

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, NOVEMBER 1, 2022, AT 6:30 P.M.

- A. Call to Order and Roll Call.
- B. Citizen Comment Period.
- C. Approval of Minutes: Regular Common Council Meeting of October 18, 2022.
- D. Hearings.
- E. Organizational Business.
- F. Letters and Petitions.
- G. Reports and Recommendations:
 - 1. Labor Contract Negotiations and Collective Bargaining Strategies. The Common Council may enter closed session pursuant to Wis. Stats. § 19.85(1)(c) and (e), to discuss collective bargaining strategy in regard to negotiations with the Franklin Police Officers Association, for competitive and bargaining reasons, and to re-enter open session at the same place thereafter to act on such matters discussed therein as the Common Council deems appropriate.
 - 2. Request Council Approval for the Fire Department to Apply for and Accept a Grant from the Kelmann Cares Foundation for the Replacement of Two (2) Ice Rescue Suits.
 - 3. Request to Cancel Holding Tank Agreement for 7407 S. 27th Street.
 - 4. Request to Cancel Holding Tank Agreement for 9801 S. 27th Street.
 - 5. A Resolution Authorizing Certain Officials to Execute a Tax Assessment Agreement as Part of Tax Incremental Financing District No. 6 with Rise Franklin WI, LLC.
 - 6. Personnel Committee Recommendation to Deny the Request to Raise the Maximum Accrual Level for Compensatory Time for the Police Sergeants from 110 Hours to 200 Hours to Mirror the Police Union Accrual Level.
 - 7. 2023 Proposed Budget.
 - 8. Inclusion of Sidewalks, Lighting and Other Design Elements in Wisconsin Department of Transportation Project for S. 27th Street (STH 241) from W. Elm Road to W. Villa Drive.

Common Council Meeting Agenda

November 1, 2022

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9. A Resolution Authorizing of the Enhancement of an Existing Fence within the 5-Foot Drainage Easement Upon Lot 1 in Block 15 of Southwood East (9307 S. 35th Street) (TKN 879-0220-000) (Kevin & Linda Wandtke, Applicants).
10. A Resolution for Authorization to We Energies for Work Order for Lighting at W. Sunnybrook Road and W. Forest Home Avenue.
11. An Ordinance to Repeal Chapter 165 of the Municipal Code and to Repeal and Recreate Chapter 129 of the Municipal Code and to Rename Chapter 129 From “Filling and Grading” to “Land Disturbing Construction Activities.”
12. *Wal-Mart Real Estate Business Trust v City of Franklin*, Milwaukee County Circuit Court Case No. 2021-CV-005568, and *Wal-Mart Real Estate Business Trust v City of Franklin*, Milwaukee County Circuit Court Case No. 2022-CV-006608. The Common Council may enter closed session 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 litigations, and to reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate.
13. *Sam’s Real Estate Business Trust v. City of Franklin*, Milwaukee County Circuit Court Case No. 2021-CV-005567, and *Sam’s Real Estate Business Trust v City of Franklin*, Milwaukee County Circuit Court Case No. 2022-CV-006604. The Common Council may enter closed session 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 litigations, and to reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate.
14. *FF&E, LLC v. City of Franklin Board of Review*, Milwaukee County Circuit Court Case No. 2020-CV-006955, and *FF&E, LLC v City of Franklin*, Milwaukee County Circuit Court Case No. 2022-CV-005800. The Common Council may enter closed session 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 litigations, and to reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate.
15. Common Council Consideration of Code of Conduct Complaints. The Common Council may enter closed session pursuant to Wis. Stat. § 19.85(1)(f) considering financial, medical, social, or personal histories or disciplinary data of specific persons, preliminary consideration of specific personnel problems or the investigation of charges against specific persons except where par. (b) applies which, if discussed in public, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such histories or data, or involved in such problems or investigations, and to reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate.

H. Licenses and Permits.

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

Common Council Meeting Agenda

November 1, 2022

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I. Bills.

Request for Approval of Vouchers and Payroll.

J. Adjournment.

*Supporting documentation and details of these agenda items are available in the Common Council Meeting Packet on the City of Franklin website www.franklinwi.gov

[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:

| | | |
|----------------|-------------------------|---------------------|
| November 3 | Plan Commission Meeting | 7:00 p.m. |
| November 8 | General Election | 7:00 a.m.-8:00 p.m. |
| November 15 | Common Council Meeting | 6:30 p.m. |
| November 17 | Plan Commission Meeting | 7:00 p.m. |
| November 24-25 | Closed for Thanksgiving | |

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CITY OF FRANKLIN
COMMON COUNCIL MEETING
OCTOBER 18, 2022
MINUTES

C.

- ROLL CALL A. The regular meeting of the Franklin Common Council was held on October 18, 2022, and was called to order at 6:30 p.m. by Mayor Olson in the Franklin City Hall Council Chambers, 9229 W. Loomis Road, Franklin, Wisconsin. On roll call, the following were present: Alderman Ed Holpfer, Alderwoman Michelle Eichmann, Alderwoman Kristen Wilhelm, Alderwoman Shari Hanneman, Alderman Mike Barber, and Alderman John R. Nelson. Also in attendance were Dir. of Administration Peggy Steeno, City Engineer Glen Morrow, City Attorney Jesse A. Wesolowski and City Clerk Sandra Wesolowski.
- CITIZEN COMMENT B. Citizen comment period was opened at 6:32 p.m. and was closed at 6:47 p.m.
- MINUTES
OCTOBER 4, 2022 C. Alderwoman Wilhelm moved to approve the minutes of the regular Common Council meeting of October 4, 2022, as amended at Item G.10. Seconded by Alderwoman Eichmann. All voted Aye; motion carried.
- RES. 2022-7915
DEVELOPMENT
AGREEMENT WITH
SUBDIVIDER OF
CAPE CROSSING AT
12200 W. RYAN RD. G.1. Alderman Nelson moved to adopt Resolution No. 2022-7915, A RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO EXECUTE A SUBDIVISION DEVELOPMENT AGREEMENT WITH THE SUBDIVIDER OF CAPE CROSSING SUBDIVISION, 12200 W. RYAN ROAD, TKNS 890-9991-001 AND 890-9991-002, subject to potential changes to the agreement, with the final form and content to be approved by the City Engineer and the City Attorney. Seconded by Alderman Barber. All voted Aye; motion carried.
- ORD. 2022-2519
AMEND UDO TO
REZONE TO R-3
SUBURBAN/ESTATE
SINGLE-FAMILY
RESIDENCE DISTRICT
(8979 S. 42ND ST.)
SARTLER
APPLICANTS G.2. Alderwoman Hanneman moved to adopt Ordinance No. 2022-2519, AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE (ZONING MAP) TO REZONE A CERTAIN PARCEL OF LAND FROM R-3 SUBURBAN/ESTATE SINGLE-FAMILY RESIDENCE DISTRICT AND C-1 CONSERVANCY DISTRICT TO R-3 SUBURBAN/ESTATE SINGLE-FAMILY RESIDENCE DISTRICT (SPECIFICALLY LOCATED AT 8979 SOUTH 42ND STREET) (APPROXIMATELY 1.507 ACRES) (CHRISTIAN S. SARTLER AND KAREN R. SARTLER, APPLICANTS), approval not in effect until Applicant obtains approval of a Conservation Easement, with any approved Natural Resource Special Exception for the property to be part of the property, subject to technical corrections by the City Attorney. Seconded by Alderman Barber. All voted Aye; motion carried.

- CONSULTING
PLANNING SERVICES
AGREEMENT WITH
WRAYBURN
CONSULTING, LLC
- G.3. Alderwoman Wilhelm moved to authorize a Consulting Services Agreement with Wrayburn Consulting, LLC, for general planning services; utilizing 2022 budgeted personnel funds in the planning division budget; and authorize the Mayor to execute and administer the appropriate, related contract. Seconded by Alderwoman Eichmann. All voted Aye; motion carried.
- PARKS MARKETING
MATERIALS
- G.4. Alderwoman Hanneman moved to approve and endorse the Parks marketing material, subject to technical corrections. Seconded by Alderman Holpfer. All voted Aye; motion carried.
- RES. 2022-7916
STORM WATER
AGREEMENT AND
EASEMENT FOR 5500
W. OAKWOOD DR.
- G.5. Alderwoman Hanneman moved to adopt Resolution No. 2022-7916, A RESOLUTION FOR ACCEPTANCE OF A STORM WATER FACILITIES MAINTENANCE AGREEMENT AND A STORM WATER MANAGEMENT ACCESS EASEMENT FOR 5500 W. OAKWOOD PARK DRIVE, TKN 931-0005-000. Seconded by Alderman Barber. All voted Aye; motion carried.
- RES. 2022-7917
STORM WATER
AGREEMENT AND
EASEMENT FOR 2855
W. FOREST HILL AVE.
- G.6. Alderman Holpfer moved to adopt Resolution No. 2022-7917, A RESOLUTION FOR ACCEPTANCE OF A STORM WATER FACILITIES MAINTENANCE AGREEMENT AND A STORM WATER MANAGEMENT ACCESS EASEMENT FOR 2855 W. FOREST HOME AVENUE, TKN 832-9898-002. Seconded by Alderwoman Eichmann. All voted Aye; motion carried.
- LIBRARY 2020-2024
STRATEGIC PLAN
- G.7. Alderman Barber moved to accept and place on file the presentation by Director Loeffel on the 2020-2024 Strategic Plan activities of Franklin Public Library. Seconded by Alderwoman Wilhelm. All voted Aye; motion carried.
- RES. 2022-7918
CHANGE ORDER 3
FOR 2023 ASPHALT
WORK TO BUTEYN-
PETERSON CONST.
CO. FOR S. HICKORY
ST.
- G.8. Alderman Barber moved to adopt Resolution No. 2022-7918, A RESOLUTION TO AWARD CHANGE ORDER NO. 3 FOR 2023 ASPHALT WORK TO BUTEYN-PETERSON CONSTRUCTION CO., INC. FOR THE FRANKLIN CORPORATE PARK-SOUTH HICKORY STREET IMPROVEMENTS IN THE AMOUNT OF \$30,238.45. Seconded by Alderman Holpfer. All voted Aye; motion carried.
- AMEND MUN. CODE
WATER MAIN
LATERAL SPECIAL
ASSESSMENTS
- G.9. Alderwoman Wilhelm moved to table for two months, an Ordinance to Amend §207-21 of the Municipal Code Regarding Special Assessments of Water Main Laterals. Seconded by Alderman Nelson. All voted Aye; motion carried.

- RES. 2022-7919
CHANGE ORDER 1
2022 STREET
PROGRAM MAINT.
TO SCOTT CONST.,
INC.
- G.10. Alderman Nelson moved to adopt Resolution No. 2022-7919, A RESOLUTION TO ISSUE CHANGE ORDER NO. 1 FOR THE 2022 LOCAL STREET PREVENTATIVE MAINTENANCE PROGRAM TO SCOTT CONSTRUCTION, INC. IN THE AMOUNT OF \$6,569.82. Seconded by Alderman Barber. All voted Aye; motion carried.
- DIR. OF INSPECTION
SERVICES
- G.14. No action was taken at this time regarding the appointment of the Director of Inspection Services for the City of Franklin.
- APPOINTMENT OF
DIRECTOR OF CLERK
SERVICES, KAREN
KASTENSON
- G.15. Alderman Barber moved to confirm the appointment of Karen Kastenson as the Director of Clerk Services for the City of Franklin pending successful completion of a background check and pre-employment drug screen. Seconded by Alderman Holpfer. On roll call, all voted Aye. Motion carried.
- 2023 EMPLOYEE
BENEFIT-RELATED
COVERAGES,
EARNERS, AND
PREMIUM SHARES
- G.11. Alderman Barber moved to approve the 2023 employee benefit-related coverages, earners, and premium shares, as outlined herein, including: health insurance, wellness, health and wellness supplementary programs, and dental insurance; and authorize the Director of Administration to execute the appropriate related contracts. Seconded by Alderman Nelson. All voted Aye; motion carried.
- AMEND 2023
MAYOR'S
RECOMMENDED
BUDGET
- G.12. Alderman Holpfer moved to adjust the 2023 Proposed Budget to allocate \$50,000 of the \$1,500,000 budgeted for the Local Road Program to be specifically used for Curb and Gutter Repair, and carry over any unspent Curb and Gutter Repair funds from the 2022 Budget, if that work does not get done this year, to be used with the \$50,000 for Curb and Gutter Repair in 2023. Seconded by Alderwoman Wilhelm. All voted Aye; motion carried.
- Alderman Barber then moved to amend the 2023 Mayor's Recommended Budget for revenues and expenditures as detailed herein and on the attached schedules, to be included in the 2023 Proposed Budget for the Public Hearing scheduled for November 15, 2022. Seconded by Alderman Holpfer. On roll call, all voted Aye. Motion carried.
- RD. 2022-2520
AMEND ORD. 2021-
2486, 2022 ANNUAL
BUDGET STREET
IMPROVEMENT
FUND
- G.13. Alderman Nelson moved to adopt Ordinance No. 2022-2520, AN ORDINANCE TO AMEND ORDINANCE NO. 2021-2486, AN ORDINANCE ADOPTING THE 2022 ANNUAL BUDGET FOR THE CAPITAL IMPROVEMENT FUND TO TRANSFER \$260,000 OF ENGINEERING CAPITAL FUNDS TO THE STREET IMPROVEMENT FUND. Seconded by Alderwoman Eichmann.

Alderman Nelson withdrew his motion and Alderwoman Eichmann withdrew her second.

Alderwoman Wilhelm moved to adopt Ordinance No. 2022-2520, AN ORDINANCE TO AMEND ORDINANCE NO. 2021-2486, AN ORDINANCE ADOPTING THE 2022 ANNUAL BUDGET FOR THE CAPITAL IMPROVEMENT FUND TO TRANSFER \$260,000 OF CAPITAL IMPROVEMENT FUNDS TO THE STREET IMPROVEMENT FUND. Seconded by Alderman Nelson. On roll call, all voted Aye. Motion carried.

LICENSE COMM.
RECOMMENDATIONS

H. Alderwoman Eichmann moved to approve the following licenses:

Grant Reserve Class B Combination, Entertainment & Amusement to Staybridge Suites, Vicki Jesson, 9575 S 27th St;
Grant Extraordinary Entertainment & Special Event to Race Day Events – Elf Run/Winter Run Series, Max Noll, Whitnall Park to South of West College Ave, 11/20/22;
Grant Extraordinary Entertainment & Special Event to Wheel & Sprocket – Fat Bike Event; Amelia Kegel, 7044 S Ballpark Dr & Kegel/Alpha Trail; 11/19/22 pending route clearance with the Engineering and Police Departments;
Grant Extraordinary Entertainment & Special Event to Rock Sports Complex – APFC MMA Midwest Indoor Invitation, Paul Cimoch, 7095 S Ballpark Dr – Mosh Performance Center, 11/18/22 contingent upon seating arrangements by Inspection Services Department;
Grant 2022-23 Operator License to: Kaylee Nicla, Isabella Pantoja, Amrish Patel, Nicole Salas, Agyapal Singh, Adaira Walker, and Hadi Johnson;
Hold 2022-23 Operator License to Eric Zoromskis for appearance;
Table the Fireworks Display Process to a future meeting;
Refer the approved License Committee Administrative Rules and Regulations to the City Attorney for review and return with his comments, along with preparation of the document for approval; and
No action was required Alcohol License Statistics.

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

CLOSED SESSION
*FF&E, LLC V CITY OF
FRANKLIN BOARD OF
REVIEW.*

G.16. *FF&E, LLC v. City of Franklin Board of Review*, Milwaukee County Circuit Court Case No. 20-CV-6955, and Corresponding 2022 Assessment. Alderman Holpfer moved to enter closed session at 8:40 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, 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, all voted Aye. Motion carried.

Upon reentering open session at 9:05 p.m., Alderman Holpfer moved to proceed as discussed in closed session. Seconded by Alderwoman Eichmann. On roll call, all voted Aye. Motion carried.

CLOSED SESSION
*SAM'S REAL ESTATE
BUSINESS TRUST V
CITY OF FRANKLIN*

- G.17. *Sam's Real Estate Business Trust v. City of Franklin*, Milwaukee County Circuit Court Case No. 21-CV-5567, and Corresponding 2022 Assessment. Alderwoman Hanneman moved to enter closed session at 9:06 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, 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 9:19 p.m., Alderwoman Wilhelm moved to proceed as discussed in closed session. Seconded by Alderman Holpfer. On roll call, all voted Aye. Motion carried.

CLOSED SESSION
*WAL-MART REAL
ESTATE BUSINESS
TRUST V. CITY OF
FRANKLIN*

- G.18. *Wal-Mart Real Estate Business Trust v City of Franklin*, Milwaukee County Circuit Court Case No. 21-CV-5568, and Corresponding 2022 Assessment. Alderwoman Hanneman moved to enter closed session at 9:20 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, and to reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate. Seconded by Alderwoman Eichmann. On roll call, all voted Aye. Motion carried.

Upon reentering open session at 9:25 p.m., Alderman Barber moved to proceed as discussed in closed session. Seconded by Alderman Holpfer. On roll call, all voted Aye. Motion carried.

CLOSED SESSION
CODE OF CONDUCT
COMPLAINTS

- G.19. Alderman Barber vacated his seat at 9:27 p.m. and returned at 10:27 p.m. Alderwoman Hanneman vacated her seat at 10:27 p.m. and returned at 11:11 p.m.

Common Council Consideration of Code of Conduct Complaints. Alderman Nelson moved to enter closed session at 9:28 p.m. pursuant to Wis. Stat. § 19.85(1)(f), considering financial, medical, social, or personal histories or disciplinary data of specific persons, preliminary consideration of specific personnel problems or the investigation of charges against specific persons except where par. (b) applies which, if discussed in public, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such histories or data,

or involved in such problems or investigations, and to reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate. Seconded by Alderwoman Eichmann. On roll call, Alderman Holpfer, Alderwoman Eichmann, Alderwoman Wilhelm, Alderwoman Hanneman, and Alderman Nelson voted Aye; Alderman Barber Absent. Motion carried.

The Common Council reentered open session at 11:11 p.m.

ADJOURNMENT

- J. Alderman Holpfer moved to adjourn the regular meeting of the Common Council at 11:11 p.m. Seconded by Alderwoman Eichmann. All voted Aye; motion carried.

| | | |
|--|---|--|
| <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;">11/1/2022</p> |
| <p style="text-align: center;">REPORTS & RECOMMENDATIONS</p> | <p style="text-align: center;">Labor Contract Negotiations and Collective Bargaining Strategies. The Common Council may enter closed session pursuant to Wis. Stats. § 19.85(1)(c) and (e), to discuss collective bargaining strategy in regard to negotiations with the Franklin Police Officers Association, for competitive and bargaining reasons, and to re-enter open session at the same place thereafter to act on such matters discussed therein as the Common Council deems appropriate.</p> | <p style="text-align: center;">ITEM NUMBER</p> <p style="text-align: center;">G.1.</p> |

COUNCIL ACTION REQUESTED

Motion to go into closed session: The Common Council may enter closed session pursuant to Wis. Stats. § 19.85(1)(c) and (e), to discuss collective bargaining strategy in regard to negotiations with the Franklin Police Officers Association, for competitive and bargaining reasons, and to re-enter open session at the same place thereafter to act on such matters discussed therein as the Common Council deems appropriate.

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| <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;"><i>11/01/2022</i></p> |
| <p style="text-align: center;">REPORTS AND RECOMMENDATIONS</p> | <p style="text-align: center;">Request Council approval for the Fire Department to apply for and accept a grant from the Kelmann Cares Foundation for the replacement of two (2) ice rescue suits.</p> | <p style="text-align: center;">ITEM NUMBER</p> <p style="text-align: center;">G.2.</p> |

Introduction:

In late September 2022, the fire department was made aware of a grant funding opportunity from the Kelmann Cares Foundation. The foundation awards grants bi-annually to organizations in southeastern Wisconsin that benefit local communities with an emphasis on supporting public safety initiatives. The maximum grant award is \$1,000.00. Applications for the grant were due on October 1, 2022 which resulted in a very short timeframe to take advantage of the funding opportunity.

Background:

The Franklin Fire Department response area includes multiple retention ponds, small lakes and the Root River, which runs through nearly the entire city. The winter months bring increased risk of individuals falling through thin ice on these bodies of water. This project would allow the Franklin Fire Department to replace two aging "Mustang" ice rescue suits that have been in service for over ten years and have developed fatigue and are showing signs of wear. Investing in two (2) new "First Watch" suits will provide a rugged, quality made replacement offering the best protection and safety to fire personnel while performing a surface ice rescue. The Kelmann Cares grant will fund \$1,000.00 toward the purchase.

In addition, the \$356.00 balance of the purchase will be funded by the Fire Department using existing public donations (budget line 28-0221-5329-7081). An appropriation is needed to spend the \$356.00 in donations.

COUNCIL ACTION REQUESTED

Request motion to authorize the Fire Department apply for and accept the Kelmann Cares grant funding in the amount of \$1,000.00 with an appropriation of \$356.00; and to purchase two First Watch ice/water rescue suits, at a total cost not to exceed \$1356.00.

kelmanncares

A FOUNDATION for FAMILIES

10/13/2022

City of Franklin Fire Department
Assistant Chief Mayer
8901 W Drexel Avenue
Franklin, WI 53132

Dear Assistant Chief Mayer,

On behalf of the Kelmann Cares Foundation, I would like to congratulate you! Your grant application has been approved by our board. City of Franklin Fire Department has been awarded \$1,000.00 for an Ice Rescue Suit. Your check is enclosed.

Thank you for the care you took in filling out the grant proposal. It was an honor to read your application and to understand a little bit more about your mission.

The Kelmann Cares Foundation puts southeastern Wisconsin families first by creating, identifying, and supporting projects and organizations that exist to positively impact family life, better the communities in which we live and work, and support and honor the men and women who protect our families and communities.

Thank you for joining us in our mission of transforming the lives of families, communities and first responders in southeastern Wisconsin. The Kelmann Cares Foundation is thrilled to support City of Franklin Fire Department and we wish you great success.

Sincerely,



Adam Nelson
Treasurer
Kelmann Cares Foundation

Transforming the lives of families, communities and first responders in southeastern Wisconsin



12001 W Dearbourn Ave
Wauwatosa, WI 53226



phone | 414.774.3799
fax | 414.774.2144



kelmann.com/
kelmanncares

kelmanncares

A FOUNDATION for FAMILIES

2022 GRANT APPLICATION

OVERVIEW

Thank you for your interest in the Kelmann Cares Foundation.

The Kelmann Cares Foundation puts southeastern Wisconsin families first by creating, identifying and supporting projects and organizations that exist to:

1. positively impact family life;
2. better the communities in which we live and work; and
3. support and honor the men and women who protect our families and communities.

We believe that by supporting local families, we may impact communities, our nation and the world.

Grants are considered on a bi-annual basis by the Foundation's board of directors. **Please note that the maximum amount to be awarded per winning applicant is \$1,000.** All applicants will be notified of the board's final decision two weeks after the close of the grant deadline.

Please select your application period:

- 2022 Grant
Application Deadline: October 1, 2022
Applicants will be notified of the board's decision by October 15, 2022.

All applications must be submitted by email kelmanncaresfoundation@kelmann.com (download this form, complete it, print to sign, and then scan back to email) or by mail to the following address and received by the appropriate grant period deadline listed above:

Kelmann Cares Foundation
ATTN: Grant Application
12001 W Dearbourn Ave.
Wauwatosa, WI 53226

Transforming the lives of families, communities and first responders in southeastern Wisconsin

kelmanncares

A FOUNDATION for FAMILIES

2022 GRANT APPLICATION

GUIDELINES AND REQUIRED ATTACHMENTS

Please provide the following information for grant consideration. Each document must be enclosed as a separate document as part of your application.

1. This completed application
2. Background/History
Brief history of your department or organization and how this grant will benefit your community.
3. Vendor Equipment Quote (if applicable)
The quote must meet the following criteria:
 - Dated within the last six months
 - Only contain the item pertaining to your grant request
 - Total dollar amount from the quote (*awarded amount will not exceed \$1,000 – can be used as a partial for to an item over \$1,000*)
 - Only purchase of equipment are permissible – no warranties or maintenance plans

Transforming the lives of families, communities and first responders in southeastern Wisconsin



12001 W Dearbourn Ave
Wauwatosa, WI 53226



phone | 414 774 3799
fax | 414 774.2144



kelmann.com/
kelmanncares

kelmanncares

A FOUNDATION for FAMILIES

2022 GRANT APPLICATION

APPLICATION

First Name: James
Last Name: Mayer
Title: Assistant Chief
Email: jmayer@franklinwi.gov
Phone Number: 414-425-1420
EXT: 7586
Organization/Department: City of Franklin Fire Department
Department Tax ID # (xx-xxxxxxx): 39-6005897

Mailing Address: 8901 W. Drexel Ave.
Mailing Address 2:
City, State, & ZIP: Franklin, WI 53132
Shipping Address: Same as above

Alternate Contact Name: Adam Remington
Alternate Contact Phone Number: 414-425-1420
EXT: 7580
Alternate Contact Email: aremington@franklinwi.gov

Communities served by your organization: City of Franklin, WI and neighboring communities of Oak Creek, Milwaukee, Greenfield, Greendale, Hales Corners via automatic mutual aid agreements
Population: 36,816
Number of calls for service per year: 5000

Transforming the lives of families, communities and first responders in southeastern Wisconsin



12001 W Dearborn Ave
Wauwatosa, WI 53226



phone | 414.774.3799
fax | 414.774.2144



kelmann.com/
[kelmanncares](http://kelmanncares.com/)

kelmanncares

A FOUNDATION for FAMILIES

2022 GRANT APPLICATION

EQUIPMENT

What equipment are you requesting? Please provide the description and quantity of each item.

| ITEM | DESCRIPTION | QUANTITY | COST PER ITEM |
|--------|--|----------|---------------|
| RS1002 | First Watch Ice Rescue Suit 2002 version | 2 | \$645.00 |
| | Shipping | 1 | \$66.00 |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

Vendor Company Name: Atlas Outfitters ATR
Sales Representative First and Last Name: Susan Atlas
Sales Representative Email: susanatlas53@gmail.com

Total Cost of requested equipment (include sales tax and shipping if applicable): \$1356.00 – the balance of \$356.00 will be paid by the Franklin Fire Department.
(Item can exceed \$1,000, awarded amount will not)

Briefly explain how the equipment will benefit your community and your department:

Located at the far Southwest corner of Milwaukee County, Wisconsin and 10 miles south of downtown Milwaukee - Franklin is a rapidly growing suburban community with a population of over 36,816 residents. A diverse mix of residential, commercial, rural, industrial and institutional developments are scattered throughout 35 square miles. A 44-bed hospital, minor-league baseball stadium, county correctional institution, 625 acres of industrial / business parks, multiple hotels and over 24 elderly assisted living facilities are among the target hazards demanding the response of fire and EMS resources.

The 45 career members of the Franklin Fire Department provide advanced life support (ALS) emergency medical services, fire suppression, technical rescue, water/dive rescue and a host of community risk reduction and safety education services. A recent study showed a 143% increase in calls for service over the last 20 years and the annual call volume continues to climb.

transforming the lives of families, communities and first responders in southeastern Wisconsin

kelmanncares

A FOUNDATION *for* FAMILIES

2022 GRANT APPLICATION

During that same time period, the population of the City also increased by over 40%. The Franklin Fire Department is part of Mutual Aid Box Alarm System (MABAS) Division 107, as well as the Milwaukee County “Shared Services” automatic mutual aid system consisting of nearly all fire department in Milwaukee County. Due to strapped fire suppression and EMS resources throughout the region automatic aid calls continue to increase on an annual basis.

The Franklin Fire Department response area includes multiple retention ponds, small lakes and the Root River, which runs through nearly the entire city. The winter months bring increased risk of individuals falling through thin ice on these bodies of water. If funded, this project would allow the Franklin Fire Department to replace two aging “Mustang” ice rescue suits that have been in service for over ten years and have developed fatigue and are showing signs of wear. Investing in two (2) new “First Watch” suits will provide a rugged, quality made replacement offering the best protection and safety to fire personnel while performing a surface ice rescue. Although the equipment price is slightly over \$1,000.00, the Franklin Fire Department is committed to funding the \$356.00 balance of the purchase.

Transforming the lives of families, communities and first responders in southeastern Wisconsin



12001 W Dearbourn Ave
Wauwatosa, WI 53226



phone | 414 774 3799
fax | 414 774 2144



kelmann.com/
kelmanncares

kelmanncares

A FOUNDATION for FAMILIES

2022 GRANT APPLICATION

MEDIA RELEASE

First Name: James
Last Name: Mayer
Title: Assistant Chief
Organization: City of Franklin Fire Department

The undersigned representing the organization listed above, and its members, hereby grants the Kelmann Cares Foundation permission to use, convey, reproduce, copyright, and publish images or visual likenesses, names and/or voices in any photograph, videotape, sound or other recording, and/or media for commercial, information, educational, advertising or promotional purposes.

I hereby waive any right that I may have to inspect or approve the finished product or the advertising copy which maybe be used in connection therewith, or the use to which it may be applied.

I hereby release, discharge, and agree to hold harmless the Kelmann Cares Foundation from any liability of any nature or description by virtue of any use whatsoever of my personal information, whether intentional or otherwise, including but not limited to any change that may occur or be produced in the taking of said pictures or images or in the recording of any sound, or any processing in connection with the completion of the finished product.

I accept the Terms of the Agreement.

By signing below, the Applicant agrees that the information provided in the application is accurate to the best of their ability.

