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<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, SEPTEMBER 20, 2022, AT 6:30 P.M.

- A. Call to Order and Roll Call.
- B.
  - 1. Citizen Comment Period.
  - 2. Mayor Announcements:  
A Resolution In Recognition and Honor of Gail Sumi and Curt Witynski of the League of Wisconsin Municipalities For Their Years of Service as League Workers to the Hundreds of Cities and Villages in the State and For the Millions of People Dwelling Therein.
- C. Approval of Minutes:
  - 1. Regular Common Council Meeting of September 6, 2022.
  - 2. Special Common Council Meeting of September 14, 2022.
- D. Hearings.
- E. Organizational Business: The Mayor has made the following Board and Commission appointments for Common Council confirmation:
  - 1. Saralyn Emmons, 9339 S. 44th Ct., Ald. Dist. 4 – Personnel Committee for a 3-year unexpired term expiring 4/30/2024.
  - 2. Thomas P. Klusman, 4606 W. Woodward Dr., Ald. Dist. 4 – Police and Fire Commission for a 5-year unexpired term expiring 4/30/2026.
- F. Letters and Petitions.
- G. Reports and Recommendations:
  - 1. Reconsideration of Action Taken at the September 6, 2022 Common Council Meeting to Establish Halloween Trick-or-Treat Observance (Alderwoman Eichmann, Alderwoman Hanneman, and Alderman Barber).
  - 2. Recommendation from the Civic Celebrations Committee regarding the 2023 Independence Day Festival Event.
  - 3. Project Development Agreement Amendment with Bear Development, LLC; Loomis and Ryan, Inc. Developers for Tax Incremental District No. 6 Mixed-Use Industrial, Commercial, Retail, Single-Family Residential and Open Space Uses (of an approximate 233-acre site generally located north and south of West Loomis Road, south of West Ryan Road, west of South 112th Street, east of South 124th Street, and

- north of West Oakwood Road). The Common Council may enter closed session pursuant to Wis. Stat. § 19.85(l)(e), to deliberate upon a Potential Amendment to Tax Incremental District No. 6 Mixed-Use Industrial, Commercial, Retail, Single-Family Residential and Open Space Uses Project Development Agreement, the negotiation of Agreement terms and the investing of public funds in relation thereto, for competitive and bargaining reasons, and to reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate.
4. A Resolution Approving an Amendment to the Project Plan and Boundaries of Tax Incremental District No. 6, City of Franklin, Wisconsin.
  5. A Resolution to Amend Resolution No. 2021-7788, A Resolution to Amend Resolution No. 2020-7681, A Resolution Imposing Conditions and Restrictions For the Approval of a Special Use For a Meat Processing Facility Use Upon Property Located at the Southwest Corner of the Intersection of West Loomis Road and the New Monarch Drive (Lot 83 of Ryan Meadows Subdivision) (Strauss Brands LLC, Applicant), to Extend the Time for Commencement of the Special Use Development.
  6. A Resolution Conditionally Approving a Final Plat For The Villas At Cape Crossing/The Estates At Cape Crossing Subdivision (at 12200 West Ryan Road) (Cape Crossing, LLC, Applicant).
  7. Authorize the Purchase of Rapid7 Security Information & Event Management (SIEM) and Security Operations Center (SOC) Managed Services for Criminal Justice Information Services (CJIS) Requirements.
  8. A Resolution to Submit a 2023 Grant Application Request From the Wisconsin Department of Natural Resources Urban Forestry Grant Program and Unspecified Amounts For Yet To Be Determined Catastrophic Storm Events.
  9. Resolution Authorizing the Installation of a Fence within the 20-Foot Public Storm Drainage Easement Upon Lot 4 in Block 19 of Southwood East Add'n. No. 1 (9138 S. 29th Street) (TKN 879-0293-000) (Juan Daniel & Lindsey B. Aponta-Mora, Applicants).
  10. A Resolution Authorizing Certain Officials to Execute a Development Agreement with Karley J. Blake Mutter and Jacob W. Mutter for 8973 W. Lake Pointe Drive (TKN 839-9996-007).
  11. Authorize a Consulting Services Agreement with Foth Infrastructure and Environment LLC for General Planning Services.
  12. A Resolution Authorizing Certain Officials to Accept Water Main Easements and, Upon Approval of the City Engineer, Vacate an Existing Water Main Easement for Sleep Inn & MainStay Suites Hotel at 6868 South Ballpark Drive (TKN 744-1010-000).
  13. A Resolution Authorizing Certain Officials to Accept a Public Recreational Trail Easement at 6868 South Ballpark Drive (TKN 744-1010-000).
  14. *3151 W. Elm Road, LLC v City of Franklin*, Milwaukee County Circuit Court, Case No. 20-CV-3637; Full and Final Settlement Agreement and Release of All Claims. The Common Council may enter closed session pursuant to Wis. Stat. § 19.85(l)(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 re-enter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate

15. Approval of Tax Incremental District No. 8 Development Agreement Between the City of Franklin and SFT Franklin Oakwood, LLC, Spec Industrial Buildings Mixed Use Development at 3303 W. Oakwood Road bearing Tax Key No. 951-9994-002. The Common Council may enter closed session pursuant to Wis. Stat. § 19.85(1)(e), for competitive and bargaining reasons, to deliberate and consider terms relating to a Tax Incremental District No. 8 Potential Development Agreement Between the City of Franklin and SFT Franklin Oakwood, LLC, Spec Industrial Buildings Mixed Use Development, and the investing of public funds and governmental actions in relation thereto and to effect such development, including the terms and provisions of the potential development agreement for the development of property located at 3303 W. Oakwood Road, consisting of approximately 17.445 acres, and to re-enter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate.
16. Authorize the Purchase of Property for a Public Park in the Southwest Area of the City of Franklin. The Common Council may enter closed session pursuant to Wis. Stat. § 19.85(1)(e), to consider the potential acquisition of properties intended to be used for public park purposes in the general southwest area of the City and to re-enter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate.
17. Common Council Consideration of Code of Conduct Complaints. The Common Council may enter closed session pursuant to Wis. Stat. § 19.85(1)(f) to consider financial, medical, social, or personal histories or disciplinary data of specific persons, preliminary 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 September 20, 2022, and Process Reviews for Issuance of Fireworks Display Permits and Hotel/Motel Licenses.

I. Bills.

Request for Approval of Vouchers and Payroll.

J. Adjournment.

\*Notice is given that a majority of the Civic Celebration Committee may attend this meeting to gather information about an agenda item over which the Civic Celebration Committee has decision-making responsibility. This may constitute a meeting of the Civic Celebration Committee, per State ex rel. Badke v. Greendale Village Board, even though the Civic Celebration Committee will not take formal action at this meeting.

# Common Council Meeting Agenda

September 20, 2022

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\*\*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](http://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:

September 22	Plan Commission Meeting	7:00 p.m.
October 4	Common Council Meeting	6:30 p.m.
October 6	Plan Commission Meeting	7:00 p.m.
October 18	Common Council Meeting	6:30 p.m.
October 20	Plan Commission Meeting	7:00 p.m.



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

A RESOLUTION IN RECOGNITION AND HONOR OF GAIL SUMI AND  
CURT WITYNSKI OF THE LEAGUE OF WISCONSIN MUNICIPALITIES  
FOR THEIR YEARS OF SERVICE AS LEAGUE WORKERS TO THE  
HUNDREDS OF CITIES AND VILLAGES IN THE STATE AND FOR  
THE MILLIONS OF PEOPLE DWELLING THEREIN

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WHEREAS, since 2011, Gail Sumi has given voice to, and enlightened and informed Wisconsin's local leaders through her direction and coordination of the League of Wisconsin Municipalities' multiple channels of communication, including editing and production of *The Municipality*; and

WHEREAS, since 1987, Curt Witynski has been providing leadership, guidance, and advocacy to benefit the cities and villages of Wisconsin; and

WHEREAS, Ms. Sumi and Mr. Witynski have been thought leaders and trusted advisors for local officials, both elected and appointed; and

WHEREAS, Gail Sumi and Curt Witynski have contributed in countless ways to the prosperity and success of local government in Wisconsin; and

WHEREAS, in addition to their tireless efforts on behalf of municipal government, Gail Sumi and Curt Witynski have been role models for thousands of local leaders; and

WHEREAS, our City Attorney has noted and stated through the decades from the start the collegiality and brotherhood with Curt incredible value while working to serve the People; and

WHEREAS, Ms. Sumi and Mr. Witynski will be retiring from daily service to local government at the end of calendar year 2022.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that the City of Franklin hereby expresses its profound gratitude to Gail Sumi and Curt Witynski for their service.

BE IT FURTHER AND FINNALLY RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that the City of Franklin hereby congratulates them both on their careers of leadership and wishes them well in their future endeavors. Good Luck and Godspeed Gail and Curt.

Resolution No. 2022-\_\_\_\_\_

A Resolution In Recognition And Honor of Gail Sumi and Curt Witynski

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

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

**APPROVED:**

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

ATTEST:

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

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

CITY OF FRANKLIN  
COMMON COUNCIL MEETING  
SEPTEMBER 6, 2022  
MINUTES

C.1.

- ROLL CALL                    A.        The regular meeting of the Franklin Common Council was held on September 6, 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 Wilhelm, Alderwoman Hanneman, Alderman 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.1.        Citizen comment period was opened at 6:31 p.m. and was closed at 6:34 p.m.
- MINUTES  
AUGUST 16, 2022        C.1.        Alderman Barber moved to approve the minutes of the regular Common Council meeting of August 16, 2022, as presented. Seconded by Alderman Holpfer. All voted Aye; motion carried.
- MINUTES  
AUGUST 25, 2022        C.2.        Alderman Barber moved to approve the minutes of the special Common Council meeting of August 25, 2022, as presented. Seconded by Alderwoman Eichmann. All voted Aye; motion carried.
- MAYORAL  
APPOINTMENTS            E.        Alderwoman Eichmann moved to confirm the following Mayoral appointments:
- Ann Adamski, 7825 S. Stonebrook Ct., Ald. Dist. 3 - Civic Celebrations Commission (3 year term expiring 6/30/25); 2. Angela Christie, 10610 W. Candlestick Ln., Ald. Dist. 2 - Civic Celebrations Commission (3 year unexpired term expiring 6/30/25); Kristen Stanley, 10728 S. 92nd St., Ald. Dist. 1 - Parks Commission (3 year unexpired term expiring 04/30/23); Owen Poborsky, 2933 W. Drexel Ave., Unit 506, Ald. Dist. 4 - Parks Commission (3 year unexpired term expiring 04/30/23); and Leary Peterson, 9231 S. 41st St., Ald. Dist. 4 - Board of Water Commissioners (5 year term expiring 09/30/27). Seconded by Alderman Holpfer. On roll call, all voted Aye. Motion carried.
- No action was taken the Mayoral appointment of Ann Kaminski to the Environmental Commission for a 3-year term expiring 4/30/2025.

- RES. 2022-7894  
LICENSE PLATE  
READER  
AGREEMENT
- G.2. Alderwoman Wilhelm moved to adopt Resolution No. 2022-7894, A RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO EXECUTE AN AGREEMENT FOR AUTOMATIC AGREEMENT FOR AUTOMATIC LICENSE PLATE READER (ALPR) CAMERA SYSTEMS WITH FLOCK GROUP, INC. Seconded by Alderwoman Hanneman. All voted Aye; motion carried.
- PURCHASE OF  
POLICE CAPITAL  
OUTLAY EQUIP.
- G.3. Alderman Barber moved to approve the purchase of an Undercover ALPR System in the amount of \$16,885 and Squad ALPR System in the amount of \$10,500 from the Police Capital Outlay Equipment Budget. Seconded by Alderwoman Eichmann. All voted Aye; motion carried.
- FIREWORKS  
DISPLAY PERMIT  
PROCESS
- G.4. Alderman Nelson moved to refer the fireworks display permitting process to the License Committee for at this time on information relating to the current fireworks display permitting process as presented by the Fire Chief. Seconded by Alderwoman Eichmann. All voted Aye; motion carried.
- ACCEPT FEMA  
GRANT
- G.5. Alderwoman Wilhelm moved to authorize the Fire Department to accept a Federal Emergency Management Administration (FEMA) Assistance for Firefighters (AFG) Grant to replace the aging diesel exhaust source-capture systems at the City's three fire stations. Seconded by Alderwoman Eichmann. All voted Aye; motion carried.
- RES. 2022-7895  
CONDOMINIUM  
PLAT FOR  
WOODFIELD TRAIL  
12000 W. LOOMIS  
RD.
- G.6. Alderman Nelson moved to adopt Resolution No. 2022-7895, A RESOLUTION CONDITIONALLY APPROVING A CONDOMINIUM PLAT FOR WOODFIELD TRAIL, A CONDOMINIUM AT 12000 WEST LOOMIS ROAD (STEPHEN R. MILLS, PRESIDENT OF BEAR DEVELOPMENT, LLC, APPLICANT) (BOOMTOWN, LLC, PROPERTY OWNER). Seconded by Alderwoman Hanneman. All voted Aye; motion carried.
- RES. 2022-7896  
CONSERVATION  
EASEMENT  
12000 W. LOOMIS  
RD.
- G.7. Alderman Nelson moved to adopt Resolution No. 2022-7896, A RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO ACCEPT A CONSERVATION EASEMENT FOR AND AS PART OF THE APPROVAL OF A SPECIAL USE UPON PROPERTY LOCATED AT 12000 WEST LOOMIS ROAD (STEPHEN R. MILLS, PRESIDENT OF BEAR DEVELOPMENT, LLC, APPLICANT, BOOMTOWN, LLC, PROPERTY OWNER), subject to technical corrections by the Department of City Development and the City Attorney. Seconded by Alderman Barber. All voted Aye; motion carried.

- RES. 2022-7897  
CONSERVATION  
EASEMENT  
RYAN MEADOWS  
SUBD.
- G.8. Alderman Nelson moved to adopt Resolution No. 2022-7897, A RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO ACCEPT A CONSERVATION EASEMENT FOR AND AS PART OF THE APPROVAL OF A SITE PLAN UPON PROPERTY GENERALLY LOCATED WITHIN RYAN MEADOWS SUBDIVISION, SOUTHEAST OF THE DEAD END OF SOUTH MONARCH DRIVE (ESAPP INDIANA, APPLICANT, LOOMIS & RYAN, INC., PROPERTY OWNER). Seconded by Alderman Barber. All voted Aye; motion carried.
- RES. 2022-7898  
SPECIAL USE  
BY JAX INC.,  
APPLICANT
- G.9. Alderwoman Hanneman moved to adopt Resolution No. 2022-7898, A RESOLUTION IMPOSING CONDITIONS AND RESTRICTIONS FOR THE APPROVAL OF A SPECIAL USE TO OPERATE AN INDUSTRIAL, SYNTHETIC AND FOOD-GRADE LUBRICANTS FOR MACHINERY AND PROCESS PACKAGING BUSINESS (BY JAX INC., APPLICANT, ALLMAN EQUITIES-FRANKLIN, LLC, PROPERTY OWNER). Seconded by Alderwoman Eichmann. All voted Aye; motion carried.
- ROCK SPORTS  
COMPLEX  
CHALLENGE  
TOWER
- G.10. Alderman Nelson moved to approve the Building Permit/Plan, as detailed in the Common Council Request for Action Sheet for this meeting and to include an annual inspection review, for the proposed Rock Sports Complex Challenge Tower. Seconded by Alderman Holpfer. All voted Aye; motion carried.
- RES. 2022-7899  
WIS. ELECTRIC  
POWER CO.  
EASEMENT  
TKN 704-9967-003
- G.11. Alderman Nelson moved to adopt Resolution No. 2022-7899, A RESOLUTION TO GRANT AN UNDERGROUND DISTRIBUTION EASEMENT TO WISCONSIN ELECTRIC POWER COMPANY FOR CITY OF FRANKLIN OWNED PARCEL BETWEEN WEST FOREST HOME AVENUE AND THE SERVICE ROAD NORTH OF W. RHODER AVENUE BETWEEN OUTLOT 1 AND PARCEL 2 OF CSM #3148 (TKN 704-9967-003). Seconded by Alderman Barber. All voted Aye; motion carried.
- CONTRACT WITH  
FEMA FOR IPAWS  
TO EXPAND  
EMERGENCY  
ALERTS
- G.12. Alderman Barber moved to authorize the City to contract with the Federal Emergency Management Agency (FEMA) for integration of its Integrated Public Alert and Warning System (IPAWS) with the City's Wireless Emergency Notification System (WENS) Vendor, Inspiron Logistics, to expand emergency alerts in the City of Franklin. Seconded by Alderwoman Eichmann. All voted Aye; motion carried.
- RES. 2022-7900  
CHANGE ORDERS
- G.13. Alderwoman Hanneman moved to adopt Resolution No. 2022-7900, A RESOLUTION TO AWARD CHANGE ORDER NO. 1 FOR A

FOR FRANKLIN  
CORPORATE PARK  
S. HICKORY ST.  
IMPROVEMENTS

DRAIN TILE AND DRIVEWAY ACCESS AND CHANGE ORDER NO. 2 FOR ASBESTOS WORK TO BUTEYN-PETERSON CONSTRUCTION CO., INC. FOR THE FRANKLIN CORPORATE PARK – SOUTH HICKORY STREET IMPROVEMENTS IN THE AMOUNTS OF \$15,139.10 AND \$4,000 RESPECTIVELY. Seconded by Alderman Barber. All voted Aye; motion carried.

COLLECTION  
SERVICES  
AGREEMENTS

G.14. Alderman Barber moved to authorize the execution of agreements to engage Certified Recovery, Inc. to provide collection services for ambulance billing and other City accounts receivables. Seconded by Alderman Holpfer. All voted Aye; motion carried.

JULY 2022  
FINANCIAL  
REPORT

G.15. Alderman Holpfer moved to receive and place the July 2022 monthly financial report on file. Seconded by Alderwoman Hanneman. All voted Aye; motion carried.

ORD. 2022-2517  
AMEND ANNUAL  
BUDGET

G.16. Alderwoman Wilhelm moved to adopt Ordinance No. 2022-2517, AN ORDINANCE TO AMEND ORDINANCE NO. 2021-2486, AN ORDINANCE ADOPTING THE 2022 ANNUAL BUDGET FOR THE GENERAL FUND TO TRANSFER \$3,000 OF UNRESTRICTED CONTINGENCY TO THE PARKS MAINTENANCE BUDGET AND APPROPRIATE \$1,732 OF DONATIONS RECEIVED FOR A BENCH. Seconded by Alderman Barber. On roll call, all voted Aye. Motion carried.

2022 POPULATION  
ESTIMATE

G.17. Alderwoman Hanneman moved to direct the Director of Clerk Services to submit a challenge to the correctness of the annual preliminary population estimate of January 1, 2022, of 35,895. Seconded by Alderman Holpfer. All voted Aye; motion carried.

TRICK OR TREAT  
OBSERVANCE

G.18. Alderwoman Hanneman moved to establish Monday, October 31, 2022, from 4:00 p.m. to 7:00 p.m. for the Halloween Trick or Treat observance in the City of Franklin. Seconded by Alderman Eichmann. On roll call, all voted Aye. Motion carried.

LICENSES AND  
PERMITS

H. Alderwoman Eichmann moved to approve the following licenses:

Grant Operators' Licenses to Joseph M Bellino Jr, Luke Capstran, Reyna A Contreras, Brandie L Jaskie, Joseph Osvatic, Anita M Pennoyer, Mark L Rozenburg, and Michael J Swiderski; and Hold Operators' License applications of Hanna J Wallace and Andrea M Herber for appearance.

Seconded by Alderwoman Hanneman. All voted Aye; motion carried.

CIVIC  
CELEBRATIONS  
EVENTS

- G.1. Alderman Barber moved to place on file the summary from the 2022 Civic Celebrations event, and further moved to refer the 2023 Franklin Independence Day event back to the Civic Celebrations Committee for review and recommendation back to the Common Council. Seconded by Alderwoman Eichmann. All voted Aye; motion carried.

VOUCHERS AND  
PAYROLL

- I. Alderman Barber moved to approve City vouchers with an ending date of September 1, 2022 in the amount of \$2,888,521.08; and Property Tax disbursements with an ending date of September 1, 2022 in the amount of \$3,361,820.24; and payroll dated August 26, 2022 in the amount of \$454,965.69 and payments of the various payroll deductions in the amount of \$542,339.54, plus City matching payments; and estimated payroll dated September 9, 2022 in the amount of \$420,000 and payments of the various payroll deductions in the amount of \$240,000, plus City matching payments. Seconded by Alderwoman Eichmann. On roll call, all voted Aye. Motion carried.

CLOSED SESSION  
*3151 W ELM ROAD,  
LLC v CITY OF  
FRANKLIN*

- G.19. Alderman Holpfer moved to enter closed session at 8:05 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 3151 W. Elm Road, LLC v. City of Franklin, Milwaukee County Circuit Court, Case No. 20-CV-3637, and to re-enter 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 8:10 p.m., Alderman Barber moved to direct staff and legal counsel to proceed as discussed in closed session. Seconded by Alderman Holpfer. All voted Aye; motion carried.

CLOSED SESSION  
TID 6 POTENTIAL  
AMENDMENT

- G.20. Alderman Barber moved to enter closed session at 8:11 p.m. pursuant to Wis. Stat 19.85(1)(e), to deliberate upon a Potential Amendment to Tax Incremental District No. 6 Mixed-Use Industrial, Commercial, Retail, Single-Family Residential and Open Space Uses (of an approximate 164-acre site generally located north and south of West Loomis Road, south of West Ryan Road, west of South 113th Street, east of South 124th Street, and north of West Oakwood Road) Project Development Agreement, the negotiation of Agreement terms and the investing of public funds in relation thereto, for competitive and bargaining reasons, and to reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate. Seconded by Alderwoman Hanneman. On roll call, all voted Aye. Motion carried.

Upon reentering open session at 8:40 p.m., Alderman Holpfer moved to proceed as discussed in closed session to complete and return with the Tax Incremental District No. 6 Development Agreement at the September 20, 2022 Common Council meeting. Seconded by Alderwoman Hanneman. All voted Aye; motion carried.

CLOSED SESSION  
POTENTIAL DEV.  
AGREEMENT FOR  
TID 8

- G.21. Alderwoman Hanneman moved to enter closed session at 8:42 p.m. pursuant to Wis. Stat. 19.85(1)(e), for competitive and bargaining reasons, to deliberate and consider terms relating to a Tax Incremental District No. 8 Potential Development Agreement between the City of Franklin and SFT Franklin Oakwood, LLC, Spec Industrial Buildings Mixed Use Development (Public and Private Property Improvements), and the investing of public funds and governmental actions in relation thereto and to effect such development, including the terms and provisions of the potential development agreement for the development of property located at 3303 W. Oakwood Road, consisting of approximately 17.445 acres, 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 8:54 p.m., Alderwoman Hanneman moved to proceed as discussed in closed session to complete the Tax Incremental District No. 8 Development Agreement and return to the Common Council. Seconded by Alderman Holpfer. All voted Aye; motion carried.

ADJOURNMENT

- J. Alderwoman Wilhelm moved to adjourn the regular meeting of the Common Council at 8:55 p.m. Seconded by Alderman Eichmann. All voted Aye; motion carried.



CITY OF FRANKLIN  
SPECIAL COMMON COUNCIL MEETING  
SEPTEMBER 14, 2022  
MINUTES

- ROLL CALL                    A.    The special meeting of the Common Council was held on September 14, 2022 and called to order at 4:30 p.m. by Mayor Steve Olson in the Franklin City Hall Council Chambers, 9229 W. Loomis Road, Franklin, Wisconsin. On roll call, the following were present: Alderman Ed Holpfer, Alderwoman Michelle Eichmann, Alderman Mike Barber and Alderman John R. Nelson. Alderwoman Kristen Wilhelm and Alderwoman Shari Hanneman were not present. Also in attendance were City Attorney Jesse A. Wesolowski and City Clerk Sandra Wesolowski.
- CITIZEN COMMENT        B.    Citizen comment period was opened at 4:33 p.m. and closed at 4:33 p.m.
- EXTRAORDINARY  
EVENT LICENSE        C.1. Alderman Nelson moved to grant an Extraordinary Entertainment and Special Event License for the 9th Annual Alley Rats Car and Bike Show to be held on September 17, 2022, at the Milky Way Drive-In at Franklin Field, 7035 South Ballpark Drive, Paul Cimoch, Applicant. Seconded by Alderman Barber. All voted Aye; motion carried.
- ADJOURNMENT            D.    Alderman Nelson moved to adjourn the meeting at 4:35 p.m. Seconded by Alderman Holpfer. All voted Aye; motion carried.

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<b>APPROVAL</b>  <i>slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b>  <b>9/20/2022</b>
<b>ORGANIZATIONAL BUSINESS</b>	<b>Boards and Commissions Appointments</b>	<b>ITEM NUMBER</b>  <b>E.</b>

The Mayor has made the following appointments for Common Council confirmation:

1. Saralyn Emmons, 9339 S. 44th Ct., Ald. Dist. 4 – Personnel Committee (3-year unexpired term expiring 4/30/2024).
2. Thomas P. Klusman, 4606 W. Woodward Dr., Ald. Dist. 4 – Police and Fire Commission (5-year unexpired term expiring 4/30/2026).

**COUNCIL ACTION REQUESTED**

Motion to confirm the Mayoral appointments of Saralyn Emmons, 9339 S. 44th Ct., Ald. Dist. 4, to the Personnel Committee for a 3-year unexpired term expiring 4/30/2024; and Thomas P. Klusman, 4606 W. Woodward Dr., Ald. Dist. 4, to the Police and Fire Commission for a 5-year unexpired term expiring 4/30/2026.

## Shirley Roberts

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**Subject:** FW Volunteer Fact Sheet

**Name:** Saralyn Emmons  
**PhoneNumber:**  
**EmailAddress:** [saralyn.emmons@gmail.com](mailto:saralyn.emmons@gmail.com)  
**YearsasResident:** 1  
**Alderman:** 4 / Halleman  
**ArchitecturalBoard:** no  
**CivicCelebrations:** yes  
**CommunityDevelopmentAuthority:** no  
**EconomicDevelopmentCommission:** no  
**EnvironmentalCommission:** no  
**FinanceCommittee:** no  
**FairCommission:** no  
**BoardofHealth:** no  
**FirePoliceCommission:** no  
**ParksCommission:** no  
**LibraryBoard:** no  
**PlanCommission:** no  
**PersonnelCommittee:** yes  
**BoardofReview:** no  
**BoardofPublicWorks:** no  
**QuarryMonitoringCommittee:** no  
**TechnologyCommission:** no  
**TourismCommission:** no  
**BoardofZoning:** no  
**WasteFacilitiesMonitoringCommittee:** no  
**BoardWaterCommissioners:** no  
**CompanyNameJob1:** FII USA, Inc., a Foxconn Technology Group Company  
**CompanyAddressJob1:** 12001 Braun Rd SMC Unit #110 Mount Pleasant, WI 53177  
**TelephoneJob1:**  
**StartDateandPositionJob1:** October 2019 / HR Coordinator  
**EndDateandPositionJob1:** PRESENT / HR MANAGER  
**CompanyNameJob2:** Roundy's Supermarkets, Inc., a Division of Kroger  
**AddressJob2:**  
**TelephoneJob2:**  
**StartDateandPositionJob2:** January 2018 / Human Resources Assist. Store Manager  
**EndDateandPositionJob2:** October 2019 / Human Resources Assist. Store Manager

**CompanyNameJob3:** Wisconsin Hospitality Group

**AddressJob3:**

**TelephoneJob3:**

**StartDateandPositionJob3:** July 2017 / Associate Manager

**EndDateandPositionJob3:** January 2018 / Associate Manager

**Signature:** Saralyn Emmons

**Date:** 9/11/2022

**Signature2:** Saralyn Emmons

**Date2:** 9/11/2022

**SourceDocID:** 9278

**SourceNavName:** Volunteer Fact Sheet

**Address:** 9339 South 44th Court Franklin, WI 53132

**PriorityListing:** Personnel Committee Civic Celebrations Commission

**WhyInterested:** I have been an HR Professional for 5+ years and am passionate about my field of work. I also find community involvement to be an integral part of a fulfilling life.

**DescriptionofDutiesJob1:**

- Oversees all Human Resources functions for multiple legal entities with 900+ employees.
- Partners with leadership to develop and implement HR strategies and programs that are in line with the individual business units' and organizational mission and vision.
- Maintains employee retention (internally and externally) through facilitative leadership, effective conflict resolution, and improved employee relations with management.
- Acting HR Manager for store location with up to 130 direct reports.
- Managed department requisition needs, comparing current headcount to forecasted needs
- Maintained regulatory compliance, personnel files, and confidentiality for all employees.
- Managed virtual and on-the-job training plans for employees at different levels of employment.
- Oversaw FOH & BOH team members to ensure company and regulatory compliance, food and safety guidelines, and upholding corporate brand standards
- Conducted interviews, oversaw the hiring process, and ran staff training of 30+ team members.
- Encouraged a positive, collaborative environment for both FOH & BOH team members to exceed expectations within their role(s) and enjoy working together.
- Maintained employee retention through facilitative leadership, effective conflict-resolution, and improved employee relations with management.

**DescriptionofDutiesJob2:**

**DescriptionofDutiesJob3:**

**AdditionalExperience:** Young Professional Network Chairperson, Greater Milwaukee Association of REALTORS® (November 2016 – April 2020): Led Advisory Committee Meetings, Designate Members of the Board of Directors, Engage with Network Members, Create Community Initiatives, Publish & Host Events, and Maintain Network Communication.

[See Current Results](#)

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## Sandi Wesolowski

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**From:** volunteerfactsheet@franklinwi.info  
**Sent:** Thursday, September 15, 2022 2:11 PM  
**To:** Lisa Huening, Shirley Roberts; Sandi Wesolowski  
**Subject:** Volunteer Fact Sheet

**Name:** Thomas P. Klusman  
**PhoneNumber:**  
**EmailAddress:**  
**YearsasResident:** 5  
**Alderman:** 4  
**ArchitecturalBoard:** no  
**CivicCelebrations:** no  
**CommunityDevelopmentAuthority:** no  
**EconomicDevelopmentCommission:** no  
**EnvironmentalCommission:** no  
**FinanceCommittee:** no  
**FairCommission:** no  
**BoardofHealth:** no  
**FirePoliceCommission:** yes  
**ParksCommission:** no  
**LibraryBoard:** no  
**PlanCommission:** no  
**PersonnelCommittee:** no  
**BoardofReview:** no  
**BoardofPublicWorks:** no  
**QuarryMonitoringCommittee:** no  
**TechnologyCommission:** no  
**TourismCommission:** no  
**BoardofZoning:** no  
**WasteFacilitiesMonitoringCommittee:** no  
**BoardWaterCommissioners:** no  
**CompanyNameJob1:** Employee's Retirement System of the City of Milwaukee  
**CompanyAddressJob1:** 789 N. Water St. Suite 300 Milwaukee, WI 53202  
**TelephoneJob1:**  
**StartDateandPositionJob1:** 01/2014 Board Member  
**EndDateandPositionJob1:**  
**CompanyNameJob2:** Milw. Police Supervisors Org.  
**AddressJob2:** 2900 W. Forest Home Ave. Milwaukee, WI 53215  
**TelephoneJob2:**  
**StartDateandPositionJob2:** Jan. 2002 Director

**EndDateandPositionJob2:** Current Labor Relations Manager  
**CompanyNameJob3:** Milwaukee Police Dept.  
**AddressJob3:** 749 W. State St.  
**TelephoneJob3:**  
**StartDateandPositionJob3:** Jan. 1985 Police Aide  
**EndDateandPositionJob3:** April, 2010 Lieutenant  
**Signature:** Thomas P. Klusman  
**Date:** 09-15-22  
**Signature2:** Thomas P. Klusman  
**Date2:** 09-15-22  
**SourceDocID:** 9278  
**SourceNavName:** Volunteer Fact Sheet  
**Address:** 4606 W. Woodward Dr. Franklin, WI 53132  
**PriorityListing:** n/a

**WhyInterested:**

Public Safety is critical to our neighborhoods, businesses, and nearly every aspect of our community. I am very pleased with Franklin city government and consider myself a happy resident. Particularly, our public safety (Fire & Police departments) are second to none. This however, is a perishable commodity. I would like to work with the other Commissioners collaboratively and offer my professional knowledge and life experience to keep our Fire and Police Departments successful. There are many pressures in today's society relating to public safety. The citizen oversight process of our public safety departments is a unique and vitally important relationship. The community's voice and authority in that oversight is a sacred trust. I know that I would offer stability, fairness and perspective drawn from my own life and professional experience and as a concerned, invested citizen of Franklin.

**DescriptionofDutiesJob1:**

Elected Board member/trustee tasked with administering the provisions a \$6 billion pension fund. I currently serve as Chairman of the Investment Committee where portfolio allocation/management takes place. I also serve on the Administration & Operations Committee.

**DescriptionofDutiesJob2:**

Manage workplace issues relating to sworn police supervisors. Maintain positive relationships between the employer & employees. Work collaboratively to resolve disputes. Attend hearings when necessary. Resolve grievances. Compile and review records.

**DescriptionofDutiesJob3:**

Served 25 years as a Police Aide, Officer, Sergeant, and Lieutenant. Conducted routine patrol as an officer, field supervision as a Sergeant & Lieutenant. Was assigned/served in the Internal Affairs Division. Commanded small to very large deployments, special events, dignitary security.

**AdditionalExperience:**

Recognizing the collaborative nature of a five-person panel, I would hope to work with the other commissioners, respectfully drawing from each of our knowledge and experiences, to come together to make the very best decisions for Franklin public safety. Similar to Commissioner Martins' experience in the Fire Service, I know that my experience in the Police Service, my education in human resources and labor relations would add value to the panel. I have spent decades as a police officer, supervisor, and commander. I have dealt with staffing and budget issues successfully. I am very familiar with holding personnel accountable for their actions. I am experienced in serving on Boards



and Committees. I am keenly aware that public safety exists for the public, and our community deserves the very best from our people.

[See Current Results](#)

<b>APPROVAL</b> <i>slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b> 9/20/2022
<b>REPORTS &amp; RECOMMENDATIONS</b>	<b>Reconsideration of Action Taken at the 9/06/2022 Common Council Meeting to Establish 2022 Halloween Trick or Treat Observance (Alderman Eichmann, Alderman Hanneman, and Alderman Barber)</b>	<b>ITEM NUMBER</b>  G.1.

At the Common Council meeting of September 6, 2022, the following action was taken:

“Alderman Hanneman moved to establish Monday, October 31, 2022, from 5:00 p.m. to 7:00 p.m. for Halloween Trick or Treat observance in the City of Franklin. Seconded by Alderman Eichmann. On roll call, all voted Aye. Motion carried.

Alderman Eichmann, Alderman Hanneman, and Alderman Barber have each requested to place this item on the Common Council meeting agenda for potential reconsideration of the action taken at the meeting of September 6, 2022.

### COUNCIL ACTION REQUESTED

Motion to reconsider action taken on September 6, 2022, to establish October 31, 2022, from 4:00 p.m. to 7:00 p.m. as Halloween Trick or Treat observance in the City of Franklin.

AND (if a motion to reconsider passes),

Motion to establish the date of \_\_\_\_\_, 2022, from \_\_\_\_\_ p.m. to \_\_\_\_\_ p.m. for Halloween Trick of Treat observance in the City of Franklin.

Or other action on the subject matter.

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<p><b>APPROVAL</b></p> <p><i>slw</i></p>	<p><b>REQUEST FOR COUNCIL ACTION</b></p>	<p><b>MEETING DATE</b></p> <p><b>9/20/2022</b></p>
<p><b>REPORTS AND RECOMMENDATIONS</b></p>	<p>Recommendation from the Civic Celebrations Committee regarding the 2023 Independence Day Event</p>	<p><b>ITEM NUMBER</b></p> <p><b>G.2.</b></p>

At the September 6, 2022, Common Council meeting, the following action was taken:

“Alderman Barber moved to place on file the summary from the 2022 Civic Celebrations event, and further moved to refer the 2023 Franklin Independence Day event back to the Civic Celebrations Committee for review and recommendation back to the Common Council. Seconded by Alderwoman Eichmann. All voted Aye; motion carried.”

The Civic Celebrations Committee meeting met on September 19, 2022. Documentation from this meeting was not available at the time the Common Council packet was produced. Materials will be distributed at the September 20, 2022 meeting regarding the 2023 Independence Day Event.

**COUNCIL ACTION REQUESTED**

As directed.

<p style="text-align: center;"><b>APPROVAL</b></p> <p style="text-align: center;"><i>Slw</i></p>	<p style="text-align: center;"><b>REQUEST FOR COUNCIL ACTION</b></p>	<p style="text-align: center;"><b>MEETING DATE</b></p> <p style="text-align: center;"><b>9-6-22</b></p>
<p style="text-align: center;"><b>REPORTS AND RECOMMENDATIONS</b></p>	<p style="text-align: center;">Franklin Civic Celebrations Commission Report for the July 1-4, 2022 Civic Celebrations Event, Request for Spending Authority for 2023 and Summary of 2022 Activities</p>	<p style="text-align: center;"><b>ITEM NUMBER</b></p> <p style="text-align: center;"><b><u>G.1.</u></b></p>

Attached are reports from John Bergner, Chairman of the Civic Celebrations Commission, requesting authority from the Common Council for the Commission to sign and execute contracts and agreements for the 2023 Franklin Civic Celebration. The event is planned for three days, June 30, July 1 and 2, 2023.

**COUNCIL ACTION REQUESTED**

Motion to accept and place on file the summary from the 2022 Civic Celebrations event, and allow John Bergner to execute contracts and agreements for the 2023 Franklin Civic Celebration event.

OR

As directed.



