areas of NRSE request have been previously impacted with lawful and permitted filling and grading.

**Unified Development Ordinance Requirements**

- 1.) Conservation Easements

*Per City approved and recorded Certified Survey Map Number 9338:*

*Note 5: Conservation Easements to be recorded via separate documents.*

*Note 8: Recording of conservation easements for protected natural resources present on Lots 1 and 2 are required prior to the issuance of building or land disturbance permits.*

*During the approval process of Certified Survey Map #9338, the City recognized that the NRSE was required to facilitate the proposed development. Accordingly, the City approved the CSM with the requirement that Conservation Easements be recorded after the limits of the NRSE were defined and before building/grading permits are issued.*



Phone: 262.694.2327



beardevelopment.com



4011 80<sup>th</sup> Street, Kenosha, WI 53142

*Further, the City of Franklin recognized that the Conservation Easement limits would need to exclude the proposed trail. The alignment of the trail has not been finalized.*

*Enclosed, please find the Revised Natural Resource Protection Plan which depicts the proposed Conservation Easement Limits. It is our intent to include all open spaces within the Conservation Easements to maximize the Preservation/Mitigation Area.*

### **Natural Resource Protection Plan (NRPP)**

2) Please include proposed name of the development on the NRPP map (§15-7.0201.A).

*The NRPP has been labeled Ryan Road Condominiums*

3) Include the names, addresses, and telephone numbers of the owners and/or developer(s) of the property and of the designer of the plan (§15-7.0201.C.)

*The NRPP has been revised to include the Owner and Designer contact information.*

4) The NRPP map must include information about all impacts and proposed mitigation. Pursuant to §15-4.0102.K and §15-7.0201.J of the UDO, clearly indicate the amount and type of natural resource features to be impacted on the NRPP maps. Please include the following information in the table on the NRPP map (§15-7.0201 and §15-4.0102):

- a. The total site area (§15-7.0201.E). *Total Site Area is 15.60 Acres*
- b. The amount and type of any areas of overlapping natural resource features (§15-4.0102.K). *Overlapping Natural Resource Area have been identified on the NRPP Exhibit and the most restrictive natural resource has been used in the calculations.*
- c. Indicate any areas of the site where natural resources are to be mitigated (§15-7.0201.J). *The applicant will agree to dedicate portions of remaining open space as preservation/mitigation areas. Please see revised NRPP Exhibit.*

5) Indicate preservation and mitigation areas to be included in conservation easements on the NRPP map (§15-7.0201.K and §15-7.0201.J). *Please see revised NRPP Exhibit for proposed Conservation Easements and Preservation Mitigation Areas.*

6) Please clarify the amount and uses of dedicated land in Step 2 of table 15-3.0502 of Site Intensity calculations – what facilities are being counted? *0.19 acres pf property is being dedicated as Ryan Road Right-of-Way.*

### **Natural Resource Special Exception (NRSE)**

7) Please provide a rough estimate of increment that would be provided to the Tax Increment District by the development, as described in the response to NRSE questionnaire question 4.C.vii (§15-9.0110.C.4.b.vi) *The applicant projects a total increase of taxable value of \$9,100,000.00.*

- 8) Please revise response to NRSE questionnaire question 4.D.i. through iv. and 4.E to include information about the current variance request under review (§15-9.0110.C.4.c and §15-9.0110.C.4.d).

*Please see enclosed NRSE questionnaire that has been revised.*

- 9) Please provide information about any temporary impacts to wetland setbacks due to grading and construction, and plans for restoration of these areas. Restoration of wetland setback must conform to the standards of §15-4.0102I for appropriate plantings. Turf grasses are prohibited. Non-vegetative cover is permitted in areas subject to erosion.

*Please note that the Applicant has not initiated detailed civil engineering design efforts. The extent of Natural Resource impacts, at this time, is based off professional opinion of probable impacts. The feasibility of the project is completely dependent on the approval of the NRSE.*

*Much of the requested impacts to Wetland Buffer and Wetland Setbacks will be temporary in nature. The applicant seeks approval to perform grading and underground utility installation within these areas. Upon completion the temporary disturbance, the areas will be restored with existing earth materials and stabilized with permanent vegetation.*

*It is important to note that the areas where impacts are proposed have already impacted by previously permitted filling/grading. The area which impacts are requested are not natural and consist of compacted fill.*

- 10) Is mitigation or restoration proposed? Please provide information seed mixes and soils for restoration and mitigation areas. Note that plants and soils must be of superior quality to areas of disturbance (§15-4.0103.B.5 and §15-4.0103.B.5).

*The Applicant will restore, mitigate, and preserve any areas of the site that are not proposed as building pad, yard, public right-of-way or detention basins.*

- 11) Please provide copies of all necessary governmental agency permits for the project or a written statement as to the status of any application for each such permit (§15-10.0208.B.3.).

*WDNR NOI- Application due upon final engineering approval from City of Franklin.*

*WDNR Sanitary Sewer Extension- Application due upon final engineering approval from City of Franklin.*

*WDNR Public Water Main Extension- Application due upon final engineering approval from City of Franklin.*

- 12) No other impacts are proposed to other categories of resources this time. Please note that future impacts in excess of the standards of UDO Part 4 would require an NRSE.



### Additional Planning Comments:

1. Conceptual site plan dated 02/10/2021 shows a proposed design without requiring impacts. What changed?  
*The Concept Plan dated 2/10/21 would indeed require an NRSE for grading within the Wetland Setback, however, encroachment into the Wetland Setbacks were not needed. The City of Franklin required the Applicant to update the Wetland Delineation.*  
  
*From 2014 to 2021 the existing wetland limits expanded to an extent where impacts to Wetland Setbacks are now required. Please note that the expanded wetlands are likely artificial as they formed due to grading activities and farming has ceased on the subject property.*
2. Fill permits were approved by Engineering without additional review for impacts to setback and buffers but not wetland. Was restoration provided for the fill permit guaranteed or subject to maintenance requirements?  
*The site has been completely stabilized and restored in accordance with the City Permits. No maintenance requirements were imposed.*
3. Please continue to label the wetland setback “no build” and the buffer “no touch.” This labeling should also be used when indicating wetland areas on any future Site Plan or landscape plan.  
*Noted.*
4. Note that §15-4.0103D allows for financial sureties to be required for restoration. Plan Commission may choose to impose this requirement on landscape and restoration plans.  
*Noted.*
5. Staff recommends that boulders or other markers be placed to demarcate the wetland setback on the property.  
*The Applicant will provide boulders and/or signage to delineate the wetland setback. Upon approval of the Condominium Plat, a Declaration of Restrictive Covenants, Restrictions and Easements will be recorded that will restrict the use of the wetland setback and buffer, including the prohibition of any additional buildings within these areas.*
6. What is the slope of the existing limits of the fill pile?  
*The slope of the existing fill varies, but generally are at a 3:1 slope.*
7. Staff recommends that the applicant reconfigure the proposal to minimize impacts to areas of W-1, due to the presence of SEWRPC natural resource areas.  
*No impact to the Isolated Natural Area is proposed. The proposed buildings and associated grading have been shifted as far east as possible to create distance between the proposed grading and wetland.*



8. Can building pad depths be reduced? Staff suggests increased building heights to minimize impacts while maintaining floor area.

*The proposed building pads are designed to accommodate a residential building product that is marketable and endorsed by the Common Council. Based on the existing Multi-Family zoning on the site, the site could accommodate 48 residential units. Proceeding with a multi-story apartment plan was not supported by the Common Council during Concept Plan discussions.*

9. Staff suggests moving building pads around the bulb of the cul-de-sac towards the west, to minimize impacts to W-2.

*Please see revised Conceptual Plans. The cul-de-sac has been shifted west to minimize impacts to W-2.*

10. Staff notes that the applicant currently has a variance under review in the department. It is recommended that, subject to this approval, the applicant reconfigure site design to minimize proposed wetland buffer impacts.

*The Applicant appreciates the suggestion by City Staff to incorporate a reduced front yard setback to reduce impacts. The Variance is being pursued. A Conceptual Plan has been provided that minimizes wetland buffer/setback impacts.*

*Also included is a NRPP with the original site plan with the typical 25' front yard setback. The variance significantly reduced the wetland setback impacts.*

11. Can the cul-de-sac dimensions be reduced to allow for a reduction in impact?

*The cul-de-sac shown in the Concept Plan includes the standard City of Franklin specification. The Applicant would be open to suggestions on reducing the size of the cul-de-sac and eliminating the landscape island.*



**Natural Resource Special Exception Question and Answer Form**

**Section 1: Per Section 15-9.0110, Applications for a Special Exception to stream, shore buffer, navigable water-related, wetland, wetland buffer, and wetland setback provisions, and for improvements or enhancements to a natural resource feature of this Ordinance shall include the following:**

A. Name and address of the applicant and all abutting and opposite property owners of records  
*(Please attach supplemental documents as necessary)*

Applicant: **Boomtown, LLC  
4011 80<sup>th</sup> Street  
Kenosha, WI 53142**

Abutting Property Owners:

North: **Franklin DC Land, LLC  
142 E. Capitol Drive  
Hartland, WI 53029-2104**

**WI Electric Power Co.  
c/o Real Estate  
231 W. Michigan Street  
Milwaukee, WI 53203**

South: **Boomtown, LLC  
4011 80<sup>th</sup> Street  
Kenosha, WI 53142**

East: **Boomtown, LLC  
4011 80<sup>th</sup> Street  
Kenosha, WI 53142**

West: **Wisconsin WDOT  
PO Box 798  
Waukesha, WI 53187**

**WI Electric Power Co.  
c/o Real Estate  
231 W. Michigan Street  
Milwaukee, WI 53203**

B Plat of survey. Plat of survey prepared by a registered land surveyor showing all of the information required under §15-9 0102 of this Ordinance for a Zoning Compliance Permit

**Please see attached.**

C. Questions to be answered by the applicant Items on the application to be provided in writing by the applicant shall include the following

1. Indication of the section(s) of the UDO for which a Special Exception is requested.

**15-4.0101**

**15-4.0102**

2. Statement regarding the Special Exception requested, giving distances and dimensions where appropriate

**The subject property consists of approximately 15.60 acres and includes public road frontage on STH 36 and West Ryan Road. The property is zoned R-8 Multi-Family Residential. A Concept Plan for a 2-family condominium neighborhood has been presented to the Common Council and received very positive feedback. A Certified Survey Map was approved by the City of Franklin earlier this year.**

**A Wetland Delineation was completed in 2014. The City required an updated wetland be completed in 2021. Between 2014 and 2021 the wetlands have expanded, likely due to grading activities that have occurred on the property.**

**The property includes two (2) delineated wetlands on the east and west sides of the property. An Approved Jurisdictional Determination was completed by the US Army Corps of Engineers. According to the jurisdiction, the wetlands are not waters of the United States and do not require any Federal permitting. As such, they are considered isolated non-federal wetlands.**

**Per the delineation, the wetlands are isolated and dominated by reed canary grass, purple loosestrife, narrow leaved cattail and green ash. This species mix indicates a low-quality wetland.**

**In 2018 the property was fully permitted as a Wisconsin Department of Transportation Select Fill Site. While a WDOT Select fill site is exempt from local municipal regulations, a Land Disturbing Permit was obtained from the City of Franklin. Per the approved permit, select fill was hauled, placed and compacted on the site. The fill was graded to form a “table-top” to facilitate future development of the site. The fill limits were approved outside of the wetland areas, but within the wetland buffers and setback. The limits of fill are depicted on the topographic survey.**

**The Applicant is requesting a Natural Resource Exception to position buildings within the wetland buffer and setback. The existing wetland boundaries (the natural resource) will not be impacted. Please note that the fill exists within the setback and buffer, as permitted.**

3. Statement of the reason(s) for the request.

**As part of the mass grading, underground utility construction and public roadway construction, associated with a condominium project, Boomtown LLC is requesting approval of a Natural Resource Special Exception to allow building footprints to be**

located within the Wetland Buffer and Setback. Please note that significant fill exists within these areas.

If the UDO Wetland Buffers and Setbacks were enforced, several buildings would not be allowed to be constructed.

Enclosed as part of this submittal, are detailed survey exhibits and grading plans showing the location of the permitted fill and the proposed improvements of the project.

4. Statement of the reasons why the request is an appropriate case for a Special Exception, together with any proposed conditions or safeguards, and the reasons why the proposed Special Exception is in harmony with the general purpose and intent of the Ordinance. In addition, the statement shall address any exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district, including a practicable alternative analysis as follows:

**The City of Franklin Plan Commission and City Council has approved a zoning classification and Certified Survey Map for this property. The intended use of the property is condominium neighborhood**

**The applicant has completed a wetland delineation for the property. It was discovered that the property includes wetlands that have expanded due to the fill operation that occurred in 2018. The expansion of the wetlands, artificially, has impacted the buildable area of the site.**

**Please note that the permitted fill was placed in the wetland setback and buffer, before a development plan was drafted. The fill was placed within the guidelines of a permit granted by the City of Franklin.**

**The disturbance within the Wetland Buffer and Setback already exists. The Applicant is not proposing any impact to the wetland resource, but simply requesting that buildings be placed within the Buffer and Setback which has already been impacted.**

**No permits from either the Wisconsin Department of Natural Resources or the US Army Corps of Engineers are required, as no impact to the wetlands will occur.**

a Background and Purpose of the Project

- 1 Describe the project and its purpose in detail. Include any pertinent construction plans

**The project is planned for a future residential neighborhood consisting of two-family condominiums.**

- 11 State whether the project is an expansion of an existing work or new construction.

**New Construction**



- iii State why the project must be located in or adjacent to the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback to achieve its purpose

**The wetland exists at the toe of a significant slope of placed and compacted fill material. The fill material exists, not proposed.**

**The future plans of the property will include buildings with footprints that extend into the wetland buffer and setback. Because of the narrow shape of the property and the location and orientation of the wetland resources, the project cannot be feasibly completed without locating the buildings within the wetland buffer and setback.**

b. Possible Alternatives.

c.

- i State all of the possible ways the project may proceed without affecting the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback as proposed

**While the project cannot proceed without some level of impact to the Wetland Buffer and Setbacks, the Applicant has applied for a Variance to reduce the front yard setback from 25' to 20'. The approval of the Variance would reduce the total amount of impact.**

**The wetland buffer and setback have already been encroached upon. The applicant is requesting to construct homes within the area that has already been impacted.**

- ii State how the project may be redesigned for the site without affecting the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback

**A Variance of the Front Yard Setback would allow the building pads and associated grading to be shifted an additional 5' from the wetland edge. Impacts would still be needed to accommodate the project, but the impact would be reduced.**

**The wetland buffer and setback have already been encroached upon. The applicant is requesting to construct homes within the area that has already been impacted.**

- iii State how the project may be made smaller while still meeting the project's needs

iv

**All wetlands on the periphery of the property will be preserved, however, the wetland buffers and setbacks have been impacted by permitted activities.**

- v State what geographic areas were searched for alternative sites

**None**

- vi State whether there are other, non-stream, or other non-navigable water, non-shore buffer, non-wetland, non-wetland buffer, and/or non-wetland setback sites available for development in the area

**It is assumed that there are other areas in the City of Franklin that do not exhibit these unique conditions. However, this property is adjacent to STH 36 and planned for development by the City of Franklin.**

- vii. State what will occur if the project does not proceed.

**If the project does not proceed, the anticipated tax increment contemplated by the future development will not be generated. The land will sit fallow and vacant within the City limits of Franklin.**

d. Comparison of Alternatives

- 1 State the specific costs of each of the possible alternatives set forth under sub 2 , above as compared to the original proposal and consider and document the cost of the resource loss to the community.

**Incorporating a reduced front yard, would affect the project costs.**

- ii. State any logistical reasons limiting any of the possible alternatives set forth under sub. 2., above.

**There would be no logistical reason why the reduced front yard setback could not be implemented.**

- iii. State any technological reasons limiting any of the possible alternatives set forth under sub. 2 , above

**Please see above.**

- iv State any other reasons limiting any of the possible alternatives set forth under sub. 2 , above.

**N/A**

- e Choice of Project Plan State why the project should proceed instead of any of the possible alternatives listed under sub.2 , above, which would avoid stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback impacts

**The Applicant would prefer to use a combination of a Front Yard Variance and limited NRSE to facilitate the project There are no alternatives that completely eliminate the need for the NRSE The project should proceed because it implements the best design practices and engineering to develop this unique site.**

**Further, the resource that is being buffered consists of low-quality wetland, that is not federally regulated and likely not subject to State regulation. Further, no impact to the actual resource will occur.**

- f. Stream or Other Navigable Water, Shore Buffer, Wetland, Wetland Buffer, and Wetland Setback Description Describe in detail the stream or other navigable water shore buffer, wetland, wetland buffer, and/or wetland setback at the site which will be affected, including the topography, plants, wildlife, hydrology, soils and any other salient information pertaining to the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback

**The wetland Buffer and Setback consists of placed and compacted fill that was placed under a City Permit. The buffer includes a 4:1 slope from the wetland edge to a building pad.**

- g. Stream or Other Navigable Water, Shore Buffer, Wetland, Wetland Buffer, and Wetland Setback Impacts. Describe in detail any impacts to the above functional values of the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback
  - i Diversity of flora including State and/or Federal designated threatened and/or endangered species

**The wetland buffer and setback consist of commercial landscape seed mix used to restore the property after the filling operation. Restoration was done as a permit condition.**

- ii Storm and flood water storage.

**The property is not in a designated floodplain or floodway.**

- iii Hydrologic functions.

**The wetland setback/buffer does not have a hydrologic function.**

- iv Water quality protection including filtration and storage of sediments, nutrients or toxic substances

**The site will be fully restored and stabilized after project grading. We anticipate the area between the wetland and future home will be left natural, as it includes a significant slope.**

- v Shoreline protection against erosion

**N/A**

- vi Habitat for aquatic organisms

**N/A**

- vii Habitat for wildlife

**The wildlife habitat will not be impacted. The impact to the wetland buffer/setback was an agricultural field before the filling operation occurred.**

viii Human use functional value

**The proposed areas of impacts are not being used for any type of human use.**

ix Groundwater recharge/discharge protection

**Groundwater and surface water will continue to drain to the peripheral wetlands.**

x Aesthetic appeal, recreation, education, and science value

**There is no educational or scientific function to the impacted areas. There is no aesthetic appeal .**

xi. Specify any State or Federal designated threatened or endangered species or species of special concern

**Owners are not aware of any State or Federal designated threatened or endangered species on our site.**

xii. Existence within a Shoreland

**N/A**

xiii Existence within a Primary or Secondary Environmental Corridor or within an Isolated Natural Area, as those areas are defined and currently mapped by the Southeastern Wisconsin Regional Planning Commission from time to time

**The property in question does not include any land designated as Primary or Secondary Environmental Corridor as defined by SEWRPC.**

h Water Quality Protection Describe how the project protects the public interest in the waters of the State of Wisconsin

**The installation of professionally engineered/designed storm sewer through the area of impact will correct overland drainage issues. Further, on-site storm water detention will improve the quality and rate of storm drainage leaving the site.**

5. Date of any previous application or request for a Special Exception and the disposition of that previous application or request (if any)

**N/A**

D Copies of all necessary governmental agency permits for the project or a written statement as to the status of any application for each such permit. *(Please attach accordingly)*

**Section 2: Staff recommends providing statements to the following findings that will be considered by the Common Council in determining whether to grant or deny a Special Exception to the stream, shore buffer, navigable water-related, wetland, wetland buffer and wetland setback regulations of this Ordinance and for improvements or enhancements to a natural resource feature, per Section 15-10.0208B.2. of the Unified Development Ordinance.**

a That the condition(s) giving rise to the request for a Special Exception were not self-imposed by the applicant (this subsection a. does not apply to an application to improve or enhance a natural resource feature)

**The request for Natural Resource Exception is based on fill material being placed in the wetland setback/buffer under a City granted permit. Documentation of the situation is enclosed for review and reference.**

b. Compliance with the stream, shore buffer, navigable water-related, wetland, wetland buffer, and wetland setback requirement will.

i be unreasonably burdensome to the applicants and that there are no reasonable practicable alternatives:

**The compliance with the wetland buffer/setback cannot be achieved. This is an “after the fact” situation. Fill was permitted to be placed in this area and the impacts to the wetland setback/buffer already exists. The project does not impact streams, waterways, wetlands or navigable waterways. All wetlands on the property have been avoided.**

, or

ii. unreasonably and negatively impact upon the applicants’ use of the property and that there are no reasonable practicable alternatives:

**Applicant represents that the denial of the NRSE would be unreasonable and negatively impact the applicants proposed use of the property based on the fact that the impacts were permitted and the impact to any functional natural resources is minimal.**

c. The Special Exception, including any conditions imposed under this Section will.

i be consistent with the existing character of the neighborhood

**The proposed impact and resulting development will be consistent with the neighborhood and consistent with the existing zoning and Comprehensive Plan.**

, and

ii not effectively undermine the ability to apply or enforce the requirement with respect to other properties:

**The situation and conditions related to this project are unique as the affected property was properly permitted to impact the wetland buffer/setback. Applying the wetland setback/buffer at this point serves no purpose and does not protect the actual wetland resources.**

**Other properties seeking the same relief would need to meet similar standards.**

, and

- 111 be in harmony with the general purpose and intent of the provisions of this Ordinance proscribing the requirement:

**Applicant represents that the unique circumstances involved with this request is what the NRSE process was intended for.**

, and

- IV. preserve or enhance the functional values of the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback in co-existence with the development (*this finding only applying to an application to improve or enhance a natural resource feature*).

**The applicant understands and agrees to place Conservation Easements on other natural resource features within the site, including any areas of mitigation. Further, the project calls for significant installation and maintenance of municipal street trees.**

- d In making its determinations, the Common Council shall consider factors such as

- i. Characteristics of the real property, including, but not limited to, relative placement of improvements thereon with respect to property boundaries or otherwise applicable setbacks

**The improvements will not negatively affect surrounding properties.**

- 11 Any exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district:

**The exceptional, extraordinary or unusual circumstance is that the resource being impacted has already been impacted and the property has been included in a TID Project Plan whereby the resulting improvements are necessary to generate tax increment.**

- 111 Existing and future uses of property; useful life of improvements at issue, disability of an occupant.

**The future use of the property has been affirmed through zoning, Concept Review and Certified Survey Map.**

**The future improvements will be permanent.**

iv Aesthetics

**There will be no negative impact to aesthetics. The resulting development will be a residential neighborhood with required street trees and significant green space.**

v Degree of noncompliance with the requirement allowed by the Special Exception

**Considering the that the area of impact was previously disturbed, the NRSE is not over-reaching.**

vi. Proximity to and character of surrounding property.

**Applicant owns the adjacent properties to the east and south. W.Ryan Road separates neighboring land to the north, a WE Energies ROW separates neighboring land to the west and a remnant WDOT parcel is located to the west.**

vii Zoning of the area in which property is located and neighboring area

**Zoning in the general area is generally Residential.**

viii Any negative affect upon adjoining property

**There are no negative affects to the surrounding property.**

ix Natural features of the property:

**The natural features of the property are not proposed for disturbance. The project does not include any wetland or forest impact.**

x. Environmental impacts

**There are no other environmental impacts associated with the NRSE.**

**25' FRONT SETBACK OPTION**



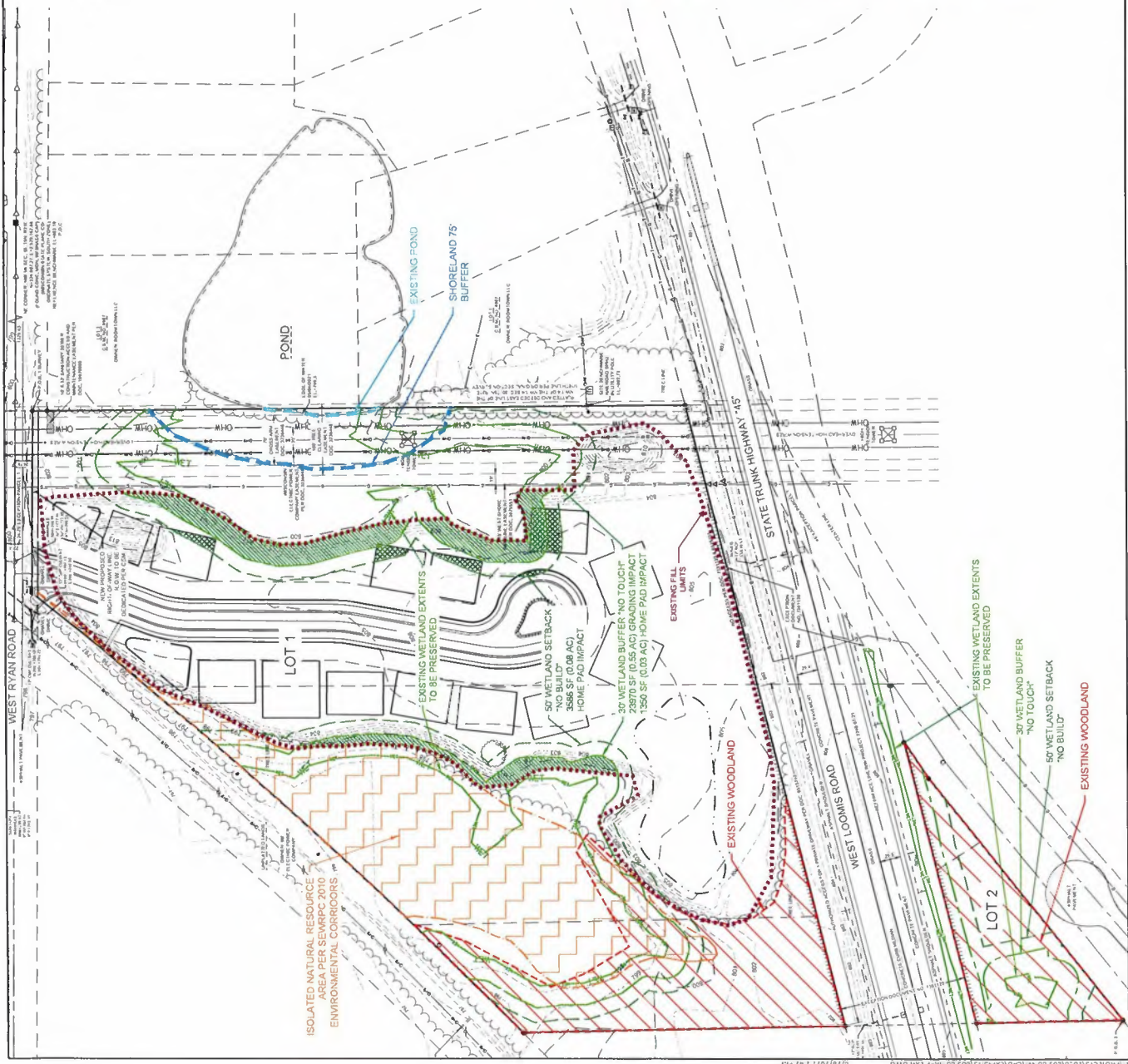
GRAPHICAL SCALE (FEET)  
 0 1" = 80' 160'

SITE DATA	
PROJECT NAME	LOOMIS ROAD - NORTH DUPLEX DEVELOPMENT
LOCATION/ADDRESS	FRANKLIN, WI 53132
OWNER CONTACT INFORMATION	DAN ZICZAP KENOSHA, WI 53142 DAN@BEARDEVELOPMENT.COM

RESOURCE TYPE	AREAS OF RESOURCE	
	LOT 1	LOT 2
1-STEP SLOPES AREA*** - PER PEG SURVEYED CONTOURS	N/A	N/A
2-STEP SLOPES AREA*** - PER PEG SURVEYED CONTOURS	N/A	N/A
WETLANDS USE DELINEATION INFORMATION BELOW**	164,559 SF (3.78 AC)	2,175 SF (0.05 AC)
WETLAND BUFFER "NO TOUCH" USE DELINEATION BASED OFF WETLAND DELINEATION	23,916 SF (0.55 AC)	15,382 SF (0.35 AC)
WETLAND SETBACK "NO BUILD" USE DELINEATION BASED OFF WETLAND DELINEATION	84,895 SF (1.95 AC)	9,937 SF (0.23 AC)
LAKES & PONDS SURVEY IN JANUARY OF 2019	53,880 SF (1.24 AC)	N/A
SHORE BUFFER USE DELINEATION BASED OFF WETLAND DELINEATION	1,021 SF (0.02 AC)	N/A
YOUNG WOODLANDS & FORESTS - BASED OFF PEG SURVEY	27,137 SF (0.62 AC)	N/A
STREAMS (NOT PRESENT ON SITE)	75,284 SF (1.73 AC)	39,792 SF (0.91 AC)
FLOODPLAINS (NOT PRESENT ON SITE)	N/A	N/A
SEMPRC AREA - BASED OFF 2010 SEMPRC ENVIRONMENTAL CONTOURS	108,944 SF (2.50 AC)	N/A

\* ADDITIONAL INFORMATION IS INCLUDED IN THE ATTACHED SITE INTENSITY CALCULATIONS.  
 \*\* USE OF PEG SURVEY DATA FOR DELINEATION OF WETLANDS AND STREAMS.  
 \*\*\* STEEPER SLOPES EXIST DUE TO RECENT FILL GRADING THAT WAS COMPLETED. DUE TO THIS (AND BEING MANMADE), THEY ARE NOT INCLUDED IN THIS NRPP.