Signature: James C Mayer
Print Name: JAMES C MAYER
Date: 9/28/22

Transforming the lives of families, communities and first responders in southeastern Wisconsin



12001 W Dearbourn Ave
Wauwatosa, WI 53226



phone | 414 774 3799
fax | 414 774 2144



kelmann.com/
kelmanncares

Atlas Outfitters ATR

All Terrain Rescue Equipment and Training

1421 Birch Cove Court Reedsville WI 54230

Phone 800-776-7199

Email: Sales@atlasoutfitters.com

FED ID # 39-1841236

DUNS# 091373527



www.atlasoutfitters.com

QUOTATION

Date: September 26, 2022

For: Franklin Fire Department
8701 W. Drexel Avenue
Franklin, WI 53132

ATTN James Mayer

PHONE: 414-427-7586 / 414-426-4191

EMAIL: jmayer@franklinwi.gov

| Qty | Item # | Description | **List | Extended |
|-----|--------|---|--------|----------|
| 2 | RS1002 | First Watch ice rescue suit 2022 version | 645 00 | 1290 00 |
| | | Shipping | 33 00 | 66 00 |
| | | | | 1356 00 |
| | | PLEASE NOTE THAT THE PRICE ON THE SUITS WILL BE \$730 EACH AS OF DECEMBER 1ST | | |
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| | | | | |
| | | **List represents non-profit public safety agency discount pricing | | |

Ice Rescue
Ice Rescue Suit

RS-1000 - Ice Rescue Suit



Not Used for Swift Water Operations

Not USCG Approved

Made for cold water and ice rescue operations. This universal fitting suit is made of rugged hi-tenacity nylon shell with a soft and easy to don liner.

FEATURES

- Rugged Elbow and Knee Patches
- Dual Ice Pick Pockets
- Removable Harness System
- Boots fit up to size US size 13
- Protective Center Zipper Flap
- Internal Suspenders
- Registered Serial Number
- 3" x 11" Velcro Patch
- Stow Bag with Mesh Accessory Pocket

COLORS

Hi-Vis Yellow

SIZES

Universal



Stainless Steel Studs
on Boots



| | | |
|--|--|---|
| APPROVAL <i>Slw</i> | REQUEST FOR COUNCIL ACTION | MEETING DATE November 1, 2022 |
| REPORTS & RECOMMENDATIONS | Request to cancel Holding Tank Agreement for 7407 S. 27th Street | ITEM NUMBER G.3. |

Background

On May 11, 1993, the City approved a Holding Tank Agreement for the property located at 7407 S. 27th Street. The attached agreement is also on file with the Milwaukee County Register of Deeds office.

A Holding Tank Agreement (HTA) is required under section Municipal Code section 190-30 D. when a property is improved but not serviced by sanitary sewer. The HTA basically requires the owner of the property to have the holding tank serviced by a licensed pumper in accordance with SPS 383.54(3)(c) which states:

"The servicing frequency of a holding tank for a POWTS shall occur at least when the wastewater of the tank reaches a level of one foot below the inlet invert of the tank."

A Plumbing Permit is on file showing that the property was served by sanitary sewer in December of 2006. During that time, the holding tank was also abandoned.

The owner wishes have the agreement voided and re-recorded so its current status is correctly reflected on the property title.

Recommendation

Staff's recommendation is to approve cancellation of the Holding Tank Agreement dated May 11, 1993 for the property located at 7407 S. 27th Street.

COUNCIL ACTION REQUESTED

Motion to cancel the Holding Tank Agreement dated May 11, 1993 for the property located at 7407 S. 27th Street and to authorize the execution and recording with the Office of the Milwaukee County Register of Deeds of the Certification of Service by Municipal Sewer and Cancellation of City of Franklin Holding Tank Agreement in the form and content as annexed hereto, with any changes as approved by the Director of Inspection services and the City Attorney.

Certification of Service by Municipal Sewer
and Cancellation of City of Franklin
Holding Tank Agreement

The City of Franklin, a Wisconsin municipal corporation, hereby certifies that the property described below and being subject to the City of Franklin Holding Tank Agreement recorded with the Milwaukee County Register of Deeds on October 6, 1992, as Document Number 6670582, is served by a municipal sewer. The holding tank remaining on the property was filled with concrete slurry when the tank was disconnected and the property was connected to municipal sewer service in 2006. The property is described within the aforesaid Holding Tank Agreement as:

Com 80ft W of E Li & 332.01 ft N of S Li NE 12 5 21 th W 1100 ft N 331.47 ft E
1100 ft th S 332.07 ft to P.O.B.

The property subject to the aforesaid Holding Tank Agreement was then
previously identified as tax key number: 761-9994-002

The current legal description and tax key number for the property which includes the property subject to the aforesaid Holding Tank Agreement is:

Parcel 1 of Certified Survey Map No. 5794, recorded on January 14, 1993 on
Reel 2948, Image 745 to 749 as Document No. 6715343, being a division of
lands in the Southeast 1/4 and Southwest 1/4 of the Northeast 1/4 of Section 12,
Town 5 North, Range 21 East. EXCEPTING THEREFROM lands conveyed in
Warranty Deed recorded August 21, 2014 as Document No. 10387598. Said
land being in the City of Franklin, County of Milwaukee, State of Wisconsin.
Tax Key No. 761-9994-006

This certification is made in cancellation of the City of Franklin Holding Tank Agreement recorded with the Milwaukee County Register of Deeds on October 6, 1992, as Document Number 6670582. The aforesaid Holding Tank Agreement is hereby cancelled. This certification and cancellation shall be recorded.

Dated this ____ day of _____, 2022.

CITY OF FRANKLIN

By: _____

Name: Stephen R. Olson

Title: Mayor

COUNTERSIGNED:

By: _____

Name: Sandra L. Wesolowski

Title: City Clerk

STATE OF WISCONSIN : CITY OF FRANKLIN : COUNTY OF MILWAUKEE

HOLDING TANK AGREEMENT

This agreement is made and entered into by and between the City of Franklin (Municipality) and:

RICHARD A. PLATT (Owners).

We acknowledge that application is being made for the installation of a holding tank on the following property:

PLATT CONSTRUCTION
7407 S. 27 STREET,
FRANKLIN, WISCONSIN

As an inducement to the County of Milwaukee to issue a sanitary permit for the above described property we agree to the following:

1. Owner agrees to conform to all applicable requirements of Ch. ILHR 83, Wis. Adm. Code relating to holding tanks. If the owner fails to have the holding tank properly serviced in response to orders issued by the municipality to prevent or abate a nuisance as described in ss. 146.13 and 146.14, Stats., the municipality may enter upon the property and service the tank or cause to have serviced and charge the owner by placing the charges on the tax bill as a special assessment for current services rendered. The charges will be assessed as prescribed by ss. 66.60, Stats. Owner hereby waives any notice and hearing upon any such special assessment pursuant to s. 66.60(18), Stats.
2. Owner agrees to pay all charges and costs incurred by the municipality for inspection, pumping, hauling or otherwise servicing and maintaining the holding tank in such manner as to prevent or abate any nuisance or health hazard caused by the holding tank. The municipality shall notify the owner of any cost which shall be paid by the owner within thirty (30) days from the date of notice. In the event the owner does not pay the costs within thirty (30) days, the owner specifically agrees that all of the costs and charges may be placed on the tax roll as a special assessment for the abatement of a nuisance, and the tax shall be collected as provided by law. Owner hereby waives any notice and hearing upon such special assessment, pursuant to s. 66.60(18), Stats.
3. The owner, except as provided by s. 146.20(30)(d), Stats., agrees to contract with a person who is licensed under Ch. NR 113, Wis. Adm. Code to have the holding tank serviced and to file a copy of the contract or the owner's registration with the municipality and the county. The owner further agrees to file a copy of any changes to the service contract or a copy of any new service contract with the municipality and the county within ten (10) business days from the date of change to the service contract.

(over)

- 4. The owner agrees to contract with a person licensed under Ch. NR 113, Wis. Adm. Code who shall submit to the municipality and to the county a copy in accord with s. ILHR 83.18(4)(a)2., Wis. Adm. Code for the servicing on a semi-annual basis. In the case of registration under s. 146.20(3)(d), Stats., the owner shall submit the report to the municipality and the county.
- 5. This agreement will remain in effect only until the municipality certifies that the property is served by either a municipal sewer or a soil absorption system that complies with Ch. ILHR 83, Wis. Adm. Code. In addition, this agreement may be cancelled by executing and recording said certification with reference to this agreement in such a manner which will permit the existence of the certification to be determined by reference to the property.
- 6. This agreement shall be binding upon the owner, the heirs of the owner and assigns of the owner. The owner shall submit the agreement to the Register of Deeds and the agreement shall be recorded by the Register of Deeds in a manner which will permit the existence of the agreement to be determined by reference to the property where the holding tank is installed.

RICHARD A. PLATT .
Owners Name (Printed)

R. A. Platt
Owners Signature

Co-owners Name (Printed)

Co-owners Signature

For the City of Franklin:

677054e
RECORD 12.00

Frederick J. Hensch
Mayor

[Signature]
Business Administrator

6770546

Recording Data:
 REGISTRAR'S OFFICE }
 MILWAUKEE COUNTY, WI } ss
 RECORDED

'93 MAY 27 A9:25
 193-
 REEL 3043 IMAGE 194

Walter C. Burge REGISTER OF DEEDS

Subscribed and sworn to before me this
 11 day of MAY 1993

Michael Platt
 Notary Public

My commission expires: Nov 13, 1994

Return to:
 City of Franklin, Plumbing Dept.
 9229 West Loomis Road
 Franklin, WI 53132

EW

EEL 2879 IMAGE 748

REGISTER'S OFFICE }
MILWAUKEE COUNTY, WI } SS
R. OF.

'92 OCT -6 A9:17

6670582
City of Franklin
Holding Tank Agreement

REEL 2879 IMAGE 748-749
Walter C. Gray REGISTER
OF DEEDS

This Agreement is made and entered into this 11 day of August, 19 92, by and between the City of Franklin hereinafter called the "city" and Platt Construction hereinafter called the "owner".

We hereby acknowledge that application is being made for the installation of (a) holding tank(s) on the following described property:

Com 80 ft W of E li & 332.01 ft
N of S li NE 12 5 21 th W 1100 ft
N 331.47 ft E 1100 ft th S 332.07
ft to P.O.B.

KEY NUMBER
761-9994-002

6670582 #
RECORD 12.00

or that continued use of the existing premises require that a holding tank be installed on the property for the purpose of proper containment of sewage. We also acknowledge that said property cannot now be served by a municipal sewer, any other type of private sewage system as permitted under Ch. ILHR 83, Wis. Adm. Code, or Ch. 145, Stats., and that the property does not contain an area of soil suitable for any other type of private sewage system as permitted by Ch. ILHR 83, Wis. Adm. Code.

Therefore, as an inducement to the City of Franklin to issue a sanitary permit for the above described premises, we hereby agree and bind ourselves as follows:

1. Owner agrees to conform to all applicable requirements of Ch. ILHR 83, Wis. Adm. Code relating to holding tanks. If the owner fails to have the holding tank properly serviced in response to orders issued by the city to prevent or abate a nuisance as described in SS. 146.13 and 146.14, Stats. and the city may enter upon the property and service the tank or cause to have the tank serviced and charge the owner by placing the charges on the tax bill as a special assessment for current services rendered. The charges will be assessed as prescribed by S. 66.60, Stats.

2. Owner agrees to pay all charges and costs incurred by the city for inspection, pumping, hauling or otherwise servicing and maintaining the holding tank in such a manner as to prevent or abate any nuisance or health hazard caused by the holding tank. The city shall notify the owner of any costs which shall be paid by the owner within thirty (30) days from the date of notice. In the event the owner does not pay the costs within thirty (30) days, the owner hereby specifically agrees that all of the costs and charges may be placed on the tax roll as a special assessment for the abatement of a nuisance, and the tax shall be collected as provided by Wisconsin Statute

City of Franklin
Holding Tank Agreement

Page 2

4. The owner agrees to contract with a person licensed under Ch. NR113, Wis. Adm. Code who shall submit to the city a report in accord with S. ILHR 83.18(4)(a)2., Wis. Adm. Code for the servicing on a semiannual basis. In the case of registration under S. 146.20(3)(d), Stats., the owner shall submit the report to the city.

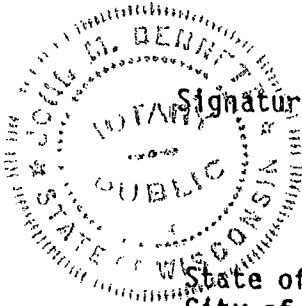
This agreement will remain in effect only until the local governmental unit responsible for the regulation of private sewage systems certifies that the property is served by either a municipal sewer or a soil absorption system that complies with Ch. ILHR 83, Wis. Adm. Code. In addition, this agreement may be cancelled by executing and recording said certification with reference to this agreement in such manner which will permit the existence of the certification to be determined by reference to the property.

5. This agreement shall be binding upon the owner, the heirs of the owner and assignees of the owner. The owner shall file the agreement with the Register of Deeds which shall be recorded by the Register of Deeds in a manner which will permit the existence of the agreement to be determined by reference to the property where the holding tank is installed.

7. The owner shall deposit with the city a Cash Bond or Indemnity Bond in the sum of \$1,000. dollars. This bond shall guarantee to the city reimbursement for any and all expenses incurred by the city alleviating any nuisance which may occur as a result of the permission granted by this agreement for the owner to install a holding tank. The sum of \$1,000. dollars shall be maintained at all times and if monies are expended, the owner shall replenish the cash bond and maintain the same constantly with the City of Franklin. Upon the installation, availability, and connection of the property involved to owner, the sum of \$1,000. dollars cash bond shall be returned to the owner.

Signature of owner(s): R. A. Plate

Signature of city official (include title): Irvin J. Flint *



State of Wisconsin }
City of Franklin } came before me this 11 day of August, 1992,
County of Milwaukee } to me known to be the person who executed the
foregoing instrument and acknowledged the same.

Subscribed and sworn to before me this day of August 11, 1992.

My commission expires October 18, 1992.

John M. Bennett
Notary Public John M. Bennett



Plumbing Permit

For

Septic Abandonment



Property Location: 7407 S 27th St

Permit Number: 020064139

Tax Key #: 761-9994-003

Issue Date: 12/27/2006

Subdivision:

Expiration Date: 12/27/2007

Lot:

Estimated Cost:

Project Description: Abandon Septic Tank

Owner:

C/o Platt Constuction
7407 S 27th St
Franklin, WI, 53132

Applicant:

JEFF'S GRADING
3721 W 5 MILE Rd
CALEDONIA, WI 53108

Contractor:

JEFF'S GRADING
3721 W 5 MILE Rd
CALEDONIA, WI 53108

Balance Due \$ 0.00

| Fees | Amount |
|---------------------------|-----------------|
| Septic Abandonment Permit | \$ 60.00 |
| Total | \$ 60.00 |

Permit Issued By

Owner or Agent

COPY



Plumbing Permit

For

Plumbing New



Property Location: 7407 S 27th St

Permit Number: 020064141

Tax Key #: 761-9994-003

Issue Date: 12/27/2006

Subdivision:

Expiration Date: 12/27/2007

Lot:

Estimated Cost:

Project Description: Sanitary sewer, main to building

Owner:

C/o Platt Constuction
7407 S 27th St
Franklin, WI, 53132

Applicant:

JEFF'S GRADING
3721 W 5 MILE Rd
CALEDONIA, WI 53108

Contractor:

JEFF'S GRADING
3721 W 5 MILE Rd
CALEDONIA, WI 53108

Balance Due \$ 0.00

| Fees | Amount |
|---------------------|------------------|
| Plumbing Permit Fee | \$ 100.00 |
| Total | \$ 100.00 |

Permit Issued By:

Owner or Agent:

COPY

*Sewer Conn
Fee pd.
12/27/06*

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| | | |
|--|--|--|
| <p>APPROVAL <i>Slw</i></p> | <p>REQUEST FOR COUNCIL ACTION</p> | <p>MEETING DATE November 1, 2022</p> |
| <p>REPORTS & RECOMMENDATIONS</p> | <p>Request to cancel Holding Tank Agreement for 9801 S. 27th Street</p> | <p>ITEM NUMBER G.4.</p> |

Background

On February 13, 1997, the City approved a Holding Tank Agreement for the property located at 9801 S. 27th Street. The attached agreement is also on file with the Milwaukee County Register of Deeds office.

A Holding Tank Agreement (HTA) is required under section Municipal Code section 190-30 D. when a property is improved but not serviced by sanitary sewer. The HTA basically requires the owner of the property to have the holding tank serviced by a licensed pumper in accordance with SPS 383.54(3)(c) which states:

“The servicing frequency of a holding tank for a POWTS shall occur at least when the wastewater of the tank reaches a level of one foot below the inlet invert of the tank.”

The former Nature’s Nook building located on the site was recently razed. During demolition, the holding tank was also removed. The new “Seasons at Franklin” multi-family apartment development will be served by sanitary sewer prior to the start construction.

The owner wishes have the agreement voided and re-recorded so its current status is correctly reflected on the property title.

Recommendation

Staff’s recommendation is to approve cancellation of the Holding Tank Agreement dated February 13, 1997 for the property located at 9801 S. 27th Street.

COUNCIL ACTION REQUESTED

Motion to cancel the Holding Tank Agreement dated February 13, 1997 for the property located at 9801 S. 27th Street and to authorize the execution and recording with the Office of the Milwaukee County Register of Deeds of the Certification of Service by Municipal Sewer and Cancellation of City of Franklin Holding Tank Agreement in the form and content as annexed hereto, with any changes as approved by the Director of Inspection services and the City Attorney.

said municipal corporation, and acknowledged that they had executed the foregoing instrument as such officers as the Deed of said municipal corporation by its authority.

Notary Public, Milwaukee County, WI
My commission expires: _____

This instrument was drafted by
Jesse A. Wesolowski,
City Attorney, City of Franklin

POOR COPY PRESENTED FOR RECORDING

7345550

REEL 4018 IMAG 1006
HOLDING TANK AGREEMENT

Wisconsin Department of Industry,
Labor and Human Relations

Safety and Buildings Division
Bureau of Buildings and Water Systems

Document No./Plan Identification No

Agreement Date
2-13-97

This agreement is made between the
governmental unit and holding tank
owner(s)

This space reserved for recording data

REGISTER'S OFFICE } 86
Milwaukee County, WI }
RECORDED AT 2:35 PM
MAR 26 1997
REL 4018 IMAGE 1006
Wendy Campbell REGISTER
OF DEEDS

County or Local Governmental Unit
CITY OF FRANKLIN
(called Municipality below)

Holding Tank Owner(s)
NATURE NOOK Garden Center

We acknowledge that application is being made for the installation of (a) holding
tank(s) on the following property: (Provide legal land description)

Being all of Parcel, of C.S.M. No. 6044, D.O.C.
No. 7026224, Located in the NE 1/4 and SE 1/4 of the
NE 1/4 of Section 25, T 5N, R 21E, City of Franklin,
Milwaukee County, Wisconsin

7345550
RECORD 10.00
Return To CITY OF FRANKLIN
9229 W. LUDWIG RD. FRANKLIN, WI.
Building Inspection Department
53132
016D

or that continued use of the existing premises requires that a holding tank be installed on the property for the purpose of proper containment of sewage
Also, the property cannot now be served by a municipal sewer, or any other type of private sewage system as permitted under Ch. ILHR 83, Wis. Adm.
Code, or Ch. 145, Stats.

As an inducement to the County of Milwaukee to issue a sanitary permit for the above described property, we agree to do the following:

- Owner agrees to conform to all applicable requirements of Ch. ILHR 83, Wis. Adm. Code relating to holding tanks. If the owner fails to have the holding tank properly serviced in response to orders issued by the municipality to prevent or abate a human health hazard as described in s. 254.59, Stats., the municipality may enter upon the property and service the tank or cause to have the tank to be serviced and charge the owner by placing the charges on the tax bill as a special assessment for current services rendered. The charges will be assessed as prescribed by s. 66.60, Stats.
- The owner agrees, pursuant to s. ILHR 83 18 (10), Wis. Adm. Code, to have installed in a new building or new structure a water meter approved by the County and State. The water meter shall be installed by a plumber authorized by the State to conduct such installations, with said installer complying with State regulations and manufacturers specifications. The owner agrees to be financially responsible for the purchase, installation, maintenance, and repair of the water meter, and agrees to allow the municipality to enter the above described property on a regular basis to read and/or inspect the water meter.
- Owner agrees to pay all charges and cost incurred by the municipality for inspection, pumping, hauling, or otherwise servicing and maintaining the holding tank in such a manner as to prevent or abate any human health hazard caused by the holding tank. The municipality shall notify the owner of any costs which shall be paid by the owner within thirty (30) days from the date of notice. In the event the owner does not pay the costs within thirty (30) days, the owner specifically agrees that all the costs and charges may be placed on the tax roll as a special assessment for the abatement of a human health hazard, and the tax shall be collected as provided by law.
- The owner, except as provided by s. 146.20 (3) (d), Stats., agrees to contract with a person who is licensed under Ch. NR 113, Wis. Adm. Code, to have the holding tank serviced and to file a copy of the contract or the owner's registration with the municipality. The owner further agrees to file a copy of any changes to the service contract, or a copy of a new service contract, with the municipality within ten (10) business days from the date of change to the service contract.
- The owner agrees to contract with a person licensed under Ch. NR 113, Wis. Adm. Code, who shall submit to the municipality on a semiannual basis a report in accordance with s. ILHR 83 18 (4) (a) 2., Wis. Adm. Code, for the servicing of the holding tank. In the case of registration under s. 146.20 (3) (d), Stats., the owner shall submit the report to the municipality. The municipality may enter upon the property to investigate the condition of the holding tank when pumping reports and meter readings may indicate that the holding tank is not being properly maintained.
- This agreement will remain in effect only until the local governmental unit responsible for the regulation of private sewage systems certifies that the property is served by either a municipal sewer or a soil absorption system that complies with Ch. ILHR 83, Wis. Adm. Code. In addition, this agreement may be cancelled by executing and recording said certification with reference to this agreement in such manner which will permit the existence of the certification to be determined by reference to the property.
- This agreement shall be binding upon the owner, the heirs of the owner, and assignees of the owner. The owner shall submit the agreement to the register of deeds, and the agreement shall be recorded by the register of deeds in a manner which will permit the existence of the agreement to be determined by reference to the property where the holding tank is installed.

Owner(s) Name(s) - Print
JOHN C. ROESKE

Municipal Official Name - Print
James C. Payne

Municipal Official Title - Print
Business Administrator

Notarized Owner(s) Signature(s)
John C. Roeske

Municipal Official Signature
James C. Payne

Subscribed and sworn to before me on this date:
John C. Roeske
Notary Public
TOWNE
My commission expires:
Feb 28 1997

The information you provide may be used by other government agency programs (Privacy Law, s. 15.04 (1)(m))
SBD-6123 (R 04/94)
This instrument was drafted by WI DILHR

| | | |
|--|---|--|
| <p style="text-align: center;">APPROVAL</p> <p style="text-align: center;"><i>Jur</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;">11/1/2022</p> |
| <p style="text-align: center;">REPORTS & RECOMMENDATIONS</p> | <p style="text-align: center;">A Resolution Authorizing Certain Officials to Execute a Tax Assessment Agreement as Part of Tax Incremental Financing District No. 6 with Rise Franklin WI, LLC</p> | <p style="text-align: center;">ITEM NUMBER</p> <p style="text-align: center;">G.5.</p> |

A copy of the Tax Assessment Agreement, as part of Tax Incremental Financing District No. 6, with Rise Franklin WI, LLC is annexed hereto, together with a draft Resolution which provides citations to the relevant provisions of the Tax Incremental District No. 6 Development Agreement between the City of Franklin and Loomis and Ryan, Inc.

COUNCIL ACTION REQUESTED

A motion to adopt Resolution No. 2022-____, A Resolution Authorizing Certain Officials to Execute a Tax Assessment Agreement as Part of Tax Incremental Financing District No. 6 with Rise Franklin WI, LLC.

RESOLUTION NO. 2022-_____

A RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO EXECUTE A TAX
ASSESSMENT AGREEMENT AS PART OF TAX INCREMENTAL FINANCING
DISTRICT NO. 6 WITH RISE FRANKLIN WI, LLC

WHEREAS, pursuant to Article II I. of the Tax Incremental District No. 6 Development Agreement between the City of Franklin and Loomis and Ryan, Inc. (the “Development Agreement”), “[a]s a condition to the issuance of the City Bonds, Developer hereby guarantees payments to the City based upon an annual real estate tax assessment for any non-residential property, including without limitation the industrial and commercial property within the District, as it may be expanded from time to time, and residential property only during the 2022, 2023, and 2024 tax years, with a minimum assessed value for the tax year 2021 of \$10,500,000.00 and \$21,000,000.00 for the tax year 2022 and thereafter until the earlier of (i) 2039, (ii) the date the City Bonds are paid in full, or (iii) the date the letter of credit described in Section J. below has been reduced to zero (the “Developer Guaranty”)... [s]ubject to the City’s prior written approval, which approval shall not be unreasonably withheld, conditioned or the delayed, the Developer may request that the Developer Guaranty be terminated and replaced with equivalent tax assessment agreements by the industrial and commercial users within the District”; and

WHEREAS, the Development Agreement is in full force and effect and is binding upon the parties thereto in accordance with its terms and has not been terminated or amended by this Resolution; and

WHEREAS, the Developer has delivered a Tax Assessment Agreement, as part of Tax Incremental Financing District No. 6, with Rise Franklin WI, LLC to the City, Rise Franklin WI, LLC being a commercial user within the District; and

WHEREAS, at this time the Developer is not requesting that the aforesaid Developer Guaranty be terminated and replaced by the Tax Assessment Agreement for the property subject to the Tax Assessment Agreement; however, Developer reserves the right to request a termination and/or replacement at a future date, subject to the terms, conditions and requirements of the Development Agreement; and

WHEREAS, upon consideration of the aforesaid facts and Agreements and the condition set forth below, staff has reviewed and recommends approval of the Tax Assessment Agreement to the Common Council.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that the Tax Assessment Agreement, as part of Tax Incremental Financing District No. 6, with Rise Franklin WI, LLC, as annexed hereto, that the Tax Incremental District No. 6 Development Agreement between the City of Franklin and Loomis

and Ryan, Inc. runs with the land and is binding upon the property acquired by Rise Franklin WI, LLC within the District, be and the same is hereby approved.

BE IT FURTHER RESOLVED, that the Mayor and City Clerk be and the same are hereby authorized to execute and deliver such Tax Assessment Agreement.

BE IT FINALLY RESOLVED, that the City Clerk or the Developer be and is hereby directed to obtain the recording of the Tax Assessment Agreement in the Office of the Register of Deeds for Milwaukee County, Wisconsin.

Introduced at a regular meeting of the Common Council of the City of Franklin this 1st day of November, 2022.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this 1st day of November, 2022.

APPROVED:

Stephen R. Olson, Mayor

ATTEST:

Sandra L. Wesolowski, City Clerk

AYES ___ NOES ___ ABSENT ___

Tax Assessment Agreement

Document Number

Document Title

**TAX ASSESSMENT AGREEMENT
(TAX INCREMENTAL DISTRICT NO. 6)**

THIS AGREEMENT (this “Agreement”) is entered into as of this ____ day of _____, 2022, between the City of Franklin, a municipal corporation (the “City”) and Rise Franklin WI LLC, an Indiana limited liability company (“Owner”).

WHEREAS, Owner is on this date closing the purchase of the property described on Exhibit A (the “Property”) which Owner intends to develop as an industrial site to be used in its wholesale asset liquidation service business (the “Development”); and

WHEREAS, the Property is or will be located in the City’s Tax Incremental District No. 6 (the “District”) which the City has established in order to finance project costs within the District as permitted under Wis. Stat. § 66.1105 Tax Increment Law; and

Recording Area

Name and Return Address

Bear Development, LLC
4011 80th Street
Kenosha, WI 53142

See attached Exhibit A

Parcel Identification Number (PIN)

WHEREAS, the City intends to issue general obligation debt and tax increment revenue municipal special, limited revenue obligation debt (the “Debt”) to finance and assist in the finance of improvements which are necessary to develop the Property and adjoining properties, the debt service payments thereunder to be made from the tax increment generated by the District as a result of the Development and the development of the other properties in the District; and

WHEREAS, Owner has agreed to guarantee a minimum assessed value for the Property, so as to generate real estate tax increment necessary to pay a portion of the debt service on the Debt.

NOW, THEREFORE, the City and Owner, in consideration of the terms and conditions contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, agree as follows:

1. **MINIMUM ASSESSMENT AGREEMENT.** Owner agrees that for the term stated below, that the aggregate value of the land and improvements comprising the Property for purposes of the annual real estate tax assessment for the Property shall not be less than the minimum values established for each applicable tax year occurring during the term of this Agreement and as follows:

| <u>Tax Year</u> | <u>Minimum Assessed Value</u> |
|--|-------------------------------|
| 2025- the earlier of 2041 or the year the Debt is paid in full | \$5,000,000.00 |

In the event the assessed value of the Property is less than the Minimum Assessed Value for any applicable year as set forth above, then Owner or any successor-owners and/or assigns shall make (or cause to be made) payment(s) in an amount equal to the difference between what the ad valorem property taxes would have been for the Property if it were assessed at the Minimum Assessed Value and what the actual ad valorem property taxes are upon the assessed value of the Property for that year (the "Shortfall Payment"). Any Shortfall Payment shall be due and payable at the same time and in the same manner as the ad valorem taxes are due and payable for such year. In the event Owner or any successor-owners and/or assigns fail to timely pay any required Shortfall Payment due hereunder, such default shall be collectible as are delinquent real estate taxes and any such delinquent amount shall constitute a lien upon the Property, as and in the same method, manner, status and legal existence as levied taxes are a lien against property pursuant to Wis. Stat. § 70.01; and shall also be otherwise collectible as are delinquent special charges pursuant to Wis. Stat. § 66.0627; and in addition to the foregoing, shall also be otherwise collectible by any other available legal and/or equitable remedy and as otherwise provided by law. If Owner or any successor-owners and/or assigns fail to make a Shortfall Payment when due, the City may, in addition to all other remedies available to it, levy a special assessment or special charge against the Property in the amount of the unpaid payment(s). Any and all notice and hearing requirements which may be required under the law for such special assessment or special charge are hereby waived by Owner or any successor-owners and/or assigns. The covenant contained in this Section 2. shall be deemed to be a covenant running with the land and shall be binding upon the Property and any owner of all or any portion of the Property for the term of this Agreement pursuant to the Tax Years set forth above.