## Request for Spending Authority 2023

AUGUST, 2022

I, John Bergner, Chairman of the Franklin Civic Celebrations Commission request authority to enter into contracts and agreements for the 2023 Franklin Civic Celebration. The dates and times will be:

- Friday , June 30th - 5:00 pm to 11:00 pm
- Saturday, July 1st - 3:00 pm to 11:00 pm
- Sunday, July 2nd - 1:00 pm to 11:00 pm

With your approval, I request authority to spend the following amounts for 2023:

	2023 Requested	2022 Actual
1. ENTERTAINMENT	\$31,000	\$33,800
2. FIREWORKS	\$30,000	\$0.00 (\$17,000, 2021)
3. RENTALS	\$20,000	\$19,296
4. PARADE	\$20,000	\$12,216
5 ICE CREAM	\$1,200	\$1,083
6. PRINTING	\$4,000	\$4,074
7. SUPPLIES, SIGNS,T-SHIRTS	\$9,000	\$8,225
8. MISC.	\$1,000	\$940
<b>Totals:</b>	<b>\$116,200</b>	<b>\$79,634</b>

*The 2022 Festival was a 4 day event and the 2023 Festival is a 3 day event.*

*Note: Police and DPW cost are not included in any of the amounts.*



# 2022 FRANKLIN CIVIC CELEBRATION

## JULY 1 -JULY 4

### INCOME STATEMENT

INCOME	2021 (3 days)	2022 (4 days)
1. DONATIONS	\$24,530.00	\$24,317.00
2. TICKET SALES DEPOSITS	\$77,392.50	\$82,858.00
3. FOOD (NET)	\$14,293.89	\$17,622.19
4. CITY FUNDS	\$13,000.00	\$13,000.00
5. CARNIVAL COMMISSION	\$23,591.26	\$25,609.55
6. NON FOOD/ LICENSES	\$450.00	\$250.00
7. HELICOPTER RIDES	\$0.00	\$0.00
8. ATM RENTAL	\$337.00	\$344.50
9. REDS NOVELTY	\$99.40	\$0.00
CASH FROM TICKET SALES:		
10. CASH PAID TO BADGER BAND	\$1,500.00	\$0.00
11. CORNHOLE	\$0.00	\$36.00
<b>TOTAL INCOME</b>	<b>\$155,194.05</b>	<b>\$164,037.24</b>

<b>EXPENSES</b>	<b>2021</b>	<b>2022</b>
1. ENTERTAINMENT	\$20,550.00	\$33,800.00
2. PRINTING, TICKETS	\$659.00	\$4,073.92
3. POLICE AND DPW	\$31,604.61	\$41,482.86
4. PARADE (INCLUDES FLAGS)	\$6,950.00	\$12,216.00
5. FIREWORKS	\$17,000.00	\$0.00
6. ICE CREAM	\$990.72	\$1,082.88
7. BEER	\$17,888.00	\$19,923.20
7A. WINE	\$0.00	\$1,575.00
8. SUPPLIES	\$2,032.25	\$1,420.89
9. RENTALS (TENTS, TABLES, CHAIRS, TOILETS)	\$18,646.00	\$16,795.95
10. T-SHIRTS-	\$3,247.00	\$4,538.00
11. SIGNS, BANNERS	\$1,102.80	\$1,878.05
12. BACKGROUND CHECKS	\$385.00	\$175.00
13. GOLF CARTS	\$850.00	\$940.00
14. DPW SUPPLIES (2022 FUEL \$4,830.45)	\$525.10	\$7930.12
15. POSTAGE	\$597.64	\$387.82
16. LIONS CLUB 1/2 NET PROFIT	\$0.00	\$2,490.00
17. SERVICES	\$0.00	\$385.10
18. THE WALL THAT HEALS	\$0.00	\$11,885.31
19. SODA (84 -12 PACKS)	\$0.00	\$366.66
20. ICE	\$0.00	\$1,368.01
<b>TOTAL EXPENSES</b>	<b>\$123,028.12</b>	<b>\$164,714.77</b>
<b>NET INCOME OR LOSS</b>	<b>\$32,165.93</b>	<b>-\$677.53</b>



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APPROVAL <i>slw</i>	REQUEST FOR COUNCIL ACTION	MEETING DATE 9/20/2022
REPORTS & RECOMMENDATIONS	<p><b>Project Development Agreement Amendment with Bear Development, LLC; Loomis and Ryan, Inc. Developers for Tax Incremental District No. 6 Mixed-Use Industrial, Commercial, Retail, Single-Family Residential and Open Space Uses (of an approximate 233-acre site generally located north and south of West Loomis Road, south of West Ryan Road, west of South 112th Street, east of South 124th Street, and north of West Oakwood Road). The Common Council may enter closed session pursuant to Wis. Stat. § 19.85(l)(e), to deliberate upon a Potential Amendment to Tax Incremental District No. 6 Mixed-Use Industrial, Commercial, Retail, Single-Family Residential and Open Space Uses Project Development Agreement, the negotiation of Agreement terms and the investing of public funds in relation thereto, for competitive and bargaining reasons, and to reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate</b></p>	ITEM NUMBER  <b>G.3.</b>

At the September 6, 2022 Common Council Meeting, the Council approved the following motion in regards to this item: "to proceed as discussed in closed session to complete and return with the TID Agreement at the September 20, 2022 Common Council meeting."

Attached is the proposed Project Development Agreement Amendment with Bear Development, LLC; Loomis and Ryan, Inc. Developers for TID No. 6 Mixed-Use Industrial, Commercial, Retail, Single-Family Residential and Open Space Uses of an approximate 233-acre site generally located north and south of West Loomis Road, south of West Ryan Road, west of South 112th Street, east of South 124th Street, and north of West Oakwood Road.

Staff recommends approval of the Development Agreement Amendment.

It is not anticipated to go into closed session for this item; however, if necessary, the Common Council may enter closed session pursuant to Wis. Stat. § 19.85(l)(e), to deliberate upon a Potential Amendment to Tax Incremental District No. 6 Mixed-Use Industrial, Commercial, Retail, Single-Family Residential and Open Space Uses Project Development Agreement, the negotiation of Agreement terms and the investing of public funds in relation thereto, for competitive and bargaining reasons, and to reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate.

### COUNCIL ACTION REQUESTED

Motion to approve the Project Development Agreement Amendment with Bear Development, LLC; Loomis and Ryan, Inc. Developers for Tax Incremental District No. 6 Mixed-Use Industrial, Commercial, Retail, Single-Family Residential and Open Space Uses of an approximate 233-acre site generally located north and south of West Loomis Road, south of West Ryan Road, west of South 112th Street, east of South 124th Street, and north of West Oakwood Road, with the finalizations of the exhibits and technical corrections to be made by the Director of Administration and City Attorney in advance of final execution.

**SECOND AMENDMENT TO TAX INCREMENTAL DISTRICT NO. 6  
DEVELOPMENT AGREEMENT  
BETWEEN THE CITY OF FRANKLIN AND  
LOOMIS AND RYAN, INC.**

**Mixed-Use Development generally located to the north and south of West Loomis Road,  
south of West Ryan Road, west of South 112th Street, east of South 124th Street, and  
north of West Oakwood Road, Franklin, Wisconsin**

**THIS SECOND AMENDMENT TO DEVELOPMENT AGREEMENT** (the "Amendment") is made and entered into as of \_\_\_\_\_, 2022 by and between **LOOMIS AND RYAN, INC.**, a Wisconsin domestic business corporation, its successors and/or assigns ("Developer"), and the **CITY OF FRANKLIN, WISCONSIN**, a Wisconsin municipal corporation ("City").

**RECITALS**

City and Developer acknowledge the following:

- A. The City and Developer entered into a Tax Incremental District No. 6 Development Agreement Between the City of Franklin and Loomis and Ryan, Inc. on November 29, 2018, for the property as described on Exhibit A annexed hereto; and the City and Developer entered into a First Amendment to Tax Incremental District No. 6 Development Agreement Between the City of Franklin and Loomis and Ryan, Inc. on September 30, 2019.
- B. On September 20, 2022, the City of Franklin Common Council authorized the execution of this Second Amendment by the Mayor, the Director of Finance and Treasurer and the City Clerk.
- C. Developer has approved this Amendment and authorized its execution by the appropriate representatives on its behalf.

**AGREEMENT**

NOW, THEREFORE, in consideration of the RECITALS and the terms and conditions set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Developer and City agree, that the below cited provisions of the Tax Incremental District No. 6 Development Agreement Between the City of Franklin and Loomis and Ryan, Inc., and the First Amendment thereto, are hereby amended as follows:

- 1. Article II Section I. is hereby amended as follows: in the first sentence therein, immediately following "as it may be expanded from time to time," add and insert "and residential property only during the 2022, 2023, and 2024 tax years,"; at the end of the last sentence in the introductory paragraph therein, immediately following "MRO Bond", add and insert "but will not accrue interest".

2. Article II Section L. is hereby amended as follows: in the first sentence therein, delete: “not less than” immediately before “\$3,100,000” and “(as it may be increased or decreased as expressly provided for herein)”, immediately following “\$3,100.000”.
3. Article II Section M. is hereby amended as follows: in the first sentence therein, delete: “the first day of the month after the City formally accepts all of the Public Improvements”, and in place thereof, insert: “January 1, 2024”, if all of the required public improvements are complete except the final lift on the roads. The final lift on the roads remain the responsibility of the developer, at which time the City requests the final lift be constructed.
4. Article II Section N. is hereby amended as follows: in the second paragraph therein, in “(ii)” therein, add, immediately following “per annum” and insert “plus all costs in conjunction with any amendments to this tax incremental financing district or this, or a related, development agreement as may occur over time”; and in the second paragraph therein, in “(iv)” therein, delete: “and any interest thereon at the MRO Bond rate” at the end thereof; in the third paragraph therein, in “(ii)” therein, add, immediately following “per annum” and insert “plus all costs in conjunction with any amendments to this tax incremental financing district or this, or a related, development agreement as may occur over time”; and in the third paragraph therein, in “(v)” therein, delete: “and any interest thereon at the MRO Bond rate” at the end thereof.
5. Article II Section R. is hereby amended to read as follows: Upon the completion of any additional phase(s) of the Project beyond those set forth on the UPDATED Exhibit A-1, limited to: Woodfield Trails Condominiums, three single family home lots, and a portion of the RISE Project (8/13ths of the increment generated from said parcel) shall be considered increment generated from additional phases and shall be allocated to pay principal and interest owed under the Expansion MRO, at a cost not to exceed \$1,500,000. The Developer shall submit documentation of its eligible project costs as defined hereunder. The City will consider and review the submittal, approval of which shall not be unreasonably withheld, and issue an Expansion MRO Bond to the Developer in an amount equal to the approved eligible project costs, including interest beginning to accrue on the first of the year following the year that the related improvement is included in the assessed value for the property, which shall be payable as otherwise set forth herein.

The interest to be paid on any Expansion MRO Bond to be issued hereunder shall be fixed at 5.5% per annum.

Any Expansion MRO Bond shall have a term that extends until the earlier of its payment in full or March 1, 2038.

Eligible project costs in regard to the Expansion MRO shall include improvements related to the following: Sanitary Sewer System; Public Water System; Storm Water System; Street and Sidewalk Paving; Grading; Public Street Trees; Public Street

Lights; Public Street Signs; Underground Natural Gas & Electric; and Engineering and Inspections Costs which will not be more than 15% of the improvement or project development improvement component to which it applies. Not included in eligible project costs are the following: Attorney's Fees, Real Estate Acquisition Costs; Finders Fees; and similar costs or fees. The eligible project costs also include up to \$50,000, if needed, not to exceed the actual cost, for the easement needed from Copart of Connecticut, Inc. (Property Tax Key No. 939-9995-001) for City Utilities.

6. Exhibit A Property Legal Description is hereby amended to read as annexed hereto.
7. Exhibit A-1 Project/Phase Estimated Schedule is hereby amended to read as annexed hereto.
8. Exhibit H Projected Annual Increment and Debt Service is hereby amended to read as annexed hereto.
9. Exhibit I List of Certain Properties is hereby amended to read as annexed hereto.
10. Except as hereby amended, the Original Tax Incremental District No. 6 Development Agreement Between the City of Franklin and Loomis and Ryan, Inc., as previously amended, shall remain in full force and effect in accordance with its terms.

[Signature pages follow.]

IN WITNESS WHEREOF, this Agreement is executed as of the date first above written.

**Loomis and Ryan, Inc.**

By: \_\_\_\_\_  
(Name and Title)

Date: \_\_\_\_\_

STATE OF WISCONSIN    )  
  )ss.  
\_\_\_\_\_ COUNTY        )

Personally appeared before me this \_\_\_\_ day of \_\_\_\_\_, 2022, the above-named \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, to me known to be the persons who executed the foregoing agreement on behalf of Loomis and Ryan, Inc. and by its authority.

\_\_\_\_\_  
Notary Public State of Wisconsin  
My commission expires: \_\_\_\_\_

**City of Franklin, Wisconsin**

By: \_\_\_\_\_  
Stephen R. Olson, Mayor  
Date: \_\_\_\_\_

Attest: \_\_\_\_\_  
Sandra L. Wesolowski, City Clerk  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Denise Gilbert, Director of Finance and  
Treasurer  
Date: \_\_\_\_\_

STATE OF WISCONSIN    )  
  )ss.  
MILWAUKEE COUNTY    )

Personally appeared before me this \_\_\_\_ day of \_\_\_\_\_, 2022, the above-named Stephen R. Olson, Sandra L. Wesolowski and Denise Gilbert, Mayor, City Clerk and Director of Finance and Treasurer, respectively, of the City of Franklin, Wisconsin, to me known to be the persons who executed the foregoing agreement on behalf of the City and by its authority.

\_\_\_\_\_  
Notary Public State of Wisconsin  
My commission expires: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
Jesse A. Wesolowski, City Attorney  
Date: \_\_\_\_\_

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

## EXHIBIT A

**TO BE UPDATED**

### Property Legal Description

All that part of the East 1/2 of the Northwest 1/4 of Section 30, Township 5 North, Range 21 East, in the City of Franklin, County of Milwaukee, State of Wisconsin, lying South of Loomis Road. EXCEPTING THEREFROM that part thereof described in Warranty Deed recorded as Document No. 7324119.

Tax Key No. 891-9989-001

The Northeast 1/4 of the Northeast 1/4 of the Southwest 1/4 of Section 30, Town 5 North, Range 21 East, in the City of Franklin, County of Milwaukee, State of Wisconsin.

Tax Key No. 939-9993-000

The West 1/2 of the Northeast 1/4 of Section 30, Town 5 North, Range 21 East, in the City of Franklin, County of Milwaukee, State of Wisconsin, excepting therefrom those parts thereof described in Warranty Deeds recorded in Volume 128 of Deeds on page 16 and as Documents No. 1564000, 2039562, 2941807 and 3003559.

Tax Key No. 892-9992-000

Parcel 2 of Certified Survey Map No. 3104, being a part of the North West 1/4 of Section 30, Township 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin, recorded on June 29, 1977, in Reel 1028, Images 362 to 364 inclusive, as Document No. 5115896, EXCEPTING THEREFROM the following: That part of Parcel 2 of Certified Survey Map No. 3104, recorded in Reel 1028 Image 362, in the Milwaukee County Registry located in the Northeast 1/4 of the Northwest 1/4 of Section 30, Township 5 North, Range 21 East, described as follows: Commencing at the Northeast corner of said Northwest 1/4; thence along the North line of said Northwest 1/4 North 89°31'45<sup>11</sup> West 25.00 feet to the Northerly extension of the East line of said Parcel 2; thence along said extension and said East line South 00°34'43<sup>11</sup> East 218.22 feet to the point of beginning; thence South 41°23'51<sup>11</sup> West 109.60 feet to a curve; thence Southwesterly 445.25 feet along the arc of a curve concave Northerly having a radius of 1789.86 feet (the chord bears South 48°31'27<sup>11</sup> West 444.10 feet) to the West line of said Parcel 2 and a Reference Point <sup>11</sup>A<sup>11</sup>; thence along said West Line South 05°53'30<sup>11</sup> West 56.16 feet to the South line of said Parcel 2 and a curve; thence Northeasterly 355.43 feet along the arc of a curve concave to the North having a radius of 1081.28 feet (the chord bears North 52°56'50<sup>11</sup> East 353.83 feet); thence North 43°31'50<sup>11</sup> East 91.18 feet to a curve; thence Northeasterly 97.69 feet along the arc of the curve concave Northerly having a radius of 5664.65 feet (the chord bears North 43°02'14<sup>11</sup> East 97.59 feet) to the East line of said Parcel 2; thence along said line North 00°34'43<sup>11</sup> West 81.57 feet to the point of beginning. Also, That part of said Northeast 1/4 of the Northwest 1/4 of Section 30, described as follows: Beginning at the above Reference Point "A"; thence along the West line of said Parcel 2 and the extension of, South 05°53'30<sup>11</sup> West 132.14 feet to the transit line of U.S.H. 45 S.T.H. 36 and the owner's South property line; thence Southwesterly 75.21 feet along the transit line and the arc of a curve concave to the North having a radius of 1145.92 feet (the chord bears South 66°22'59<sup>11</sup> West 75.20 feet) to the owner's west property line; thence along said West line North 25°11'03<sup>11</sup> West 93.89 feet to a curve; thence Northeasterly 144.45 feet along the arc of the curve concave to the North having a radius of 1789.86 feet (the chord bears North 57°57'45<sup>11</sup> East 144.41 feet) to the point of beginning.

Tax Key No. 891-9989-004



THAT PART OF THE NORTHEAST ¼ OF SECTION 30, IN TOWNSHIP 5 NORTH, RANGE 21 EAST, IN THE TOWN OF FRANKLIN, (NOW KNOWN AS) CITY OF FRANKLIN, COUNTY OF MILWAUKEE, STATE OF WISCONSIN, BOUNDED AND DESCRIBED AS FOLLOWS

COMMENCING AT THE NORTHWEST CORNER OF SAID ¼ SECTION;  
RUNNING THENCE SOUTH 0 DEGREES 30 MINUTES 00 SECONDS WEST ALONG WEST LINE OF SAID ¼ SECTION 370.26 FEET TO A POINT ON THE OLD CENTER LINE OF LOOMIS ROAD, BEING THE POINT OF BEGINNING OF THE LAND HEREIN DESCRIBED; RUNNING THENCE NORTH 44 DEGREES 10 MINUTES 48 SECONDS EAST ALONG SAID OLD CENTER LINE 203.32 FEET TO A POINT; THENCE SOUTH 88 DEGREES 18 MINUTES 30 SECONDS EAST 131.43 FEET TO A POINT, THENCE , SOUTH 0 DEGREES 30 MINUTES 00 SECONDS WEST 301.07 FEET TO A POINT; THENCE NORTH 88 DEGREES 18 MINUTES 30 SECONDS WEST 271.75 FEET TO A POINT ON THE WEST LINE OF SAID ¼ SECTION; THENCE NORTH 0 DEGREES 30 MINUTES 00 SECONDS EAST 150.23 FEET TO THE PLACE OF BEGINNING, EXPECTING THAT PORTION THEREOF CONVEYED TO MILWAUKEE COUNTY BY WARRANTY DEED AS DOCUMENT NO. 2039562

Tax Key No. 892 9996-000

Part of the West ½ of the North East ¼, of Section 30, Township 5 North, Range 21 East, In the City of Franklin, County of Milwaukee and State of Wisconsin , described as follows, to-wit : Commencing at a point in the North Line and 326.54 feet East of the North West corner of said North East ¼ of Section 30; thence East along the North line of the ¼ Section, 100 feet to a point; thence South and parallel to the West line of ¼ Section 220.2 feet to a point; thence West and parallel to the North line of the 1/4 Section 296.57 feet to a point in the center of Loomis Road; thence in a Northeasterly direction along the center of said road, 292.85 feet to the place of beginning, except that part thereof taken by Award of Damages recorded July 30, 1935, in Volume 1432 of Deeds, page 382 as Document No. 2046276 described as follows: That part of the North East ¼ of Section 30, Township 5 North, Range 21 East, in the City of Franklin bounded and described as follows: Commencing at the North West corner of said ¼ Section; running thence South 88° 18' 30" East along the North line of said ¼ section, 327 feet to a point on the new center line of Loomis Road, said point being the point of beginning of the land herein to be conveyed; running thence South 42° 26' 30" West along the said new center line, as relocated by the Wisconsin Highway Commission in the year 1935, 141.30 feet to a point; thence South 47° 33' 30 " East 45 feet to a point on the new Southeasterly right-of-way line of Loomis Road; thence South 42° 26' 30" West along said new right-of-way line, said new line being 45 feet Southeasterly from (at right angles) and parallel to the new center line of Loomis Road 110.60 feet to a point; thence North 88° 18' 30" West 63.6 feet to a point; thence North 42° 56' East 292.85 feet to a point on the North line of said ¼ Section; thence South 88° 18' 30" East along said North line 0.46 feet to the point of beginning excepting therefrom the lands now used for highway purposes,

Tax Key No. 892-9995-000

The East 185 feet of the West 915 Feet of the South 250 feet of the North 973 feet of the Northeast ¼ of Section 30, Township 5 North, Range 21 East in the City of Franklin, County of Milwaukee, State of Wisconsin.

Tax Key No. 892-9993-000

Part of the North East One-quarter (1/4) of Section Thirty (30), in Township Five (5) North, Range Twenty-one (21) East, in the City Franklin, bounded and described as follows: Beginning at a point in the North line of said ¼ Section 730 feet East of the Northwest corner thereof; thence South and parallel to the West line of said ¼ section 723 feet to a point; thence East and parallel to the North line of said ¼ Section 185 feet to a point; thence North and parallel the West line of said ¼ Section 723 feet to a point on the North line of said ¼ Section; thence West along the North line of said ¼ Section 185 feet to the point of beginning. Together with a perpetual right of way and easement over a 5-foot-wide strip of land for roadway purposes for egress and ingress lying West of and immediately adjacent to the West line of land herein above described from the Ryan Road along the entire West line of the land described, said land being situated in the City of Franklin, County of Milwaukee and State of Wisconsin.

Tax Key No. 892-9994-000

# EXHIBIT A-1 Project/Phase Estimated Schedule

City of Franklin, Wisconsin Tax Incremental District # 6 Development Assumptions <sup>1</sup>		Development Contributing to the "MRD Band" <sup>2</sup>										Development Contributing to the "Additional MRD Band" <sup>3</sup>					Woodfield Trails		Min. Value Requirements		Const. Year							
Const. Year	Actual	Original Exhibit A-1										Woodfield Trails					Annual Total	Co-Part	Const. Year	Co-Part								
		Strouds	Corner of 36/Nyan	Loomis Frontage	Lot 1 (N. of Rise Parcel)	High Cottage	Rise (5/13ths)	Ryan Meadows	Copart	Rise (8/13ths)	Condos	Single Family (3 lots)	Min. Value Requirements Band <sup>2</sup>	Min. Value Requirements Strip <sup>2</sup>	2019	2020												
1 2019	(11,200)																											
2 2020	1,679,800																											
3 2021	1,056,000																											
4 2022																												
5 2023																												
6 2024																												
7 2025																												
8 2026																												
9 2027																												
10 2028																												
11 2029																												
12 2030																												
13 2031																												
14 2032																												
15 2033																												
16 2034																												
17 2035																												
18 2036																												
19 2037																												
20 2038																												
<b>Totals</b>	<b>2,774,600</b>	<b>0</b>	<b>1,500,000</b>	<b>3,000,000</b>	<b>20,000,000</b>	<b>0</b>	<b>5,923,077</b>	<b>39,500,000</b>	<b>0</b>	<b>5,476,933</b>	<b>0</b>	<b>11,700,000</b>	<b>2,000,000</b>	<b>85,874,600</b>														

Notes:  
<sup>1</sup> Assumed valuations provided by Developer. Increment contributing to the MRD Bond and Expansion MRD will be based on actual value and tax increment generated, may vary from projections, is not guaranteed.  
<sup>2</sup> Assumed generated by development in the original TID boundary and included as part of Exhibit A-1 of the Development Agreement as proposed to be further modified through an additional amendment to the Development Agreement.  
<sup>3</sup> Minimum value requirement applies to non-residential property only per Article 11, 1 of the Development Agreement. Developer may transfer the minimum value requirement to purchasers of land within the District.

Table 1 - Development Assumptions

# EXHIBIT H

## Projected Annual Increment and Debt Service

Year	Tax Incremental District # 6			Sales Tax Incremental District # 6								Special Assessments				Municipal Bonds						Additional MWD Bond <sup>1</sup>				Costs			G.O. Bond & MWD							
	Cash flow projection			Revenue			Expenses			MWD Bond			Municipal Bonds			MWD Bond			Total			Interest			Capital			Total			Total					
	Revenue	Expenses	Net	Revenue	Expenses	Net	Revenue	Expenses	Net	Revenue	Expenses	Net	Revenue	Expenses	Net	Revenue	Expenses	Net	Revenue	Expenses	Net	Revenue	Expenses	Net	Revenue	Expenses	Net	Revenue	Expenses	Net	Revenue	Expenses	Net	Revenue	Expenses	Net
2018	0	0	0	8,363,000	278,119	8,641,119	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
2019	0	0	0	8,363,000	278,119	8,641,119	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
2020	0	0	0	8,363,000	278,119	8,641,119	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2021	0	0	0	8,363,000	278,119	8,641,119	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2022	0	0	0	8,363,000	278,119	8,641,119	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2023	0	0	0	8,363,000	278,119	8,641,119	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2024	0	0	0	8,363,000	278,119	8,641,119	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2025	0	0	0	8,363,000	278,119	8,641,119	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2026	0	0	0	8,363,000	278,119	8,641,119	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2027	0	0	0	8,363,000	278,119	8,641,119	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2028	0	0	0	8,363,000	278,119	8,641,119	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2029	0	0	0	8,363,000	278,119	8,641,119	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2030	0	0	0	8,363,000	278,119	8,641,119	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2031	0	0	0	8,363,000	278,119	8,641,119	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2032	0	0	0	8,363,000	278,119	8,641,119	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2033	0	0	0	8,363,000	278,119	8,641,119	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2034	0	0	0	8,363,000	278,119	8,641,119	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2035	0	0	0	8,363,000	278,119	8,641,119	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2036	0	0	0	8,363,000	278,119	8,641,119	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2037	0	0	0	8,363,000	278,119	8,641,119	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2038	0	0	0	8,363,000	278,119	8,641,119	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2039	0	0	0	8,363,000	278,119	8,641,119	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2040	0	0	0	8,363,000	278,119	8,641,119	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>8,363,000</b>	<b>278,119</b>	<b>8,641,119</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	

Table 3 - Cash Flow

**Notes:**  
 1. Proceeds of LT Debt shown in 2022 includes \$754,433 for City consultant's utility extensions.  
 2. Interest on all City of Franklin (CAI) 5-28-2022 sale results (including 3.0%) plus 1.2%.  
 3. The interest on the 5.00% MWD Bond is based on the 5.00% rate.  
 4. The interest on the 5.00% MWD Bond is based on the 5.00% rate.  
 5. The interest on the 5.00% MWD Bond is based on the 5.00% rate.  
 \*The figure shown in 2021 reflects the amount of debt service to be paid on the 5.00% bond, if needed, for annual cost incurred for obtaining a statement from OGA for liquidation of City values.

**EXHIBIT I**

**TO BE UPDATED**

**LIST OF CERTAIN PROPERTIES**

<b>TAX KEY</b>	<b>ADDRESS</b>	<b>ACREAGE</b>
8899991004	0 S. 116 <sup>th</sup> Street, Franklin, WI	5.96
8899991005	9400 S. 116 <sup>th</sup> Street, Franklin, WI	5.63
8899991006	11440 W. Loomis Road, Franklin, WI	1.38
8899991006	0 W. Loomis Road, Franklin, WI	1.97
8919991000	11736 W. Loomis Road, Franklin, WI	1.44
89199902000	11808 W. Loomis Road, Franklin, WI	1.43
8919989004	11607 W. Ryan Road, Franklin, WI	4.75
8919002000	11906 W. Loomis Road, Franklin, WI	1.53
8919001000	11908 W. Loomis Road, Franklin, WI	1.98
8919993000	12000 W. Loomis Road, Franklin, WI	8.57
8919989002	0 W. Loomis Road, Franklin, WI	54.03
8899992000	11223 W. Loomis Road, Franklin, WI	9.94

<b>APPROVAL</b>  <i>slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b> <b>9/20/2022</b>
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<b>REPORTS AND RECOMMENDATIONS</b>	<b>A Resolution Approving an Amendment to the Project Plan and Boundaries of Tax Incremental District No. 6, City of Franklin, Wisconsin</b>	<b>ITEM NUMBER</b> <b>G.4.</b>
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**Background**

Tax Incremental District ("TID") No. 6 ("District") is a 233-acre Mixed Use District created on October 16, 2018, to pay the cost of public infrastructure and development incentives necessary to allow for commercial, industrial, and residential development ("Project"). On May 5, 2020, the District's Project Plan was amended to add territory. The amendment also increased the total of projected project costs to be incurred.

In June 2022, TID 6 parcels and non-TID parcels were recorded in a Certified Survey Map. The TID 6 Project Plan Amendment adds the non-TID parcel into TID 6. This property is the site of the proposed Rise Incubator.

Bear Development requests approval of the TID 6 Project Plan Amendment, which includes addition of 8.42 acres of the Rise Incubator site.

**COUNCIL ACTION REQUESTED**

Motion to adopt Resolution No. 2022-\_\_\_\_\_, A Resolution Approving an Amendment to the Project Plan and Boundaries of Tax Incremental District No. 6, City of Franklin, Wisconsin.

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

A RESOLUTION APPROVING AN AMENDMENT TO THE PROJECT PLAN  
AND BOUNDARIES OF TAX INCREMENTAL DISTRICT NO. 6,  
CITY OF FRANKLIN, WISCONSIN

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WHEREAS, the City of Franklin (the "City") has determined that use of Tax Incremental Financing is required to promote development and redevelopment within the City; and

WHEREAS, Tax Incremental District No. 6 (the "District") was created by the City on October 16, 2018 as a mixed-use district; and

WHEREAS, the City now desires to amend the Project Plan and boundaries of the District (the "Amendment") in accordance with the provisions of Wisconsin Statutes Section 66.1105 (the "Tax Increment Law"); and

WHEREAS, such Amendment will:

- a. Add territory to the District as permitted under Wisconsin Statutes Section 66.1105(4)(h)2.
- b. Amend the categories, locations, or costs of project costs to be made as permitted under Wisconsin Statutes Section 66.1105(4)(h)1.; and

WHEREAS, an amended Project Plan for the District has been prepared that includes:

- a. A statement listing of the kind, number and location of all proposed public works or improvements within the District, or to the extent provided in Wisconsin Statutes Sections 66.1105(2)(f)1.k. and 66.1105(2)(f)1.n., outside of the District;
- b. An economic feasibility study;
- c. A detailed list of estimated project costs;
- d. A description of the methods of financing all estimated project costs and the time when the related costs or monetary obligations are to be incurred;
- e. A map showing existing uses and conditions of real property in the District;
- f. A map showing proposed improvements and uses in the District;
- g. Proposed changes of zoning ordinances, master plan, map, building codes and City ordinances;
- h. A list of estimated non-project costs;
- i. A statement of the proposed plan for relocation of any persons to be displaced;
- j. A statement indicating how the amendment of the District promotes the orderly development of the City;
- k. An opinion of the City Attorney or of an attorney retained by the City advising that the Project Plan is complete and complies with Wisconsin Statutes Section 66.1105(4)(f).; and

WHEREAS, prior to its publication, a copy of the notice of public hearing was sent to the chief executive officers of Milwaukee County, the Franklin School District, and the Milwaukee Area Technical College District, and any other entities having the power to levy taxes on property located within the District, in accordance with the procedures specified in the Tax Increment Law; and

WHEREAS, in accordance with the procedures specified in the Tax Increment Law, the Plan Commission, on September 8, 2022 held a public hearing concerning the proposed amendment to the Project Plan and boundaries of the District, providing interested parties a reasonable opportunity to express their views thereon; and

WHEREAS, after said public hearing, the Plan Commission designated the boundaries of the amended district, adopted the Project Plan, and recommended to the Common Council that it amend the Project Plan and boundaries for the District.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Franklin that:

1. The boundaries of the District named "Tax Incremental District No. 6, City of Franklin", are hereby amended as identified in Exhibit A of this Resolution.
2. The territory being added shall become part of the District effective as of January 1, 2022.
3. The Common Council finds and declares that:
  - (a) Not less than 50% by area of the real property within the District, as amended, is suitable for mixed-use development as defined by Wisconsin Statutes Section 66.1105(2)(cm).
  - (b) Based upon the finding stated in 3.a. above, the District was declared to be, and remains, a mixed-use district based on the identification and classification of the property included within the District.
  - (c) The improvement of such area is likely to enhance significantly the value of substantially all of the other real property in the District.
  - (d) The equalized value of the taxable property within the territory to be added to the District plus the value increment of all other existing tax incremental districts within the City, does not exceed 12% of the total equalized value of taxable property within the City.
  - (e) That there are no parcels to be added to the District that were annexed by the City within the preceding three-year period.



- (f) The City estimates that less than 35% of the territory within the District will be devoted to retail business at the end of the District's maximum expenditure period, pursuant to Wisconsin Statutes Section 66.1105(5)(b).
- (g) The project costs relate directly to promoting mixed-use development in the District consistent with the purpose for which the District is created.
- (h) Lands proposed for newly platted residential development comprise no more than 35% of the real property area within the District, as amended.
- (i) Costs related to newly-platted residential development may be incurred based on the proposed development having a density of at least three (3) units per acre as defined in Wisconsin Statutes Section 66.1105(2)(f)3.a.

4. The Project Plan for "Tax Incremental District No. 6, City of Franklin" (see Exhibit B), as amended, is approved, and the City further finds the Project Plan is feasible and in conformity with the master plan of the City.

BE IT FURTHER RESOLVED THAT the City Clerk is hereby authorized and directed to apply to the Wisconsin Department of Revenue, in such form as may be prescribed, for a "Determination of Tax Incremental Base", as of January 1, 2022, pursuant to the provisions of Wisconsin Statutes Section 66.1105(5)(b).

BE IT FURTHER RESOLVED THAT pursuant to Section 66.1105(5)(f) of the Wisconsin Statutes that the City Assessor is hereby authorized and directed to identify upon the assessment roll returned and examined under Wisconsin Statutes Section 70.45, those parcels of property which are within the District, specifying thereon the name of the said District, and the City Clerk is hereby authorized and directed to make similar notations on the tax roll made under Section 70.65 of the Wisconsin Statutes.

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

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

APPROVED:

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

ATTEST:

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

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

September 8, 2022

PROJECT PLAN AMENDMENT

# City of Franklin, Wisconsin

## Tax Incremental District No. 6



Prepared by:

Ehlers

N21W23350 Ridgeview Parkway West,

Suite 100

Waukesha, WI 53188

---

**BUILDING COMMUNITIES. IT'S WHAT WE DO.**

## KEY DATES

Organizational Joint Review Board Meeting Held:	September 7, 2022
Public Hearing Held:	September 8, 2022
Approval by Plan Commission:	September 8, 2022
Adoption by Common Council:	Scheduled for Sep. 20, 2022
Approval by the Joint Review Board:	Scheduled for Sep. 28, 2022

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## **SECTION 1: Executive Summary**

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### **DESCRIPTION OF DISTRICT**

Tax Incremental District (“TID”) No. 6 (“District”) is a 233-acre Mixed Use District created on October 16, 2018, to pay the cost of public infrastructure and development incentives necessary to allow for commercial, industrial, and residential development (“Project”). On May 5, 2020, the District’s Project Plan was amended to add territory. The amendment also increased the total of projected Project Costs to be incurred.

### **PURPOSE OF AMENDMENT**

The purpose of this Amendment (referred to hereafter as the “Plan,” the “Amendment,” or the “Plan Amendment”), is to:

- Add territory to the District as permitted under Wis. Stat. § 66.1105(4)(h)2. A portion of tax parcel 938-9994-004 was combined by Certified Survey Map with adjacent property located in the District. Since the District can consist only of whole parcels, the territory amendment is needed to align the District’s boundary with the new parcel boundary. The area to be incorporated into the District, along with areas within the existing District, will be the site for the RISE Commercial District, an 18-building business incubator. This Amendment is the second of four permitted territory amendments available to the District.
- Amend the categories, locations, or costs of project costs to be made as permitted under Wis. Stat. § 66.1105(4)(h)1. Current projections anticipate total Project Cost expenditures of \$20 million, a decrease of approximately \$380,000 from the estimated costs included in the first amendment to the Plan. While this decrease does not necessitate an amendment to the Plan, costs have been updated since the Plan is being amended to add territory. There is no limit to the number of times a Project Plan can be amended to modify costs.

### **ESTIMATED TOTAL PROJECT COST EXPENDITURES**

The City anticipates making total expenditures of approximately \$20 million (“Project Costs”) to undertake the projects listed in this Plan Amendment reflecting a reduction of approximately \$380,000 as compared to the previous estimated total. Of the \$20 million in total estimated costs, approximately \$9.92 million has been spent as of the end of 2021. Remaining costs are detailed in this Plan Amendment.



## **INCREMENTAL VALUATION**

As of January 1, 2022, a total of \$2.72 million in incremental value has been created within the District. The City projects that total incremental land and improvements value of approximately \$85.8 million will result from the Project. Creation of this additional value will be made possible by the Project Costs made within the District. A table detailing assumptions as to the development timing and associated values is included in the Economic Feasibility Study located within this Plan.

## **EXPECTED TERMINATION OF DISTRICT**

Based on the Economic Feasibility Study located within Section 9 of this Plan, the City anticipates that the District will generate sufficient tax increment to pay all Project Costs within 13 of its allowable 20 years.

## **SUMMARY OF FINDINGS**

As required by Wis. Stat. § 66.1105, and as documented in this Plan and the exhibits contained and referenced herein, the following findings are made:

1. That “but for” the creation of this District, the development projected to occur as detailed in this Plan: 1) would not occur; or 2) would not occur in the manner, at the values, or within the timeframe desired by the City. The original Project Plan and subsequent first amendment identified the considerations noted below as factors necessitating creation of the District. These considerations remain applicable with respect to the Project Costs that have already been incurred, and to the prospective costs the City will incur to fully implement the Plan:
  - Some of the sites proposed for development have remained vacant for years due to lack of adequate infrastructure and ownership by multiple parties. Given that the sites have not developed as would have been expected under normal market conditions, it is the judgment of the City that the use of tax Incremental Financing will be required to provide the necessary infrastructure and inducements to encourage development on the sites consistent with that desired by the City.
  - To make the areas included within the District suitable for development, the City will need to make a substantial investment to pay for the costs of property, right-of-way and easement acquisition, site preparation, installation of utilities; installation of streets and related streetscape items; development incentive payments, and other associated costs. Due to the extensive initial investment in public infrastructure that is required in order to allow development to occur, the City has determined that development of the area will not occur solely as a result of private

investment. Accordingly, the City finds that absent the use of Tax Incremental District, development of the area is unlikely to occur.

- In June of 2015, Graef conducted a Planning and Engineering Analysis of the land near W. Loomis Road (STH 36) and W. Ryan Road, referred to as Area G. GRAEF concluded that the City should work to create a Tax Increment District around this area to aid in the cost of the required infrastructure for development to occur.
2. **The economic benefits of the District, as measured by increased employment, business and personal income, and property value, are sufficient to compensate for the cost of the improvements.** In making this determination, the City has considered that in addition to the incremental value to be created, that the Project is expected to create residential housing, industrial sites and commercial sites to meet market demand. Employment and commercial opportunities related to the construction and operation of the Project are anticipated as well.
  3. **The benefits of the proposal outweigh the anticipated tax increments to be paid by the owners of property in the overlying taxing jurisdictions.** As required by Wis. Stat. § 66.1105(4)(i)4., a calculation of the share of projected tax increments estimated to be paid by the owners of property in the overlying taxing jurisdictions has been prepared and can be found in this Plan. However, because the Project would not occur without the use of tax incremental financing, these tax increments would not be paid but for creation of the District. Accordingly, the City finds that the benefits expected to be realized as set forth in this Plan outweigh the value of the tax increments to be invested in the Project.
  4. Not less than 50% by area of the real property within the District, as amended, is suitable for mixed use development as defined by Wis. Stat. § 66.1105(2)(cm).
  5. Based on the foregoing finding, the District remains designated as a mixed-use district.
  6. The Project Costs relate directly to promoting mixed use development in the District, consistent with the purpose for which the District is created. Lands proposed for or developed as newly-platted residential development comprise no more than 35% of the real property area within the amended District. Costs related to newly-platted residential development may be incurred based on the proposed development having a density of at least three (3) units per acre as defined in Wis. Stat. § 66.1105(2)(f)3.a.