**NATURAL RESOURCE FEATURE AREAS**







GRAPHICAL SCALE (FEET)  
0 100 150  
1" = 80'

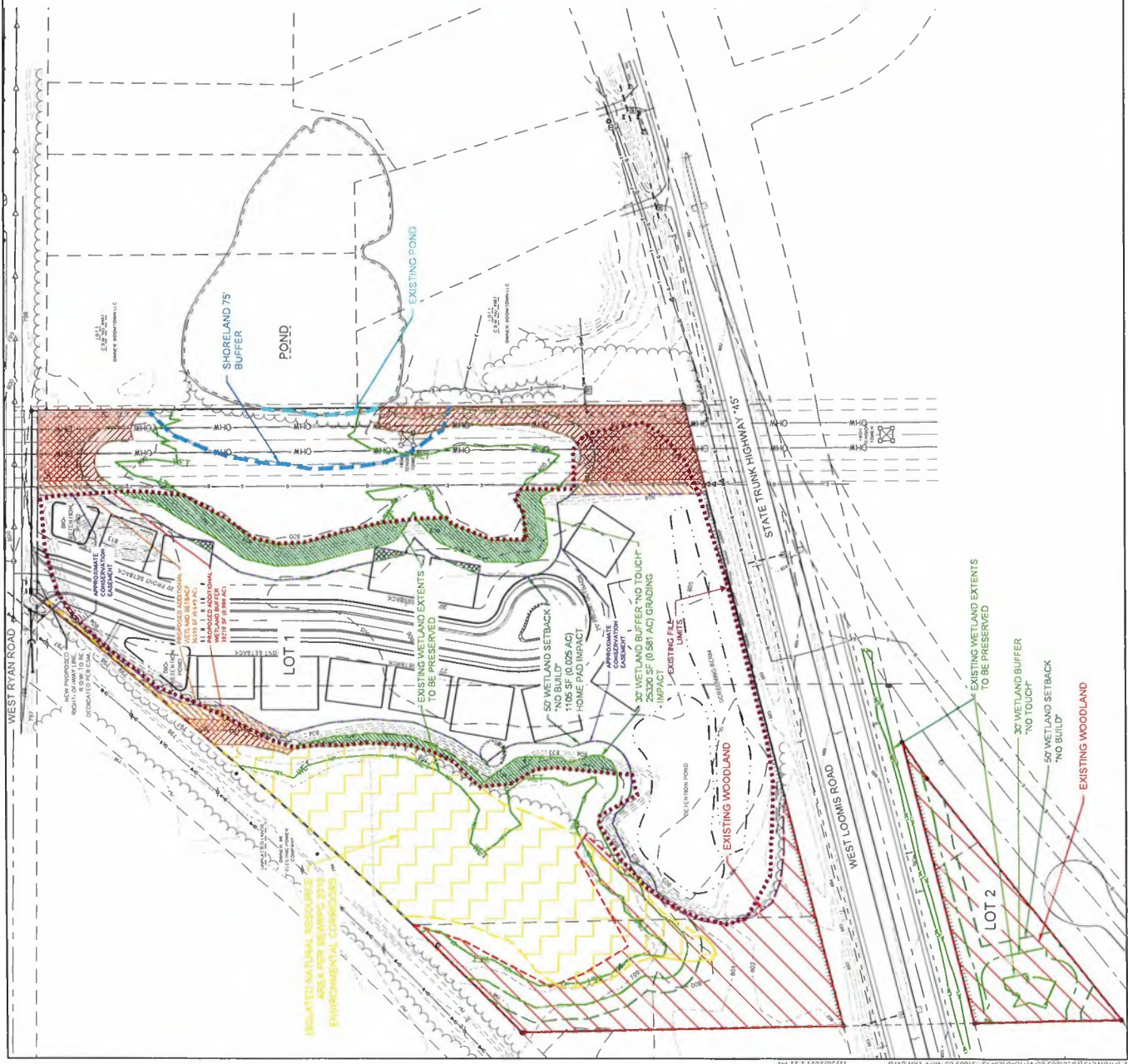
SITE DATA	
PROJECT NAME	RYAN ROAD CONDOMINIUMS
LOCATION ADDRESS	FRANKLIN, WI 53132
OWNER CONTACT INFORMATION	DAN SZCZAP 10100 W. WISCONSIN AVE 4011 10TH ST KENOSHA, WI 53142 d.szczap@pinnacle-engineer.com
DESIGNER CONTACT INFORMATION	MATT CAREY Pinnacle Engineering Group 20725 WATERTOWN RD BROOKFIELD, WI 53186 matt.carey@pinnacle-engineer.com

RESOURCE TYPE	AREAS OF RESOURCE LOT 1 (15.61 AC)	AREAS OF RESOURCE LOT 2 (0.91 AC)
STEP SLOPES AREA** 1-10% PFC SLOPES 2-10% UNPAVED CONTOURS	N/A	N/A
STEP SLOPES AREA** 1-10% PFC SLOPES 2-10% UNPAVED CONTOURS	N/A	N/A
WETLANDS 1-10% PFC SLOPES 2-10% UNPAVED CONTOURS	164,559 SF (3.78 AC)	2,175 SF (0.05 AC)
WETLAND BUFFER "NO TOUCH" WETLAND DELINEATION	84,895 SF (1.95 AC)	15,382 SF (0.35 AC)
WETLAND SETBACK "NO BUILD" WETLAND DELINEATION	53,880 SF (1.24 AC)	9,937 SF (0.23 AC)
LAKES & PONDS FIELD DELINEATED BY PFC SAVED IN JANUARY OF 2019	1,021 SF (0.02 AC)	N/A
SHORE BUFFER FIELD DELINEATED BY PFC SAVED IN JANUARY OF 2019	27,137 SF (0.62 AC)	N/A
YOUNG WOODLANDS & FORESTS IMAGED OFF PEG SURVEY	75,284 SF (1.73 AC)	39,792 SF (0.91 AC)
TREES (NOT PRESENT ON SITE)	N/A	N/A
FLOODPLAINS (NOT PRESENT ON SITE)	N/A	N/A
SEMI-PAVED WETLANDS ENVIRONMENTAL CORRIDORS	108,544 SF (2.50 AC)	N/A

### NATURAL RESOURCE FEATURE AREAS

\* ADDITIONAL INFORMATION IS INCLUDED IN THE ATTACHED SITE INTENSITY CALCULATIONS.  
\*\* WETLANDS DELINEATED BY HEARTLAND ECOLOGICAL GROUP INC ON 6-25-2021.  
--- STEEPER SLOPES EXIST DUE TO RECENT FILL GRADING THAT WAS COMPLETED. DUE TO THIS (AND BEING MANMADE) THEY ARE NOT INCLUDED IN THIS NRPP.

WETLAND IMPACTS DATA TABLE	
TOTAL WETLAND BUFFER IMPACT	25,320 SF (0.581 AC)
REG BUFFER MITIGATION (61.5)	37,960 SF (0.872 AC)
PROP BUFFER ADDITION	39,210 SF (0.900 AC)
TOTAL WETLAND SETBACK IMPACT	1,105 (0.025 AC)
REG SETBACK MITIGATION (41.5)	1,655 SF (0.038 AC)
PROP SETBACK ADDITION	16,300 SF (0.364 AC)



# FRANKLIN DEVELOPMENT - NATURAL RESOURCES PROTECTION PLAN



# General Permit

For

## Fill

**Permit Number:** I20180438



**Property Location:** 12000 W Loomis Rd

**Issue Date:** 03/14/2018  
**Expiration Date:** 03/15/2020  
**Estimated Cost:** \$ 4,000.00

**Tax Key #:** 891-9993-000  
**Subdivision:**  
**Lot:**

**Project Description:** Strip and stockpile topsoil. Approx. 37,500 CY of fill will used to raise the field The area will be restored with topsoil and seeded. ALL SILT FENCE MUST BE IN PLACE PRIOR TO THE START OF WORK. As DOT contractor, Musson Bros. acknowledges the fill will only come from the project described Written verification of DNR approval must also be provided to the City. The 4:1 maximum slope must be held. Access to the site must be off STH 36/Loomis Rd only. There will be no access off of W. Ryan Rd. at any time.

**Property Owner:**  
Mills Hotel Wyoming LLC  
4015 80th St  
Kenosha WI 53142

**Contractor:**  
Musson Brothers, Inc.  
4215 N 124th St  
Brookfield WI 53005

Fees	Amount
Soil Fill	\$ 4,000.00
<b>Total</b>	<b>\$ 4,000.00</b>

**Balance Due** \$ 4,000.00

*S. Arnold (ML)*  
\_\_\_\_\_  
Permit Issued By

*[Signature]*  
\_\_\_\_\_  
Owner or Agent

SEARCHED  
SERIALIZED  
INDEXED  
FILED  
MAR 15 2018  
FBI - MILWAUKEE

Project File Data	Coordinate System
Name: C:\Users\Lisa\Desktop\2018 Jobs\118501 108th Street\Dumpsites\Bear Development\BEAR DEVELOPMENT 11- 6-17.vce	Name: SCS900 Localization
Size: 13 MB	Datum: WGS84 Equivalent Datum
Modified: 4/20/2020 12:23:53 PM (UTC:-5)	Zone: SCS900 Record
Time zone: Central Standard Time	Geoid:
Reference number:	Vertical datum:
Description:	Calibrated site:
Comment 1:	
Comment 2:	
Comment 3:	

## Earthwork Volume Report

### Unclassified surface compared to Unclassified surface

Surfaces	
11-6-17 topo	Classification: Unclassified
FINAL TOPO	Classification: Unclassified

Bank Volumes Based on Surface Geometry Alone	
Cut material	83.4 yd <sup>3</sup>
Fill material	46,804.4 yd <sup>3</sup>
Deficit	46,721.0 yd <sup>3</sup>

Bank Areas Based on Surface Geometry Alone	
Cut area	8,147.4 ft <sup>2</sup>
Fill area	356,671.2 ft <sup>2</sup>
Zero volume area	0.9 ft <sup>2</sup>
Total	364,819.5 ft <sup>2</sup>

Depth summary	
Maximum depth of cut material	1.504 ft
Maximum depth of fill material	6.183 ft

Project File Data	Coordinate System
Name: C:\Users\Lisa\Desktop\2018 Jobs\118501 108th Street\Dumpsites\Bear Development\BEAR DEVELOPMENT 11- 6-17.vce	Name: SCS900 Localization
Size: 14 MB	Datum: WGS84 Equivalent Datum
Modified: 4/24/2020 12:28:56 PM (UTC:-5)	Zone: SCS900 Record
Time zone: Central Standard Time	Geoid:
Reference number:	Vertical datum:
Description:	Calibrated site:
Comment 1:	
Comment 2:	
Comment 3:	

### Stockpile Volume Analysis

#### Measured stockpile surface compared to estimated foundation surface

Surfaces	
<b>TOPSOIL SOUTH PILE</b>	Classification: Unclassified

Volumes from Surface Geometry	
Approximate stockpile volume	964.1 yd <sup>3</sup>

Areas from Surface Geometry	
Approximate stockpile area	7,162.8 ft <sup>2</sup>
Zero volume area	0.4 ft <sup>2</sup>
<b>Total</b>	<b>7,163.2 ft<sup>2</sup></b>

Depth summary	
Maximum depth of stockpile	7.500 ft
Maximum depth of depression	0.000 ft

This is a report of the volume of a stockpile, as measured between the stockpile surface and a surface constructed from the base of the stockpile.

Project File Data		Coordinate System	
Name:	C:\Users\Lisa\Desktop\2018 Jobs\118501 108th Street\Dumpsites\Bear Development\BEAR DEVELOPMENT 11- 6-17 vce	Name:	SCS900 Localization
Size:	14 MB	Datum:	WGS84 Equivalent Datum
Modified:	4/24/2020 12:28:56 PM (UTC:-5)	Zone:	SCS900 Record
Time zone:	Central Standard Time	Geoid:	
Reference number:		Vertical datum:	
Description:		Calibrated site:	
Comment 1:			
Comment 2:			
Comment 3:			

## Stockpile Volume Analysis

### Measured stockpile surface compared to estimated foundation surface

Surfaces	
<b>TOPOSIL NORTH PILE</b>	Classification: Unclassified

Volumes from Surface Geometry	
<b>Approximate stockpile volume</b>	944.3 yd <sup>3</sup>

Areas from Surface Geometry	
<b>Approximate stockpile area</b>	7,605.6 ft <sup>2</sup>
<b>Zero volume area</b>	0.7 ft <sup>2</sup>
<b>Total</b>	7,606.2 ft <sup>2</sup>

Depth summary	
<b>Maximum depth of stockpile</b>	8.000 ft
<b>Maximum depth of depression</b>	0.000 ft

This is a report of the volume of a stockpile, as measured between the stockpile surface and a surface constructed from the base of the stockpile.

Project File Data	Coordinate System
Name: C:\Users\Lisa\Desktop\2018 Jobs\108th Street\Dumpsites\Bear Development\BEAR DEVELOPMENT 11-6-17.vce	Name: SCS900 Localization
Size: 1 MB	Datum: WGS84 Equivalent Datum
Modified: 3/8/2018 5:49:53 AM (UTC:-6)	Zone: Default
Time zone: Central Standard Time	Geoid:
Reference number:	Vertical datum:
Description:	
Comment 1:	
Comment 2:	
Comment 3:	

## Earthwork Volume Report

### Unclassified surface compared to Unclassified surface

Surfaces	
11-6-17 topo	Classification: Unclassified
FINAL SURFACE 3-7-18	Classification: Unclassified

Bank Volumes Based on Surface Geometry Alone	
Cut material:	133.0 yd <sup>3</sup>
Fill material:	37,405.0 yd <sup>3</sup>
Deficit:	37,272.0 yd <sup>3</sup>

Note: 'Cut Material' is defined as material where [FINAL SURFACE 3-7-18] is lower than [11-6-17 topo]. 'Fill Material' is defined as the volume of material where [FINAL SURFACE 3-7-18] is higher than [11-6-17 topo].

Note: The above volumes are calculated solely from the geometries of the selected surfaces. No material properties are applied to the above numbers.

Date: 3/8/2018 5:56:59 AM	Project: C:\Users\Lisa\Desktop\2018 Jobs\108th Street\Dumpsites\Bear	Business Center - HCE
---------------------------	---	-----------------------

# ALTA/ACSM LAND TITLE SURVEY

**CLIENT:**  
**PROJECT:**  
**DATE:**

**AGREEMENT:**  
 This survey was conducted in accordance with the standards and practices of the American Land Title Association (ALTA) and the American Council of Surveying and Mapping (ACSM). The surveyor warrants that the survey was conducted in accordance with the standards and practices of the ALTA and ACSM and that the survey is a true and correct representation of the land as surveyed.

**ASSUMPTIONS:**  
 The survey was conducted under the following assumptions:  
 1. The boundaries of the land as surveyed are as shown on the plan and as described in the accompanying report.  
 2. The survey was conducted in accordance with the standards and practices of the ALTA and ACSM.

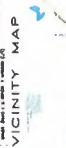
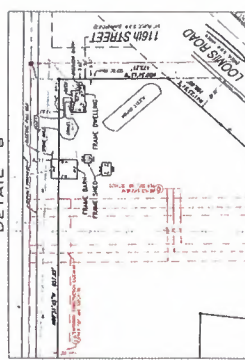
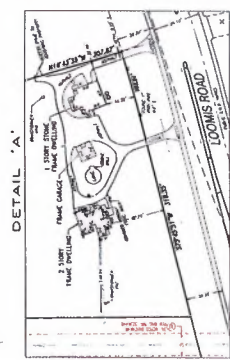
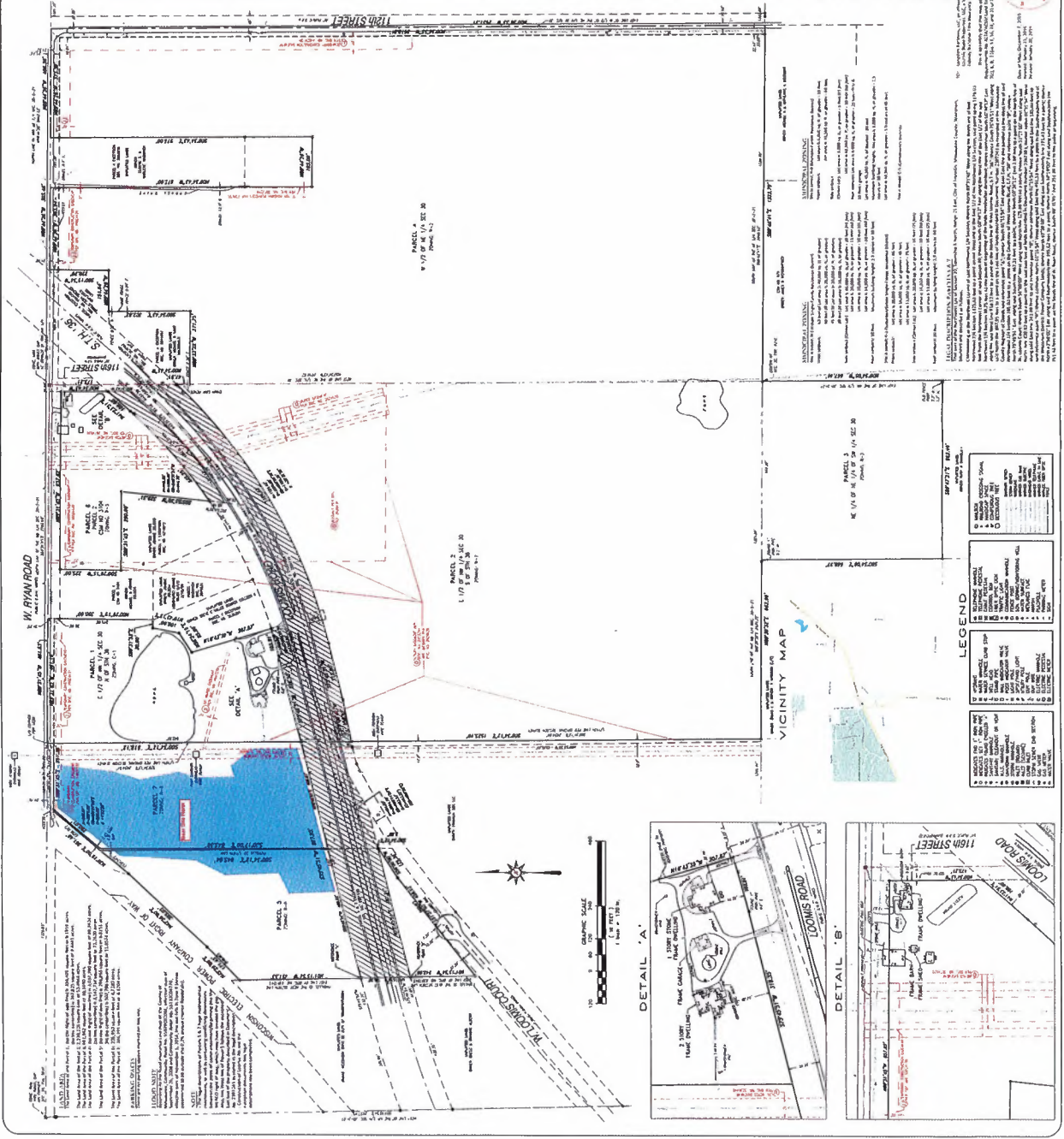
**BOUNDARIES:**  
 The boundaries of the land as surveyed are as shown on the plan and as described in the accompanying report.

**ENCUMBRANCES:**  
 The survey was conducted in accordance with the standards and practices of the ALTA and ACSM. The surveyor warrants that the survey is a true and correct representation of the land as surveyed.

**GENERAL NOTES:**  
 The survey was conducted in accordance with the standards and practices of the ALTA and ACSM. The surveyor warrants that the survey is a true and correct representation of the land as surveyed.

**ADDITIONAL NOTES:**  
 The survey was conducted in accordance with the standards and practices of the ALTA and ACSM. The surveyor warrants that the survey is a true and correct representation of the land as surveyed.

**DISCLAIMER:**  
 This survey was conducted in accordance with the standards and practices of the ALTA and ACSM. The surveyor warrants that the survey is a true and correct representation of the land as surveyed.



**LEGEND**

Parcel Boundary	Survey Boundary
Utility Line	Proposed Utility Line
Building Footprint	Proposed Building Footprint
Right-of-Way	Proposed Right-of-Way
Water	Proposed Water
Tree	Proposed Tree
Other	Proposed Other





RECEIVED

FEB 14 2018

City of Franklin  
Engineering Department

February, 14, 2018

City of Franklin Engineering Dept.  
Attn: Glen Morrow  
9229 W. Loomis Road  
Franklin, WI 531321

Re: Musson Brothers, Inc. - Filling on Bear Development Lands

Glen,

Thanks for discussing the Bear Development project with me this morning. I have been working with Dan Szczap, from Bear Development, for a number of months now and want to make sure things go smoothly for his project and for ours. Their lands near Ryan Road and Loomis are in need of clean fill. I have clean fill available from our 108<sup>th</sup> Street project between College Ave and Edgerton Ave. The clean fill will raise the sites and help with their future development plans.

As you requested, I have filled out the City of Franklin Fill/Soils Disturbing Permit Application and attached it to our ECIP (erosion control implementation plan). I am required to submit an ECIP, to the WDOT/WDNR, for each selected site where we intend to haul fill, stockpile recyclables, or use as a borrow site. The Bear Site North needs about 60,000 CY's of fill per the proposed site plan that we submitted. I submitted the ECIP to the WDOT/WDNR last week. I have since spoken with Kristina Betzold from the WDNR. I forwarded to her the Wetland Delineation Report that Bear had done recently. She will be reviewing the ECIP and the Delineation Report and will reply with any comments or concerns. I expect that she will ask for a site visit to discuss placement of the Silt Fence and any other BMP's that may be necessary. The WDOT environmental staff will also review and consult with the WDNR and make their own comments. I will revise my ECIP to incorporate any changes that the WDOT/WDNR requires. I will keep the City informed as to any changes, to the ECIP, that the WDOT/WDNR requires.

Please let me know if we will be required to pay the fees as per the matrix on your Permit Application. The Bear Site North could use approximately 60,000 CY's and the south sites at least that much. That could mean an expense of \$10,000 to \$15,000 in fees that had not been accounted for in our bid.

Please feel free to contact me with any questions. My mobile #414-303-2721, email [aruffing@mussonbrothers.com](mailto:aruffing@mussonbrothers.com).

Sincerely,  
Andy Ruffing  
Musson Brothers, Inc.

P.O. Box 818  
Rhineland, Wisconsin 54501  
(715) 365-8700  
Fax (715) 369-9296

AN EQUAL OPPORTUNITY EMPLOYER

4215 N. 124th Street  
Brookfield, WI 53005  
(262) 790-5060  
Fax (262) 790-5069





Office Use Only:

Permit No. \_\_\_\_\_

Address: \_\_\_\_\_

Issue Date: \_\_\_\_\_

Owner: \_\_\_\_\_

Expire Date: \_\_\_\_\_

WIDNR Permit No. \_\_\_\_\_

**FILL/SOILS DISTURBING PERMIT APPLICATION**

This permit application and permit are authorized by Division 15-8.0300 of the City of Franklin Unified Development Ordinance ("UDO"). Please call the Engineering Dept. at 414-425-7510 with any questions regarding this application.

**Classes of Applications:**

Class	Fee	Nature of land disturbing construction activity
1	\$50	1/4 to 1/2 acres disturbed and/or 25 to 100 cu. Yds. fill or excavation
2	\$100	1/2 to 2 acres disturbed and/or 100 to 500 cu. yds. fill or excavation; Supporting or Adjoining Natural Resource Features (see UDO §15-8.0302A.6); and Adverse Drainage Impacting (see UDO §15-8.0302A.7)
3	\$250 +\$50*	2 or more acres disturbed and/or 500 or more cu. yds. fill or excavation; *\$50 for each 500 cu. yds. or portion thereof in addition to the base 500 cu. yds.

Class 3 at fee amount of \$250 plus 120 additional 500 cu. yds. at \$50 = \$6,250 Total Fee Paid

**Application Notes:**

- Each Fill/Soils Disturbing Permit Application must include an erosion and sediment control plan (see UDO §15-8.0307), except as set forth below.
- The fill site plan shall include existing and proposed contours, site cross-sections at a minimum of 100-foot intervals or closer on smaller sites, and perimeter down sloping no greater than 4:1.
- In lieu of a control plan, a Class 1 applicant may submit a plat of survey depicting the area and describing any volume of and the nature of the land disturbing construction activity, and the restoration to be performed, if any, together with such other information as reasonably required by the City Engineer or designee (see UDO §15-8.0306A.).
- In lieu of a control plan, an Adverse Drainage Impacting Class 2 applicant may submit an erosion and sediment control plan statement, which shall briefly describe the site, including a site map, the best management practices that will be used, and the site development schedule (see UDO §15-8.0307B.).
- An application may have to include additional information (see UDO §15-8.0306C.) and any permit granted may include conditions, including, but not limited to a form of surety bond (letter of credit) (see UDO §15-8.0306D.).
- If a land disturbing construction site activity involves 1 or more acres of land area, a permit is additionally required from the Wisconsin Department of Natural Resources prior to the commencement of such activity.

**Applicant Agent/Owner to Complete:**

**Nature of land disturbing construction activity:**

Describe: (fill, grade, etc.) Filling & Grading

Land Area Involved: (acres) Approx 8 acres

Volume of Material: (cu. yds.) Approx 60,000 cu's

Location(s) of Fill Source: 108th Street (College Ave. to Edgerton Ave.)

Natural Resource Feature(s) Within 100 Feet: [ ] YES [ ] NO

Proposed Start Date: March 12, 2018

Proposed Completion Date: November 2, 2018

I have reviewed and understand Division 15-8 0300 of the City of Franklin Unified Development Ordinance pertaining to erosion control and I shall implement the control plan, control plan statement, best management practices, and/or restoration as applicable to my activity and as may be required by any permit granted to me for this project.

I further grant the right of entry onto the property which is the subject of this Permit Application, to the City of Franklin City Engineer or designee, for the purpose of inspecting and monitoring for compliance with Division 15-8 0300 of the City of Franklin Unified Development Ordinance.

I hereby certify that the information provided by me upon and with this Permit Application is, to the best of my knowledge and belief, true, accurate and complete.

**Property & Location:**

Street Address: Approx. 12300 W. Ryan Rd.  
City/State/Zip: Franklin, WI 53132  
Tax Key #: 891-9993-000 12000 W. LOOMIS RD.

**Owner(s) Bear-Development**  
Name: Mills Hotel Wyoming, LLC  
Street Address 4015 80th Street  
City/State/Zip Kenosha, WI 53142  
Tax Key #: \_\_\_\_\_  
Phone. 262-842-0456  
Fax 262-842-0457  
Email. dszazap@beardevelopment.com  
Date. \_\_\_\_\_

**Applicant /Agent**  
Name. Musson Brothers, Inc / Andy Ruffing  
Street Address 4215 N. 124th Street  
City/State/Zip: Brookfield, WI 53005  
Tax Key #: \_\_\_\_\_  
Phone 414-303-2721  
Fax 262-790-5069  
Email aruffing@mussonbrothers.com  
Date. February 14, 2018

Signature \_\_\_\_\_  
Signature. \_\_\_\_\_

Signature Andy J. Ruffing

**FILL/SOILS DISTURBING PERMIT**

The above Fill/Soils Disturbing Permit Application is hereby conditionally approved upon all of the above statements and terms and the terms and provisions of Division 15-8 0300 of the City of Franklin Unified Development Ordinance, including, but not limited to the requirement of the Owner and any Applicant Agent to notify the City Engineer or City Engineer's designee within 48 hours of the commencement of any land disturbing construction activity, and all other applicable laws This approval is also subject to those conditions as may be set forth below

**Conditions of Approval:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Approved By:**

\_\_\_\_\_  
Franklin City Engineer or Authorized Representative

\_\_\_\_\_  
Date

**B. Erosion Control Implementation Plan Requirements - Selected Sites**

Project ID. 2140-11-70 Highway. USH 45 County Milwaukee

Name of Road/Project: 108th Street (Hales Corners) - College Avenue – Edgerton Avenue

Type of Work: Removals, common excavation, excavation below subgrade, underdrain, breaker run, base aggregate dense, HMA pavement, concrete pavement, concrete curb and gutter, concrete sidewalk, roundabout, colored concrete, stamping colored concrete, standard lighting, decorative lighting, storm sewer, temporary and permanent traffic signal, pavement marking, permanent signing, and all incidental items necessary to complete the work as shown on the plans and included in the proposal and contract.