2. NO PROPERTY TAX EXEMPTION. During the term of this Agreement, Owner or any successor-owners and/or assigns shall not (a) apply for an exemption from property taxes with respect to the Property or (b) transfer the Property to an entity that is lawfully exempt from the payment of property taxes unless the transferee agrees to make a payment in lieu of taxes in an amount equal to the property taxes that would have been paid by such transferee were it not exempt from taxation.

3. TERM AND TERMINATION. The term of this Agreement shall begin on the date of this Agreement set forth above and shall terminate upon the earlier of (a) December 31 of the tax year during which the payment in full of the Debt occurs or (b) December 31, 2041. Owner or any successor-owners and/or assigns shall maintain the Minimum Assessment requirements of Section 2. through and including the tax year during which the payment in full of the Debt occurs or the 2041 tax year, whichever occurs earlier.

4. DEFAULT. In the event that any party to this Agreement defaults under any material term or condition of this Agreement, and such default continues for a period of thirty (30) days or more after receipt of written notice of the default from the non-defaulting party, the defaulting party shall be responsible for all costs and expenses incurred by reason of such default, including, but

not limited to, any legal expenses incurred by the non-defaulting party. The rights and remedies of the non-defaulting party shall not be limited to those, if any, specified in this Agreement, but the non-defaulting party shall have the rights and remedies to which it may be entitled, either at law or in equity.

5. MISCELLANEOUS.

5.1 Notices. All notices, demands, certificates or other communications under this Agreement shall be sufficiently given and shall be deemed given when hand delivered or when mailed by certified mail, postage prepaid, or sent by recognized commercial courier properly addressed as indicated below:

| | |
|---------------|--|
| To Owner: | Jim Sapp 5645 Castle Creek Parkway, North Drive, Suite 126 Indianapolis, IN 46250 Via Email: jsapp@esapp.com |
| With copy to: | Pat Rooney, Attorney at Law Via Email: pmrooney1@gmail.com |
| To the City: | City of Franklin, Wisconsin 9229 W. Loomis Road Franklin, WI 53132 Attn: City Clerk |

Any party may, by written notice to the other party, designate a change for notice purposes.

5.2 No Waiver. No waiver of any provision of this Agreement shall be deemed or constitute a waiver of any other provision, nor shall it be deemed to constitute a continuing waiver unless expressly provided for by a written amendment to this Agreement, nor shall it be deemed or constitute a waiver of any subsequent default or defaults of the same type.

5.3 Governing Law. This Agreement concerns real property located in the State of Wisconsin, and shall be interpreted and construed according to the laws of the State of Wisconsin.

5.4 Captions. The captions in this Agreement are inserted only as matters of convenience and for reference and in no way define or limit the scope or intent of the various provisions, terms or conditions hereof.

5.5 Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed an original.

5.6 No Third-Party Beneficiaries. This Agreement creates rights and obligations only for the parties hereto and their permitted successors and assigns, except as stipulated in this

Agreement. This Agreement is not intended to and does not create any right in any third party, not expressly stated herein.

5.7 Legal Action. In the event that a party becomes involved in litigation or in the threat of litigation related to this Agreement because of the act or omission of the other party, or there is a dispute or litigation between the parties as to this Agreement, the party which becomes so involved, if not the legal cause of the injury or damages, or the prevailing party in a dispute or litigation as to this Agreement, shall be entitled to recover reasonable attorneys' fees and out-of-pocket costs from the other party in defending against the litigation or threat of litigation or in connection with the dispute or litigation as to this Agreement.

5.8 Authority. The parties represent that the execution of this Agreement has been properly authorized and that the persons signing this Agreement have been properly authorized to sign this Agreement on behalf of the parties.

5.9 Independent Contractors. The City and Owner are each entering into this Agreement on its own behalf and not as agent of the other, and this Agreement shall not be construed to create a partnership or joint venture between the parties, each of which is an independent contractor for the purposes of this Agreement.

5.10 Good Faith. Each of the parties hereto shall be subject to the duty of good faith and fair dealings in the implementation, execution and performance of the terms of this Agreement.

5.11 Recording. The parties agree that this Agreement will be recorded in the Milwaukee County Register of Deeds Office records.

[Signature pages follow]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date stated in the first paragraph of this Agreement.

CITY:

CITY OF FRANKLIN,
a Wisconsin municipal corporation

By: _____

By: _____

STATE OF WISCONSIN)
)
COUNTY OF KENOSHA) ss.

Personally came before me this ____ day of _____, 2022 the above-named _____ and _____ to me known to be the _____ and _____ of the City of Franklin, Wisconsin, respectively, who executed the foregoing instrument and acknowledged the same on behalf of said municipal corporation.

_____, Notary Public,
Milwaukee County, Wisconsin
My Commission Expires _____

OWNER:

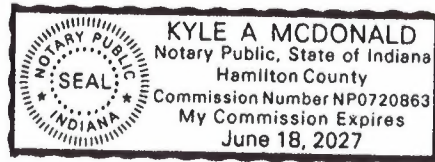
Rise Franklin WI LLC,
an Indiana limited liability company

By: ESapp Indiana LLC,
an Indiana limited liability company,
Managing Member

By: *Jim Sapp*
Jim Sapp, Managing Member

STATE OF Indiana)
))
COUNTY OF Marion)

SS.



The foregoing instrument was acknowledged before me this 1 day of August, 2022, by Jim Sapp as Managing Member of ESapp Indiana LLC being the Managing Member of Rise Franklin WI LLC, on behalf of said limited liability company.

Kyle A. McDonald
Notary Public, ~~Wisconsin~~ Indiana
My Commission expires: 6-18-2027

This instrument drafted by:
John E. Hotvedt
Bear Real Estate Group
4011 80th Street
Kenosha, WI 53142

EXHIBIT A

Description of Property

LOT 2 OF CERTIFIED SURVEY MAP NO. 9421 RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS FOR MILWAUKEE COUNTY, WISCONSIN ON JUNE 28, 2022, AS DOCUMENT NO. 11260729, BEING ALL OF LOT 84 IN RYAN MEADOWS AND A PART OF PARCEL 1 OF CERTIFIED SURVEY MAP NO. 975, LOCATED IN THE SOUTHWEST 1/4 AND NORTHWEST 1/4 OF THE NORTHEAST 1/4 AND THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 AND THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 AND THE NORTHEAST 1/4 AND THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 ALL IN SECTION 30, TOWNSHIP 5 NORTH, RANGE 21 EAST, IN THE CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN.

PINs: Part of 938-9994-004 and Part of 891-1084-000

| | | |
|--|---|--|
| <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;">11/1/2022</p> |
| <p style="text-align: center;">REPORTS & RECOMMENDATIONS</p> | <p style="text-align: center;">Personnel Committee Recommendation to Deny the Request to Raise the Maximum Accrual Level for Compensatory Time for the Police Sergeants from 110 Hours to 200 Hours to Mirror the Police Union Accrual Level</p> | <p style="text-align: center;">ITEM NUMBER</p> <p style="text-align: center;">G.6.</p> |

This item was considered by the Personnel Committee at a number of meetings, and recommended for denial, by a vote of 3-2, at the October 17, 2022 meeting.

BACKGROUND

Attached are excerpts from the City of Franklin Employee Handbook regarding 'Benefit Exceptions for Sergeants', along with Police Sergeant compensatory time accrual balances. The Handbook identifies a specific list of policies and benefits for the Police Sergeants that deviate from those offered to other non-represented supervisors so as to match the benefits provided to members of the Franklin Police Officers Association. The Handbook also identifies a specific list of policies and benefits for Police Department Sergeants that do not deviate from those offered to other non-represented supervisors and the majority of these are more favorable to the union benefits.

The following are the benefits afforded to the Police Sergeants that are not offered to the Police Union:

Dental Insurance – For Police Sergeants participating in the dental insurance program, the City shall pay 100% of the single or family premium, whereas for employees of the Police Union only the single premium is paid. *The annual value of this benefit in 2022 is approximately \$771*

Life Insurance – For Police Sergeants, the amount of coverage is equal to two times the employee's base annual earnings, whereas for employees in the Police Union the amount of coverage is equal to one time the employee's annual earnings. *The value of this benefit in 2022 is the annual salary of a Sergeant, approximately \$90,700 (2,002 hours worked * \$45 78 or \$44 79 per hour (depending on tenure) = \$90,712)*

Personal Holidays – Police Sergeants are provided an extra personal holiday per year, after five years of service with the City, in additional to the 4 days per year during each of the first 4 years of employment, whereas employees in the Police Union are provided 4 personal holidays per year throughout their entire tenure. *The annual value of this benefit in 2022 is \$362, plus the matching retirement benefit and taxes*

Vacation Days – Police Sergeants are provided an extra week of vacation during the period of 18-22 years of service without having accumulated 130 days of unused sick leave, whereas employees of the Police Union are required to have accumulated 130 days of unused sick leave to obtain this benefit. *The approximate value of this benefit in 2022 is \$1,811 per year for up to five years, if the Sergeant does not have 130 unused sick days accumulated.*

Sick Leave is different for the Police Sergeants and the Union and the difference in those benefits is as follows:

Sick Leave - Police Sergeants receive 1 bonus sick day for every 4 months that they do not utilize sick leave, whereas employees of the Police Union receive a sick leave incentive which has averaged out to

approximately \$231 per union employee over the past 4 years. It is also important to note that pre-pandemic this average was approximately \$298 per union employee.

ANALYSIS

There was a request to monetize the effect/exposure of changing the maximum accrual for compensatory time for the Police Sergeants from 110 hours to 200 hours, if the hours were earned 10 years prior to being paid out. There are two components to this:

- If an employee gets paid out for compensatory time at the end of employment, and has 200 hours of compensatory time accrued, it would extend the employee's employment by more than 24 work days which equates to more than a month of work time. The cost of these 24 days, based on the 2021 pay rate for a Sergeant, is approximately \$9,058. This type of extension would also increase some benefits paid, specifically WRS, up to two months. If the compensatory time at the end of employment was limited to the current threshold of 110 hours, that would cost approximately \$4,076 less, and include not more than one month of extra benefits. *So, between the 110-hour threshold and the 200-hour threshold, the extra cost is conservatively \$4,076 less, plus matching benefits and taxes. Please note that this has budgetary ramifications and could require positions to be kept open to fund*
- Also, if a Sergeant earned compensatory time early on in his/her career, and then held it until a later year, the City would be required to pay those hours out at the rate in place at the time of payment rather than the rate in place when the time is earned. An example of this is as follows: for a ten-year period, using 2011 as the base year, with a Sergeant rate of pay at \$35.54, and a payout year of 2021, with a Sergeant rate of pay at \$45.78/\$44.79, *the extra payment for 90 hours would be \$878*
- *So, in total, changing this benefit could conservatively cost \$4,954, plus matching benefits and taxes, per employee if the maximum accrual is achieved and the hours are carried for ten years.*

In addition, there were a few items described incorrectly at the Personnel Committee Meeting; the details are as follows:

- It was stated that the difference in pay between Police Sergeants and Police Officers in the union is 7.5%; however, the actual differential in pay rates is between 13.7% - 16.2%, depending on the tenure of the Sergeant.
- It was stated at the Personnel Committee Meeting that longevity is no longer in place for Police Sergeants or Police Union employees; this is not correct as the payments have been verified through the payroll system.

RECOMMENDATION

The Personnel Committee recommended maintaining the maximum accrual level for compensatory time for the Police Sergeants at 110 hours. This equates to nearly three weeks of work time.

COUNCIL ACTION REQUESTED

Motion to deny the request to raise the maximum accrual level for compensatory time for the Police Sergeants from 110 hours to 200 hours to mirror the Police Union accrual level.

**Compensatory Time Balances
2022 and 2021
Police Sergeants**

| Department | Job Title Description | Pay Rate | Hire Date | Years of Service | Current Balance- Hours | 8/15/2022 Balance-Hours | 9/27/21 Balance- Hours |
|-------------------|------------------------------|-----------------|------------------|-------------------------|-----------------------------------|------------------------------------|-----------------------------------|
| Police | Police Sergeant | \$45 78 | 11/30/2010 | 11 years, 10 months | 109 60 | 40 96 | 42 45 |
| Police | Police Sergeant | \$45 78 | 04/04/2001 | 21 years, 6 months | 42 79 | 41 40 | 42 37 |
| Police | Police Sergeant | \$45 78 | 08/13/2018 | 4 years, 2 months | 23 02 | 56 02 | 2 27 |
| Police | Police Sergeant | \$44 79 | 08/24/2015 | 7 years, 1 month | 21 52 | 80 26 | 87 49 |
| Police | Police Sergeant | \$44 79 | 07/07/2014 | 8 years, 3 months | 11 87 | 0 62 | 18 47 |
| Police | Police Sergeant | \$44 79 | 01/04/2016 | 6 years, 9 months | 11 12 | 44 12 | 48 98 |
| Police | Police Sergeant | \$45 78 | 07/31/2006 | 16 years, 2 months | 0 00 | 0 00 | 0 00 |
| Police | Police Sergeant | \$46 78 | 8/30/1999 | 23 years, 1 month | 0 00 | 0 00 | 0 00 |

because of said injury, but not to exceed one year from the date of injury. In no event will such supplemental pay and Worker's Compensation benefit exceed, in aggregate, the employee's normal net "take home" pay.

All fringe benefits shall continue to accrue while the employee is absent due to Workers Compensation injury.

Due to operational need, the affected employee's position may be filled while the employee receives Workers Compensation benefits. However, all positions shall be considered open pending the affected employees return to work.

"Light duty" may be granted per policy of the affected Department Head and/or at the discretion of the Director of Administration. Light duty is work performed in a temporary position created for the sole purpose of providing short term employment for an injured employee pending their return to their regular position. Light duty is not to be considered as an accommodation under the Americans with Disabilities Act. Employees given light duty shall follow all normal personnel policies.

When the City shall have made any such payment and the employee makes claim for damages against any third party or his/her insurer, the City shall be entitled to receive from any damages recovered by such employee reimbursement for such wages paid in the same proportions prescribed by Section 102.29, Wisconsin Statutes, for Workers Compensation payments.

Tuition Reimbursement (Fire Department)

Fire Department commanders who have completed two (2) years of full-time service with the City shall be eligible for the following education reimbursement. Each commander may be reimbursed for tuition for college classes, up to a maximum of \$ 1,000.00 per year. To be eligible for this reimbursement, the following conditions must be met:

1. Coursework must be pre-approved by the Fire Chief
2. The commander must obtain a grade of at least C for an undergraduate course and B for a graduate level course.
3. The City shall not be responsible for the cost of any books, supplies, or other items and services. The City shall be responsible for tuition only to the extent set forth above.
4. Tuition reimbursement will be limited on a 1st-come, 1st-served basis and to the amount appropriated in the budget by the Common Council.

Benefit Exceptions for Sergeants

Certain policies and benefits for Police Department Sergeants deviate from those indicated herein for other supervisors. The following fringe benefits for Sergeant's shall continue to be implemented so as to match the benefit provided to members of the Franklin Police Officers Association, as if they were written directly herein in such a manner.

| | |
|--|--|
| Health Insurance | Retiree Health Insurance |
| Pension Plan | Longevity (remains in place in 2022) |
| Holidays | Severance Pay |
| Funeral Leave | Donation of Vacation Time |
| Workers Compensation | Military Leave |
| Long term Disability | Auto and Homeowner Insurance |
| Short term Disability and Other Insurance | Direct Deposit |
| Clothing Allowance | College Incentive (eliminated/replaced with a pay raise) |
| Jury Duty | Trades |
| Overtime – Section 8.01(A) and 8.03 (as of 2005-2006 contract) | |

Certain policies and benefits for Police Department Sergeants do not deviate from those indicated herein for other supervisors. The following fringe benefits for Sergeant's shall continue to be implemented so as to match the benefit provided to other supervisors as set forth herein.

| | |
|--|-------------------------------|
| Dental Insurance | Life Insurance |
| Sick Days | Vacation Days |
| Personal Days | Section 125 Flexible Benefits |
| Deferred Compensation Section 457 Plan | |

Updated language attached

~~Sergeants are eligible to receive Compensation Time (Comp Time) - In lieu of pay, Sergeants may accumulate compensatory time off to a maximum balance of eighty two and one-half (82.5) hours. Overtime will be in pay if the employee's balance is 82.5 hours. All overtime balances may be carried forward and not paid out during or at the end of a year. Overtime may be taken off with the Chief's approval.~~ *

Application of Benefits for Extended-Term, Part-Time Employees with Benefits

Extended-term, part-time employees with benefits, as described in Section 1.4.6 of the Personnel Administration Program, shall be eligible for the benefits set forth in Section 3.18 thereof.

For Extended-Term, Part-Time Employees With Benefits who participate in the Health Insurance and/or Dental Insurance program, the City shall pay the following percentage of the monthly premium after deducting the regular employee premium share as established by the Common Council. The employee shall pay, through payroll deduction, all remaining amounts.

| <u>Employee Scheduled</u> | <u>City Funded:</u> |
|---|---------------------------|
| At least 30 hours but less than 37.5 hours/week | 75% of the normal benefit |
| At least 20 but less than 30 hours/week | 50% of the normal benefit |

For Extended-Term, Part-Time Employees With Benefits who qualify for severance and clothing allowance pay the payment shall be based on a prorated share of the normal payment calculated by applying the following percentages:

2. The commander must obtain a grade of at least C for an undergraduate course and B for a graduate level course.
3. The City shall not be responsible for the cost of any books, supplies, or other items and services. The City shall be responsible for tuition only to the extent set forth above.
4. Tuition reimbursement will be limited on a 1st-come, 1st-served basis and to the amount appropriated in the budget by the Common Council.

Benefit Exceptions for Sergeants

Certain policies and benefits for Police Department Sergeants deviate from those indicated herein for other supervisors. The following fringe benefits for Sergeant’s shall continue to be implemented so as to match the benefit provided to members of the Franklin Police Officers Association, as if they were written directly herein in such a manner.

| | |
|--|------------------------------|
| Health Insurance | Retiree Health Insurance |
| Pension Plan | Longevity |
| Holidays | Severance Pay |
| Funeral Leave | Donation of Vacation Time |
| Workers Compensation | Military Leave |
| Long term Disability | Auto and Homeowner Insurance |
| Short term Disability and Other Insurance | Direct Deposit |
| Clothing Allowance | |
| Jury Duty | Trades |
| Overtime – Section 8.01(A) and 8.03 (as of 2005-2006 contract) | |

Certain policies and benefits for Police Department Sergeants do not deviate from those indicated herein for other supervisors. The following fringe benefits for Sergeant’s shall continue to be implemented so as to match the benefit provided to other supervisors as set forth herein.

| | |
|--|-------------------------------|
| Dental Insurance | Life Insurance |
| Sick Days | Vacation Days |
| Personal Days | Section 125 Flexible Benefits |
| Deferred Compensation Section 457 Plan | |

Updated language



Sergeants are eligible to receive Compensation Time (Comp Time) - In lieu of pay, Sergeants may accumulate compensatory time off to a maximum balance of one hundred and ten (110) hours. Overtime will be in pay for any portion of overtime earned if the employee's compensation time balance would exceed 110 hours. Any portion of a compensatory time balance accumulated may be carried forward from one calendar year to a subsequent calendar year; however, any such balance carried forward may only be taken off and may not be paid out except in the case of termination. Once per month, except in December, and in conjunction with the time sheets submitted for the last pay date of each month, employees may request payout of any compensation time balance accrued during that calendar year. Payout is made at the then current rate of pay. Compensation time may be taken off with the Chief’s approval. By carrying forward compensation time into a subsequent year, the employee is acknowledging the City’s policies and practices for granting use of compensation time as reasonable.”

Vacation Accrual Rates

Note: Vacation Accrual Rates may be adjusted as required by policy administration

Supervisors, Managers, and Eligible Employees not otherwise listed below:

| <u>Continuous Length of Service</u> | <u>Vacation Accumulation</u> | <u>Maximum Carry Over</u> |
|---|--|-------------------------------|
| 1st month thru 60th month | 80 hours / year or 3.08 hours/ pay period | 120 hours |
| 61st month thru 144th month | 120 hours / year or 4.62 hours /pay period | 180 hours |
| 145th month and over | 160 hours / year or 6.16 hours / pay period | 240 hours |

Note: Employees who have 18 years of continuous service may convert up to 40 hours of accumulated sick leave per year to additional vacation leave by electing to do so in writing prior to January 31st of the following year, except Inspection, Engineering Technicians, Police Department Clerical (excluding Police Administrative Assistant), Municipal Court employees, Clerical Employees, and Dispatchers must have accumulated 130 days of sick leave at the end of the calendar year to qualify and except supervisory and management personnel do not need to submit the request prior to January 31st. After 22 years of continuous service Police Department command staff, including Sergeants, do not have to convert sick leave and shall be entitled to an accrual rate incorporating the additional 40 hours (7.7 hours / pay period).

Note: In the event that a Police Captain of record and the Police Inspector of record as of 1/1/2004 has suffered a major illness or a series of illnesses wherein the employee has used twenty (20) successive days of sick leave and would have been eligible for the vacation set forth above, had not such illness occurred, then those days taken for major sick leaves shall be counted to arrive at the one hundred thirty (130) day sick leave accumulation required.

Note: After 20 years of continuous service Clerical Employees do not have to have accumulated 130 days of sick leave at the end of the calendar year to qualify for the allowable conversion.

Department of Public Works employees, Sewer and Water Department employees, and custodial employees:

| <u>Continuous Length of Service</u> | <u>Vacation Accumulation</u> | <u>Maximum Carry Over</u> |
|---|--|-------------------------------|
| 1st month thru 72nd month | 80 hours / year or 3.08 hours/ pay period | 120 hours |

- (2) A Light Equipment Operator (LEO) or Sewer & Water Technician promoted to Heavy Equipment operator (HEO) or Sewer & wWater Operator I (Operator I) will not receive a higher wage rate than a long-term HEO or Operator I, who is consistently in good standing, which action results in a lower minimum promotion allowance of approximately 4.38 %.
- e. **Non-Scheduled Wage Adjustments.** At any time or at any position in the range an Appointing Authority may recommend a flat or percentage amount merit award for an individual that may be a one-time award, an award for a fixed-period up to one calendar year, or an adjustment to the base, which adjustment to the base may not exceed the grade maximum salary. Any such award, or combination of such awards during a calendar year, is subject to approval by the Mayor, following review and recommendation by the Director of Administration, but may not exceed a 5% increase in annual gross compensation without approval by the Common Council. Any such award is dependent upon available appropriations.
- f. **Salary Maximums.** An individual whose salary exceeds or would exceed the maximum of the range may not receive any part of an increase that exceeds the maximum of the range, unless otherwise specifically approved as provided for above. If a Market Adjustment to the Pay Range occurs during the same calendar year and within six months of such an instance and the individual's salary following the Market Adjustment to the Pay Range is now within the salary range, that portion of the increase that was vacated, up to the maximum of the range, may be reapplied retroactively.
- g. **Rounding and General Administration.**
- i. Minimum, maximum, and Market Rate annual salary rates shall be rounded to the nearest dollar for both presentation and application purposes.
 - ii. For part-time positions the minimum salary, maximum salary, and Market Rate shall be calculated on a proportional basis as shall be determined by the Director of Administration.

COMPENSATION PLAN FOR POLICE SERGEANTS AND CAPTAINS

Effective January 1, 2020, Police Sergeants and Captains do not participate in the above described existing hybrid-merit compensation plan and are placed into a step-and-grade plan as set forth below. As such and for example, Non-scheduled Wage Adjustments and Merit Adjustments are not provided for herein.

1. The first step of a new Sergeant step-and-grade plan shall be the highest, rounded to the nearest dollar, of
 - a) 7.5% above the hourly contractual rate for Patrol Officer annualized (rate x 1.075 x 2002 hours) or
 - b) 2.0% above the hourly contractual rate for Detective annualized as if Patrol Officer (rate x 1.02 x 2002 hours).

2. The third (also known as the top or maximum) step of a new Sergeant step-and-grade plan shall be initially set at \$87,442, which is equal to the current actual base

salary of the highest paid Sergeant increased by .95% (differential percentage increase between Police Officers and Sergeants when considering a .5% wage differential from 2018 and a .45% wage differential from 2019).

3. The second step of a new Sergeant step-and-grade plan shall be the mid-point between the first and third steps.

4. Each step of the step-and-grade plan for the Captains shall be 20 percent higher than the corresponding step of the step-and-grade plan for the Sergeants, rounded to the nearest dollar.

5. The first and third steps of the Sergeants' step-and-grade plan shall be adjusted equivalent to, on the same basis as (for example, percentage versus flat dollar), and at the same time as wage increases awarded in the WPPA union labor contract, unless otherwise directed by the Common Council in the event of special circumstances. The Captains' steps would, therefore, be simultaneously adjusted.

6. Each Sergeant and Captain shall be placed within the plan based upon their seniority in the rank. One year of satisfactory or better service in the rank is required between steps; as such, less than satisfactory service may delay a step increase as determined by the Police Chief. Actual wages of each Sergeant and Captain shall be adjusted concurrent with adjustments to the pay plan provided said employee has satisfactory performance, as determined by the Police Chief. [As such, the affected positions would receive a wage adjustment at the start of 2020 with their initial placement in the plan and approximately April 1, 2020 based upon the settled labor agreement.]

Performance Appraisals

To ensure that you perform your job to the best of your abilities, it is important that you be recognized for good performance and that you receive appropriate suggestions for improvement when necessary. Consistent with this goal, your performance will be evaluated by your supervisor on an ongoing basis. You will also receive periodic written evaluations of your performance. Such evaluations will normally occur after you have been employed for six months, on your first anniversary date, and annually thereafter. In addition, if you are promoted or transferred to a new position, your performance will normally be evaluated in writing after you have been in your new job for six months.

All written performance reviews will be based on your overall performance in relation to your job responsibilities and will also take into account your conduct, demeanor, and record of attendance and tardiness.

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| <p>APPROVAL</p> <p><i>Slw</i></p> | <p>REQUEST FOR COUNCIL ACTION</p> | <p>MEETING DATE</p> <p>11/1/2022</p> |
| <p>REPORTS & RECOMMENDATIONS</p> | <p>2023 Proposed Budget</p> | <p>ITEM NUMBER</p> <p>G.7.</p> |

Per the budget process timeline and next steps, October 19th (adjusted from October 12th) through November 15th is set aside for continued deliberation of the 2023 Proposed Budget. In conjunction with that, staff is including this item on all Common Council agendas during this time period so that further discussions needed on the Proposed 2023 Budget may be held at these meetings.

The 2023 Proposed Budget Public Hearing notice was published in the paper on October 26, 2022. The Public Hearing and Common Council's consideration of the 2023 Proposed Budget will take place at the November 15, 2022 Common Council Meeting.

Also, attached is information regarding the proposed tax rate for the 2022 tax bills which will be mailed in December of 2022. By way of details, the City of Franklin local tax rate for the 2021 tax bills was \$4.83 per thousand dollars of assessed value. The rate for the 2022 tax bills was estimated at \$4.39 when the budget was released on October 4th, and will be finalized in the very near future as the manufacturing values were received from the state in recent days. In addition, the tax levies for the other taxing entities that are included on the tax bill as well as the state tax credits will be received in the coming weeks and will determine the overall tax rate that will be used to calculate the 2022 tax bills.

Please contact staff with any questions, concerns, or additional information that is needed regarding the Proposed 2023 Budget.

COUNCIL ACTION REQUESTED

Per Common Council direction.