7. Improvements to be made in the District are likely to significantly enhance the value of substantially all of the other real property in the District.
8. The equalized value of taxable property within the territory to be added to the District, plus the incremental value of all existing tax incremental districts within the City does not exceed 12% of the total equalized value of taxable property within the City.
9. The Plan for the District is feasible and is in conformity with the Master Plan of the City.
10. The City estimates that less than 35% of the territory within the District will be devoted to retail business at the end of the District's maximum expenditure period, pursuant to Wis. Stat. § 66.1105(5)(b).
11. That there are no parcels to be included within the District that were annexed by the City within the preceding three-year period.

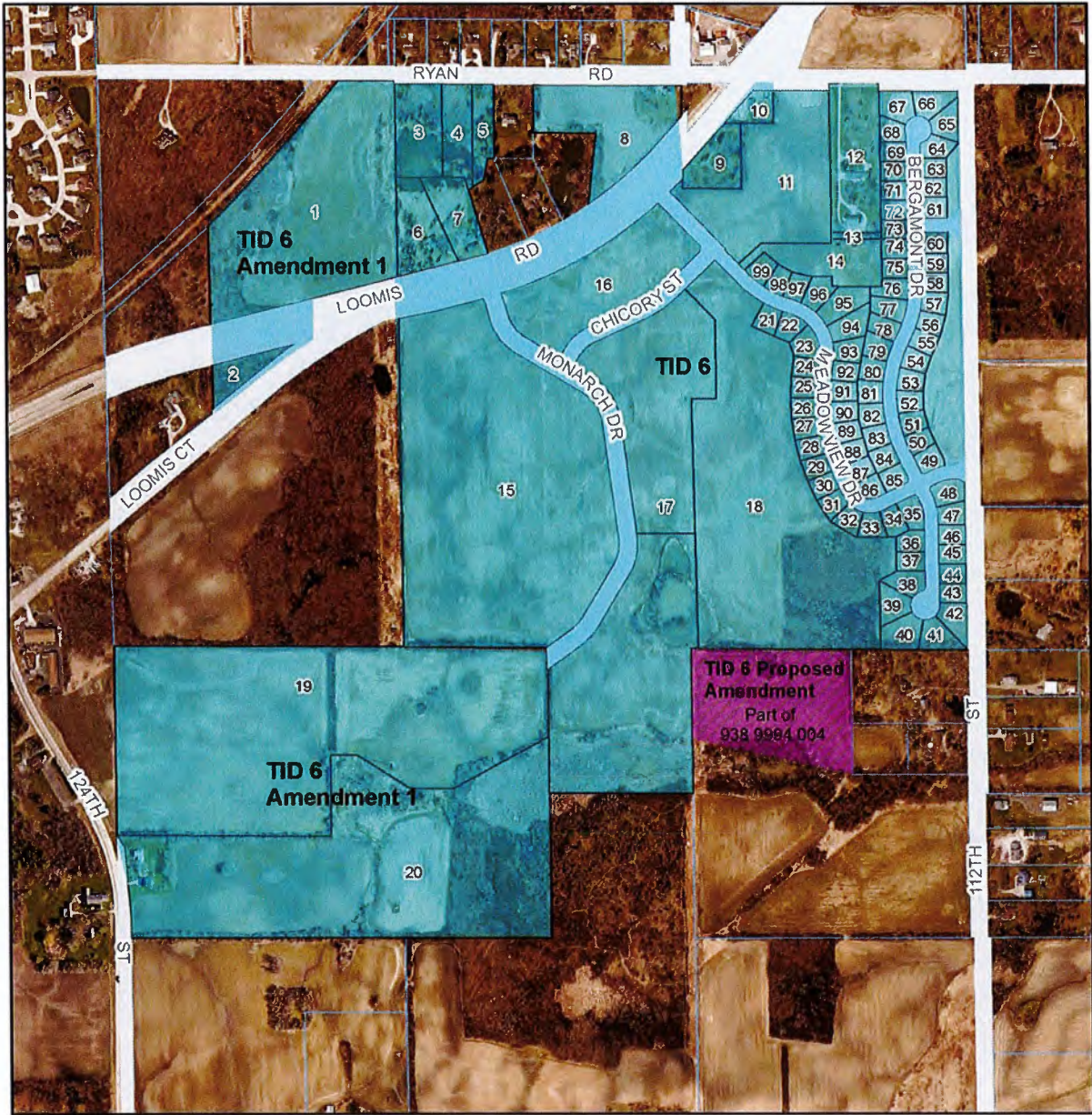
## **SECTION 2: Preliminary Maps of Original District Boundary and Territory to be Added**

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Maps Found on Following Pages.

To the extent District boundaries include wetlands identified on a map prepared under Wis. Stat. § 23.32, the wetlands are excluded from the District.





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0 100 200 400 Feet

### Existing TID #6 and Proposed Amendment

Parcel Update Through 2021

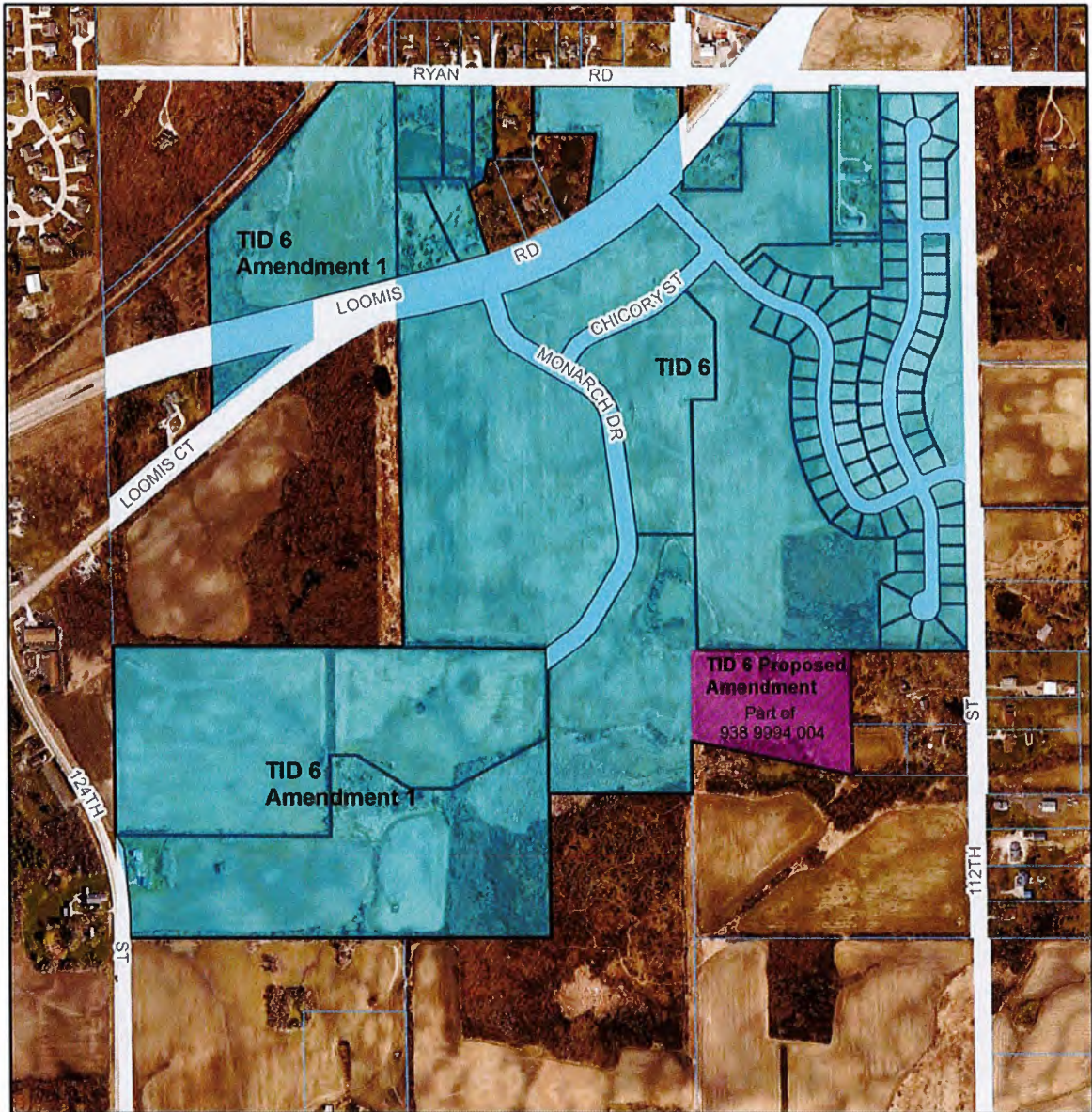
Existing TID #6  
 TID 6 Proposed Amendment

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

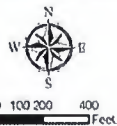
File: TID6  
 C:\p\planning\TID6\Jan01\_2022\TID6\_01\_2022.mxd

Map of Parcel Boundary on January 1, 2022





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### Existing TID #6 and Proposed Amendment

Includes CSM Parcel Update in 2022

- Existing TID #6
- TID #6 Proposed Amendment

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

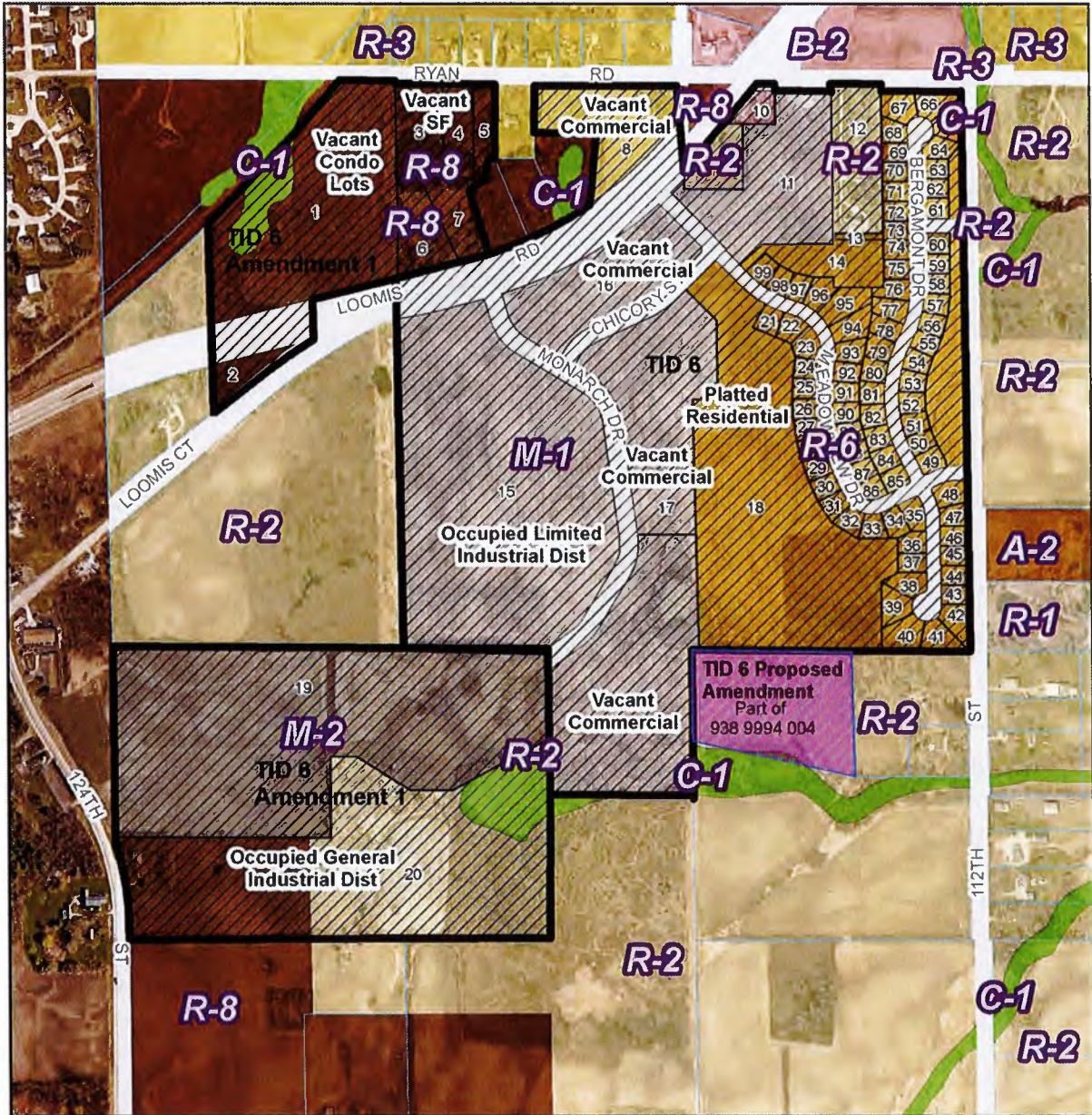
Map of Parcel Boundary at District Creation  
 (See Also Section 18 for Copy of Certified Survey Map)

**SECTION 3:**  
**Map Showing Existing Uses and Conditions Within the  
Territory to be Added**

---

Map Found on Following Page.





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### Existing TID #6 and Proposed Amendment

Includes CSM Parcel Update in 2022

Existing TID #6	<b>Zoning District</b>	M-1	R-3
TID 6 Proposed Amendment	A-2	M-2	R-6
	B-2	R-1	R-8
	C-1	R-2	

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

Map #1022  
Created from GIS System #1022 in August of 2022 update

## **SECTION 4: Preliminary Identification of Parcels to be Added**

---

Parcels within the original District, and the first territory amendment, total to 233.11 acres with mixed uses as identified on the table below.

### Current District Mixed Use Allocation

	Acres	Suitable For Mixed Use		
		Commercial	Industrial	Residential
Original District	145.00	25.42	30.20	37.82
First Amendment	88.11	61.25	22.32	4.54
<b>Total</b>	<b>233.11</b>	<b>86.67</b>	<b>52.52</b>	<b>42.36</b>

The Amendment adds 8.4175 acres of territory to the District. As of January 1, 2022, this area was part of tax parcel 938-9994-004 and became a separate parcel following approval of a Certified Survey Map recorded on June 28, 2022. A copy of the Certified Survey Map is included in Section 18 for reference. The estimated addition to base value reflects an apportionment of the total \$7,700 parcel value based on 31.93 total acres.

### Identification of Territory to be Added to District

Parcel #	938-9994-004 (Part of)
Acres	8.42
Estimated Base Value	\$2,000
Use	Suitable for Commercial Development

The added territory, along with a portion of the existing District territory, will be the site for the RISE Commercial District, an 18-building business incubator. Based on this use, the City has classified the added acres as suitable for commercial development. The table on the following page reflects the post-Amendment mixed use allocations and confirms that more than 50% of the territory in the Amended District is suitable for mixed use development, and that no more than 35% of the area has or will be developed for newly-platted residential uses.

Post Amendment Mixed Use Allocation

Acres Suitable for:	Existing District	Added Territory	Total	Percentage
Commercial Use	86.67	8.42	95.09	39.37%
Industrial Use	52.52		52.52	21.74%
Residential Use	42.36		42.36	17.54%
<b>Total Suitable Acres</b>	<b>181.55</b>	<b>8.42</b>	<b>189.97</b>	<b>78.65%</b>
Not Suitable for Mixed Use Development	51.56		51.56	21.35%
<b>Total Acres</b>	<b>233.11</b>	<b>8.42</b>	<b>241.53</b>	<b>100%</b>



## **SECTION 5: Equalized Value Test**

---

The following calculations demonstrate that the City expects to be in compliance with Wis. Stat. § 66.1105(4)(gm)4.c., which requires that the equalized value of the taxable property in the proposed District, plus the value increment of all existing tax incremental districts, does not exceed 12% of the total equalized value of taxable property within the City.

### Calculation of City Equalized Value Limit

City TID IN Equalized Value (Jan. 1, 2022)	\$ 5,423,303,100
TID Valuation Limit @ 12% of Above Value	\$ 650,796,372

### Calculation of Value Subject to Limit

Estimated Base Value of Added Territory	\$ 2,000
Incremental Value of Existing Districts (Jan. 1, 2022)	\$ <u>171,188,600</u>
Total Value Subject to 12% Valuation Limit	\$ 171,190,600

The equalized value of the increment of existing tax incremental districts within the City, plus the estimated base value of the territory to be added to the District, totals \$171,190,600, which is 3.16% of the City's total equalized value. This value is less than the maximum of \$650,796,372 (12%) in equalized value that is permitted for the City.

## **SECTION 6:**

### **Statement Listing the Kind, Number and Location of All Proposed Public Works or Improvements Within the District**

---

Project Costs are any expenditure made, estimated to be made, or monetary obligations incurred or estimated to be incurred as outlined in this Plan. Project Costs will be diminished by any income, special assessments, or other revenues, including user fees or charges, other than tax increments, received or reasonably expected to be received in connection with the implementation of the Plan. If Project Costs incurred benefit territory outside the District, a proportionate share of the cost is not a Project Cost. Costs identified in this Plan are preliminary estimates made prior to design considerations and are subject to change after planning, design and construction is completed.

With all Project Costs, the costs of engineering, design, survey, inspection, materials, construction, restoring property to its original condition, apparatus necessary for public works, legal and other consultant fees, testing, environmental studies, permits, updating ordinances and plans, judgments or claims for damages and other expenses are included as Project Costs. The map found in Section 7 of this Plan along with the Detailed List of Project Costs found in Section 8 provide additional information as to the kind, number, and location of potential Project Costs.

The “Statement Listing the Kind, Number and Location of All Proposed Public Works or Improvements Within the District” included in the District’s amended Project Plan dated May 5, 2020 remains unchanged but is restated in this Section reflecting the types of projects that have, will, or may need to, be undertaken through the remaining expenditure period.

#### **Property, Right-of-Way, and Easement Acquisition**

##### ***Property Acquisition for Development***

To promote and facilitate development the City may acquire property within the District. The cost of property acquired, and any costs associated with the transaction, are eligible Project Costs. Following acquisition, other Project Costs within the categories detailed in this Section may be incurred to make the property suitable for development. Any revenue received by the City from the sale of property acquired pursuant to the execution of this Plan will be used to reduce the total project costs of the District. If total Project Costs incurred by the City to acquire property and make it suitable for development exceed



the revenues or other consideration received from the sale or lease of that property, the net amount shall be considered “real property assembly costs” as defined in Wis. Stat. § 66.1105(2)(f)1.c., and subject to recovery as an eligible Project Cost.

**Property Acquisition for Conservancy**

To promote the objectives of this Plan, the City may acquire property within the District that it will designate for conservancy. These conservancy objectives include preserving historic resources or sensitive natural features; protection of scenic and historic views; maintaining habitat for wildlife; maintaining adequate open space; reduction of erosion and sedimentation by preserving existing vegetation; and providing adequate areas for management of stormwater. The cost of property acquired for conservancy, and any costs associated with the transaction, are eligible Project Costs.

**Acquisition of Rights-of-Way**

The City may need to acquire property to allow for installation of streets, driveways, sidewalks, utilities, stormwater management practices and other public infrastructure. Costs incurred by the City to identify, negotiate, and acquire rights-of-way are eligible Project Costs.

**Acquisition of Easements**

The City may need to acquire temporary or permanent easements to allow for installation and maintenance of streets, driveways, sidewalks, utilities, stormwater management practices and other public infrastructure. Costs incurred by the City to identify, negotiate, and acquire easement rights are eligible Project Costs.

**Relocation Costs**

If relocation expenses are incurred in conjunction with the acquisition of property, those expenses are eligible Project Costs. These costs may include but are not limited to preparation of a relocation plan; allocations of staff time; legal fees; publication of notices; obtaining appraisals; and payment of relocation benefits as required by Wis. Stat. Chapter 32 and Wis. Admin. Code ADM 92.

## **Site Preparation Activities**

### **Environmental Audits and Remediation**

If it becomes necessary to evaluate any land or improvement within the District, any cost incurred by the City related to environmental audits, testing, and remediation are eligible Project Costs.

### **Demolition**

To make sites suitable for development, the City may incur costs related to demolition and removal of structures or other land improvements, to include abandonment of wells or other existing utility services.

### **Site Grading**

Land within the District may require grading to make it suitable for development, to provide access, and to control stormwater runoff. The City may need to remove and dispose of excess material, or bring in fill material to provide for proper site elevations. Expenses incurred by the City for site grading are eligible Project Costs.

## **Utilities**

### **Sanitary Sewer System Improvements**

To allow development to occur, the City may need to construct, alter, rebuild or expand sanitary sewer infrastructure within the District. Eligible Project Costs include, but are not limited to, construction, alteration, rebuilding or expansion of collection mains; manholes and cleanouts; service laterals; force mains; interceptor sewers; pumping stations; lift stations; wastewater treatment facilities; and all related appurtenances. To the extent sanitary sewer projects undertaken within the District provide direct benefit to land outside of the District, the City will make an allocation of costs based on such benefit. Those costs corresponding to the benefit allocated to land within the District, and necessitated by the implementation of the Project Plan, are eligible Project Costs. Implementation of the Project Plan may also require that the City construct, alter, rebuild or expand sanitary sewer infrastructure located outside of the District. That portion of the costs of sanitary sewer system projects undertaken outside the District which are necessitated by the implementation of the Project Plan are eligible Project Costs.

### **Water System Improvements**

To allow development to occur, the City may need to construct, alter, rebuild or expand water system infrastructure within the District. Eligible Project Costs include, but are not limited to, construction, alteration, rebuilding, or expansion of distribution mains; manholes and valves; hydrants; service laterals; pumping stations; wells; water treatment facilities; storage tanks and reservoirs; and all related appurtenances. To the extent water system projects undertaken within the District provide direct benefit to land outside of the District, the City will make an allocation of costs based on such benefit. Those costs corresponding to the benefit allocated to land within the District, and necessitated by the implementation of the Project Plan, are eligible Project Costs. Implementation of the Project Plan may also require that the City construct, alter, rebuild or expand water system infrastructure located outside of the District. That portion of the costs of water system projects undertaken outside the District which are necessitated by the implementation of the Project Plan are eligible Project Costs.

### **Stormwater Management System Improvements**

Development within the District will cause stormwater runoff. To manage this stormwater runoff, the City may need to construct, alter, rebuild or expand stormwater management infrastructure within the District. Eligible Project Costs include, but are not limited to, construction, alteration, rebuilding or expansion of stormwater collection mains; inlets, manholes and valves; service laterals; ditches; culvert pipes; box culverts; bridges; stabilization of stream and river banks; and infiltration, filtration and detention Best Management Practices (BMP's). To the extent stormwater management system projects undertaken within the District provide direct benefit to land outside of the District, the City will make an allocation of costs based on such benefit. Those costs corresponding to the benefit allocated to land within the District, and necessitated by the implementation of the Project Plan, are eligible Project Costs. Implementation of the Project Plan may also require that the City construct, alter, rebuild or expand stormwater management infrastructure located outside of the District. That portion of the costs of stormwater management system projects undertaken outside the District which are necessitated by the implementation of the Project Plan are eligible Project Costs.

### **Electric Service**

To create sites suitable for development, the City may incur costs to provide, relocate or upgrade electric services. Relocation may require abandonment and removal of existing poles or towers, installation of new poles or towers, or burying of overhead electric lines. Costs incurred by the City to undertake this work are eligible Project Costs.

### **Gas Service**

To create sites suitable for development, the City may incur costs to provide, relocate or upgrade gas mains and services. Costs incurred by the City to undertake this work are eligible Project Costs.

### **Communications Infrastructure**

To create sites suitable for development, the City may incur costs to provide, relocate or upgrade infrastructure required for voice and data communications, including, but not limited to telephone lines, cable lines and fiber optic cable. Costs incurred by the City to undertake this work are eligible Project Costs.

## **Streets and Streetscape**

### **Street Improvements**

To allow development to occur, the City may need to construct or reconstruct streets, highways, alleys, access drives and parking areas. Eligible Project Costs include, but are not limited to: excavation; removal or placement of fill; construction of road base; asphalt or concrete paving or repaving; installation of curb and gutter; installation of sidewalks and bicycle lanes; installation of culverts, box culverts and bridges; rail crossings and signals; utility relocation, to include burying overhead utility lines; street lighting; installation of traffic control signage and traffic signals; pavement marking; right-of-way restoration; installation of retaining walls; and installation of fences, berms, and landscaping.

### **Streetscaping and Landscaping**

To attract development consistent with the objectives of this Plan, the City may install amenities to enhance development sites, rights-of-way and other public spaces. These amenities include but are not limited to landscaping; lighting of streets, sidewalks, parking areas and public areas; installation of planters, benches, clocks, tree rings, trash receptacles and similar items; and installation of brick or other decorative walks, terraces, and street crossings. These and any other similar amenities installed by the City are eligible Project Costs.

## **Community Development**

### **Cash Grants (Development Incentives)**

The City may enter into agreements with property owners, lessees, or developers of land located within the District for sharing costs to encourage the desired kind of improvements and assure tax base is generated sufficient to recover Project Costs. No cash grants will be provided until the City executes a developer agreement with the recipient of the cash grant. Any payments of cash grants made by the City are eligible Project Costs.

## **Miscellaneous**

### **Projects Outside the Tax Increment District**

Pursuant to Wis. Stat. § 66.1105(2)(f)1.n, the City may undertake projects within territory located within one-half mile of the boundary of the District provided that: 1) the project area is located within the City's corporate boundaries; and 2) the projects are approved by the Joint Review Board. The cost of projects completed outside the District pursuant to this section are eligible project costs and may include any project cost that would otherwise be eligible if undertaken within the District. The City intends to make the following Project Cost expenditures outside the District or within the rights of way adjacent to the District: water system improvements, sanitary sewer system improvements, street improvements, intersection improvements, streetscaping and pedestrian pathways

### **Professional Service and Organizational Costs**

The costs of professional services rendered, and other costs incurred, in relation to the creation, administration and termination of the District, and the undertaking of the projects contained within this Plan, are eligible Project Costs. Professional services include but are not limited to architectural; environmental; planning; engineering, legal; audit; financial; and the costs of informing the public with respect to the creation of the District and the implementation of the Plan.

### **Administrative Costs**

The City may charge to the District as eligible Project Costs reasonable allocations of administrative costs, including, but not limited to, employee salaries. Costs allocated will bear a direct connection to the time spent by City employees relating to the implementation of the Plan.

**Financing Costs**

Interest expense, debt issuance expenses, redemption premiums, and any other fees and costs incurred in conjunction with obtaining financing for projects undertaken under this Plan are eligible Project Costs.

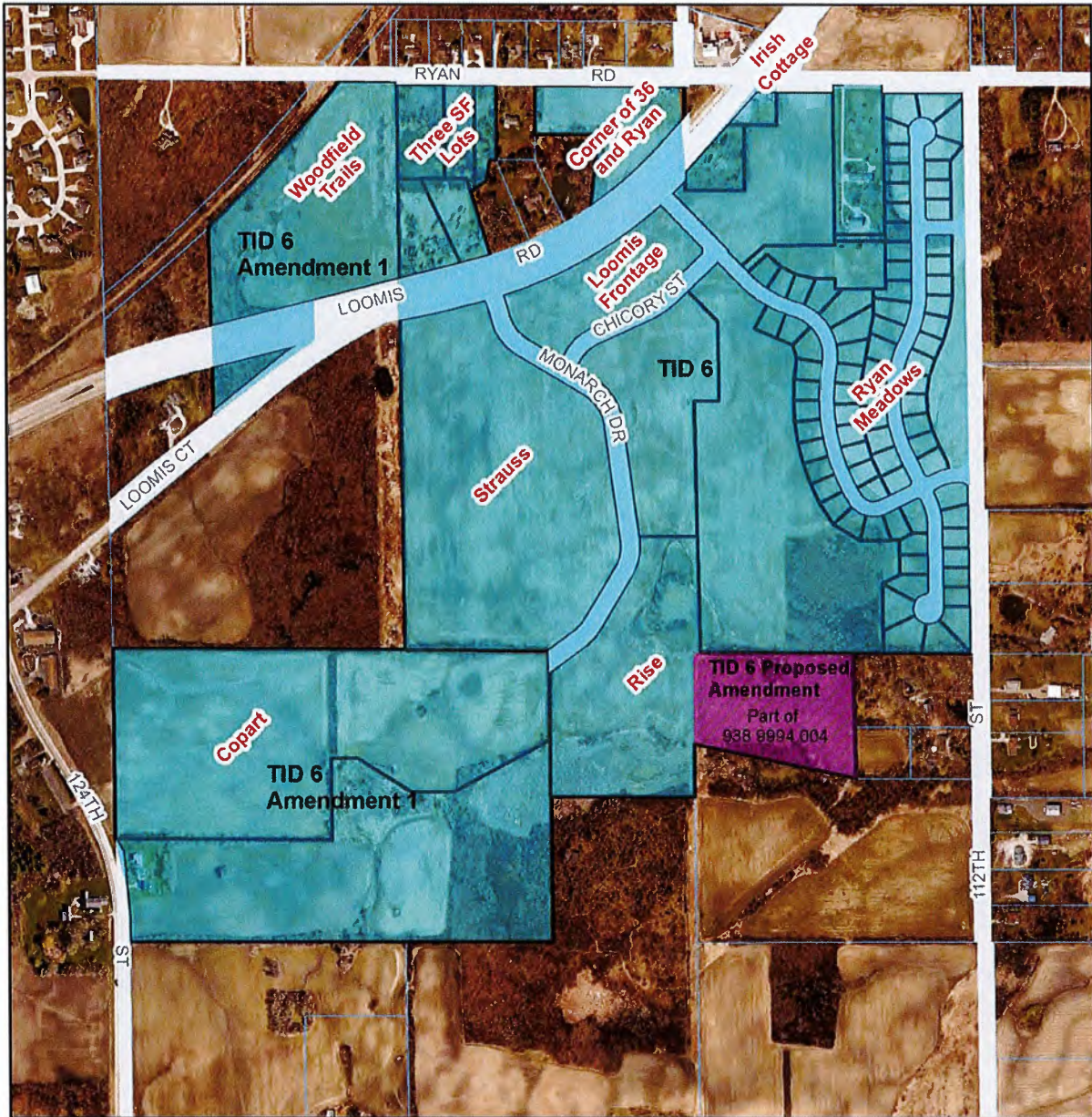
## **SECTION 7: Map Showing Proposed Improvements and Uses Within the Territory to be Added**

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Map Found on Following Page.

Labeled areas on map correspond to the development projects identified in Table 1 in Section 9 and indicate the improvements and uses to be developed within each area. The City has or will undertake the projects listed in Section 8 to permit development to occur in these areas.





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0 100 200 400  
 Feet

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

10/10/2022  
 1:ProjectInformation: Existing AllData: August 11, 2022: Update

### Existing TID #6 and Proposed Amendment

Includes CSM Parcel Update in 2022

- Existing TID #6
- TID 6 Proposed Amendment



## SECTION 8: Detailed List of Estimated Project Costs

The following list identifies the Project Costs that the City has made, expects to make, or may need to make in conjunction with the implementation of the District's Plan or this Plan Amendment. All projects identified and related costs reflect the best estimates available as of the date of preparation of this Plan Amendment. All costs are preliminary estimates and may increase or decrease. Certain Project Costs listed may become unnecessary, and other Project Costs not currently identified may need to be made. (Section 6 details the general categories of eligible Project Costs). Changes in Project Cost totals or the types of Project Costs to be incurred will not require that this Plan be amended. This Plan is not meant to be a budget nor an appropriation of funds for specific Project Costs, but a framework within which to manage Project Costs.

<b>City of Franklin, Wisconsin</b>					
<b>Tax Increment District # 6</b>					
<b>Detailed List of Estimated Project Costs</b>					
<b>Project Name/Type</b>	<b>Original Plan</b>	<b>1st Amend.</b>	<b>Total</b>	<b>Current Estimate</b>	<b>Change</b>
Capital Outlay	8,360,000	1,500,000	9,860,000	9,611,951	(248,049)
Administrative & Professional Services	580,000	30,000	610,000	920,081	310,081
Interest on LT Debt & Financing Costs	3,117,082	299,514	3,416,596	3,038,490	(378,106)
Development Incentives (MRO Bond)	3,710,000	0	3,710,000	4,600,000	890,000
Interest on MRO Bond	2,780,910	0	2,780,910	1,826,204	(954,706)
<b>Totals</b>	<b><u>18,547,992</u></b>	<b><u>1,829,514</u></b>	<b><u>20,377,506</u></b>	<b><u>19,996,726</u></b>	<b><u>(380,780)</u></b>

## **SECTION 9:**

### **Economic Feasibility Study, Description of the Methods of Financing Estimated Project Costs and the Time When Related Costs or Monetary Obligations are to be Incurred**

---

This Section includes an updated forecast of the valuation increases expected within the District, the associated tax increment collections, a summary of how remaining Project Costs would be financed, and a projected cash flow demonstrating that the District remains economically feasible.

#### **Key Assumptions**

The Project Costs the City has made or plans to make are expected to create \$85.8 million in incremental value by January 1, 2027. Estimated valuations and timing for construction of the Project are included in Table 1. Assuming the City's current equalized TID Interim tax rate of \$20.59 per thousand of equalized value, and no economic appreciation or depreciation, the Project would generate \$27.38 million in incremental tax revenue over the 20-year term of the District as shown in Table 2.





# City of Franklin, Wisconsin

## Tax Increment District # 6

### Tax Increment Projection Worksheet

Type of District	Mixed Use	Base Value	2,020,400
District Creation Date	October 16, 2018	Appreciation Factor	0.00%
Valuation Date	Jan 1, 2019	Base Tax Rate	\$20.59
Max Life (Years)	20	Rate Adjustment Factor	0.00%
Expenditure Period/Termination	15 10/16/2033		
Revenue Periods/Final Year	20 2040		
Extension Eligibility/Years	Yes 3		
Eligible Recipient District	No		

Construction Year	Value Added	Valuation Year	Inflation Increment	Total Increment	Revenue Year	Tax Rate	Tax Increment	
1	2019	-11,200	2020	0	-11,200	2021	\$21.37	0
2	2020	1,679,800	2021	0	1,668,600	2022	\$20.59	34,349
3	2021	1,056,000	2022	0	2,724,600	2023	\$20.59	56,087
4	2022	22,580,000	2023	0	25,304,600	2024	\$20.59	520,903
5	2023	24,120,000	2024	0	49,424,600	2025	\$20.59	1,017,420
6	2024	15,500,000	2025	0	64,924,600	2026	\$20.59	1,336,492
7	2025	5,400,000	2026	0	70,324,600	2027	\$20.59	1,447,652
8	2026	15,500,000	2027	0	85,824,600	2028	\$20.59	1,766,725
9	2027	0	2028	0	85,824,600	2029	\$20.59	1,766,725
10	2028	0	2029	0	85,824,600	2030	\$20.59	1,766,725
11	2029	0	2030	0	85,824,600	2031	\$20.59	1,766,725
12	2030	0	2031	0	85,824,600	2032	\$20.59	1,766,725
13	2031	0	2032	0	85,824,600	2033	\$20.59	1,766,725
14	2032	0	2033	0	85,824,600	2034	\$20.59	1,766,725
15	2033	0	2034	0	85,824,600	2035	\$20.59	1,766,725
16	2034	0	2035	0	85,824,600	2036	\$20.59	1,766,725
17	2035	0	2036	0	85,824,600	2037	\$20.59	1,766,725
18	2036	0	2037	0	85,824,600	2038	\$20.59	1,766,725
19	2037	0	2038	0	85,824,600	2039	\$20.59	1,766,725
20	2038	0	2039	0	85,824,600	2040	\$20.59	1,766,725
<b>Totals</b>	<b>85,824,600</b>		<b>0</b>		<b>Future Value of Increment</b>		<b>27,380,321</b>	

**Notes:**

<sup>1</sup>Tax rates shown for the 2022 and preceding revenue years are actual per DOR Form PC-202 (Tax Increment Worksheet).

**Table 2 - Tax Increment Projection Worksheet**

## **Financing and Implementation**

The City has previously issued \$9.41 million in General Obligation debt to pay the cost of public infrastructure to serve the District. Debt service will be paid from tax increment on a priority basis. The City also expects to issue an additional \$845,000 in General Obligation debt to fund utility extensions.

The agreement with the site developer provides for issuance of two “pay as you go” obligations: The “MRO Bond” and the “Additional MRO Bond”.

- The MRO Bond is currently pending City acceptance of developer constructed public infrastructure and will be issued in a principal amount of \$3.1 million bearing interest at a rate of 5.5%. The MRO Bond reimburses the developer for public infrastructure constructed to serve the development sites identified on Table 1 in this section as the “Development Contributing to the MRO Bond”
- The Additional MRO Bond may be issued following the developer’s incurrence of certain eligible costs related to the development sites identified as “Development Contributing to the Additional MRO Bond” on Table 1. The maximum total of eligible costs that may be reimbursed is \$1.5 million. The Additional MRO Bond will also bear interest at a 5.5% rate.

100% of the tax increment generated by the development contributing to the MRO Bond and 60% of the tax increment generated by development contributing to the Additional MRO Bond is available to make payments to the developer after first netting out City debt service and administrative costs.

Based on the Project Cost expenditures as included within the cash flow exhibit (Table 3), the District is projected to accumulate sufficient funds by the year 2033 to pay off all Project cost liabilities and obligations. The projected closure is based on the various assumptions noted in this Plan and will vary dependent on actual Project Costs incurred and the actual amount of tax increments collected.