Prime Contractor: Musson Brothers, Inc.

Address: 4215 N 124<sup>th</sup> St Brookfield, WI 53005

Contact Person: Andrew Ruffing Phone: 262-790-5060

DOT Project Manager: Charles Krummel Project Leader: Paul Watry

The ECIP shall also include, at a minimum, a narrative and pictorial description for each of the selected sites, if any, and attendant erosion control and storm water management measures for the selected sites. If the combined area of the project site and all selected sites disturbs 1 or more acres as determined by WisDOT the following information is required for **each** selected site.

If a selected site is used prior to WisDOT approval, it is not covered under the Cooperative Agreement between DOT and DNR and all applicable permits need to be obtained before the selected site can be used

- 1. Selected Site Name: Bear Site North  
Address Between W Ryan Rd and W. Loomis Rd. (approx.. 1,500 ft W. of the intersection of Ryan & Loomis.)  
City/Village/Town. Franklin County: Milwaukee  
Part of NW ¼ Sec 30, T5N R21E  
Township Range Section 1/4 Sect 1/4-1/4 Sect R21E  
Include a location map, i e a plat map.

- 2 Principal contact of the contractor or other person responsible for installation, maintenance, and removal of erosion control and storm water management measures at the selected site  
Name. Tyler Trimberger Phone. (262) 224-7377  
Firm Arbor Green, Inc  
Address. 430 E. Albert Street  
Portage, WI 53901

- 3 Is this a commercial pit? No If no, continue to #4  
If yes, Name of the pit: \_\_\_\_\_  
Contact for the pit: \_\_\_\_\_ Phone: \_\_\_\_\_

Include cover sheet of NR 216, NR 135 or COMM permit displaying the permit number, CUP number and expiration date.

Will the waste or borrow be in the permitted area? Yes

If yes then end of Part B for this selected site. If no then complete remainder of Part B.

4. Have applicable permits been obtained? Na. see above
5. Is the selected site on tribal land? No
6. Has the Archaeological Review (Form DT1919) been sent to BEES? Yes  
What was the Bureau recommendation?  Have not received response yet  
 Survey Recommended  High Potential  OK to Proceed
7. Construction activity dates at the selected site: Start: March 5, 2018 Comp.: Oct 12, 2018
8. A narrative description of the selected site as it exists before construction, the nature of the activities to be performed at the site including approximate quantity of waste/borrow material, and land use anticipated after restoration to the site. – ***The site is a relatively flat farm field, with a crown, that slopes both east and west to adjacent wetland areas. Approximately 60,000 CY of fill will be used to raise the field on average between 3 to 7 vertical feet. Topsoil will be stripped from the areas to be filled and moved to temporary stockpile areas to the NE and SW. Fill will be added and topsoil will be respread. Drainage on the site goes to the east and west towards the adjacent wetlands. The general area is eastward sloping. The site will be accessed directly from Loomis Rd.***
9. A description of the intended sequence of major land disturbing activities at the selected site. ***After the installation of silt fence, topsoil will be stripped and stockpiled on the northeastern and southwestern parts of Fill Area. Filling will happen from south to north. Positive drainage will be maintained at all times. All areas will be restored with topsoil, fertilizer, and seed upon completion of our filling. Fertilizer application rates and seeding will be discussed with the farmer prior to the work being done.***
10. Estimated total area of selected site: Total disturbed area 8.5 +/- acres
11. Immediate receiving waters: \_\_\_\_\_  
(Attach FEMA Floodplain maps)
12. Runoff coefficients at the selected site (Attach the Runoff Coefficient Table)  
Supply the following estimates Site slope before construction: 2% After: 2%
13. Site map(s) including: (See Trans 401.08(2)(b)(11) for details)
  - a Boundaries of the site and areas of soil disturbance.
  - b Existing topography and drainage patterns, roads and surface waters
  - c Drainage patterns and approximate slopes anticipated after major grading activities.
  - d Location of major structural and non-structural erosion control and stormwater management practices
  - e Location of areas where stabilization will be employed, including but not limited to

vegetation, following construction or maintenance activities.

- f Area and extent of wetland acreage on the site, whether disturbed or not.
- g Locations where storm water is discharged to a surface water or wetland.
- h Locaton of any internal haul roads.

(Recommend using USGS maps, Orthophotos, SCS Soils maps, or equivalent )

14. A description of appropriate erosion control and storm water management measures that will be employed at the selected site to prevent sediments and pollutants from reaching waters of the state, including wetlands. The plan shall clearly describe the appropriate best management practice for each major activity identified and the timing during the construction process that the measures will be implemented. The description of best management practices shall include:
- a Description of permanent or temporary erosion control and storm water management measures. Plans shall ensure the preservation of existing vegetation where practical.
  - b. Description of structural practices to divert runoff away from exposed soils, to store flows or to otherwise limit runoff and the discharge of pollutants from the site
  - c. Management of overland flow at the site.
  - d. Trapping of sediment in channelized flow.
  - e. Staging construction to limit bare areas subject to erosion.
  - f Protection of downslope drainage inlets where they occur.
  - g. Minimization of tracking at the site.
  - h. Clean up of off-site sediment deposits.
  - i. Proper disposal of building and waste material at the site
  - j. Stabilization of drainage ways.
  - k. Installation of permanent stabilization practices as soon as possible after final grading
  - l. Minimization of dust to the maximum extent practical.
  - m Stabilization of the disturbed portions of the site.

***Silt fence will be installed prior to filling on the site. Hay bale reinforcement or a second line of silt fence will be added if it is determined that additional protection is necessary. Temporary seeding will be applied to topsoil stockpiles if the stockpiles are to be left for more than 2 weeks. Efforts will be made to leave existing vegetation in place to aid in the control of erosion and sedimentation. A tracking pad will be built and used to access the site from Loomis Rd. The tracking pad will be maintained to help reduce tracking to public roadways. If soils are tracked from the site, cleanup will be accomplished using loader, sweeper with water spray mechanisms, and water truck. A pick up broom will be utilized if other methods are unsuccessful. Dust will be controlled using water. Silt fence will be removed after vegetation has been re-established and the site is stabilized.***

- 16 A description of the procedures to maintain vegetation, best management practices and other protective measures, in good and effective operating condition. If the selected site will remain open for more than 2 weeks without construction activities (i.e. over-winter), how will the site be stabilized and how often will it be inspected? ***Vegetation will be left in all areas as long as possible until the areas are required for waste excavation placement. Best management practices will be used to control erosion and sedimentation. The site erosion control devices will be inspected at a minimum weekly and after all ½" or greater rain events.***

**If permanent infiltration devices are employed, complete:**

- 17 Existing data describing the surface soil, subsoils, and depth to groundwater at the selected site (Refer to Soil Conservation Service's County Soil Survey Book or equivalent where available )

<p style="text-align: center;"><b>APPROVAL</b></p> <p style="text-align: center;"><i>slw</i></p>	<p style="text-align: center;"><b>REQUEST FOR COUNCIL ACTION</b></p>	<p style="text-align: center;"><b>MEETING DATE</b></p> <p style="text-align: center;"><b>2/1/2022</b></p>
<p style="text-align: center;"><b>REPORTS &amp; RECOMMENDATIONS</b></p>	<p style="text-align: center;"><b>Acceptance of Public Improvements in Conjunction with the 'Development Agreement for Tax Incremental Financing District No. 6 Public Improvements and Ryan Meadow Subdivision'</b></p>	<p style="text-align: center;"><b>ITEM NUMBER</b></p> <p style="text-align: center;"><b>G.6.</b></p>

**BACKGROUND**

Pursuant to the development of the Tax Incremental District No. 6 Public Improvements and Ryan Meadows Subdivision, the developer has substantially completed its obligations and is requesting, per the attached letter, that the City accept the public infrastructure regarding the same.

**ANALYSIS**

The City Engineer has reviewed the project requirements and concurs that all public improvements are complete, as prescribed and required in the agreement, with the exception of the final lift of asphalt plus the one-year warranty. As such, and because the City would like the developer to delay in completing the final lift of asphalt until at least 80% of the new homes in the area are constructed, staff is reviewing the agreement in detail to ensure that acceptance of the completed infrastructure does not carry unintended consequences.

The City Attorney, City Engineer, and Director of Administration are in the process of reviewing all project details with the expectation that staff will be ready to present a recommendation to the Council at the Meeting on Tuesday, February 1, 2022.

The project review includes a complete review of:

- (1) the TID No. 6 Development Agreement Between the City of Franklin and Loomis and Ryan, Inc.;
- (2) the First Amendment to TID No. 6 Development Agreement Between the City of Franklin and Loomis and Ryan, Inc.;
- (3) the Development Agreement for TID No. 6 Public Improvements and Ryan Meadows Subdivision;
- (4) the bond, in the amount of \$11,095,010.30, currently held by the City;
- (5) any outstanding costs, invoices, or similar with regard to the project, and
- (6) any other related documents on this matter.

**RECOMMENDATION**

Staff will present a recommendation regarding this request to the Common Council at its meeting on Tuesday, February 1, 2022.

**COUNCIL ACTION REQUESTED**

Motion to be determined upon completion of staff review.

Director of Administration/City Attorney/City Engineer

January 26, 2022

Peggy Steeno  
Director of Administration  
City of Franklin  
9229 W Loomis Road  
Franklin, WI 53132

Re Ryan Meadows Subdivision-Acceptance of Public Improvements

Dear Ms. Steeno,

Per our recent conversations, please accept this letter as formal request for City of Franklin Acceptance of the Public Site Improvements at the Ryan Meadows Subdivision. The project has been designed and constructed under City of Franklin supervision and the project is substantially complete. Further, the Record Drawings have been submitted and approved by City Engineering.

We understand that the Development Agreement includes continuing Developer obligations for Ryan Meadows, which we are prepared to perform. In particular, the final lift of asphalt is a Developer responsibility, but, per the Development Agreement, cannot be installed until 80% of the homes are constructed within the subdivision. The timeline on this obligation could be 2-3 years, based on the pace of home construction. That being said, we respectfully request acceptance of the Public Site Improvements in order to reduce the existing Subdivision Performance Bond and enter the Warranty Period for the public improvements.

Should you have any question regarding this matter, please do not hesitate to contact me at (262) 949-3788 or by email, [dan@beardevelopment.com](mailto:dan@beardevelopment.com)

Respectfully,

Daniel Szczap  
Bear Development, LLC



Phone 262.694.2327



[beardevelopment.com](http://beardevelopment.com)



4011 80<sup>th</sup> Street, Kenosha, WI 53142



<p style="text-align: center;"><b>APPROVAL</b></p> <p style="text-align: center;"><i>slw</i></p>	<p style="text-align: center;"><b>REQUEST FOR COUNCIL ACTION</b></p>	<p style="text-align: center;"><b>MEETING DATE</b></p> <p style="text-align: center;"><b>2/1/2022</b></p>
<p style="text-align: center;"><b>REPORTS AND RECOMMENDATIONS</b></p>	<p style="text-align: center;"><b>Approval of a Job Description for the Position of Laborer</b></p>	<p style="text-align: center;"><b>ITEM NUMBER</b></p> <p style="text-align: center;"><b>G.7.</b></p>

*BACKGROUND*

A new position, Laborer, in the Department of Public Works, was included and authorized in the 2022 Budget. This position is replacing the majority of the temporary help positions in the Department, and is slated to be a full-time, permanent position.

*ANALYSIS*

The Laborer position was created as a solution to two on-going issues:

1. There have been less and less qualified applicants for the typical seasonal summer help positions. Several years ago, the City increased the DPW seasonal pay to \$13/hour. Unfortunately, most employers have also increased their wages, to \$13 to \$15/hour or more, and thus the temporary positions are no longer viewed as attractive positions, especially since the work can be physically challenging. The work ethic that we now get from many of our applicants, typically college students, is less than desirable, and thus staff would prefer not to hire seasonal workers at this time.
2. Hiring employees with the required Class A Commercial Drivers License is very difficult in recent years due to full employment in the construction trades. The Laborer position would allow us to hire someone with similar skills who does not currently have a Class A CDL. The person could perform most of the duties of the Light Equipment Operator position but could not drive any equipment where the Class A CDL was required. If the person subsequently obtained their CDL, they could then be promoted to a Light Equipment Operator position.

The job description was created using the approved Light Equipment Operator position, and removed any requirements or duties which required the Class A CDL. The position would be a Salary Grade 3, which is one pay level below the Light Equipment Operator. The budget had anticipated this position would pay \$21/hour, which is consistent with the Grade 3 salary range.

On January 17, 2022, the draft position description, as attached, was considered by the Personnel Committee and recommended for approval by the Common Council.

*RECOMMENDATION*

Staff recommends approval of the Laborer position job description.

**COUNCIL ACTION REQUESTED**

Motion to approve the job description for the Laborer position.

**CITY OF FRANKLIN  
JOB DESCRIPTION**

**Job Title:** Laborer

**Department:** Public Works

**Appointing Authority:** City Engineer

**Supervisor:** Public Works Superintendent

**Grade Level:** ~~Per AFSCME Union Contract~~ Salary Grade 2 or 3 (will rate job and have a recommendation at the Personnel Committee meeting)

**FLSA Status:** Hourly, Non-Exempt

**Prepared By:** Glen Morrow, City Engineer, Director of Public Works

**Last Update:** January 13, 2022

**Approved By:** Common Council

**Date Approved:** ~~????????, 2021~~

**Summary:**

Under general supervision operates a variety of equipment and ~~medium~~ light duty dump trucks and equipment utilized in the construction and maintenance of municipal infrastructure. Performs manual labor in a variety of routine assignments, either as a crew member or independently following work instructions. Work often requires heavy physical exertion and may be performed in adverse weather conditions.

**Essential Duties and Responsibilities**

Operate ~~medium-duty and~~ light duty trucks and other municipal equipment in various sizes and weights in the loading, hauling and unloading of various equipment, materials and supplies.

~~Plan route to insure most economical use of time and equipment.~~

Assist in installing and replacing road and street signs.

Perform routine and basic maintenance on city facilities.

Cut weeds, mow lawns, prune trees, plant trees, trim shrubs, remove trees, apply fertilizers, topsoil and seed public lands.

Pick up brush and trash from city streets and public grounds.

Set concrete forms, pour and finish concrete. Tuck point, repair or rebuild storm sewer catch basins and manholes. Install storm sewers.

Patch and crack seal roadways. Repair street curb and sidewalks.

Operate jackhammers, brush clippers, mowers, and other small equipment and tools to maintain the public infrastructure.

~~Operate medium duty dump trucks equipped with front plow, wing plow and salt spreader to plow snow and salt roads according to departmental policy.~~

Control traffic at worksites by flagging to guide traffic through work areas, as required or assigned.

Install culverts and assist the heavy and light equipment operators with steaming out culverts when frozen.

Perform maintenance on city parks and bike trails, install playground equipment.

Perform routine inspection and preventive maintenance on assigned equipment and refer defects or repairs to supervisor; clean equipment.

Perform all duties in conformance to appropriate safety and security standards.

Keep records of work completed.

Perform other related, similar or logical duties as assigned or required by the supervisor.

The duties listed above are ILLUSTRATIVE ONLY, and is not a comprehensive listing of all functions and tasks performed by positions in this class. It does not imply that all positions within the class perform all of the duties listed, nor does it necessarily list all possible duties that may be assigned.

**Minimum Qualifications, Education, and Experience:**

Graduation from high school or GED equivalent. 1 year of related experience, such as landscaping, construction work, or other outside physical work is preferred. A good driving record is required. ~~one (1)-year previous experience involving the use of light equipment and medium duty dump trucks~~

**Language Skills:**

Ability to read and interpret documents such as safety rules, operating maintenance, and procedure manuals.

Ability to communicate orally, in writing, and understand and follow written and oral instructions.

**Mathematical Skills:**

Ability to add, subtract, multiply and divide in all units of measure using whole numbers.

**Reasoning Ability:**

Ability to establish and maintain effective relationships with employees, supervisors and the general public.

Ability to make independent judgments which have moderate impacts on the organization.

**Necessary Skills and Abilities:**

Thorough knowledge of traffic laws and defensive driving.

Skill of safe operation of listed tools and equipment.

Working knowledge of methods, materials and tools used in street and road maintenance work.

Working knowledge of hazards and safety precautions common to light and heavy equipment operations.

Ability to drive and operate a variety of equipment and light trucks under varying conditions.

Ability to observe proper safety rules and regulations as written in the city safety manual.

**Supervision Received:**

Works under the general supervision of the Public Works Superintendent.

**Supervision Exercised:**

None.

**Responsibility for Public Contact:**

Daily contact requiring courtesy, discretion, and sound judgment.

**Certificates, License, Registrations:**

At a minimum, must possess a valid Wisconsin Class D ~~A-CDL~~ Driver License with ~~N~~ endorsement. MANDATORY. After employment, employee will be given opportunity to earn a CDL Driver License with commitment guarantees.

After employment, employees will be required to attend City sponsored safety, health and job training seminars, i.e.; Personal Protection Equipment, Respiratory Protection, Competent Person, Confined Space Entry, Hazard Communications, First Aid/CPR, or any other course or training required by the Department of Commerce or City necessary for an employee to safely, skillfully and productively perform their job.

**Tools and Equipment Used:**

As driver license endorsements allows, transportation vehicles, dump truck, pickup truck, utility truck, street sweeper, skid steer, jetter/inductor truck, front-end loader, street roller, manlift, tamper, plate compactor, saws, pumps, tar kettle, compressors, sanders, generators, stump grinder, common hand and power tools, shovels, wrenches, detection devices, mobile radio, telephone, ditch witch, brush chipper and hand tools used in the maintenance of vehicles.

**Physical Demands:**

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee is occasionally required to stand; use hands and fingers to handle, feel or operate objects, tools, or controls; and reach with hands and arms. The employee is occasionally required to sit, climb, balance, stoop, kneel, crouch, crawl, talk, hear and smell. The employee is often required to walk short

distances, sometimes over uneven terrain. The employee may also be required to perform strenuous tasks under varying weather conditions.

The employee must frequently lift and/or move up to 40 pounds, and occasionally lift and/or move up to 100 pounds. Specific vision abilities required by this job include close vision, distance vision, color vision, peripheral vision, depth perception, and the ability to adjust focus.

**Work Environment:**

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Work is regularly performed outdoors. Occasionally, while performing the duties of this job, the employee will work outdoors in inclement weather, such as rain, extreme heat or cold. The employee occasionally works near moving mechanical parts and in high, precarious places, and is occasionally exposed to wet and/or humid conditions, fumes or airborne particles, toxic or caustic chemicals, risks of electrical shock, and vibration.

The noise level in the work environment is usually moderate, at times loud when near or operating equipment.

**Selection Guidelines:**

~~Formal application, review and rating of education and experience, job related written test, oral interview and a reference check. A practical exam may be required.~~

**Miscellaneous:**

The duties listed above are intended only as illustrations of the various types of work that may be performed. The omission of specific statement of duties does not exclude them from the position if the work is similar, related or a logical assignment to the position.

The job description does not constitute an employment agreement between the employer and employee and is subject to change by the employer as the needs of the employer and requirements of the job change.

**BLANK PAGE**

<b>APPROVAL</b> <i>slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MTG. DATE</b> February 1, 2022
<b>Reports &amp; Recommendations</b>	<b>WATERMAIN PROJECT ON S. LOVERS LANE FROM W. ST MARTINS ROAD TO 7911 S. 100<sup>TH</sup> STREET</b>	<b>ITEM NO.</b> <b>G.8.</b>

**BACKGROUND**

The Franklin Water Utility is constructing a new water storage tower in the vicinity of 8120 S. Lovers Lane. This tower is needed to address inadequate storage in the western pressure zone, and all of Franklin. This project has received approval from the Public Service Commission and is expected to be bid in the second quarter of 2022. Construction is expected to take about 18 months from award of bid.

This tower will require connection to the water distribution system via a 3/4-mile segment of a 16-inch watermain. The watermain segment will complete a water system gap that extends from the intersection of W. St. Martins Road (approximately 750 feet north of W. Loomis Road) north along the eastern side of the road to the entrance of Target Corporation (approximately 1,500 feet south of W. Drexel Avenue).

The tower and associated watermain projects are anticipated in the 2022 budget.

**ANALYSIS**

Resolution 93-3955 discusses the process for surveying property owners who have petitioned the City for water service. Note that this is a voluntary process and is not spelled out in the municipal code. Typically, affected property owners are surveyed before the City develops a watermain extension project because these projects are typically developed at the request of one or more property owners. In this situation, the need for the watermain is because of the water tower. Surveying the property owners would give them an advance notice of the project, but could also be a source of frustration since the project needs to occur with/without their consent.

This project will affect 39 parcels as shown on the attached exhibit. An engineering report will determine how many would be benefitted as some are already served by water from other directions. It is anticipated that approximately 20-25 properties would be benefitted by this project.

Regardless if the property owners are surveyed or not, the next step is to pass a resolution for the intent to special assess for the watermain. Benefitted property owners would be assessed for an 8-inch system and the water impact fees would be responsible for the rest of the project.

**OPTIONS:**

- A. Survey property owners
- B. Do not survey property owners

**FISCAL NOTE**

Decision to survey or not survey adjacent property owners will not affect the budget. Preliminary estimates indicate that a 16-watermain system could cost \$1.6 million and an 8-inch watermain system would be just over \$700,000.

**RECOMMENDATION**

(At the will of the Common Council) Direct Staff to [Survey / Not Survey] the property owners along S. Lovers Lane Road and return with a preliminary resolution to special assess properties.

A RESOLUTION PERTAINING TO THE SURVEYING OF OPINION FROM  
PROPERTY OWNERS UPON A PETITION FOR THE EXTENSION OF  
SANITARY SEWER OR WATER MAIN  
-----

WHEREAS, the Common Council of the City of Franklin has utilized a survey process to sample public opinion as part of its deliberations from time to time upon whether to extend sanitary sewer and/or water into limited and determinable areas, the cost of such municipal improvements to be funded by special assessments for the special benefits conferred upon the properties located in such areas; and

WHEREAS, the survey process has been utilized as an attempt to determine the number of property owners to be affected by a proposed special assessment for municipal improvements who are in favor of the proposal and the number of those affected property owners against such proposal; and

WHEREAS, the Common Council has considered each petition for the extension of sanitary sewer or water and the question of whether to proceed to survey the potentially affected property owners upon such petition, on a case by case basis; and

WHEREAS, the Common Council has experienced a number of renewed petitions and requests to reconsider denials of petitions for the extension of municipal utilities, subsequent to the recent completion of the survey process upon the original proposals, the costs of such survey process having been borne by the municipality; and

WHEREAS, the Common Council has considered the administrative and service costs of the survey process and the effect upon the community of the receipt of repeated survey questionnaires upon public improvement project proposals after their recent denial.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, that the following be guidelines pertaining to any surveys to affected property owners upon a petition for the extension of sanitary sewer or water:

1. No survey of property owners within a limited and determinable area for the purpose of obtaining their opinion upon a petition for the extension of sanitary sewer and/or water shall be undertaken at any time within nine months after the date of denial by the Common Council of a previous proposal for an extension of such utilities into the same area, for which a survey had been taken, unless the Common Council, determines a survey to be necessary for the substantial health and safety of the community upon receipt of a renewed petition for the



extension of municipal utilities, which contains new information or facts which arose subsequent to the previous denial of a like petition, indicating a potential adverse effect upon the health and safety of the community.

2. In utilizing the survey results, the determination of the number of property owners in favor of or opposed to any proposed work of municipal improvement shall be made only upon those surveys which have been returned and no weight shall be in any way afforded to the consideration of those surveys which have not been returned.
3. The determination as to whether property owners are in favor of or against any proposed work of municipal improvement shall be made only by a percentage calculation, with the number of property owners returning surveys in favor of or opposed to any proposed work of municipal improvement as the numerator and the total number of property owners returning surveys as the denominator.
4. As part of the survey process, a property owner shall only be entitled to return one survey, regardless of the number of properties owned or whose ownership is controlled by such property owner.
5. The survey questionnaire shall advise property owners that the municipal improvement will result in sewer and/or water quarterly service charges, that property owners will incur the cost of plumbing connections to existing improvements and the cost of lateral installation to the property line and that the assessed value of property may be increased due to the improvements.

Introduced at a regular meeting of the Common Council on the 5th day of April, 1993.

Passed and adopted by the Common Council on the 5th day of April, 1993.