City of Franklin
 Tax Equalization Ratio
 2023 Budget

Tax Rate: The tax rate is calculated by dividing the total tax levy by the City Assessed Value. An Individual property tax bill is the result of its assessed value divided by total assessed value multiplied by the tax levy.

| | 2018-19 | 2019-20 | 2020-21 | 2021-22 | Estimate 2022-23 | Inc (Dec) |
|---|------------------|------------------|---------------------|------------------|---------------------|-------------------------------------|
| Assessed Value TID In | 4,035,310,280 | 4,229,425,745 | 4,511,933,200 | 4,877,836,200 | 5,390,763,282 | 10.52% |
| Percentage Change | 4.88% | | | | | |
| Equalized Value TID Out | 3,924,067,400 | 4,211,998,800 | 4,413,724,900 | 4,660,476,700 | 5,252,114,500 | 12.69% |
| Percentage Change | 3.88% | 7.34% | 4.79% | 5.59% | 12.69% | |
| TID 3 Increment | 51,181,600 | 64,781,500 | 97,386,600 | 85,724,400 | - | -100.00% |
| TID 4 Increment | 46,431,200 | 52,629,500 | 54,668,200 | 61,294,100 | 60,714,200 | -0.95% |
| TID 5 Increment | 1,261,200 | 30,859,200 | 21,439,500 | 53,255,600 | 57,509,300 | 7.99% |
| TID 6 Increment | | | | 1,668,600 | 3,085,800 | 84.93% |
| TID 7 Increment | | | | 20,796,200 | 38,884,900 | 86.98% |
| TID 8 Increment | | | | 4,157,800 | 10,994,400 | 164.43% |
| Total - TID In Equalized Value | 4,022,941,400 | 4,360,269,000 | 4,587,752,500 | 4,887,373,400 | 5,423,303,100 | 10.97% |
| Percentage Change | 3.45% | 8.39% | 5.22% | 6.53% | 10.97% | |
| Assessment Ratio | 1.00201% | 97.00737% | 98.02073% | 1.00077% | 99.40000% | |
| City Tax Levy - TID Out | \$ 21,369,375 | \$ 21,741,900 | \$ 21,918,100 | \$ 22,432,000 | \$ 22,929,400 | 2.22% |
| Equalized Rate TID Out | 0.005450817 | 0.005161896 | 0.004965896 | 0.004813242 | 0.004365746 | -9.30% |
| Percentage Change | -2.07% | -5.30% | -3.80% | -3.07% | -9.30% | |
| City Tax Levy - TID In | \$ 21,928,319 | \$ 22,507,255 | \$ 22,782,303 | \$ 23,524,109 | \$ 23,676,766 | 0.65% |
| Tax rate on Assessed Value-Estimate for 202: | 5.4341098 | 5.3215866 | 5.0493440 | 4.8226624 | 4.3920990 | \$ (0.4306) -8.53% |
| Tax Rate Based Strictly on Assessed Value | 5.4396210 | 5.3102714 | 5.0413687 | 4.8410526 | 4.3929633 | -3.97% |
| Equalization Difference | (0.0055112) | 0.0113152 | 0.0079754 | (0.0184002) | (0.0008643) | |
| Expenditure Restraint Equalized Tax Rate | 0.4508174 | 0.1618961 | (0.0341037) | (0.1867585) | (0.6342536) | |
| Impact on Expenditure Restraint Aids | -20.32% | -64.09% | no longer available | | | |

LEVY HISTORY 2013/2014 - 2022/2023

| TAX YEAR/ YEAR COLLECTED | LEVY | PRIOR YEAR LEVY | CHANGE INC / (DEC) | % INC / (DEC) |
|-----------------------------|------------|--------------------|-----------------------|------------------|
| 2013/2014 | 20,509,000 | 20,509,000 | 0 | 0.00% |
| 2014/2015 | 20,509,000 | 20,509,000 | 0 | 0.00% |
| 2015/2016 | 20,509,000 | 20,509,000 | 0 | 0.00% |
| 2016/2017 | 20,509,000 | 20,509,000 | 0 | 0.00% |
| 2017/2018 | 21,027,849 | 20,509,000 | 518,849 | 2.53% |
| 2018/2019 | 21,389,375 | 21,027,849 | 361,526 | 1.72% |
| 2019/2020 | 21,741,900 | 21,389,375 | 352,525 | 1.65% |
| 2020/2021 | 21,918,100 | 21,741,900 | 176,200 | 0.81% |
| 2021/2022 | 22,432,000 | 21,918,100 | 513,900 | 2.34% |
| 2022/2023 | 22,929,400 | 22,432,000 | 497,400 | 2.22% |

* 2022/2023 is the recommended levy

CITY PORTION - ASSESSED TID-OUT TAX RATE HISTORY 2013/2014 - 2022/2023

| TAX YEAR/ YEAR COLLECTED | ASSESSED RATE | PRIOR YEAR ASSESSED RATE | CHANGE INC / (DEC) | % INC / (DEC) |
|-----------------------------|---------------|-----------------------------|-----------------------|------------------|
| 2013/2014 | 6.294 | 5.774 | 0.520 | 9.01% |
| 2014/2015 | 6.300 | 6.294 | 0.006 | 0.10% |
| 2015/2016 | 6.256 | 6.300 | (0.044) | -0.70% |
| 2016/2017 | 5.689 | 6.256 | (0.567) | -9.06% |
| 2017/2018 | 5.615 | 5.689 | (0.074) | -1.30% |
| 2018/2019 | 5.434 | 5.615 | (0.181) | -3.22% |
| 2019/2020 | 5.322 | 5.434 | (0.112) | -2.06% |
| 2020/2021 | 5.049 | 5.322 | (0.273) | -5.13% |
| 2021/2022 | 4.823 | 5.049 | (0.226) | -4.48% |
| 2022/2023 | | 4.823 | (4.823) | -100.00% |

* 2022/2023 tax rate is estimated / actual rate will be determined in late October/early November

** Tax bills are calculated based on assessed rates

CITY PORTION - LOCAL EQUALIZED TID-OUT TAX RATE HISTORY 2013/2014 - 2022/2023

| TAX YEAR/ YEAR COLLECTED | EQUALIZED RATE | PRIOR YEAR EQUALIZED RATE | CHANGE INC / (DEC) | % INC / (DEC) |
|-----------------------------|----------------|------------------------------|-----------------------|------------------|
| 2013/2014 | 6.194 | 5.985 | 0.209 | 3.49% |
| 2014/2015 | 5.905 | 6.194 | (0.289) | -4.67% |
| 2015/2016 | 5.823 | 5.905 | (0.082) | -1.39% |
| 2016/2017 | 5.651 | 5.823 | (0.172) | -2.95% |
| 2017/2018 | 5.566 | 5.651 | (0.085) | -1.50% |
| 2018/2019 | 5.451 | 5.566 | (0.115) | -2.07% |
| 2019/2020 | 5.162 | 5.451 | (0.289) | -5.30% |
| 2020/2021 | 4.966 | 5.162 | (0.196) | -3.80% |
| 2021/2022 | 4.813 | 4.966 | (0.153) | -3.08% |
| 2022/2023 | 4.366 | 4.813 | (0.447) | -9.29% |

* Equalized rates compare the City of Franklin to other WI municipalities

WISCONSIN DEPARTMENT OF REVENUE
2022 STATEMENT OF CHANGES IN EQUALIZED VALUES BY CLASS AND ITEM

Date: 08/10/2022

County 40 Milwaukee
City 226 Franklin

| REAL ESTATE | 2021 RE Equalized Value | Removal of Prior Year Compensation | % Change | \$ Amount of Economic Change | % Change | \$ Amount of New Constr Change | % Change | Correction & Compensation | % Change | \$ Amount of All Other Changes | % Change | 2022 RE Equalized Value | Total \$ Change in R.E. Value | % Change |
|--|-------------------------------|--|-----------------|------------------------------------|-------------|--------------------------------------|-------------|---------------------------------|-------------|--------------------------------------|-------------|-------------------------------|-------------------------------------|-------------|
| | | | | | | | | | | | | | | |
| Residential | | | | | | | | | | | | | | |
| Land | 759,627,200 | -5,340,400 | -1% | 90,464,500 | 12% | 5,425,000 | 1% | -831,800 | 0% | 0 | 0% | 849,344,500 | 89,717,300 | 12% |
| Imp | 2,861,082,000 | -5,972,700 | 0% | 342,599,600 | 12% | 38,737,000 | 1% | -225,800 | 0% | -62,200 | 0% | 3,236,157,900 | 375,075,900 | 13% |
| Total | 3,620,709,200 | -11,313,100 | 0% | 433,064,100 | 12% | 44,162,000 | 1% | -1,057,600 | 0% | -62,200 | 0% | 4,085,502,400 | 464,793,200 | 13% |
| Commercial | | | | | | | | | | | | | | |
| Land | 267,444,900 | 2,072,600 | 1% | 13,395,700 | 5% | 203,000 | 0% | -3,206,400 | -1% | 0 | 0% | 279,909,800 | 12,464,900 | 5% |
| Imp | 760,438,900 | -5,122,300 | -1% | 37,723,700 | 5% | 20,122,800 | 3% | -1,684,400 | 0% | 0 | 0% | 811,478,700 | 51,039,800 | 7% |
| Total | 1,027,883,800 | -3,049,700 | 0% | 51,119,400 | 5% | 20,325,800 | 2% | -4,890,800 | 0% | 0 | 0% | 1,091,388,500 | 63,504,700 | 6% |
| Manufacturing | | | | | | | | | | | | | | |
| Land | 31,324,900 | 0 | 0% | 1,152,400 | 4% | 0 | 0% | 0 | 0% | -40,900 | 0% | 32,436,400 | 1,111,500 | 4% |
| Imp | 127,885,500 | 0 | 0% | 2,237,000 | 2% | 1,230,600 | 1% | 0 | 0% | 1,375,300 | 1% | 132,728,400 | 4,842,900 | 4% |
| Total | 159,210,400 | 0 | 0% | 3,389,400 | 2% | 1,230,600 | 1% | 0 | 0% | 1,334,400 | 1% | 165,164,800 | 5,954,400 | 4% |
| Agricultural | | | | | | | | | | | | | | |
| Land/Total | 900,800 | 12,300 | 1% | 40,600 | 5% | 0 | 0% | -127,800 | -14% | 0 | 0% | 825,900 | -74,900 | -8% |
| Undeveloped | | | | | | | | | | | | | | |
| Land/Total | 2,396,700 | 10,800 | 0% | 88,400 | 4% | 0 | 0% | -395,000 | -16% | 0 | 0% | 2,100,900 | -295,800 | -12% |
| Ag Forest | | | | | | | | | | | | | | |
| Land/Total | 209,000 | 0 | 0% | 5,700 | 3% | 0 | 0% | 0 | 0% | 0 | 0% | 214,700 | 5,700 | 3% |
| Forest | | | | | | | | | | | | | | |
| Land/Total | 789,600 | -129,600 | -16% | 18,000 | 2% | 0 | 0% | 0 | 0% | 0 | 0% | 678,000 | -111,600 | -14% |
| Other | | | | | | | | | | | | | | |
| Land | 5,783,200 | -138,400 | -2% | 0 | 0% | 0 | 0% | -470,400 | -8% | 0 | 0% | 5,174,400 | -608,800 | -11% |
| Imp | 17,919,300 | 0 | 0% | 2,150,300 | 12% | 50,000 | 0% | 0 | 0% | 0 | 0% | 20,119,600 | 2,200,300 | 12% |
| Total | 23,702,500 | -138,400 | -1% | 2,150,300 | 9% | 50,000 | 0% | -470,400 | -2% | 0 | 0% | 25,294,000 | 1,591,500 | 7% |
| Total Real Estate | | | | | | | | | | | | | | |
| Land | 1,068,476,300 | -3,512,700 | 0% | 105,165,300 | 10% | 5,628,000 | 1% | -5,031,400 | 0% | -40,900 | 0% | 1,170,684,600 | 102,208,300 | 10% |
| Imp | 3,767,325,700 | -11,095,000 | 0% | 384,710,600 | 10% | 60,140,400 | 2% | -1,910,200 | 0% | 1,313,100 | 0% | 4,200,484,600 | 433,158,900 | 11% |
| Total | 4,835,802,000 | -14,607,700 | 0% | 489,875,900 | 10% | 65,768,400 | 1% | -6,941,600 | 0% | 1,272,200 | 0% | 5,371,169,200 | 535,367,200 | 11% |
| Total of All Personal Property | | | | | | | | | | | | | | |
| PERSONAL PROPERTY | | | | | | | | | | | | | | |
| Non-Mfg Personal Property | | | | | | | | | | | | | | |
| | 2021 | 2022 | % Change | | | | | | | | | | | |
| Watercraft | 0 | 0 | 0% | | | | | | | | | | | |
| Machinery Tools & Patterns | 0 | 0 | N/A | | | | | | | | | | | |
| Furniture Fixtures & Equip | 28,470,700 | 28,912,000 | 2% | | | | | | | | | | | |
| All Other | 6,732,000 | 6,778,300 | 1% | | | | | | | | | | | |
| Prior Year Compensation | -1,297,100 | 487,600 | | | | | | | | | | | | |
| Total Personal Property | 33,905,600 | 36,177,900 | 7% | | | | | | | | | | | |
| Manufacturing Personal Property | | | | | | | | | | | | | | |
| | 2021 | 2022 | % Change | | | | | | | | | | | |
| | 0 | 0 | 0% | | | | | | | | | | | |
| | 11,538,700 | 10,232,600 | -11% | | | | | | | | | | | |
| | 4,476,100 | 4,229,400 | -6% | | | | | | | | | | | |
| | 1,651,000 | 1,494,000 | -10% | | | | | | | | | | | |
| | 0 | 0 | | | | | | | | | | | | |
| | 17,665,800 | 15,956,000 | -10% | | | | | | | | | | | |
| Total Manufacturing Personal Property | 17,665,800 | 15,956,000 | -10% | | | | | | | | | | | |
| TOTAL EQUALIZED VALUE | 2021 Total | 2022 Total | % Change | | | | | | | | | | | |
| Real Estate & Personal Property | 4,887,373,400 | 5,423,303,100 | 11% | | | | | | | | | | | |

| | | |
|--------------------------------------|---|--------------------------------------|
| APPROVAL <i>slw</i> | REQUEST FOR COUNCIL ACTION | MTG. DATE November 1, 2022 |
| Reports & Recommendations | Inclusion of Sidewalks, Lighting, and Other Design Elements in Wisconsin Department of Transportation project for S. 27th Street (STH 241) from W. Elm Road to W. Villa Drive | ITEM NO. G.8. |

BACKGROUND

The Wisconsin Department of Transportation (WisDOT) is currently proposing a resurfacing project (RSRF 30) on a segment of S. 27th Street (STH 241) from W. Elm Road to W. Villa Drive. WisDOT is proposing to mill off 4 inches of existing asphalt, full depth base patching and then overlay with 4 inches of new asphalt surface. Other improvements include:

- Removing and replacing guardrail along the project limits including the guardrail along bridge structure B-40-709 over Oak Creek.
- Adjustment to culvert C-40-114 north of W. Wheaton Way.
- Replacing existing pedestrian curb ramps that are non-compliant with current ADA standards.
- Replacing traffic signals at W. Oakwood Road and W. Puetz Road with new loops at W. Ryan Road.
- Replacing signing throughout the project to comply with WisDOT standards.
- Re-stripping pavement markings throughout the project corridor.
- New proposed sidewalk.
- Additional drainage maintenance, traffic control and erosion control.

Original notification from WisDOT to Staff was a bid date of 9/11/29. This project has progressively moved up and the current anticipated bid date is scheduled for 2/10/2026. For tracking purposes, the WisDOT project has a Design ID of 2265-09-01 and a Construction ID of 2265-09-70. Staff will need to have utility and other adjustments determined in 2025.

WisDOT is asking Franklin and Oak Creek if there is interest in including a variety of elements in the project. WisDOT will proceed with the design and determine any cost share for the design elements, if any. The budgets would be added to capital and other budgets as appropriate.

WisDOT is requesting answers on or before November 5, 2022.

ANALYSIS

Issue 1: Lighting, Signage, and Streetscape elements consistent with what was installed on the recent project from W. Villa Drive to W. College Avenue. Lighting for the northern section of S. 27th Street included black LED lights. Special sign structures were used for the Franklin and Oak Creek sides of the street and directional signs and special way-finding signs were installed.

Attached is a picture of the elements as they were installed. Some of the way-finding signs on the Franklin side were replaced after the City’s rebranding effort. The intent was to match the designs proposed in the Franklin and Oak Creek S. 27th St. Corridor Plan but many alterations were required during actual project design and construction.

The City of Franklin is responsible for any costs above and beyond standard WisDOT improvements. WisDOT would like for the City to have special elements designed for incorporation into their plans.

Suggested Recommendation regarding this Issue 1: Direct Staff to notify WisDOT an intent to include special lighting signage, and other streetscape elements to match the northern section of S. 27th Street in the WisDOT project and prepare a State Municipal Financing Agreement and State Municipal Maintenance Agreement. Direct Staff to bring a design contract for adding the said

elements and identify budget amendment needed for the design work and add budget in the 2026 Capital Improvement Plan.

Issue 2: General Sidewalks. WisDOT has considered sidewalks for the entire corridor and decided where they could be installed with some or all of WisDOT funding. Those sections north of W. Ryan Road are shown on an exhibit that WisDOT provided and are as follows:

- W. Ryan Road to W. Briarwood Drive. Cost Share: 100% State (\$0 Franklin cost)
- W. Southland Drive to W. Puetz Road: Cost Share: 50% State/50% Franklin (\$36,250 Franklin cost estimate)
- W. Acre Avenue to W. Villa Drive: Cost Share: 100% State (\$0 Franklin cost)

For the northern section of S. 27th Street, the sidewalk was widened and adjacent property owners were specially assessed for the additional walk.

Suggested Recommendation regarding this Issue 2: Direct Staff to notify WisDOT an intent to include sidewalk for feasible sections from W. Ryan Road to W. Villa Drive in the WisDOT project (with/without) widening the walk and prepare a State Financing Agreement and State Municipal Agreement. Also, direct Staff to add budget in the 2026 Capital Improvement Plan and prepare Special Assessment process with final costs at the appropriate time.

Issue 3: Saputo Cheese Sidewalk. WisDOT did not consider sidewalks for sections south of W. Ryan Road as they did not consider sidewalks in this location warranted. The Saputo Cheese project on the southwest corner of S. 27th Street and W. Oakwood Road includes a sidewalk along W. Oakwood Road but not on STH 241 because of the current proximity of a wetland. During the Saputo site plan approval and developer's agreement process, a resolution included a commitment that Saputo provide connections to a future sidewalk on S 27th St. (Conditions 7 & 16; PC RES 2022-001. These conditions are responsive to the Franklin and Oak Creek S. 27th St. Corridor Plan, and related overlay design guidelines which encourage walkable design throughout the corridor. The Saputo project is expected to make the conditions along STH 241 suitable for such a sidewalk.

It should also be noted that the City anticipates that the North-South Bus Rapid Transit line would one-day serve the Franklin Corporate Park and pedestrian access is critical for that to occur.

Suggested Recommendation regarding this Issue 3: Direct Staff to notify WisDOT an intent to include sidewalk for the property south of W. Oakwood Road (Saputo Cheese) and prepare a State Financing Agreement and State Municipal Agreement and assign a cost share. Also, direct staff to include discussion of this cost share in the Development Agreement with Saputo Cheese.

Issue 4: Crosswalk at Southland Drive. Based on a safety review of a fatal pedestrian crash at the Southland Dr intersection with STH 241 (S 27th St) WisDOT intends to install pedestrian ramps in all 4 quadrants of the intersection. Curb ramps create legal pedestrian crossings and provide connections between new sidewalks located on the west side (in Franklin) and the east side (in Oak Creek). WisDOT is considering "high visibility" west – east crosswalks as shown in an attached exhibit.

Installation of pavement markings is 100% state cost. WisDOT maintains crosswalks at signalized intersections. However, since these crosswalks are not at a signalized intersection all future

maintenance of the crosswalk marking would be the responsibility of Local Government. Without the agreement to maintain these crosswalk markings will not be installed.

STH 241 is the border between the Cities of Franklin and Oak Creek. Both cities must agree to maintain the crosswalks, if not the crosswalks will not be constructed.

Suggested Recommendation regarding this Issue 4: Direct Staff to notify WisDOT an intent to include crosswalks at W. Southland Drive and prepare a State Municipal Maintenance Agreement.

OPTIONS

As discussed above.

FISCAL NOTE

As noted above, immediate costs (design of streetscape elements in Issue 1) would need a budget amendment when a consultant is identified. Most costs to the City would be included in 2025/2026 utility and capital budgets and some costs would be reimbursed by developers (Saputo Cheese) or specially assessed to adjacent property owners (lights and sidewalks).

RECOMMENDATION

At the will of the Common Council. Suggested recommendations are included for each of the four items.

Engineering: GEM



Lighting, Signage, and Streetscape elements that were installed on the recent S. 27th Street project from W. Villas Drive to W. College Avenue

ID 2265-09-01
Elm to Villa
STH 241

Multi-Modal Cost Share

W Drexel Ave

Existing sidewalk

Existing sidewalk / path

W Villa Dr

Franklin

| | |
|------------|------------|
| Cost (N1) | \$ 110,900 |
| Cost Share | 100% State |
| Local Cost | \$ 0 |

North 1

W Acre Ave

W Honadel Blvd

Infeasible



W Puetz Rd

Franklin

| | |
|------------|------------------------|
| Cost (N2) | \$ 72,500 |
| Cost Share | 50% State 50% Local |
| Local Cost | \$ 36,250 |

North 2

W Grays Ln

W Southland Dr

Infeasible

W Briarwood Dr

W Briarwood Dr

South 1

Franklin

| | |
|------------|------------|
| Cost (S1) | \$ 117,400 |
| Cost Share | 100% State |
| Local Cost | \$ 0 |

W Ryan Road

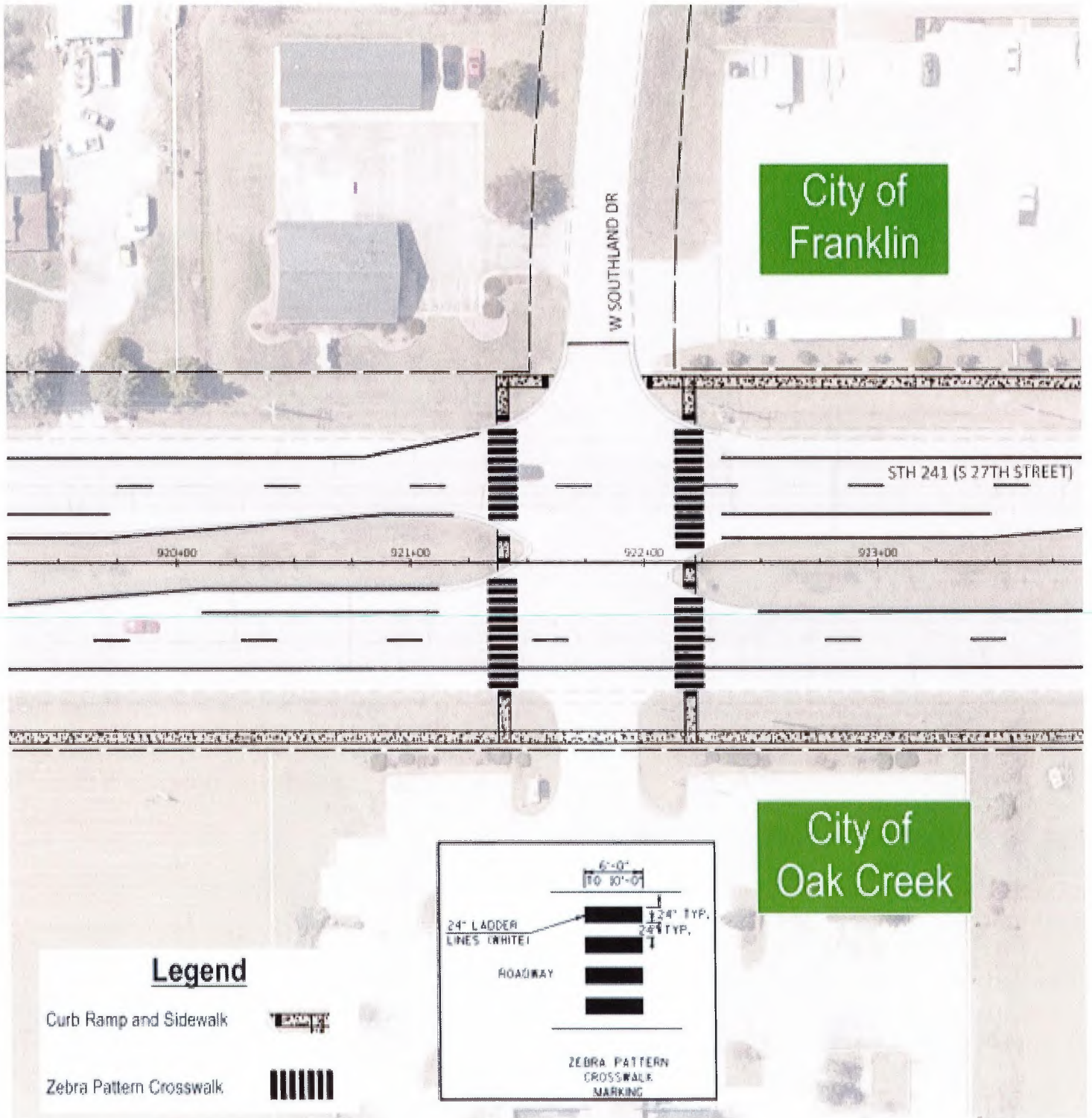
241

100



Google Earth

4000 ft



City of Franklin

STH 241 (S 27TH STREET)

920+00

921+00

922+00


933+00

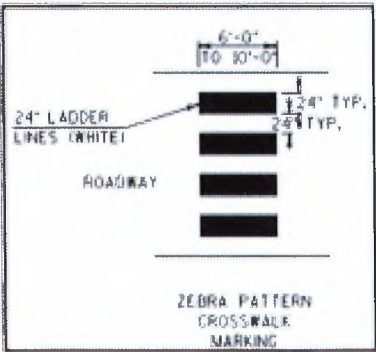
W SOUTHLAND DR

City of Oak Creek

Legend

Curb Ramp and Sidewalk 

Zebra Pattern Crosswalk 



| | | |
|--|---|--|
| <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;">Nov. 1, 2022</p> |
| <p>Reports & Recommendations</p> | <p style="text-align: center;">Resolution Authorizing of the Enhancement of an Existing Fence within the 5-Foot Drainage Easement Upon Lot 1 in Block 15 of Southwood East (9307 S. 35th Street) (TKN 879-0220-000) (Kevin & Linda Wandtke, Applicants)</p> | <p style="text-align: center;">ITEM NUMBER</p> <p style="text-align: center;">G.9.</p> |

BACKGROUND

Kevin & Linda Wandtke have applied to repair and replace the warped sections and broken posts of an existing fence on the west side of their property at 9307 S. 35th Street. However, the fence installed 25 years ago was found to be within the 5-foot drainage easement. See Exhibit B.

The owner is seeking approval to allow the fence to remain in the location of the old fence. Staff informed the property owner about the existing drainage easement and have made them aware of the restrictions regarding the said easement.

ANALYSIS

Staff has reviewed the application and recommends to allow the fence within the drainage easement. The property owner will be fully responsible for any repair and/or restoration of the drainage easement required during installation and/or maintenance of the fence.

The resolution provides that

1. The subject fence shall not impede the storm water drainageway.
2. The applicants, or their successors, shall keep the fence in good repair.
3. The applicant, or their successors, shall be responsible for replacement and/or repair of the fence should the fence need to be removed or damaged due to access, repair, or maintenance of the existing drainage easement.
4. The City is not responsible for any damage that may occur during or as a result of maintenance purposes, needs, and/or activities.
5. The property owner(s) and any mortgagee with an interest in the property shall agree to and execute the Acceptance set forth on Exhibit A annexed hereto.

Note that the owners no longer have a mortgage.

OPTIONS

Approve or Deny

FISCAL NOTE

No Impact on Budget.

RECOMMENDATION

Resolution 2022-_____ a resolution authorizing the fence within the 5-foot drainage easement upon Lot 1 in Block 15 in Southwood East (9307 S. 35th Street) (TKN 879-0220-000) (Kevin & Linda Wandtke, Applicants).

Engineering: GEM

STATE OF WISCONSIN : CITY OF FRANKLIN : MILWAUKEE COUNTY

RESOLUTION NO. 2022 - _____

RESOLUTION AUTHORIZING THE INSTALLATION OF A FENCE WITHIN
THE 5-FOOT DRAINAGE EASEMENT
UPON LOT 1 IN BLOCK 15 OF SOUTHWOOD EAST
(9307 S. 35TH STREET) (TKN 879-0220-000)
(KEVIN & LINDA WANDTKE, APPLICANTS)

WHEREAS, the Southwood East Subdivision Plat prohibits the building of structures within the 5-foot "Public Storm Drainage Easement," described thereon; and

WHEREAS, Kevin & Linda Wandtke having applied for the repair and replace the warped sections of an existing fence at their property located at 9307 S. 35th Street., zoned R-6 Residential, bearing Tax Key No. 879-0220-000, more particularly described as follows:

Lot 1 in Block 15 in Southwood East, being a subdivision of the Southeast 1/4, and Southwest 1/4 of Section 24, Town 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin; and

WHEREAS, the fence would encroach at 27.8-feet ± north of the southwest corner lot into a 5-foot "Drainage Easement" restriction which extends approximately 63.6 feet, along the westside lot line; and

WHEREAS, the "Drainage Easement" restrictions upon the Final Plat for Southwood East Subdivision and its accompanying restriction of the building of structures is a restriction which was imposed by the Franklin Common Council in its approval of the Final Plat; and

WHEREAS, Wis. Stats. § 236.293 provides in part that any restriction placed on platted land by covenant, grant of easement or in any other manner, which was required by a public body vests in the public body the right to enforce the restriction at law or in equity and that the restriction may be released or waived in writing by the public body having the right of enforcement; and

WHEREAS, the Common Council having considered the request for the encroachment of the fence partly to the 5-foot Public Storm Drainage Easement; and

WHEREAS, the Common Council having considered the request to remain the location of the fence upon the subject property in conjunction with existing and required landscaping on the property and potential interference with the storm drainage operations.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that the existence of fence and type as described and only upon the location as set forth within the plans accompanying the application of Kevin & Linda Wandtke filed on October 13, 2022 be and the same is hereby authorized and approved and that the "Drainage Easement" restrictions as it would otherwise apply to such installation upon the subject property only, is hereby waived and released, subject to the following conditions:

1. The subject fence shall not impede the storm water drainageway.
2. The property owners, and their successors and assigns, shall keep the fence in good repair.
3. The property owners, and their successors and assigns, shall be responsible for replacement and/or repair of the fence should the fence need to be removed or damaged due to access, repair or replacement of the existing utilities.
4. The City is not responsible for any damage that may occur during or as a result of maintenance purposes, needs, and/or activities.
5. The property owner(s) and any mortgagee with an interest in the property shall agree to and execute the Acceptance set forth on Exhibit A annexed hereto.

BE IT FURTHER RESOLVED, that the applicant shall further obtain all required permit(s) for the installation of the subject fence and that the subject fence shall be installed pursuant to such permit(s) within one year of the date hereof, or all approvals granted hereunder shall be null and void.

BE IT FINALLY RESOLVED, that the City Clerk be and the same is hereby directed to obtain the recording of this Resolution with the Office of the Register of Deeds for Milwaukee County, upon full execution hereof, including Exhibit A.

Introduced at a regular meeting of the Common Council on the _____ day of _____, 2022 by Alderman _____.