City of Franklin, Wisconsin

Tax Incremental District # 6

Cash Flow Projection

Year	Interest Earnings/ (Cost)	Proceeds on Debt	Premium on Debt Issued	Guaranteed Payments				Misc. Revenue	Total Revenues	Series 2018 P&I	Series 2020 P&I	Series 2022 P&I	MNO Bond				Additional MNO Bond				Debt				Total Expenditures	Annual	Cumulative	G.O. Debt & MNO						
				Base	Strikes	Contort	Revenue						Dated Date	Begin	Rate	Accrued	Plus Shortfall	Less	End Balance	Dated Date	Begin	Rate	Accrued	Less					End Balance	Interest	Payments	Balance	Interest	Payments
2018	0	6,345,000	373,319	0	0	0	0	6,718,319	114,543	319,700	45,733	3,100,000	5.500%	01/01/24	3,100,000	170,500	170,500	0	3,100,000	1,500,000	5.500%	01/01/24	1,500,000	82,500	82,500	0	1,500,000	108,500	1,065,175	1,300,000	5,453,594	5,453,594	6,345,000	2018
2019	28,159	3,045,000	54,794	0	0	0	0	3,128,953	116,629	319,700	45,733	3,100,000	5.500%	01/01/24	3,100,000	179,878	179,878	(270,287)	3,128,953	1,500,000	5.500%	01/01/24	1,500,000	87,038	87,038	0	1,588,500	6,327	1,065,175	1,300,000	5,453,594	5,453,594	3,045,000	2019
2020	554	845,000	0	0	0	0	0	845,554	319,700	45,733	31,044	3,100,000	5.500%	01/01/24	3,100,000	174,905	174,905	(179,479)	2,975,519	1,500,000	5.500%	01/01/24	1,500,000	84,631	84,631	0	1,588,500	8,023,278	1,065,175	1,300,000	5,453,594	5,453,594	3,045,000	2020
2021	0	0	0	0	0	0	0	0	319,700	45,733	31,044	3,100,000	5.500%	01/01/24	3,100,000	163,654	163,654	(160,802)	2,795,279	1,500,000	5.500%	01/01/24	1,500,000	79,187	79,187	0	1,588,500	377,594	1,065,175	1,300,000	5,453,594	5,453,594	3,045,000	2021
2022	0	0	0	0	0	0	0	0	319,700	45,733	31,044	3,100,000	5.500%	01/01/24	3,100,000	159,165	159,165	(157,571)	2,637,708	1,500,000	5.500%	01/01/24	1,500,000	74,660	74,660	0	1,588,500	377,594	1,065,175	1,300,000	5,453,594	5,453,594	3,045,000	2022
2023	0	0	0	0	0	0	0	0	319,700	45,733	31,044	3,100,000	5.500%	01/01/24	3,100,000	148,428	148,428	(147,207)	2,490,501	1,500,000	5.500%	01/01/24	1,500,000	61,462	61,462	0	1,588,500	377,594	1,065,175	1,300,000	5,453,594	5,453,594	3,045,000	2023
2024	0	0	0	0	0	0	0	0	319,700	45,733	31,044	3,100,000	5.500%	01/01/24	3,100,000	138,252	138,252	(137,518)	2,352,983	1,500,000	5.500%	01/01/24	1,500,000	53,323	53,323	0	1,588,500	377,594	1,065,175	1,300,000	5,453,594	5,453,594	3,045,000	2024
2025	0	0	0	0	0	0	0	0	319,700	45,733	31,044	3,100,000	5.500%	01/01/24	3,100,000	128,026	128,026	(127,518)	2,215,465	1,500,000	5.500%	01/01/24	1,500,000	45,184	45,184	0	1,588,500	377,594	1,065,175	1,300,000	5,453,594	5,453,594	3,045,000	2025
2026	0	0	0	0	0	0	0	0	319,700	45,733	31,044	3,100,000	5.500%	01/01/24	3,100,000	117,799	117,799	(117,207)	2,077,958	1,500,000	5.500%	01/01/24	1,500,000	37,045	37,045	0	1,588,500	377,594	1,065,175	1,300,000	5,453,594	5,453,594	3,045,000	2026
2027	0	0	0	0	0	0	0	0	319,700	45,733	31,044	3,100,000	5.500%	01/01/24	3,100,000	107,572	107,572	(107,002)	1,940,456	1,500,000	5.500%	01/01/24	1,500,000	28,800	28,800	0	1,588,500	377,594	1,065,175	1,300,000	5,453,594	5,453,594	3,045,000	2027
2028	0	0	0	0	0	0	0	0	319,700	45,733	31,044	3,100,000	5.500%	01/01/24	3,100,000	97,345	97,345	(96,802)	1,802,911	1,500,000	5.500%	01/01/24	1,500,000	20,551	20,551	0	1,588,500	377,594	1,065,175	1,300,000	5,453,594	5,453,594	3,045,000	2028
2029	0	0	0	0	0	0	0	0	319,700	45,733	31,044	3,100,000	5.500%	01/01/24	3,100,000	87,118	87,118	(86,593)	1,665,318	1,500,000	5.500%	01/01/24	1,500,000	10,302	10,302	0	1,588,500	377,594	1,065,175	1,300,000	5,453,594	5,453,594	3,045,000	2029
2030	0	0	0	0	0	0	0	0	319,700	45,733	31,044	3,100,000	5.500%	01/01/24	3,100,000	76,891	76,891	(76,383)	1,528,427	1,500,000	5.500%	01/01/24	1,500,000	0	0	0	1,588,500	377,594	1,065,175	1,300,000	5,453,594	5,453,594	3,045,000	2030
2031	0	0	0	0	0	0	0	0	319,700	45,733	31,044	3,100,000	5.500%	01/01/24	3,100,000	66,662	66,662	(66,166)	1,391,261	1,500,000	5.500%	01/01/24	1,500,000	0	0	0	1,588,500	377,594	1,065,175	1,300,000	5,453,594	5,453,594	3,045,000	2031
2032	0	0	0	0	0	0	0	0	319,700	45,733	31,044	3,100,000	5.500%	01/01/24	3,100,000	56,433	56,433	(55,958)	1,254,703	1,500,000	5.500%	01/01/24	1,500,000	0	0	0	1,588,500	377,594	1,065,175	1,300,000	5,453,594	5,453,594	3,045,000	2032
2033	0	0	0	0	0	0	0	0	319,700	45,733	31,044	3,100,000	5.500%	01/01/24	3,100,000	46,204	46,204	(45,748)	1,118,455	1,500,000	5.500%	01/01/24	1,500,000	0	0	0	1,588,500	377,594	1,065,175	1,300,000	5,453,594	5,453,594	3,045,000	2033
2034	0	0	0	0	0	0	0	0	319,700	45,733	31,044	3,100,000	5.500%	01/01/24	3,100,000	35,975	35,975	(35,539)	982,480	1,500,000	5.500%	01/01/24	1,500,000	0	0	0	1,588,500	377,594	1,065,175	1,300,000	5,453,594	5,453,594	3,045,000	2034
2035	0	0	0	0	0	0	0	0	319,700	45,733	31,044	3,100,000	5.500%	01/01/24	3,100,000	25,746	25,746	(25,310)	846,734	1,500,000	5.500%	01/01/24	1,500,000	0	0	0	1,588,500	377,594	1,065,175	1,300,000	5,453,594	5,453,594	3,045,000	2035
2036	0	0	0	0	0	0	0	0	319,700	45,733	31,044	3,100,000	5.500%	01/01/24	3,100,000	15,517	15,517	(15,091)	711,217	1,500,000	5.500%	01/01/24	1,500,000	0	0	0	1,588,500	377,594	1,065,175	1,300,000	5,453,594	5,453,594	3,045,000	2036
2037	0	0	0	0	0	0	0	0	319,700	45,733	31,044	3,100,000	5.500%	01/01/24	3,100,000	5,288	5,288	(5,072)	585,929	1,500,000	5.500%	01/01/24	1,500,000	0	0	0	1,588,500	377,594	1,065,175	1,300,000	5,453,594	5,453,594	3,045,000	2037
2038	0	0	0	0	0	0	0	0	319,700	45,733	31,044	3,100,000	5.500%	01/01/24	3,100,000	0	0	0	460,641	1,500,000	5.500%	01/01/24	1,500,000	0	0	0	1,588,500	377,594	1,065,175	1,300,000	5,453,594	5,453,594	3,045,000	2038
2039	0	0	0	0	0	0	0	0	319,700	45,733	31,044	3,100,000	5.500%	01/01/24	3,100,000	0	0	0	321,392	1,500,000	5.500%	01/01/24	1,500,000	0	0	0	1,588,500	377,594	1,065,175	1,300,000	5,453,594	5,453,594	3,045,000	2039
2040	0	0	0	0	0	0	0	0	319,700	45,733	31,044	3,100,000	5.500%	01/01/24	3,100,000	0	0	0	182,143	1,500,000	5.500%	01/01/24	1,500,000	0	0	0	1,588,500	377,594	1,065,175	1,300,000	5,453,594	5,453,594	3,045,000	2040
<b>Total</b>	<b>27,860,311</b>	<b>28,753</b>	<b>10,255,000</b>	<b>368,113</b>	<b>5,669</b>	<b>3,520,085</b>	<b>3,248,897</b>	<b>126,972</b>	<b>41,222,810</b>	<b>8,234,501</b>	<b>3,287,177</b>	<b>1,588,071</b>	<b>3,100,000</b>	<b>5.500%</b>	<b>01/01/24</b>	<b>3,100,000</b>	<b>1,226,882</b>	<b>5,669</b>	<b>(433,552)</b>	<b>3,100,000</b>	<b>1,500,000</b>	<b>5.500%</b>	<b>01/01/24</b>	<b>1,500,000</b>	<b>593,653</b>	<b>(2,091,653)</b>	<b>233,740</b>	<b>9,611,951</b>	<b>920,041</b>	<b>30,251,728</b>	<b>1,175,000</b>	<b>11,251,045</b>	<b>0</b>	<b>2040</b>

Table 3 - Cash Flow

Notes: Proceeds of 17 Debt shown in 2022 include 5756,693 for City constructed utility extensions. Estimated rates reflect City of Plainville (AA)-5-24-2022 rate result (reflecting yields) plus 1.2%. Assumed dated for purposes of commencing interest accrual. Neither the MNO Bond, or the additional MNO Bond has been issued. The Expansion MNO Bond will be issued in principal amount(s) to reimburse Developer for certain qualified costs up to a maximum of \$1,500,000. The payments shown on this exhibit are an illustration based on projected cash flow only, and do not reflect City approval of any qualified costs which must be submitted, reviewed and approved as the project proceeds. The figure shown in 2033 reflects reimbursements to Developer of up to \$50,000, if needed, for actual costs incurred for obtaining an easement from Caspar for installation of City utilities.

Total Projected MNO Bond Payments **4,332,552** Total Expansion MNO Payments **2,091,653** Total All MNO Payments **6,424,205** Projected District Closure

## **SECTION 10: Annexed Property**

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A tax incremental district cannot include annexed territory unless at least three years have elapsed since the annexation, or certain other requirements are met. None of the territory proposed to be added to the District was annexed during the past three years.

## **SECTION 11: Estimate of Property to be Devoted to Retail Business**

---

Pursuant to Wis. Stat. § 66.1105(5)(b), the City estimates that less than 35% of the territory within the District will be devoted to retail business at the end of the District's maximum expenditure period.

## **SECTION 12: Proposed Changes of Zoning Ordinances, Master Plan, Map, Building Codes and City Ordinances**

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### **Zoning Ordinances**

The proposed Plan Amendment is in general conformance with the City's current zoning ordinances. Individual properties may require rezoning at the time of development.

### **Master (Comprehensive) Plan and Map**

The proposed Plan Amendment is in general conformance with the City's Comprehensive Plan identifying the area as appropriate for mixed use development.

### **Building Codes and Ordinances**

Development within the District will be required to conform to State Building Codes and will be subject to the City's permitting and inspection procedures. The proposed Plan Amendment conforms to all relevant State and local ordinances, plans, and codes. No changes to the existing regulations are proposed or needed.



## **SECTION 13: Statement of the Proposed Method for the Relocation of any Persons to be Displaced**

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Should the continued implementation of this Plan require relocation of individuals or business operations, relocations will be handled in compliance with Wis. Stat. Chapter 32 and Wis. Admin. Code ADM 92.

## **SECTION 14: How Amendment of the Tax Incremental District Promotes the Orderly Development of the City**

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This Plan Amendment promotes the orderly development of the City by creating opportunities for mixed use development, providing necessary public infrastructure improvements, and providing appropriate financial incentives for private development projects. Through use of tax increment financing, the City can attract new investment that results in increased tax base. Development will occur in an orderly fashion in accordance with approved plans so that the Projects will be compatible with adjacent land uses. Development of new uses in the District will add to the tax base and will generate positive secondary impacts in the community such as creation of residential housing, industrial sites and commercial sites to meet market demand. Employment and commercial opportunities related to the construction and operation of the Project are anticipated as well.



## **SECTION 15:**

### **List of Estimated Non-Project Costs**

---

Non-project costs are public works projects which only partly benefit the District. Costs incurred that do not benefit the District may not be paid with tax increments. Examples of non-project costs are:

- A public improvement made within the District that also benefits property outside the District. That portion of the total Project Costs allocable to properties outside of the District would be a non-project cost.
- A public improvement made outside the District that only partially benefits property within the District. That portion of the total Project Costs allocable to properties outside of the District would be a non-project cost.
- Projects undertaken within the District as part of the implementation of this Project Plan, the costs of which are paid fully or in part by impact fees, grants, special assessments, or revenues other than tax increments.

No improvements to be made within the District will benefit property outside the District. Furthermore, there will be no improvements made outside the District that will only partially benefit the District.

**SECTION 16:**  
**Legal Opinion Advising Whether the Plan is Complete  
and Complies with Wis. Stat. § 66.1105(4)(f)**

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Opinion Letter Found on Following Page.

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JANE C. KASSIS,  
LEGAL SECRETARY

September 6, 2022

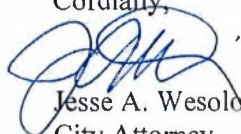
Mayor Stephen R. Olson  
City of Franklin  
9229 West Loomis Road  
Franklin, Wisconsin 53132

re: City of Franklin, Project Plan Amendment for Tax Incremental District No. 6

Dear Mayor:

As City Attorney for the City of Franklin, I have been asked to review the above-referenced project plan amendment for compliance with the applicable statutory requirements. Based upon my review, in my opinion, the amended Project Plan for the City of Franklin Tax Incremental District No. 6 is complete and complies with the provisions of Wisconsin Statute § 66.1105. This opinion is provided pursuant to Wisconsin Statute § 66.1105(4)(f).

Cordially,



Jesse A. Wesolowski  
City Attorney  
City of Franklin

## SECTION 17: Calculation of the Share of Projected Tax Increments Estimated to be Paid by the Owners of Property in the Overlying Taxing Jurisdictions

The following projection is provided to meet the requirements of Wis. Stat. § 66.1105(4)(i)4.

Revenue Year	Milwaukee County	MMSD	City of Franklin	Franklin School District	MATC	Total	Revenue Year
2021	0	0	0	0	0	0	2021
2022	7,032	2,418	7,585	15,575	1,739	34,349	2022
2023	11,482	3,949	12,385	25,432	2,839	56,087	2023
2024	106,642	36,673	115,026	236,195	26,366	520,903	2024
2025	208,291	71,630	224,668	461,333	51,498	1,017,420	2025
2026	273,613	94,093	295,126	606,011	67,649	1,336,492	2026
2027	296,370	101,919	319,672	656,415	73,275	1,447,652	2027
2028	361,692	124,383	390,130	801,093	89,425	1,766,725	2028
2029	361,692	124,383	390,130	801,093	89,425	1,766,725	2029
2030	361,692	124,383	390,130	801,093	89,425	1,766,725	2030
2031	361,692	124,383	390,130	801,093	89,425	1,766,725	2031
2032	361,692	124,383	390,130	801,093	89,425	1,766,725	2032
2033	361,692	124,383	390,130	801,093	89,425	1,766,725	2033
2034	361,692	124,383	390,130	801,093	89,425	1,766,725	2034
2035	361,692	124,383	390,130	801,093	89,425	1,766,725	2035
2036	361,692	124,383	390,130	801,093	89,425	1,766,725	2036
2037	361,692	124,383	390,130	801,093	89,425	1,766,725	2037
2038	361,692	124,383	390,130	801,093	89,425	1,766,725	2038
2039	361,692	124,383	390,130	801,093	89,425	1,766,725	2039
2040	361,692	124,383	390,130	801,093	89,425	1,766,725	2040
<b>Totals</b>	<b>5,605,429</b>	<b>1,927,661</b>	<b>6,046,158</b>	<b>12,415,176</b>	<b>1,385,897</b>	<b>27,380,321</b>	

## **SECTION 18: Certified Survey Map Creating the Parcel Added to the District**

---

A copy of the Certified Survey Map recorded on June 28, 2022, is included in this Section for reference. The territory to be added to the District is a portion of Lot 2 of the CSM, with the balance of that lot already located within the District. This Amendment aligns the District boundary with Lot 2.

<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;">09/20/22</p>
<p style="text-align: center;">REPORTS &amp; RECOMMENDATIONS</p>	<p style="text-align: center;">A RESOLUTION TO AMEND RESOLUTION NO. 2021-7788, A RESOLUTION TO AMEND RESOLUTION NO. 2020-7681, A RESOLUTION IMPOSING CONDITIONS AND RESTRICTIONS FOR THE APPROVAL OF A SPECIAL USE FOR A MEAT PROCESSING FACILITY USE UPON PROPERTY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF WEST LOOMIS ROAD AND THE NEW MONARCH DRIVE (LOT 83 OF RYAN MEADOWS SUBDIVISION) (STRAUSS BRANDS LLC, APPLICANT), TO EXTEND THE TIME FOR COMMENCEMENT OF THE SPECIAL USE DEVELOPMENT</p>	<p style="text-align: center;">ITEM NUMBER</p> <p style="text-align: center;">G.5.</p>

At the September 8, 2022, regular meeting, the Plan Commission carried a motion to recommend approval of this time extension.

**COUNCIL ACTION REQUESTED**

A motion to adopt Resolution 2022-\_\_\_\_\_, to amend Resolution no. 2021-7788, a Resolution to amend Resolution no. 2020-7681, a Resolution imposing conditions and restrictions for the approval of a special use for a meat processing facility use upon property located at the southwest corner of the intersection of West Loomis Road and the new Monarch Drive (lot 83 of Ryan Meadows subdivision) (Strauss Brands LLC, applicant), to extend the time for commencement of the special use development.

STATE OF WISCONSIN

CITY OF FRANKLIN

MILWAUKEE COUNTY

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

A RESOLUTION TO AMEND RESOLUTION NO. 2021-7788, A RESOLUTION TO AMEND RESOLUTION NO. 2020-7681, A RESOLUTION IMPOSING CONDITIONS AND RESTRICTIONS FOR THE APPROVAL OF A SPECIAL USE FOR A MEAT PROCESSING FACILITY USE UPON PROPERTY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF WEST LOOMIS ROAD AND THE NEW MONARCH DRIVE (LOT 83 OF RYAN MEADOWS SUBDIVISION) (STRAUSS BRANDS LLC, APPLICANT), TO EXTEND THE TIME FOR COMMENCEMENT OF THE SPECIAL USE DEVELOPMENT

---

WHEREAS, the Common Council having adopted Resolution No. 2020-7681, A Resolution Imposing Conditions and Restrictions for the Approval of a Special Use for a Meat Processing Facility Use Upon Property Located at the Southwest Corner of the Intersection of West Loomis Road and the New Monarch Drive (Lot 83 Of Ryan Meadows Subdivision) (Strauss Brands LLC, Applicant), on November 2, 2020, and pursuant to Resolution No. 2021-7788 adopted on October 5, 2021, the time for commencement of the development was extended for one year from the date thereof; and

WHEREAS, Resolution No. 2020-7681 provides in a FURTHER RESOLVED provision that “pursuant to §15-9.0103G. of the Unified Development Ordinance, that the Special Use permission granted under this Resolution shall be null and void upon the expiration of one year from the date of adoption of this Resolution, unless the Special Use has been established by way of the issuance of a building permit for such use”; and

WHEREAS, §15-9.0103G. of the Unified Development Ordinance provides “[i]n any case where a special use has not been established within one year after the date of granting thereof, then without further action by the Plan Commission or the Common Council, the special use authorization shall be null and void. The criteria for determining establishment of a special use may be set forth by the Common Council in the approving Special Use Resolution”; and §15-3.0701G. of the Unified Development Ordinance provides “[s]ubject to an extension of time granted by the Common Council, upon recommendation of the Plan Commission, no Special Use Permit shall be valid for a period longer than one year unless a Building Permit is issued and construction is actually begun within that period and is thereafter diligently pursued to completion or unless a Zoning Compliance Permit is issued and a use commenced within that period”; and

WHEREAS, the subject Special Use development is a subject in the litigation matter *Franklin Community Advocates, et al v City of Franklin, and Strauss Brands, LLC*, Milwaukee County Circuit Court Case No. 20-CV-7031, which litigation matter is in process and pending at this time; and

WHEREAS, the subject Special Use development is to be upon property located at the southwest corner of the intersection of West Loomis Road and the new Monarch Drive

(Lot 83 of Ryan Meadows Subdivision, approximately 30.2 acres), bearing Tax Key No. 891-1083-000, more particularly described as follows:

Parts of Lot 1 and Outlot 1, of Certified Survey Map No. 9095 as recorded in the register of deeds office for Milwaukee County as Document No. 10830741, being a part of the Northeast 1/4 and the Southeast 1/4 of the Northwest 1/4 of Section 30, Township 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin, described as follows: Commencing at the southwest corner of the Northwest 1/4 of said Section 30; thence South 89°39'32" East along the south line of said Northwest 1/4, 1345.74 feet to the southwest corner of Lot 1 Certified Survey Map No. 9095 and the Point of Beginning; Thence North 00°34'12" West, along the west line of said Lot 1, 1523.10 feet to the southerly line of said right-of-way of West Loomis Road; thence North 79°00'41" East along the southerly line of said right-of-way, 156.97 feet; thence North 75°45'51" East along the southerly line of said right-of-way, 215.80 feet to a point of curvature; thence northeasterly along the southerly line of said right-of-way, 30.51 feet along the arc of said curve to the left, whose radius is 1979.86 feet and whose chord bears North 75°19'22" East, 30.51 feet; thence South 29°08'47" East, 22.47 feet; thence South 16°09'38" East, 83.27 feet to a point of curvature, thence southeasterly 198.68 feet along the arc of said curve to the left, whose radius is 265.00 feet and whose chord bears South 37°38'23" East, 194.06 feet; thence South 59°07'06" East, 356.12 feet to a point of curvature; thence southeasterly 170.14 feet along the arc of said curve to the right, whose radius is 190.00 feet and whose chord bears South 33°27'51" East, 164.52 feet; thence South 07°48'36" East, 543.63 feet to a point of curvature; thence southwesterly 128.99 feet along the arc of said curve to the right, whose radius is 190.00 feet and whose chord bears South 11°38'18" West, 126.52 feet; thence South 31°05'13" West, 282.33 feet to a point of curvature; thence southwesterly 75.12 feet along said curve to the right, whose radius is 190.00 feet and whose chord bears South 42°24'51" West, 74.64 feet; thence South 53°44'29" West, 143.69 feet to the south line of said Northwest 1/4; thence North 89°39'32" West along said south line, 662.99 feet to the Point of Beginning. Containing 1,316,168 square feet (30.2151 acres) of land, more or less; and

WHEREAS, the Plan Commission and the Common Council having reviewed the subject Special Use development with regard to the pending litigation, and the Common Council having determined it fair and reasonable to provide an extension of time for commencement of the Special Use development under circumstances currently present and pending.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that Resolution No. 2021-7788, A Resolution to Amend Resolution No. 2020-7681, A Resolution Imposing Conditions and Restrictions for the Approval of a Special Use for a Meat Processing Facility Use Upon Property Located at the Southwest Corner



of the Intersection of West Loomis Road and the New Monarch Drive (Lot 83 Of Ryan Meadows Subdivision) (Strauss Brands LLC, Applicant), to Extend the Time for Commencement of the Special Use Development, be and the same is hereby amended, specifically and only with regard to as stated therein, “the fourth FURTHER RESOLVED provision stated therein, which provision is immediately prior to the FINALLY RESOLVED provision on Page 5 of the Resolution”, to state as follows: “BE IT FURTHER RESOLVED, pursuant to §15-9.0103G. of the Unified Development Ordinance, that the Special Use permission granted under Resolution No. 2020-7681 adopted on November 2, 2020, and pursuant to Resolution No. 2021-7788 adopted on October 5, 2021, as the time for commencement of the development was extended for one year from the date thereof, be and the same is hereby granted an extension of time for the commencement of the Special Use development, which extension of time granted hereunder shall be null and void upon the expiration of one year from the date of adoption of this Resolution, unless the Special Use has been established by way of the issuance of a building permit for such use.”

BE IT FURTHER RESOLVED, that all terms and conditions of Resolution No. 2021-7788, not specifically and expressly amended by or in direct conflict with this Resolution, shall remain in full force and effect.

BE IT FINALLY RESOLVED, that the City Clerk be and is hereby directed to obtain the recording of a certified copy of this Resolution 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 \_\_\_\_ day of \_\_\_\_\_, 2022.

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

APPROVED:

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

ATTEST

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

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



REPORT TO THE PLAN COMMISSION

Meeting of September 8, 2022

SPECIAL USE/SITE PLAN TIME EXTENSION

RECOMMENDATION: City Development staff recommends approval of a second 1-year time extension for the previously approved Special Use and Site Plan, subject to the conditions in attached draft resolution.

Table with 2 columns: Field Name and Value. Fields include Project Name, Project Address, Owner, Zoning, 2025 Comprehensive Plan, Use of Surrounding Properties, Applicant Action Requested, and Staff Planner.

On October 8, 2020, the Plan Commission conditionally approved the Site Plan for Strauss Brands, Inc. to construct a 152,035 square foot meat packing plant, along with a recommendation for approval of a Special Use for the same facility, as required in the M-1 Limited Industrial District. Plan Commission Resolution No. 2020-024 reflecting the Site Plan approval is attached.

On November 2, 2020, the Common Council conditionally approved a Special Use for the SIC No. 2011, Meat Packing Plants, authorizing the use of the property for Strauss Brands, Inc proposed operation. Attached is Common Council Resolution 2020-7681 as recorded with the Milwaukee County Register of Deeds.

Condition No. 3 of the above-referenced Plan Commission resolution states the expiration of the Site Plan approval within one year from the date of adoption, which would be midnight on October 7, 2021, or the approval "shall be null and void, without any further action by the City of Franklin."

It should be noted that the Site Plan approval is conditional (as per Condition No. 5 of the Plan Commission resolution) on the approval of the Special Use. The Special Use approval under Common Council Resolution No 2020-7681 expires at midnight on November 1, 2021, and this approval is currently under legal challenge. Until the legal challenge is concluded, the applicant is not able to begin construction. Therefore, an extension of both approvals is a reasonable expectation.

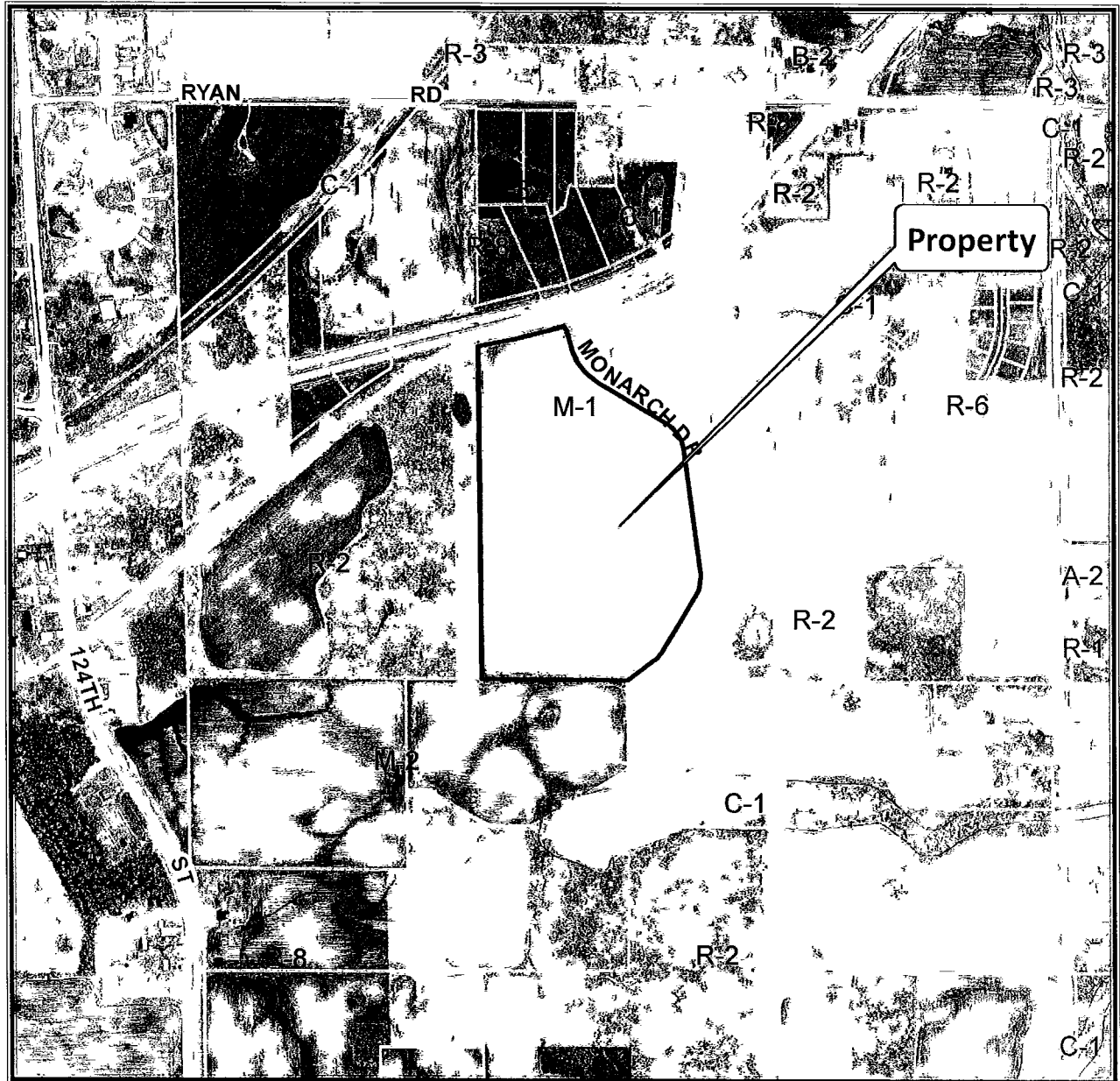
It is noted that a first 1-year extension was granted on October 5, 2021, per Resolution 2021-7788 which expires on October 5, 2022. The Site Plan approval was extended on September 23, 2021, per Plan Commission Resolution No. 2021-023 which expires on September 23, 2022.

**CONCLUSION:**

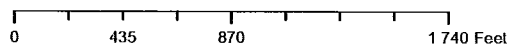
City Development staff recommends approval of a second 1-year time extension for a previously approved Site Plan (Plan Commission Resolution No. 2020-024) and Special Use (Common Council Resolution No. 2020-7681), subject to the conditions outlined in the attached resolution.



TKN: 891 1083 000



Planning Department  
(414) 425-4024

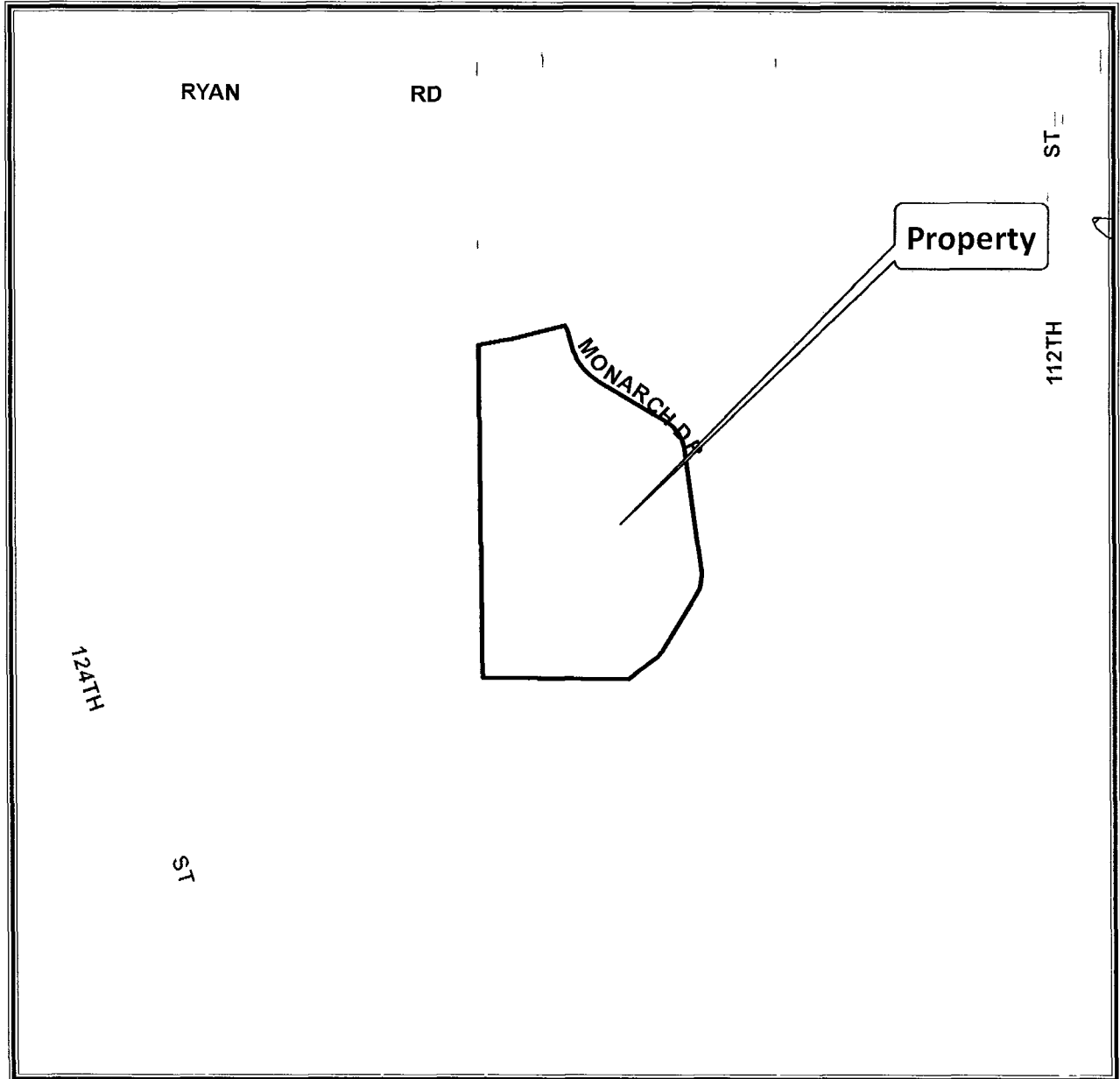


2017 Aerial Photo

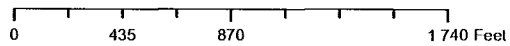
*This map shows the approximate relative location of property boundaries but was not prepared by a professional land surveyor. This map is provided for informational purposes only and may not be sufficient or appropriate for legal engineering or surveying purposes.*



TKN: 891 1083 000



Planning Department  
(414) 425-4024



2017 Aerial Photo

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

<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;">09/20/22</p>
<p style="text-align: center;">REPORTS &amp; RECOMMENDATIONS</p>	<p style="text-align: center;">A RESOLUTION CONDITIONALLY APPROVING A FINAL PLAT FOR THE VILLAS AT CAPE CROSSING/THE ESTATES AT CAPE CROSSING SUBDIVISION</p> <p style="text-align: center;">(AT 12200 WEST RYAN ROAD) (CAPE CROSSING, LLC, APPLICANT)</p>	<p style="text-align: center;">ITEM NUMBER</p> <p style="text-align: center;">G.6.</p>

At the September 8, 2022, regular meeting, the Plan Commission carried the following:

*A motion to recommend approval of a Resolution conditionally approving a Final Plat for the villas at Cape Crossing/The Estates at Cape Crossing subdivision (at 12200 West Ryan Road), recognizing the need of further review of condition No. 10 and recommending dedication of outlot 4.*

The vote was (5-1-0), 5 voted 'aye', 1 voted 'nay'

**COUNCIL ACTION REQUESTED**

A motion to adopt Resolution 2022-\_\_\_\_\_, conditionally approving a Final Plat for the villas at Cape Crossing/The Estates at Cape Crossing subdivision (at 12200 West Ryan Road), accepting dedication of outlot 4, condition No. 10 is subject to further review by staff.

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

A RESOLUTION CONDITIONALLY APPROVING A  
FINAL PLAT FOR THE VILLAS AT CAPE CROSSING/THE  
ESTATES AT CAPE CROSSING SUBDIVISION  
(AT 12200 WEST RYAN ROAD)  
(CAPE CROSSING, LLC, APPLICANT)

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WHEREAS, the City of Franklin, Wisconsin, having received an application for approval of a final plat for Phase 1 of The Villas at Cape Crossing/The Estates at Cape Crossing subdivision, such plat being a part of the Southwest 1/4 and Northwest 1/4 of the Southwest 1/4 of Section 19, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin, more specifically, of the property located at 12200 West Ryan Road, Phase 1 consisting of 63 single-family residence lots, with outlots for common areas, stormwater management facilities and future phases), bearing Tax Key Nos. 890-9991-001 and 890-9991-002, Cape Crossing, LLC, applicant; said Final Plat having been reviewed by the City Plan Commission following the reviews and recommendations or reports of the City Planning Department and the City Engineering Department, and the Plan Commission having recommended approval thereof at its meeting on September 8, 2022, pursuant to certain conditions; and

WHEREAS, the Common Council having reviewed such application and Plan Commission recommendation and the Common Council having determined that such proposed final plat is appropriate for approval pursuant to law upon certain conditions.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that the Final Plat of The Villas at Cape Crossing/The Estates at Cape Crossing subdivision, as submitted by Cape Crossing, LLC, as described above, be and the same is hereby approved, subject to the following conditions:

1. That any and all objections made and corrections required by the City of Franklin, by Milwaukee County, and by any and all reviewing agencies, shall be satisfied and made by the applicant, and that all minor technical deficiencies within the Final Plat be rectified, all prior to the recording of the Final Plat.
2. That all land development and building construction permitted or resulting under this Resolution shall be subject to impact fees imposed pursuant to §92-9 of the Municipal Code or development fees imposed pursuant to §15-5.0110 of the Unified Development Ordinance, both such provisions being applicable to the development and building permitted or resulting hereunder as it occurs from time to time, as such Code and Ordinance provisions may be amended from time to time.