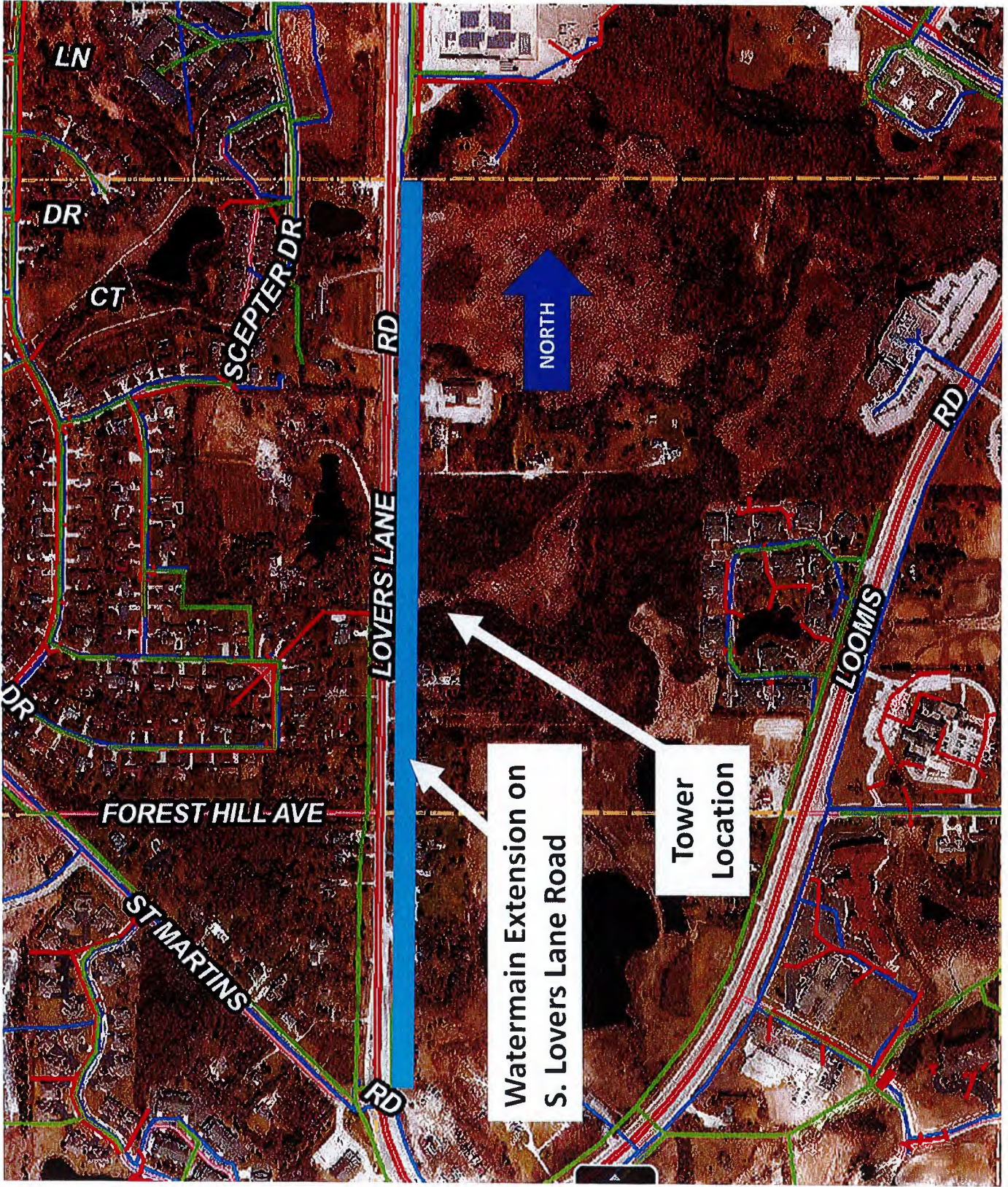
APPROVED:

  
Frederick F. Klimetz

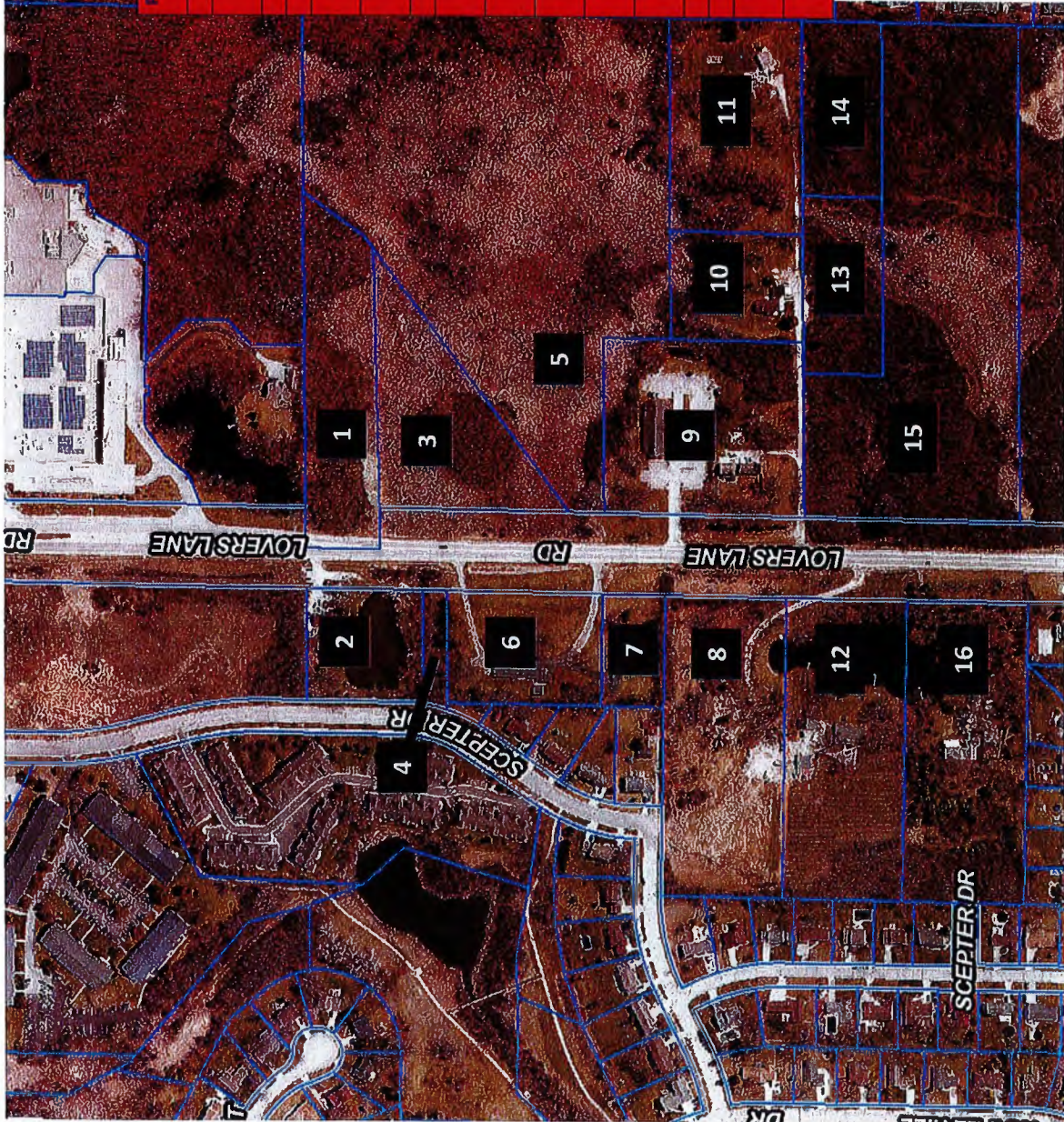
ATTEST:

  
James C. Payne, Business Administrator

AYES 5 NOES 0 ABSENT 1 (Ald. Mayer)



# Watermain Extension on S. Lovers Lane Road



Parcel #	Address	Owner	Main Zoning
1	7911 S. 100th St.	State of Wisconsin	R-8
2	7911 S. 100th St.	Alejandro A. Cuevas	R-3
3		Dean Dzielkowski	C-1
4		Mackenzie Square Condos LLC	R-3
5	7970 S. 100th St.	Classic Realty of West Allis	C-1
6	7973 S. 100th St.	B Boys Properties LLC	R-3
7	7977 S. 100th St.	B Boys Properties LLC	R-3
8	8041 S. 100th St.	John & Marilyn Kaashian	R-3
9	8050 S. 100th St.	Tri County Baptist Church/Pastor Clayton James	F-1
10	8052 S. 100th St.	Carl E. Buckner	R-8
11	8054 S. 100th St.	Laurence Hendrickson	R-8
12	8081 S. 100th St.	Donald L. & Paula Awe	R-3
13		City of Franklin	R-8
14		City of Franklin	R-8
15	8120 S Lovers Lane Rd	City of Franklin	R-8
16	8135 S. 100th St.	Gary A. Schullert	R-3

# Watermain Extension on S. Lovers Lane Road



Parcel #	Address	Owner	Main Zoning
17	8171/8173 S. 100th St.	City of Franklin	R-8
18	8209/8211 S. 100th St.	Douglas & Carrie Clark	R-8
19	8209/8211 S. 100th St.	James A Schabowski	R-7
20	8210 S. 100th St.	James M Mudliff & Amy L Stewart	R-8
21	8230 S. 100th St.	Larry H Mueller	R-8
22	8231/8233 S. 100th St.	Charlotte E Sauer	R-8
23	8252 S. 100th St.	Leanna Meadow LLC	R-8
24	8261 S. 100th St.	Richard & Maureen Patkowski	R-8
25	8252 S 100th Street LLC		R-8
26		John O'Malley	R-8
27	8307/8309 S. 100th St.	Fredrick & Marilyn Graves	R-7
28	8310 S. 100th St.	Ronald & Lucille Rintrop	R-8
29	8310 S. 100th St.	Allen Lembach	R-8
30	8321 S. 100th St.	Gabriel Rivera & Marjorie Y Mendola	R-8
31	8333 S. 100th St.	Lloyd A. Kristin A. Fleper	R-8
32	8360 S. 100th St.	Franklin Hair LLC	R-8
33	8373 S. 100th St.	Edward Strubing & Amanda A Queen	R-8
34		Edward Strubing & Amanda A Queen	R-8
35	8380/8376 S. 100th St.	Adriana M Landeros	R-8
36	8423 S. 100th St.	Todd Wasson	B-3
37			
38	10019 W St. Marcius Rd	Leanna Top LLC	R-8
39		Margaret Kowczynski	B-3
		Goldfinger LLC	R-8/B-3

<b>APPROVAL</b> <i>slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MTG. DATE</b> February 1, 2022
<b>Reports &amp; Recommendations</b>	<b>WATER SURVEY FOR FRONTAGE ROAD ALONG S. LOVERS LANE (U.S. 45 / STH 100) FROM W. HERDA PLACE TO S. PHYLLIS LANE</b>	<b>ITEM NO.</b> <b>G.9.</b>

**BACKGROUND**

Wisconsin Department of Transportation (WisDOT) is planning a project on S. Lovers Lane (U.S 45 / STH 100) from W. Rawson Avenue (CTH BB) to W. College Avenue. The project schedule has moved up from the previously reported circa 2024 or 2025 to a letting and commence construction in 2023. This item was last discussed at the Common Council on August 18, 2020 when residents were surveyed for a preference on the one-way or two-way street configuration for the east frontage road between W. Herda Place and S. Phyllis Lane.

During the utility coordination efforts, it was noted that these same six houses have no access to public water, even though a watermain is extended on both W. Herda Place and S. Phyllis Lane. There is also a watermain on the west edge of S. Lovers Lane, but the road is a 4-lane divided highway and WisDOT would not allow six individual water services to cross beneath this road section.

**ANALYSIS**

To Staff's knowledge, there have never been any requests from these properties for public water. With WisDOT doing major construction for this frontage road, water should be installed now, or ignored for many decades. Staff has verified with WisDOT Staff that their construction could accommodate coordination with a City contractor to construct a watermain along the frontage road.

Any decision to construct or ignore this watermain extension needs to be made soon.

Survey of property owners for a watermain project is not mandatory. Surveys do provide Common Council useful information, but sometimes, decisions need to be made for other reasons besides current want for water service. Surveys can also serve as a way to engage property owners on an upcoming project.

**OPTIONS**

- A) Direct Staff to survey property owners and return with a recommendation
- B) Direct Staff to not survey and proceed with design efforts.
- C) Direct Staff to not survey and do not proceed with design efforts.

**FISCAL NOTE**

Water impact fees are not applicable since an 8-inch water main is the expected system to be installed. There are annual budgets for miscellaneous water main extensions and the design could be covered in the 2022 budget (\$200,000) and next year's budget should consider the construction. In addition, the six homes would be subject to special assessment.

**RECOMMENDATION**

Instruct Staff to survey 6 property owners along the frontage road of S. Lovers Lane (U.S. 45 / STH 100) from W. Herda Place to S. Phyllis Lane and return to Common Council with an evaluation and recommendation of the project.

Engineering Department: GEM



<b>APPROVAL</b> <i>slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MTG. DATE</b> February 1, 2022
Reports & Recommendations	<b>A RESOLUTION TO ENTER LICENSE WITH WISCONSIN ELECTRIC POWER COMPANY TO USE THEIR PROPERTY FOR A LINEAR PARK FROM S. 116<sup>TH</sup> STREET / W. MAYERS DRIVE TO MUNICIPAL BOUNDARY WITH MUSKEGO</b>	<b>ITEM NO.</b> <b>G.10.</b>

**BACKGROUND**

Staff is working to develop the S. 116<sup>th</sup> Street Trail in the Wisconsin Electric Power Company (WE Energies) property. Specifically, the property is the now defunct Milwaukee Electric Railway and Light Company, also referred to as the Milwaukee Interurban Lines. There was a rail segment between Hales Corners and Waukesha that passed through St. Martins Junction.

The City has a 1994 agreement to locate an asphalt hiking and biking trail on the WE Energies property north of St. Martins and they are agreeable to working out a similar arrangement for this proposed section along the west side of S. 116th Street.

**ANALYSIS**

This needs to be finalized not only for the construction of a trail, but to proceed with permitting through the Wisconsin Department of Natural Resources that requires control of the land before a permit application is accepted.

The attached License Agreement was prepared by WE Energies and stipulates responsibilities to the City.

**OPTIONS**

Approve or Deny

**FISCAL NOTE**

Construction of a trail has significant implications on budget. But this license, in and of itself, only has impact on maintenance efforts.

**RECOMMENDATION**

Adopt Resolution 2021-\_\_\_\_\_ a resolution to enter license with Wisconsin Electric Power Company to use their property for a linear park from S. 116th Street / W. Mayers Drive to the municipal boundary with Muskego.

Engineering Department: GEM

STATE OF WISCONSIN : CITY OF FRANKLIN : MILWAUKEE COUNTY

RESOLUTION NO. 2022 - \_\_\_\_\_

RESOLUTION TO ENTER LICENSE WITH WISCONSIN ELECTRIC POWER COMPANY  
TO USE THEIR PROPERTY FOR A LINEAR PARK  
FROM S. 116TH STREET / W. MAYERS DRIVE  
TO MUNICIPAL BOUNDARY WITH MUSKEGO

-----

WHEREAS, the Wisconsin Electric Power Company (WE Energies) owns a rail segment property of the now defunct Milwaukee Electric Railway and Light Company, also referred to as the Milwaukee Interurban Lines that connected Hales Corners and Waukesha by passing through the St. Martins Junction; and

WHEREAS, the City is planning a pathway between the intersection of S. 116<sup>th</sup> Street and W. Mayers Drive, passing southerly crossing W. Road, and continuing to the municipal boundary with Muskego; and

WHEREAS, WE Energies is acceptable to the City to occupy the linear section of land to construct and maintain a pathway for public recreation; and

WHEREAS, the City is agreeable to the terms and conditions set forth in a lease agreement.

NOW, THEREFORE BE IT RESOLVED by the Mayor and Common Council of the City of Franklin, Wisconsin, that the City enter into a License Agreement with Wisconsin Electric Power Company to use their property for a linear park from S. 116th Street / W. Mayers Drive to municipal boundary with Muskego.

Introduced at a regular meeting of the Common Council of the City of Franklin the \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Alderman \_\_\_\_\_.

PASSED AND ADOPTED by the Common Council of the City of Franklin on the \_\_\_\_\_ day of \_\_\_\_\_, 2022

APPROVED:

\_\_\_\_\_  
Stephen R. Olson, Mayor

ATTEST:

\_\_\_\_\_  
Sandra L. Wesolowski, City Clerk

AYES \_\_\_\_ NOES \_\_\_\_ ABSENT \_\_\_\_ GEM



## LICENSE AGREEMENT

THIS LICENSE, Made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2022, by and between **Wisconsin Electric Power Company, a Wisconsin corporation, doing business as We Energies**, hereinafter referred to as "Licensor", and **City of Franklin, a municipal corporation**, hereinafter referred to as "Licensee", (Individually sometimes referred to as "Party", collectively as "Parties").

### WITNESSETH:

Licensor, for and in consideration of the covenants, conditions, and agreements hereinafter contained, hereby grants license and permission unto Licensee, to develop, at Licensee's sole cost and expense, and use a part of Licensor's right of way lands (hereinafter "Lands") as a recreation trail (hereinafter "Premises") and to place thereon a trail for hiking, biking, and cross-country skiing and other similar non-motorized recreational uses (hereinafter "Trail") for use by the general public and for no other purpose or purposes whatsoever (except those purposes as may be determined by Licensor for its own use), which Premises is located west side of South 116<sup>th</sup> Street starting in front of 8139 S 116<sup>th</sup> Street heading south along S 116<sup>th</sup> Street then Southwesterly and then running parallel with W Loomis Road ending at Waukesha County (county line), being a part of the Westerly ½ of Sections 18 and 19 and Northwest ¼ of Section 30, Township 5 North, Range 21 East, City of Franklin in Milwaukee County, Wisconsin., The general location of said Lands and Premises is shown highlighted on the maps marked Exhibit "A", attached hereto and made a part hereof

The License and permission herein granted is subject to the following conditions.

- 1 **Term:** The term of this License Agreement (hereinafter "License") shall be for a period of five (5) years (hereinafter "Initial Term") and continue thereafter on a year to year basis subject to termination as hereinafter provided This License shall commence on the above date which is the date the last of the Parties hereto executed this License (hereinafter "Commencement Date")
- 2 **Termination:** Upon expiration of the Initial Term, this License may be terminated at any time by either Party hereto by providing at least 90 days prior written notice to the other Party of such termination. Notwithstanding any of the terms and conditions contained herein, should Licensor require exclusive use of any part of its Lands, including the Premises, for its purposes, then Licensor may, at any time, including during the Initial Term, terminate the License in whole or in part on such part or parts of the Lands or Premises it requires, and Licensee shall, not later than 90 days after receiving notice of such termination, at its sole cost and expense, relocate, remove or re-route the Trail from such part or parts of the Lands
3. **Non Use:** Licensee shall have one (1) full year, beginning at the Commencement Date of this License, to begin construction of the Trail and one (1) full year after the start of construction to complete construction, as permitted herein If Licensee fails to begin construction of the Trail within one (1) year of the Commencement Date or complete construction of the Trail within one (1) year, this License shall terminate immediately without notice from Licensor.
- 4 **Base Rent:** During the Initial Term and extensions thereto, no Base Rent shall be due.
- 5 **Assignment:** Licensee shall not assign this License nor permit any transfer by operation of law or otherwise of the interest in the herein-described Premises acquired through this License unless otherwise approved by Licensor in writing.
- 6 **Acceptance of Premises:** Licensor offers and Licensee agrees to take the Premises in an "as is" condition and Licensor makes no warranty or representation of any kind as to the condition, quality or suitability of the soil, subsoil

or surfacing of the Premises and Lands or anything thereon or therein, unless the same is specifically set forth in this License, for the purposes to which Licensee will utilize the Premises. Licensee has examined the Premises described hereinabove and knows the condition thereof and no representations as to the condition and repair thereof and no agreements to make any alterations, repairs or improvements in or about the licensed Lands and Trail have been made by Licensor. Licensee's taking possession of the Premises shall be conclusive evidence as against Licensee that the Premises were in good order and satisfactory condition for use as a Trail and other permitted ancillary uses. Licensor shall not be liable for any damages arising from acts or neglect of Licensee or its invitees or users of the Premises, whether authorized to use the Lands and Premises or not.

7. **Permitted and Prohibited Uses:** The Premises shall be used for the purpose of constructing, installing, operating, maintaining, using, repairing, and removing a **gravel or asphalt** recreation trail and permitted appurtenances thereto for hiking, biking, and cross-country skiing and other similar non-motorized recreational uses and for no other reason whatsoever. No vehicles, trucks, cars or equipment are to be parked or materials stored on said Lands or Premises at any time without specific written approval of Licensor. Furthermore, the Licensee agrees that no motorized vehicles, including but not limited to cars, trucks, snowmobiles, motor bikes, mini-bikes, motorcycles, mopeds, go-carts and all-terrain vehicles will be used, operated or permitted on the Lands or Premises. However, Licensee shall be permitted to use motorized vehicles for the patrol, maintenance and other permitted uses of the Lands and Premises. The Licensee also agrees that no horses will be used or permitted on the Lands and Premises. Licensee agrees that no kites, model airplanes or similar or dissimilar objects that may come in contact with or in close proximity to the facilities of Licensor or the American Transmission Company LLC (hereinafter "ATC") and its successors and assigns, will be used, operated or permitted on the Lands and Premises.
8. **Signage:** Licensee shall not place or maintain or allow to be placed or maintained by any person or persons, any signs or advertising billboards upon the Lands or Premises at any time, except as required or permitted by this Section. Licensee shall install and maintain signs that are necessary to identify Licensee's Trail and occupancy of the Lands and Premises at every road crossing and at least every 2,600 feet along the Trail or more frequently as desired by Licensor. Such identification signs shall include the We Energies approved corporate logo and shall state "In cooperation with We Energies" or such other signs as Licensor may reasonably require. Licensee further agrees to post, maintain at all times, and if necessary, replace signs that expressly state the uses that are permitted and prohibited under Section hereof. In addition, Licensee hereby agrees to post safety and traffic signs along the Trail and at road crossings, railroad crossings, driveways, farm crossings and any other vehicular crossings along the Trail. All signs must be approved by Licensor prior to erection or installation on the Lands or Premises.
9. **Zoning and Permits:** Licensee hereby agrees that Licensor has made no representations that the Premises are properly zoned for the proposed use by Licensee, and it is expressly understood that Licensee hereby assumes any and all obligations and responsibilities with respect to compliance with all applicable zoning laws and ordinances of any regulatory bodies which may have jurisdiction. Any change in zoning must be approved by Licensor. This License is conditioned on Licensee's obtaining all necessary permits and authority for the proposed use. All permits required hereunder shall be acquired by Licensee at its sole cost and expense. If permits are required, a copy of the final permits must be provided to the Licensor prior to the commencement of any work on the Lands or Premises by Licensee and upon reasonable time for Licensor to review the permits.
10. **Governmental Jurisdiction:** Licensee shall, in the use and occupancy of the Premises, comply with all laws, ordinances, rules and regulations of the City of Franklin, Milwaukee County, State of Wisconsin and all other governmental bodies having jurisdiction, over the operation of Licensee's or Licensor's business or occupation of the Lands and Premises.
11. **Construction and Other Liens:** Licensee shall have no authority, express or implied, to create or place any lien or encumbrance of any kind or nature whatsoever upon, or in any manner to bind, the interest of Licensor in the Premises or Lands or to charge the Base Rent payable hereunder, if any, for any claim in favor of any person.

dealing with Licensee, including those who may furnish materials or perform labor for any construction or repairs Licensee covenants and agrees that it will pay or cause to be paid all sums legally due and payable by it on account of any labor performed, materials, services or supplies furnished in connection with any work performed on the Premises and Lands by or at Licensee's direction on which any lien is or can be validly and legally asserted against its interest in the Premises or the improvements thereon and that it will save and hold Licensor harmless from any and all loss, liability, cost or expense, including costs of suit and reasonable attorney's fees, based on or arising out of asserted claims or liens against the Leasehold estate or against the right, title and interest of the Licensor in the Premises and Lands or under the terms of this License Licensee will not permit any construction lien or any other liens which may be imposed by law affecting Licensor's or its mortgagees' interest in the Premises and Lands to be placed upon the Premises or Lands arising out of any action or claimed action by Licensee, and in case of the filing of any such lien Licensee will promptly pay same Licensee shall provide Licensor with Lien Waivers from all contractors and subcontractors for all work performed and material and services supplied by or on its behalf at the Premises or Lands If any such lien shall remain in force and effect for ten (10) days after written notice thereof from Licensor to Licensee and Licensee has not posted with Licensor a bond in the amount of at least 125% thereof, Licensor shall have the right and privilege of paying and discharging the same or any portion thereof without inquiry as to the validity thereof, and any amounts so paid, including expenses and interest, shall be so much Additional Rent hereunder due from Licensee to Licensor and shall be paid to Licensor immediately on presentation of a bill therefor. Notwithstanding the foregoing, Licensee shall have the right to contest any such lien in good faith and with all due diligence so long as any such contest, or action taken in connection therewith, protects the interest of Licensor and Licensor's mortgagee in the Lands, and Licensor and any such mortgagee are, by the expiration of said ten (10) day period, furnished such protection, and indemnification against any loss, liability, cost or expense related to any such lien and the contest thereof as are satisfactory to Licensor and any such mortgagee If Licensee has posted a bond with Licensor in the amount of 125% of the liens, such liens can and will be cleared within 180 days of filing. However, Licensor reserves the right at any time prior to the expiration of said 180 day period to make a demand on said bond to clear its title in the event such liens would prevent Licensor's lawful use or transfer of its property in any way or to prevent any loss of Licensor's fee simple ownership rights. Licensor reserves the right to make demand on any such bond immediately upon expiration of said 180 day period Licensor agrees to notify Licensee of its intent to secure the release of any such liens from the posted bond No temporary or permanent construction may occur in wetlands If any work is proposed within wetlands, the Licensee must obtain the appropriate permits from the Wisconsin Department of Natural Resources ("WDNR") and the Army Corps of Engineers ("ACOE"). The Licensee must provide a copy of the application and final permits to Licensor prior to working within the wetland and provided Licensor has reasonable time to review said permits.

- 12 **Diggers Hotline:** Licensee shall contact Diggers Hotline at (800) 242-8511 to locate any underground facilities at least five (5) days prior to any work, excavation or construction on the Lands and Premises in order to determine the location of electric, telephone, water, communication and natural gas facilities within the Lands, Premises and surrounding lands in the vicinity of the contemplated work and the applicable clearance requirements for work performed in the proximity of such facilities.
- 13 **Plan Review and Approval:** Licensee shall submit to Licensor and to ATC for its review and written approval, detailed site plans and construction drawings (hereinafter "Plans") showing the proposed location of the Trail with respect to the Lands and Utility Facilities, which Plans shall also include proposed grade changes, Trail cross sections, signs and other improvements to the Premises which Licensee desires to construct or install If Licensee intends to use any fill on Licensor's Lands, Licensee shall include the type and source of any fill material on the Plans and any fill material used shall be subject to inspection and analysis by Licensor for the presence of Hazardous Material as defined in Section \_\_\_\_\_ hereinafter Licensee will not install or construct or permit to be installed or constructed, any improvements upon, or make any alterations or substantive changes to the approved plans for the Premises without first submitting plans and specifications to Licensor and receiving Licensor's approval thereof

- 14 **Height Restrictions:** Licensee hereby agrees that no vehicles or equipment will be used, stored operated or permitted on the Lands or Premises having a height in excess of 12 feet above original ground grade level, unless otherwise approved in writing by Licensor and/or ATC as their respective interests lie.
- 15 **Runoff Control:** Licensee and its contractors shall follow those best management practices to prevent or control site runoff and erosion in accordance with the Wisconsin Department of Natural Resources (hereinafter "WDNR") publication "Wisconsin Construction Site Best Management Practice Handbook " It shall also be the responsibility of the contractor to determine if and when a permit to discharge storm water associated with a construction activity as per Wisconsin NR 216, or subsequent statute, law, ordinance, act, rule or regulation, is required. Following the completion of Licensee's work, all adjoining areas shall be restored
- 16 **Drainage and Grade Changes:** Licensee shall be permitted, at its sole cost and expense, to grade, level, and apply crushed stone and/or asphalt paving and plant grass on the Trail and Premises as may be permitted by Licensor except that the Licensee shall not in any manner alter or change the original ground grade level of the Premises, or alter in any manner the drainage on the Lands or Premises without obtaining written permission from Licensor Licensor, at its sole discretion, may require Licensee to install such drainage facilities as Licensor may deem necessary to adequately drain the Lands and Premises, which facilities are made necessary due to or arising out of any filling, grading, leveling, paving or use by the Licensee hereunder All such drainage facilities (including culverts, storm sewers, ditches, etc ) shall be installed by and at the expense of the Licensee and to the complete satisfaction of Licensor. Any existing culverts that run beneath Licensor's lands must be maintained or enhanced, they can not be removed, filled or otherwise blocked.
- 17 **Maintenance and Landscaping:** Licensee shall, at its sole cost and expense, keep the Licensed Lands and Premises routinely mowed, free of weeds and to trim and/or cut down any trees and shrubs to the satisfaction of the local Weed Commissioner and Licensor. Licensor reserves the right to trim and/or cut down any trees and shrubs on the Lands and Premises Licensee further agrees that it shall maintain the entire Premises as a Trail as described hereinabove, and perform such other landscaping maintenance necessary to maintain an appearance suitable to such use as a Trail for biking, hiking and cross-country skiing and other similar non-motorized recreational uses. Licensee shall not plant any trees or shrubs on the Lands or Premises without the express written permission of the Licensor. Licensee agrees to keep the Lands and Premises clean and free from all debris, rubbish, litter and trash Licensee shall be permitted or upon request of Licensor, to place trash containers at convenient locations on the Premises Such containers shall be emptied on a regular basis, prior to overflowing or creating a nuisance, by Licensee
- 18 **Work Standards:** During construction, use of and repairs or maintenance to the Lands or Premises pursuant to this License, while in proximity to electrical conductors or gas facilities presently existing or to be installed at some future date, Licensee hereby agrees to conform to all laws, rules, ordinances, acts and regulations such as O S H.A. Safety and Health Regulations for Construction dealing with safe work practices and the operation of equipment near electrical lines and equipment and the provisions and requirements of the Wisconsin Administrative Code, Rules of the Department of Commerce and any amendments thereto. Licensee shall, at all times, comply with the provisions of the Wisconsin State Electric Code, compiled by the Department of Commerce and the Public Service Commission of Wisconsin, and all amendments thereto. Any work done by Licensee on the Lands or Premises shall be performed in such a manner as not to interfere with the use of Licensor's Lands for electric lines, gas lines, communication lines and related or unrelated facilities, both overhead and underground, which presently exist or might be installed at a later date
- 19 **Damage to Facilities:** Licensee hereby agrees to effectively prevent damage to electrical facilities, communication facilities or related facilities due to or arising out of the construction, installation, operation, maintenance, repairs, removals and use of the Lands and Premises by Licensee, its employees, agents, contractors, customers or invitees In the event the Lands, Premises or adjoining lands or existing electrical and

communication facilities or related or unrelated facilities thereon are damaged as a result of activities conducted on or in any way connected with Licensee's construction, installation, operation, maintenance, repairs, removals or use of the Lands or Premises by Licensee, its employees, agents, contractors, customers or invitees, repairs shall be completed by or at the direction of Licensor and paid for by Licensee upon presentation of a bill therefor

- 20 **Movement of Licensor Facilities:** In the event it is necessary for Licensor, ATC or existing tenants, permittees or licensees to reconstruct, protect, modify, adjust, replace or relocate its facilities due to the aforementioned use of Licensor's Lands and/or the construction, operation, maintenance or existence of Licensee's facilities, Licensee agrees to promptly reimburse Licensor, ATC or such affected tenants, permittees or licensees upon presentation of a bill for the costs and expenses incurred by Licensor as a result thereof but Licensee shall be given the option of moving or relocating its material and equipment to reduce or eliminate costs associated herewith
- 21 **Proximity to Gas Lines/Facilities:** During construction, installation, operation, maintenance, repairs, removals and use of the Lands and Premises pursuant to this License, while in proximity to gas lines and gas facilities presently existing or to be installed at some future date, Licensee hereby agrees to exercise due caution, comply with all applicable safety laws and regulations and take or suffer no action which results in the gas lines or gas facilities being placed in violation of any applicable law or regulation. In the event the Lands, Premises, adjoining lands or existing gas facilities or related facilities thereon are damaged as a result of activities conducted on or in any way connected with Licensee's construction, installation, operation, maintenance, repairs, removals or use of the Lands or Premises by Licensee, its employees, agents, contractors, customers or invitees, repairs shall be completed by or at the direction of Licensor and paid for by Licensee upon presentation of a bill therefor.
- 22 **Solid Waste:** Licensee shall not cause or permit any solid wastes to accumulate or be stored in or about the Lands or Premises. All solid wastes shall be properly stored, handled and routinely disposed of off the Lands and Premises in a manner that complies with applicable federal, state and local laws, codes and/or regulations. Licensee shall not store, handle or dispose of solid wastes in a manner that will pollute or contaminate the atmosphere, ground or water or which may adversely affect the health, welfare or safety of persons whether located on the Lands, Premises or elsewhere
- 23 **Hazardous Materials:** Licensee its agents, employees, contractors, and invitees shall not cause or permit any Hazardous Material to be brought upon, kept, or used in or about the Lands or Premises or Licensor's adjoining lands The use and/or storage of Hazardous Material by or for any assignee is prohibited Licensee shall not discharge, leak, or emit, or permit to be discharged, leaked, or emitted, any material into the atmosphere, ground, storm water or sanitary sewer system, or any body of water, if such material (as determined by the Licensor or any governmental authority) does or may pollute or contaminate the same, or may adversely affect (a) the health, welfare, or safety of persons, whether located on the Lands, Premises or elsewhere, or (b) the condition, use, or enjoyment of any other real or personal property

As used herein, the term "Hazardous Material" means

- a Any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976, as amended from time to time, and regulations promulgated thereunder;
- b Any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended from time to time, and regulations promulgated thereunder;
- c Any oil, petroleum products, and their byproducts, and

- d Any substance which is or becomes regulated by any federal, state, or local governmental authority

Licensee agrees that it shall be fully liable for all costs and expenses related to the use, storage, and disposal of Hazardous Material kept on the Premises or Lands by the Licensee and the Licensee shall give immediate notice to the Licensor of any violation or potential violation of the provisions of this Section \_\_\_\_\_. Licensee shall defend, indemnify, and hold harmless Licensor and its agents from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs, or expenses (including, without limitation, attorneys' and consultant fees, court costs, and litigation expenses) of whatever kind or nature, known or unknown, contingent or otherwise, arising out of or in any way related to:

- aa The presence, disposal, release, or threatened release of any such Hazardous Material which is on, from, or affects soil, water, vegetation, buildings, personal property, persons, animals, or otherwise,
- bb Any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Material;
- cc Any lawsuit brought or threatened, settlement reached, or government order relating to such Hazardous Material; or
- dd Any violation of any laws applicable thereto The provisions of this Section shall be in addition to any other obligations and liabilities Licensee may have to Licensor at law or equity and shall survive the transactions contemplated herein and shall survive the termination of this License.