Passed and adopted by the Common Council on the _____ day of _____, 2022.

APPROVED:

Stephen R. Olson, Mayor

ATTEST:

Sandra L. Wesolowski, City Clerk

AYES _____ NOES _____ ABSENT _____

Exhibit A

Acceptance

The undersigned, Kevin & Linda Wandtke, owner of the property located at 9307 South 35th Street, Franklin, Wisconsin 53132, Tax Key No. **879-0220-000**, does hereby agree to, consent to and accepts the terms and provisions of the City of Franklin Resolution No. _____, and that in consideration of the making of such grant to allow the installation of a fence within the drainage easement by the City of Franklin, the undersigned agrees that this acceptance shall be binding upon the undersigned and the undersigned's successors and assigns and that the terms and provisions of the City of Franklin Resolution No. _____ shall run with the land, subject to any amendments thereto and/or any other actions thereto approved by the Common Council of the City of Franklin in the future.

In witness whereof, the undersigned has executed and delivered this acceptance on the ____ day of _____, 20__.

Property owner: Kevin Wandtke & Linda

By: 

By: 

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| APPROVAL <i>Slw</i> | REQUEST FOR COUNCIL ACTION | MEETING DATE November 1, 2022 |
| REPORTS AND RECOMMENDATIONS | Resolution for Authorization to We Energies for Work Order for Lighting at W. Sunnybrook Road and W. Forest Home Avenue | ITEM NUMBER G.10. |

BACKGROUND

Milwaukee County Department of Transportation (MCDOT) is planning a 2023 road reconditioning (not a full reconstruction) project for W. Forest Home Avenue (CTH OO) from W. Jefferson Terrace (Hi View Drive / Muskego City limits) to W. Speedway Drive. We Energies needs to relocate power poles that have City rental lighting attached to them. We Energies no longer installs, or relocates high pressure sodium (HPS) lights and the replacement lights are light emitting diode (LED) types. There is always an upcharge for this work.

This light serves the W. Forest Home Avenue intersection with W. Sunnybrook Road.

ANALYSIS

We Energies upfront charge for this work for relocating the outdoor street lighting and for upgrading from Cobra SCO 200W to LED Med Oval Light is \$819.00 and the net monthly charges will initially decrease by \$3.19, which is subject to future rate changes as approved by the Public Service Commission of Wisconsin. This charge does not include site restoration. LED Med Oval Light will be installed.

OPTIONS

Approve or Deny. Common Council could choose to remove the light from the intersection (not recommended by Staff)

FISCAL NOTE

\$819.00 is currently within available budgeted funds of the DPW account maintenance services (GL 01-0351-5246). Note that this account also covers everything with street lights and is subject to unforeseen issues such as knock-downs of which we are exceeding previous years knock-downs. The voucher will be presented at the November 15, 2022 Common Council meeting.

COUNCIL ACTION REQUESTED

Authorize Staff to execute an installation agreement with We Energies for the work order for lighting at W. Sunnybrook Road and W. Forest Home Avenue.

Engineering: GEM

STATE OF WISCONSIN : CITY OF FRANKLIN : MILWAUKEE COUNTY

RESOLUTION NO. 2022 - _____

RESOLUTION FOR AUTHORIZATION TO WE ENERGIES
FOR WORK ORDER FOR LIGHTING AT
W. SUNNYBROOK ROAD AND
W. FOREST HOME AVENUE

WHEREAS, Milwaukee County Department of Transportation (MCDOT) is planning a 2023 road reconditioning (not a full reconstruction) project for W. Forest Home Avenue (CTH OO) from W. Jefferson Terrace (Hi View Drive / Muskego City limits) to W. Speedway Drive; and

WHEREAS, the City rents a light from We Energies at the intersection of W. Forest Home Avenue with W. Sunnybrook Road that needs to accommodate the MCDOT project; and

WHEREAS, the City is obligated to pay for removal of the high-pressure sodium (HPS) lights and replace with lights that are light emitting diode (LED); and

WHEREAS, We Energies upfront charge for this work for relocating the outdoor street lighting and for upgrading from Cobra SCO 200W to LED Med Oval Light is \$819.00.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that Staff is hereby authorized to execute an installation agreement with We Energies.

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 _____



We Energies
 231 W. Michigan St.
 Milwaukee, WI 53203
 www.we-energies.com

September 28, 2022

City of Franklin
 9229 W Loomis Rd
 Franklin, WI 53132

Subject: Work Request 44805524; Lighting at W Sunnybrook Rd & W Forest Home Ave

Dear City of Franklin:

This letter details a work request for We Energies Outdoor Lighting. The upfront charge for this work, which expires 90 days from the date of this letter, is \$819.00, and does not include site restoration. Net monthly charges will initially decrease by \$3.19, which is subject to future rate changes as approved by the Public Service Commission of Wisconsin.

Review the following prior to providing authorization and payment.

- Luminaires are controlled to provide dusk to dawn operation.
- Customer must contact We Energies for lighting maintenance.
- Fixtures are warranted until removed.
- Non-Standard poles and conductors are warranted for 15 years.
- Customer must locate private underground facilities and grant or obtain, without expense to We Energies, access to property, necessary permissions, easements, ordinance satisfaction and permits for installation, removal and maintenance of lighting facilities
- Termination or change requests after installation and prior to conclusion of the initial term result in customer charges. Monthly rates for fixtures on the LED rate are reduced after the initial term.
- All applicable lighting tariff terms and conditions are available at we-energies.com.
- We Energies does not guarantee this installation meets AASHTO or the Illuminating Engineering Society's minimum recommended standards for lighting.

Please sign the enclosed documents and return them, along with payment for the upfront charge (payable to We Energies) in the envelope provided. Material will be ordered upon receipt of required authorizations and payment. Work request will be scheduled when all contingencies are met. If you have any questions, please call me at 414-588-4366. We look forward to working with you on your lighting project.

Sincerely,

Vicki Tadych

Vicki Tadych
 Energy Services Representative

By signing this letter, you authorize us to do this work and acknowledge acceptance of the rates and conditions of the specified tariffs as approved by the Public Service Commission of Wisconsin.

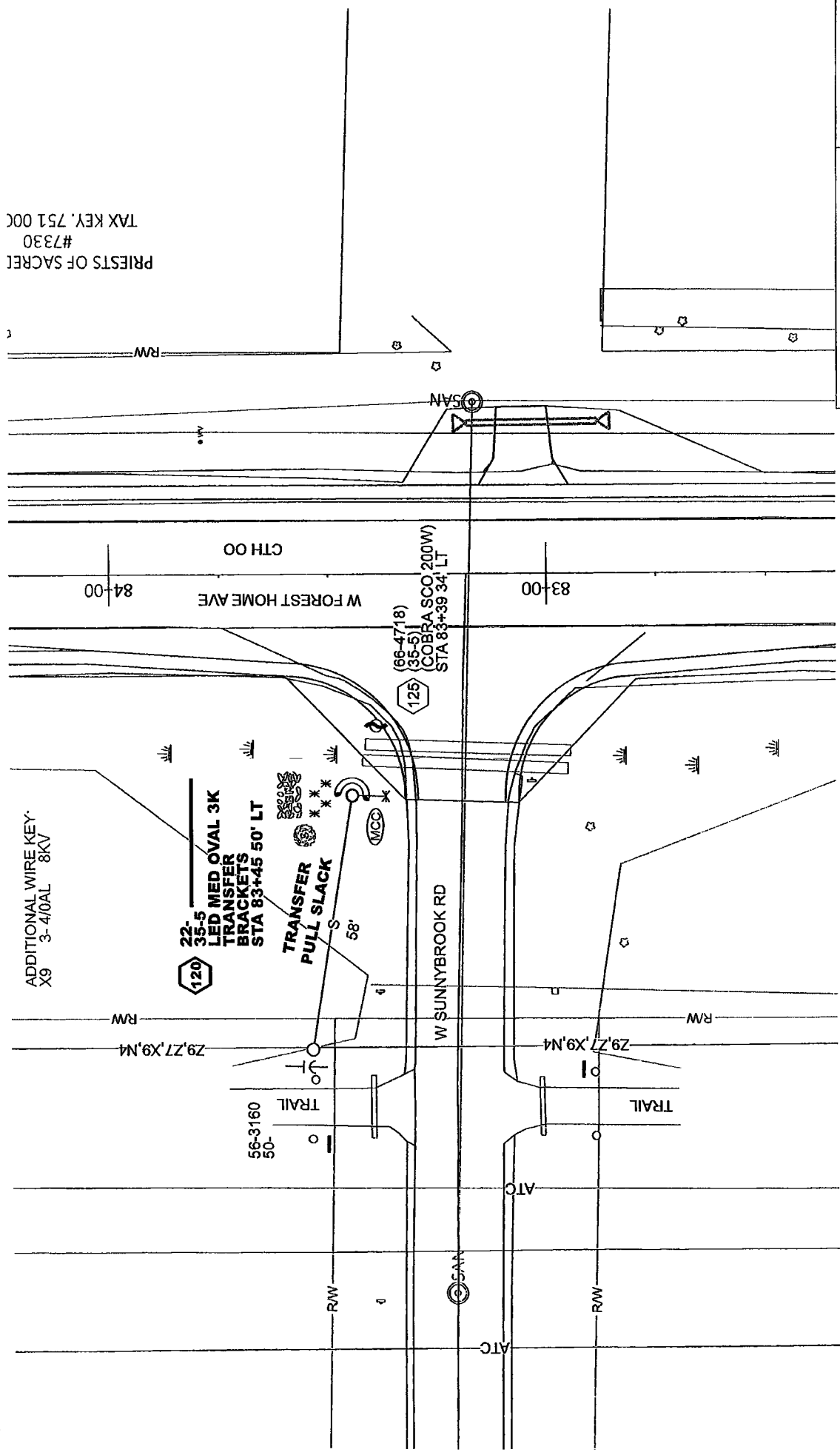
Signature _____ Date _____

Print name _____ Title: _____

Enclosures



PRIESTS OF SACREI
#7330
TAX KEY. 751 00C



ELECTRIC WORK REQUEST
4805524



SCALE 1" = 20'

SHEET 4 OF 4

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|---------------------------|---|-------------------------------|
| APPROVAL <i>Slw</i> | REQUEST FOR COUNCIL ACTION | MTG. DATE November 1, 2022 |
| Reports & Recommendations | Ordinance to Repeal Chapter 165 of the Municipal Code and to Repeal and Recreate Chapter 129 of the Municipal Code and to Rename Chapter 129 From “Filling and Grading” to “Land Disturbing Construction Activities” | ITEM NO. G.11. |

BACKGROUND

The Engineering Department has discussed updating the permit and process for land disturbing construction activities. This would include significant revisions to Municipal Code Chapter 129 “Filling and Grading” and Chapter 165 “Land Disturbances”. These two chapters are in need of revisions to become more consistent with our Unified Development Ordinance (UDO), Wisconsin Administrative Code, and our permitting related to land disturbing construction activities. Attached is Chapter 165 to be repealed and the proposed version of Chapter 129 with revisions shown.

Also attached are the current “fill/soils disturbing permit” and the proposed “construction site erosion control permit”. These are for reference only as Common Council did not approve the current permit and does not approve content and format of any other permit application.

ANALYSIS

The current “Fill/Soils Disturbing Permit Application” is not directly referenced in Municipal Code Chapter 129, Chapter 165, or UDO. The intent of the proposed changes are to attain consistency and clarity throughout the Municipal Code, UDO, and permitting related to land disturbing construction activities. This change will allow for City Staff to more easily review, approve, process, and administer permit requirements. Additionally, these revisions are consistent with the requirements of the City’s Municipal Separate Storm Sewer System (MS4) permit with the Wisconsin Department of Natural Resources (WDNR) and Wisconsin Administrative Codes.

A summary of the proposed changes are as follows:

1. Repeal Chapter 165. The current chapter was put in place in 1997 and is not in line with City UDO or permitting related to land disturbances. The proposed repeal and recreation of Chapter 129 and current UDO render Chapter 165 ineffective. There are no direct references in the Municipal Code or UDO to Chapter 165.
2. Repeal and Recreate Chapter 129 and rename Chapter 129. The current chapter title does not align with the existing or proposed permit and does not encompass other land disturbing construction activities that trigger erosion control requirements.

Land disturbing construction activity defined by Wisconsin Administrative Code NR 151 – *“Any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover that may result in storm water runoff and lead to increased soil erosion and movement of sediment into waters of the state Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities.”*

3. Expanding the definitions of Chapter 129 to better align with the UDO and Wisconsin Department of Natural Resources relating to construction site erosion control.
4. The City would be allowed to issue verbal stop work orders, citations, and revoke a permit for non-compliance.
5. Updated erosion and sediment control plan requirements in Chapter 129. The proposed changes will require a more comprehensive erosion and sediment control plan for applicable sites. This better aligns with what is currently in the UDO and required by WDNR.

6. Responsibility of the applicant to pay for the costs of construction site review, inspection, and enforcement charges in Chapter 129 and acknowledgement and agreement of these charges in the proposed construction site erosion control permit.
 - a. The current (and historical) practice by the City is for consulting firms to perform erosion control inspections on City permitted construction sites. When the Engineering Department receives invoices from these firms for inspections, the City pays the invoices and bills back the developer/applicant the cost of the invoice plus 5% for administration and overhead.
 - b. Currently, there is no clear indication within the existing permit that the charges for these inspections are the responsibility of the permittee, it is only relayed to the developer/applicant during the review process.
 - c. The proposed version of the permit has a section to outline the inspection requirements and acknowledgement of the applicants responsibility for inspection charges. The potential charges for inspection are summarized and current hourly rates are provided so that the applicant can estimate an approximate total for the charges over the life of the permit.
 - d. Staff reached out to many local municipalities and verified that all charge for this inspection work using a variety of methods.
 - e. Staff explored using an escrow deposit at the time of application for inspection charges, but after discussions with several developers, they confirmed that the invoicing method is the preferred way to process these charges.
 - f. Not all permitted sites will include review, inspection, and enforcement charges. These charges typically come with larger developments that have storm water management plans and significant land disturbance.

It should be noted that Staff frequently fields questions from contractors and developers asking if the City has an erosion control permit as the current “fill/soils disturbing permit” is not clear in this regard when searching the City website or Municipal Code.

Similarly, the Engineering Department utilizes consultant engineering services for storm water management plan review for developments. The charges for those reviews are also billed back to the developer/applicant in a similar process to the inspection charges. There is no formal application for engineering and storm water management plan review at this time and the responsibility for review charges is only relayed to the developer/applicant during pre-application meetings. To allow for a formal acknowledgement of these review charges, Engineering Staff has drafted an engineering and storm water management plan (SWMP) review application form. There is no base application fee for the review application, however it allows for a formal acknowledgement and agreement that the developer/applicant is responsible for any review charges (plus 5 percent for administration and overhead). A proposed application for engineering and storm water management plan review is attached for reference.

OPTIONS

Approve or Modify Ordinance as proposed by Staff.

FISCAL NOTE

Consultant invoices are first paid for by the City (01.0321.5216) and the City then bills back the developer/applicant the invoice cost plus 5% (01.0000.4479).

Rates of compensation for inspection services are common for all firms and revised every 2 years.

RECOMMENDATION

Motion to adopt Ordinance-_____ an ordinance to repeal Chapter 165 of the Municipal Code and to repeal and recreate Chapter 129 of the Municipal Code and to rename Chapter 129 from “Filling and Grading” to “Land Disturbing Construction Activities”.

STATE OF WISCONSIN : CITY OF FRANKLIN : MILWAUKEE COUNTY

ORDINANCE NO. 2022-_____

ORDINANCE TO REPEAL CHAPTER 165 OF THE MUNICIPAL CODE AND TO
REPEAL AND RECREATE CHAPTER 129 OF THE MUNICIPAL CODE AND TO
RENAME CHAPTER 129 FROM “FILLING AND GRADING” TO
“LAND DISTURBING CONSTRUCTION ACTIVITIES”

WHEREAS, the City wishes to update the permit and process for land disturbing construction activities; and

WHEREAS, Staff has recommended to the Common Council to repeal Franklin Municipal Code Chapter 165 Land Disturbances; and

WHEREAS, Staff has recommended to the Common Council the adoption of a significant rewrite of Franklin Municipal Code Chapter 129 Filling and Grading, including the title of the chapter; and

WHEREAS, among many changes, the significant changes provide for: uniformity between the Municipal Code, the Unified Development Ordinance, the Wisconsin Administrative Code and City permit applications; applicant responsibility for the cost of construction site inspection, review, and enforcement charges; and the issuance of stop work orders, citations, and revoking a permit for non-compliance; and

WHEREAS, the Common Council having considered the recommendation and having determined same to be reasonable and in the public interest.

NOW, THEREFORE, the Mayor and Common Council of the City of Franklin, Wisconsin, do hereby ordain as follows:

SECTION 1: Chapter 165 “Land Disturbances” of the Municipal Code of the City of Franklin, Wisconsin, is hereby repealed

SECTION 2: Chapter 129 “Filling and Grading” of the Municipal Code of the City of Franklin, Wisconsin, is hereby is renamed “Land Disturbing Construction Activities”

SECTION 3: Chapter 129 of the Municipal Code of the City of Franklin, Wisconsin, is hereby repealed and recreated to read as follows:

Chapter 129
Land Disturbing Construction Activities

§129-1 Land disturbing construction activities.

§129-2 Construction site erosion control permit.

§129-3 Definitions.

§129-4 Land disturbing construction activity regulations.

§129-5 Inspector; powers and duties.

§129-6 Persons liable.

§129-7 Public nuisance.

§129-8 Special permit; emergency.

§129-9 Intent and purpose.

§129-10 Violations and penalties.

§129-1 Land disturbing construction activities.

A permit is required. No person or entity shall conduct land disturbing construction activities upon any lot, tract or parcel of land unless the person or entity shall first obtain a construction site erosion control permit pursuant to §129-2 hereof and post the same upon the premises in the manner provided for the posting of a building permit as set forth in Chapter 92, Building Construction.

§129-2 Construction site erosion control permit.

A. Applicability and Jurisdiction. This section applies to the sites of any land disturbing construction activities, as provided in §15-8.0302 of the Unified Development Ordinance (UDO).

B. Application; revocation. A construction site erosion control permit shall be issued by the City Engineer upon application being made and filed with him or her upon payment of the permit fee as set forth herein. Such application shall be signed by the owner of the premises involved, together with the person or entity applying for the permit, if the person or entity be other than the owner. It shall contain the location of the premises and an accurate description of the same and include an estimate of the number of cubic yards or acreage of land area to be disturbed. The permit shall be for a period of one year and subject to renewal each successive year upon reapplication.

1. The City Engineer or designee may issue a stop-work order verbally or in writing to the applicant and may post a stop-work order on all building, construction, land disturbing or land development activities if:
 - a. Any land disturbing activity regulated under this chapter is being undertaken without a permit; or
 - b. The control plan is not being implemented in a good faith manner; or
 - c. The conditions of the permit are not being met.
2. If the responsible party or any other person or entity performing or suffering the activity does not cease the activity or comply with the control plan or permit conditions forthwith, the City Engineer or designee may revoke the permit.
3. If the landowner or land user or any other person or entity performing or suffering the activity, where no permit has been issued, does not cease the activity forthwith, the City Engineer or designee may request the City Attorney to obtain a cease and desist order.
4. In addition to the foregoing provisions of this section, this subsection may be enforced by way of injunction, the imposition of forfeitures and other available relief pursuant to §15-9.0500 of the UDO and the undertaking by the City to cure any defects or complete any plans or measures, with the costs thereof to be assessed against the property owner and entered upon the tax roll pursuant to the procedures for a special charge under Wis. Stat. § 66.0627. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings. Any violation of this subsection is hereby declared to be a public nuisance.

5. In addition to the foregoing provisions of this section, any person who shall violate any provision of this Chapter shall be subject to a penalty as provided in Chapter 1, General Provisions, §1-19.

C. Permit fee schedule and applicable charges.

1. Class 1: land disturbing construction activities upon a site of 1/4 acre up to 1/2 acre and/or 25 cubic yards up to 100 cubic yards of fill or excavation activities: \$50.00.
2. Class 2: land disturbing construction activities upon a site of 1/2 acre up to 2 acres and/or 100 cubic yards up to 500 cubic yards of fill or excavation activities, any land disturbing construction activity with Supporting or Adjoining Natural Resource Features, and any Adverse Drainage Impacting land disturbing construction activity: \$100.00.
3. Class 3: land disturbing construction activities upon a site of 2 or more acres and/or 500 or more cubic yards of fill or excavation activities: \$250.00, plus an additional \$50.00 for each 2 acres and/or 500 cubic yards or portion thereof in addition to the base 2 acres and/or 500 cubic yards.
4. Surety Bond. As a condition of approval and issuance of the permit, the City Engineer or designee may require the applicant to deposit a surety bond or irrevocable letter of credit to guarantee a good faith execution of the approved erosion control plan and any permit conditions.
5. Charges for costs of construction site inspection, review, and enforcement. As a condition of approval and issuance of the permit, the City Engineer or designee may require construction site inspection, review, and enforcement by a City representative or other personnel on behalf of the City. If required by the City Engineer or designee, the applicant shall be responsible for any and all charges related to the costs of inspection, review, and enforcement of the construction site plus five (5) percent for administration and overhead. These inspection, review, and enforcement charges are in addition to any permit fees or surety that may be required. City completed construction site erosion control inspections shall not be used as the applicant's inspections as required under Franklin Municipal Code §129, UDO §15- 8.0300, and/or Wis. Stat. § 216.46.

D. Erosion and sediment control plan, statement, and amendments.

This section is also regulated by and subject to the Unified Development Ordinance, including, but not limited to §15-8.0300 of the UDO and more specifically, §15-8.0307, Erosion and Sediment Control Plan, Statement, and Amendments.

§129-3 Definitions.

For the purpose of this Chapter, the following words and phrases are defined and shall be construed to mean, unless the context in which they are used clearly indicates an intent to the contrary, as follows:

ADVERSE DRAINAGE IMPACTING

Construction sites of any size that, in the opinion of the City Engineer or designee, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.

BEST MANAGEMENT PRACTICE or BMP

Structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the State.

CEASE AND DESIST ORDER

A court-issued order to halt land disturbing construction activity that is being conducted without the required permit.

CONSTRUCTION SITE

An area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan.

CONSTRUCTION SITE EROSION CONTROL PERMIT

A written authorization made by the City of Franklin to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the State.

CONTROL PLAN

Erosion control and sediment control plan for the construction site.

EROSION

The detachment and movement of soil, sediment or rock fragments by water, wind, ice, or gravity.

EROSION AND SEDIMENT CONTROL PLAN

A comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction.

FILL

Earth, clay, soil, ground, or any mixture or combination of the foregoing. Stones, rocks or broken concrete, not exceeding 18 inches in diameter, need not be removed from fill, if not constituting more than 5% of the individual load. At no time shall stones, rocks, or broken concrete be used in any degree of concentration as fill, except as aforesaid. No asphalt/bituminous products are allowed as fill material. Unusable topsoil from grubbing operation(s) cannot be used for fill.

HAZARDOUS SUBSTANCE

Any substance or combination of substances including any waste of a solid, semisolid, liquid or gaseous form which may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or which may pose a substantial present or potential hazard to human health or the environment because of its quantity, concentration or physical, chemical or infectious characteristics. This term includes, but is not limited to, substances which are toxic, corrosive, flammable, irritants, strong sensitizers or explosives as determined by the Wisconsin Department of Natural Resources.

INFLAMMABLE AND COMBUSTIBLE MATERIALS

Includes oils and oil lights, sweepings from garage floors, barrels, boxes or other containers containing oil or other similar liquids, rags, clothes, paper, shavings, paper or cardboard boxes or cartons, grease, paints, varnish or other similar substances, any of which are likely to be readily inflammable or combustible.

INSPECTOR

The City Engineer or designee. The references to the Building Inspector in this chapter are separate and distinct from the references to "Inspector" as provided herein.

LAND DISTURBING CONSTRUCTION ACTIVITY

Any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover that may result in storm water runoff and lead to increased soil erosion and movement of sediment into waters of the State. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities.

LANDOWNER

Any person or entity holding fee title, an easement, or other interest in property, which allows the person or entity to undertake cropping, livestock management, land disturbing construction activity, or maintenance of storm water BMPs on the property.

PERFORMANCE STANDARD

A narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

PERSON

Includes any natural person, firm, corporation or partnership.

POLLUTANT

Has the meaning given in Wis. Stat. § 283.01(13).

POLLUTION

Has the meaning given in Wis. Stat. § 281.01(10).

RESPONSIBLE PARTY

Any person or entity holding fee title to the property or performing services required to meet the performance standards of this chapter through a contract or other agreement or otherwise.

RUNOFF

Storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

SEDIMENT

Settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.

SITE

The entire area included in the legal description of the land on which the land disturbing construction activity is proposed in the permit application or is occurring without a permit therefore.

STOP WORK ORDER

An order issued by the City of Franklin, which requires that all construction activity on the site be stopped.

SUPPORTING OR ADJOINING NATURAL RESOURCE FEATURES

Land disturbing construction activities which are within 100 feet of any natural resource feature listed in §15-8.0300, Table 4.0100.

TECHNICAL STANDARD

A document that specifies design, predicted performance, and operation and maintenance specifications for a material, device, or method.

WATERS OF THE STATE

Has the meaning given in Wis. Stat. § 281.01(18).

§129-4 Land disturbing construction activity regulations.

- A. Every person who shall conduct land disturbing construction activities upon any lot, tract or parcel of land shall do so as evenly as possible, and at the end of such activities shall level and grade the surface and shall see to it that the top thereof shall be of soil, free from broken concrete and relatively free from gravel, and that the upper four inches thereof shall be of soil suitable for growing grass. The person shall keep the surface of such land disturbing construction activities free from dust at all times during the filling operations and thereafter.
- B. Land disturbing construction activities shall be operated and maintained in a safe and sanitary manner, rodent free, with no emission of dust or dirt beyond its site boundary lines.
- C. All materials delivered to the construction site shall be deposited in a manner to prevent erosion into any watercourses, roadside ditches or onto adjoining properties.
- D. All construction operations shall be confined to the hours of 7:00 a.m. to 5:00 p.m. daily and 7:00 a.m. to 12:00 p.m. on Saturdays, unless otherwise shown and permitted on the application. No such activity shall be permitted on Sundays.
- E. No permittee hereunder shall operate equipment or otherwise cause noise which interferes with nearby property owners in the peaceable enjoyment of their properties. The permittee shall maintain roadways to and across the site in a smooth condition to minimize noise of delivery vehicles.
- F. Roadways across the construction site shall be treated to prevent dust nuisances. Roadways to the construction site shall be kept free of sediment, debris, or any other construction materials. The permittee shall perform street sweeping at the permittee's expense upon the order of the City Engineer. At no point shall construction materials be stored in public right-of-way.
- G. No natural drainageways or swales shall be blocked, and construction activities shall be performed in a manner to prevent formation of water nuisances or insect-breeding ponds.

- H. Should any construction material erode into any watercourse or onto any adjoining property, the permittee shall remove such material at the permittee's expense upon the order of the City Engineer.
- I. Fencing or suitable visual screen as required and/or approved by the City Engineer or designee shall be provided on all sides of the site, unless otherwise required or waived by the City Plan Commission upon an application for a site plan approval prior to any land disturbing construction activities on the site.
- J. No permittee hereunder nor the owner of the property shall deny the City Engineer, Building Inspector, Police Officer or other authorized officer or employee of the City the right of entry on the person's or entity's property during normal business hours for the purpose of inspection thereof or for the purpose of enforcing or carrying out the provisions of this Chapter.
- K. No permittee shall fail to obey a stop order or revocation order issued by the City Engineer, Building Inspector or authorized City officer for a violation of this Chapter. The permittee may appeal such stop order or revocation order to the City Common Council, such appeal to be filed, in writing, with the City Clerk within five days of service of the order. If no appeal is taken within such time, the order shall be final. Such appeal shall be heard within five days, unless a quorum of the Common Council members is not available, and then at such later time as a quorum is reasonably available, in public, at which time the permittee may be represented by legal counsel. The City Common Council may affirm, reverse or modify the order appealed from and shall do so within five days of the hearing. The permittee shall not operate under the permit until the appeal is decided.
- L. For permits of 500 cubic yards or more, the permittee shall be required to compact all fill in layers to achieve a density of 3,000 pounds per square foot or to a density approved by the City Engineer or designee to support the final use of the lands. The permittee shall make an effort to maintain the density through proper drainage and ground cover and shall be responsible to maintain the approved density until the final completion of the land disturbing construction activities. The permittee shall provide professional geo-physical technician daily inspection, or as established by the City Engineer or designee, with sufficient density testing such that the area can be certified by a geo-physical engineer as meeting the established density. Weekly reports shall be submitted to the City Engineer or designee for review and approval. Upon completion of the filling operation, the permittee shall submit a full geo-physical report signed and stamped by said engineer.
- M. If any person fails to complete or correct the person's land disturbing construction activities in accordance with the terms of the person's permit and the provisions of this Chapter, the City Engineer shall notify the permittee that the City Common Council will hold a hearing on his or her recommendation that the City complete or correct such work, either by the City staff or by contract, and assess the reasonable cost thereof against the property on which located. Notice shall be given by personal service or certified mail at least seven days prior to the hearing. The permittee shall have the right to be heard and to be represented by legal counsel. The City Common Council by resolution may order the work completed or corrected and levy a special charge for the reasonable cost thereof, which shall be a lien on the property, collected as other special charges. The permittee may appeal to the Circuit Court within 20 days after a copy of the final resolution is served upon the permittee by personal service or certified mail. If no appeal is taken within such time, the special charge shall be final.