CAPE CROSSING, LLC - FINAL PLAT FOR THE VILLAS AT CAPE CROSSING/THE  
ESTATES AT CAPE CROSSING SUBDIVISION  
RESOLUTION NO. 2022-\_\_\_\_\_

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3. Pursuant to §236.13(1) and (2), Stats., pertaining to conditions of plat approval and the provision of public improvements reasonably necessary, respectively, and §15-8.0101 and §15-2.0303 of the Unified Development Ordinance, pertaining to required improvements and the financial security to be provided therefore as conditions of plat approval, the required improvements prescribed in the Unified Development Ordinance for land divisions are required as a condition of the approval of the Final Plat for The Villas at Cape Crossing/The Estates at Cape Crossing subdivision; a Subdivision Development Agreement (“Subdivider’s Agreement”), as may be approved by the Common Council upon the recommendation of the City Engineer and as secured by a letter of credit in form as approved by the City Attorney, shall provide for the furnishing, construction and installation of the required improvements and such other matters as set forth therein, and shall be entered into and executed by Cape Crossing, LLC prior to the recording of the Final Plat.
4. Each and any easement shown on the Final Plat shall be the subject of separate written grant of easement instrument, in such form as provided within the *City of Franklin Design Standards and Construction Specifications* and such form and content as may otherwise be reasonably required by the City Engineer or designee to further and secure the purpose of the easement, and all being subject to the approval of the Common Council, prior to the recording of the Final Plat.
5. That any and all submissions, reviews and approvals, for any and all matters required to be submitted, reviewed and/or approved within the final plat application process as specified within the Unified Development Ordinance, which may not have been submitted, reviewed and/or approved as of the date of adoption of this Resolution, if any, including for matters of utility easements, a declaration of deed restrictions and protective covenants, conservation easements, other public purpose easements, stormwater management agreements, and homeowners’ association legal instruments, shall be so submitted, reviewed and/or approved, prior to the recording of the Final Plat.
6. Franklin DC Land, LLC, successors and assigns and any developer of The Villas at Cape Crossing/The Estates at Cape Crossing Phase 1, 63 lot and outlots single-family residential subdivision development shall pay to the City of Franklin the amount of all development compliance, inspection and review fees incurred by the City of Franklin, including fees of consults to the City of Franklin, for The Villas at Cape Crossing/The Estates at Cape Crossing Phase 1, 63 lot and outlots single-family residential subdivision development, within 30 days of invoice for same. Any violation of this provision shall be a violation of the Unified Development Ordinance, and subject to §15-9.0502 thereof



CAPE CROSSING, LLC - FINAL PLAT FOR THE VILLAS AT CAPE CROSSING/THE  
ESTATES AT CAPE CROSSING SUBDIVISION  
RESOLUTION NO. 2022-\_\_\_\_\_

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- and §1-19 of the Municipal Code, the general penalties and remedies provisions, as amended from time to time.
7. The approval granted hereunder is conditional upon Cape Crossing, LLC and The Villas at Cape Crossing/The Estates at Cape Crossing Phase 1, 63 lot and outlots single-family residential subdivision development project for the property located at 12200 West Ryan Road: (i) being in compliance with all applicable governmental laws, statutes, rules, codes, orders and ordinances; and (ii) obtaining all other governmental approvals, permits, licenses and the like, required for and applicable to the project to be developed and as presented for this approval.
  8. The Villas at Cape Crossing/The Estates at Cape Crossing Phase 1, 63 lot and outlots single-family residential subdivision development project shall be developed in substantial compliance with the terms and provisions of this Resolution.
  9. The subdivider must submit the Department of Administration "Letter of Certification" to the Department of City Development, prior to recording this final plat with the Milwaukee County Register of Deeds.
  10. This Final Plat approval is contingent upon the applicant obtaining a Natural Resource Special Exception for impacts to protected natural resources, including but not limited to grading within the wetland buffer of wetland W-3, prior to recording the Final Plat. Otherwise, the subdivider must revise the plat and conservation easement documents to add the 50-foot wetland setback around the remaining area of wetland W-3 to the conservation easement area.
  11. The subdivider shall obtain Common Council approval of the proposed easements (Watermain, Sanitary Sewer, Storm Water Management Access, Storm Drainage, Conservation and Landscape Bufferyard) prior to recording this final plat and said easements.
  12. Pursuant to the Unified Development Ordinance Section 15-7-.0603.D, the declaration of protective covenants is subject to review by the City Attorney.
  13. The applicant shall be responsible for filing a Subdivision Development Agreement consistent with all regulations of the Unified Development Ordinance and Municipal. Common Council approval of said Subdivision Development Agreement is required prior to recording this Final Plat.
  14. Final Engineering Department approval of the grading, erosion control and storm water management plan is required prior to recording this Final Plat.
  15. Final Engineering Department approval of sewer and water extensions is required prior

CAPE CROSSING, LLC - FINAL PLAT FOR THE VILLAS AT CAPE CROSSING/THE  
ESTATES AT CAPE CROSSING SUBDIVISION  
RESOLUTION NO. 2022-\_\_\_\_\_

Page 4

to recording this Final Plat.

- 16. Separate site plan approval shall be required for amenity areas, such as clubhouse and fire pit. Signage shall be subject to issuance of a Sign Permit from the City Development Department.
- 17. The subdivider must revise sheet 2, note 5, to indicate dedication of Outlot 4 to the City of Franklin. The subdivider may obtain a credit or credit refund of the total park impact fee obligation per UDO Section 15-5.0110F.4.b.

BE IT FURTHER RESOLVED, that the Final Plat of The Villas at Cape Crossing/The Estates at Cape Crossing subdivision development, be and the same is hereby rejected without final approval and without any further action of the Common Council, if any one, or more than one of the above conditions is or are not met and satisfied within 12 months from the date of adoption of this Resolution.

BE IT FINALLY RESOLVED, that upon the satisfaction of the above conditions within 12 months of the date of adoption of this Resolution, same constituting final approval, and pursuant to all applicable statutes and ordinances and lawful requirements and procedures for the recording of a final plat, the City Clerk is hereby directed to obtain the recording of the Final Plat of The Villas at Cape Crossing/The Estates at Cape Crossing subdivision with the Office of the Register of Deeds for Milwaukee County.

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

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

APPROVED:

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

ATTEST:

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

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



CITY OF FRANKLIN  
REPORT TO THE PLAN COMMISSION

Item E.2.

Meeting of September 8, 2022

FINAL PLAT

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**RECOMMENDATION:** City Development Staff recommends approval of this Final Plat, subject to conditions set forth in the attached draft resolution.

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<b>Project name:</b>	<b>Cape Crossing Phase 1, Final Plat</b>
<b>Property Owner:</b>	Franklin DC Land, LLC
<b>Applicant:</b>	Cape Crossing, LLC
<b>Agent:</b>	Eric Obarski. Cape Crossing, LLC
<b>Property Address/TKN:</b>	12200 W Ryan Rd. / 890 9991 001 & 890 9991 002
<b>Aldermanic District:</b>	District 6
<b>Zoning District:</b>	PDD-40 – Cape Crossing
<b>Staff Planner:</b>	Régulo Martínez-Montilva, AICP, Principal Planner
<b>Submittal date:</b>	08-04-2022
<b>Application number:</b>	PPZ22-0126

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**Introduction/Background:**

Final Plat for Phase 1 of the Cape Crossing Subdivision. The proposed plat contains 63 single family residential lots, with outlots for common areas, stormwater management facilities and future phases. On March 5, 2022, the Common Council adopted Resolution 2022-7839 conditionally approving the Preliminary Plat for this subdivision.

Pursuant to Wisconsin Statutes §236 11(2)(a) , the approving authority (Common Council) shall take action within 60 days of application submittal unless a time extension is granted by the subdivider, this time frame will expire on October 3, 2022

A Concept Review for the Planned Development District was presented before the Common Council on August 3, 2021, the first concept version had 180 lots, then it was reduced to 142 lots and finally to the current design with 130 lots.

The Cape Crossing Planned Development District (PDD) was conditionally approved by the Common Council on January 18, 2022, Ordinance 2022-2492, which establishes the development standards for this subdivision. The former zoning was R-3 – Suburban/Estate Single-Family Residence District

The Cape Crossing Planned Development District (PDD) has two areas with different development standards. The Villas and The Estates. The Villas is the south half of the subdivision and allows for smaller lots with a minimum lot size of 9,000 square feet, 76 lots are located in The Villas area. The Estates is the north half with 54 larger lots, 12,000 square feet minimum

**Project Description/Analysis:**

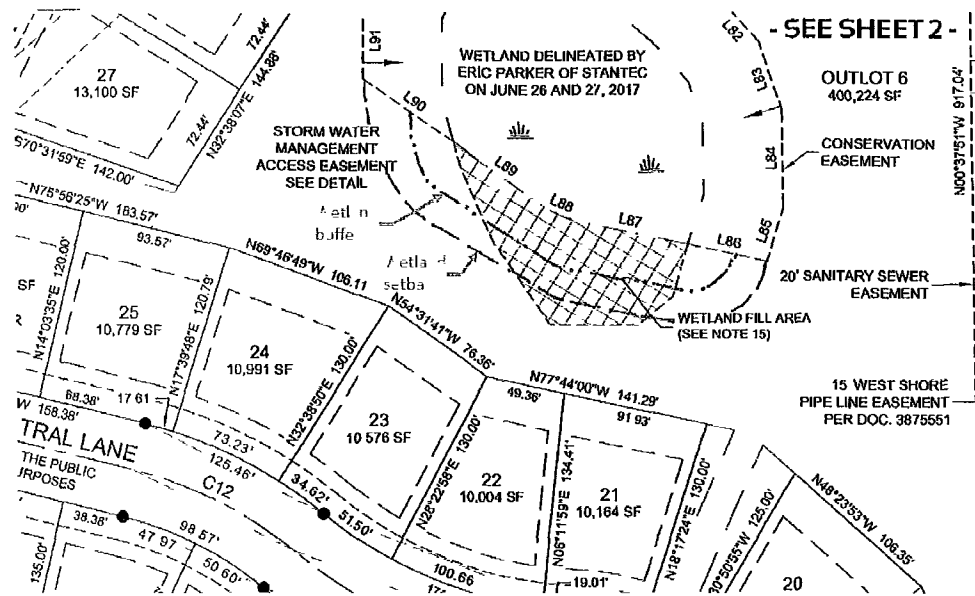
The approved preliminary plat consists of 3 phases This Phase 1 has a total of 63 single-family residential lots, 46 lots in “The Villas” area and 17 lots in “The Estates” area, as well as 11 outlots for future phases, natural resource protection, stormwater management and easements All residential lots to be served by public sewer and water facilities

Resolution 2022-7839 conditionally approving the Preliminary Plat for this subdivision set forth 18 conditions The subdivider submitted the first Final Plat application on June 16, 2022, then City Development staff informed the applicant that additional information was required to comply with the conditions of approval The subdivider submitted the information requested and the application was deemed complete on August 4, with the exception of the Department of Administration “Letter of Certification”, the subdivider must submit this letter prior to recording (see condition of approval #9)

**Natural resource protection:**

The subdivider received a Nonfederal Wetland Exemption Determination from the Department of Natural Resources (Appendix #1), to allow for impacts to a portion of wetland W-3 (8,346 square feet) and the entire wetland W-4 Additionally, wetlands W-3 and W-4 are not federally jurisdictional per letter dated May 26, 2022 from the U S Army Corps of Engineers When a wetland is not subject to state and federal regulations, local protections standards set forth in the UDO Part 4 “Natural Resource Protection” do not apply, this is the case of the 8,346 square foot portion of wetland W-3 and the entire wetland W-4. However, these local protection standards still apply to the remaining area of wetland W-3 and its 30-foot buffer and 50-foot setback, note that grading is not allowed in the buffer, grading is allowed in the setback but structures are prohibited

In order to allow for grading activities in the surrounding buffer of the remaining area of wetland W-3 (20,768 square feet approx .), the subdivider needs to obtain a Natural Resource Special Exception (NRSE) Otherwise, the subdivider must revise the plat and conservation easement documents to add the 50-foot wetland setback around the remaining area of wetland W-3 to the conservation easement area (see condition of approval #10)



**Wetland W-3, wetland fill area, wetland buffer and wetland setback.**  
Notes by City Development staff

Potential trail head on Outlot 4:

Outlot 4 is designated as a trail head in the Ryan Creek Trail Plan (Appendix #2) Unified Development Ordinance (UDO), Section 15-5 0110B. “Parks, Playground and Other Recreational and Municipal Facilities” states that “The Plan Commission shall, at the time of reviewing the Certified Survey Map, Preliminary Plat, Condominium, any residential special use, any residential PDD Planned Development District, and residential uses in a mixed PDD Planned Development District, or multiple-family dwelling development, recommend to the Common Council one of the following options. The Common Council, at the time of reviewing the development and after reviewing the recommendation of the Plan Commission, shall select one of the following options and incorporate same into any approval granted” [emphasis added].

1. **Dedicate** open space lands designated on the County development plan or component thereof, City of Franklin Comprehensive Master Plan or plan component; or
  - Staff recommended condition. The subdivider must revise sheet 2, note 5, to indicate dedication of Outlot 4 to the City of Franklin. The subdivider may obtain a credit or credit refund of the total park impact fee obligation per UDO Section 15-5 0110F 4 b.
2. **Reserve** such open space lands and require a Park, Playground and Other Recreational Facility development fee payment pursuant to Division 15-5 0110(F)(4), or
  - Staff comment: This is the applicant’s proposal, Sheet 2, note 5 states that: “OUTLOT 4 OF THE PLAT OF CAPE CROSSING SHALL BE OWNED BY THE DEVELOPER FOR THE EVENTUAL PURPOSE OF CREATING A PUBLIC TRAIL HEAD”. Reservations for purchase are valid for 5 years unless extended by mutual agreement per UDO Section 15-5 0110E
3. Where no open space lands are directly involved, require a Park, Playground and Other Recreational Facility development **fee payment** pursuant to Division 15-5.0110(F)(4)
  - No additional condition of approval recommended for this option

Since outlot 4 is designated as a trail head, City Development staff recommends that this outlot should be dedicated to the public by the subdivider (Option 1) The Ryan Creek Trail Plan states that “The City should make sure lands along the trail route are reserved as private development occurs (i.e. easements, dedications, reservations, etc )”, page 23

**Staff recommendation:**

A motion to recommend approval of the Cape Crossing Final Plat, subject to the conditions as noted in the attached draft resolution

The Plan Commission shall recommend one of the three options for Outlot 4: dedication, reservation or fee payment.

Appendices:

- 1 Nonfederal Wetland Exemption Determination from the Department of Natural Resources, letter dated August 10, 2022, EXE-SE-2022-41-02358
- 2 Ryan Creek Trail Plan, adopted by the Common Council on June 21, 2022, pages 17 & 23

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

A RESOLUTION CONDITIONALLY APPROVING A  
FINAL PLAT FOR THE VILLAS AT CAPE CROSSING/THE  
ESTATES AT CAPE CROSSING SUBDIVISION  
(AT 12200 WEST RYAN ROAD)  
(CAPE CROSSING, LLC, APPLICANT)

---

WHEREAS, the City of Franklin, Wisconsin, having received an application for approval of a final plat for Phase 1 of The Villas at Cape Crossing/The Estates at Cape Crossing subdivision, such plat being a part of the Southwest 1/4 and Northwest 1/4 of the Southwest 1/4 of Section 19, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin, more specifically, of the property located at 12200 West Ryan Road, Phase 1 consisting of 63 single-family residence lots, with outlots for common areas, stormwater management facilities and future phases), bearing Tax Key Nos. 890-9991-001 and 890-9991-002, Cape Crossing, LLC, applicant; said Final Plat having been reviewed by the City Plan Commission following the reviews and recommendations or reports of the City Planning Department and the City Engineering Department, and the Plan Commission having recommended approval thereof at its meeting on September 8, 2022, pursuant to certain conditions; and

WHEREAS, the Common Council having reviewed such application and Plan Commission recommendation and the Common Council having determined that such proposed final plat is appropriate for approval pursuant to law upon certain conditions.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that the Final Plat of The Villas at Cape Crossing/The Estates at Cape Crossing subdivision, as submitted by Cape Crossing, LLC, as described above, be and the same is hereby approved, subject to the following conditions:

1. That any and all objections made and corrections required by the City of Franklin, by Milwaukee County, and by any and all reviewing agencies, shall be satisfied and made by the applicant, and that all minor technical deficiencies within the Final Plat be rectified, all prior to the recording of the Final Plat.
2. That all land development and building construction permitted or resulting under this Resolution shall be subject to impact fees imposed pursuant to §92-9 of the Municipal Code or development fees imposed pursuant to §15-5.0110 of the Unified Development Ordinance, both such provisions being applicable to the development and building permitted or resulting hereunder as it occurs from time to time, as such Code and Ordinance provisions may be amended from time to time.

CAPE CROSSING, LLC - FINAL PLAT FOR THE VILLAS AT CAPE CROSSING/THE  
ESTATES AT CAPE CROSSING SUBDIVISION  
RESOLUTION NO. 2022-\_\_\_\_\_

Page 2

3. Pursuant to §236.13(1) and (2), Stats., pertaining to conditions of plat approval and the provision of public improvements reasonably necessary, respectively, and §15-8.0101 and §15-2.0303 of the Unified Development Ordinance, pertaining to required improvements and the financial security to be provided therefore as conditions of plat approval, the required improvements prescribed in the Unified Development Ordinance for land divisions are required as a condition of the approval of the Final Plat for The Villas at Cape Crossing/The Estates at Cape Crossing subdivision; a Subdivision Development Agreement (“Subdivider’s Agreement”), as may be approved by the Common Council upon the recommendation of the City Engineer and as secured by a letter of credit in form as approved by the City Attorney, shall provide for the furnishing, construction and installation of the required improvements and such other matters as set forth therein, and shall be entered into and executed by Cape Crossing, LLC prior to the recording of the Final Plat.
4. Each and any easement shown on the Final Plat shall be the subject of separate written grant of easement instrument, in such form as provided within the *City of Franklin Design Standards and Construction Specifications* and such form and content as may otherwise be reasonably required by the City Engineer or designee to further and secure the purpose of the easement, and all being subject to the approval of the Common Council, prior to the recording of the Final Plat.
5. That any and all submissions, reviews and approvals, for any and all matters required to be submitted, reviewed and/or approved within the final plat application process as specified within the Unified Development Ordinance, which may not have been submitted, reviewed and/or approved as of the date of adoption of this Resolution, if any, including for matters of utility easements, a declaration of deed restrictions and protective covenants, conservation easements, other public purpose easements, stormwater management agreements, and homeowners’ association legal instruments, shall be so submitted, reviewed and/or approved, prior to the recording of the Final Plat.
6. Franklin DC Land, LLC, successors and assigns and any developer of The Villas at Cape Crossing/The Estates at Cape Crossing Phase 1, 63 lot and outlots single-family residential subdivision development shall pay to the City of Franklin the amount of all development compliance, inspection and review fees incurred by the City of Franklin, including fees of consults to the City of Franklin, for The Villas at Cape Crossing/The Estates at Cape Crossing Phase 1, 63 lot and outlots single-family residential subdivision development, within 30 days of invoice for same. Any violation of this provision shall be a violation of the Unified Development Ordinance, and subject to §15-9 0502 thereof

CAPE CROSSING, LLC - FINAL PLAT FOR THE VILLAS AT CAPE CROSSING/THE  
ESTATES AT CAPE CROSSING SUBDIVISION

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

Page 3

and §1-19 of the Municipal Code, the general penalties and remedies provisions, as amended from time to time.

7. The approval granted hereunder is conditional upon Cape Crossing, LLC and The Villas at Cape Crossing/The Estates at Cape Crossing Phase 1, 63 lot and outlots single-family residential subdivision development project for the property located at 12200 West Ryan Road: (i) being in compliance with all applicable governmental laws, statutes, rules, codes, orders and ordinances; and (ii) obtaining all other governmental approvals, permits, licenses and the like, required for and applicable to the project to be developed and as presented for this approval.
8. The Villas at Cape Crossing/The Estates at Cape Crossing Phase 1, 63 lot and outlots single-family residential subdivision development project shall be developed in substantial compliance with the terms and provisions of this Resolution.
9. The subdivider must submit the Department of Administration "Letter of Certification" to the Department of City Development, prior to recording this final plat with the Milwaukee County Register of Deeds.
10. This Final Plat approval is contingent upon the applicant obtaining a Natural Resource Special Exception for impacts to protected natural resources, including but not limited to grading within the wetland buffer of wetland W-3, prior to recording the Final Plat. Otherwise, the subdivider must revise the plat and conservation easement documents to add the 50-foot wetland setback around the remaining area of wetland W-3 to the conservation easement area.
11. The subdivider shall obtain Common Council approval of the proposed easements (Watermain, Sanitary Sewer, Storm Water Management Access, Storm Drainage, Conservation and Landscape Bufferyard) prior to recording this final plat and said easements.
12. Pursuant to the Unified Development Ordinance Section 15-7-.0603.D, the declaration of protective covenants is subject to review by the City Attorney.
13. The applicant shall be responsible for filing a Subdivision Development Agreement consistent with all regulations of the Unified Development Ordinance and Municipal. Common Council approval of said Subdivision Development Agreement is required prior to recording this Final Plat
14. Final Engineering Department approval of the grading, erosion control and storm water management plan is required prior to recording this Final Plat.
15. Final Engineering Department approval of sewer and water extensions is required prior



CAPE CROSSING, LLC - FINAL PLAT FOR THE VILLAS AT CAPE CROSSING/THE  
ESTATES AT CAPE CROSSING SUBDIVISION  
RESOLUTION NO. 2022-\_\_\_\_\_

Page 4

to recording this Final Plat.

16. Separate site plan approval shall be required for amenity areas, such as clubhouse and fire pit. Signage shall be subject to issuance of a Sign Permit from the City Development Department.

BE IT FURTHER RESOLVED, that the Final Plat of The Villas at Cape Crossing/The Estates at Cape Crossing subdivision development, be and the same is hereby rejected without final approval and without any further action of the Common Council, if any one, or more than one of the above conditions is or are not met and satisfied within 12 months from the date of adoption of this Resolution.

BE IT FINALLY RESOLVED, that upon the satisfaction of the above conditions within 12 months of the date of adoption of this Resolution, same constituting final approval, and pursuant to all applicable statutes and ordinances and lawful requirements and procedures for the recording of a final plat, the City Clerk is hereby directed to obtain the recording of the Final Plat of The Villas at Cape Crossing/The Estates at Cape Crossing subdivision with the Office of the Register of Deeds for Milwaukee County.

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

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

APPROVED:

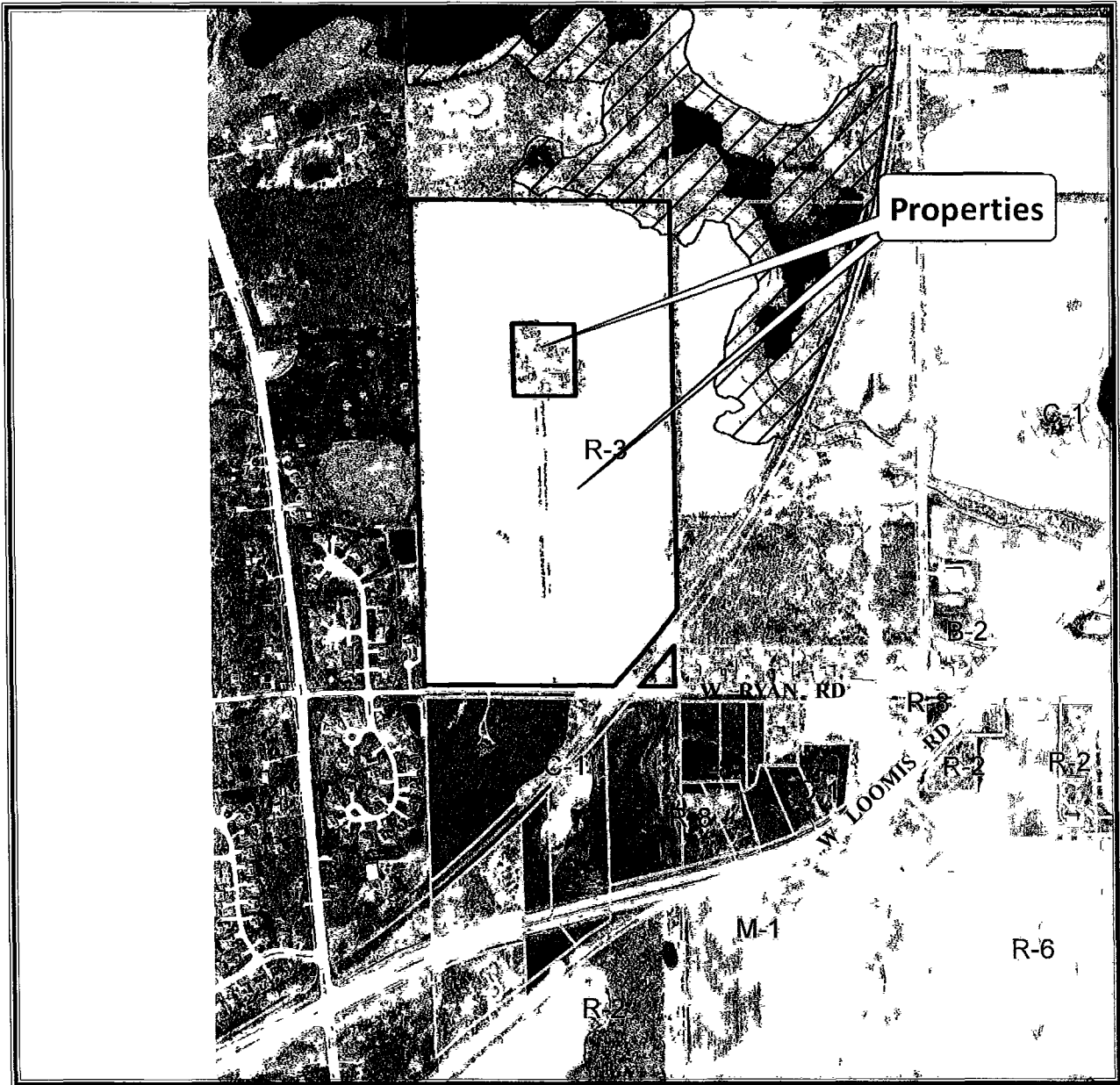
\_\_\_\_\_  
Stephen R. Olson, Mayor

ATTEST:

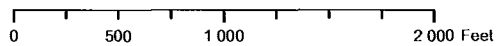
\_\_\_\_\_  
Sandra L. Wesolowski, City Clerk

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

Address: 12200 W. Ryan Road  
TKNs: 890-9991-001 and 890-9991-002



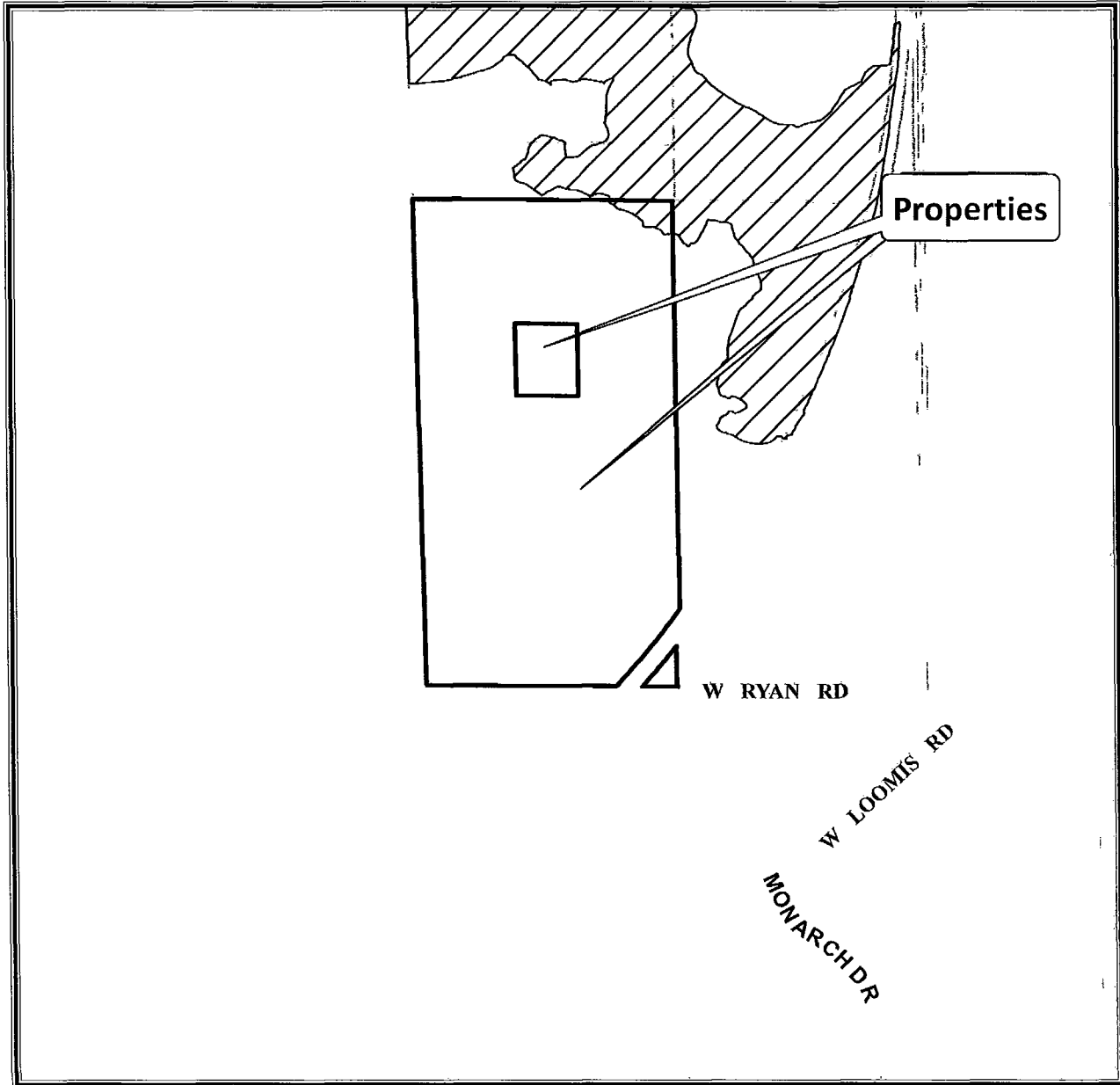
Planning Department  
(414) 425-4024



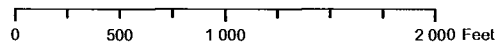
2021 Aerial Photo

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

Address: 12200 W. Ryan Road  
TKNs: 890-9991-001 and 890-9991-002



Planning Department  
(414) 425-4024



2021 Aerial Photo

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

State of Wisconsin  
DEPARTMENT OF NATURAL RESOURCES  
1155 Pilgrim Rd.  
Plymouth, WI, 53073

Tony Evers, Governor  
Preston D. Cole, Secretary  
Telephone 608-266-2621  
Toll Free 1-888-936-7463  
TTY Access via relay - 711



#1

August 10<sup>th</sup>, 2022

EXE-SE-2022-41-02358

Neumann Developments, Inc.  
Bryan Lindgren  
N27 W24025 Paul Ct , Suite 100  
Pewaukee, WI 53072

RE Nonfederal Wetland Exemption Determination for an area described as a portion of Wetland W-3, and Wetland W-4 located in the SW ¼ of the SW ¼ of Section 19, Township 05 North, Range 21 East, City of Franklin, Milwaukee County

Dear Mr Lindgren

This letter is in response to your request for a nonfederal wetland exemption determination for the above-mentioned wetlands

According to 281.36 (4n), State Stat , a nonfederal wetland is a wetland that is not federally jurisdictional Projects impacting nonfederal wetlands in urban areas must be less than 1 acre of total impact, and must be done in compliance with applicable stormwater management zoning ordinances or stormwater Wisconsin Pollution Discharge Elimination System (WPDES) permits to qualify for this exemption (s. 281.36(4n)(b)3, Wis. Stat ) In addition, DNR must also consider whether the nonfederal wetland is a rare and high quality wetland as defined in s 281 36(4n)(a)3, Wis Stat

The Department reviewed the following materials to aid in our exemption determination

- The request narrative
- Site location map and photographs that show different angles and views of the wetland
- Botanical survey results
- Wetland delineation information
- Stormwater compliance information
- U S Army Corps of Engineers AJD Document

Below is a summary of our findings

#### Request Narrative

According to the request narrative, a portion of wetland W-3 (8,346 square feet) and wetland W-4 (475 square feet) are the focus of this non-federal wetland exemption request Wetland W-3 is a fresh wet meadow/farmed wetland in an agricultural setting. Wetland W-4 is a roadside ditch The total non-federal wetland impact area on the parcel (Tax Key# 8909991001) is 8,821 square feet. The purpose of this project is to grade/fill these areas for the construction of proposed residential development, and a associated berm for a stormwater management facility The wetland impact is less than 10,000 square feet in the City of Franklin A 12" equalizer pipe will be installed to maintain wetland hydrology in the remaining portion of wetland W-3 that was not requested

### Site Location and Photographs

The site is located on an agricultural lot off of W. Ryan Road in the City of Franklin (Parcel Tax Key 8909991001). The parcel is in the City of Franklin, and confirms that the wetland is located in an **urban area** as defined by s 281.36(4n)(a)5 Wis Stats. Wetland photographs also show the W-3 and W-4 wetland areas are fresh wet meadow/farmed wetland depressions with unvegetated/low quality and rudimentary plant species in an agricultural setting.

### Wetland Delineation Information

The wetland delineation shows that wetland W-3 is a low quality-rudimentary fresh wet meadow/farmed wetland depression, in a farm field. The surrounding areas are being developed for the proposed residential subdivision. Wetland 4 is a fresh wet meadow roadside ditch along Ryan Road. These wetland areas are not rare/high quality wetland types as defined by s 281.36(4n)(a)3 Wis. Stats.

### Stormwater Compliance Information

The applicant is responsible for obtaining all other state and/or local stormwater and erosion control approvals as deemed necessary by the applicable officials. The applicant provided general knowledge of these requirements and stated that they will comply with state and local requirements. A 12" equalizer culvert will be installed at an appropriate elevation as shown on plans to allow water to flow into the remaining portion of wetland W-3 (not requested) during regularly occurring storm events to maintain wetland hydrology of this remaining feature. The documentation demonstrated that the project will be completed in compliance with applicable WPDES stormwater permits and stormwater ordinances adopted under s 59.693, 60.627, 61.354, or 62.234, Wis Stats.

### U.S. Army Corps of Engineers AJD letter

The AJD letter dated May 26<sup>th</sup>, 2022 from the U.S. Army Corps of Engineers indicated that wetland W-3 and W-4 located in the AJD review area are not waters of the United States. Therefore, the area described as wetland W-3 and W-4 are not federally jurisdictional.