Provided Licensee is not in violation of any federal, state or local laws, rules, ordinances or orders existing at the signing hereof or at some future date pertaining to vehicular discharge, leak, release or emission of any antifreeze, oil, petroleum products and their byproducts from Licensee's vehicles or those of its employees, contractors, visitors and invitees affecting the Premises and Lands and provided any such discharge, release or emission is in the typically small amounts associated with parking lot and driveway usage, Licensee shall not be considered to be in violation of this Section Any larger discharge, leak, release or emission of antifreeze, oil, petroleum products and their byproducts resulting in pooling or runoff of the products must be quickly and thoroughly cleaned up by Licensee and properly disposed of off Licensor's lands or Licensee will be considered in violation of this Section

Licensee shall not be considered in violation of this Section due to the presence of fuel in the fuel tanks of its vehicles or the vehicles of its employees, agents, contractors and invitees

Nothing contained herein shall be construed to preclude Licensee from using Hazardous Materials in the routine maintenance of the Lands or Premises without the prior consent of Licensor so long as such materials are readily available to the general public or are applied by a contractor licensed for such application and are used in compliance with federal, state or local laws and regulations for its intended purpose and is applied in the manner and quantities recommended by the product manufacturer and the Wisconsin Department of Agriculture, Trade and Consumer Protection.

- 24 **Job Inspector Notification:** Licensee agrees to contact Rollie Simatic 414-944-5955 or such other person or phone number as Licensor may from time to time designate, within the specified time limits to inform him about the following occurrences.

- a) At least seven (7) days prior to the commencement of the project herein permitted

- b) Within seven (7) calendar days after the termination of the License herein permitted with a plan for restoration.
- c) Within seven (7) calendar days after the restoration has been completed
- d) Within seven (7) calendar days after a lapse of six (6) months since Licensee accepted this License if the project herein permitted has not been undertaken by such date, within seven (7) calendar days after each six (6) month interval thereafter until the project herein permitted is undertaken

It is not Licensor's intent to serve as or in lieu of a building inspector, but to serve and protect Licensor's interest in the Lands and Premises and other improvements and its communication, electrical, gas and other facilities. In the event Licensor's inspector(s) reasonably determines that communication, electric, gas or other facilities of Licensor are in danger of being damaged or certain construction activity poses a threat to human life, Licensee hereby agrees that Licensor's inspector(s) is empowered to immediately shut down and stop all threatening activity and the work shall not restart until Licensor's inspector is satisfied that the dangerous situation has been resolved to his or her satisfaction. The cost of Licensor's reasonable supervision shall be itemized and billed separately to Licensee and Licensee agrees to promptly reimburse Licensor for its reasonable cost

- 25 **Indemnification/Insurance:** Licensee hereby agrees to indemnify, save and hold harmless Licensor, its affiliated corporations and their respective directors, officers and employees against any and all loss, cost, liability, damage and expense, including attorney's fees incurred by Licensor on account of any injury to or death of any person or persons whomsoever or on account of damage to property sustained by any person or persons whomsoever caused by, connected with or arising directly or indirectly, wholly or in part, from any use, permitted or not, or operation of the Lands and Premises resulting in any manner from the privileges herein given and whether authorized for such use or not, or the failure of Licensee to observe the covenants of this License; excepting, however, any claims or actions arising out of the sole negligence or willful acts of Licensor. Licensee agrees to deliver to the Licensor a certificate to the effect that it has in full force and effect a comprehensive general liability insurance policy, which may be supplemented by an umbrella policy, issued by a reputable insurance company and Bodily Injury Liability coverage in the amount of \$1,000,000 each person, \$2,000,000 each accident, and Property Damage Liability coverage in the amount of \$250,000 each accident, and further providing that Licensor will receive at least ten (10) days notice in writing of any cancellation thereof and naming Licensor as an additional insured. Licensee agrees to continue such insurance in force during the entire term of this License, and shall furnish like certificates for any renewal thereof
- 26 **Safety and Protection:** The Licensee hereby agrees, at its sole cost and expense, to erect and maintain any barricades, guard rails, fencing, and/or safety devices for protection as they relate to the protection of the Licensor's and ATC's electric facilities, gas facilities and related construction and operational procedures. The Licensee agrees to maintain the same in good condition, repair and appearance at all times. Licensee will submit to Licensor any and all plans and specifications for the installation of barricades, guard rails, fencing and/or safety devices or protection which may be installed on the Lands and Premises and such installations shall not be made without the consent and prior written approval of Licensor. No fencing, barricades or other improvements shall be installed or erected for any purpose which will obstruct, interfere with or impede the free access of Licensor or ATC to the Lands, Premises or facilities
- 27 **Galvanic/Stray Current/Grounding:** Licensee agrees to release Licensor from any responsibility for damage or personal injury resulting from electromagnetic fields electrolysis due to local galvanic or stray current conditions on or along said Lands. Further, Licensee agrees to assume all costs for electrolysis protection. All improvements, including bridges, shall be grounded unless otherwise approved in writing by Licensor.

- 28 **Removal of Improvements:** Licensee hereby agrees, upon the expiration or early termination of this License by forfeiture, lapse of time or otherwise, if so requested in writing by Licensor, to remove promptly, at its sole cost and expense, all or part of its improvements including Trail surfaces and drainage structures from the Lands or Premises. In the event Licensee cannot or is unable or unwilling to remove said improvements and related facilities as directed by Licensor, Licensee hereby authorizes Licensor to do so, and Licensee hereby agrees to reimburse Licensor for any and all expenses incurred in connection therewith, including restoration as hereinafter required, upon presentation of a bill therefor, and Licensee hereby agrees to indemnify and save harmless Licensor from all liability of any kind whatsoever that Licensor may have incurred by such removal.
- 29 **Restoration:** Licensee agrees to restore or cause to restore the Lands and Premises of Licensor to the condition existing prior to any disturbance to such Lands and Premises. Licensee further agrees that upon the earlier termination or expiration of this License by either Party, the Lands, including the Premises shall be restored to the condition existing prior to any disturbance or improvement from the aforementioned use of Lands and Premises. Included, but not limited to, in such restoration, after construction and subsequent to termination of this License, shall be the spreading of topsoil and sowing perennial type grass seed on any disturbed areas, replacement of crushed stone and/or paved surfacing, replanting of shrubs and other ground cover and repair of fences and gates or other damages incurred due to or arising out of the permission herein given.
- 30 **Snow Plowing:** Licensee shall be permitted to plow, but not pile, the snow on the Premises in the event it desires to do so.
- 31 **Taxes:** During the License Term, Licensee shall be responsible for all taxes on the Licensed Space, such taxes being defined as any and all federal, state and local governmental, quasi-governmental or public authority taxes, assessments and charges of any kind or nature, whether general, special, ordinary or extraordinary (but not including income or franchise taxes or any other taxes imposed upon or measured by Licensor's income or profits, except as provided below), or payments to governmental authorities in lieu thereof, whether or not in contemplation of the parties to this License, which Licensor shall pay or become obligated to pay because of or in connection with the ownership, renting, or operation of the Licensed Space (including but not limited to charges for the installation, maintenance, repair and replacement of sewer/water, curb, gutter and roadway) and of the personal property, fixtures, machinery, equipment, systems and apparatus located thereon or used in connection therewith. Taxes shall include, without limitation, all real and personal property taxes (attributable to the year in which paid), sales taxes, assessments (special or otherwise), fire inspections, transit taxes and ad valorem taxes but shall not include penalties or late fees thereon unless the penalty and/or late fees are directly attributable to Licensee. Taxes shall also include all fees, costs and expenses (including, legal fees and court costs) paid by Licensor in connection with protesting or contesting or seeking a refund or reduction of and/or negotiating with public authorities with respect to any of the aforesaid taxes, regardless of whether Licensor is ultimately successful. If at any time during the term hereof, a tax or excise on rents or other tax however described, other than an income tax, is levied or assessed by the United States or the State of Wisconsin, or any political subdivision thereof, on account of the rents hereunder or the interest of Licensor under this License, such tax shall constitute and be included in taxes. Any taxes paid by Licensor hereunder shall be reimbursable to Licensor by Licensee as Additional Rent.
- 32 **Breach of License:** In the event Licensee shall breach or violate any of the terms, conditions or provisions of this License, or if any governmental agency having jurisdiction shall serve any demand, order or notice, including violations relating to zoning or municipal ordinances, upon Licensor or Licensee, the Licensee shall, at its sole cost and expense, correct said breach or violation and comply with said demand, order or notice within 30 days of its receipt of such written notice or as stated within said demand, order or notice. In the further event that Licensee does not correct said breach or violation or comply with said demand, order or notice within the required time period, it shall be lawful for Licensor, without liability to Licensee, without notice or demand, to declare said License terminated and to re-enter the Premises either with or without process of law and to expel,



remove and put out Licensee or any person or persons occupying the Premises, using such force as may be necessary so to do and to repossess and enjoy the Lands and Premises again as before this grant of License without prejudice to any remedies which might otherwise be used for the preceding breach of covenants, Licensee hereby expressly waiving all right to any notice or demand under any statute relating to forcible entry and detainer. The decision of Licensor shall be final and binding upon Licensee concerning any breach or default in the covenants and agreements contained in this License. Licensee shall be liable to Licensor for any and all costs incurred, including reasonable attorneys' fees owing to or arising out of any action taken pursuant to this provision in which Licensor prevails.

- 33 **Licensor Right to Enter:** The Licensor reserves unto itself and ATC and for their employees, agents and contractors the right, at any time, to enter upon the Lands and Premises by any means necessary i) for performing studies, gathering of air, water, soil and other material samples, ii) for inspection of the Premises in order to verify Licensee's compliance with the Lease terms, iii) for access to Licensor's Lands including the Premises, iv) to inspect, patrol, construct, install, operate, maintain, replace and repair electric lines, gas lines, communication equipment and related and unrelated facilities and equipment, both overhead and underground, upon, over, across, in and beneath the Premises and the Lands without liability to Licensee, the same as though this License had not been entered into. Licensor or ATC through Licensor may, without liability to Licensee, require Licensee to immediately vacate all or part of the Premises upon notice to do so in the event Licensor deems it necessary to make emergency repairs to its facilities. In the event it becomes necessary for Licensor or ATC to install or erect additional electric lines, natural gas lines, communication lines and/or related facilities at some future date, Licensee hereby agrees to vacate as much of the Premises as Licensor and/or ATC deems necessary and for such periods of times as may be necessary to install, modify, reconstruct or erect such facilities upon receipt of notice from Licensor to do so. Licensor and/or ATC shall perform and complete all work under this Section as quickly as is reasonable possible to minimize the inconvenience to Licensee.

Licensee further agrees that it shall immediately vacate the Premises and close down the Trail upon notification by Licensor that weather conditions exist or may develop which could cause dangerous conditions such as icing on trees and wires.

- 34 **Paramount Rights:** The rights of the Licensor and ATC to utilize the Lands and Premises in their utility business will at all times be and remain paramount to the rights herein granted to Licensee and nothing stated herein is to be construed as restricting Licensor from granting rights to other Parties or persons in, upon or under the Lands and/or Premises for but not limited to driveways, streets, sidewalks, sewers, water pipes and mains, drainage tiles and pipes, gas mains and pipelines, communication circuits and other allied uses. It is understood and agreed that this License is subject to all existing easements, grants and licenses.
- 35 **Fees and Charges:** As a condition of the agreement, Licensee shall not charge at any time fee for the use of the Trail except that Licensee may be permitted to charge a fee for group activities or special events upon written consent of Licensor, which consent shall not be unreasonably withheld.
- 36 **Alcoholic Beverages Prohibited:** Licensee covenants and agrees that alcoholic liquors or beverages are not permitted on the Lands and Premises.
- 37 **Police Protection:** Licensee shall be permitted to provide or arrange for the provision of all law enforcement and shall be permitted to reasonably require such law enforcement personnel to patrol the Premises as it deems reasonable under this License.
- 38 **Notices:** All notices to Licensor shall be sent by a reputable overnight delivery service, registered or certified mail, addressed to Wisconsin Electric Power Company, Property Management, Room A252, 231 West Michigan Street, Milwaukee, Wisconsin 53201, or at such other address or place as Licensor may from time to time.

designate in writing Personal delivery with a signature acknowledgement of receipt by Licensor is always an acceptable means of delivery

All notices to Licensee shall be sent by a reputable overnight delivery service, registered or certified mail addressed to City of Franklin, Engineering Department Attn. City Engineer 9229 W Loomis Road, Franklin, Wisconsin 53132 or at such other place as Licensee may from time to time designate in writing. Personal delivery with a signature acknowledgement of receipt by Licensee is always an acceptable means of delivery

- 39 **Waiver of Terms and Conditions:** Failure of Licensor or Licensee to enforce or insist upon compliance with any of the terms or conditions of this License shall not constitute a general waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in full force and effect.
- 40 **Costs and Attorney Fees:** Licensee shall pay and discharge all reasonable costs, expenses and attorney fees that may be incurred or paid by Licensor in enforcing the covenants and agreements of this License where litigation is not commenced. In the event litigation is commenced by Licensor or Licensee to enforce any provision of this License, the prevailing Party (as determined by a judgment in favor of one Party or the other) shall be entitled to recover from the other, as additional costs, its reasonable attorney fees and costs incurred in connection with such action.
- 41 **No Joint Venture:** The agreements contained herein are not intended, nor shall the same be deemed or construed, to create a partnership between Licensor and Licensee, to make them joint ventures, nor to make Licensor in any way responsible for the debts or losses of Licensee
- 42 **Obligations Survive:** All obligations of Licensee hereunder not fully performed as of the expiration or earlier termination of the term of this License shall survive the expiration or earlier termination of the term hereof, including without limitation, all payment obligations with respect to taxes and all obligations concerning the condition of the Lands.
- 43 **Binding Effect:** The covenants and agreements herein contained shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns, except as otherwise provided in Section hereof.
- 44 **Captions:** The captions in this License are inserted only as a matter of convenience and for reference and in no way define, limit, construe or describe the scope or intent of such sections or paragraphs of this License nor in any way affect this License
- 45 **Severability of Provisions:** If any term, covenant or condition of the License or the application thereof to any person or Party or circumstance shall, to any extent, be invalid or unenforceable at any time, the remainder of the License, or the application of such term, covenant or condition to persons, Parties, or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this License shall be valid and be enforced to the fullest extent permitted by law
- 46 **Interpretation:** The laws of the State of Wisconsin shall govern the validity, performance and enforcement of this License. Whenever the singular number is used, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders
- 47 **Acceptance:** Licensee hereby accepts this License upon the terms, conditions, restrictions hereinbefore set forth, and do covenant to keep and perform each and every one of said terms conditions and restrictions

The covenants herein contained shall bind the Parties mutually and their respective successors and assigns

**IN WITNESS WHEREOF**, the said **WISCONSIN ELECTRIC POWER COMPANY** has caused these presents to be signed by Tonya M Peters, its Manager of Property Management on the \_\_\_\_\_ day of \_\_\_\_\_, 2022, and the said \_\_\_\_\_, has caused these presents to be signed by its \_\_\_\_\_ and its \_\_\_\_\_ and its corporate seal to be hereunto affixed this \_\_\_\_\_ day of \_\_\_\_\_, 2022

In Presence Of

**WISCONSIN ELECTRIC POWER COMPANY**  
(Licensor)

\_\_\_\_\_

By \_\_\_\_\_  
Tonya M. Peters, Manager of Property Management

**CITY OF FRANKLIN**  
(Licensee)

\_\_\_\_\_

By \_\_\_\_\_  
Stephen R Olson, Mayor

By \_\_\_\_\_  
Sandra L. Wesolowski, City Clerk

By \_\_\_\_\_  
Bryan Tomczak, Director of Finance and Treasurer

Approved as to form by \_\_\_\_\_ Date. \_\_\_\_\_  
Jesse A Wesolowski, City Attorney



PROGRESS PLANS  
NOT FOR CONSTRUCTION  
January 26, 2022

CITY OF FRANKLIN  
PLAN OF PROPOSED IMPROVEMENT

S. 116TH STREET TRAIL  
COUNTY LINE TO W. MAYERS DR

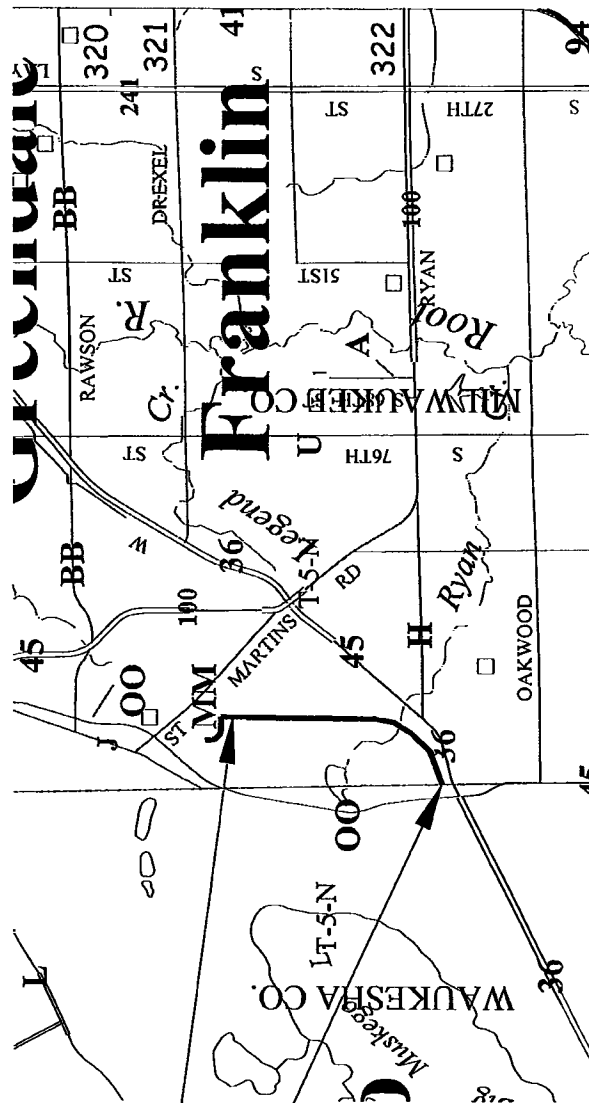
MILWAUKEE COUNTY

GRAEF PROJECT NUMBER  
2020-0291

ORDER OF SHEETS

- Section No. 1 Title
- Section No. 2 Typical Sections and Details
- Section No. 3 Estimate of Quantities
- Section No. 4 Miscellaneous Quantities
- Section No. 5 Right of Way Plan
- Section No. 6 Plan and Profile
- Section No. 7 Standard Detail Drawings
- Section No. 8 Sign Plans
- Section No. 9 Structure Plans
- Section No. 10 Computer Benchmark Data
- Section No. 11 Cross Sections

TOTAL SHEETS =



END S. 116TH STREET TRAIL PHASE 2  
BEGIN S. 116TH STREET TRAIL PHASE 1  
STA 179+25

BEGIN S. 116TH STREET TRAIL PHASE 2  
STA 67+94.00  
Y 238,126.14  
X 563038.25

	PROFILE
	CONVENTIONAL LIMITS
	PROPERTY LINE
	LIMITED HIGHWAY EASEMENT
	EXISTING RIGHT OF WAY
	PROPOSED OR NEW R/W LINE
	SLOPE INTERCEPT
	REFERENCE LINE
	EXISTING CULVERT
	PROPOSED CULVERT
	CONDUITS FOR FLUIDS
	MARSH AREA
	WOODED OR SHRUB AREA
	TELEPHONE POLE
	POWER POLE
	WATER
	SANITARY SEWER
	STORM SEWER
	GAS
	ELECTRIC
	FIBER OPTIC
	SLOPE INTERCEPT
	GRADE ELEVATION
	SPECIAL DITCH
	MARSH OR ROCK PROFILE
	ORIGINAL GROUND

SCALE 0 1mi  
LAYOUT  
TOTAL NET LENGTH OF CENTERLINE 2.5 MILES

HORIZONTAL POSITIONS SHOWN ON THIS PLAN ARE WISCONSIN  
NAD 83 COORDINATE SYSTEM (MDCRS), MILWAUKEE COUNTY NAD83  
(2011) IN U.S. SURVEY FEET  
ELEVATIONS ARE REFERENCED TO NAVD 83 (2011). GPS DERIVED  
ELEVATIONS ARE USED ON GRID 12.

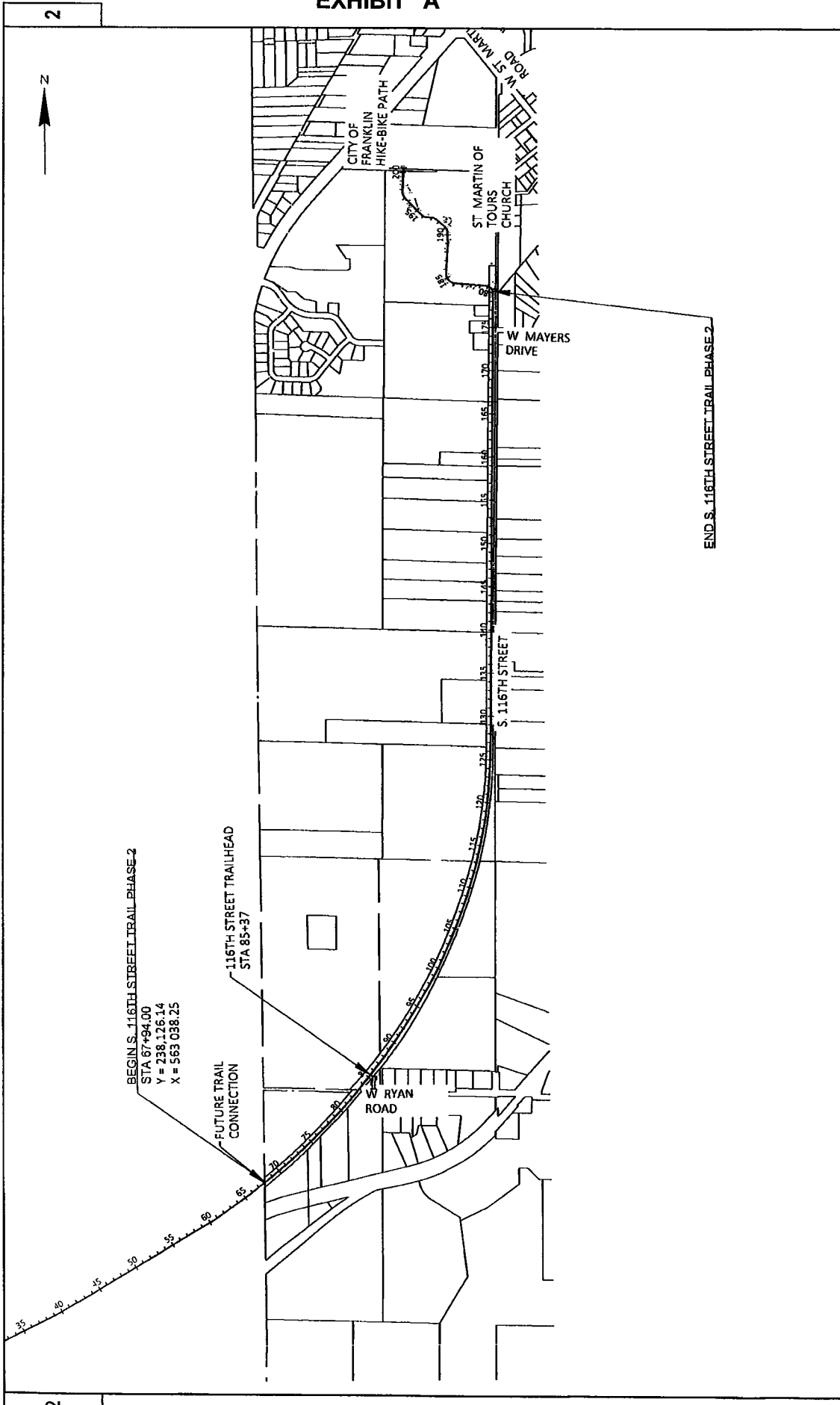
FILE NAME: X:\VAL\2020\2020\210\SRM\TRANSPORTATION\SRM\PLAN\2020\_01\_11.DWG

PLOT DATE: 1/26/2022 1:00 PM

PLOT BY: STAMMER, JEFFREY

E

EXHIBIT "A"



2

2

PROJECT NO 2020-0291	HWY- 116TH STREET	COUNTY MILWAUKEE	PROJECT OVERVIEW	SHEET E
FILE NAME K:\MVA\2020\20200731\DESIGN\TRANSPORTATION\SHC15\ANR0201_00.DWG	DATE 1/28/2022 1:57 PM	PLOT BY STANISLAW JEFREY	PLOT NAME MILWAUKEE	WSDOT/0605/SHC15 02

**BLANK PAGE**

APPROVAL <i>slw</i>	REQUEST FOR COUNCIL ACTION	MTG. DATE February 1, 2022
Reports & Recommendations	STATUS UPDATE FOR THE S. 116 <sup>TH</sup> STREET TRAIL IN THE WISDOT 2022-2026 TRANSPORTATION ALTERNATIVES PROGRAM (TAP)	ITEM NO. <b>G.11.</b>

**BACKGROUND**

The Transportation Alternatives Program (TAP) is a legislative program that was authorized in Fixing America's Surface Transportation Act (or "FAST Act"), the federal transportation act that was signed into law on December 4, 2015. With certain exceptions, projects that met eligibility criteria for the Safe Routes to School Program, Transportation Enhancements, and/or the Bicycle & Pedestrian Facilities Program are eligible TAP projects.