- N. The Common Council may, in an individual case, upon recommendation by the Inspector, as a condition to issuance of a construction site erosion control permit or at any time as a condition for the continuance of such permit, require compliance by the permittee with any or all of the regulations set forth in this section.
- O. Land disturbing construction activities are also regulated by and subject to the Unified Development Ordinance, including, but not limited to §15-8.0300 and more specifically, §15-8.0305, Performance Standards.

§129-5 Inspector; powers and duties.

- A. There is hereby created the position of Inspector, who shall have such power, authority and duties concerning the inspection, supervision and control of land disturbing construction activities within the City as hereinafter set forth.
- B. Such Inspector shall have complete charge and supervision over the regulation and operation of land disturbing construction activities. He or she shall have at all times full power and authority to require complete compliance with this chapter and with all other rules, regulations and orders for the regulation of land disturbing construction activities and for the enforcement of this chapter, rules, regulations and orders. He or she shall have full power and authority to require of any person engaged in land disturbing construction activities, the person's agent, servants or employees, compliance in all respects with the terms and provisions of this Chapter and all other rules and regulations concerning land disturbing construction activities within the City.
- C. Should the Inspector find that any person engaged in land disturbing construction activities is failing to conform to the provisions of this Chapter or other rules, regulations or orders, he or she may require that the person discontinue operations immediately and until such time as the person engaged in land disturbing construction activities thereof may conform to this Chapter, rules, regulations or orders. Should the operator, the operator's servants, agents or employees or any other person, bring upon any such land materials which are prohibited by the terms and provisions of this Chapter, the Inspector shall refuse to permit such materials to be unloaded. He or she shall, in the event that any portion or all of such materials shall have been unloaded, cause the operator or the person bringing such materials upon such land to reload the same and remove them from the premises.
- D. The Inspector shall be the representative of the City at any land disturbing construction activity site within the City. He or she may require the ceasing of operations and the discontinuing of the operations until such time as there may be proper compliance with this Chapter and such other rules, regulations and orders as may be necessary in the control, supervision and regulation of land disturbing construction activities.

§129-6 Persons liable.

The owner, lessee or any other person having possession and control over any land disturbing construction activities, be it public or private under, the terms of this Chapter, shall be responsible for the actions of the person's agents, servants or employees to the same extent as though they were the acts of such principal, and such owner, lessee or other person shall be subject to arrest for violation of the provisions of this Chapter by any of the person's agents, servants or employees, and any penalty imposed under the terms of this Chapter may be imposed upon the principal and/or upon the agents, servants or employees of either or both of them.

§129-7 Public nuisance.

The depositing on any land of hazardous, flammable and/or combustible materials and the depositing of fly ash, foundry refuse and other similar materials of such texture or material that they will be capable of being airborne and the permitting of such depositing shall be and is hereby declared to be a public nuisance.

§129-8 Special permit; emergency.

The Common Council may, however, in any emergency to be determined by it involving the abatement of a nuisance or in the protection of the public health, welfare or safety, permit the dumping of suitable materials even though prohibited by the terms of this Chapter, provided that, in each instance, application therefor shall be made in writing to the Common Council. It shall determine the type of materials to be dumped, the circumstances surrounding the issuance of the permit, the justification therefore and the manner in which such operations may be performed. Any permit issued pursuant to such approval shall be in the nature of a special permit, separated and apart from any other permit issued to the applicant and from any permit for the operation of a land disturbing construction operation upon the same premises, and shall specifically indicate the type of materials to be dumped, the manner in which the same are to be dumped and shall contain such other specifications and requirements as the Common Council may determine to be necessary and desirable.

§129-9 Intent and purpose.

It is specifically determined by the Common Council that it is the intent and purpose of this Chapter to regulate land disturbing construction activities within the City limits on a basis whereby such operation may be readily controlled, supervised and regulated in the protection of the public health, welfare and safety.

§129-10 Violations and penalties.

- A. Any person in violation of this Chapter shall be liable to the City and to any individual whose person or property was damaged by such violation for any and all expenses incurred by the City and loss or damage sustained by the City by reason of such violation.
- B. In addition to the suspension or revocation of any license or permit granted under this Chapter, any person who shall violate any provision of this Chapter shall be subject to a penalty as provided in Chapter 1, General Provisions, §1-19.

SECTION 4: The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION 5: All ordinances or parts of ordinances in contravention to this Ordinance are hereby repealed.

SECTION 6: This ordinance shall take effect and be in force from and after its passage and publication.

ORDINANCE NO. 2022-_____

Page 10

Introduced at a regular meeting of the Common Council of the City of Franklin on the _____ day of _____, 2022, by Alderman _____.

Passed and adopted by the Common Council on the _____ day of _____, 2022.

APPROVED:

Stephen R. Olson, Mayor

ATTEST:

Sandra L. Wesolowski, City Clerk

AYES ____ NOES ____ ABSENT ____

§ 129-1 Filling permit. Land disturbing construction activities.

~~A. A permit is Required. No person or entity shall fill conduct land disturbing construction activities upon any lot, tract or parcel of land unless he or she the person or entity shall first obtain a filling construction site erosion control permit pursuant to § 129-2 hereof and post the same upon the premises in the manner provided for the posting of a building permit as set forth in Chapter 92, Building Construction~~

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§ 129-2 Construction site erosion control permit.

~~A. Applicability and Jurisdiction This section applies to the sites of any land disturbing construction activities, as provided in § 15 8 0302 of the Unified Development Ordinance (UDO).~~

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~~B. Application; revocation. A construction site erosion control A filling permit shall be issued by the City Engineer upon application being made and filed with him or her upon payment of the permit fee as set forth herein Such application shall be signed by the owner of the premises involved, together with the person or entity applying for the permit, if he or she be the person or entity be other than the owner It shall contain the location of the premises and an accurate description of the same and include an estimate of the number of cubic yards or acreage of land area to be disturbed necessary to fill such land to approximately the grade of the terrain bounding the area to be filled. The permit shall be for a period of one year and subject to renewal each successive year upon reapplication The permit may be revoked by the City Council upon notice to the permittee and hearing if the permittee is depositing or permitting or causing to be deposited any materials on such premises other than solid fill or has failed to or refused to comply with any of the regulations set forth herein or any of the rules, regulations and orders of the Inspector herein Such hearing shall be conducted in the manner provided in § 227 15, Wis Stats~~

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~~1. The City Engineer or designee may issue a stop-work order verbally or in writing to the applicant and may post a stop-work order on all building, construction, land disturbing, or land development activities if~~

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~~a. Any land disturbing activity regulated under this chapter is being undertaken without a permit, or~~

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~~b. The control plan is not being implemented in a good faith manner, or~~

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~~c. The conditions of the permit are not being met~~

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~~2. If the responsible party or any other person or entity performing or suffering the activity does not cease the activity or comply with the control plan or permit conditions forthwith, the City Engineer or designee may revoke the permit~~

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3. If the landowner or land user or any other person or entity performing or suffering the activity, where no permit has been issued, does not cease the activity forthwith, the City Engineer or designee may request the City Attorney to obtain a cease and desist order

4. In addition to the foregoing provisions of this section, this subsection may be enforced by way of injunction, the imposition of forfeitures and other available relief pursuant to § 15-9 0500 of the UDO and the undertaking by the City to cure any defects or complete any plans or measures, with the costs thereof to be assessed against the property owner and entered upon the tax roll pursuant to the procedures for a special charge under Wis Stat § 66 0627 It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings. Any violation of this subsection is hereby declared to be a public nuisance

5. In addition to the foregoing provisions of this section, any person who shall violate any provision of this Chapter shall be subject to a penalty as provided in Chapter 1, General Provisions, § 1-19.

C. Permit fee schedule and applicable charges

(1) Class 1, land disturbing construction activities upon a site of 1/4 acre up to 1/2 acre and/or 25 cubic yards up to 100 cubic yards of fill or excavation activities \$50.00 Up to 500 cubic yards of fill or up to 1/2 acre of fill area \$50.

(2) Class 2, land disturbing construction activities upon a site of 1/2 acre up to 2 acres and/or 100 cubic yards up to 500 cubic yards of fill or excavation activities, any land disturbing construction activity with Supporting or Adjoining Natural Resource Features, and any Adverse Drainage Impacting land disturbing construction activity \$100.00 More than 500 cubic yards of fill or more than 1/2 acre of fill area \$250.

(3) Class 3 land disturbing construction activities upon a site of 2 or more acres and/or 500 or more cubic yards of fill or excavation activities \$250.00, plus an additional \$50.00 for each 2 acres and/or 500 cubic yards or portion thereof in addition to the base 2 acres and/or 500 cubic yards

(4) Surety Bond - As a condition of approval and issuance of the permit, the City Engineer or designee may require the applicant to deposit a surety bond or

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irrevocable letter of credit to guarantee a good faith execution of the approved erosion control plan and any permit conditions

(5) Charges for costs of construction site inspection, review, and enforcement
As a condition of approval and issuance of the permit, the City Engineer or designee may require construction site inspection, review, and enforcement by a City representative or other personnel on behalf of the City. If required by the City Engineer or designee, the applicant shall be responsible for any and all charges related to the costs of inspection, review, and enforcement of the construction site plus five (5) percent for administration and overhead. These inspection, review, and enforcement charges are in addition to any permit fees or surety that may be required. City completed construction site erosion control inspections shall not be used as the applicant's inspections as required under Franklin Municipal Code §129, UDO §15- 8 0300, and/or Wis Stat § 216.46.

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D. Erosion and sediment control plan, statement, and amendments

This section is also regulated by and subject to the Unified Development Ordinance, including, but not limited to § 15-8 0300 of the UDO and more specifically, § 15-8 0307, Erosion and Sediment Control Plan, Statement, and Amendments. Fill in excess of 500 cubic yards. If it appears from the application for such filling permit that the amount of fill reasonably required to alter the contour of the subject filling site to approximate grade of the terrain bounding the area to be filled shall exceed 500 cubic yards, the provisions of ~~§ 129.2~~ shall become applicable and govern the issuance of such filling permit. If the estimate of the Inspector shall differ from the estimate of the applicant as to the number of cubic yards required, the estimate of the Inspector shall be controlling.

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§ 129.2 Topographic and contour map. [Amended 4-15-2014 by Ord. No. 2014-2137]

Whenever the amount of fill required shall exceed 500 cubic yards or the area exceeds 1/2 acre, the applicant shall submit a topographic and contour map at a scale not over 100 feet to the inch, with two-foot contour intervals based on USGS datum. Such map shall show the proposed fill area, proposed final contours, drainage patterns and special drainage devices, if necessary, and all other pertinent information as may be required to clearly indicate the orderly development of the fill area including a preliminary plan for the current reasonably anticipated or determined end use of the property, provided, however, in the case of the excavation or the filling in of a building site where a building permit has been issued for the erection of a new building or structure, the alteration or

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~~addition thereto and the proposed final grades of such excavation and grading are included in the plat plans as submitted and approved by the Inspector and the total amount of filling required does not exceed 500 cubic yards, a filling permit shall not be required.~~

§ 129-3 Definitions.

For the purpose of this chapter, the following words and phrases are defined and shall be construed to mean, unless the context in which they are used clearly indicates an intent to the contrary, as follows

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ADVERSE DRAINAGE IMPACTING

Construction sites of any size that, in the opinion of the City Engineer or designee, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety

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BEST MANAGEMENT PRACTICE or BMP

Structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the State

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CEASE AND DESIST ORDER

A court-issued order to halt land disturbing construction activity that is being conducted without the required permit

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CONSTRUCTION SITE

An area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan

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CONSTRUCTION SITE EROSION CONTROL PERMIT

A written authorization made by the City of Franklin to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the State

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CONTROL PLAN

Erosion and sediment control plan for the construction site

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EROSION

The detachment and movement of soil, sediment or rock fragments by water, wind, ice, or gravity

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EROSION AND SEDIMENT CONTROL PLAN

A comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction

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FILL OR FILLING

Earth, clay, soil, ground, or any mixture or combination of the foregoing Stones, rocks or broken concrete, not exceeding 18 inches in diameter, need not be removed from fill, if not constituting more than 5% of the individual load At no time shall stones, rocks, or broken concrete be used in any degree of concentration as fill, except as aforesaid No asphalt/bituminous products are allowed as fill material Unusable topsoil from grubbing operation(s) cannot be used for fill

The act of placing, setting down or depositing solid fill on land for the purpose of or which has the resultant effect of changing the existing contour of or raising the elevation of such land or any part thereof

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HAZARDOUS SUBSTANCE

Any substance or combination of substances including any waste of a solid, semisolid, liquid or gaseous form which may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or which may pose a substantial present or potential hazard to human health or the environment because of its quantity, concentration or physical, chemical or infectious characteristics This term includes, but is not limited to, substances which are toxic, corrosive, flammable, irritants, strong sensitizers or explosives as determined by the Wisconsin Department of Natural Resources

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FILLING PERMIT

A permit to allow a person to engage in the act of filling on a specified parcel of land [Amended 4-15-2014 by Ord No 2014-2137]

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INFLAMMABLE AND COMBUSTIBLE MATERIALS

Includes oils and oil lights, sweepings from garage floors, barrels, boxes or other containers containing oil or other similar liquids, rags, clothes, paper, shavings, paper or cardboard boxes or cartons, grease, paints, varnish or other similar substances, any of which are likely to be readily inflammable or combustible

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INSPECTOR

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The City Engineer or designee The references to the Building Inspector in this chapter are separate and distinct from the references to "Inspector" as provided herein
{Amended 4-15-2014 by Ord No 2014-2137}

LAND DISTURBING CONSTRUCTION ACTIVITY

Any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover that may result in storm water runoff and lead to increased soil erosion and movement of sediment into waters of the State Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities

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LANDOWNER

Any person or entity holding fee title, an easement, or other interest in property, which allows the person or entity to undertake cropping, livestock management, land disturbing construction activity, or maintenance of storm water BMPs on the property

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PERFORMANCE STANDARD

A narrative or measurable number specifying the minimum acceptable outcome for a facility or practice

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PERSON

Includes any natural person, firm, corporation or partnership.

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POLLUTANT

Has the meaning given in Wis Stat § 283 01 (13)

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POLLUTION

Has the meaning given in Wis Stat § 281 01 (10)

RESPONSIBLE PARTY

Any person or entity holding fee title to the property or performing services required to meet the performance standards of this chapter through a contract or other agreement or otherwise

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RUNOFF

Storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow

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SEDIMENT

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Settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location

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SITE

The entire area included in the legal description of the land on which the land disturbing construction activity is proposed in the permit application or is occurring without a permit therefore

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STOP WORK ORDER

An order issued by the City of Franklm, which requires that all construction activity on the site be stopped

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SUPPORTING OR ADJOINING NATURAL RESOURCE FEATURES

Land disturbing construction activities which are within 100 feet of any natural resource feature listed in § 15.8.0300, Table 4.0100

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TECHNICAL STANDARD

A document that specifies design, predicted performance, and operation and maintenance specifications for a material, device, or method

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WATERS OF THE STATE

Has the meaning given in Wis Stat § 281.01(18)

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SOLID FILL

Earth, clay, soil, ground, stones, rocks or broken concrete if the same does not exceed 18 inches in diameter, embers consisting of the residue from the combustion of coal and not less than 1/8 inches in diameter, or any mixture or combination of the foregoing

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§ 129-4 Land disturbing construction activity Filling regulations,

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A. Every person who shall conduct land disturbing construction activities fill upon any lot, tract or parcel of land shall fill do so such land as evenly as possible, and at the end of such filling activities shall level and grade such fill the surface and shall see to it that the top thereof shall be of soil, free from broken concrete and relatively free from gravel, and that the upper four inches thereof shall be of soil suitable for growing grass. He or she The person shall keep the surface of such filling land disturbing construction activities free from dust at all times during the filling operations and thereafter

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B. Land filling-disturbing construction activities shall be operated and maintained in a safe and sanitary manner, rodent free, with no emission of dust or dirt beyond its site boundary lines.

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C. All materials delivered to the landfill construction site shall be deposited in a manner to prevent erosion into any watercourses, roadside ditches or onto adjoining properties

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D. All fill construction operations shall be confined to the hours of 7.00 a.m. to 5.00 p.m. daily and 7.00 a.m. to 12.00 p.m. on Saturdays, unless otherwise shown and permitted on the application. No such activity shall be permitted on Sundays.

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E. No permittee hereunder shall operate equipment or otherwise cause noise which interferes with nearby property owners in the peaceable enjoyment of their properties. The permittee shall maintain roadways to and across the site in a smooth condition to minimize noise of delivery vehicles

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F. Roadways across the construction site shall be treated to prevent dust nuisances. Roadways to the construction site shall be kept free of sediment, debris, or any other construction materials. The permittee shall perform street sweeping at the permittee's expense upon the order of the City Engineer. At no point shall construction materials be stored in public right-of-way. Roadways to and across the landfill site shall be treated to prevent dust nuisances.

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G. No natural drainageways or swales shall be blocked, and fill construction activities shall be performed in a manner to prevent formation of water nuisances or insect-breeding ponds

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H. Should any fill construction material erode into any watercourse or onto any adjoining property, the permittee shall remove such material at his or her the permittee's expense upon the order of the City Engineer

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I. Fencing or suitable visual screen as required and/or approved by the Plan Commission City Engineer or designee shall be provided on all sides of the site, unless otherwise required or waived by the City Council Plan Commission upon an application for a site plan approval prior to any land disturbing construction activities on the site

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J. No permittee hereunder nor the owner of the property shall deny the City Engineer, Building Inspector, Police Officer or other authorized officer or employee of the City the right of entry on his or her the person's or entity's property during normal

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business hours for the purpose of inspection thereof or for the purpose of enforcing or carrying out the provisions of this Chapter.

K. No permittee shall fail to obey a stop order or revocation order issued by the City Engineer, Building Inspector or authorized City officer for a violation of this Chapter. The permittee may appeal such stop order or revocation order to the City Common Council, such appeal to be filed, in writing, with the City Clerk within five days of service thereof of the order. If no appeal is taken within such time, the order shall be final. Such appeal shall be heard within five days, unless a quorum of the Common Council members is not available, and then at such later time as a quorum is reasonably available, in public, at which time the permittee may be represented by legal counsel. The City Common Council may affirm, reverse or modify the order appealed from and shall do so within five days of the hearing. The permittee shall not operate under his or her the permit until the appeal is decided.

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L. For permits of 500 cubic yards or more, the permittee shall be required to compact all fill in layers to achieve a density of 3,000 pounds per square foot or to a density approved by the City Engineer or designee to support the final use of the lands. The permittee shall make an effort to maintain the density through proper drainage and ground cover and shall be responsible to maintain the approved density until the final completion of the filling land disturbing construction operation activities. The permittee shall provide professional geo-physical technician daily inspection, or as established by the City Engineer or designee, with sufficient density testing such that the area can be certified by a geo-physical engineer as meeting the established density. Weekly reports shall be submitted to the City Engineer or designee for review and approval. Upon completion of the filling operation, the permittee shall submit a full geo-physical report signed and stamped by said engineer.

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{Added 4-15-2014 by Ord. No. 2014-2137.}

{Editor's Note: This ordinance also provided for the redesignation of former Subsections L and M as Subsections M and N, respectively.}

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M. If any person fails to complete or correct his or her the person's landfill land disturbing construction operation activities in accordance with the terms of his or her the person's permit and the provisions of this Chapter, the City Engineer shall notify the permittee that the City Common Council will hold a public hearing on his or her recommendation that the City complete or correct such work, either by the City staff or by contract, and assess the reasonable cost thereof against the property on which located. Notice shall be given by personal service or certified mail at least seven days prior to the hearing. The permittee shall have the right to be heard and to be represented

by legal counsel The City Common Council by resolution may order the work completed or corrected and levy a special assessment charge for the reasonable cost thereof, which shall be a lien on the property, collected as other special assessments. The permittee may appeal to the eCircuit Ceourt within 20 days after a copy of the final resolution is served upon ~~him or her~~ the permittee by personal service or certified mail. If no appeal is taken within such time, the assessment special charge shall be final.

N. The Common Council may, in an individual case, upon recommendation by the Inspector, as a condition to issuance of a filling construction site erosion control permit or at any time as a condition for the continuance of such permit, require compliance by the permittee with any or all of the regulations set forth in this section.

O. Land disturbing construction activities are also regulated by and subject to the Unified Development Ordinance, including, but not limited to § 15-8 0300 and more specifically, § 15-8 0305, Performance Standards. Fill and filling are also regulated by and subject to the Unified Development Ordinance, including, but not limited to Division 15-8 0300 and more specifically, § 15-8 0305, Control of Erosion, Pollutants and Nuisance During Land Disturbance and Development.
[Added 4-15-2014 by Ord. No. 2014-2137]

§ 129-5 Inspector; powers and duties.

A. There is hereby created the position of Inspector, who shall have such power, authority and duties concerning the inspection, supervision and control of ~~fill or~~ filling land disturbing construction activities within the City as hereinafter set forth.

B. Such Inspector shall have complete charge and supervision over the regulation and operation of filling land disturbing construction activities. He or she shall have at all times full power and authority to require complete compliance with this chapter and with all other rules, regulations and orders for the regulation of filling land disturbing construction activities and for the enforcement of this chapter, rules, regulations and orders. He or she shall have full power and authority to require of any person engaged in filling land disturbing construction activities, ~~his or her agent~~ the person's agent, servants or employees, compliance in all respects with the terms and provisions of this Chapter and all other rules and regulations concerning filling land disturbing construction activities within the City.

C. Should the Inspector find that any person engaged in filling land disturbing construction activities is failing to conform to the provisions of this Chapter or other

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rules, regulations or orders, he or she may require that the person engaged in land disturbing construction activities ~~filling~~ discontinue operations immediately and until such time as the person engaged in ~~filling land~~ disturbing construction activities thereof may conform to this Chapter, rules, regulations or orders. Should the operator, ~~his or her~~ the operator's servants, agents or employees or any other person, bring upon any such land materials which are prohibited by the terms and provisions of this Chapter, the Inspector shall refuse to permit such materials to be unloaded. He or she shall, in the event that any portion or all of such materials shall have been unloaded, cause the operator or the person bringing such materials upon such land to reload the same and remove them from the premises.

D. The Inspector shall be the representative of the City at any ~~filling land~~ disturbing construction activity site within the City. He or she may require the ceasing of filling operations and the discontinuing of the operations until such time as there may be proper compliance with this Chapter and such other rules, regulations and orders as may be necessary in the control, supervision and regulation of ~~filling lands~~ land disturbing construction activities.

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§ 129-6 Persons liable.

The owner, lessee or any other person having possession and control over any ~~filling land~~ disturbing construction activities ~~operation~~, be it public or private under, the terms of this Chapter, shall be responsible for the actions of ~~his or her~~ the person's agents, servants or employees to the same extent as though they were the acts of such principal, and such owner, lessee or other person shall be subject to arrest for violation of the provisions of this Chapter by any of ~~his or her~~ the person's agents, servants or employees, and any penalty imposed under the terms of this Chapter may be imposed upon the principal and/or upon the agents, servants or employees of either or both of them.

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§ 129-7 Public nuisance.

The depositing on any land of ~~hazardous substance, flammable and/or combustible~~ materials and the depositing of fly ash, foundry refuse and other similar materials of such texture or material that they will be capable of being airborne and the permitting of such depositing shall be and is hereby declared to be a public nuisance.

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§ 129-8 Special permit; emergency.

The Common Council may, however, in any emergency to be determined by it involving the abatement of a nuisance or in the protection of the public health, welfare

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or safety, permit the dumping of suitable materials even though prohibited by the terms of this Chapter, provided that, in each instance, application therefor shall be made in writing to the Common Council. It shall determine the type of materials to be dumped, the circumstances surrounding the issuance of the permit, the justification therefor and the manner in which such operations may be performed. Any permit issued pursuant to such approval shall be in the nature of a special permit, separated and apart from any other permit issued to the applicant and from any permit for the operation of a dump or fill-land disturbing construction operation upon the same premises, and shall specifically indicate the type of materials to be dumped, the manner in which the same are to be dumped and shall contain such other specifications and requirements as the Common Council may determine to be necessary and desirable

§ 129-9 Intent and purpose,

It is specifically determined by the Common Council that it is the intent and purpose of this chapter to regulate filling operations and disturbing construction activities within the City limits on a basis whereby such operation may be readily controlled, supervised and regulated in the protection of the public health, welfare and safety

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§ 129-10 Violations and penalties,

A. Any person in violation of this Chapter shall be liable to the City and to any individual whose person or property was damaged by such violation for any and all expenses incurred by the City and loss or damage sustained by the City by reason of such violation. Any person or municipality violating the provisions of this chapter shall be liable for any or all damages or expenses sustained or incurred by the city by reason of any fire occurring in any such public or private dumping ground or other place within the city caused by any dumping referred to in this chapter, together with any expenses which the city may incur in enforcing any of the terms or provisions of this chapter.

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B. In addition to the suspension or revocation of any license or permit granted under this Chapter, any person who shall violate any provision of this Chapter shall be subject to a penalty as provided in Chapter 1, General Provisions, § 1-19.

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Chapter 165

Land Disturbances TO BE REPEALED

[HISTORY: Adopted by the Common Council of the City Of Franklin 8-5-1997 by Ord. No. 97-1461 as Sec. 13.14 of the 1997 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Filling and grading — See Ch. 129.

License and permits — See Ch. 169.

§ 165-1 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

CONTROL MEASURE

A practice or combination of practice to control erosion and attendant pollution.

CONTROL PLAN

A written description of the number, locations, sizes and other pertinent information of control measures designed to meet the requirements of this chapter submitted by the applicant for review and approval.

EROSION

The detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity.

LAND DISTURBANCE

Any man-made change of the land surface, including removing vegetative cover, excavating, filling and grading, but not including agricultural land uses, such as planting, growing, cultivating and harvesting crops; growing and tending gardens; and harvesting trees.

§ 165-2 Standards.

All sites on which land disturbances take place, whether or not subject to the permit process of this chapter, must meet these standards:

- A. The area of bare soil exposed at any one time shall be kept to a minimum by conducting activities in sequence.
- B. Disturbed ground left inactive for 15 or more days shall be stabilized by seed, mulch or other equivalent measure.
- C. Channelized runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if determined practical by the City Engineer.
- D. All control measures required to comply with this chapter shall be based upon accepted engineering practice as identified by the City Engineer. The City Engineer and/or the City Plan Commission may impose additional standards upon a site to minimize air and water pollution and erosion.

§ 165-3 Permit required.

No landowner or land user in the city may commence, allow or continue a land disturbance subject to this chapter without receiving prior approval of a control plan for the site and a permit from the City Engineer, unless the owner or land user has another permit for activities necessarily involving land disturbance, e.g.,

subdivision development, fill permit, zoning permit, special use permit, etc., and construction of a home. The landowner or land user controlling or using the site and desiring to undertake a land-disturbing activity subject to this chapter shall submit an application for a permit and control plan review and pay an application fee to the City Engineer as provided in Chapter 169, Licenses and Permits.

§ 165-4 **Control plan.**

A. A control plan for land-disturbing activities covering more than two acres shall consist of the following:

- (1) Existing site map.
 - (a) A map of existing site conditions showing the site and immediately adjacent areas, including:
 - [1] Site boundaries and adjacent lands which identify site location.
 - [2] Lakes, streams, wetlands, channels, ditches and other watercourses and immediately adjacent to the site.
 - [3] One-hundred-year recurrence interval floodplains, flood-fringe areas and floodways and conservancy areas.
 - [4] Vegetative cover.
 - [5] Locations and dimensions of utilities' structures, roads, highways and paving.
 - (b) The City Engineer may request additional data.
- (2) Plan of final site conditions. A plan of final site conditions showing the site changes.
- (3) Site construction plan.
 - (a) A site construction plan, including:
 - [1] Locations and dimensions of proposed land-disturbing activities.
 - [2] Locations and dimensions of temporary soil or dirt stockpiles.
 - [3] Schedule of anticipated starting and completion date of each land-disturbing activity.
 - [4] An erosion control plan statement with map shall be submitted to describe the site and erosion controls, including the site development schedule that will be used.
 - (b) The City Engineer may request additional data.

B. A control plan statement for land-disturbing activities covering less than two acres shall consist of the following:

- (1) A map to existing site conditions showing the site and immediately adjacent areas, including:
 - (a) Existing elevations at property corners.
 - (b) Drainage patterns at site and immediately adjacent areas.
- (2) An erosion control plan statement with map shall be submitted to describe the site and erosion controls, including the site development schedule that will be used.
- (3) The City Engineer may request additional data.

§ 165-5 Review of control plan.

- A. After receipt of the application, control plan or control plan statement and fee, the City Engineer shall review the application and control plan to determine if the plan or statement is adequate to meet the purposes of this chapter. The City Engineer shall approve the plan with conditions, request additional data, issue or deny the permit.
- B. An applicant aggrieved by the decision of the City Engineer may appeal the decision to the Plan Commission.

§ 165-6 Permits.

Permits shall be valid for a period of one year from the date of issuance or as otherwise set forth by the City Engineer, whichever is longer. The City Engineer may extend the period for up to an additional 180 days. The City Engineer may require additional control measures as a condition of the extension.

§ 165-7 Enforcement.

- A. Whenever this chapter, the approved plans or permit are not complied with, a stop-work order may be served on the violator or his or her representative, and a copy shall be posted at the site. The stop-work order shall not be removed, except by written order of the City Engineer. However, after issuance of a stop-work order, the violator or his or her representative may conduct work on the site for the purpose of bringing the site into compliance with this chapter.
- B. Fourteen days after issuance of a stop-work order with continued noncompliance shall authorize the city to perform or contract with others to perform the necessary work and materials to bring the project into compliance.
- C. The costs shall be billed to the property owner and in default of payment within 45 days the amount shall be entered on the tax roll and collected as a special assessment.

§ 165-8 Violations and penalties.