### Conclusion

Based upon the documentation provided above, the proposed project impacting a 8,346 square foot portion of Wetland W-3 and wetland W-4 meets the eligibility criteria pursuant to s 281.36(4n), State Stats. **You are able to proceed with this project impacting a 8,346 square foot portion of Wetland W-3 and wetland W-4.** Please see the attached figures for reference. If you have any questions or would like to schedule a meeting to discuss this approval, please call me at (715) 492-0200 or email [Ryan.Pappas@wisconsin.gov](mailto:Ryan.Pappas@wisconsin.gov)

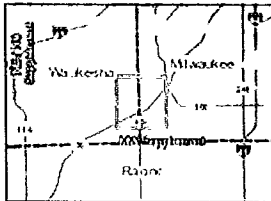
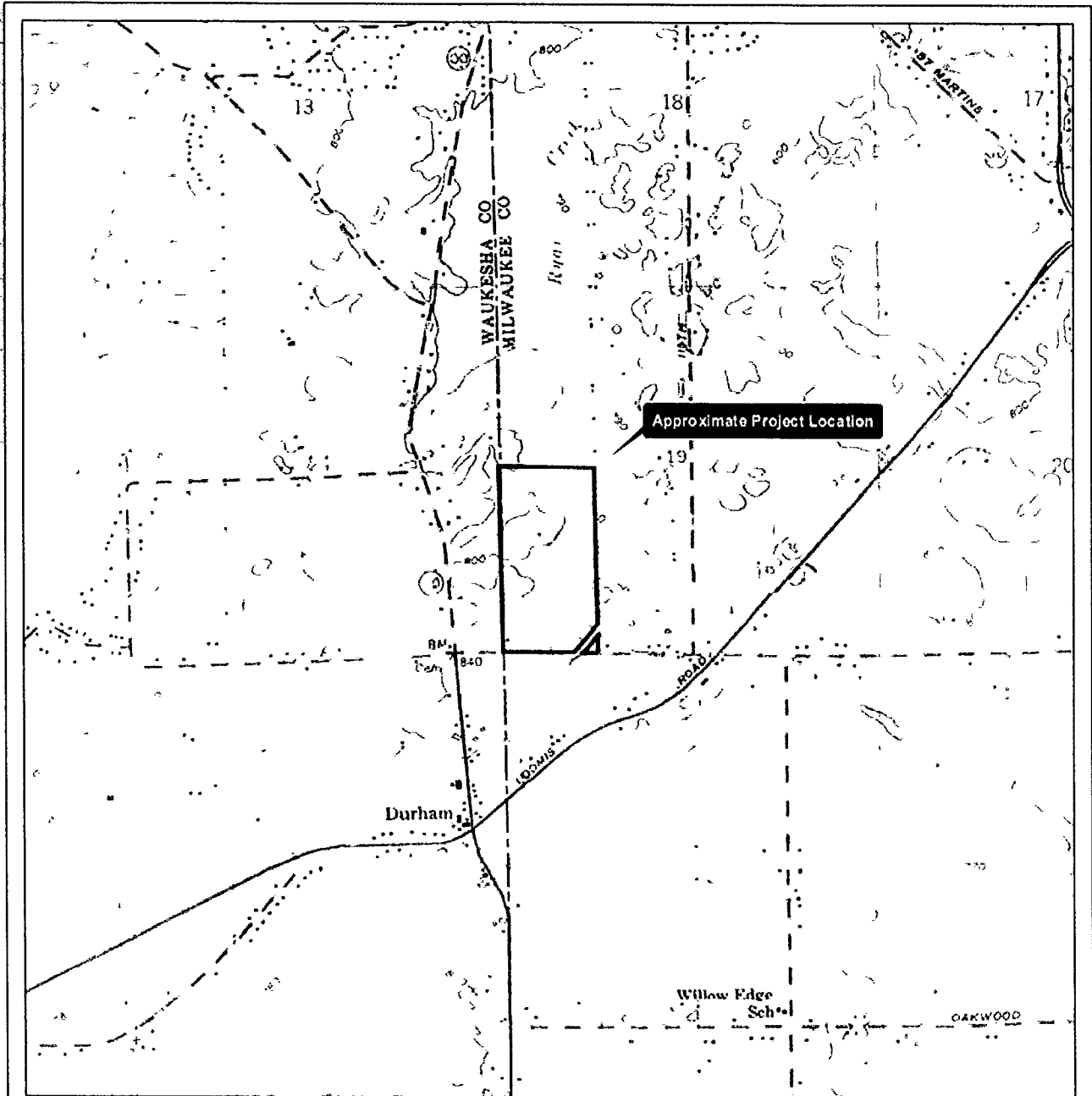
Sincerely,



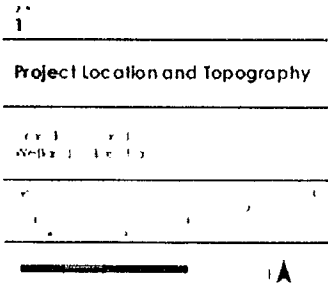
Ryan Pappas  
Wetland Exemption Specialist

Enc Site Maps and Determination Sketches

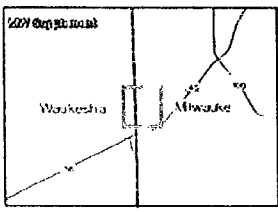
cc U.S. Army Corps of Engineers  
City of Franklin  
Eric Parker, Heartland Ecological Group



Legend  
 [Black Box] Approximate Project Location



Stantec



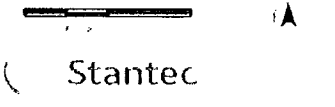
- Legend**
- Approximate Project Boundary
  - 211 E. White Co. Rd.
  - Sample Point
  - Total
  - A - 100% Below
  - Field Collection of FW for JAW
  - Oil Test Point
  - DNR 24x Hydrography
  - Percent of Stream
  - Interim II of Stream
  - Water only

**5**

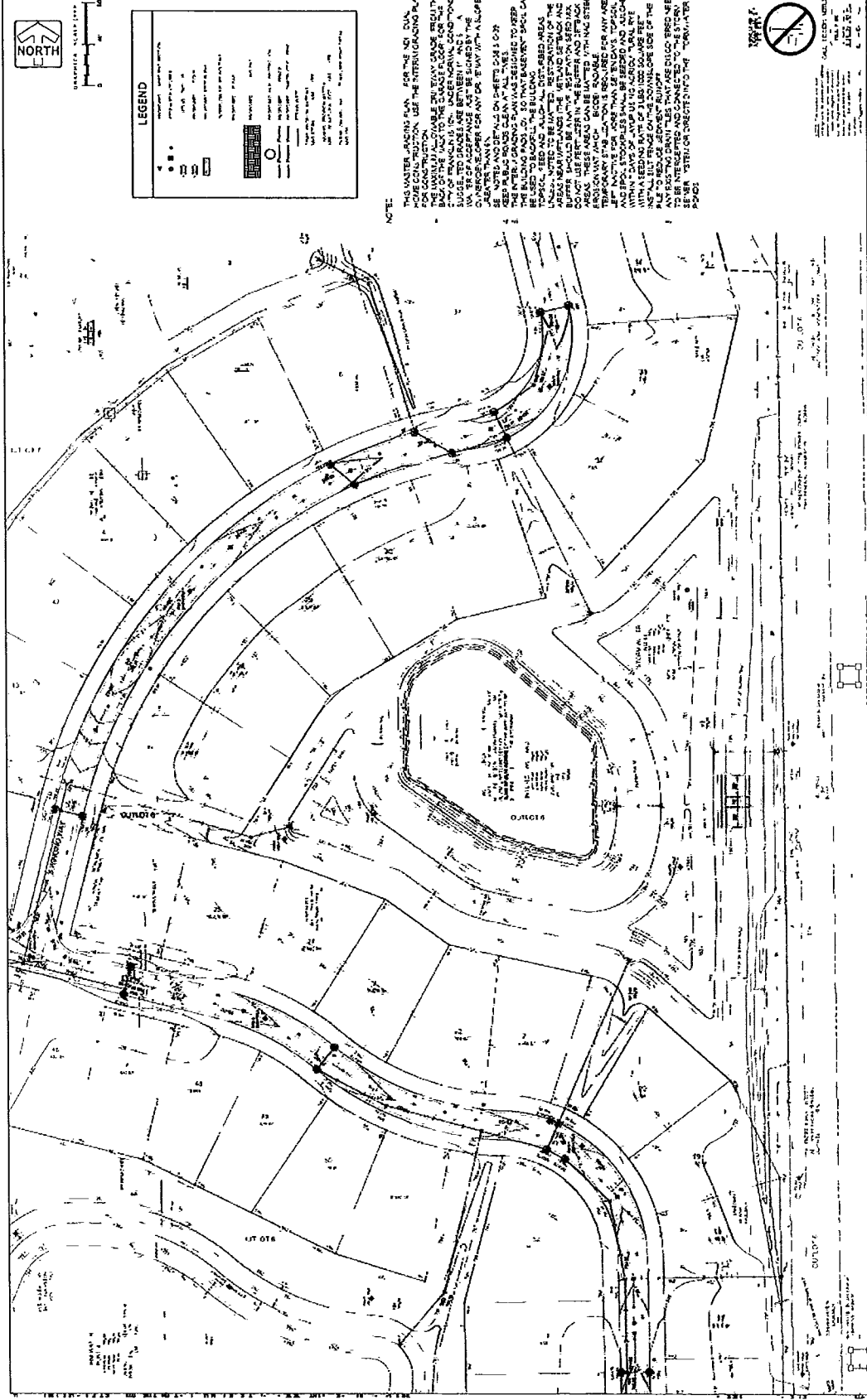
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**Field Collected Data**

In	Date
At	Time
By	Location
What	Notes



\*Data by JAW for use in JAW file



**LEGEND**

Symbol	Description
Circle with dot	Spot Elevation
Circle with 'x'	Proposed Structure
Circle with 'o'	Existing Structure
Circle with 'x' and 'o'	Proposed Structure to be Demolished
Circle with 'x' and 'o' and 'd'	Proposed Structure to be Demolished and Replaced
Circle with 'x' and 'o' and 'd' and 'e'	Proposed Structure to be Demolished and Replaced with Existing
Circle with 'x' and 'o' and 'd' and 'e' and 'f'	Proposed Structure to be Demolished and Replaced with Existing and New
Circle with 'x' and 'o' and 'd' and 'e' and 'f' and 'g'	Proposed Structure to be Demolished and Replaced with Existing and New and Existing
Circle with 'x' and 'o' and 'd' and 'e' and 'f' and 'g' and 'h'	Proposed Structure to be Demolished and Replaced with Existing and New and Existing and Existing

**NOTE:**  
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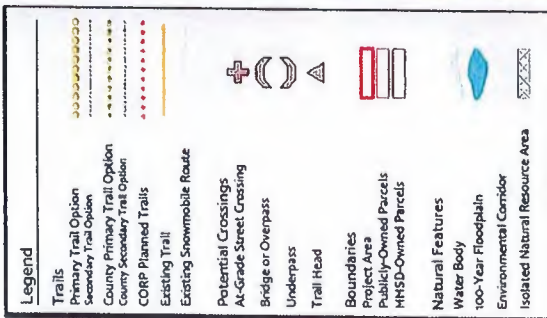
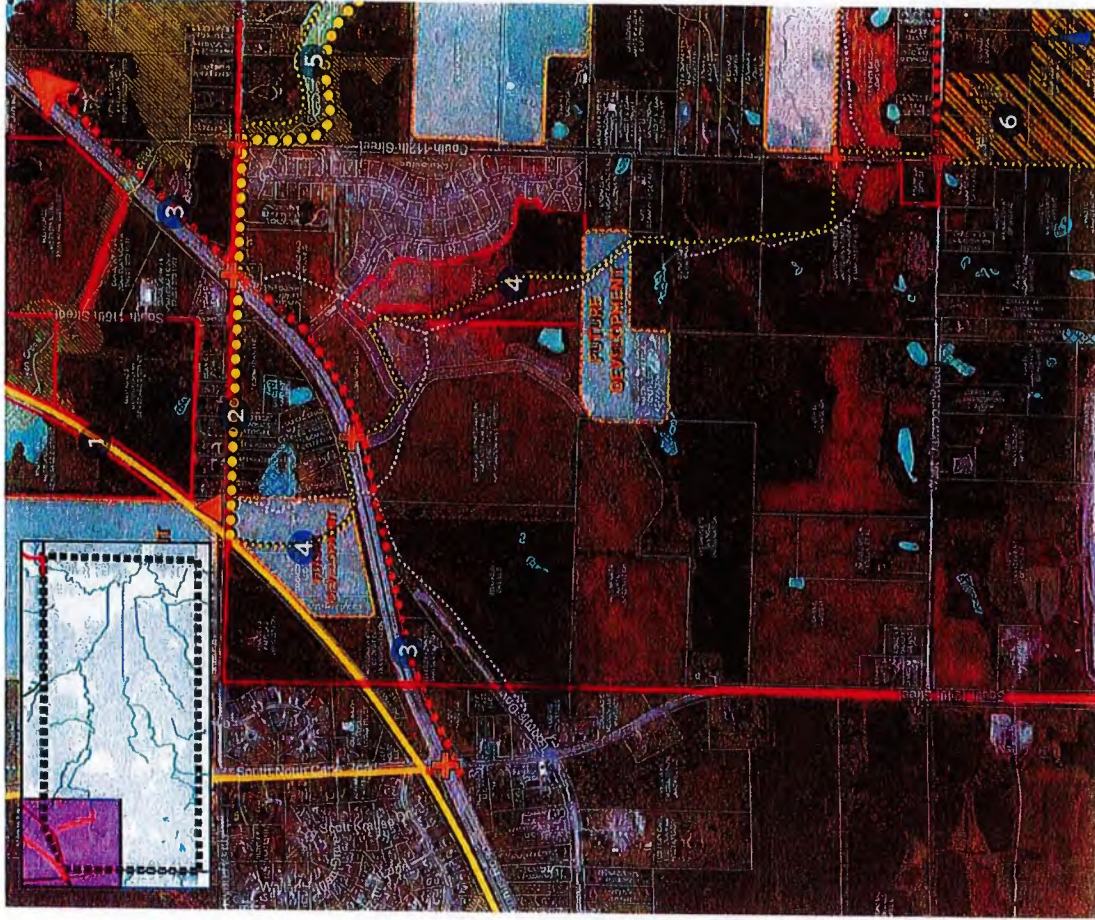
<b>PINNACLE ENGINEERING GROUP</b> 1000 W. WISCONSIN ST., SUITE 200 MILWAUKEE, WI 53233 PHONE: 414.224.1100 FAX: 414.224.1101 WWW.PINNACLE-ENG.COM	<b>CITY OF FRANKLIN, MILWAUKEE CO., WI</b>	<b>INTERIM GRADING &amp; EROSION CONTROL PLAN</b>	REVISIONS 1. 11/15/2011 2. 11/15/2011 3. 11/15/2011 4. 11/15/2011 5. 11/15/2011 6. 11/15/2011 7. 11/15/2011 8. 11/15/2011 9. 11/15/2011 10. 11/15/2011	SHEET C-33 C-42
		SCALE: 1" = 40'		





# RECOMMENDATIONS

- 1 Existing 116th Street Trail
- 2 Recommended off-street sidepath trail along south side of Ryan Road (most direct route from 116th Street Trail to Ryan Creek corridor; fewer roadway crossings compared to north side of Ryan Road; fewer individual property owners compared to north side of the road)
- 3 Recommended off-street sidepath trail along south side of Loomis Road (provides bike/ped access to future mixed-use development along Loomis; 10-15 minute bike ride north to City Hall / Library)
- 4 Recommended off-street trail that connects through existing or planned development areas
- 5 Recommended Primary Trail located on south side of Ryan Creek (fewer individual property owners; more direct connection to future development lands to the south)
- 6 Future City Park





Due to the overall length, the Ryan Creek Trail is unlikely to be completed all at once. The City may choose to design and build different portions at different times based on funding availability, private sector development, and intergovernmental coordination. Generally, the trail is intended to be constructed on publicly owned lands where possible and extended into privately owned lands as they are developed. The City should make sure lands along the trail route are reserved as private development occurs (i.e. easements, dedications, reservations, etc.).

This plan identifies one segment of trail from South 92nd Street to South 76th Street along the north of Ryan Creek as a priority for Phase I. This segment includes 4 or 5 creek crossings, one trail head, and two at grade crossings. It spans approximately 9,781 linear feet (not including redundant segments, see pg. 22 for details on trail route alternatives). The estimated cost for this segment is as follows:

Trail Phase I Cost Opinion	
• 9,781 LF	= \$880,300-\$1,124,800
• 4-5 creek crossings (bridges 4-8)	= \$450,000-\$1,440,000
• 10-20% elevated boardwalk	= \$244,500-\$586,800
• 1 trail head	= \$27,000-\$115,000
• 2 at-grade crossings	= \$40,000-\$60,000
<b>TOTAL</b>	<b>= \$1,641,800-\$3,326,600</b>



Trail Phase I

# CAPE CROSSING

Being a part of the Southwest 1/4 and the No. West 1/4 of the Southwest 1/4 of Section 19, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin

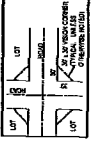


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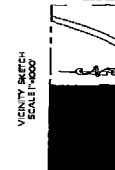
Developed in accordance with Wisconsin State Planning Code, Chapter SPS 15.02, and Wisconsin State Building Code, Chapter SPS 15.03.  
 Building Setback - 25' Front  
 Building Setback - 25' Side  
 Building Setback - 25' Rear  
 Building Setback - 25' Corner

PROJ. SETBACK - 25' FR.  
 PROJ. SETBACK - 25' SI.  
 PROJ. SETBACK - 25' RE.  
 PROJ. SETBACK - 25' CO.  
 THE SETBACK  
 LOTS 2, 3, 4, 5  
 FROM NETWORK - 75' TO  
 FROM NETWORK - 25' TO  
 FROM NETWORK - 25' TO

VISION CORNER CABINET DETAIL  
 1/2" TO SCALE

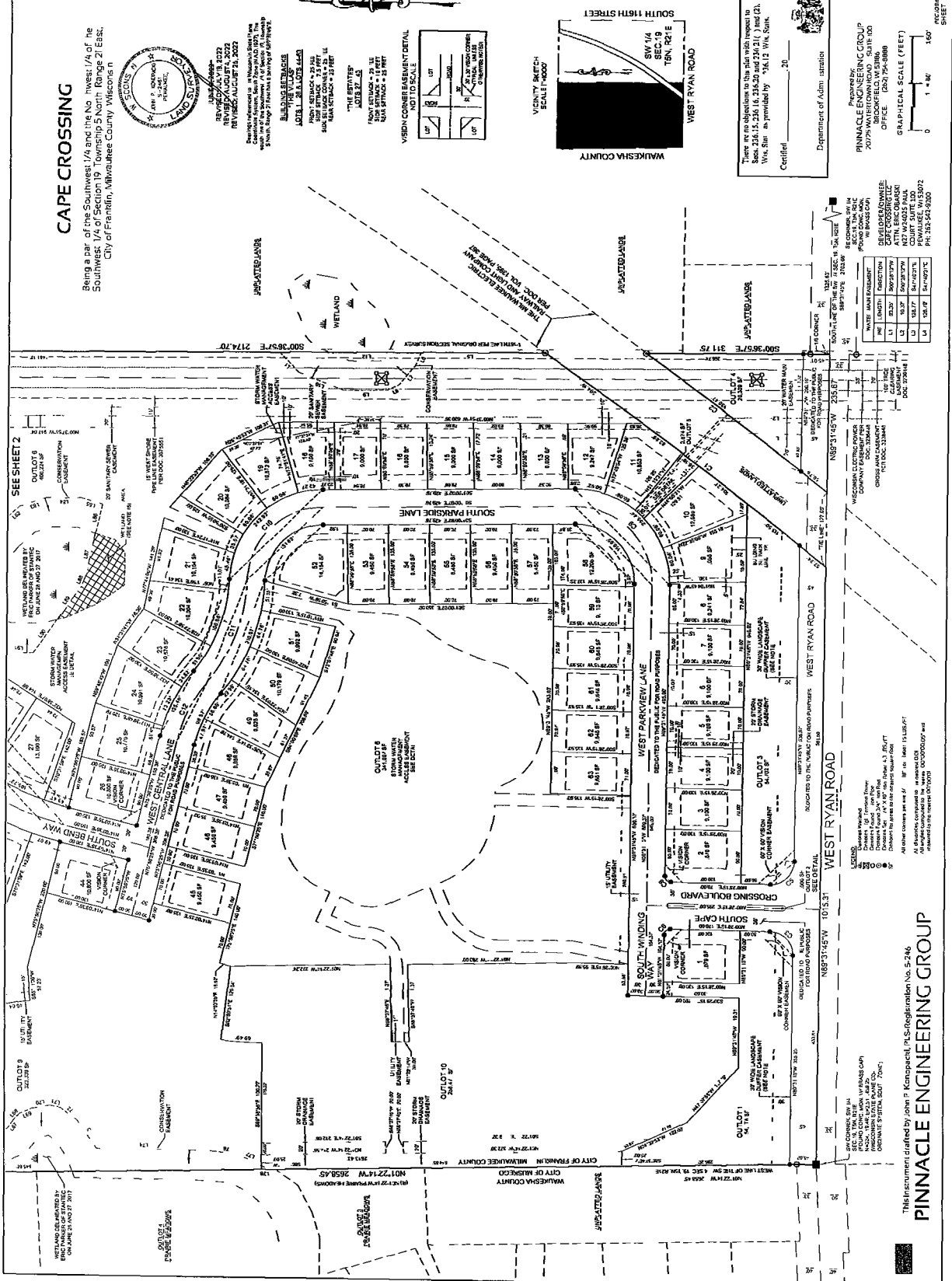


VICINITY SKETCH  
 SCALE: 1"=100'  
 SOUTH 116TH STREET  
 SW 1/4 SEC. 19  
 TEN, R2'E  
 WEST RYAN ROAD  
 WAUKESHA COUNTY



There are no objections to this plan with respect to Secs. 238.15, 238.16, 238.20 and 238.21 (7) and (2), Wis. Stat. as provided by s. 196.12 Wis. Stat.  
 Certified  
 Department of Administration

GRAPHICAL SCALE (FEET)  
 0 1 = 50' 100'  
 PINNACLE ENGINEERING GROUP  
 20179 WATERLOO ROAD SUITE 100  
 ROCKFIELD, WI 53088  
 OFFICE: (262) 794-8888  
 CELL: (262) 340-8888  
 FAX: (262) 794-8888



LINE	LENGTH	DIRECTION	ADJACENT PROPERTY
L1	10.22'	S00°23'27"W	10.22' TO 10.22'
L2	10.22'	S00°23'27"W	10.22' TO 10.22'
L3	10.22'	S00°23'27"W	10.22' TO 10.22'
L4	10.22'	S00°23'27"W	10.22' TO 10.22'

WISCONSIN PLANNING BOARD  
 LICENSE NO. 153875  
 JOHN P. KNAPCZYK  
 CIVIL ENGINEER  
 12/31/2025  
 10/15/2022

15.03.02(4) - 15.03.02(4)  
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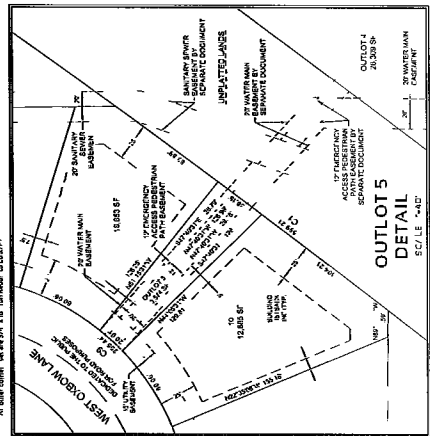
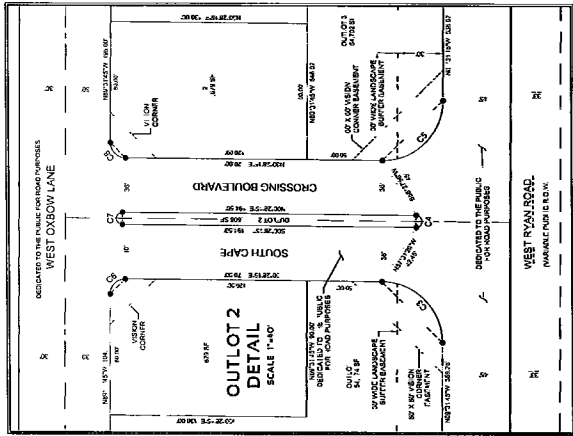
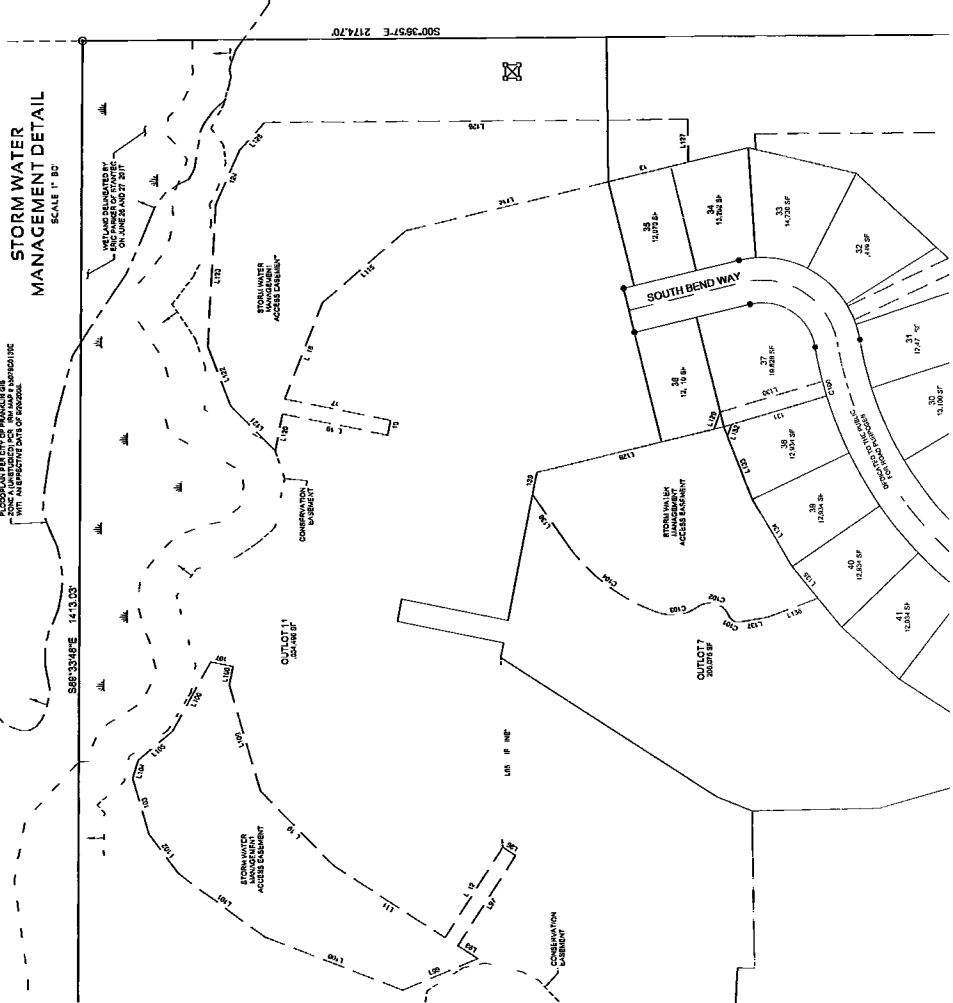
There are no objects on this plan with respect to Section 19, 36.16, 20.02 or 20.03 of the Subchapter S. This plan is provided by Pinnacle Engineering Group, Inc. as a service to our clients. It is not to be used for any other purpose without the written consent of Pinnacle Engineering Group, Inc.

Department of Administration

### CAPE CROSSING

Being a part of the Southwest 1/4 and the Northwest 1/4 of the Southwesterly 1/4 of Section 19, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin.

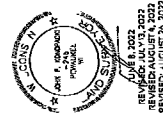
REVISED: JULY 18, 2022  
 REVISION: AUGUST 1, 2022  
 REVISION: AUGUST 21, 2022



# CAPE CROSSING

Being a part of the Southwicks 7/4 and the Northwest 1/4 of the Southwest 7/4 of Section 17, Township 5 North, Range 2 East, City of Franklin, Milwaukee County, Wisconsin.

CLONE	LEVOT	RANKS	SEAWING	GROUND
C100	21.00	51.00	51.00	20.00
C101	21.00	51.00	51.00	17.50
C102	46.00	51.00	51.00	42.22
C103	46.00	51.00	51.00	43.88
C104	21.00	51.00	51.00	20.00
C105	21.00	51.00	51.00	20.00
C106	21.00	51.00	51.00	20.00
C107	21.00	51.00	51.00	20.00
C108	21.00	51.00	51.00	20.00
C109	21.00	51.00	51.00	20.00
C110	21.00	51.00	51.00	20.00
C111	21.00	51.00	51.00	20.00
C112	21.00	51.00	51.00	20.00
C113	21.00	51.00	51.00	20.00
C114	21.00	51.00	51.00	20.00
C115	21.00	51.00	51.00	20.00
C116	21.00	51.00	51.00	20.00
C117	21.00	51.00	51.00	20.00
C118	21.00	51.00	51.00	20.00
C119	21.00	51.00	51.00	20.00
C120	21.00	51.00	51.00	20.00
C121	21.00	51.00	51.00	20.00
C122	21.00	51.00	51.00	20.00
C123	21.00	51.00	51.00	20.00
C124	21.00	51.00	51.00	20.00
C125	21.00	51.00	51.00	20.00

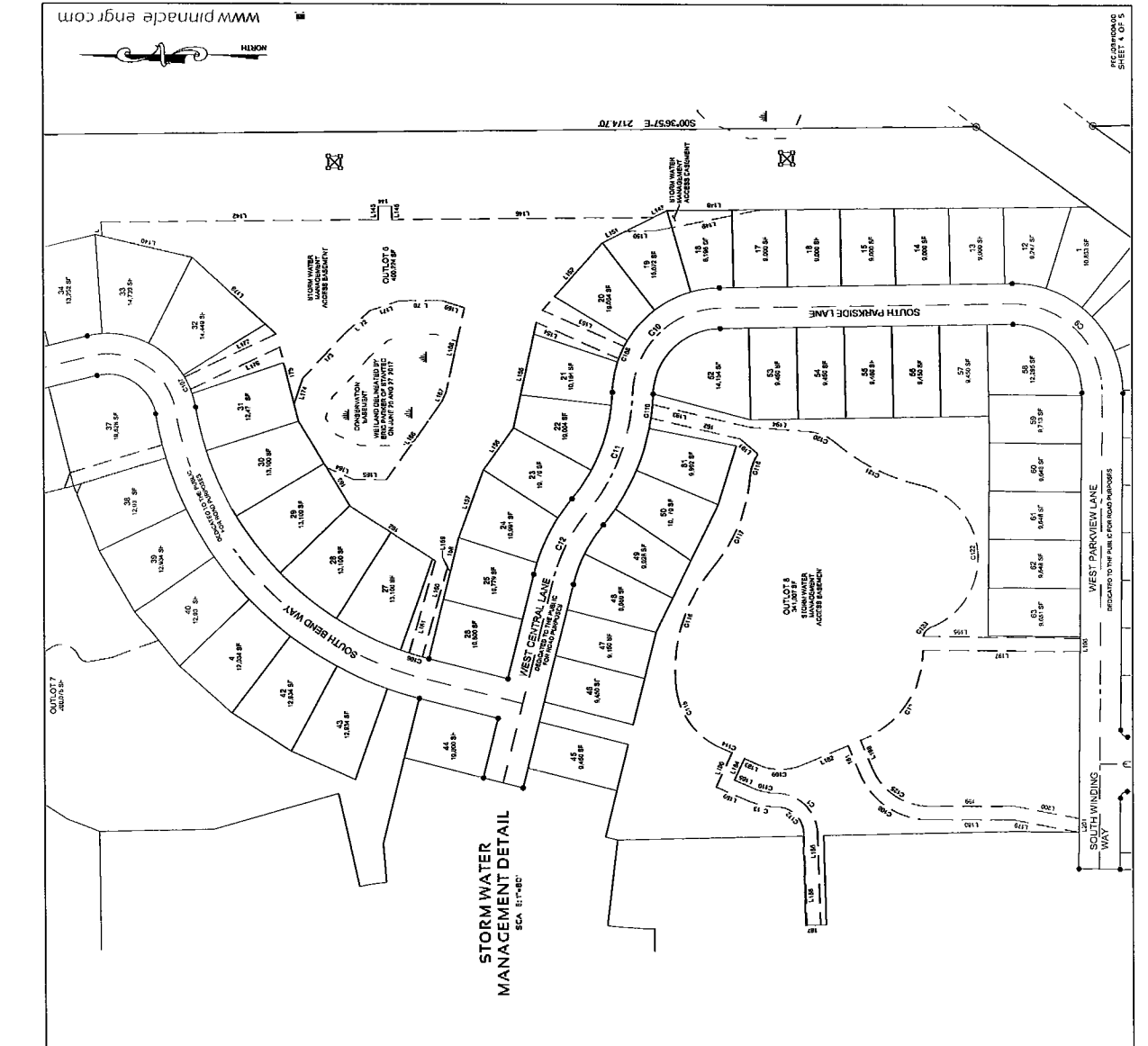


There are no edges, uses to this plan with respect to Section 238.15, 238.16, 238.17, 238.18, 238.19, 238.20, 238.21, 238.22, 238.23, 238.24, 238.25, 238.26, 238.27, 238.28, 238.29, 238.30, 238.31, 238.32, 238.33, 238.34, 238.35, 238.36, 238.37, 238.38, 238.39, 238.40, 238.41, 238.42, 238.43, 238.44, 238.45, 238.46, 238.47, 238.48, 238.49, 238.50, 238.51, 238.52, 238.53, 238.54, 238.55, 238.56, 238.57, 238.58, 238.59, 238.60, 238.61, 238.62, 238.63, 238.64, 238.65, 238.66, 238.67, 238.68, 238.69, 238.70, 238.71, 238.72, 238.73, 238.74, 238.75, 238.76, 238.77, 238.78, 238.79, 238.80, 238.81, 238.82, 238.83, 238.84, 238.85, 238.86, 238.87, 238.88, 238.89, 238.90, 238.91, 238.92, 238.93, 238.94, 238.95, 238.96, 238.97, 238.98, 238.99, 239.00.

This instrument filed by John F. Konecni, P.E., Registration No. S-2746.

**PINNACLE ENGINEERING GROUP**

Duplicate of Admin. million



CAPE CROSSING

Being a part of the Southwest 1/4 and the Northwest 1/4 of the Southwest 1/4 of Section 19, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin.

OWNER'S CERTIFICATE OF DEDICATION

CAPE CROSSING, LLC, Limited Liability Company, represents and warrants that it is the owner of the property described in this certificate of dedication...

CITY OF FRANKLIN, WISCONSIN

I, the Mayor of the City of Franklin, Wisconsin, do hereby certify that the above described property is dedicated to the public use of the City of Franklin, Wisconsin...

STATE OF WISCONSIN

County of Milwaukee, State of Wisconsin, do hereby certify that the above described property is dedicated to the public use of the City of Franklin, Wisconsin...

CITY OF FRANKLIN, WISCONSIN

I, the Mayor of the City of Franklin, Wisconsin, do hereby certify that the above described property is dedicated to the public use of the City of Franklin, Wisconsin...

WALKER COUNTY, WISCONSIN

I, the Mayor of the City of Walker, Wisconsin, do hereby certify that the above described property is dedicated to the public use of the City of Walker, Wisconsin...

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CITY OF FRANKLIN, WISCONSIN

I, the Mayor of the City of Franklin, Wisconsin, do hereby certify that the above described property is dedicated to the public use of the City of Franklin, Wisconsin...

These are the original maps and plat that are the subject of this certificate of dedication. The plat is located at the office of the City of Franklin, Wisconsin, and is available for public inspection...

UTILITY EASEMENT PROVISIONS

An easement for electric and communication services is hereby granted to the utility companies serving the property. The easement shall be in accordance with the terms of the utility companies' standard forms...

WALKER COUNTY, WISCONSIN

I, the Mayor of the City of Walker, Wisconsin, do hereby certify that the above described property is dedicated to the public use of the City of Walker, Wisconsin...

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CITY OF FRANKLIN, WISCONSIN

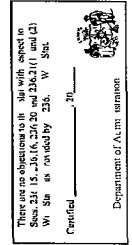
I, the Mayor of the City of Franklin, Wisconsin, do hereby certify that the above described property is dedicated to the public use of the City of Franklin, Wisconsin...

STATE OF WISCONSIN

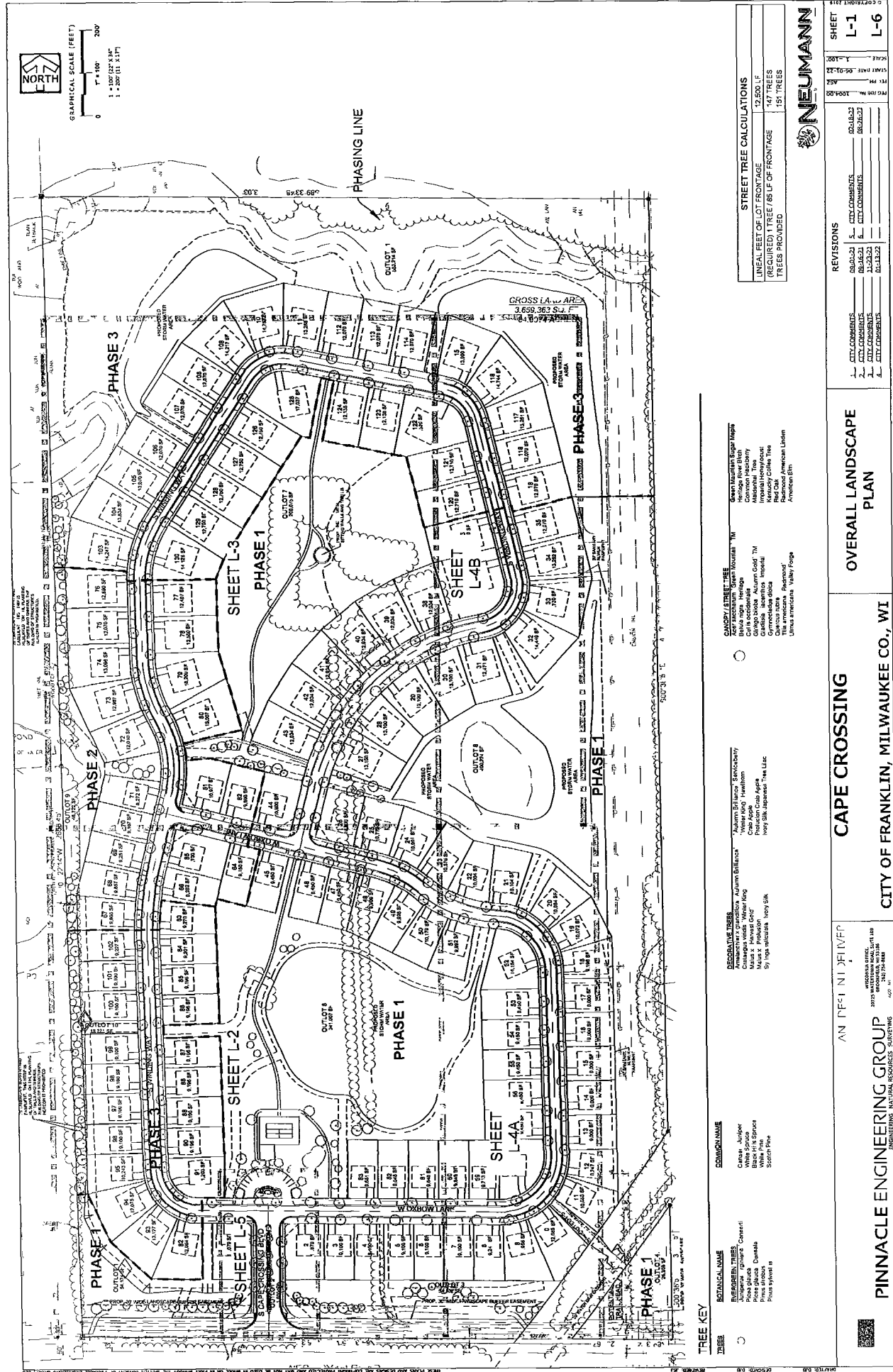
County of Milwaukee, State of Wisconsin, do hereby certify that the above described property is dedicated to the public use of the City of Franklin, Wisconsin...

CITY OF FRANKLIN, WISCONSIN

I, the Mayor of the City of Franklin, Wisconsin, do hereby certify that the above described property is dedicated to the public use of the City of Franklin, Wisconsin...







THIS PLAN AND SPECIFICATIONS ARE PRELIMINARY AND NOT BE USED IN CONNECTION WITH ANY CONTRACT OR AGREEMENT. THE CLIENT OR USER OF THIS PLAN SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE DESIGNER SHALL NOT BE RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THIS PLAN OR FOR ANY DAMAGE TO PERSONS OR PROPERTY CAUSED BY THE USE OF THIS PLAN.