All TAP projects require sponsors to pay at least 20% of approved projects costs- i.e. 80% of the project would be covered by the grant. TAP projects must commence within four years of the award date.

A TAP application was submitted in 2020 and Franklin was unsuccessful in obtaining the grant. Pursuant to direction to Staff on June 15, 2021, Franklin/GRAEF proceeded with design of the trail, removed a portion around the St. Martin of Tours from the TAP project, added a trail head with Ryan Road crossing, and lowered the construction request from 80% to 70% match.

**ANALYSIS**

The 116<sup>th</sup> Street Trail is an eligible TAP project. This trail would extend from W. Loomis Road / Waukesha County line vicinity along the WE Energies easement (Inner Urban Rail corridor) northeast to S. 116<sup>th</sup> Street and up the west side of S. 116<sup>th</sup> Street in the WE Energies property to the St. Martins area in the vicinity of W. Mayers Drive. The total length is about 11,200 feet.

The deadline for the TAP application was January 28, 2022. The submitted grant application is enclosed.

Staff will return with an update on the project when awards are given.

**FISCAL NOTE**

The request will is for design/permitting (\$240,000) and construction (\$1,758,000) of the total project. The City's share would be \$767,000 and includes design funds spent to date.

**OPTIONS**

Not applicable.

**COUNCIL ACTION REQUESTED**

To receive information and place on file.

Engineering: GEM



## WisDOT 2022-2026

### Transportation Alternatives Program (TAP) Application

<http://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/aid/tap.aspx>

Review and utilize TAP guidelines and application instructions when completing this document.

As discussed in the WisDOT TAP Guidelines, this application will go through a two-step process. The first step will be an assessment by the region as to eligibility and whether or not the project will be able to meet the rigorous, statutorily mandated commencement deadline. The second step will be an assessment of the relative merits of the application compared to other eligible applications. **Applicants will be notified if their application is found ineligible.**

#### Application Type

Select one and only one box for the application type. Please note that projects which are within the boundaries of a TMA will need to either compete locally within the MPO or as part of the Statewide solicitation. Refer to this map (<http://wisconsindot.gov/Documents/doing-bus/local-gov/plning-orgs/map.pdf>) for more information about the TMA areas.

- Appleton Area Metropolitan Planning Organization (MPO) --
- Green Bay MPO
- Madison Area MPO
- Southeastern Wisconsin Regional Planning Commission (Milwaukee OR Round Lake Beach)

If none of the above, project application is from:

- Area with population between 5,000 and 200,000
- Area with population of 5,000 or less
- Region-wide:           % of population within a TMA area  
                                  % of population between 5000 and 200,000

#### Project Applicant

##### Name, Location of Public Sponsor and Sponsor Type:

Sponsor Name: **City of Franklin**

Sponsor Type (Check appropriate box):

Local government (check one):  County    City    Village    Town

Regional transportation authority    Transit agency

State or federal natural resource/public land agency

School district or school(s)

Non-Profit entities responsible for administration of local transportation safety programs

Tribal Nation

Project Title. **S. 116<sup>th</sup> Street Trail**

Describe location, boundaries and length of the project: **S. 116<sup>th</sup> Street corridor from Mayers Drive to Milwaukee/Waukesha County Line. Total length = 11,200 feet**

County: **Milwaukee**

Street Address of Project (if located on a highway or road): **8139 S. 116<sup>th</sup> Street to 12301 W. Ryan Road**

**Note: For infrastructure projects, attach an electronic project location map in PDF Format, size 8½ by 11.**



**Project Contact**

**Primary Public Sponsor Agency Contact Information:**

Name **Glen E. Morrow** Title: **City Engineer** Street Address: **9229 W. Loomis Road** Phone **(414)425-7510**  
Municipality: **Franklin** State: **WI** Zip: **53132**

Secondary E-mail: **gmorrow@franklinwi.gov**

**Secondary Public Sponsor Agency or Private Organization Contact Information (if applicable):**

Organization / Agency Name:

Name. Title: Street Address: Phone . ( ) -  
Municipality. State. **WI** Zip.  
E-mail.

**Head of the Local Public Sponsor Agency or Private Organization Contact Information:**

Organization / Agency Name: **City of Franklin**

Name: **Stephen R. Olson** Title: **Mayor** Street Address: **9229 W. Loomis Road** Phone : **(414) 425-7500**  
Municipality: **Franklin** State. **WI** Zip. **53132**  
E-mail. **solson@franklinwi.gov**

**MPO, if applicable**

Select one, if applicable,

- Bay Lake RPC (Sheboygan),
- Brown County Planning Commission (Green Bay)
- Chippewa-Eau Claire MPO (WCWRPC – Eau Claire)
- Duluth/Superior Metropolitan Interstate Committee (Superior)
- East Central Wisconsin RPC (Appleton, Oshkosh)
- Fond du Lac MPO (Fond du Lac)
- Janesville MPO (Janesville)
- La Crosse Area Planning Committee (La Crosse)
- Madison Area MPO (Madison)
- Marathon County MPO (Wausau)
- Southeastern Wisconsin RPC (SEWRPC - Waukesha)
- Stateline Area Transportation Study (Beloit)

Refer to this map (<http://wisconsin.gov/Documents/doing-bus/local-gov/plning-orgs/map.pdf>) for more information about the TMA areas

**MPO Project Prioritization**

If an MPO is submitting more than one project in an urbanized area within an MPO, the sponsor must rank each project in priority order, e.g., 1 (highest priority) to 5 (lowest), for the local priority among five projects. Local ranking will be used as a guide in project selection. **Project Priority:**

**Please Note: MPO Project Prioritization is due by January 28, 2022.**

## Project Activity

### TAP Eligibility Category:

Indicate which **ONE** of below categories **best** identifies the proposed project:

- Bicycle-Pedestrian Facilities: construction, planning, and design of on-road and off-road trail facilities for pedestrians, bicyclists and other non-motorized forms of transportation (**this category includes on-road bicycle lanes, sidewalks, etc.**)
- Safe routes for non-drivers, including children, older adults, and individuals with disabilities
- Conversion and use of abandoned railroad corridors for trails for pedestrians, bicyclists, or other non-motorized transportation users
- Construction of turnouts, overlooks, and viewing areas
- Historic preservation and rehabilitation of historic transportation facilities
- Safe Routes to School (SRTS) (this category includes infrastructure and non-infrastructure activities)

**NOTE:** Applicants proposing a project within the SRTS eligibility category **MUST** complete the 'School Demographics' and 'Safe Routes to School Plan' sections on page A-5 below.

**Project Summary** (400 words or less). Please copy and paste your response from a Word Document.

Applicants must fill out the project summary field below. This summary is also the first question in the narrative section.

This trail will primarily be located on the now defunct Milwaukee Electric Railway and Light Company, also referred to as the Milwaukee Interurban Lines. There was a rail segment between Hales Corners and Waukesha that passed through St Martins Junction. The trail will be in a rough graded, 100-ft +/- wide property that is now owned by Wisconsin Electric Power Co. (WE Energies). The City has an agreement to locate an asphalt hiking and biking trail on the WE Energies property north of St. Martins and they are agreeable to working out a similar arrangement for this proposed section along the west side of S. 116th Street. This trail will connect to a self funded trail to the north which will be constructed in 2022. A new trailhead will also be constructed adjacent to the trail at Ryan Road

Although the path will require minimal grading for placement of aggregate and asphalt, the current WE Energies property has multiple culverts that must be inspected and perhaps replaced. Side slopes will need to be flattened where needed to make them compliant with bicycle facility requirements.

The existing segment is heavily used by commuters from Muskego to Milwaukee. SEWRPC has count volumes as high as 1,694 for a July 2-15, 2018 time frame. It is anticipated that this trail will also be heavily used by commuters. This project appears on SEWRPC's Vision 2050 Plan and is a missing segment connecting Franklin to Burlington.

## Project Benefit

Check all applicable project benefits, then describe in application narrative:

- ENVIRONMENTAL**
    - Increases likelihood of modal shift to biking, walking or transit from utilitarian car travel.
    - Increases access and connection to the natural environment.
  - PUBLIC HEALTH** - Project would have a demonstrable impact upon public health of applicant community.
  - ECONOMIC JUSTICE** - Project would go beyond community enhancement to address a specific "communities of concern," including elderly, disabled, minority, and low-income population? The project within close proximity of public parks, schools, libraries, public transit, employment and/or retail centers, and residential areas. The project improves low income access to transit, jobs, education, and essential services.
  - SAFETY** - Project addresses a specific safety concern. The project contains or addresses:
    - Collision data
    - Lack of adequate safe crossing or access
    - Lack of separated facility
    - High speed/volume
    - Provides sidewalk or pathway, with curb-cuts
    - Provides bike lanes, markings, and signage
    - Implements traffic calming measures
    - Signage and/or markings directed to safety concern
    - Provides crosswalk enhancement (striping, refuge island, signal, etc.)
- For SRTS Projects there is:**
- Documented bike/pedestrian crash involving school age children or crossing guard at arrival/dismissal times near the school.
  - Crossings of state highways, main arterial roads or other high speed or high traffic volume roads.
  - Lack of bicycle and pedestrian facilities or lack of connectivity of facilities that do exist.
  - High level of parental concern documented in survey data.
  - Few or no children who live within 1 mile walk or bike. Busing may be offered to everyone because of documented hazards.
  - Children are walking but application shows that unsafe conditions exist.
- HISTORICAL AND/OR PRESERVATION SIGNIFICANCE** - Project would have strong historical or preservation benefit.
  - ECONOMIC DEVELOPMENT** - Project facilitates economic development by increasing bicycle/pedestrian traffic in commercial corridors or by creating a destination that will help retail.

## Local Resolution of Support

There is or there will be a local resolution of support for the proposed project, executed by a governing body that has the authority to make financial commitment on behalf of the project sponsor (i.e., County Board, City Council, or Regional Planning Commission Policy Board).

Yes  No

Please note that a resolution **will be required** for an application to be eligible, which means a **copy of the resolution** should be submitted to the **Region Local Program Manager** no later than **5:00 PM April 18, 2022**.

### Existing Facilities & Projects that Impact the Proposed Project

Rail Facilities.

Does a railroad facility exist within 1,000 feet of the project limits?  Yes  No  
 If yes, specify: Choose an item

If yes, does the project physically cross a rail facility?  Yes  No  
 Owner of Rail Facility:

Will an easement from OCR be required?  Yes  No

Is the proposed project location in an area with known safety issues?  Yes  No  
 If yes, specify. and (consider applying for Highway Safety Improvement Program (HSIP) funds if applicable)

Is this project on or parallel to a local road or street?  Yes  No  
 If Yes, provide the name of the road or street: **S. 116<sup>th</sup> Street**

Does this project cross a state or federal highway?  Yes  No  
 Does this project run parallel to a state or federal highway?  Yes  No  
 If Yes to any of these questions attach an existing typical cross-section of the roadway, showing right of way, travel lanes, shoulder and sidewalk (if applicable). Examples are available in FDM15-1-5 attachment 5.3 of the WisDOT facilities Development Manual

Will this project be constructed as part of another planned road project?  Yes  No  
 If Yes, specify if this is a state, county, or local project and when the road project is scheduled for construction:

Will any exceptions to standards be requested?  Yes  No  
 If Yes, provide a brief description of the exceptions that may be requested:

### Real Estate (RE) /Right of Way (ROW)

Was any real estate acquired or transferred in anticipation of this project?  Yes  No  
 If yes, please explain.

List any other funding (past or present) used within the proposed project limits (i.e. DNR Stewardship)

Is the project on an existing right of way (ROW)?  Yes  No  
**(NOTE: It is recommended that local funds be used to acquire right of way)**  
 If Yes, have you obtained a permit from the WisDOT Regional Office Maintenance Section to conduct work on the right of way?  Yes  No

**Check all boxes that apply to ROW acquisition for this project:**

<input type="checkbox"/> None	<input type="checkbox"/> Less than ½ acre	<input checked="" type="checkbox"/> More than ½ acre
<input type="checkbox"/> Parklands	<input type="checkbox"/> Large parcels	<input type="checkbox"/> Temporary interests

List any other funding (past or present) used within the proposed project limits (i.e. DNR Stewardship)

N/A

If right of way was acquired in anticipation of this project, attach a detailed list of available, completed project and parcel acquisition documentation. Refer to Section 11 2, Records Management, found in the *Local Program Real Estate Manual (LP RE Manual)*.  
<http://wisconsin.dot.gov/dtsdManuals/re/lpa-manual/lpa-manual-ch11.pdf>.

**PLEASE NOTE:** Except for existing or new sidewalks, and existing bicycles or pedestrian pathways, State law prohibits the use of condemnation to establish or extend a recreational trail, a bicycle way, a bicycle lane, or pedestrian way. Refer to Section 6.3.5, Condemnation Limitations, found in the LP RE Manual:

<https://wisconsin.gov/dtsdManuals/re/lpa-manual/lpa-manual.pdf>

If right of way was acquired in anticipation of this project, did the acquisition contain any buildings or relocation?

Yes  No

If yes, Please read Section 6 2, Relocation Assistance, found in the LP RE Manual to determine if relocation assistance was properly offered and documented: <http://wisconsin.gov/dtsdManuals/re/lpa-manual/lpa-manual-ch6.pdf>

Does the project include the need for new ROW for a sidewalk, recreational trail, or bike/pedestrian way?

Yes  No

If right of way is required, acquisition will occur through a transfer of an adequate interest in real property.

Yes  No

**For real estate questions, please contact Abigail Ringel, WisDOT Local Public Agency Real Estate Statewide Facilitator, at (414) 220-5461 or [Abigail.Ringel@dot.wi.gov](mailto:Abigail.Ringel@dot.wi.gov)**

### Environmental/Cultural Issues

Agriculture	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Not Investigated
Comments:			
Archaeological sites	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Not Investigated
Comments			
Historical sites	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Not Investigated
Comments			
Designated Main Street area	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Not Investigated
Comments.			
Lakes, waterways, floodplains	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Investigated
Comments			
Wetland	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Investigated
Comments: <b>Wetland impacts being coordinated with DNR</b>			
Storm water management	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Not Investigated
Comments:			
Hazardous materials sites	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Not Investigated
Comments			
Hazardous materials on existing structure	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Not Investigated
Comments.			
Upland habitat	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Not Investigated
Comments			
Endangered/threatened/migratory species	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Not Investigated
Comments.			
Section 4(f)	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Not Investigated
Comments			
Section 6(f)	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Not Investigated
Comments			
Through/adjacent to tribal land	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Not Investigated
Comments			

**Miscellaneous Issues**

**Construction Schedule Restrictions** (trout, migratory bird, local events): **None**

**Local Force Account (LFA):** Will the proposed project utilize municipal employees to complete any portion of the construction activities?  Yes  No

If yes, explain the desired LFA portion of the project

NOTE: LFA work must include labor, equipment and materials. The purchase of materials only is not considered to be a legitimate project.

NOTE: Please review WisDOT TAP Guidelines for restrictions on certain LFA work as of July 1, 2015

**Maintenance** (only complete this section if project application involves a trail project).

Will the facility be snowplowed in the winter?  Yes  No

Comment:

If no to the above question, will the trail allow snowmobile use in the winter?  Yes  No

Comment:

Anticipated fee for trail use:  Yes  No

Comment:

Anticipated equestrian use on trail.  Yes  No

Comment:

**Other Concept Notes:** Provide any additional relevant project information that has not been covered in another section of the application.

**School Demographics** (Complete ONLY if submitting a project within the SRTS Programming / Planning eligibility category)

**What are the name(s) and demographics for each school affected by the proposed program or project?**

**Optional:** Alternatively, SRTS project applicants may submit a narrative response detailing school demographics provided that all fields below are answered in such attachment.

School name: **Country Dale School** School population: **480** Grades of students at school: **Pre K - 6**

Estimated number of students currently walking to school (if known): **5**

Estimated number of students currently biking to school (if known). **Not Known**

Does the school have any policies related to walking or biking? **No**

Distance eligibility for riding a bus: **N/A All students are provided with bus transportation** Number of children not eligible for busing: **N/A All students are provided with bus transportation**

Number of students eligible for busing because of a hazard situation: **N/A All students are provided with bus transportation**

Percentage of students living within one mile of the school. **68%**

Percentage of students living within two miles of the school: **85%**

Percentage of students eligible for free or reduced-cost school meals: **15.6%**

Community(s) served by school: **Franklin** Community(s) population **36,000**

**Safe Routes to School Infrastructure** (Complete ONLY if submitting a project within the SRTS eligibility category)

**Does your school or community have a Safe Routes to School plan?**  Yes  No

If yes, can it be viewed online?  Yes, the website address is  No, it is attached with the application.

If no; in no more than 400 words, attach a Word document describing any SRTS-related planning efforts undertaken by the school or community.

**CONFIDENTIAL INFORMATION**

**Project Costs, Priorities, and State Fiscal Years:**

**NOTE: Do not include pages A-7 and A-8 in the Concept Definition Report (CDR) for approved TAP projects.**

Complete the table below for the appropriate fiscal years of the application/project cycle (2022-2026). If a sponsor proposes to construct a project in phases throughout multiple years, schedule the project costs as appropriate and provide further details in the project description.

In addition to the table below, **attach a detailed breakdown of project costs in Microsoft Excel.** This detailed breakdown must clarify assumptions made in creating the budget such that a third-party reviewer would be able to substantiate the assumptions.

Submit a separate application and budget for each project or stand-alone project segment for which you are willing to accept funding, or for a bike trail section that could function as a separate facility. Project requests are not considered for partial funding.

Applicants may work with the Local Program Manager within their region for assistance to more accurately estimate costs. All estimates will be reviewed by WisDOT Region staff for consistency with current practices and approaches. Also, WisDOT Region staff may revise estimates in these categories due to the complexity of the project or other factors. WisDOT will notify the sponsor of any changes to estimates within the application and determine whether the sponsor wishes to continue with the application with the revised estimate.

**NOTE: Requesting design and construction projects in the same fiscal year is not allowed.**

**Project Prioritization**

If a sponsor is submitting more than one project the sponsor must rank each project in priority order, e.g., 1 (highest priority) to 5 (lowest), for the local priority among five projects. Local ranking will be used as a guide in project selection. **Project Priority: N/A**

- Design:**
  - 100% Locally Funded (state review is required to be included as 100% locally funded) **OR**
  - 80% Federally Funded ("state review only" projects are not allowed)
  - FY 2023     FY 2024     FY 2025

**NOTE: Requesting design and construction projects in the same fiscal year is not allowed.**

	Total Funding	Federal Funding	Local Funding
<b>A. Design Plan Development</b>	\$	\$	\$100,000
<b>B. State Review for Design</b> (provided by WisDOT Region)	\$	\$	\$20,000
<b>Total Design Cost Estimate with State Review</b> (sum lines A and B)	\$	\$	\$120,000

**Construction:**  
**Basis for Construction Estimate:**  Itemized  Per Square Foot  Past Projects  
 Other, please specify:  
**Schedule Preference:**  FY 2024  FY 2025  FY 2026

	Total Funding	Federal Funding	Local Funding
Total Participating Construction Cost	\$1,758,000	\$1,231,000	\$527,000
Total Non-Participating Construction Cost	\$0	\$0	\$0
<b>A. Subtotal Construction Costs</b>	\$	\$	\$
<b>B. Construction Engineering Costs</b> (Coordinate with WisDOT Region)	\$	\$	\$
<b>C. State Review for Construction</b> (Provided by WisDOT Region)	\$	\$	\$
<b>Total Construction Cost Estimate with Construction Engineering and State Review</b> (sum lines A, B and C)	\$	\$	\$

**Real Estate:** (Recommend funding with local funds )  
 FY 2023  FY 2024  FY 2025  
**Total Real Estate Cost (round to next \$1,000)** \$

**Utility:** (Compensable utility costs must be \$50,000 minimum per utility. Recommend funding with local funds.)  
 FY 2023  FY 2024  FY 2025  FY 2026  
**Total Utility Cost (round to next \$1,000)** \$

**Other:** (Planning or SRTS Non-Infrastructure Programming).  
 FY 2023  FY 2024  FY 2025  FY 2026  
**Total Other Cost (round to next \$1,000)** \$

**NOTE:** WisDOT Policy link: <http://wisconsin.gov/rdw/fdm/fd-18-01.pdf>

**NOTE:** WisDOT Region staff may revise estimates in the Plan Development, State Review for Design, and State Review for Construction categories based on the complexity of the project or other factors.

**Narrative Response**

Provide a narrative response attachment answering questions 1 through 6, making sure to provide information in response to each sub-question. Please limit the response to three (3) double-spaced pages, using a minimum 11-point font size and a 1-inch margin

**1. PROJECT DESCRIPTION AND OVERVIEW.**



This is the summary from page A-3 of the application. It is a general overview of the project, including type of facility or project, location (please attach a location map or maps) and any other information about the project. It is brief. Limited to about 400 words.

## **2. PROJECT PLANNING & PREPARATION & LOCAL SUPPORT**

Describe the degree to which this project was planned for and the local support and commitment for the project. If this project is part of a plan, describe that plan and the project's priority in that plan. If this is a planning project describe how this project will be integrated into other efforts. For SRTS projects, describe walk/ bike audits, parent surveys and data on crashes that support the selection of this project. Provide data that supports the selection of your project.

## **3. PROJECT UTILITY & CONNECTIVITY**

### **For Infrastructure Projects**

Describe the degree to which this project serves utilitarian rather than recreational purposes and how, if at all, the project adds connectivity to the state's multi-modal transportation network, including bicycle, pedestrian and transit facilities. Make specific reference to distance between modal connections and destinations. Describe how, if at all, the proposed project would connect to these existing land uses: park, school, library, public transit, employment and/or retail centers, residential areas, other. Describe how this project fills a multimodal gap or serves as a backbone to a local multimodal network.

### **For Planning Projects**

Implementation of plan would serve a broad geographic area and adds connectivity to the state's multimodal transportation network. Describe how this project fills a multimodal gap or serves as a backbone to a local multimodal network.

### **For Safe Routes to School Programming Projects**

Will the project get a higher percentage of children walking and biking to school - addresses clear safety problems for children already walking/biking. Address the following desired outcomes: reduction in parent concerns that keep them from allowing children to walk/bike, potential for changes in hazard busing, change in policy limiting walking/biking to school; increased school commitment to promoting walking/biking; improved driver behaviors in the school zone; making it more appealing for children to walk/bike; more law enforcement participation in walking/biking issues

## **4. PROJECT BENEFIT-- ENVIRONMENTAL, LIVABILITY, ECONOMIC JUSTICE, PUBLIC HEALTH, HISTORICAL PRESERVATION, & SAFETY**

Describe the benefits likely derived from the proposed project, this description should correspond to the project benefit section on page A-3.

*NOTE: A TAP projects should contribute to a community benefit. Projects that contributes to more than one benefit or have significant impact on a particular benefit will receive more points.*

## **5. HISTORY OF SPONSOR SUCCESS, DELIVERABILITY AND COMMITMENT TO MULTIMODAL**

How will the project be implemented on time? What obstacles or problems must be overcome to implement this project, and in light of project obstacles, describe how the project sponsor will comply with state law and policy requiring project commencement within four years of the award date, and project completion within approximately six years? Please describe prior experience with other multimodal projects and success in delivering those projects in the year in which they were scheduled. For example, were you able to deliver the project in the year it was programmed? Have you ever had to turn back awarded federal funds? Please explain. If problems were experienced in the past, what will be done on this project to ensure successful completion? Describe the project sponsor's commitment to multimodal programs and facilities generally like a complete

streets ordinance, advisory committees, or inclusion of multimodal accommodations in any other local program projects.

### Key Program Requirements Confirmation

Please confirm your understanding of the following project condition by **typing your name, title and initials** at the bottom of this section. **A Head of Government/Designee with fiscal authority for the project sponsor must initial this section and sign this application. Sponsor consultant(s) should not initial or sign project applications.**

**WisDOT will deem ineligible any application that does not provide confirmation to this section.**

- a Private organizations proposing projects must have a public project sponsor such as a local government unit.
- b. The project sponsor or private partner must provide matching dollar funding of at least 20% of project costs.
- c. This is a reimbursement program. The project sponsor must finance the project until federal reimbursement funds are available.
- d. The project sponsor will pay to the state all costs incurred by the state in connection with the improvement that exceed federal financing commitments or other costs that ineligible for federal reimbursement. In order to guarantee the project sponsor's foregoing agreements to pay the state, the project sponsor, through its duly executed officers or officials, agrees and authorized the state to set off and withhold the required reimbursement amount as determined by the state from any monies otherwise due and payable by the state to the municipality.
- e. The project sponsor must not incur costs for any phase of the project until that phase has been authorized for federal charges and the WisDOT Region has notified the sponsor that it can begin incurring costs. Otherwise, the sponsor risks incurring costs that will not be eligible for federal funding.
- f. The project sponsor will follow the applicable federal and state regulations required for each phase of the project. Some of these are described in the Guidelines. The requirements include, but are not limited to, the following: a Qualifications Based Selection (QBS) process for design and engineering services (Brooks Act); real estate acquisition requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and amendments; competitive procurement of construction services; Davis-Bacon wage rates on federal highway right-of-way projects; WisDOT FDM & Bicycle Facilities Handbook; ADA regarding accessibility for the disabled; MUTCD regarding signage, U.S. Department of the Interior standards for historic buildings. Each WisDOT Region can provide copies of the current *Sponsor's Guide to Non-Traditional Transportation Project Implementation*, and references for sections of the Facilities Development Manual (FDM) and other documents necessary to comply with federal and state regulations. **Applicants who plan to implement their projects as Local Let Contracts using the Sponsor's Guide must become certified that they are capable of undertaking these projects.**
- g. If applying for a bicycle facility, it is understood that All Terrain Vehicles (ATVs) are not allowed. Snowmobile use is only allowable by local ordinance. Trail fees may only be charged on a facility if the fees are used solely to maintain the trail WisDOT reserves the right to require that facilities be snowplowed as part of a maintenance agreement where year-round use by bicyclists and pedestrians is expected.
- h The project sponsor agrees to maintain the project for its useful life. Failure to maintain the facility, or sale of the assets improved with FHWA funds prior to the end of its useful life, will subject the sponsor to partial repayment of federal funds or additional stipulations protecting the public interest in the project for its useful life.
- i If the project sponsor should withdraw the project, it will reimburse the state for any costs incurred by the state on behalf of the project

- j. The project sponsor agrees to state delivery and oversight costs by WisDOT staff and their agents. These costs include review of Design and Construction documents for compliance with federal and state requirements, appropriate design standards, and other related review. These costs will vary with the size and complexity of the project. The sponsor agrees to add these costs to the project under the same match requirements 80% / 20% match requirements.
- k. Projects that are fully or partially federally funded must be designed in accordance with all applicable federal design standards, even if design of the project was 100% locally funded.
- l. As the project progresses, the state will bill the project sponsor for work completed that is ineligible for federal reimbursement. Upon project completion, a final audit will determine the final division of costs as between the state and the project sponsor. If reviews or audits reveal any project costs that are ineligible for federal funding, the project sponsor will be responsible for any withdrawn costs associated with the ineligible work.
- m. \*\*\*For 100% locally-funded design projects, costs for design plan development and state review for design are 100% the responsibility of the local project sponsor. Project sponsors may not seek federal funding only for state review of design projects.
- n. The project sponsor acknowledges that the requisite project commencement requirement and that failure to comply with the applicable commencement deadline will jeopardize federal funding. Commencement is within four years of the date of the project award. The project must be commenced within four (4) years of the project award date according to Sec. 85.021, Wis. Stats. For construction projects, a project is commenced when construction is begun. For planning projects, a planning project is commenced when the planning study is begun. For non-infrastructure projects that do not fall within any of the above categories, a project is considered commenced on the date that WisDOT receives the first reimbursement request from the project sponsor, as noted on form DT1713 in the 'Date Received' field.
- o. The project sponsor acknowledges that the requisite project completion timeline for approved TAP projects will be memorialized in a state-municipal agreement, and failure to comply with the applicable project timeline will jeopardize federal funding.
- p. Federally-funded transportation construction projects, with the exception of sidewalks, are likely improvements that benefit the public at large. Improvements of this type cannot generally be the basis of levying a special assessment pursuant to Wis. Stat. § 66.0703. Municipalities who wish to obtain project funding via special assessment levied against particular parcels should seek advice of legal counsel. See Hildebrand v. Menasha, 2011 WI App. 83.