In addition to the suspension or revocation of any license or permit granted under this chapter, any person who shall violate any provision of this chapter shall be subject to a penalty as provided in Chapter 1, General Provisions, § 1-19.



| | |
|------------------------|------------------------|
| <i>Office Use Only</i> | |
| 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 ___ at fee amount of \$ ___ plus ___ additional 500 cu. yds. at \$50 = \$ ___ 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.) _____

Land Area Involved: (acres) _____

Volume of Material: (cu. yds.) _____

Location(s) of Fill Source: _____

Natural Resource Feature(s) Within 100 Feet: [] YES [] NO

Proposed Start Date: _____

Proposed Completion Date: _____

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: _____
City/State/Zip: _____
Tax Key #: _____

Owner(s)

Name: _____
Street Address _____
City/State/Zip _____
Tax Key #: _____
Phone: _____
Fax: _____
Email: _____
Date: _____

Applicant /Agent

Name: _____
Street Address: _____
City/State/Zip: _____
Tax Key #: _____
Phone: _____
Fax: _____
Email: _____
Date: _____

Signature: _____

Signature: _____

Signature: _____

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



| | | |
|---|------|--|
| CONSTRUCTION SITE EROSION CONTROL PERMIT APPLICATION 9229 W LOOMIS ROAD, FRANKLIN, WI 53132 Phone (414) 425-7510 Fax (414) 425-3106 Application Forms and Handouts can be found at www.franklinwi.gov | | <i>For Office Use Only:</i> Permit No. Date of Issue: Date of Expiration: |
| Landowner(s) / Applicant | | Contact Name / Title |
| Mailing Address | City | Zip |
| Office Phone | | |
| Email Address | | 24/7 Cell Phone |
| Contractor | | Contact Name / Title |
| Mailing Address | City | Zip |
| Office Phone | | |
| Email Address | | 24/7 Cell Phone |
| Location of Work (Street Address) | | Tax Key Number(s) |
| Description of Work | | |
| Area of Disturbance (Acres) | | Volume of Material (Cubic Yards) |
| Natural Resource Feature(s) Nearby? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>See City of Franklin Property Viewer and/or WDNR Surface Water Data Viewer for approximate natural resource feature locations</i> | | New Impervious Surface added (Square Feet) <i>i.e. - pavement, roof, gravel, etc</i> |
| Estimated Starting Date mm/dd/yyyy ____/____/20____ | | Estimated Ending Date mm/dd/yyyy ____/____/20____ <i>All work shall be completed without unnecessary delay</i> |

Permit Application Fee Schedule:

| Class | Fee | Description |
|-------|---------------|---|
| 1 | \$50 | 1/4 acre up to 1/2 acre disturbed and/or 25 to 100 cubic yards of fill or excavation |
| 2 | \$100 | 1/2 to 2 acres disturbed and/or 100 to 500 cubic yards of 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 cubic yards of fill or excavation, *\$50 for each 2 acres disturbed and/or 500 cubic yards or portion thereof in addition to the base 500 cubic yards |

Acknowledgement and Agreement to Pay for Construction Site Review, Inspection, and Enforcement:

By submitting this permit application, the applicant and their agents, servants, or contractors agree to comply with all applicable codes, statutes, ordinances, and with all the conditions of this permit. Further, the applicant and their agents, servants, or contractors have reviewed and understand Franklin Municipal Code Chapter §129 and Division 15-8 0300 of the City of Franklin Unified Development Ordinance (UDO) pertaining to erosion and sediment control and shall implement the erosion and sediment control plan (control plan), control plan statement, best management practices, final stabilization, and/or restoration as applicable to the permitted activity and as may be required by any permit granted for this project.

The landowner(s) further grants 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, reviewing, and enforcing compliance with Franklin Municipal Code Chapter §129 and Division 15-8 0300 of the City of Franklin Unified Development Ordinance (UDO). The landowner(s) grant this authorization even if the property has been posted against trespassing pursuant to Wis Stat §943.13



As a condition of approval and issuance of the permit, the City Engineer or designee may require construction site inspection, review, and enforcement by City representatives or other personnel on behalf of the City. If required by the City Engineer or designee, the applicant shall be responsible for any and all charges related to the inspection, review, and enforcement of the construction site plus five (5) percent for administration and overhead. These inspection, review, and enforcement charges are in addition to any permit fees or surety that may be required.

The typical construction site inspection is for erosion control and the frequency is weekly, plus within 24 hours following a rainfall of 0.5 inches or greater. Depending on the conditions of the construction site the inspection frequency may be modified. City completed construction site erosion control inspections shall not be used as the applicant's inspections as required under Franklin Municipal Code §129, UDO §15-8.0300, and § 216.46, Wis Stats.

2022-2023 Construction Inspection Rates for reference only (mileage based on City rate)

- Construction Supervisor - \$147.00/hour
- Tech I - \$77.00/hour
- CADD Tech IV - \$114.00/hour
- Tech III - \$109.00/hour
- Survey Crew (2-person) - \$210.00/hour
- Tech II - \$95.00/hour
- Survey Crew (1-person) - \$148.00/hour

By signing below, the applicant hereby acknowledges and certifies that the information provided by the applicant upon and with this Permit Application is, to the best of their knowledge and belief, true, accurate and complete. Furthermore, by signing below the applicant hereby understands and agrees to pay all charges related to construction site inspection, review, and enforcement plus five (5) percent for administration and overhead.

| | |
|--------------------------|-------|
| Printed Name (Applicant) | Title |
| Signature (Applicant) | Date |

City to Complete Below
Permit Fee Calculation:

| | |
|--|-----------------|
| Base Application Fee <input type="checkbox"/> Class 1 <input type="checkbox"/> Class 2 <input type="checkbox"/> Class 3 | \$ _____ |
| ____ additional increments of 2 acres/500 cubic yards x \$50 | \$ _____ |
| Permit Fee to Collect | \$ _____ |

| | |
|--|---|
| Surety Amount \$ _____ | |
| <input type="checkbox"/> Not Required | <input type="checkbox"/> Letter of Credit- Date / Institution |
| <input type="checkbox"/> Cash/Check- #/Institution | <input type="checkbox"/> Bond- #/Institution |

Attachments:

| | |
|--|--|
| <input type="checkbox"/> Erosion and Sediment Control Plan | <input type="checkbox"/> WDNR Permit # _____ (if applicable) |
| <input type="checkbox"/> Site Grading Plan | <input type="checkbox"/> Other |

PERMIT APPROVAL BY PERMITTING AUTHORITY

The foregoing application is hereby approved and permit issued by the Permitting Authority subject to full compliance by the Applicant with all provisions and conditions stated herein and on the follow pages hereof and all attachments hereto

| | |
|---------------|------------------------------|
| By Kyle Baker | Title Engineering Technician |
| Signature | Date |

General Permit Conditions:

- 1 All conditions of this permit include, but are not limited to, the applicability criteria in Franklin Municipal Code Chapter §129 and UDO §15- 8 0300
- 2 Each Construction Site Erosion Control Permit Application must include an erosion and sediment control plan in accordance with UDO §15- 8 0305 and UDO §15- 8 0307, except as set forth below
 - a 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)
 - b 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)
- 3 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 or letter of credit (see UDO §15-8 0306D)
- 4 Permit Requirements All permits shall require the responsible party to
 - a Notify the City Engineer or designee within 48 hours of commencing any land disturbing activity
 - b Notify the City Engineer or designee of the completion of installation of any control measures within three days after their installation
 - c Obtain permission in writing from the City Engineer or designee prior to modifying the control plan
 - d Install all control measures as identified in the approved control plan
 - e Maintain all road drainage systems, storm water drainage systems, control measures, and other facilities identified in the control plan and document repairs in a site erosion control log
 - f Repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land developing or disturbing activities and document repairs in a site erosion control log
 - g Inspect the construction control measures after each rain of 0.5 inches or more and at least once each week and make needed repairs and undertake such other or additional inspecting and activities as recommended in the Storm Water Construction Technical Standards prepared by the Wisconsin Department of Natural Resources
 - h Conduct any filling activity so that at the end of each day the surface shall be graded to drain and be free from broken concrete and relatively free from gravel, and that the upper four inches thereof shall be of soil suitable for growing grass. The surface of said filling shall be kept free from dust at all times during the filling activity and thereafter.
 - i Allow the City Engineer and/or designee and/or City representatives to enter the site for the purpose of inspecting compliance with the control plan or for performing any work necessary to bring the site into compliance with the control plan
 - j Keep a copy of the approved control plan on the site
 - k Sweep or clean any material that was tracked offsite as directed by the City Engineer or designee
 - l Perform dust control operations as directed by the City Engineer or designee
- 5 If a land disturbing construction site activity involves 1 or more acres of land disturbance, a permit is additionally required from the Wisconsin Department of Natural Resources prior to the commencement of such activity
- 6 This permit is separate from any erosion control fees associated with building permits
- 7 If work is proposed within Public Right-of-Way, a permit to construct, maintain or repair infrastructure within Public Right-of-Way is required for any work in the Public Right-of-Way. Application forms can be found at www.franklinwi.gov
- 8 The Permittee agrees to indemnify and hold harmless the City, its employees and its agents, from any cost, claim, suit, liability and/or award which might come, be brought, or be assessed, because of the issuance or exercise of this permit or because of any adverse effect upon any person or property which is attributed to the partially or entirely completed works of the Permittee. This responsibility applies both when the site is attended and during off-hours, any holiday, and the hours of night when the site is unattended
- 9 Call before you Dig. Permittee is responsible for notifying **Diggers Hotline 1-800-242-8511** and having all existing utilities within the right-of-way identified prior to construction. All utilities shall be located within three feet of the right-of-way limits unless specific dimensions are shown on the attached plans
- 10 Upon completion of the work, the Permittee shall file a written notice to the City of Franklin Engineering Department along with a record drawing of the completed work. Final approval and release shall not be granted until the City of Franklin grants approval
- 11 The permit does not transfer any land, nor give, grant or convey any land right, right in land, nor easement
- 12 The City Engineer reserves the right to revoke this permit at any time if in its judgment, it is in the best interest of the City of Franklin to do so. The Permittee is still under obligation to make complete restorations
- 13 Municipal citations may be issued for failure to comply with the terms of this permit per Franklin Municipal Code Chapter §129
- 14 Failure to comply with the terms of this permit may result in additional actions pursuant to Franklin Municipal Code Chapter §129-4 and/or §129-10



Special Permit Conditions:

END OF PERMIT CONDITIONS

| | |
|---|-------|
| Permit Closeout and Release of Surety: | |
| Upon Completion of the permitted work please contact Kyle Baker, (414) 425-7510, kbaker@franklinwi.gov to review and process the the permit closeout and release of any surety | |
| Comments on Closeout | |
| <input type="checkbox"/> Work appears to have been completed satisfactorily and all surety may be released <input type="checkbox"/> Work was not completed satisfactorily and all/some of surety is kept Describe | |
| Final Inspection By | Title |
| Signature | Date |

| | | |
|---|--|--|
| <p>ENGINEERING AND STORM WATER MANAGEMENT PLAN REVIEW APPLICATION</p> <p>9229 W LOOMIS ROAD, FRANKLIN, WI 53132 Phone (414) 425-7510 Fax (414) 425-3106 Application Forms and Handouts can be found at www.franklinwi.gov</p> | | <p>APPLICATION DATE _____</p> <p>STAMP DATE _____ city use only _____</p> |
| PROJECT INFORMATION [print legibly] | | |
| APPLICANT [FULL LEGAL NAMES] | | APPLICANT IS REPRESENTED BY [CONTACT PERSON] |
| NAME Click or tap here to enter text. | | NAME Click or tap here to enter text. |
| COMPANY Click or tap here to enter text. | | COMPANY Click or tap here to enter text. |
| MAILING ADDRESS Click or tap here to enter text. | | MAILING ADDRESS Click or tap here to enter text. |
| CITY/STATE Click or tap here to enter text. ZIP Click or tap here to enter text. | | CITY/STATE Click or tap here to enter text. ZIP Click or tap here to enter text. |
| PHONE Click or tap here to enter text. | | PHONE |
| EMAIL ADDRESS Click or tap here to enter text. | | EMAIL ADDRESS Click or tap here to enter text. |
| PROJECT PROPERTY INFORMATION | | |
| PROPERTY ADDRESS Click or tap here to enter text. | | TAX KEY NUMBER(s) Click or tap here to enter text. |
| PROPERTY OWNER Click or tap here to enter text. | | PHONE Click or tap here to enter text. |
| MAILING ADDRESS Click or tap here to enter text. | | EMAIL ADDRESS Click or tap here to enter text. |
| CITY/STATE Click or tap here to enter text. ZIP Click or tap here to enter text. | | DATE OF COMPLETION office use only |
| APPLICATION MATERIALS | | |
| <p>The following materials must be submitted with this application form. *incomplete applications and submittals cannot be reviewed</p> <ul style="list-style-type: none"> <input type="checkbox"/> This application form accurately filled out with signature or authorization letters (see below) <input type="checkbox"/> Three (3) collated hard copies of the construction plans (see City of Franklin Design Standards and Specifications for requirements) <input type="checkbox"/> One (1) collated hard copy of the Storm Water Management Plan (see Division 15-8 0600 of the City of Franklin Unified Development Ordinance pertaining to Storm Water Management Plan requirements) <ul style="list-style-type: none"> <input type="checkbox"/> Electronic storm water management modeling files <input type="checkbox"/> One (1) 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 (electronic is acceptable) <input type="checkbox"/> Four (4) hard copies of the Plat of Survey (see Plat of Survey requirements) <input type="checkbox"/> Email or flash drive with all plans/submittal materials | | |
| APPLICABLE FEES AND CHARGES | | |
| <p>There is no base fee for submitting an application for review. The City of Franklin Engineering Department utilizes consultant engineering services or other personnel for Storm Water Management Plan (SWMP) review and related construction plan reviews. The applicant shall be solely responsible for any charges related to said reviews. The 2022 hourly rates for the City's consultant engineering services typically vary between \$100.00/hour to \$210.00/hour depending on the extent and complexity of the review. The charges will be the actual cost for the SWMP review and related construction plan review plus five (5%) for administration and overhead. Review frequency and length varies on a project-by-project basis and the hourly rates noted above are for reference only for the applicant's use in estimating potential charges.</p> | | |

ACKNOWLEDGEMENT AND SIGNATURES

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, (3) the applicant and property owner(s) understand that any and all charges and fees related to Storm Water Management Plan review and related construction plan reviews associated with this application are the responsibility of the applicant, and (4) 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).

I, the applicant, certify that I have read the above page detailing the requirements for Engineering and Storm Water Management Plan and related construction plan submittals and understand that incomplete applications and submittals cannot be review

| | | | |
|--------------------------|------|------------------------------------|------|
| PROPERTY OWNER SIGNATURE | | APPLICANT SIGNATURE | |
| NAME & TITLE | DATE | NAME & TITLE | DATE |
| PROPERTY OWNER SIGNATURE | | APPLICANT REPRESENTATIVE SIGNATURE | |
| NAME & TITLE | DATE | NAME & TITLE | DATE |

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| <p style="text-align: center;">APPROVAL</p> <p style="text-align: center;"><i>Shw</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;">11/1/2022</p> |
| <p style="text-align: center;">REPORTS & RECOMMENDATIONS</p> | <p style="text-align: center;"><i>Wal-Mart Real Estate Business Trust v. City of Franklin, Milwaukee County Circuit Court Case No. 2021-CV-005568, and Wal-Mart Real Estate Business Trust v. City of Franklin, Milwaukee County Circuit Court Case No. 2022-CV-006608. The Common Council may enter closed session 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 litigations, and to reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate</i></p> | <p style="text-align: center;">ITEM NUMBER</p> <p style="text-align: center;">G.12.</p> |

Attached is the proposed Settlement Agreement between Wal-Mart Real Estate Business Trust and the City of Franklin for Parcel No. 714-0003-002 for the City to issue to Wal-Mart Real Estate Business Trust a partial refund of property taxes in the amount of \$3,706.92, based on an assessed value of \$10,461,000, for the tax year 2021, and authorize a reduction in the assessed value of the property, for the 2022 tax year, decreasing it from \$11,511,000 to \$10,461,000.

The Common Council may enter closed session 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 litigations, and to reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate.

COUNCIL ACTION REQUESTED

Motion to approve and execute the proposed Settlement Agreement between Wal-Mart Real Estate Business Trust and the City of Franklin for Parcel No. 714-0003-002 for the City to issue to Wal-Mart Real Estate Business Trust a partial refund of property taxes in the amount of \$3,706.92, based on an assessed value of \$10,461,000, for the tax year 2021, and authorize a reduction in the assessed value of the property, for the 2022 tax year, decreasing it from \$11,511,000 to \$10,461,000; and, direct staff to process payment of the 2021 tax refund within 30 days of the date the Agreement is signed by both parties, adjust the 2022 tax bill as authorized, and process the chargeback per the statutory process in 2023 after the Board of Review amends the value.

SETTLEMENT AGREEMENT

This Agreement is between WAL-MART REAL ESTATE BUSINESS TRUST (“Plaintiff”), a limited liability corporation organized and existing under the laws State of Wisconsin, and the CITY OF FRANKLIN, Wisconsin (the “City”), a municipal corporation organized and existing under the laws of the State of Wisconsin.

1. Definitions. In this Agreement:

(a) The “Property” means the land and improvements located at 6701 S. 27th Street, Franklin, Wisconsin and is further identified as Tax Parcel # 714-0003-002

(b) “Cases” means the actions pending in the Circuit Court for Milwaukee County, Wisconsin captioned *Wal-Mart Real Estate Business Trust v City of Franklin*, Case Number 2021-CV-005568 and *Wal-Mart Real Estate Business Trust v City of Franklin*, Case Number 2022-CV-006608.

(c) “Court” means the Circuit Court for Milwaukee County.

(d) A “tax year” means a year in which an assessment is made as of January 1, with taxes based on the assessment payable in the year following the tax year.

2. Refund of Taxes. The City shall issue a refund payable to WAL-MART REAL ESTATE BUSINESS TRUST or to another account designated by Plaintiff in writing, pursuant to Wis. Stat. § 74.37, in the amount of **\$3,706.92** as a partial refund of property taxes previously paid by or billed to Plaintiff based on the property tax assessment of the Property for the tax year 2021 with a revised assessment of \$10,461,000.00. The check for the refund shall be delivered to Plaintiff's undersigned counsel at 330 East Kilbourn Avenue, Suite 1170, Milwaukee, Wisconsin 53202. The parties agree that no portion of this amount constitutes interest.

3. 2022 Assessment. The parties agree that the assessment of the Property for the 2022 tax year shall not exceed \$10,461,000.00. In the event that the 2022 assessment of the Property exceeds this amount, the City's Board of Review shall modify the assessment to an amount not to exceed \$10,461,000.00.

4. Waiver of Costs. Each party waives all claims for costs and/or interest.

5. Time of Payments. The City shall pay the refund of tax for the 2021 tax year in full, as provided in Section 2 of this Agreement, within 30 days of the date this Agreement is signed by both parties.

6. Stipulation for Dismissal. No later than fifteen (15) days after receipt of the refund described in Section 2 of this Agreement: (a) the parties shall enter into a stipulation, attached hereto as Exhibit A, signed by their respective attorneys, for the dismissal of the Cases (including, but not limited to, all claims asserted in the Complaints in these Cases) on the merits, with prejudice, and without costs to either party; and (b) file the applicable stipulations with the

Court.

7. Responsibility for Fees and Expenses of Attorneys and Experts. Each party shall be solely responsible for the fees of its attorneys and experts.

8. No Representations. Each party acknowledges and agrees that no representation or promise not expressly contained in this Agreement has been made by the opposing party or any of its employees, attorneys, agents, or representatives. Each party acknowledges that it is not entering into this Agreement on the basis of any such representation or promise, express or implied.

9. Binding on Successors. This Agreement shall be binding upon and inure to the benefit of each of the parties and their respective heirs, successors, and assigns.

10. Governing Law. This Agreement shall be governed and interpreted by the laws of the State of Wisconsin.

11. Attorney's Fees (Enforcement of Agreement). If any party breaches any of the terms of the Settlement Agreement, the non-breaching party shall be entitled to recover from the breaching party the reasonable, actual costs, expenses and actual attorney's fees incurred by the nonbreaching party in connection with the enforcement of this Settlement Agreement.

12. Interpretation of Agreement. The parties acknowledge that this Agreement is the product of joint negotiations. If any dispute arises concerning the interpretation of this Agreement: (a) neither party shall be deemed the drafter of this Agreement for purposes of its interpretation; and (b) the parties shall attempt in good faith to resolve the dispute. The parties agree that the Court retains jurisdiction to enforce this Agreement and that a party may ask the Court to enforce this Agreement by filing a motion in the Case and serving the same on the other party.

13. Representation By Counsel; Reliance. Each party acknowledges that it has been represented throughout all negotiations leading up to this Agreement by attorneys of its choice and that its attorneys have approved this Agreement. Each party represents that in entering into this Agreement, the party has relied on its own judgment and on the advice of its attorneys, and that no statements or representations made by the other party or any of its agents, except statements or representations expressly made in this Agreement, have influenced or induced the party to sign this Agreement.

14. No Assignment or Transfer. Plaintiff represents and warrants that it has not assigned or transferred to anyone and will not assign or transfer to anyone any of the claims in the Case.

15. Entire Agreement. This Agreement states and constitutes the entire agreement of the parties concerning its subject matter and supersedes all prior or contemporaneous agreements (written or oral), representations, negotiations, and discussions concerning its subject matter, including but not limited to, all agreements (written or oral), representations, negotiations, and discussions made in the course of mediation of the Case.

16. Use of this Agreement. This Agreement shall not be filed with the Court in this Case or in any other case or proceeding, except for the purpose of enforcing this Agreement. This Agreement and any part of this Agreement shall not be admissible in the lawsuit or in any future judicial or administrative proceeding and shall not be offered as evidence or presented by any Party in the Lawsuit or any future judicial or administrative proceeding, except for the purpose of enforcing this Agreement.

17. No Admissions of Liability or Concerning Assessments or Fair Market Value. This Agreement is the settlement of disputed claims. By entering into this Agreement, the City does not admit any liability to Plaintiff for any of the claims asserted in the Case or Plaintiff's objection to the assessments, and the payments made under this Agreement shall not be construed as an admission of any such liability. Except as explicitly provided herein, neither Party makes an admission about the assessments or the fair market value of the Property as of January 1, 2021 and January 1, 2022 or any other date nor any other admission concerning the assessment of Plaintiff property. In addition, none of the agreed upon values or assessment as of January 1, 2021 or January 1, 2022 shall be admissible in any proceeding or assessment challenge in any subsequent year.

18. Waiver. No waiver of any breach of this Agreement shall be deemed a continuing waiver of that breach or a waiver of any other breach of this Agreement.

19. Amendments or Modifications. This Agreement may not be amended, modified or altered in any manner whatsoever, except by a further written agreement duly authorized and signed by the parties.

20. Authorization to Sign Agreement. Each person signing this Agreement on behalf of either party represents and warrants that the person holds the position indicated beneath the person's signature and that the person has the requisite corporate or other authority to sign this Agreement on behalf of the party. Each party represents that entry into this Agreement is not in contravention of any agreement or undertaking to which the party is bound.

21. Reading of Agreement. Each person signing this Agreement on behalf of either party acknowledges that the person has read this Agreement, that the person understands the terms and conditions of this Agreement, that the person (if other than an attorney for the party) has been advised by legal counsel concerning this Agreement, and that the person freely and voluntarily signs this Agreement.

Dated: October ___, 2022.

WAL-MART REAL ESTATE BUSINESS TRUST

BY: Gimbel, Reilly, Guerin & Brown LLP
330 East Kilbourn Avenue, Suite 1170,
Milwaukee, Wisconsin 53202

CHRISTOPHER L. STROHBEHN

State Bar No.: 1041495

cstrohbehn@grgblaw.com

RUSSELL J. KARNES

State Bar No.: 1054982

rkarnes@grgblaw.com

Dated: October ___, 2022.

APPROVED AS TO FORM

BY: Crivello Carlson, S.C.
710 Plankinton Ave., Suite 500
Milwaukee, WI 53203

NATHAN J. BAYER

State Bar ID No. 1032312

STEVEN C. MCGAVER

State Bar ID No. 1051898

Dated: October ___, 2022.

CITY OF FRANKLIN

By:

Steve Olson, Mayor

48171936

EXHIBIT A

STATE OF WISCONSIN
CIRCUIT COURT
MILWAUKEE COUNTY

WAL-MART REAL ESTATE BUSINESS
TRUST,

Case No: 2021-CV-005568

Plaintiff,

vs.

CITY OF FRANKLIN

Defendant.

STIPULATION FOR DISMISSAL

IT IS STIPULATED by the parties, through their respective counsel, as follows:

1. This action involves WAL-MART REAL ESTATE BUSINESS TRUST and the CITY OF FRANKLIN (the "City's") assessment of the land and improvements located at 6701 S. 27th Street, Franklin, Wisconsin and further identified by Tax Parcel # 714-0003-002.

2. This action shall be dismissed with prejudice and without costs and fees to any party.

3. The parties have entered into a separate Settlement Agreement resolving, among other things, the claims raised in this action. The Court shall retain jurisdiction and competency over this matter in order to enforce this Stipulation or the Settlement Agreement. Any party may reopen this matter by motion to this Court in the event of a violation or alleged violation of this Stipulation or of the Settlement Agreement.

IT IS FURTHER STIPULATED that an Order to this effect may be entered without further notice to either party.

Dated: October ___, 2022.

WAL-MART REAL ESTATE BUSINESS TRUST

BY: Gimbel, Reilly, Guerin & Brown LLP
330 East Kilbourn Avenue, Suite 1170,
Milwaukee, Wisconsin 53202

CHRISTOPHER L STROHBEHN

State Bar No.: 1041495
cstrohbehn@grglaw.com

RUSSELL J. KARNES
State Bar No.: 1054982
rkarnes@grglaw.com

Dated: October ___, 2022.

CITY OF FRANKLIN

BY: Crivello Carlson, S.C.
710 Plankinton Ave., Suite 500
Milwaukee, WI 53203

NATHAN J. BAYER
State Bar ID No. 1032312
STEVEN C. MCGAVER
State Bar ID No. 1051898

STATE OF WISCONSIN
CIRCUIT COURT
MILWAUKEE COUNTY

WAL-MART REAL ESTATE BUSINESS
TRUST,

Case No: 2022-CV-006608

Plaintiff,

vs.

CITY OF FRANKLIN

Defendants.

STIPULATION FOR DISMISSAL

IT IS STIPULATED by the parties, through their respective counsel, as follows:

1. WAL-MART REAL ESTATE BUSINESS TRUST and the CITY OF FRANKLIN (the "City's") assessment of the land and improvements located at 6701 S. 27th Street, Franklin, Wisconsin and further identified by Tax Parcel # 714-0003-002.
2. This action shall be dismissed with prejudice and without costs and fees to any party.
3. The parties have entered into a separate Settlement Agreement resolving, among other things, the claims raised in this action. The Court shall retain jurisdiction and competency over this matter in order to enforce this Stipulation or the Settlement Agreement. Any party may reopen this matter by motion to this Court in the event of a violation or alleged violation of this Stipulation or of the Settlement Agreement.

IT IS FURTHER STIPULATED that an Order to this effect may be entered without further notice to either party.

Dated: October ___, 2022.

WAL-MART REAL ESTATE BUSINESS TRUST

BY: Gimbel, Reilly, Guerin & Brown LLP
330 East Kilbourn Avenue, Suite 1170,
Milwaukee, Wisconsin 53202

CHRISTOPHER L STROHBEHN

State Bar No.: 1041495

cstrohbehn@grglaw.com

RUSSELL J. KARNFS

State Bar No.: 1054982

rkarnes@grglaw.com

Dated: October ___, 2022.

CITY OF FRANKLIN

BY: Crivello Carlson, S.C.
710 Plankinton Ave., Suite 500
Milwaukee, WI 53203

NATHAN J. BAYER

State Bar ID No. 1032312

STEVEN C. MCGAVER

State Bar ID No. 1051898

STATE OF WISCONSIN
CIRCUIT COURT
MILWAUKEE COUNTY

WAL-MART REAL ESTATE BUSINESS
TRUST,

Case No: 2021-CV-005568

Plaintiff,

vs.

CITY OF FRANKLIN

Defendants.

ORDER FOR DISMISSAL

Based upon the Stipulation of the parties filed on _____,

IT IS HEREBY ORDERED that the above-entitled action, including all claims that were asserted or that could have been asserted, is hereby dismissed in its entirety upon its merits, with prejudice and without costs to any party.

STATE OF WISCONSIN
CIRCUIT COURT
FRANKLIN COUNTY

WAL-MART REAL ESTATE BUSINESS
TRUST,

Case No: 2022-CV-006608

Plaintiff,

vs.

CITY OF FRANKLIN

Defendants.

ORDER FOR DISMISSAL

Based upon the Stipulation of the parties filed on _____,

IT IS HEREBY ORDERED that the above-entitled action, including all claims that were asserted or that could have been asserted, is hereby dismissed in its entirety upon its merits, with prejudice and without costs to any party.

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| <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;">11/1/2022</p> |
| <p style="text-align: center;">REPORTS & RECOMMENDATIONS</p> | <p><i>Sam's Real Estate Business Trust v. City of Franklin, Milwaukee County Circuit Court Case No. 2021-CV-005567, and Sam's Real Estate Business Trust v. City of Franklin, Milwaukee County Circuit Court Case No. 2022-CV-006604. The Common Council may enter closed session 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 litigations, and to reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate</i></p> | <p style="text-align: center;">ITEM NUMBER</p> <p style="text-align: center;">G.13.</p> |

Attached is the proposed Settlement Agreement between Sam's Real Estate Business Trust and the City of Franklin for Parcel No. 714-0004-001 for the City to issue to Sam's Real Estate Business Trust a partial refund of property taxes in the amount of \$4,928.70, based on an assessed value of \$6,645,700, for the tax year 2021, and authorize a reduction in the assessed value for the property, for the 2022 tax year, decreasing it from \$7,541,900 to \$7,281,300.