STREET TREE CALCULATIONS	
LINEAL FEET OF LOT FRONTAGE	12,500 LF
(REQUIRED) TREES / 65' LF OF FRONTAGE	147 TREES
TREES PROVIDED	151 TREES

REVISIONS	
NO. DATE	DESCRIPTION
1 10/10/20	ISSUED FOR PERMIT
2 11/15/20	REVISED PER CITY COMMENTS
3 12/15/20	REVISED PER CITY COMMENTS
4 01/15/21	REVISED PER CITY COMMENTS

CITY COMMENTS	
1	CITY COMMENTS
2	CITY COMMENTS
3	CITY COMMENTS
4	CITY COMMENTS

BOTANICAL NAME	
1	Botanical Name
2	Botanical Name
3	Botanical Name
4	Botanical Name

DESCRPTIVE TREES	
1	Descrptive Tree
2	Descrptive Tree
3	Descrptive Tree
4	Descrptive Tree

LANDSCAPE TREE SPECIES	
1	Landscaping Tree
2	Landscaping Tree
3	Landscaping Tree
4	Landscaping Tree

OVERALL LANDSCAPE PLAN	
1	Overall Landscape Plan
2	Overall Landscape Plan
3	Overall Landscape Plan
4	Overall Landscape Plan

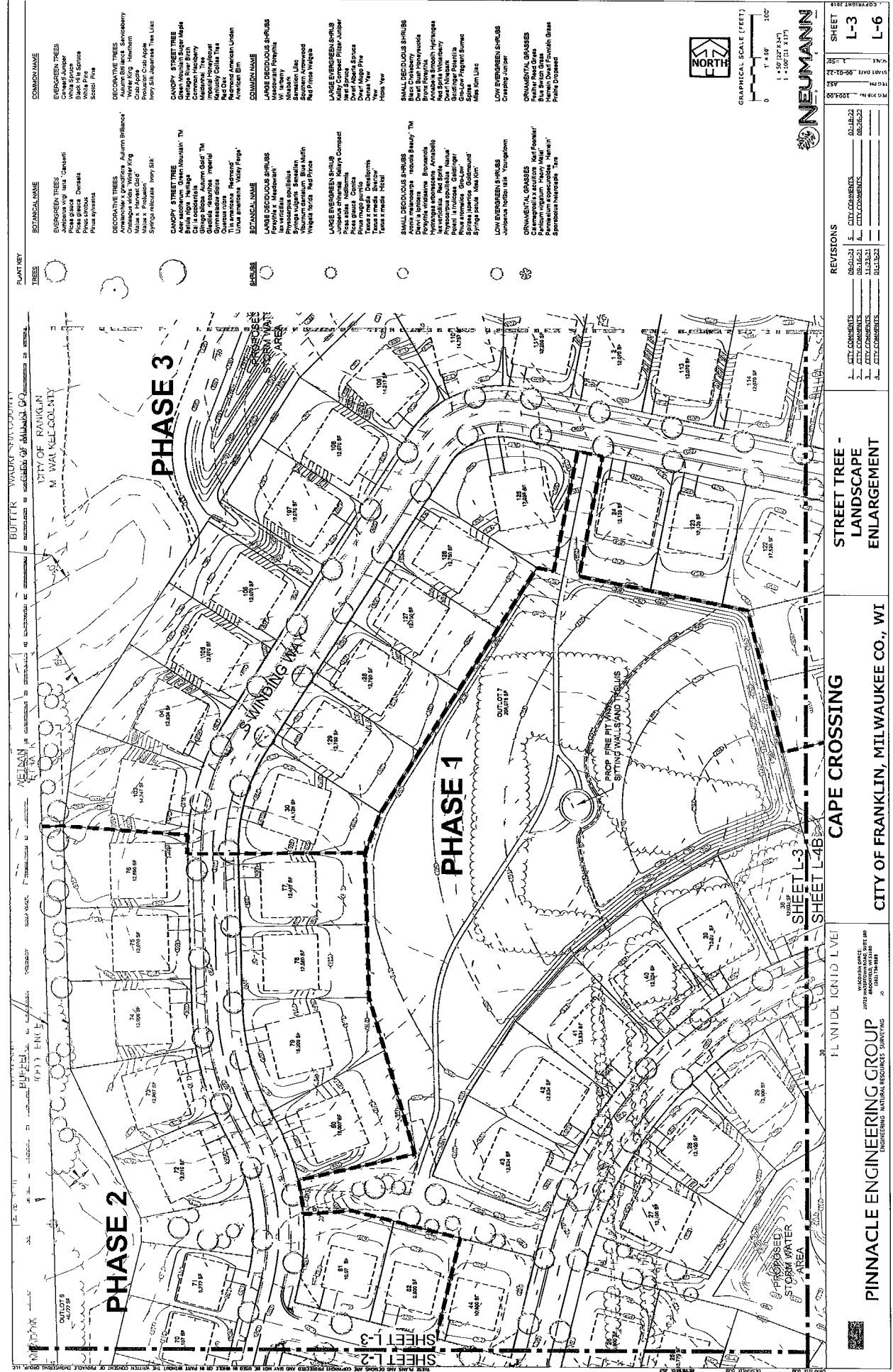
**CAPE CROSSING**

**CITY OF FRANKLIN, MILWAUKEE CO., WI**

**PINNACLE ENGINEERING GROUP**  
 ENGINEERING, NATURAL RESOURCES, SURVEYING

**NEUMANN**





COMMON NAME	BOTANICAL NAME	REVISIONS
<b>EVERGREEN TREES</b> Greenleaf Juniper Black Hills Spruce Picea canadensis Scots Pine	<i>Juniperus horizontalis</i> <i>Abies balsamea</i> <i>Picea canadensis</i> <i>Pinus strobus</i>	1. CITY COMMENTS 2. CITY COMMENTS 3. CITY COMMENTS
<b>DECORATIVE TREES</b> Autumn Blush Sycamore Weeping Red Maple Crown of Thorns Prunella Red Dogwood American Linden	<i>Ailanthus glandifera</i> <i>Acer rubrum</i> <i>Rosa rugosa</i> <i>Prunella</i> <i>Cornus florida</i> <i>Liriodendron tulipifera</i>	1. CITY COMMENTS 2. CITY COMMENTS 3. CITY COMMENTS
<b>CANDY STREET TREE</b> Green Mountain Sugar Maple Crimson Queen Madison Tree Merrill Tree Merrill Tree Merrill Tree	<i>Acer saccharum</i> <i>Acer rubrum</i> <i>Fraxinus pennsylvanica</i> <i>Fraxinus pennsylvanica</i> <i>Fraxinus pennsylvanica</i> <i>Fraxinus pennsylvanica</i>	1. CITY COMMENTS 2. CITY COMMENTS 3. CITY COMMENTS
<b>SMALL DECIDUOUS SHRUBS</b> Blue Star Hydrangea Dwarf Blue Hydrangea Dwarf Blue Hydrangea Dwarf Blue Hydrangea Dwarf Blue Hydrangea Dwarf Blue Hydrangea	<i>Hydrangea macrophylla</i> <i>Hydrangea macrophylla</i> <i>Hydrangea macrophylla</i> <i>Hydrangea macrophylla</i> <i>Hydrangea macrophylla</i> <i>Hydrangea macrophylla</i>	1. CITY COMMENTS 2. CITY COMMENTS 3. CITY COMMENTS
<b>LARGE EVERGREEN SHRUBS</b> Kilby Compact Potted Juniper Dwarf Alberta Spruce Dwarf Alberta Spruce Dwarf Alberta Spruce Dwarf Alberta Spruce Dwarf Alberta Spruce	<i>Juniperus horizontalis</i> <i>Juniperus horizontalis</i> <i>Juniperus horizontalis</i> <i>Juniperus horizontalis</i> <i>Juniperus horizontalis</i> <i>Juniperus horizontalis</i>	1. CITY COMMENTS 2. CITY COMMENTS 3. CITY COMMENTS
<b>LOW EVERGREEN SHRUBS</b> Crested Juniper Crested Juniper Crested Juniper Crested Juniper Crested Juniper Crested Juniper	<i>Juniperus horizontalis</i> <i>Juniperus horizontalis</i> <i>Juniperus horizontalis</i> <i>Juniperus horizontalis</i> <i>Juniperus horizontalis</i> <i>Juniperus horizontalis</i>	1. CITY COMMENTS 2. CITY COMMENTS 3. CITY COMMENTS
<b>ORNAMENTAL GRASSES</b> Fountain Grass Fountain Grass Fountain Grass Fountain Grass Fountain Grass Fountain Grass	<i>Panicum virgatum</i> <i>Panicum virgatum</i> <i>Panicum virgatum</i> <i>Panicum virgatum</i> <i>Panicum virgatum</i> <i>Panicum virgatum</i>	1. CITY COMMENTS 2. CITY COMMENTS 3. CITY COMMENTS

PHASE 1  
PHASE 2  
PHASE 3

SWINDING WAY  
CAPE CROSSING

MILWAUKEE COUNTY  
CITY OF FRANKLIN, MILWAUKEE CO., WI  
Pinnacle Engineering Group  
ENGINEERING - NATURAL RESOURCES SURVEYING

NORTH

GRAPHICAL SCALE (FEET)

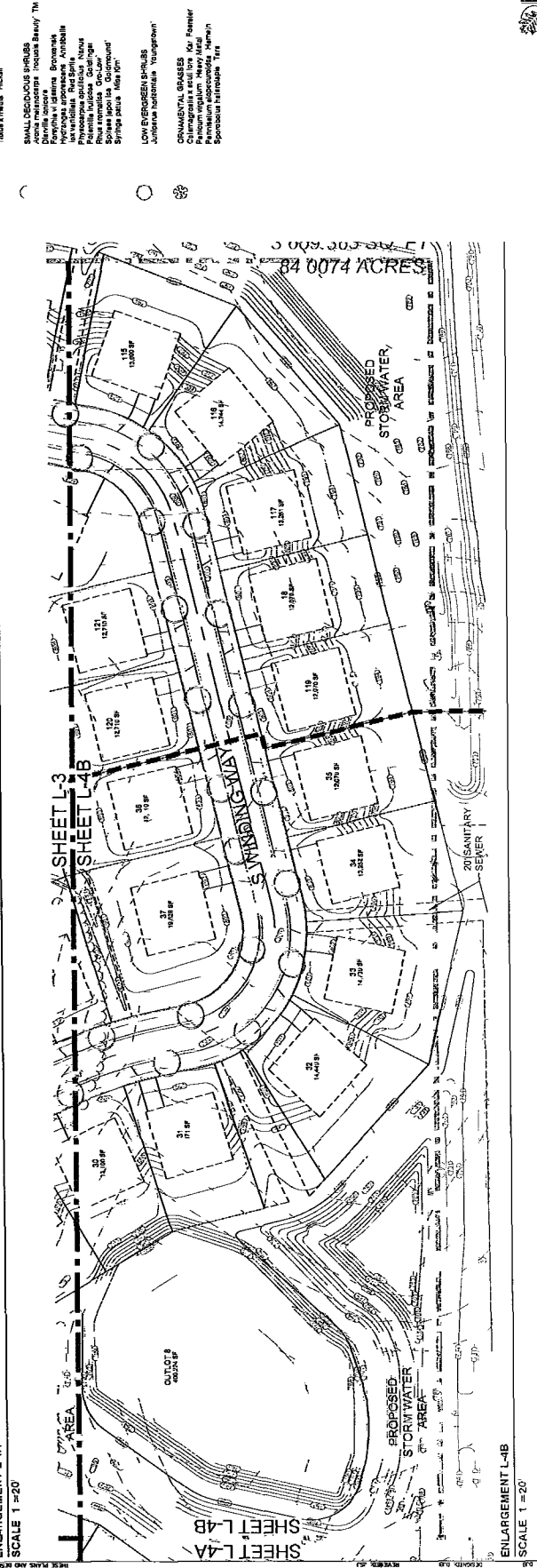
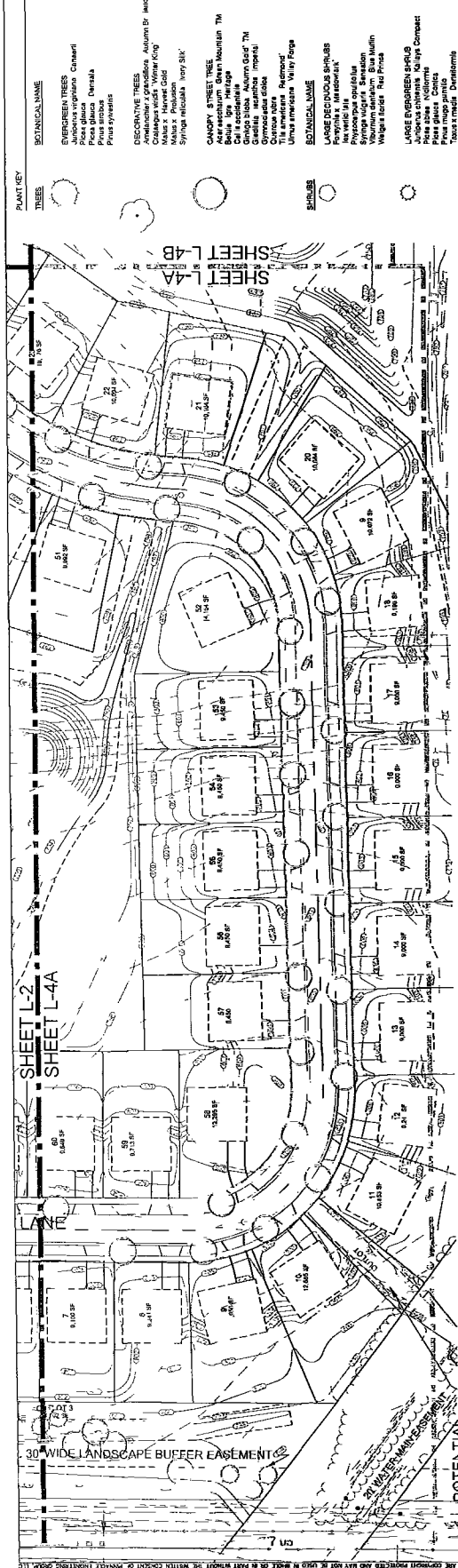
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NEUMANN

NO.	DATE	DESCRIPTION
1	08/16/22	CITY COMMENTS
2	08/16/22	CITY COMMENTS
3	08/26/22	CITY COMMENTS

SHEET L-3

SHEET L-6



**TREES**

COMMON NAME	BOTANICAL NAME
DECIDUOUS TREES	Amelanchier, Arbutus, Betula, Prunella, Quercus, Sorbus, Sparganium, Thuja, Taxodium, Yucca
PERENNIAL TREES	Asimina, Cornus, Fraxinus, Ilex, Magnolia, Nyctaginia, Picea, Pinus, Quercus, Thuja, Taxodium, Yucca
SHRUBS	Azalea, Camellia, Forsythia, Hibiscus, Magnolia, Nandina, Osmanthus, Pieris, Rhododendron, Spirea, Yucca
SMALL TREES	Asimina, Cornus, Fraxinus, Ilex, Magnolia, Nyctaginia, Picea, Pinus, Quercus, Thuja, Taxodium, Yucca

**FOR REVIEW**

COMMON NAME	BOTANICAL NAME
DECIDUOUS TREES	Amelanchier, Arbutus, Betula, Prunella, Quercus, Sorbus, Sparganium, Thuja, Taxodium, Yucca
PERENNIAL TREES	Asimina, Cornus, Fraxinus, Ilex, Magnolia, Nyctaginia, Picea, Pinus, Quercus, Thuja, Taxodium, Yucca
SHRUBS	Azalea, Camellia, Forsythia, Hibiscus, Magnolia, Nandina, Osmanthus, Pieris, Rhododendron, Spirea, Yucca
SMALL TREES	Asimina, Cornus, Fraxinus, Ilex, Magnolia, Nyctaginia, Picea, Pinus, Quercus, Thuja, Taxodium, Yucca

**NEUMANN**

GRAPHICAL SCALE (FEET):  
 1" = 50' (27' x 3.3")  
 1" = 100' (11" x 1.1")

REVISIONS	DATE	BY	DESCRIPTION
1	06/21/22	ML	ISSUE FOR PERMITTING
2	06/22/22	ML	CITY COMMENTS
3	06/23/22	ML	ISSUE FOR PERMITTING
4	06/23/22	ML	CITY COMMENTS

**PROJECT INFORMATION**

PROJECT: CAPE CROSSING  
 CLIENT: CITY OF FRANKLIN, MILWAUKEE CO., WI  
 DATE: 06/2022

SCALE 1"=20'

ENLARGEMENT L-4A

ENLARGEMENT L-4B

SCALE 1"=20'

**PINNACLE ENGINEERING GROUP**  
 ENGINEERS SURVEYORS

**CITY OF FRANKLIN, MILWAUKEE CO., WI**

**CAPE CROSSING**

**STREET TREE - LANDSCAPE ENLARGEMENT**

310 SOUTH WASHINGTON STREET, SUITE 100  
 MILWAUKEE, WI 53212  
 PHONE: 414.224.1111  
 WWW.PINNACLEENR.COM

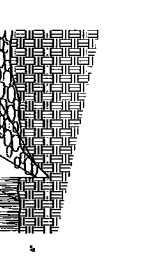
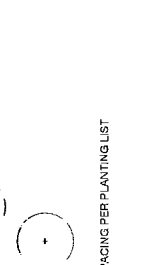
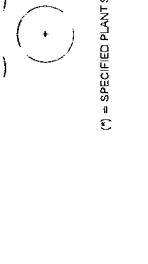
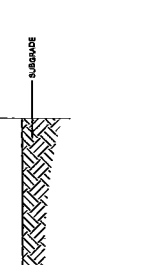
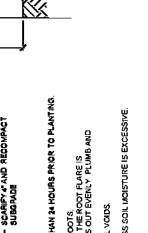
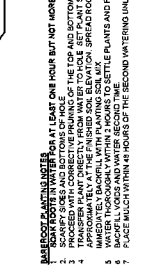
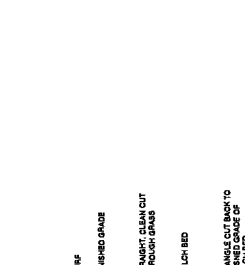
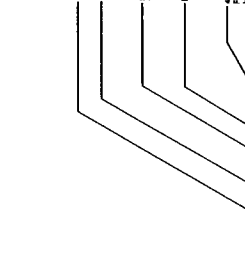
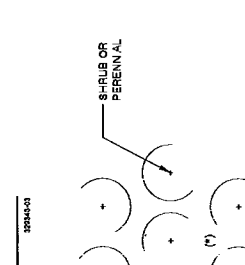
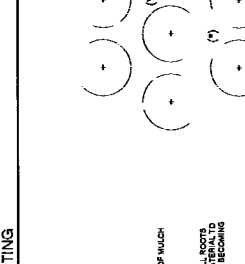
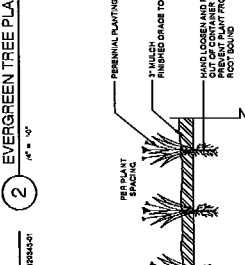
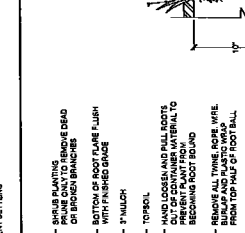
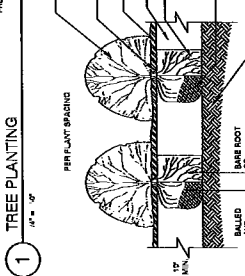
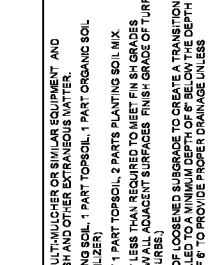
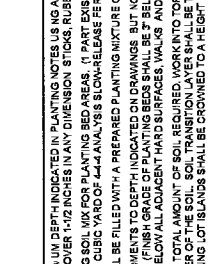
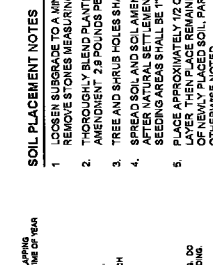
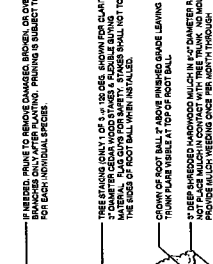
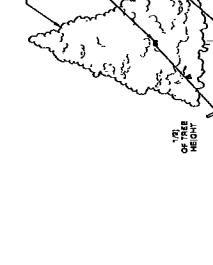
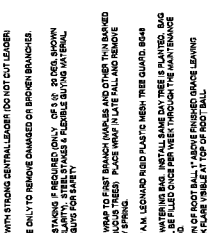
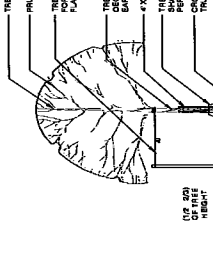
PROJECT NO. 2022-015  
 SHEET NO. L-4A, L-4B, L-4C, L-4D



GENERAL PLANTING NOTES

- 1. THE LAYOUT OF ALL PLANTING BEDS AND INDIVIDUAL TREES AND SHRUBS SHALL BE DETERMINED BY THE CONTRACTOR RECOMMENDED TO THE LANDSCAPE ARCHITECT. THE CONTRACTOR SHALL REPORT ANY DISCREPANCIES TO THE LANDSCAPE ARCHITECT.
- 2. ALL PLANT MATERIAL SHALL COMPLY WITH STANDARDS DESCRIBED IN AMERICAN STANDARD OF NURSERY STOCK (ANSI) AND SHALL BE PROVIDED BY THE CONTRACTOR. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS, FEES, AND LICENSES NECESSARY FOR THE INSTALLATION OF PLANT MATERIALS ONLY UNLESS OTHERWISE STATED.
- 3. THE CONTRACTOR SHALL PROVIDE WATERING AND MAINTENANCE SERVICES FOR A PERIOD OF 60 DAYS TO 90 DAYS AFTER INSTALLATION. THE CONTRACTOR SHALL PROVIDE A MAINTENANCE SCHEDULE TO THE LANDSCAPE ARCHITECT AND SHALL FOLLOW IT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE INSTALLATION AND MAINTENANCE OF ALL PLANT MATERIALS UNLESS OTHERWISE STATED.
- 4. ALL PLANTING BEDS SHALL BE MULCHED WITH 3" DEEP SHREDDED HARDWOOD MULCH. AND ALL TREES PLANTED IN TURF AREAS SHALL RECEIVE A 3" DEEP SHREDDED HARDWOOD MULCHED RING AS SHOWN IN PLANTING DETAILS.
- 5. ALL PLANTING BEDS AND TREE RINGS SHALL HAVE A 4" DEEP TRENCHED BED EDGE CREATED BY EITHER A FLAT LANDSCAPE SPADE OR MECHANICAL EDGER. BED EDGES ARE TO BE CUT CLEAN AND SMOOTH AS SHOWN ON LANDSCAPE PLANS WITH A CLEAR DEFINITION BETWEEN TURF AND PLANTING AREAS.
- 6. ALL PLANT MATERIAL OR ANY SIZE SUBSTITUTIONS WILL BE ACCEPTED UNLESS APPROVAL BY THE LANDSCAPE ARCHITECT. ANY CHANGES SHALL BE SUBMITTED TO THE LANDSCAPE ARCHITECT IN WRITING PRIOR TO INSTALLATION.
- 7. ALL PLANT MATERIAL SHALL BE PROVIDED WITH A SIMILAR PLANT HARDINESS ZONE AS PROJECT LOCATION. EXISTING SOIL SHALL BE ANALYZED PER SOIL ANALYSIS REPORT TO ENSURE A PROPER GROWING MEDIUM IS ACHIEVED. ALL PLANT MATERIAL SHALL BE INSTALLED IN ACCORDANCE WITH PLANTING DETAILS.
- 8. ALL PLANTING BEDS SHALL HAVE A MINIMUM 1/2" DEPTH OF PREPARED SOIL WITH APPROVAL EXISTING SOIL MAY BE USED TO AVOID THE PROPER SOIL ADJUSTMENTS ARE TILLED THOROUGHLY INTO THE TOP 10" OF SOIL. REFER TO SOIL PLACEMENT NOTES.

- 9. ALL PLANTING BEDS SHALL BE MULCHED WITH 3" DEEP SHREDDED HARDWOOD MULCH. AND ALL TREES PLANTED IN TURF AREAS SHALL RECEIVE A 3" DEEP SHREDDED HARDWOOD MULCHED RING AS SHOWN IN PLANTING DETAILS.
- 10. ALL PLANTING BEDS AND TREE RINGS SHALL HAVE A 4" DEEP TRENCHED BED EDGE CREATED BY EITHER A FLAT LANDSCAPE SPADE OR MECHANICAL EDGER. BED EDGES ARE TO BE CUT CLEAN AND SMOOTH AS SHOWN ON LANDSCAPE PLANS WITH A CLEAR DEFINITION BETWEEN TURF AND PLANTING AREAS.
- 11. ALL DISTURBED AREAS WITHIN THE PROJECT SHALL BE RESTORED TO ORIGINAL OR BETTER CONDITION. ALL REMOVED MATERIALS SHALL BE PLACED IN AN APPROPRIATE MANNER OR BETTER CONDITION AT NO ADDITIONAL COST TO THE OWNER.
- 12. THE CONTRACTOR SHALL VERIFY ALL EXISTING UTILITIES, INCLUDING ANY IRRIGATION LINES, PRIOR TO DIGGING. CONDUIT CROSSERS HOTLINE.
- 13. TREES SHALL BE PLANTED A MINIMUM OF 16" FROM ANY UTILITY POLES, 8" FROM UNDERGROUND UTILITIES 10' FROM HYDRANTS, 5' FROM DRIVEWAYS, AND 2' FROM SIDEWALKS.
- 14. THE CONTRACTOR SHALL ENSURE THAT SOIL CONDITIONS AND COMPACTON ARE ADEQUATE TO ALLOW FOR PROPER DRAINAGE AROUND THE CONSTRUCTION SITE. UNDESIRABLE CONDITIONS SHALL BE BROUGHT TO THE ATTENTION OF THE LANDSCAPE ARCHITECT PRIOR TO BEGINNING OF WORK. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO ENSURE PROPER SURFACE AND SUBSURFACE DRAINAGE IN ALL AREAS.
- 15. THE CONTRACTOR IS RESPONSIBLE FOR ALL PERMITS, FEES, AND LICENSES NECESSARY FOR THE INSTALLATION OF PLANT MATERIALS ONLY UNLESS OTHERWISE STATED.
- 16. THE CONTRACTOR IS TO REVIEW ALL SITE ENGINEERING DOCUMENTS PRIOR TO INSTALLATION. ANY CONFLICTS MUST BE REPORTED TO THE LANDSCAPE ARCHITECT. THESE LANDSCAPE DRAWINGS ARE FOR THE INSTALLATION OF PLANT MATERIALS ONLY UNLESS OTHERWISE STATED.
- 17. THE CONTRACTOR SHALL PROVIDE WATERING AND MAINTENANCE SERVICES FOR A PERIOD OF 60 DAYS TO 90 DAYS AFTER INSTALLATION. THE CONTRACTOR SHALL PROVIDE A MAINTENANCE SCHEDULE TO THE LANDSCAPE ARCHITECT AND SHALL FOLLOW IT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE INSTALLATION AND MAINTENANCE OF ALL PLANT MATERIALS UNLESS OTHERWISE STATED.
- 18. ALL OTHER PLANT MATERIALS SHALL BE GUARANTEED FOR A PERIOD OF THREE (3) YEARS FROM TIME OF OWNER ACCEPTANCE. DEAD OR UNDER PERFORMING PLANT MATERIAL, AS DETERMINED BY CITY INSPECTIONS, SHALL BE REPLACED UP TO TWO (2) TIMES PER SEASON FOR THE DURATION OF THE WARRANTY PERIOD.
- 19. THE CONTRACTOR SHALL BE RESPONSIBLE TO CONDUCT A FINAL WALK THROUGH WITH THE LANDSCAPE ARCHITECT AND OTHERS TO VERIFY ALL PROJECT REQUIREMENTS AND INSURE THAT ALL PROJECT REQUIREMENTS HAVE BEEN MET.



30933-02

30933-03

30933-04

30933-05

30933-06

30933-07

**SHRUB PLANTING** 1" x 3" 30933-02

**PERENNIAL PLANTING** 1" x 3" 30933-03

**EVERGREEN TREE PLANTING** 4" x 6" x 6" 30933-04

**PLANT SPACING** 3/4" x 1" x 1" 30933-05

**TRENCHED BED EDGE** 3/4" x 1" x 1" 30933-06

REVISIONS

NO.	DATE	BY	DESCRIPTION
1.	08-26-22	LM	CITY COMMENTS
2.	08-26-22	LM	CITY COMMENTS
3.	08-26-22	LM	CITY COMMENTS
4.	08-26-22	LM	CITY COMMENTS

**LANDSCAPE DETAILS & NOTES**

**CITY OF FRANKLIN, MILWAUKEE CO., WI**

**PINNACLE ENGINEERING GROUP**  
ENGINEERING, NATURAL RESOURCES, SURVEYING

13752 WISCONSIN ROAD, SUITE 100  
MILWAUKEE, WI 53217-7500  
TEL: 772.724.9444

SHEET **L-6**

DATE: 08-26-22

DRAWN BY: LM

CHECKED BY: LM

SCALE: AS SHOWN

PROJECT: 2021-1004-00

## MEMORANDUM

Date: August 22, 2022  
To: Eric Obarski. Cape Crossing, LLC  
From: Department of City Development  
Régulo Martínez-Montilva, AICP, Principal Planner  
RE: Application for Final Plat, Cape Crossing (Phase 1)  
12200 W Ryan Rd. / 890 9991 001 & 890 9991 002

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Staff comments are as follows for the above-referenced application received on August 4, 2022:  
**Responses in red by Pinnacle Engineering Group on August 26, 2022.**

### City Development Department comments

1. Outlot 4 is designated as a trail head in the Ryan Creek Trail Plan (adopted by the Common Council on June 21, 2022, attached for your reference). Unified Development Ordinance (UDO), Section 15-5.0110B. “Parks, Playground and Other Recreational and Municipal Facilities” states that:
  - “The Plan Commission shall, at the time of reviewing the Certified Survey Map, Preliminary Plat, Condominium, any residential special use, any residential PDD Planned Development District, and residential uses in a mixed PDD Planned Development District, or multiple-family dwelling development, recommend to the Common Council one of the following options. The Common Council, at the time of reviewing the development and after reviewing the recommendation of the Plan Commission, shall select one of the following options and incorporate same into any approval granted:
    - 1 Dedicate open space lands designated on the County development plan or component thereof, City of Franklin Comprehensive Master Plan or plan component; or
    2. Reserve such open space lands and require a Park, Playground and Other Recreational Facility development fee payment pursuant to Division 15-5.0110(F)(4); or
    - 3 Where no open space lands are directly involved, require a Park, Playground and Other Recreational Facility development fee payment pursuant to Division 15-5.0110(F)(4)”.

Since outlot 4 is designated as a trail head, City Development staff recommends that this outlot should be dedicated to the public by the subdivider. UDO Section 15-5.0110F 4 b states that: “The representative cash value of the land to be dedicated shall be determined by the City and developer on the basis of full and fair market value of the land to be dedicated”, .. “Any credit or credit

refund hereunder shall be granted to the fee payor(s) obligation, determined by the proportion of the total credit to the total fee obligation to be imposed upon the proposal development". In case of dedication of outlot 4, you can submit an appraisal of this outlot. As pointed out above, that value of the land to be dedicated can be used as credit for park impact fees.

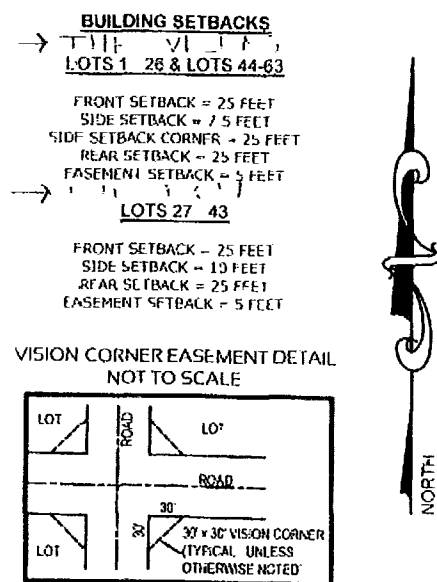
Added language to note 5 on sheet 2, "for the eventual purpose of creating a public trail head."

- Wetland W-3. City Development staff acknowledges that you have received a Nonfederal Wetland Exemption Determination from the Department of Natural Resources (letter dated August 10, 2022, EXE-SE-2022-41-02358), to allow for impacts to a portion of wetland W-3 (8,346 square feet) and the entire wetland W-4. Additionally, wetlands W-3 and W-4 are not federally jurisdictional per letter dated May 26, 2022 from the U.S. Army Corps of Engineers. When a wetland is not subject to state and federal regulations, local protections standards set forth in the UDO Part 4 "Natural Resource Protection" do not apply, this is the case of the 8,346 square foot portion of wetland W-3 and the entire wetland W-4. However, these local protection standards still apply to the remaining area of wetland W-3 and its 30-foot buffer and 50-foot setback, note that grading is not allowed in the buffer, grading is allowed in the setback but structures are prohibited

In order to allow for grading activities in the buffer of the remaining area of wetland W-3 (20,768 square feet approx.), you would need to obtain a Natural Resource Special Exception (NRSE), application and questionnaire attached. The areas of wetland W-3 and its buffer that would remain undisturbed must be protected by a conservation easement. The conservation easement document shall be revised as necessary following the NRSE.

Added the center wetland and hatched the area that is permitted to be filled. Added note 15 on sheet 2 to reference the ACOE and DNR permit numbers and dates. Added a conservation easement around the remainder of the wetland.

- For clarity, it is suggested to add the names of the 2 subdivision areas (The Villas and The Estates) to the building setbacks information on sheets 2 and 3.





**Added the names as noted.**

4. Pursuant to Unified Development Ordinance (UDO) Section 15-5.0102A, please add the following note on the face of the plat:

"Landscape Bufferyard Easement: This strip is reserved for the planting of trees and shrubs; the building of structures hereon is prohibited."

**Added this note as note 11 on sheet 2. Included "(other than a pedestrian path, sidewalk and a subdivision monument sign)" after the word structures to allow for these items.**

5. Note that pursuant to UDO Section 15-7.0603.D, City Development staff sent the conservation easement, landscape bufferyard easement and declaration of protective covenants to the City Attorney for review, these comments will follow as well as City Development and Engineering review comments.

**Comment only, no plat change.**

6. It is suggested to add a note to the plat to provide additional information about the easement setback. For example, are structures prohibited within the easement setback? Is this easement setback applicable to all easements?

**The easement setback note was removed. There is no easement setback.**

7. Note that the subdivision monument and the clubhouse will require separate approvals, specifically a Sign Review and Sign permit for the monument sign and Site Plan for the clubhouse and accessory improvements.

**Comment only, developer is aware of this process. No plat change.**

8. Please be aware of City impact fees The impact fee schedule can be found on the City's website at <https://www.franklinwi.gov/Files/Inspection/2022-Impact-Fees.pdf>

**Comment only, developer is aware of this. No plat change.**

9. Have the comments from Milwaukee County been addressed? Letter dated July 1, 2022, attached for reference.

**The developer has reached out to the County to discuss their comments. Neither comment is a plat change.**

### **Engineering Department comments**

10. Cape Crossing Phase I, Final Plat

- *Show the 20 ft easements (water & sanitary) crossing the Milwaukee Electric Railway and Light Company*

The easements are shown and labeled as "by separate document".

- *Show the utility easement for electric and communication*

A 15' utility easement is shown along the road right-of-ways of all lots and outlots.

- *Show the public trail easements on the north side of the right of way of West Ryan Road and between lots 10 & 11*

The emergency access and pedestrian path easement is shown between lots 10 and 11. The landscape buffer easement and language regarding the landscape buffer easement allows the pedestrian path to be in the landscape buffer. See comment 4 above.

- *Show different street names for every change of direction (attached-Street Naming)*

Revised the road names after working with City engineering staff.

- *The tree type and placement must be reviewed and approved by the City's Forester/ Arborist*  
See the attached updated landscape plans.

**Inspection Services Department comments**

*11 Inspection Services has no comments on the proposal at this time*  
**Comment only, no plat change.**

**Police Department comments**

*12 The PD has no comment regarding this request*  
**Comment only, no plat change.**

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<p style="text-align: center;"><b>APPROVAL</b></p> <p style="text-align: center;"><i>slw</i></p>	<p style="text-align: center;"><b>REQUEST FOR COUNCIL ACTION</b></p>	<p style="text-align: center;"><b>MEETING DATE</b></p> <p style="text-align: center;"><b>9/20/2022</b></p>
<p style="text-align: center;"><b>REPORTS &amp; RECOMMENDATIONS</b></p>	<p style="text-align: center;"><b>Authorize the Purchase of Rapid7 Security Information &amp; Event Management (SIEM) and Security Operations Center (SOC) Managed Services for Criminal Justice Information Services (CJIS) Requirements</b></p>	<p style="text-align: center;"><b>ITEM NUMBER</b></p> <p style="text-align: center;"><b>G.7.</b></p>

**Background**

During the 2021 and 2022 Criminal Justice Information Services (CJIS) annual audits by the DOJ/FBI, the City of Franklin Police Department was determined to be non-compliant with Section 5.4 of the federally mandated security requirements. This section specifically addresses monitoring event and audit logs, in order to identify potential or ongoing security events. This section of the CJIS policy specifically addresses:

- Response and alerts to audit/event processing failures,
- Audit/event monitoring analysis and weekly reporting,
- Accurate time stamps of event and audit logs,
- Protection of audit/event information from modification or deletion, and
- Retention of audit and event log records.

It is being strongly recommended by the DOJ that all municipalities, including the City of Franklin, implement a Security Information and Event Management (SIEM) system, either as an on-premise server or as a cloud-based service. A SIEM collects and stores event log messages from multiple systems/sources and stores the data into a single repository. The SIEM generates alerts if preconfigured events are detected and compares these alerts across multiple systems. The SIEM uses Artificial Intelligence (AI) technologies to determine if events across systems are correlated and statistically relevant, and combines the information into a single security incident. A SIEM is intended to eliminate the manual efforts needed in event log monitoring and analysis, and provides a single source for all alerting and security event management.

The auditors have requested that the City of Franklin implement a SIEM system by the end of 2022 in order to be compliant with Section 5.4 of the CJIS (v5.9) security requirements and framework. In addition to complying with CJIS requirements, the SIEM is a strong security tool for the City overall, covering all City devices.

**Analysis**

After extensive research, it was determined that a cloud-based SIEM system with Managed Detection and Response (MDR) services is the best fit for the City of Franklin. Installing, configuring, and maintaining an on-premise SIEM would require extensive information security management and engineering skills that the local IT staff currently does not possess. The installation of any SIEM requires two major project milestones:

1. Data Ingestion: Event logs from servers, firewalls, and other security services (e.g. Bitdefender Gravityzone) have to be configured to ship all event logs to the SIEM. The SIEM receives the logs, parses them, and stores them within the central repository.
2. Rule Creation and Alerts: The SIEM has to be "trained" to look for specific security events within the logs, and if a specific security condition is detected an alert is sent out to administrators.

Understanding how to correctly upload the logs and configure the parsers for the specific application requires detailed knowledge on how the log is constructed and formatted. Additionally, extensive security knowledge is needed concerning the specific applications in order to know what specific security events and information

are actionable, and what information is considered noise and doesn't require attention. For these two main reasons it makes considerable sense to subscribe to a security SIEM/MDR cloud-based service, where this information is already preconfigured and well known by the onboarding vendor. Cloud-based security services often use extensive data analytics and comparative analysis for security traffic seen by other customers, a feature that is not possible with an on-premise system.

At the August 31, 2022 Technology Commission Meeting, the Commission reviewed five different cloud-based security services that provide SIEM monitoring, Managed Detection and Response (MDR), Endpoint Detection and Response (EDR), with all alerts and security incident management being performed by a Security Operations Center (SOC). The subscribed managed service has the SOC monitoring and responding to all SIEM alerts and determining if they are relevant and, when necessary, will create a security incident ticket with the local IT department concerning the security issue. The SOC has three tiers of analyst and engineer experience, where major security events are escalated to senior level engineers for analysis, identification, response, and forensics. The SOC-based service is considered an outsourced contracted consultant and is an essential member of the local City of Franklin IT security team.

The City of Franklin Technology Commission unanimously voted to recommend "the implementation of Rapid7 InsightIDR – Elite MDR security managed services for all computers and systems being used within the City of Franklin." Under the managed services that vendor will provide:

- SIEM security and alerting service that will meet and exceed current CJIS requirements.
- 24x7x365 SOC security event proactive threat detection using statically defined rules and seven layers of AI detection.
- Installation of up to 500 computer agents (minimum purchase quantity is a block of 500 computers) that have full EDR capability and the ability to remove the computer from the network in the event that it is compromised. This allows the SOC to prevent security problems from spreading throughout the network.
- Incident management and validation of active threats and response containment within 10 minutes.
- The dedicated Rapid7 account manager will directly assist with all audits and will provide evidence of event log integrity and security incident reporting.
- Unlimited data communication and event log storage up to 13 months.
- "Cradle to grave" security incident management and coordination with other security engineers/providers. During a major security incident Rapid7 will provide identification, containment, response/remediation, and data forensics on how the security event happened and transpired. All security artifacts will be collected and preserved for potential evidence. Rapid7 is providing an unlimited number of security incidents being managed as part of the service. There are no charges for data forensics, or the necessity to quickly engage/contract with outside 3rd party forensic providers.

#### **Fiscal Impact**

Rapid7 and CDW-G have agreed to create an invoice for 2022 service (October through December) that would cover the first three months with fees due within 30 days. Service charges for the 2023 year would be due by 1/30/2023 and be part of the 2023 budget. All pricing through CDW-G is based upon the State of Wisconsin VNP Software contract. In order to simplify both billing and budgeting, City of Franklin staff is recommending that the Rapid7 service be on an ongoing annual, calendar year contract. In the event that service with the vendor needs to be discontinued, the budgeting process with a new service vendor would begin with the new fiscal year.