Please confirm your understanding of the following project condition by typing your name, title and initials at the bottom of this section. A Head of Government/Designee with fiscal authority for the project sponsor must initial this section and sign this application. Sponsor consultant(s) should not initial or sign project applications.

I confirm that I have read and understand project conditions (a) through (o) above:

Name: Glen E Morrow Title: City Engineer

Accepted (please initial here): GEM

### Fiscal Authorization and Signature

Application prepared by a consultant?  Yes  No  
 If yes, consultant information and signature required below

Consultant Company Name: **GRAEF** Company Location (City, State) **Milwaukee, WI**

Consultant Signature (electronic only): Mary Beth Pettit Date: **January 26, 2022**

**NOTE:** On Local Program projects, it is not permissible for a consultant to fill out applications gratis (or for a small fee) for a municipality and then be selected to do the design work on a project **unless** the municipality either.

- a.) uses a one-step QBS process with the scope of work to include the grant application and the design services, if authorized; or
- b.) uses a two-step QBS process with the scope of work for the first selection for the preparation of the grant application(s) and the second selection for the actual design(s)

In either case, all costs incurred prior to WisDOT project authorization are the responsibility of the municipality. See FDM 8-5-3 for additional information: <https://wisconsindot.gov/rdwy/fdm/fd-08-05.pdf#fd8-5-3>

Sponsor Agency: <b>City of Franklin</b>	
Contact Person: <b>Glen Morrow</b>	(Note: must be Head of Government or Designee)
Title: <b>City Engineer, Director of Public Works</b>	
Address: <b>9229 W. Loomis Road, Franklin, WI</b>	
Telephone: <b>414-425-7510</b>	
Email: <b>gmorrow@franklinwi.gov</b>	
Only one project sponsor is allowed per project. As a representative of the project sponsor, the individual that signs below is confirming that the information in this project application is accurate. A local official, not a consultant, must sign the application. I understand that completion of this application does not guarantee project approval for federal funding.	
Head of Government/Designee Signature (electronic only): <b>Glen E. Morrow</b>	Date: <b>1/26/2022</b>

**Application and Attachments Checklist**

Submit applications and attachments utilizing the contact information contained in the corresponding TAP Pre-Scoping Application instructions. Applicants must **submit eligible applications on or before 5PM on January 28, 2022**, and must include the following documents:

- A completed application **in Microsoft Word format**
- Narrative Response: maximum of **three double-spaced pages, 11-point font size with 1-inch margins**
- Cost Estimate Detail as required in the **'Project Costs and Dates'** section of this application
- For infrastructure projects, an 8½ by 11 project map submitted in PDF format
- If available, a **local resolution of support** for the proposed project
- Non-Profit Entities Only:** A resolution ratified by "Secondary Municipal Agency" listed on page A-2, certifying the Non-Profit as "Responsible for administration of local transportation safety programs"
- If right of way was acquired in anticipation of this project**, attach a detailed list of available, completed project and parcel acquisition documentation (**see page A-2**)
- If proposed project crosses or runs parallel to a local road, street, or state or federal highway**, attach an existing typical cross-section of the roadway, showing right of way, travel lanes, shoulder and sidewalk (if applicable) (**see page A-2**).
- SRTS Non-Infrastructure Applicants Only:** School Demographics Information (Page A-7)
- SRTS Applicants Only:** Description of Existing Planning Efforts (400 words or less)
- Up to **three pages** of additional attachments (photos, letters of support, etc )

**FOR WISDOT USE ONLY –This information must be entered on the spreadsheet and on the application.**

WisDOT Region comments on application, including eligibility concerns:

Region Reviewer's Name:	
Reviewer's Title.	Date Received:

## **1. Project Description and overview**

This trail will primarily be located on the now defunct Milwaukee Electric Railway and Light Company, also referred to as the Milwaukee Interurban Lines. There was a rail segment between Hales Corners and Waukesha that passed through St. Martins Junction. The trail will be in a rough graded, 100-ft +/- wide property that is now owned by Wisconsin Electric Power Co. (WE Energies). The City has an agreement to locate an asphalt hiking and biking trail on the WE Energies property north of St. Martins and they are agreeable to working out a similar arrangement for this proposed section along the west side of S. 116th Street. This trail will connect to a self-funded trail to the north which will be constructed in 2022. A new trailhead will also be constructed adjacent to the trail at Ryan Road.

Although the path will require minimal grading for placement of aggregate and asphalt, the current WE Energies property has multiple culverts that must be inspected and perhaps replaced. Side slopes will need to be flattened where needed to make them compliant with bicycle facility requirements

The existing segment is heavily used by commuters from Muskego to Milwaukee. SEWRPC has count volumes as high as 1,694 for a July 2-15, 2018 time frame. It is anticipated that this trail will also be heavily used by commuters. This project appears on SEWRPC's Vision 2050 Plan and is a missing segment connecting Franklin to Burlington.

## **2. Project Planning & preparation & Local support**

The City conducted a public involvement meeting (PIM) for the trail on July 22nd and has publicly shared and presented the current efforts through on-going coordination and meetings with Franklin.

## **3. Project Utility Connectivity**

The City of Franklin has an agreement with the City of Muskego that once this trail is constructed, they will extend the trail to connect to the existing trail on the west side of North Cape Road. The connectivity that this trail provides is the biggest attraction, linking Burlington to Muskego, Muskego to Franklin, and Franklin to Milwaukee is a benefit to communities beyond Franklin. Once into Franklin, the existing trail network that includes the Oak Leaf Trail, will bring users to numerous desired destinations including the Rock Complex at 76th and Rawson, and nearby recreational areas such as Big Muskego Lake. The City of Franklin is currently preparing a master plan that details how new trail connections throughout the city will connect this new 116<sup>th</sup> Street trail on the west side of the city to the Oak Leaf Trail within the Root River Parkway on the west side of the city.

## **4. Project Benefit**

Once the City of Muskego connects this trail to the existing trail west of North Cape Road, there will be a trail extending into Racine County. This project will fill in the gap on the State's 2050 bike plan.

## **5. History of Sponsor Success**

The City of Franklin is anxious to complete this missing link of trail as evident by their funding the design efforts with the full intention to construct this project as early as possible.



PROGRESS PLANS  
NOT FOR CONSTRUCTION  
January 26, 2022

**CITY OF FRANKLIN**  
PLAN OF PROPOSED IMPROVEMENT  
**S. 116TH STREET TRAIL**  
COUNTY LINE TO W. MAYERS DR

MILWAUKEE COUNTY

GRADE PROJECT NUMBER  
**2020-0291**

ORDER OF SHEETS

- | Section No. | Title                        |
|-------------|------------------------------|
| 1           | Typical Sections and Details |
| 2           | Fiducial of Quantities       |
| 3           | Miscellaneous Quantities     |
| 4           | Right of Way Plat            |
| 5           | Plan and Profile             |
| 6           | Standard Detail Drawings     |
| 7           | Sign Plans                   |
| 8           | Structure Plans              |
| 9           | Complete Easement Data       |
| 10          | Cross Sections               |

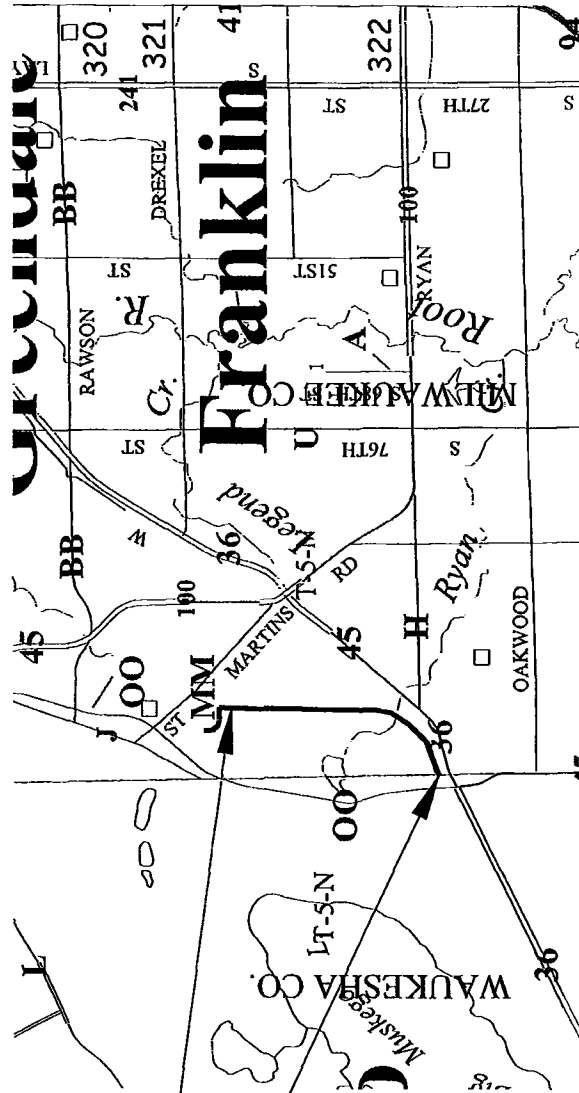
TOTAL SHEETS =



END S. 116TH STREET TRAIL PHASE 2  
BEGIN S. 116TH STREET TRAIL PHASE 1  
STA 179+25

BEGIN S. 116TH STREET TRAIL PHASE 2  
STA 67+94 00  
Y = 238.126 14  
X = 563032 25

- |  |                                   |  |   |
|--|-----------------------------------|--|---|
|  | CONVENTIONAL SYMBOLS              |  | PROFILE   |
|  | CORPORATE LIMITS                  |  | ORIGINAL GROUND                                 |
|  | PROPERTY LINE                     |  | MARGIN OR ROCK PROFILE<br>(To be noted or such) |
|  | LOT LINE                          |  | SPECIAL DITCH                                   |
|  | LIMITED HIGHWAY EASEMENT          |  | GRADE ELEVATION                                 |
|  | EXISTING RIGHT OF WAY             |  | CULVERT (Profile View)                          |
|  | PROPOSED OR NEW RIGHT OF WAY      |  | UTILITIES                                       |
|  | SLOPE INTERCEPT                   |  | ELECTRIC  |
|  | REFERENCE LINE                    |  | FIBER OPTIC                                     |
|  | EXISTING CULVERT                  |  | GAS   |
|  | PROPOSED CULVERT<br>(Box or Pipe) |  | STORM SEWER                                     |
|  | COMBUSTIBLE FLUIDS                |  | TELEPHONE                                       |
|  | MARSH AREA                        |  | WATER   |
|  | WODDED OR SHRUB AREA              |  | UTILITY PICTORIAL                               |
|  |                                   |  | POWER POLE                                      |
|  |                                   |  | TELEPHONE POLE                                  |



HORIZONTAL POSITIONS SHOWN ON THIS PLAN ARE WISCONSIN  
COORDINATE REFERENCE SYSTEM (MISC7S), MILWAUKEE COUNTY MADR  
(2011), IN U.S. SURVEY FEET  
ELEVATIONS ARE REFERENCED TO NAVD 83 (2013), GPS DERIVED  
ELEVATIONS ARE BASED ON GEOID 12A.

SCALE 0 100 200  
LAYOUT  
TOTAL NET LENGTH OF CENTERLINE 7.5 MILES

PLOT DATE: 1/26/2022 11:23 AM PLOT BY: REGAN, BDOG PLOT NAME:

PLOT DATE: 1/26/2022 11:23 AM PLOT BY: REGAN, BDOG PLOT NAME:





ESTIMATE OF QUANTITIES						
Title	S 116th Street Trall Phase 2					
Limits	Milwaukee County Line to Mayers Dr					
County	Milwaukee					
Date	1/26/2022 17 47					
Project I.D. #1						
Item #	Description	Qty	Unit	Cost	Total	Category
					\$0	0010
203.0100	Removing Small Pipe Culverts	16	EACH	\$ 500	\$8,000	0010
205.0100	Excavation Common	7000	CY	\$ 35	\$245,000	0010
208.0100	Borrow	1000	CY	\$ 25	\$25,000	0010
305.0120	Base Aggregate Dense 1 1/4-Inch	4600	TON	\$ 35	\$161,000	0010
460.5225	HMA Pavement 5 LT 58-28 S	2200	TON	\$ 110	\$242,000	0010
	Culvert Pipes	320	LF	\$ 100	\$32,000	0010
	Apron Endwalls	32	EACH	\$ 500	\$16,000	0010
619 1000	Mobilization	1	LS	\$ 100,000	\$100,000	0010
	Erosion Control	1	LS	\$ 150,000	\$150,000	0010
	Split Rail Fence	100	LF	\$ 50	\$5,000	0010
	Trail Head Infrastructure	1	LS	\$ 40,000	\$40,000	0010
	Trail Head Amenities (i.e. rest rooms)	1	LS	\$ 250,000	\$250,000	0010
	<b>Category 0010 Subtotal:</b>				<b>\$1,274,000</b>	
	<b>Contingency on 60% Plan Estimate:</b>			<b>20%</b>	<b>\$256,000</b>	
	<b>Cost Subtotal:</b>				<b>\$1,529,000</b>	
	<b>Construction Engineering Subtotal:</b>	<b>15%</b>			<b>\$229,000</b>	
	<b>Total</b>				<b>\$1,758,000</b>	
	<b>City Share of Construction Funding</b>			<b>30%</b>	<b>\$527,000*</b>	
	<b>Federal Share of Construction Funding</b>			<b>70%</b>	<b>\$1,231,000*</b>	
	* Dollar Figures Shown in TAP Application					

STATE OF WISCONSIN: CITY OF FRANKLIN: MILWAUKEE COUNTY

RESOLUTION NO. 2020-7583

A RESOLUTION OF SUPPORT FOR THE  
S. 116TH STREET TRAIL IN THE WISDOT 2020-2024  
TRANSPORTATION ALTERNATIVES PROGRAM (TAP)

WHEREAS, the City of Franklin values the quality of life for all ages of its residents; and

WHEREAS, trails are an important opportunity to provide exercise and opportunity to traverse the City in a safe manner on a pedestrian and bicycle facility; and

WHEREAS, the S. 116<sup>th</sup> Street Trail has long been considered a potential project and has appeared on numerous City, County, and Regional trail masterplans; and

WHEREAS, the trail has garnered support from other agencies including the City of Muskego and Milwaukee County Parks; and

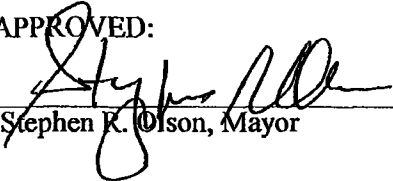
WHEREAS, the Wisconsin Department of Transportation (WISDOT) is soliciting projects for the 2020-2024 Transportation Alternatives Program (TAP).

NOW, THEREFORE BE IT RESOLVED by the Mayor and Common Council of the City of Franklin that the Mayor and City Clerk are hereby support the submittal of the S. 116<sup>th</sup> Street Trail to WISDOT for consideration in the 2020-2024 Transportation Alternatives Program (TAP).

Introduced at a regular meeting of the Common Council on the 21st day of January, 2020 by Alderman Nelson.

Passed and adopted by the Common Council on the 21st day of January, 2020.

APPROVED:

  
\_\_\_\_\_  
Stephen R. Olson, Mayor

ATTEST:

  
\_\_\_\_\_  
Sandra L. Wesolowski, City Clerk

AYES 5      NOES 0      ABSENT 1 (Ald. Taylor)



**Letter of Support for City of Franklin 116<sup>th</sup> Trail Application**

**Milwaukee County Parks**  
9480 Watertown Plank Rd.  
Wauwatosa, WI 53226  
(414) 257-PARK

Date: January 23<sup>rd</sup> 2020  
To: TAP Committee  
From: Jessica Wineberg, Milwaukee County Parks Trails Coordinator  
Subject: **Letter of Support for 116<sup>th</sup> Trail Development by City of Franklin**

**To Whom it May Concern:**

Milwaukee County Parks supports the development of a trail along 116<sup>th</sup> in the City of Franklin. This corridor has been on the Milwaukee County Trails Network Plan for decades and is a good project for increasing connectivity of the bike network in the southwestern portion of Milwaukee County. Milwaukee County Parks supports the development of this and other trails on the Trails Network Plan by other agencies and municipalities. Through partnership and development of more trails, we can best serve the diverse transportation and recreation needs of County residents and visitors.

Sincerely,

Jessica Wineberg, Milwaukee County Parks Trails Coordinator

Milwaukee County Parks



MilwaukeeCountyParks

**countyparks.com**



MILWAUKEE COUNTY  
**PARKS**

**BLANK PAGE**

<b>APPROVAL</b> <i>slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b> February 1, 2022
<b>REPORTS &amp; RECOMMENDATIONS</b>	<b>A RESOLUTION FOR THE DESIGN AND IMPLEMENTATION OF THE STREAMBANK AND WETLAND RESTORATION ON PRIVATE PROPERTIES IN THE 7300 BLOCK OF S. 35TH STREET (TKN 761-9992-002, 761-9994-005, &amp; 761-9997-003) IN COOPERATION WITH ROOT-PIKE WATERSHED INITIATIVE NETWORK</b>	<b>ITEM NUMBER</b>  <b>G.12.</b>

**BACKGROUND**

Historically, a section the East Branch of the Root River was truncated and relocated to accommodate the Rawson Homes subdivision (south of W. Rawson Avenue, between S. 35th Street and S. 37th Street). This stream continues to fight its way back to its original course which endangers S. 35th Street. Through the years, DPW has tried to protect the road by armoring key sections of the stream bank with recycled concrete sidewalk sections, and those efforts are failing. The stream bank is currently within a few feet of the S. 35th Street pavement. Not only does this endanger the road pavement, but is a safety concern if a car were to leave the pavement into the ditch. Placing a guard rail along this section would be very expensive and have minimal effectiveness as the eroding ditch does not provide adequate, long term anchoring.

These parcels on the east side of the road that contain the stream are owned by Northwestern Mutual Life Insurance Company (NWM). The natural resources contained in the vicinity of the streambank make this area undevelopable. NWM has expressed an interest in partnering with the City to resolve the concerns to S. 35th Street.

Root-Pike Watershed Initiative Network (Root-Pike WIN) is a 501(c)3 non-profit formed in 1998 by the Department of Natural Resources and other watershed stakeholders, including Franklin, to restore, protect and sustain the five watersheds of Southeastern Wisconsin. Root-Pike Watershed Initiative Network brings municipalities, private citizens, donors and environmental experts from the Root-Pike basin together to improve water quality, restore natural habitats, reduce storm water runoff and create places where people want to live, work and invest. Franklin utilizes Root-Pike WIN to satisfy some of our MS4 stormwater requirements.

**ANALYSIS**

Staff has approached Root-Pike WIN and Foth Engineering to assist in solving this issue. It is believed that a wider encompassing project would not only protect the integrity of S. 35th Street, but also provide a sustainable solution that can increase stormwater infiltration, reduce bank erosion and channelization, reduce sediment loading, and enhance biodiversity through revegetated habitats.

There are many grant opportunities available for these types of projects and Root-Pike WIN is experienced in these types of projects. The attached resolution would authorize Root-Pike WIN to work on this project as needed to bring it to fruition, specifically to apply for grants to secure the funds necessary to complete the design and implementation. Any fees paid directly by the City of Franklin are yet to be determined and would be discussed as needed prior to proceeding with Franklin reimbursable activities.

This issue is planned to be discussed at the Franklin Environmental Commission on February 23, 2022.

**OPTIONS**

Accept or Reject Resolution authorizing Root-Pike WIN to work to identify and acquire funding on the City's behalf for this project(s).

**FISCAL NOTE**

Not determined at this time. To be discussed as opportunities are identified. This resolution does not commit City to fund and/or implement the wetland restoration, even if the design work is fully funded and finalized into construction documents with no financial assistance from the City.

The draft capital improvement plan has \$103,000 anticipated for expenditures in 2023.

**COUNCIL ACTION REQUESTED**

Authorize Resolution 2021-\_\_\_\_\_ a resolution for the design and implementation of the streambank and wetland restoration on private properties in the 7300 block of S. 35th Street (TKN 761-9992-002, 761-9994-005, & 761-9997-003) in cooperation with Root-Pike Watershed Initiative Network.

And direct Staff to present and gather additional input at the February 23, 2022 Environmental Commission meeting.

Engineering: GEM

STATE OF WISCONSIN : CITY OF FRANKLIN : MILWAUKEE COUNTY

RESOLUTION NO. 2022- \_\_\_\_\_

RESOLUTION FOR THE DESIGN AND IMPLEMENTATION OF THE  
STREAMBANK AND WETLAND RESTORATION ON PRIVATE PROPERTIES IN THE  
7300 BLOCK OF S. 35TH STREET (TKN 761-9992-002, 761-9994-005, & 761-9997-003)  
IN COOPERATION WITH ROOT-PIKE WATERSHED INITIATIVE NETWORK

---

WHEREAS, the City of Franklin is interested in protecting the integrity of a public road in the 7300 block of S. 35<sup>th</sup> Street from a meandering streambank on private properties owned by Northwestern Mutual Life Insurance Company (TKN 761-9992-002, 761-9994-005, & 761-9997-003); and

WHEREAS, the City of Franklin is interested in providing a sustainable solution that not only protects the public roadway, but can increase stormwater infiltration, reduce bank erosion and channelization, reduce sediment loading, and enhance biodiversity through revegetated habitats; and

WHEREAS, Root-Pike Watershed Initiative Network is a 501(c)(3) non-profit organization that initiated and implements the Root River Watershed Restoration Plan; and

WHEREAS, Root-Pike Watershed Initiative Network is experienced in identifying and acquiring grant and other financial aid funding necessary to complete the design and implementation for these types of projects; and

WHEREAS, Root-Pike Watershed Initiative Network is willing to provide grant writing, conduct site tours, facilitate the obtaining of professional engineering services, act as the project manager to obtain professional services to develop the plans, estimate, schedule and manage the grant funds received to complete the wetland design, permitting, and implementation; and

WHEREAS, the City of Franklin works cooperatively with Root-Pike Watershed Initiative Network through the Southeastern Wisconsin Clean Water Network and the Department of Natural Resources to reduce stormwater runoff impacts as part of the City of Franklin's stormwater permit requirement; and

WHEREAS, there is no commitment by the City of Franklin to fund and/or implement the streambank restoration project even if the design work is fully funded and finalized into construction documents with no financial assistance from the City; and

NOW, THEREFORE, BE IT RESOLVED, that the City of Franklin will cooperatively work with Root-Pike Watershed Initiative Network, and HEREBY AUTHROIZES its Executive Director to develop grant applications to act on behalf of the City of Franklin to:

1. Create and submit grant applications to various grant sources with City of Franklin's Engineer's input review and final approval; and
2. Facilitate the design and implementation of the project in accordance with the rules, regulations and wishes of City of Franklin and the Department of Natural Resources; and
3. Take the necessary action to undertake, direct and complete the approved design provided by the various potential funding sources under the supervision of City of Franklin's Engineer; and
4. Serve as the project manager and fiscal agent for the design and implementation phases of the streambank and wetland restoration on private property; and

5. Create bid documents, conduct the bidding process, and make the final bid award under the guidance and final approval of the City of Franklin; and
6. Oversee the implementation activities and vendor contracts in accordance with the bidding and procurement regulations of the City of Franklin.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that Root-Pike Watershed Initiative Network is required to obtain written authorization from Common Council prior to performing any work that requires reimbursement from the City of Franklin.

Introduced at a regular meeting of the Common Council of the City of Franklin the \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Alderman \_\_\_\_\_.

PASSED AND ADOPTED by the Common Council of the City of Franklin on the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

APPROVED:

\_\_\_\_\_  
Stephen R. Olson, Mayor

ATTEST:

\_\_\_\_\_  
Sandra L. Wesolowski, City Clerk

AYES \_\_\_\_\_ NOES \_\_\_\_\_ ABSENT \_\_\_\_\_



<b>APPROVAL</b> <i>slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b> February 1, 2022
<b>REPORTS &amp; RECOMMENDATIONS</b>	<b>A RESOLUTION FOR THE DESIGN AND IMPLEMENTATION OF THE WETLAND RESTORATION AT WATER TOWER PARK 8120 S. LOVERS LANE ROAD (TKN 801-9986-000) IN COOPERATION WITH ROOT-PIKE WATERSHED INITIATIVE NETWORK</b>	<b>ITEM NUMBER</b>  <b>G.13.</b>

**BACKGROUND**

The City is developing a park located at 8120 S. Lovers Lane Road. The park features are not anticipated to be constructed for at least a few years to allow for the construction of a new water storage facility. This parkland has significant wetland features that could be a central feature to a passive park design.

Root-Pike Watershed Initiative Network (Root-Pike WIN) is a 501(c)3 non-profit formed in 1998 by the Department of Natural Resources and other watershed stakeholders, including Franklin, to restore, protect and sustain the five watersheds of Southeastern Wisconsin. Root-Pike Watershed Initiative Network brings municipalities, private citizens, donors and environmental experts from the Root-Pike basin together to improve water quality, restore natural habitats, reduce storm water runoff and create places where people want to live, work and invest. Franklin utilizes Root Pike WIN to satisfy some of our MS4 stormwater requirements.

**ANALYSIS**

Staff has discussed the wetland complexes and potential for the Water Tower Park with Root-Pike WIN. There are many grant opportunities available for these types of projects and Root-Pike WIN is experienced in these types of projects. The attached resolution would authorize Root-Pike WIN to work on this project as needed to bring it to fruition, specifically to apply for grants to secure the funds necessary to complete the design and implementation. Any fees paid directly by the City of Franklin are yet to be determined and would be discussed as needed prior to proceeding with Franklin reimbursable activities.

This issue is planned to be discussed at the Franklin Environmental Commission on February 23, 2022.

**OPTIONS**

Accept or Reject Resolution authorizing Root-Pike WIN to work to identify and acquire funding on the City's behalf for this project(s).

**FISCAL NOTE**

Not determined at this time. To be discussed as opportunities are identified. This resolution does not commit City to fund and/or implement the wetland restoration, even if the design work is fully funded and finalized into construction documents with no financial assistance from the City.

**COUNCIL ACTION REQUESTED**

Authorize Resolution 2021-\_\_\_\_\_ a resolution for the design and implementation of the wetland restoration at Water Tower Park 8120 S. Lovers Lane Road (TKN 801-9986-000) in cooperation with Root-Pike Watershed Initiative Network.

And direct Staff to present and gather additional input at the February 23, 2022 Environmental Commission meeting.

Engineering: GEM

STATE OF WISCONSIN : CITY OF FRANKLIN : MILWAUKEE COUNTY

RESOLUTION NO. 2022- \_\_\_\_\_

RESOLUTION FOR THE DESIGN AND IMPLEMENTATION OF THE  
WETLAND RESTORATION AT WATER TOWER PARK  
8120 S. LOVERS LANE ROAD (TKN 801-9986-000)  
IN COOPERATION WITH ROOT-PIKE WATERSHED INITIATIVE NETWORK

---

WHEREAS, the City of Franklin is interested in removing invasive species, restoring the wetlands, increasing stormwater infiltration, enhancing biodiversity through revegetated habitats, providing a new trail system, and creating a place where people want to be at the future Water Tower Park located at 8120 S. Lovers Lane Road (TKN 801-9986-000); and

WHEREAS, Root-Pike Watershed Initiative Network is a 501(c)(3) non-profit organization that initiated and implements the Root River Watershed Restoration Plan; and

WHEREAS, Root-Pike Watershed Initiative Network is experienced in identifying and acquiring grant and other financial aid funding necessary to complete the design and implementation for these types of projects; and

WHEREAS, Root-Pike Watershed Initiative Network is willing to provide grant writing, conduct site tours, facilitate the obtaining of professional engineering services, act as the project manager to obtain professional services to develop the plans, estimate, schedule and manage the grant funds received to complete the wetland design, permitting, and implementation; and

WHEREAS, the City of Franklin works cooperatively with Root-Pike Watershed Initiative Network through the Southeastern Wisconsin Clean Water Network and the Department of Natural Resources to reduce stormwater runoff impacts as part of the City of Franklin's stormwater permit requirement; and

WHEREAS, there is no commitment by the City of Franklin to fund and/or implement the wetland restoration even if the design work is fully funded and finalized into construction documents with no financial assistance from the City; and

NOW, THEREFORE, BE IT RESOLVED, that the City of Franklin will cooperatively work with Root-Pike Watershed Initiative Network, and HEREBY AUTHROIZES its Executive Director to develop grant applications to act on behalf of the City of Franklin to:

1. Create and submit grant applications to various grant sources with City of Franklin's Engineer's input review and final approval; and
2. Facilitate the design and implementation of the project in accordance with the rules, regulations and wishes of City of Franklin and the Department of Natural Resources; and
3. Take the necessary action to undertake, direct and complete the approved design provided by the various potential funding sources under the supervision of City of Franklin's Engineer; and
4. Serve as the project manager and fiscal agent for the design and implementation phases of the wetland restoration at Water Tower Park; and
5. Create bid documents, conduct the bidding process, and make the final bid award under the guidance and final approval of the City of Franklin; and

6. Oversee the implementation activities and vendor contracts in accordance with the bidding and procurement regulations of the City of Franklin.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that Root-Pike Watershed Initiative Network is required to obtain written authorization from Common Council prior to performing any work that requires reimbursement from the City of Franklin.