The Common Council may enter closed session 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 litigations, and to reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate.

COUNCIL ACTION REQUESTED

Motion to approve and execute the proposed Settlement Agreement between Sam's Real Estate Business Trust and the City of Franklin for Parcel No. 714-0004-001 for the City to issue to Sam's Real Estate Business Trust a partial refund of property taxes in the amount of \$4,928.70, based on an assessed value of \$6,645,700, for the tax year 2021, and authorize a reduction in the assessed value for the property, for the 2022 tax year, decreasing it from \$7,541,900 to \$7,281,300; and, direct staff to process payment of the 2021 tax refund within 30 days of the date the Agreement is signed by both parties, adjust the 2022 tax bill as authorized, and process the chargeback per the statutory process in 2023 after the Board of Review amends the value.

SETTLEMENT AGREEMENT

This Agreement is between SAM'S REAL ESTATE BUSINESS TRUST ("Plaintiff"), a limited liability corporation organized and existing under the laws State of Wisconsin, and the CITY OF FRANKLIN, Wisconsin (the "City"), a municipal corporation organized and existing under the laws of the State of Wisconsin.

1. Definitions. In this Agreement:

(a) The "Property" means the land and improvements located at Sam's Club Property located at 6705 S. 27th Street, Franklin, Wisconsin, further identified by Tax Parcel # 714-0004-001. "Cases" means the actions pending in the Circuit Court for Milwaukee County, Wisconsin captioned *Sam's Real Estate Business Trust v City of Franklin*, Case Number 2021-CV-005567 and *Sam's Real Estate Business Trust v City of Franklin*, Case Number 2022-CV-006604.

(b) "Court" means the Circuit Court for Milwaukee County.

(c) A "tax year" means a year in which an assessment is made as of January 1, with taxes based on the assessment payable in the year following the tax year.

2. Refund of Taxes. The City shall issue a refund payable to SAM'S REAL ESTATE BUSINESS TRUST or to another account designated by Plaintiff in writing, pursuant to Wis. Stat. § 74.37, in the amount of **\$4,928.70** as a partial refund of property taxes previously paid by or billed to Plaintiff based on the property tax assessment of the Property for the tax year 2021 with a revised assessment of \$6,645,700.00. The check for the refund shall be delivered to Plaintiff's undersigned counsel at 330 East Kilbourn Avenue, Suite 1170, Milwaukee, Wisconsin 53202. The parties agree that no portion of this amount constitutes interest.

3. 2022 Assessment. The parties agree that the assessment of the Property for the 2022 tax year shall not exceed \$7,281,300.00. In the event that the 2022 assessment of the Property exceeds this amount, the City's Board of Review shall modify the assessment to an amount not to exceed \$7,281,300.00.

4. Waiver of Costs. Each party waives all claims for costs and/or interest.

5. Time of Payments. The City shall pay the refund of tax for the 2021 tax year in full, as provided in Section 2 of this Agreement, within 30 days of the date this Agreement is signed by both parties.

6. Stipulation for Dismissal. No later than fifteen (15) days after receipt of the refund described in Section 2 of this Agreement: (a) the parties shall enter into a stipulation, attached hereto as Exhibit A, signed by their respective attorneys, for the dismissal of the Cases (including, but not limited to, all claims asserted in the Complaints in these Cases) on the merits, with prejudice, and without costs to either party; and (b) file the applicable stipulations with the Court.

7. Responsibility for Fees and Expenses of Attorneys and Experts. Each party shall be solely responsible for the fees of its attorneys and experts.

8. No Representations. Each party acknowledges and agrees that no representation or promise not expressly contained in this Agreement has been made by the opposing party or any of its employees, attorneys, agents, or representatives. Each party acknowledges that it is not entering into this Agreement on the basis of any such representation or promise, express or implied.

9. Binding on Successors. This Agreement shall be binding upon and inure to the benefit of each of the parties and their respective heirs, successors, and assigns.

10. Governing Law. This Agreement shall be governed and interpreted by the laws of the State of Wisconsin.

11. Attorney's Fees (Enforcement of Agreement). If any party breaches any of the terms of the Settlement Agreement, the non-breaching party shall be entitled to recover from the breaching party the reasonable, actual costs, expenses and actual attorney's fees incurred by the nonbreaching party in connection with the enforcement of this Settlement Agreement.

12. Interpretation of Agreement. The parties acknowledge that this Agreement is the product of joint negotiations. If any dispute arises concerning the interpretation of this Agreement: (a) neither party shall be deemed the drafter of this Agreement for purposes of its interpretation; and (b) the parties shall attempt in good faith to resolve the dispute. The parties agree that the Court retains jurisdiction to enforce this Agreement and that a party may ask the Court to enforce this Agreement by filing a motion in the Case and serving the same on the other party.

13. Representation By Counsel; Reliance. Each party acknowledges that it has been represented throughout all negotiations leading up to this Agreement by attorneys of its choice and that its attorneys have approved this Agreement. Each party represents that in entering into this Agreement, the party has relied on its own judgment and on the advice of its attorneys, and that no statements or representations made by the other party or any of its agents, except statements or representations expressly made in this Agreement, have influenced or induced the party to sign this Agreement.

14. No Assignment or Transfer. Plaintiff represents and warrants that it has not assigned or transferred to anyone and will not assign or transfer to anyone any of the claims in the Case.

15. Entire Agreement. This Agreement states and constitutes the entire agreement of the parties concerning its subject matter and supersedes all prior or contemporaneous agreements (written or oral), representations, negotiations, and discussions concerning its subject matter, including but not limited to, all agreements (written or oral), representations, negotiations, and discussions made in the course of mediation of the Case.

16. Use of this Agreement. This Agreement shall not be filed with the Court in this Case or in any other case or proceeding, except for the purpose of enforcing this Agreement.

This Agreement and any part of this Agreement shall not be admissible in the lawsuit or in any future judicial or administrative proceeding and shall not be offered as evidence or presented by any Party in the Lawsuit or any future judicial or administrative proceeding, except for the purpose of enforcing this Agreement.

17. No Admissions of Liability or Concerning Assessments or Fair Market Value.

This Agreement is the settlement of disputed claims. By entering into this Agreement, the City does not admit any liability to Plaintiff for any of the claims asserted in the Case or Plaintiff's objection to the assessments, and the payments made under this Agreement shall not be construed as an admission of any such liability. Except as explicitly provided herein, neither Party makes an admission about the assessments or the fair market value of the Property as of January 1, 2021 and January 1, 2022 or any other date nor any other admission concerning the assessment of Plaintiff property. In addition, none of the agreed upon values or assessment as of January 1, 2021 or January 1, 2022 shall be admissible in any proceeding or assessment challenge in any subsequent year.

18. Waiver. No waiver of any breach of this Agreement shall be deemed a continuing waiver of that breach or a waiver of any other breach of this Agreement.

19. Amendments or Modifications. This Agreement may not be amended, modified or altered in any manner whatsoever, except by a further written agreement duly authorized and signed by the parties.

20. Authorization to Sign Agreement. Each person signing this Agreement on behalf of either party represents and warrants that the person holds the position indicated beneath the person's signature and that the person has the requisite corporate or other authority to sign this Agreement on behalf of the party. Each party represents that entry into this Agreement is not in contravention of any agreement or undertaking to which the party is bound.

21. Reading of Agreement. Each person signing this Agreement on behalf of either party acknowledges that the person has read this Agreement, that the person understands the terms and conditions of this Agreement, that the person (if other than an attorney for the party) has been advised by legal counsel concerning this Agreement, and that the person freely and voluntarily signs this Agreement.

Dated: October ___, 2022.

SAM'S REAL ESTATE BUSINESS TRUST

**BY: Gimbel, Reilly, Guerin & Brown LLP
330 East Kilbourn Avenue, Suite 1170,
Milwaukee, Wisconsin 53202**

CHRISTOPHER L STROHBEHN

State Bar No. 1041495

cstrohbehn@grglaw.com

RUSSELL J KARNES

State Bar No. 1054982

rkarnes@grglaw.com

Dated: October ___, 2022.

APPROVED AS TO FORM

**BY: Crivello Carlson, S.C.
710 Plankinton Ave., Suite 500
Milwaukee, WI 53203**

NATHAN J. BAYER

State Bar ID No. 1032312

STEVEN C. MCGAVER

State Bar ID No. 1051898

Dated: October ___, 2022.

CITY OF FRANKLIN

By:

Steve Olson, Mayor

48171936

EXHIBIT A

STATE OF WISCONSIN
CIRCUIT COURT
MILWAUKEE COUNTY

SAM'S REAL ESTATE BUSINESS
TRUST,

Case No: 2021-CV-005567

Plaintiff,

vs.

CITY OF FRANKLIN

Defendant.

STIPULATION FOR DISMISSAL

IT IS STIPULATED by the parties, through their respective counsel, as follows:

1. This action involves SAM'S REAL ESTATE BUSINESS TRUST and the CITY OF FRANKLIN (the "City's") assessment of the land and improvements located at Sam's Club Property located at 6705 S. 27th Street, Franklin, Wisconsin, further identified by Tax Parcel # 714-0004-001.

2. This action shall be dismissed with prejudice and without costs and fees to any party.

3. The parties have entered into a separate Settlement Agreement resolving, among other things, the claims raised in this action. The Court shall retain jurisdiction and competency over this matter in order to enforce this Stipulation or the Settlement Agreement. Any party may reopen this matter by motion to this Court in the event of a violation or alleged violation of this Stipulation or of the Settlement Agreement.

IT IS FURTHER STIPULATED that an Order to this effect may be entered without further notice to either party.

Dated: October ___, 2022.

SAM'S ESTATE BUSINESS TRUST

BY: Gimbel, Reilly, Guerin & Brown LLP
330 East Kilbourn Avenue, Suite 1170,
Milwaukee, Wisconsin 53202

CHRISTOPHER L STROHBEHN

State Bar No.: 1041495

astrohbehn@grglaw.com

RUSSELL J KARNFS

State Bar No. 1054982

rkarnes@grglaw.com

Dated: October ___, 2022.

CITY OF FRANKLIN

BY: Crivello Carlson, S.C.
710 Plankinton Ave., Suite 500
Milwaukee, WI 53203

NATHAN J. BAYER

State Bar ID No. 1032312

STEVEN C. MCGAVER

State Bar ID No. 1051898

STATE OF WISCONSIN
CIRCUIT COURT
MILWAUKEE COUNTY

SAM'S REAL ESTATE BUSINESS
TRUST,

Case No: 2022-CV-006604

Plaintiff,

vs.

CITY OF FRANKLIN

Defendants.

STIPULATION FOR DISMISSAL

IT IS STIPULATED by the parties, through their respective counsel, as follows:

1. SAM'S REAL ESTATE BUSINESS TRUST and the CITY OF FRANKLIN (the "City's") assessment of the land and improvements located at 6705 S. 27th Street, Franklin, Wisconsin, further identified by Tax Parcel # 714-0004-001
2. This action shall be dismissed with prejudice and without costs and fees to any party.
3. The parties have entered into a separate Settlement Agreement resolving, among other things, the claims raised in this action. The Court shall retain jurisdiction and competency over this matter in order to enforce this Stipulation or the Settlement Agreement. Any party may reopen this matter by motion to this Court in the event of a violation or alleged violation of this Stipulation or of the Settlement Agreement.

IT IS FURTHER STIPULATED that an Order to this effect may be entered without further notice to either party.

Dated: October ___, 2022.

SAM'S REAL ESTATE BUSINESS TRUST

BY: Gimbel, Reilly, Guerin & Brown LLP
330 East Kilbourn Avenue, Suite 1170,
Milwaukee, Wisconsin 53202

CHRISTOPHER L STROHBEHN

State Bar No.: 1041495

cstrohbehn@grgblaw.com

RUSSELL J. KARNES

State Bar No. 1054982

rkarnes@grgblaw.com

Dated: October ___, 2022.

CITY OF FRANKLIN

BY: Crivello Carlson, S.C.
710 Plankinton Ave., Suite 500
Milwaukee, WI 53203

NATHAN J. BAYER

State Bar ID No. 1032312

STEVEN C. MCGAVER

State Bar ID No. 1051898

STATE OF WISCONSIN
CIRCUIT COURT
MILWAUKEE COUNTY

SAM'S REAL ESTATE BUSINESS
TRUST,

Case No: 2021-CV-005567

Plaintiff,

vs.

CITY OF FRANKLIN

Defendants.

ORDER FOR DISMISSAL

Based upon the Stipulation of the parties filed on _____,

IT IS HEREBY ORDERED that the above-entitled action, including all claims that were asserted or that could have been asserted, is hereby dismissed in its entirety upon its merits, with prejudice and without costs to any party.

STATE OF WISCONSIN
CIRCUIT COURT
MILWAUKEE COUNTY

SAM'S REAL ESTATE BUSINESS
TRUST,

Case No: 2022-CV-006604

Plaintiff,

vs.

CITY OF FRANKLIN

Defendants.

ORDER FOR DISMISSAL

Based upon the Stipulation of the parties filed on _____,

IT IS HEREBY ORDERED that the above-entitled action, including all claims that were asserted or that could have been asserted, is hereby dismissed in its entirety upon its merits, with prejudice and without costs to any party.

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| <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;">11/1/2022</p> |
| <p style="text-align: center;">REPORTS & RECOMMENDATIONS</p> | <p style="text-align: center;"><i>FF&E, LLC v. City of Franklin Board of Review, Milwaukee County Circuit Court Case No. 2020-CV-006955, and FF&E, LLC v. City of Franklin, Milwaukee County Circuit Court Case No. 2022-CV-005800. The Common Council may enter closed session 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 litigations, and to reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate</i></p> | <p style="text-align: center;">ITEM NUMBER</p> <p style="text-align: center;">G.14.</p> |

Attached is the proposed Settlement Agreement between FF&E, LLC and the City of Franklin for Parcel No. 744-1001-000 for the City to issue to FF&E, LLC a partial refund of property taxes in the amount of \$16,609.30, based on an assessed value of \$7,550,000, for the tax year 2020, and authorize a reduction in the assessed value for the property, for the 2022 tax year, decreasing it from \$8,400,000 to \$7,650,000.

The Common Council may enter closed session 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 litigations, and to reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate.

COUNCIL ACTION REQUESTED

Motion to approve and execute the proposed Settlement Agreement between FF&E, LLC and the City of Franklin for Parcel No. 744-1001-000 for the City to issue to FF&E, LLC a partial refund of property taxes in the amount of \$16,609.30, based on an assessed value of \$7,550,000, for the tax year 2020, and authorize a reduction in the assessed value for the property, for the 2022 tax year, decreasing it from \$8,400,000 to \$7,650,000; and, direct staff to process payment of the 2020 tax refund within 30 days of the date the Agreement is signed by both parties, adjust the 2022 tax bill as authorized, and process the chargeback per the statutory process in 2023 after the Board of Review amends the value.

SETTLEMENT AGREEMENT

This Agreement is between FF&E, LLC (“Plaintiff”), a Wisconsin limited liability corporation organized and existing under the laws State of Wisconsin, with its principal office located at 425 First Street, Savanna, IL 61074, and the CITY OF FRANKLIN, Wisconsin (the “City”), a municipal corporation organized and existing under the laws of the State of Wisconsin.

1. Definitions. In this Agreement:

(a) The “Property” means the land and improvements located at 6901 South 76th Street, within the City, and identified as Tax Parcel Number 744-1001-000.

(b) “Cases” means the actions pending in the Circuit Court for Milwaukee County, Wisconsin captioned *FF&E, LLC v. City of Franklin*, Case Number 2020-CV-6955 and *FF&E, LLC v. City of Franklin*, Case Number 2022-CV-5800.

(c) “Court” means the Circuit Court for Milwaukee County.

(d) A “tax year” means a year in which an assessment is made as of January 1, with taxes based on the assessment payable in the year following the tax year.

2. Refund of Taxes on 2020 Assessment. The City shall issue a refund payable to FF&E, LLC or to another account designated by Plaintiff in writing, pursuant to Wis. Stat. § 74.37, in the amount of **\$16,609.30** as a partial refund of property taxes previously paid by or billed to Plaintiff based on the property tax assessment of the Property for the tax year 2020 with a revised assessment of \$7,550,000.00. The check for the refund shall be delivered to Plaintiff's undersigned counsel at 33 E. Mifflin Street, Suite 610, Madison, Wisconsin 53703. The parties agree that no portion of this amount constitutes interest.

3. 2022 Assessment. The parties agree that the assessment of the Property for the 2022 tax year shall not exceed \$7,650,000.

4. Waiver of Costs. Each party waives all claims for costs and/or interest.

5. Time of Payments. The City shall pay the refund of tax for the 2020 tax year in full, as provided in Section 2 of this Agreement, within 15 days of the date this Agreement is signed by both parties.

6. Stipulation for Dismissal. No later than five (5) days after receipt of the refund described in Section 2 of this Agreement: (a) the parties shall enter into a stipulation, attached hereto as Exhibit A, signed by their respective attorneys, for the dismissal of the Cases (including, but not limited to, all claims asserted in the Complaints in these Cases) on the merits, with prejudice, and without costs or fees to either party; and (b) file the applicable stipulations with the Court.

7. Responsibility for Fees and Expenses of Attorneys and Experts. Each party shall

be solely responsible for the fees of its attorneys and experts.

8. No Representations. Each party acknowledges and agrees that no representation or promise not expressly contained in this Agreement has been made by the opposing party or any of its employees, attorneys, agents, or representatives. Each party acknowledges that it is not entering into this Agreement on the basis of any such representation or promise, express or implied.

9. Binding on Successors. This Agreement shall be binding upon and inure to the benefit of each of the parties and their respective heirs, successors, and assigns.

10. Governing Law. This Agreement shall be governed and interpreted by the laws of the State of Wisconsin.

11. Interpretation of Agreement. The parties acknowledge that this Agreement is the product of joint negotiations. If any dispute arises concerning the interpretation of this Agreement: (a) neither party shall be deemed the drafter of this Agreement for purposes of its interpretation; and (b) the parties shall attempt in good faith to resolve the dispute. The parties agree that the Court retains jurisdiction to enforce this Agreement and that a party may ask the Court to enforce this Agreement by filing a motion in the Case and serving the same on the other party.

12. Representation By Counsel; Reliance. Each party acknowledges that it has been represented throughout all negotiations leading up to this Agreement by attorneys of its choice and that its attorneys have approved this Agreement. Each party represents that in entering into this Agreement, the party has relied on its own judgment and on the advice of its attorneys, and that no statements or representations made by the other party or any of its agents, except statements or representations expressly made in this Agreement, have influenced or induced the party to sign this Agreement.

13. No Assignment or Transfer. Plaintiff represents and warrants that it has not assigned or transferred to anyone and will not assign or transfer to anyone any of the claims in the Case.

14. Entire Agreement. This Agreement states and constitutes the entire agreement of the parties concerning its subject matter and supersedes all prior or contemporaneous agreements (written or oral), representations, negotiations, and discussions concerning its subject matter, including but not limited to, all agreements (written or oral), representations, negotiations, and discussions made in the course of mediation of the Case.

15. Use of this Agreement. This Agreement shall not be filed with the Court in this Case or in any other case or proceeding, except for the purpose of enforcing this Agreement. This Agreement and any part of this Agreement shall not be admissible in the lawsuit or in any future judicial or administrative proceeding and shall not be offered as evidence or presented by any Party in the Lawsuit or any future judicial or administrative proceeding, except for the purpose of enforcing this Agreement.

16. No Admissions of Liability or Concerning Assessments or Fair Market Value.

This Agreement is the settlement of disputed claims. By entering into this Agreement, the City does not admit any liability to Plaintiff for any of the claims asserted in the Cases or Plaintiff's objection to the assessments, and the payments made under this Agreement shall not be construed as an admission of any such liability. Except as explicitly provided herein, neither Party makes an admission about the assessments or the fair market value of the Property as of January 1, 2020, and January 1, 2022, or any other date nor any other admission concerning the assessment of Plaintiff property. In addition, none of the agreed upon values or assessment as of January 1, 2020, or January 1, 2022, shall be admissible in any proceeding or assessment challenge in any subsequent year.

17. Waiver. No waiver of any breach of this Agreement shall be deemed a continuing waiver of that breach or a waiver of any other breach of this Agreement.

18. Amendments or Modifications. This Agreement may not be amended, modified or altered in any manner whatsoever, except by a further written agreement duly authorized and signed by the parties.

19. Authorization to Sign Agreement. Each person signing this Agreement on behalf of either party represents and warrants that the person holds the position indicated beneath the person's signature and that the person has the requisite corporate or other authority to sign this Agreement on behalf of the party. Each party represents that entry into this Agreement is not in contravention of any agreement or undertaking to which the party is bound.

20. Reading of Agreement. Each person signing this Agreement on behalf of either party acknowledges that the person has read this Agreement, that the person understands the terms and conditions of this Agreement, that the person (if other than an attorney for the party) has been advised by legal counsel concerning this Agreement, and that the person freely and voluntarily signs this Agreement.

21. Counterparts and Electronic Signature. This Agreement may be executed in counterparts, each of which shall be deemed an original, but both of which taken together shall constitute one and the same instrument. An image, electronic scan, facsimile or other digital or electronic of a Party's signature to this Agreement shall be deemed an original, fully enforceable document.

[Signatures on following page.]

Dated: October ___, 2022.

FF&E, LLC

BY: Scott Sullivan

Scott Sullivan

Dated: October ___, 2022.

APPROVED AS TO FORM

BY: Stroud, Willink & Howard, LLC
33 E. Main Street, Suite 610
Madison, Wisconsin 53703

Monica Wedgewood
State Bar No.: 1095261
mwedgewood@stroudlaw.com

Dated: October ___, 2022.

APPROVED AS TO FORM

BY: Crivello Carlson, S.C.
710 Plankinton Ave., Suite 500
Milwaukee, WI 53203

NATHAN J. BAYER
State Bar ID No. 1032312

Dated: October ___, 2022.

CITY OF FRANKLIN

By:

Steve Olson, Mayor

EXHIBIT A

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH 14

MILWAUKEE COUNTY

FF&E, LLC,

Plaintiff,

Case No. 2020-CV-006955

v.

CITY OF FRANKLIN BOARD OF REVIEW,

Defendant.

STIPULATION FOR DISMISSAL

IT IS STIPULATED by the parties, through their respective counsel, as follows:

1. This action involves FF&E, LLC and the CITY OF FRANKLIN (the “City’s”) assessment of the land and improvements located at 6901 South 76th Street, within the City, and identified as Tax Parcel Number 744-1001-000.
2. This action shall be dismissed with prejudice and without costs and fees to any party.
3. The parties have entered into a separate Settlement Agreement resolving, among other things, the claims raised in this action. The Court shall retain jurisdiction and competency over this matter in order to enforce this Stipulation or the Settlement Agreement. Any party may reopen this matter by motion to this Court in the event of a violation or alleged violation of this Stipulation or of the Settlement Agreement.

IT IS FURTHER STIPULATED that an Order to this effect may be entered without further notice to either party.

Dated this ____ day of October, 2022.

CRIVELLO CARLSON, S.C.
Attorneys for the defendant, City of Franklin

BY: : _____
NATAHN J. BAYER
State Bar No. 1032312

POST OFFICE ADDRESS:
710 N. Plankinton Avenue, Suite 500
Milwaukee, Wisconsin 53203
(414) 271-7722

Dated this ____ day of October, 2022.

STROUD, WILLINK & HOWARD, LLC
Attorneys for the plaintiff, FF&E, LLC

BY: _____
MONICA A. WEDGEWOOD
State Bar No. 1095261

POST OFFICE ADDRESS:
P.O. Box 2236
Madison, WI 53701

FF&E, LLC,

Plaintiff,

Case No. 2022-CV-005800

v.

CITY OF FRANKLIN BOARD OF REVIEW,

Defendant.

STIPULATION FOR DISMISSAL

IT IS STIPULATED by the parties, through their respective counsel, as follows:

1. This action involves FF&E, LLC and the CITY OF FRANKLIN (the “City’s”) assessment of the land and improvements located at 6901 South 76th Street, within the City, and identified as Tax Parcel Number 744-1001-000.

2. This action shall be dismissed with prejudice and without costs and fees to any party.

3. The parties have entered into a separate Settlement Agreement resolving, among other things, the claims raised in this action. The Court shall retain jurisdiction and competency over this matter in order to enforce this Stipulation or the Settlement Agreement. Any party may reopen this matter by motion to this Court in the event of a violation or alleged violation of this Stipulation or of the Settlement Agreement.

IT IS FURTHER STIPULATED that an Order to this effect may be entered without further notice to either party.

Dated this ____ day of October, 2022.

CRIVELLO CARLSON, S.C.
Attorneys for the defendant, City of Franklin

BY: : _____
NATAHN J. BAYER
State Bar No. 1032312

POST OFFICE ADDRESS:
710 N. Plankinton Avenue, Suite 500
Milwaukee, Wisconsin 53203
(414) 271-7722

Dated this ____ day of October, 2022.

STROUD, WILLINK & HOWARD, LLC
Attorneys for the plaintiff, FF&E, LLC

BY: _____
MONICA A. WEDGEWOOD
State Bar No. 1095261

POST OFFICE ADDRESS:
P.O. Box 2236
Madison, WI 53701

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| <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;">11/1/2022</p> |
| <p>REPORTS AND RECOMMENDATIONS</p> | <p>Common Council Consideration of Code of Conduct Complaints. The Common Council may enter closed session pursuant to Wis. Stat. § 19.85(1)(f) considering financial, medical, social, or personal histories or disciplinary data of specific persons, preliminary consideration of specific personnel problems or the investigation of charges against specific persons except where par. (b) applies which, if discussed in public, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such histories or data, or involved in such problems or investigations, and to reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate.</p> | <p>ITEM NUMBER</p> <p style="text-align: center;">G.15.</p> |

COUNCIL ACTION REQUESTED

A motion to enter closed session pursuant to Wis. Stat. § 19.85(1)(f) considering financial, medical, social, or personal histories or disciplinary data of specific persons, preliminary consideration of specific personnel problems or the investigation of charges against specific persons except where par. (b) applies which, if discussed in public, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such histories or data, or involved in such problems or investigations, and to reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate.

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| APPROVAL <i>Slw</i> | REQUEST FOR COUNCIL ACTION | MEETING DATE 11/01/2022 |
| LICENSES AND PERMITS | MISCELLANEOUS LICENSES | ITEM NUMBER H. |

See attached listing from meeting of November 1, 2022.

COUNCIL ACTION REQUESTED

As recommended by the License Committee.



414-425-7500

License Committee
Agenda*
Franklin City Hall Community Room
9229 W. Loomis Rd
Franklin, WI
November 1, 2022 – 5:45 p.m.

| | | |
|--------------------------------------|---|------------------------|
| 1. | Call to Order & Roll Call | Time: |
| 2. | Applicant Interviews & Decisions | |
| License Applications Reviewed | | Recommendations |

| Type/ Time | Applicant Information | Approve | Hold | Deny |
|---|--|----------------|-------------|-------------|
| Reserve Class B Combination 2022-2023 5:50 p.m. | DBA Andy's On Ryan Rd Ryan Fuel LLC Kavita Khullar, Agent 5120 W Ryan Rd | | | |
| Operator 2022-2023 New 5:55 p.m. | Zoromskis, Eric L Swiss Street Pub & Grill | | | |
| Operator 2022-2023 New | Smith, Kaitlyn T Walgreens #05459 | | | |
| People Uniting for the Betterment of Life and Investment in the Community (PUBLIC) Grant | Franklin Civic Celebration Committee for Independence Celebration Fee Waivers: Operator's Licenses, Temporary Class "B" Beer & Wine License, Temporary Entertainment & Amusement License, Soda License, and Park Permits Dates of Event: 6/30/2023 – 7/2/2023 Location: Franklin City Hall, Lions Legend Park I & II | | | |
| Date for Fireworks Process Review | Schedule Date for Meeting to Review Fireworks Process | | | |
| 3. | Adjournment | | | |
| | | | | |
| | | | | 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.

| | | |
|-----------------------------------|---------------------------------------|--|
| APPROVAL <i>DDG Slw</i> | REQUEST FOR COUNCIL ACTION | MEETING DATE 11/01/2022 |
| Bills | Vouchers and Payroll Approval | ITEM NUMBER I |

Attached are vouchers dated October 14, 2022 through November 1, 2022, Nos 189846 through Nos 190010 in the amount of \$ 2,125,244 84 Also included in this listing are EFT's Nos 5122 through EFT Nos 5139, EFT Nos 321(S), Library vouchers totaling \$ 29,138 29 and Water Utility vouchers totaling \$ 29,301 90

Included in this listing is payment to The State of Wisconsin in the amount of \$ 167,841 44 for the Environmental Improvement Fund interest payment which was approved at the Council meeting on October 18, 2022

Early release disbursements dated October 14, 2022 through October 31, 2022 in the amount of \$ 844,422 27 are provided on a separate listing and are also included in the complete disbursement listing These payments have been released as authorized under Resolutions 2013-6920, 2015-7062 and 2022-7834

There were no property tax distributions

The net payroll dated October 21, 2022 is \$ 456,197 74, previously estimated at \$ 445,000 Payroll deductions dated October 21, 2022 are \$ 453,684 08, previously estimated at \$ 470,000

The estimated payroll for November 4, 2022 is \$ 435,000 with estimated deductions and matching payments of \$ 238,000

COUNCIL ACTION REQUESTED

Motion approving the following

- City vouchers with an ending date of November 1, 2022 in the amount of \$ 2,125,244 84 and
- Payroll dated October 21, 2022 in the amount of \$ 456,197 74 and payments of the various payroll deductions in the amount of \$ 453,684 08, plus City matching payments and
- Estimated payroll dated November 4, 2022 in the amount of \$ 435,000 and payments of the various payroll deductions in the amount of \$ 238,000, plus City matching payments

ROLL CALL VOTE NEEDED