Introduced at a regular meeting of the Common Council of the City of Franklin the \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Alderman \_\_\_\_\_.

PASSED AND ADOPTED by the Common Council of the City of Franklin on the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

APPROVED:

\_\_\_\_\_  
Stephen R. Olson, Mayor

ATTEST:

\_\_\_\_\_  
Sandra L. Wesolowski, City Clerk

AYES \_\_\_\_\_ NOES \_\_\_\_\_ ABSENT \_\_\_\_\_

<b>APPROVAL</b> <i>slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b> February 1, 2022
<b>REPORTS &amp; RECOMMENDATIONS</b>	<b>Resolution Declaring Official Intent to Reimburse Expenditures up to \$11.05 Million, from Proceeds of Future Borrowing</b>	<b>ITEM NUMBER</b> <b>G.14.</b>

**Background**

The 2022 Budget includes debt proceeds for the following initiatives: \$1.65 Million for TID #6, Bear Development, to complete the underground utilities to support future development; \$6 Million for TID #8, Franklin Corporate Park, for the initial infrastructure as well as developer obligations; and \$3.4 Million for Water Utility infrastructure, including the new water tower. Projects to be financed by the debt issues will begin at various times of the year, while the actual debt issues funding the projects will be scheduled later in the year.

**Analysis**

The Common Council needs to adopt a Declaration of Intent to reimburse expenditures from debt proceeds for any projects initiated prior to the debt sale. Absent a reimbursement resolution, the City would be unable to utilize future borrowed funds for costs already paid.

Prior to the Debt Sale, the projects would use available City cash reserves to pay for the expenditures. Because the City Financing will take advantage of tax-exempt provisions of the internal Revenue Code when applicable, the City must declare its intent to reimburse itself for project expenditures incurred prior to the Debt sale.

By adopting this resolution, the Council is committing to a future bond sale for the following projects:

- TID # 6 - \$1.65 Million – Underground utilities to support future development;
- TID #8 - \$6 Million – Initial infrastructure and developer obligations; and
- Water Utility - \$3.4 Million – Water Utility infrastructure.

**Recommendation**

The Director of Finance & Treasurer recommends the Common Council adopt the proposed resolution, declaring its intent to reimburse the City from proceeds for expenditures incurred from the projects prior to the debt sale.

**COUNCIL ACTION REQUESTED**

Motion adopting Resolution No. 2022-\_\_\_\_\_, A Resolution Declaring Official Intent to Reimburse Expenditures Up to \$11.05 Million, From Proceeds of Future Borrowing.

STATE OF WISCONSIN: CITY OF FRANKLIN: MILWAUKEE COUNTY

RESOLUTION NO. 2022-\_\_\_\_\_

RESOLUTION DECLARING OFFICIAL INTENT TO REIMBURSE EXPENDITURES UP TO \$11.05 MILLION, FROM PROCEEDS OF FUTURE BORROWING

---

WHEREAS, the City of Franklin, Milwaukee County, Wisconsin (the “Issuer”) plans to undertake the following projects in 2022: underground utility improvements in TID # 6, in the amount of \$1.65 Million; infrastructure improvements and development agreement obligations in TID #8, in the amount of \$6 Million; and Water Utility infrastructure improvements in the amount of \$3.4 Million (the ‘Projects’); and

WHEREAS, the City expects to finance the Projects on a long-term basis by issuing tax-exempt notes or other obligations (collectively, the “Notes”); and

WHEREAS, because the Notes will not be issued prior to commencement of the Projects, the Issuer must provide interim financing to cover costs of the Projects incurred prior to receipt of the proceeds of the Notes; and

WHEREAS, the Common Council of the Issuer deems it to be necessary, desirable, and in the best interests of the Issuer to advance moneys from its funds on an interim basis to pay the costs of the Projects until the Notes are issued.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin that:

Section 1. Expenditure of Funds. The Issuer shall make expenditures as needed from its funds on hand to pay the cost of the Projects until proceeds of the Notes become available.

Section 2. Declaration of Official Intent. The Issuer hereby officially declares its intent under Treasury Regulation Section 1.150-2 to reimburse said expenditures with proceeds of the Notes, the principal amount of which is not expected to exceed \$11.05 Million.

Section 3. Unavailability of Long-Term Funds. No funds for payment of the Projects from sources other than the Notes are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside by the Issuer pursuant to its budget or financial policies.

Section 4. Public Availability of Official Intent Resolution. The Resolution shall be made available for public inspection at the office of the Issuer’s Clerk within 30 days after its approval in compliance with applicable State law governing the availability of records of official acts including Subchapter II of Chapter 19, and shall remain available for public inspection until the Notes are issued.

Section 5. Effective Date. This Resolution shall be effective upon its adoption and approval.

Introduced at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_ day of \_\_\_\_\_, 2022.

Passed at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_ day  
of \_\_\_\_\_, 2022.

APPROVED:

\_\_\_\_\_  
Stephen R Olson, Mayor

ATTEST:

\_\_\_\_\_  
Sandra L. Wesolowski, City Clerk

AYES \_\_\_ NOES \_\_\_ ABSENT \_\_\_

BUDGET REPORT FOR CITY OF FRANKLIN  
Fund 44 TID 6 Bear Developmt-Loomis/Ryan/S 112

GL NUMBER	DESCRIPTION	2022 MAYOR RECOMMEND BUDGET	2022 DEPT REQUEST BUDGET	2021 PROJECTED ACTIVITY	2021 ORIGINAL BUDGET	2020 ACTIVITY	2019 ACTIVITY
Dept 0000 - GENERAL							
44-0000-4011 *	GENERAL PROPERTY TAX	37,500	37,500	0	0	0	0
44-0000-4012 *	PROPERTY TAX-SPECIAL-PAY IN LIEU	572,800	572,800	0	0	0	0
44-0000-4717	BOND PROCEEDS INTEREST INCOME	0	0	400	0	28,194	120,883
44-0000-4781	REFUNDS/REIMBURSEMENTS	0	0	100	0	0	0
44-0000-4911	BOND PROCEEDS	1,650,000	1,650,000	0	3,000,000	3,045,000	5,809,037
44-0000-4913	BOND & NOTE PREMIUM	0	0	0	0	15,871	273,320
44-0000-5593	TRSFER TO DEBT SERVICE FUND 34	377,302	377,302	90,380	342,850	0	0
44-0000-5601	BOND/NOTE ISSUANCE COST	75,000	75,000	0	50,000	62,827	109,100
NET OF REVENUES/APPROPRIATIONS - 0000 - GENERAL		1,807,998	1,807,998	(89,880)	2,607,150	3,026,238	6,094,140
Dept 0141 - CITY CLERK							
44-0141-5199	ALLOCATED PAYROLL COST	480	480	500	480	600	0
44-0141-5421	OFFICIAL NOTICES/ADVERTISING	0	0	0	0	0	43
NET OF REVENUES/APPROPRIATIONS - 0141 - CITY CLERK		(480)	(480)	(500)	(480)	(600)	(43)
Dept 0147 - ADMINISTRATION							
44-0147-5199	ALLOCATED PAYROLL COST	480	480	500	480	600	0
NET OF REVENUES/APPROPRIATIONS - 0147 - ADMINISTRATION		(480)	(480)	(500)	(480)	(600)	0
Dept 0151 - FINANCE							
44-0151-5199	ALLOCATED PAYROLL COST	5,160	5,160	7,000	6,960	5,200	0
44-0151-5421	OFFICIAL NOTICES/ADVERTISING	0	0	0	0	256	128
44-0151-5492	CERT OF DEPOSIT ORIG FEE	0	0	0	0	0	2,959
44-0151-6453	TIF CERTIFICATION FEE	150	150	150	150	1,150	1,000
NET OF REVENUES/APPROPRIATIONS - 0151 - FINANCE		(5,310)	(5,310)	(7,150)	(7,110)	(6,606)	(4,087)
Dept 0152 - AUDITOR							
44-0152-5213 *	ANNUAL AUDIT SERVICES	4,400	4,400	0	0	0	0
NET OF REVENUES/APPROPRIATIONS - 0152 - AUDITOR		(4,400)	(4,400)	0	0	0	0
Dept 0161 - LEGAL SERVICES							
44-0161-5212	LEGAL SERVICES	5,000	5,000	10,000	0	22,136	8,640
NET OF REVENUES/APPROPRIATIONS - 0161 - LEGAL SERV		(5,000)	(5,000)	(10,000)	0	(22,136)	(8,640)
Dept 0321 - ENGINEERING							
44-0321-5199	ALLOCATED PAYROLL COST	11,000	11,000	21,000	21,060	23,040	0
44-0321-5219	OTHER PROFESSIONAL SERVICES	0	0	0	0	144,681	0
NET OF REVENUES/APPROPRIATIONS - 0321 - ENGINEERIN		(11,000)	(11,000)	(21,000)	(21,060)	(167,721)	0
Dept 0331 - HIGHWAY							
44-0331-5823	STREET EXT/IMPROVEMT/CONSTRUCTIO	0	0	265,000	3,000,000	3,048,810	0
44-0331-5829	STORM SEWER CONSTRUCTION	0	0	0	0	1,653,010	0
NET OF REVENUES/APPROPRIATIONS - 0331 - HIGHWAY		0	0	(265,000)	(3,000,000)	(4,701,820)	0
Dept 0641 - ECONOMIC DEVELOPMENT							
44-0641-5199	ALLOCATED PAYROLL COST	4,000	4,000	12,500	12,500	700	0
44-0641-5219	OTHER PROFESSIONAL SERVICES	0	0	0	0	16,500	0
NET OF REVENUES/APPROPRIATIONS - 0641 - ECONOMIC D		(4,000)	(4,000)	(12,500)	(12,500)	(17,200)	0
Dept 0755 - WATER CONNECTION							
44-0755-5830 *	WATER EXTENSION/IMPROVEMENT	1,500,000	1,500,000	0	0	1,343,448	1,065,176
NET OF REVENUES/APPROPRIATIONS - 0755 - WATER CONN		(1,500,000)	(1,500,000)	0	0	(1,343,448)	(1,065,176)
Dept 0756 - SEWER CONNECTION							
44-0756-5826	SANITARY SEWER CONSTRUCTION	0	0	0	0	1,480,671	0
NET OF REVENUES/APPROPRIATIONS - 0756 - SEWER CONN		0	0	0	0	(1,480,671)	0



BUDGET REPORT FOR CITY OF FRANKLIN  
Fund 40 TID 8 CAPITAL PROJECTS

GL NUMBER	DESCRIPTION	2022 MAYOR RECOMMEND BUDGET	2022 DEPT REQUEST BUDGET	2021 PROJECTED ACTIVITY	2021 ORIGINAL BUDGET	2020 ACTIVITY	2019 ACTIVITY
Dept 0000 - GENERAL							
40-0000-4011 *	GENERAL PROPERTY TAX	89,400	89,400	0	0	0	0
40-0000-4911	BOND PROCEEDS	6,000,000	6,000,000	0	6,000,000	0	0
40-0000-5601	BOND/NOTE ISSUANCE COST	100,000	100,000	0	100,000	0	0
40-0000-6505 *	INTERFUND INTEREST	2,500	2,500	0	0	312	0
NET OF REVENUES/APPROPRIATIONS - 0000 - GENERAL		5,986,900	5,986,900	0	5,900,000	(312)	0
Dept 0141 - CITY CLERK							
40-0141-5199	ALLOCATED PAYROLL COST	480	480	500	480	0	0
NET OF REVENUES/APPROPRIATIONS - 0141 - CITY CLERK		(480)	(480)	(500)	(480)	0	0
Dept 0147 - ADMINISTRATION							
40-0147-5199	ALLOCATED PAYROLL COST	480	480	500	480	0	0
NET OF REVENUES/APPROPRIATIONS - 0147 - ADMINISTRATION		(480)	(480)	(500)	(480)	0	0
Dept 0151 - FINANCE							
40-0151-5199	ALLOCATED PAYROLL COST	6,960	6,960	7,000	6,960	0	0
40-0151-5421	OFFICIAL NOTICES/ADVERTISING	0	0	0	0	16	0
40-0151-6453	TIF CERTIFICATION FEE	150	150	150	150	1,000	0
NET OF REVENUES/APPROPRIATIONS - 0151 - FINANCE		(7,110)	(7,110)	(7,150)	(7,110)	(1,016)	0
Dept 0152 - AUDITOR							
40-0152-5213	ANNUAL AUDIT SERVICES	1,100	1,100	200	0	0	0
NET OF REVENUES/APPROPRIATIONS - 0152 - AUDITOR		(1,100)	(1,100)	(200)	0	0	0
Dept 0161 - LEGAL SERVICES							
40-0161-5212	LEGAL SERVICES	2,500	2,500	400	0	8,357	0
NET OF REVENUES/APPROPRIATIONS - 0161 - LEGAL SERV		(2,500)	(2,500)	(400)	0	(8,357)	0
Dept 0321 - ENGINEERING							
40-0321-5199	ALLOCATED PAYROLL COST	45,000	45,000	21,000	21,060	0	0
NET OF REVENUES/APPROPRIATIONS - 0321 - ENGINEERIN		(45,000)	(45,000)	(21,000)	(21,060)	0	0
Dept 0331 - HIGHWAY							
40-0331-5216.3409	ENGINEERING SERVICES	0	0	30,000	0	23,134	0
40-0331-5219	OTHER PROFESSIONAL SERVICES	0	0	0	623,000	0	0
40-0331-5823	STREET EXT/IMPROVEMT/CONSTRUCTIO	5,750,000	5,750,000	35,000	5,150,500	0	0
40-0331-5845.3313	ELECTRIC LINE MOVE	0	0	0	0	15,393	0
NET OF REVENUES/APPROPRIATIONS - 0331 - HIGHWAY		(5,750,000)	(5,750,000)	(65,000)	(5,773,500)	(38,527)	0
Dept 0641 - ECONOMIC DEVELOPMENT							
40-0641-5199	ALLOCATED PAYROLL COST	30,000	30,000	17,500	17,500	0	0
40-0641-5219	OTHER PROFESSIONAL SERVICES	0	0	0	0	15,000	0
40-0641-5701	DEVELOPMT INCENTIVE/GRANT	0	0	0	2,500,000	0	0
NET OF REVENUES/APPROPRIATIONS - 0641 - ECONOMIC D		(30,000)	(30,000)	(17,500)	(2,517,500)	(15,000)	0
ESTIMATED REVENUES - FUND 40		6,089,400	6,089,400	0	6,000,000	0	0
APPROPRIATIONS - FUND 40		5,939,170	5,939,170	112,250	8,420,130	63,212	0
NET OF REVENUES/APPROPRIATIONS - FUND 40		150,230	150,230	(112,250)	(2,420,130)	(63,212)	0
BEGINNING FUND BALANCE		(175,461)	(175,461)	(63,211)	(63,211)	0	0
ENDING FUND BALANCE		(25,231)	(25,231)	(175,461)	(2,483,341)	(63,212)	0
DEPARTMENT 0000 GENERAL							
4011	GENERAL PROPERTY TAX						
	FOOTNOTE AMOUNTS	89,400	89,400	0			

**City of Franklin  
Capital Improvement Fund  
Project List  
Budget 2022**

<b>Project</b>	<b>Appropriation</b>	<b>Other Resource Value</b>	<b>Net Appropriation</b>
Landfill Siting Resource			75,000
Transfers In from Impact Fees			575,000
Investment Income			3,000
<b>Total Resources</b>			<u>653,000</u>
Facility Improvments	350,000		350,000
Fiber Optic Cable	1,371,200	APRA	1,371,200
			-
Fire Station Design	211,000	Fd 27	52,750
			158,250
			-
Highway Bldg design	549,500	Fd 27	137,375
Ind park lighting	200,000		200,000
City Lighting	100,000		100,000
			-
Water Tower Park Design	100,000		47,000
			53,000
Cascade Trail Design	38,213		23,692
			14,521
Dog Amenities	15,000		5,400
			9,600
Cricket Pitch Field	20,000		7,200
			12,800
Frisbee/Disc Golf Course	20,000		20,000
Pleasant View Park improvme	120,000		56,400
			63,600
Ryan Creek Trail Sections	200,000		124,000
			76,000
St Martin of Tours Trail	179,308		111,171
			68,137
Southwest Park Developmen	350,000		126,000
			224,000
Trail Head on Sch Prop	400,000		248,000
			152,000
116th St Trail	810,285	Impact fees	155,177
		Grant	560,000
			(560,000)
			-
Misc Water Projects	200,000	Fd 22	200,000
			-
Water Main - S 92 to Hwy 100		Fd 22	-
		Fd 27	-
			-
Connection to Milw Water Wc	697,500	Fd 27	104,625
			592,875
		Fd 65	592,875
			(592,875)
Water Tower hwy 100	7,118,000	Fd 65	2,772,350
			4,345,650
		Fd 22	775,950
			(775,950)
		Fd 27	3,569,700
			(3,569,700)
			-
Misc Sewer Extension	500,000	Fd 22	500,000
			-
Sewer Main - Ryan Rd & 76th		Fd 27	-
			-
			-
Contingency	140,000		140,000
<b>Total Projects</b>	<b>13,690,006</b>		<b>11,540,865</b>
			<u>2,149,141</u>
<b>Net Res (Expenditure)</b>			<u>(1,496,141)</u>
<b>Beginning Fund Balance</b>			<u>1,497,592</u>
<b>Ending Fund Balance</b>			1,451

**Jacqueline Ziolkowski**

---

**From:** Paul Rotzenberg  
**Sent:** Wednesday, October 6, 2021 10:51 AM  
**To:** Glen Morrow  
**Cc:** Mike Roberts; Jacqueline Ziolkowski  
**Subject:** 2022 Proposed Water Utility Budget for BWC Oct 19th Meeting  
**Attachments:** 2022 Proposed Water Utility Budget.pdf

Attached is the Proposed 2022 Water Utility Budget. There is both a Summary and the detail as at least one Commissioner was interested in the details last year.

This Budget does NOT have to be adopted at the Oct meeting, but should be adopted at the Nov meeting.

I will repeat the 2022 Capital budget here as the Capital budget should accompany this operating budget.

**2022 Capital Budget:**

Water Tower – utility portion -	\$2,772,350
Design costs Wholesale supplier	592,875
Replacement truck	25,000
Water Meters	149,400
50 <sup>th</sup> & Minnesota main extension	69,500
Software	33,000
Building Improvements	14,400
Total Capital	\$3,656,525
<b>Debt financing</b>	<b>\$3,400,000</b>
From Operating funds	256,525

A full rate case will be needed in 2023, once the water tower is in service to provide the added resources to service the tower project.

**Paul Rotzenberg, CPA**  
Dir of Finance & Treasurer  
City of Franklin, WI  
414 427-7514



**BLANK PAGE**

<b>APPROVAL</b> <i>slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b> February 1, 2022
<b>REPORTS &amp; RECOMMENDATIONS</b>	<b>AN ORDINANCE TO AMEND ORDINANCE 2021-2486, AN ORDINANCE ADOPTING THE 2022 ANNUAL BUDGET FOR THE CAPITAL OUTLAY FUND TO PROVIDE \$15,819.25 OF APPROPRIATION AND FUNDING RESOURCE FOR THE PURCHASE OF ONE ADDITIONAL LUCAS-3 AUTOMATIC CHEST COMPRESSION DEVICE, AND COMMON COUNCIL APPROVAL TO PURCHASE THE DEVICE</b>	<b>ITEM NUMBER</b>  <b>G.15.</b>

**Background**

Included in the 2022 Capital Improvement Fund is an appropriation for the purchase of two LUCAS-3 automatic chest compression devices. These devices were approved for purchase by the Council at the January 18, 2022 Council Meeting. After that meeting, Mike Zimmerman offered to donate funds for the purchase of an additional device for the Fire Department. The additional device will cost \$15,819.25.

**Analysis**

The donation offered for the third device to be purchased in 2022 will ensure that each of our medical units is equipped with this life saving device, which benefits the City greatly since the donation offsets the cost of the additional unit.

**Recommendation**

The Finance Director recommends the attached proposed Capital Improvement Fund budget amendment to appropriate the funds, allowing the purchase to take place and accounts for the donation to fund the requested equipment.

**COUNCIL ACTION REQUESTED**

Motion to adopt Ordinance No. 2022-\_\_\_\_, An Ordinance to Amend Ordinance 2021-2486, An Ordinance Adopting the 2022 Annual Budget for the Capital Outlay Fund to Provide \$15,819.25 of Appropriation and Funding Resource for the Purchase of One Additional LUCAS-3 Automatic Chest Compression Device, and Common Council approval to purchase the device.

Roll Call Vote Required

STATE OF WISCONSIN : CITY OF FRANKLIN : MILWAUKEE COUNTY

ORDINANCE NO. 2022-\_\_\_\_\_

AN ORDINANCE TO AMEND ORDINANCE 2021-2486, AN ORDINANCE ADOPTING THE 2022 ANNUAL BUDGET FOR THE CAPITAL OUTLAY FUND TO PROVIDE \$15,819.25 OF APPROPRIATION AND FUNDING RESOURCE FOR THE PURCHASE OF ONE ADDITIONAL LUCAS-3 AUTOMATIC CHEST COMPRESSION DEVICE

WHEREAS, the Common Council of the City of Franklin adopted the 2022 Annual Budgets for the City of Franklin on November 16, 2021;

WHEREAS; the City included in the 2022 Budget, and Council approved for purchase, two LUCAS-3 automatic chest compression devices;

WHEREAS, having three LUCAS devices will ensure that each of our medical units is equipped with this life saving device; and

WHEREAS, Michael Zimmerman, a business owner in the community, recently donated \$15,819.25 to cover the full cost of a third LUCAS-3 automatic chest compression device that was not included in the 2022 Capital Outlay appropriations;

NOW, THEREFORE, the Common Council of the City of Franklin does hereby ordain as follows:

Section 1 That the 2022 Budget for the Capital Outlay Fund be amended as follows:

<i>Appropriation</i>			
LUCAS-3 Device		Increase	\$15,819.25
<i>Funding Source</i>			
Donation/Miscellaneous Revenue		Increase	\$15,819.25

Section 2 Pursuant to §65.90(5)(a), Wis. Stats., the City Clerk is directed to post a notice of this budget amendment within fifteen days of adoption of this ordinance on the City's website.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_ day of \_\_\_\_\_, 2022.

APPROVED:

\_\_\_\_\_  
Stephen R Olson, Mayor

ATTEST:

\_\_\_\_\_  
Sandra L. Wesolowski, City Clerk

AYES \_\_\_ NOES \_\_\_ ABSENT \_\_\_

<b>APPROVAL</b> <i>slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b> 02-01-22
<b>REPORTS &amp; RECOMMENDATIONS</b>	<b>Committee of the Whole Recommendations</b>	<b>ITEM NUMBER</b> <b>G.16.</b>

Recommendation from the Committee of the Whole Meeting of January 31, 2022:

- (a) Demonstration of the LUCAS Device (Lund University Cardiac Assist System) by the Fire Department.
- (b) Kueny Architects, LLC Status Update Concerning the Department of Public Works and Fire Needs Assessment Services Project.

**COUNCIL ACTION REQUESTED**

As directed

**BLANK PAGE**



<b>APPROVAL</b> <i>slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b> <b>02/01/2022</b>
<b>LICENSES AND PERMITS</b>	<b>MISCELLANEOUS LICENSES</b>	<b>ITEM NUMBER</b> <b>H.</b>

See attached listing from meeting of February 1, 2022.

**COUNCIL ACTION REQUESTED**

As recommended by the License Committee.



414-425-7500

**License Committee  
Agenda\***

**Alderman Room**

**February 01, 2022 – 5:45 p.m.**

<b>1.</b>	<b>Call to Order &amp; Roll Call</b>	<b>Time:</b>
<b>2.</b>	<b>Applicant Interviews &amp; Decisions</b>	
<b>License Applications Reviewed</b>		<b>Recommendations</b>

Type/ Time	Applicant Information	Approve	Hold	Deny
Operator 2021-2022 New	<b>Arora, Agam S</b> Walgreens #15020			
Operator 2021-2022 New	<b>Klemm, Tyler M</b> Swiss Street Pub & Grill			
Operator 2021-2022 New	<b>Zurstadt, Emma R</b> Walgreens #05459			
People Uniting for the Betterment of Life and Investment in the Community (PUBLIC) Grant	<b>Franklin Health Dept – Community Events</b> Fee Waivers: Park Permits Names & Date of the Events: <b>Bike Rodeo</b> – June 4, 2022, 9am – 12pm; <b>Movie Night</b> – August 12, 2022, 6 – 11pm; <b>Trunk or Treat</b> – October 27, 2022, 5 – 8pm; <b>Drug Take- Back Day</b> – October 22, 2022, 9am – 12pm (no Fee Waiver required). Locations: <b>Bike Rodeo and Movie Night</b> – Lions Legend Park 1, Legend Dr., Schlueter Pkwy.; <b>Trunk or Treat</b> – Library Parking Lot, Lions Legend Park 1, Legend Dr., Schlueter Pkwy.; <b>Drug Take-Back Day</b> – City Hall Lower Parking Lot			
<b>Police Incident Reports from February 13, 2021 thru December 19, 2021</b>	Review of Police Incident Reports from February 13, 2021 thru December 19, 2021 for Class A and B Establishments.			
<b>3.</b>	<b>Adjournment</b>	Time		

\*Notice is given that a majority of the Common Council may attend this meeting to gather information about an agenda item over which they have decision-making responsibility. This may constitute a meeting of the Common Council per State ex rel. Badke v. Greendale Village Board, even though the Common Council will not take formal action at this meeting.

<b>APPROVAL</b> <i>slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b> <b>2/01/2022</b>
<b>Bills</b>	<b>Vouchers and Payroll Approval</b>	<b>ITEM NUMBER</b> <b>I</b>

Attached are vouchers dated January 14, 2022 through February 1, 2022 Nos 186465 through Nos 186781 in the amount of \$ 1,601,020 64 Also included in this listing are EFT's Nos 4809 through Nos 4828 Library vouchers totaling \$ 20,725 04, Water Utility vouchers totaling \$ 13,763 08 and Property Tax vouchers totaling \$ 139,371 71 Voided checks in the amount of (\$ 20,832 16) are separately listed

Early release disbursements dated January 14, 2022 through January 31, 2022 in the amount of \$ 1,034,078 87 are provided on a separate listing and are also included in the complete disbursement listing These payments have been released as authorized under Resolution 2013-6920

The net payroll dated January 28, 2022 is \$ 438,457 85, previously estimated at \$ 425,000 Payroll deductions dated January 28, 2022 are \$ 554,297 16, previously estimated at \$ 608,000

The estimated payroll for February 11, 2022 is \$ 447,000 with estimated deductions and matching payments of \$ 300,000

Attached is a list of property tax disbursements Check No 17934, EFT's Nos 401 through Nos 406 and Nos 297(S) through 299(S) dated January 14, 2022 through January 28, 2022 in the amount of \$ 18,492,737 30 \$ 138,832 49 represents refund reimbursements, \$763 40 represent payments and \$ 18,353,141 41 represent tax settlements which were approved at the Council meeting on January 18, 2022 These payments have been released as authorized under Resolution 2013-6920

Approval to release temporary investment transfer to ADM in the amount of \$ 10,000,000 dated January 26, 2022

### COUNCIL ACTION REQUESTED

Motion approving the following

- City vouchers with an ending date of February 1, 2022 in the amount of \$ 1,601,020 64 and
- Payroll dated January 28, 2022 in the amount of \$ 438,457 85 and payments of the various payroll deductions in the amount of \$ 554,297 16, plus City matching payments and
- Estimated payroll dated February 11, 2022 in the amount of \$ 447,000 and payments of the various payroll deductions in the amount of \$ 300,000, plus City matching payments and
- Property Tax disbursements with an ending date of January 28, 2022 in the amount of \$ 18,492,737 30 and
- Approval to release temporary investment transfer to ADM in the amount of \$ 10,000,000

**ROLL CALL VOTE NEEDED**