**Service Costs 10/2022 to 12/2022**

Rapid7 InsightIDR MDR - Elite Client – Quantity 500 (3 months) = \$19,275

**Service costs 1/2023 to 12/2023**

Rapid7 InsightIDR MDR - Elite Client – Quantity 500 (12 months) = \$77,280

**Funding:**

- The 2022 Rapid7 service charges of \$19,275 for October through December 2022 would be paid from funds encumbered into the 2022 budget dedicated for IT security – General Fund Sundry Contractors IT Budget, Account Number 01-0144-5299.
- The 2023 Rapid7 service charges of \$77,280 would be recommended in the 2023 budget as follows:
  - \$35,012 remaining from the 2022 encumbered funds dedicated for IT security – General Fund Sundry Contractors IT Budget, Account Number 01-0144-5299;
  - The remaining \$42,268 cost for 2023 will be covered by other unused 2022 IT operating funds that will be requested to be carried forward to 2023 along with \$22,993 being requested in the 2023 IT operating budget.

Rapid7 has agreed to give the City of Franklin the InsightVM vulnerability and risk management on-premise software at no additional cost. This service allows for the scanning and detection of security vulnerabilities and installed patches on all computers on the network. The product can continue to be used for free as long as the subscribed services for the InsightIDR MDR is maintained.

Future funding of the Rapid7 InsightIDR MDR will be evaluated as this service may cover and thus eliminate some existing services/costs that may no longer be needed (i.e., all or parts of Bitdefender GravityZone), which could then help fund this service in 2024 and beyond.

**COUNCIL ACTION REQUESTED**

Motion to authorize the purchase of Rapid7 InsightIDR MDR Elite Client through CDW-G for the period October 2022 through December 2022 at a total cost of \$19,275 being charged to General Fund Sundry Contractors IT Budget, Account Number 01-0144-5299, and the 2023 cost will be included in the 2023 budget.



Thank you for choosing CDW We have received your quote

Hardware Software Services IT Solutions Brands Research Hub

# QUOTE CONFIRMATION

**JAMES MATELSKI,**

Thank you for considering CDW•G for your computing needs. The details of your quote are below [Click here to convert your quote to an order](#)

**Convert Quote to Order**

QUOTE #	QUOTE DATE	QUOTE REFERENCE	CUSTOMER #	GRAND TOTAL
MXXS657	9/6/2022	UPDATED REAPID W/ 3 MONTH OPTI	0929696	\$96,555.00

### QUOTE DETAILS

ITEM	QTY	CDW#	UNIT PRICE	EXT. PRICE
<b>RAPID7 MGD DETECT+RESP SVC SUB</b> Mfg Part# MANAR Electronic distribution NO MEDIA Contract Wisconsin NVP Software (505ENT M21 NASPOSVAR 01)	500	6207855	\$38 55	\$19,275 00
<b>RAPID7 INSIGHTVM SUB</b> Mfg Part# IVM Electronic distribution NO MEDIA Contract Wisconsin NVP Software (505ENT M21 NASPOSVAR 01)	500	6186417	\$0 00	\$0 00
<b>RAPID7 MGD DETECT+RESP SVC SUB</b> Mfg Part# MANAR Electronic distribution NO MEDIA Contract Wisconsin NVP Software (505ENT M21-NASPOSVAR-01)	500	6207855	\$154 56	\$77,280 00
<b>RAPID7 INSIGHTVM SUB</b> Mfg Part# IVM Electronic distribution NO MEDIA Contract Wisconsin NVP Software (505ENT M21 NASPOSVAR 01)	500	6186417	\$0 00	\$0 00

<b>SUBTOTAL</b>	\$96,555 00
<b>SHIPPING</b>	\$0 00
<b>SALES TAX</b>	\$0 00
<b>GRAND TOTAL</b>	<b>\$96,555.00</b>

### PURCHASER BILLING INFO

**Billing Address:**  
 CITY OF FRANKLIN  
 ACCTS PAYABLE  
 9229 W LOOMIS RD  
 FRANKLIN WI 53132-9728  
**Phone:** (414) 425 7500  
**Payment Terms.** NET 30 VERBAL

### DELIVER TO

**Shipping Address.**  
 CITY OF FRANKLIN  
 JAMES MATELSKI  
 9229 W LOOMIS RD  
 FRANKLIN WI 53132-9728  
**Phone:** (414) 425 7500  
**Shipping Method:** ELECTRONIC DISTRIBUTION

**Please remit payments to:**

## RAPID7 MASTER SERVICES AGREEMENT

This Master Services Agreement (the "Agreement"), effective on the date of last signature below (the "Effective Date"), is made by and between Rapid7 LLC (for customers located in the United States) or Rapid7 International Limited (for customers located outside the United States) (as applicable, "Rapid7") and the customer signing this Agreement ("Customer") The parties agree to be bound by the following terms and conditions in connection with the Services as defined herein

### 1 DEFINITIONS

- 1.1 *Customer Data* means any of Customer's data gathered through the provision of the Services or contained in any Deliverable
- 1.2 *Deliverables* means the draft or final reports that are created for Customer as a result of the Services provided hereunder, unless otherwise defined in the individual SOW
- 1.3 *Services* means the consulting, testing, managed, or other services described in an SOW that Rapid7 provides pursuant to Section 2.1 hereof Services may be Managed Services or Professional Services
- (i) *Managed Services* means Services where Rapid7 manages an aspect of Customer's business for the term and scope indicated in an SOW Managed Services may include Rapid7 operating or subscribing to software on Customer's behalf
- (ii) *Professional Services* means Services where Customer engages Rapid7 to perform specific, identified tasks, either at specific dates and times, or retained for a period of time in order to perform them as needed
- 1.4 *SOW* means (i) mutually agreed upon statement of work, or scope of work, scope of service, or service brief that sets forth and describes the Services to be provided hereunder, the applicable fees to be paid, and as applicable, any delivery schedules, timelines, specifications, and any other terms agreed upon by the parties, or (ii) Rapid7 ordering document which identifies the Services ordered and references this Agreement, in each case as signed or referenced by Customer or its authorized reseller

### 2 SERVICES

- 2.1 *Services* Customer may order Services from Rapid7 through an SOW Rapid7 shall provide Customer the Services as specified in such SOW All changes to an SOW must be approved by both parties in writing Rapid7 will not invoice Customer for any Services beyond those contained in the SOW without the prior written consent of Customer
- 2.2 *Deliverables* Customer retains all right, title, and interest in and to Customer Data and Customer Confidential Information In addition, Customer shall own all right, title and interest to the Results obtained by Customer through Customer's use of the Services For purposes of this Agreement, "Results" shall mean the data based on Customer Data resulting from Customer's use of the Service, but does not include any dashboards for displaying results, report templates or other components of the Service used by Rapid7 Rapid7 owns all right, title, and interest in and to Rapid7's trade secrets, its Confidential Information, or other proprietary rights in any material used by Rapid7 or presented to Customer, whether such was developed prior to the Services, independent of this Agreement, or in performance of the Services (each, "Rapid7 IP"), including but not limited to, documentation, software, designs, inventions, discoveries, specifications, improvements, tools, models, know how, methodologies, analysis frameworks, and report formats Customer will have a perpetual, royalty-free, worldwide, non-exclusive, non-transferable license to use any Rapid7 IP incorporated into any Deliverable, for Customer's internal business purposes only, upon Customer's payment in full of all undisputed amounts due hereunder Rapid7 may incorporate the Rapid7 IP in future releases of any of its products or services, provided Customer Data or Customer Confidential Information is not included in any Rapid7 IP
- 2.3 *Rapid7 Personnel* Rapid7 shall have sole discretion in staffing the Services and may assign the performance of any portion of the Services to any subcontractor, except that Customer may request the use of Rapid7 personnel in any SOW or at the time Customer schedules the Services In the event that Rapid7 subcontracts any portion of the Services, Rapid7 shall be fully responsible for the acts and omissions of any such subcontractor and shall not be relieved of its obligations under this Agreement
- 2.4 *Customer Systems* Customer represents and warrants that it has authorization from the owner for Rapid7 to perform the Services on the networks, systems, IP addresses, assets, and/or hardware as instructed by Customer
- 2.5 *Managed Services* To the extent Managed Services include any Rapid7 software, Customer is granted a license to such software subject to the applicable license terms Such license will be for the term of the Managed Services only
- 2.6 *Professional Services* To the extent Customer purchases Professional Services, Customer may reschedule the Services up to ten business days prior to the start of the Services at no cost If Customer reschedules the Services with less than ten business days' notice, Customer will forfeit the portion of the Services equal to the number of days that were rescheduled without the required notice If Customer reschedules the Services after they have begun, Customer will forfeit five days of Services, or the number of days remaining on the Services, whichever is fewer Customer will also be responsible for any out-of-pocket expenses incurred by Rapid7 due to such rescheduling If performance of the Professional Services is delayed by Customer's acts or omissions, including Customer's failure to meet the requirements



set forth in an SOW, Customer will forfeit the duration of such delay from its Professional Services time. Customer will have twelve months from the date of order to use or schedule any Professional Services, after which time any remaining, unscheduled Professional Services time will be forfeited.

### 3 **FEES; PAYMENT TERMS**

3.1 If Customer purchases the Services through a Rapid7 authorized reseller, then the fees and payment terms shall be as set forth between Customer and reseller and section 3.2 shall not apply.

3.2 Customer agrees to pay the fees, charges and other amounts in accordance with the applicable SOW. Rapid7 will invoice Customer upon execution of an SOW, unless otherwise agreed by the parties. All fees are non-refundable, unless otherwise stated herein. In the event an SOW requires travel by Rapid7 to a Customer designated site, Customer shall also reimburse Rapid7 for all reasonable out-of-pocket expenses incurred by Rapid7 in connection with delivery of the Services. Customer shall be responsible for remitting all taxes levied on any transaction under this Agreement, including, without limitation, all federal, state, and local sales taxes, levies and assessments, and local withholding taxes in Customer's jurisdiction, if any, excluding, however, any taxes based on Rapid7's income. In the event Customer is required to withhold taxes from its payment or withholding taxes are subsequently required to be paid to a local taxing jurisdiction, Customer is obligated to pay such tax, and Rapid7, as applicable, will receive the SOW payment amount as agreed to net of any such taxes. Customer shall provide to Rapid7 written evidence that such withholding tax payment was made.

### 4 **CONFIDENTIALITY**

4.1 **Confidential Information** "Confidential Information" means information provided by one party to the other party which is designated in writing as confidential or proprietary, as well as information which a reasonable person familiar with the disclosing party's business and the industry in which it operates would know is of a confidential or proprietary nature. A party will not disclose the other party's Confidential Information to any third party without the prior written consent of the other party, nor make use of any of the other party's Confidential Information except in its performance under this Agreement. Each party accepts responsibility for the actions of its agents or employees and shall protect the other party's Confidential Information in the same manner as it protects its own Confidential Information, but in no event with less than reasonable care. The parties expressly agree that the terms and pricing of this Agreement are Confidential Information. A receiving party shall promptly notify the disclosing party upon becoming aware of a breach or threatened breach hereunder and shall cooperate with any reasonable request of the disclosing party in enforcing its rights.

4.2 **Exclusions** Information will not be deemed Confidential Information if such information (i) is known prior to receipt from the disclosing party, without any obligation of confidentiality, (ii) becomes known to the receiving party directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing party, (iii) becomes publicly known or otherwise publicly available, except through a breach of this Agreement, or (iv) is independently developed by the receiving party without use of the disclosing party's Confidential Information. The receiving party may disclose Confidential Information pursuant to the requirements of applicable law, legal process or government regulation, provided that, unless prohibited from doing so by law enforcement or court order, the receiving party gives the disclosing party reasonable prior written notice, and such disclosure is otherwise limited to the required disclosure.

### 5 **DATA PRIVACY**

5.1 **Customer Data** To the extent that Rapid7 processes personal data about any individual in the course of providing the Service, Customer agrees to Rapid7's Data Processing Agreement, located at <https://www.rapid7.com/legal/dpa/>. Rapid7 may use Customer Data solely as necessary to (i) provide the Services to Customer, (ii) in anonymized and aggregated form that does not or cannot be used to identify Customer or any Customer Data, generate statistics and produce reports, and (iii) collect data and analytics about use of the Services in order to continue to improve the development and delivery of the Services.

5.2 **Data Privacy** Customer represents and warrants that Customer has obtained all necessary rights to permit Rapid7 to collect and process Customer Data from Customer, including, without limitation, data from endpoints, servers, cloud applications, and logs.

### 6 **LIMITED WARRANTY**

6.1 **Warranty and Remedy** Rapid7 warrants that the Services will be provided with reasonable skill and care conforming to generally accepted industry standards, and in conformance in all material respects with the requirements set forth in the SOW. Customer must report any deficiency in the Services to Rapid7 in writing within fifteen business days of delivery or performance of the portion of the Services containing the deficiency. For any breach of the above warranty, Rapid7 will, at its option and expense, either (a) use commercially reasonable efforts to provide remedial services necessary to enable the Services to conform to the warranty, or (b) refund pro-rata amounts paid for the non-conforming Services. Customer will provide reasonable assistance in remedying any defects. The remedies set out in this subsection are Customer's sole remedies for breach of the above warranty.

6.2 **No Other Warranty** **EXCEPT FOR THE WARRANTY ABOVE, RAPID7 MAKES NO OTHER WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THOSE OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS. RAPID7 MAKES NO WARRANTY THAT ALL SECURITY RISKS, INCIDENTS, OR THREATS WILL BE DETECTED OR REMEDIATED BY USE OF THE SERVICES OR THAT FALSE POSITIVES WILL NOT BE FOUND.**

## 7 LIMITATION OF LIABILITY

7.1 Exclusion of Certain Damages NEITHER PARTY WILL BE LIABLE UNDER THIS AGREEMENT FOR LOST REVENUES OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES, EVEN IF THE PARTY KNEW OR SHOULD HAVE KNOWN THAT SUCH DAMAGES WERE POSSIBLE.

7.2 Limitation on Amount of Liability NEITHER PARTY WILL BE LIABLE UNDER THIS AGREEMENT FOR MORE THAN THE TOTAL AMOUNT PAID OR PAYABLE BY CUSTOMER TO RAPID7 HEREUNDER DURING THE TWELVE MONTHS IMMEDIATELY PRIOR TO THE EVENT GIVING RISE TO LIABILITY, EXCEPT THAT THE LIMITATION IN THIS SECTION 7.2 SHALL NOT APPLY TO: (I) VIOLATIONS OF A PARTY'S INTELLECTUAL PROPERTY RIGHTS BY THE OTHER PARTY; OR (II) A PARTY'S EXPRESS INDEMNIFICATION OBLIGATIONS UNDER THIS AGREEMENT.

## 8 TERM

The term of each Services order will be as set forth on the SOW. Termination of an SOW will not terminate this Agreement. Either party may terminate this Agreement or any SOW (i) immediately in the event of a material breach of this Agreement or any such SOW by the other party that is not cured within thirty days of written notice thereof from the other party, or (ii) immediately if the other party ceases doing business, or is the subject of a voluntary or involuntary bankruptcy, insolvency or similar proceeding that is not dismissed within sixty days of filing. Either party may also terminate this Agreement upon no less than thirty days' prior written notice to the other party for any reason if at such time there are no outstanding SOWs currently in effect. All provisions of this Agreement which by their nature are intended to survive the termination of this Agreement shall survive such termination. Unless either party provides the other with written notice of its election not to renew the term for any Managed Services at least thirty days prior to such renewal date, the term for any Managed Services will renew for a term of one year at the rate listed on the applicable SOW. In connection with any renewal term, Rapid7 reserves the right to change the rates, applicable charges, and usage policies and to introduce new charges for any subsequent term, upon providing Customer written notice thereof (which may be provided by e-mail) at least 60 days prior to the end of the then current term for any Managed Services.

## 9 INDEMNIFICATION

9.1 By Rapid7 Rapid7 will indemnify Customer from and against all costs, liabilities, losses, and expenses (including, but not limited to, reasonable attorneys' fees) (collectively, "Losses") arising out of a third party claim alleging that the Services infringe or misappropriate any intellectual property rights of such third party. Notwithstanding the foregoing, in no event shall Rapid7 have any obligations or liability under this Section arising from (i) use of any Services in a manner not anticipated by this Agreement or in combination with materials not furnished by Rapid7, and (ii) any content, information, or data provided by Customer or other third parties. If the Services are or are likely to become subject to a claim of infringement or misappropriation, then Rapid7 will, at its sole option and expense, either (i) obtain for the Customer the right to continue using the Services, (ii) replace or modify the Services to be non infringing and substantially equivalent to the infringing Services, or (iii) if options (i) and (ii) above cannot be accomplished despite the reasonable efforts of Rapid7, then Rapid7 may terminate Customer's rights to use the infringing Services and will refund pro-rata any prepaid fees for the infringing portion of the Services. THE RIGHTS GRANTED TO CUSTOMER UNDER THIS SECTION 9.1 SHALL BE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR ANY ALLEGED INFRINGEMENT BY THE SERVICES OF ANY PATENT, COPYRIGHT, OR OTHER PROPRIETARY RIGHT.

9.2 By Customer Customer will indemnify, defend, and hold harmless Rapid7 from and against all Losses arising out of a third party claim regarding (i) Customer's violation of any representations and warranties made in Sections 2.4 and 5.2 of this Agreement, or (ii) Customer's violation of applicable law.

## 10 GENERAL PROVISIONS

10.1 Miscellaneous (a) This Agreement shall be construed in accordance with and governed for all purposes by the laws of the State of Delaware (for customers located in North America), or England & Wales (for customers located outside of North America), each excluding its respective choice of law provisions and each party consents and submits to the jurisdiction and forum of the state and federal courts in the State of Delaware (for customers located in North America) or London, England (for customers located outside of North America) all questions and controversies arising out of this Agreement and waives all objections to venue and personal jurisdiction in these forums for such disputes, (b) this Agreement, along with the accompanying SOW(s) constitute the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and undertakings, both written and oral, (c) this Agreement and each SOW may not be modified except by a writing signed by each of the parties, (d) in case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions of this Agreement but rather this Agreement shall be construed as if such invalid, illegal, or other unenforceable provision had never been contained herein, (e) Customer shall not assign its rights or obligations hereunder without Rapid7's advance written consent, (f) subject to the foregoing subsection (e), this Agreement shall be binding upon and shall enure to the benefit of the parties hereto and their successors and permitted assigns, (g) no waiver of any right or remedy hereunder with respect to any occurrence or event on one occasion shall be deemed a waiver of such right or remedy with respect to such occurrence or event on any other occasion, (h) nothing in this Agreement, express or implied, is intended to or shall confer upon any other person any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement, including but not limited to any of Customer's own clients, customers, or employees, (i) the headings to the sections

of this Agreement are for ease of reference only and shall not affect the interpretation or construction of this Agreement, (j) terms in an SOW have precedence over conflicting terms in this Agreement, but have applicability only to that particular SOW, and (k) this Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument

10.2 Injunctive Relief Notwithstanding any other provision of this Agreement, both parties acknowledge that any breach of this Agreement may cause the other party irreparable and immediate damage for which remedies other than injunctive relief may be inadequate. Therefore, the parties agree that, in addition to any other remedy to which a party may be entitled hereunder, at law or equity, each party shall be entitled to seek an injunction to restrain such use in addition to other appropriate remedies available under applicable law.

10.3 Relationship of the Parties Rapid7 and Customer are independent contractors, and nothing in this Agreement shall be construed as making them partners or creating the relationships of principal and agent between them, for any purpose whatsoever. Neither party shall make any contracts, warranties, or representations or assume or create any obligations, express or implied, in the other party's name or on its behalf.

10.4 Force Majeure Other than payment obligations hereunder, neither party will be liable for any inadequate performance to the extent caused by a condition that was beyond the party's reasonable control (including, but not limited to, natural disaster, act of war or terrorism, riot, global health crisis, acts of God, or government intervention), except for mere economic hardship, so long as the party continues to use commercially reasonable efforts to resume performance.

10.5 No Reliance Customer represents that it has not relied on the availability of any future feature or version of the Services or any future product or service in executing this Agreement or purchasing any Services hereunder.

10.6 Notices Unless specified otherwise herein, (i) all notices must be in writing and addressed to the attention of the other party's legal department and primary point of contact and (ii) notice will be deemed given (a) when verified by written receipt if sent by personal courier, overnight courier, or when received if sent by mail without verification of receipt, or (b) when verified by automated receipt or electronic logs if sent by email. When sent by email, notices to Rapid7 must be sent to [notices@rapid7.com](mailto:notices@rapid7.com).

10.7 Publicity Customer acknowledges that Rapid7 may use Customer's name and logo for the purpose of identifying Customer as a customer of Rapid7 products and/or services. Rapid7 will cease using Customer's name and logo upon written request.

10.8 Compliance with Law Each party agrees to comply with all applicable federal, state, and local laws and regulations including but not limited to export law, and those governing the use of network scanners, vulnerability assessment software products, encryption devices, user monitoring, and related software in all jurisdictions in which systems are scanned, scanning is controlled, or users are monitored.

Rapid7 and Customer have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

Customer: \_\_\_\_\_

**Rapid7**

Signature \_\_\_\_\_

Signature \_\_\_\_\_

Printed Name \_\_\_\_\_

Printed Name \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

Date Signed \_\_\_\_\_

Date Signed \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

<b>APPROVAL</b> <i>slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b> <b>09/20/22</b>
<b>REPORTS AND RECOMMENDATIONS</b>	<b>A RESOLUTION TO SUBMIT A 2023 GRANT APPLICATION REQUEST FROM THE WISCONSIN DEPARTMENT OF NATURAL RESOURCES URBAN FORESTRY GRANT PROGRAM AND UNSPECIFIED AMOUNTS FOR YET TO BE DETERMINED CATASTROPHIC STORM EVENTS</b>	<b>G.8.</b>

**BACKGROUND**

The Wisconsin Department of Natural Resources (WDNR) Urban Forestry Grant program is designed to fund projects that improve a community’s capacity to manage its trees. Projects that help conserve, protect, expand or improve the urban forest resource will also be prioritized. This 2023 grant application is due October 3, 2022.

**ANALYSIS**

An eligible 50% match includes options for cash or in-kind services provided for the project and that have occurred during the project period. Projects must be a minimum of \$2,000 and a maximum of \$50,000- i.e. the grant request must be between \$1,000 and \$25,000. Proposals are competitively scored amongst other applications from other communities. Grant application must be mailed no later than October 3, 2022. Eligible projects and expenditures are for January 1 to December 31, 2023.

Staff recommends a proposed project as follows:

- \$10,000 Street Tree Planting & Replacements
- \$10,000 Total Project Cost

The 50% match grant is a \$5,000 request for staff training.

This grant award is anticipated to be announced in January 2023.

Note that the attached resolution uses the recommended language from the grant website. The sample resolution also includes language to allow the City to quickly apply and receive a 100% grant for urban forestry catastrophic storm projects specified in Wis. Stats section 23.097(1g) and (1r), Wis. Stats- if needed. Both sections of the statute are as follows:

*(1g) The department shall award grants to counties, cities, villages, towns, and nonprofit organizations for up to 50 percent of the cost of tree management plans, tree inventories, brush residue projects, the development of tree management ordinances, tree disease evaluations, public education concerning trees in urban areas and other tree projects*

*(1r) In addition to the grants awarded under sub (1g), the department may award grants to ...cities, ... that apply for the grants for the costs of removing, saving, and replacing trees that have been damaged by catastrophic storm events in urban areas. To be eligible for a grant under this subsection, the damage must have occurred in an area for which the governor has designated a state of emergency due to a catastrophic storm event. The department shall notify each applicant for a grant under this subsection as to whether the application for the grant will be approved or denied within 60 days after the date the application is submitted to the department. A recipient of a grant awarded under this subsection is exempt from having to pay any percentage of the costs in order to receive the grant.*

### **OPTIONS**

- A. Pass a Resolution to direct Staff to submit grant application and comply with the requirements stipulated in the grant program. Or,
- B. Table and elect to not submit grant application due October 3, 2022.

### **FISCAL NOTE**

The City of Franklin is in the process of making and adopting a budget for 2023. Staff wages, labor costs, and additional funds in the Operating budget for training can be used to match the \$5,000 that we are asking for in this grant.

### **COUNCIL ACTION REQUESTED**

(Option A) Motion to adopt Resolution No. 2022 - \_\_\_\_\_, a resolution to make a 2023 grant application request of \$5,000 (for a Project total of \$10,000) from the 2023 WDNR Urban Forestry Grant and Urban Forestry Catastrophic Storm Grant Program and unspecified amounts for yet to be determined catastrophic storm events.

DPW:TR/ams

STATE OF WISCONSIN : CITY OF FRANKLIN : MILWAUKEE COUNTY

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

A RESOLUTION TO AUTHORIZE SUBMITTAL OF A 2023 GRANT APPLICATION  
REQUEST FROM THE WISCONSIN DEPARTMENT OF NATURAL RESOURCES URBAN  
FORESTRY GRANT PROGRAM AND UNSPECIFIED AMOUNTS FOR YET TO BE  
DETERMINED CATASTROPHIC STORM EVENTS

-----

WHEREAS, the City of Franklin, Wisconsin, (FRANKLIN), is interested in obtaining a cost-share grant from Wisconsin Department of Natural Resources for the purpose of funding urban and community forestry projects or urban forestry catastrophic storm projects specified in s. 23.097(1g) and (1r), Wis. Stats.; and

WHEREAS, FRANKLIN attests to the validity and veracity of the statements and representations contained in the grant application; and

WHEREAS, FRANKLIN requests a grant agreement to carry out the project.

NOW, THEREFORE, BE IT RESOLVED, the City of Franklin, Wisconsin, (FRANKLIN) will comply with all local, state, and federal rules, regulations and ordinances relating to this project and the cost-share agreement;

BE IT FURTHER RESOLVED, FRANKLIN will budget a sum sufficient to fully and satisfactorily complete the project and hereby authorizes and empowers the City Forester to act on its behalf to:

1. Sign and submit the grant application(s)
2. Sign a grant agreement(s) between FRANKLIN and the DNR
3. Submit interim and/or final reports to the DNR to satisfy the grant agreement(s)
4. Submit grant reimbursement request(s) to the DNR
5. Sign and submit other required documentation

Introduced at a regular meeting of the Common Council of the City of Franklin the

\_\_\_\_\_ day of \_\_\_\_\_, 2022, by Alderman \_\_\_\_\_.

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

Notice: Pursuant to US Public Law 95-313, s 6(b), s. 23 097, Wis. Stats , and ch. NR 47, Wis. Adm. Code, this completed form is required to apply for an Urban Forestry Grant. The Department of Natural Resources (DNR) will be unable to process your application unless complete information is provided as requested. Information will be used to determine grant award lists, provide statistical information and potentially to use as an example for other grant applicants. Personally identifiable information collected will be used for administrative purposes and may be provided to requesters to the extent required by Wisconsin's Public Records Law [ss 19 31-19 39, Wis. Stats ].

**Resolution required with application submittal – Grant is for Calendar year 2023 – see [sample](#)**

**Section III Grant Type**

Select the appropriate grant type. Please note a maximum of three urban forestry startup grants may be awarded to an applicant within the lifetime of the startup program Click the link for more information related to each grant type.

Regular Grant       Start-up Grant

**Section III Applicant Information**

**A. Applicant Organization**

Applicant Organization Name

Organization Address (same as Treasurer or W9)	City	State	ZIP Code
--	------	-------	----------

Applicant organization is a (check one)

City     Village     Town     County     Tribal Government     501(c)(3) nonprofit organization

Located in the county of:

**DNR USE ONLY**

**B. Applicant Authorized Representative**

Last Name	First Name	MI	Position Title
Phone Number	FAX Number	Email	

**C. Project Manager (if different from Authorized Representative)**

Last Name	First Name	MI	Position Title
Address		Phone Number	FAX Number
City	State	ZIP Code	Email

**D. Grant Request Summary – will automatically be populated from Section VII Calculations.**

DNR Cost Share	Grantee Cost Share	Total Project Cost
----------------	--------------------	--------------------



# Urban Forestry Grants Application

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## Section III Community/Urban Forestry Program Status

Below are basic elements of a well-established municipal, county, or tribal urban forestry program. Select ONE option in each category that best describes your current urban forestry program.

Applicants for the Startup Grant will be redirected to a regular grant application if they select the top box in 3 or more of the categories.

501(c)(3) organizations omit this section UNLESS your project results in a municipality advancing to the top level in any of the categories. Then, list the municipality here and complete the grid to reflect that municipality's current urban forestry program.

Municipalities: \_\_\_\_\_

<b>Tree Inventory</b>	We have a current, complete tree inventory.	<input type="radio"/>
	Our tree inventory is incomplete or needs updating or upgrading.	<input type="radio"/>
	We have no formal inventory or other written records of our trees.	<input type="radio"/>
<b>Urban Forest Management Plan</b>	We have a current, useful, written, inventory-based urban forest management plan.	<input type="radio"/>
	Our inventory-based, written urban forest management plan is incomplete or out of date.	<input type="radio"/>
	We do not have a written urban forest management plan based on our tree inventory data or on similar forest resource assessment.	<input type="radio"/>
<b>Program staffing</b>	Urban forestry program management is done by staff, contracted consultants &/or volunteers who have: a forestry degree; ISA certified arborist credentials; have completed WI Community Tree Management Institute; or have other advanced forestry training.	<input type="radio"/>
	Urban forestry program management is done by staff, contracted consultants &/or volunteers who have: experience or on-the-job training, but lack a forestry degree; ISA certified arborist credentials; Community Tree Management Institute completion certificate; or comparable advanced forestry training.	<input type="radio"/>
	We have no staff, contracted consultants or volunteers authorized to handle or advise our community on tree planting & care.	<input type="radio"/>
<b>Tree ordinance</b>	We have one or more tree ordinance(s) that is/are useful for achieving community tree care and management goals.	<input type="radio"/>
	Our tree ordinance(s) is/are out-of-date or inadequate.	<input type="radio"/>
	Our code ordinance contains no provisions for tree management, care or protection. Tree language is limited to public safety or nuisance abatement.	<input type="radio"/>
<b>Advocacy</b>	We have an authorized citizen tree board or other organized group actively involved in advising our community urban forestry program.	<input type="radio"/>
	We have various groups (clubs, schools, committees) interested and involved in community tree care and management but not formally charged with advising our community urban forestry program- OR- We have an authorized but inactive citizen tree board.	<input type="radio"/>
	The level of involvement and support by residents and local elected officials for our community urban forestry program is low to non-existent.	<input type="radio"/>

Comments (optional): \_\_\_\_\_

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## Section IV Project Description

### A. Project Overview

Descriptive Project Title: \_\_\_\_\_

Describe the project using no more than 2000 characters (including spaces). Provide an overview that includes basics of who is doing what, where, how and why. This can be a bulleted list.

Describe how this project would establish a new program or advance an underdeveloped one.

### B. Project Components

Choose from the dropdown boxes below. Use the "OTHER" choice to type in alternatives. (See a list of eligible project activities in the application guide). Click + at right to add another component. Describe each project.

Describe each project component.

- What are the expected outcomes (results)?
- How will expected outcomes be measured, evaluated or shared?

**Note:** Complete a separate Cost Estimate Worksheet (CEW) in Section VII for each project component listed below. The CEW will transfer the total to the right-hand column below.

Select Component: \_\_\_\_\_

Component Cost Estimate (\$)

(field will auto-populate from detail on CEW)

Component Name: \_\_\_\_\_

Description/Outcome: \_\_\_\_\_

Target Measures (# of units, e.g. staff trained, trees treated, etc.)	Qty	Unit Type

#### Examples of components for Part B (selected in drop down box above):

1. Information/Education/Outreach Information (e.g., news media, print material development), Education (e.g., classes, tree walks, seminars), Outreach (e.g., citizen involvement in planning or implementation of Arbor Day celebration).
2. Tree Maint: Other Fertilization, storm damage mitigation, pest control, etc.
3. Plan Development (Emerald Ash Borer, management, strategic, storm response, pest response, planting).

### C. Project Location/Scope

Land Ownership Affected (select all that apply)

- |   |  |
|---|--|
| <input type="checkbox"/> Single private property                                    | <input type="checkbox"/> Single public property                                    |
| <input type="checkbox"/> Multiple private properties within a municipality          | <input type="checkbox"/> Multiple public properties within a municipality          |
| <input type="checkbox"/> Multiple private properties across multiple municipalities | <input type="checkbox"/> Multiple public properties across multiple municipalities |

### D. Applicant's Project Partners

**Note:** Each of the applicant's partners must verify their involvement using a Partner Verification (Form 8700-298A, linked here for your convenience). A Partner Verification form must be completed and sent in with this form for a complete application. If applicable, estimate the partner's donated amount on the appropriate CEW.

List Partner Organization(s): \_\_\_\_\_

What specific service, product, or role will each partner contribute to the project?

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List Partner Organization(s):	What specific service, product, or role will each partner contribute to the project?

**Section V: Alignment with DNR Urban Forestry Program Goals - Only applicable for Regular grants**

1. Describe the direct impact(s) your project has on urban tree canopy on private property: N/A

2. Describe how you will utilize an existing inventory in this project. If no inventory exists or the inventory is outdated, will an inventory be produced because of the grant? How will the new inventory be utilized? N/A

3. If hosting a professional workshop or educational event, describe how your project will build capacity and/or partnerships for those attending. Will other communities be invited to attend? Have you reached out to neighboring communities to identify training demand? N/A

4. Please select if your project will include: N/A

EAB Management Plan     
  Ash Tree removals     
  Ash Inventories (includes complete tree inventories)  
 EAB Insecticide treatment     
  Ash tree replacement planting     
  EAB Education and Outreach

5. Please select if your project will result in: N/A

A current, useful, written, inventory-based urban forest management plan  
 One or more tree ordinance(s) that is/are useful for achieving your community tree care and management goal  
     Type of ordinance planned to be developed or enhanced (i.e. general street tree, new development, tree protection, etc)  
  
 An authorized citizen tree board or other organized group actively involved in advising your community urban forestry program  
 Staff, tree service contractors &/or volunteers receiving a forestry degree, ISA certified arborist credentials, graduating from WI Community Tree Management Institute, or obtaining other advanced forestry training

6. Describe how each component of your project will have a long-term positive impact on the urban tree canopy and the benefits it provides (i.e. increased % canopy cover, or resiliency to pest/disease/storm, reduce liability). Quantify impacts to canopy or associated benefits wherever possible.  
 Tie this narrative to the component listed in question #5.

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**Section VI: Additional Applicant Information - Only applicable for Regular grants**

1. Is the community where the project will be implemented a Green Tier Legacy Community?  Yes  No  N/A

2. Is the community where the project will be implemented a Tree City USA?  Yes  No  N/A  
 ([www.arborday.org/programs/treeCityUSA/index.cfm](http://www.arborday.org/programs/treeCityUSA/index.cfm))

3. List any specific urban tree care or tree management training received, or conferences attended by your organization's staff or volunteers within the last three years. Please list no more than 5 separate trainings.

Date	Course Title	Training Description	Provider	Attendees

4. Have you received an Urban Forestry grant in the past 3 years?  Yes  No  
 If so, how is this project different than the project(s) completed previously?

5. Describe any additional significant aspects or outstanding features of this project that you would like us to know about.

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## Section VII - Cost Estimate Worksheets

**A SEPARATE WORKSHEET IS PROVIDED FOR EACH COMPONENT CHOSEN IN SECTION IV.B.**  
 If more space is needed, return to Section IV.B., click + to add another component, choose the same Component name again, enter "Continued" in the Description, and return to this Section to complete your entry.

Project Component	Estimated Cost	Donation Value
<b>Salary and Labor (specify project tasks on lines below, as appropriate)</b>		
Applicant Staff Labor:		
Fringe Benefits:		
Municipal Partner Labor Expense (Cooperative Agreement will be required):		
Volunteer Labor (\$15.00/hr):		
Other:		
<b>Supplies (specify items, as appropriate)</b>		
Provided by Applicant's On-hand Inventory:		
Donated by third parties:		
<b>Equipment (specify type of equipment and DOT class code on lines below, as appropriate) See application guidelines for a list of commonly used equipment codes.</b>		
Provided by Applicant:		
Rented or Contracted Equipment:		
Purchased Equipment (not to exceed \$5,000/item):		
Donated by third parties:		
<b>Contractual/Consultant Services</b>		
Hired Consultants/Contractors/ Services (professional rate):		
Donated Consultants/Contractors/ Services (professional rate):		
<b>Other Project Purchases</b>		
<b>Total</b>		
<b>Total Project Component Cost</b>		

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Total Project Cost		
	Cash	Donated
Salary		
Supplies		
Equipment		
Contractual/Consultant Services		
Other		
<b>Total</b>		
<b>Total Project Cost</b>		
<b>DNR Cost Share</b>		
<b>Applicant Cost Share</b>		

The Grant Request cannot be less than \$1,000. Please adjust the project as needed to meet that limit. You won't be able to submit the application unless the Grant Request amount is equal or greater than \$1000.

**Section VIII: Certification and Submission**

**Application form and required attachments must be received by 11:59 p.m., October 3, 2022, for the application to be eligible.**

**Attachments**

Provide a signed resolution that has been adopted by the applicant's governing body which gives the name of the applicant, authorizes funding for the project, designates an authorized representative (position title) to act on behalf of the applicant and states that the applicant will provide documentation of work done and follow all relevant state and federal rules. A sample resolution is provided at: <https://dnr.wi.gov/topic/UrbanForests/grants/documents/UFGrantsCombinedResolution.doc>  
 Check all items you plan to attach.

- Authorizing Resolution attached
- By-laws & articles of incorporation (501(c)(3) applicants only)
- Partner Verification Attached (8700-298A)

**Submission Instructions**

Review your application before continuing.

Submission by Email strongly recommended. If not possible, contact the Urban Forestry Financial Specialist

By my signature below, I hereby certify to the best of my knowledge, the information contained in this application and application attachments are correct and true. I understand and agree that any grant monies awarded as a result of this application shall be used in accordance with ch. 23.097, Wis. Stats., and ch. 47, Wis. Adm. Code.

**NOTE:** Please type your name on the signature line. Your typed name, along with the email message generated from electronic submittal of this form, will be used as an electronic signature which is the legal equivalent to an actual signature.

Signature of Authorized Representative	Date Signed	Applicant's Authorized Representative (print)
Position Title		

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<b>APPROVAL</b> <i>slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b> September 20, 2022
Reports & Recommendations	<b>Resolution Authorizing the Installation of a Fence within the 20-Foot Public Storm Drainage Easement Upon Lot 4 in Block 19 of Southwood East Add'n. No. 1 (9138 S. 29<sup>th</sup> Street) (TKN 879-0293-000) (Juan Daniel &amp; Lindsey B. Aponta-Mora, Applicants)</b>	<b>ITEM NUMBER</b>  <b>G.9.</b>

**BACKGROUND**

Juan Daniel & Lindsey B. Aponta-Mora have made an application to install a fence on the border of their property at 9138 S. 29<sup>th</sup> Street. The fence is proposed to be located in a 20-foot wide public storm drainage easement.

Staff informed the property owner about the existing storm drainage easement and they are agreeable to place the fence 5-feet west of the east property line of said property and not to impede the storm water drainage way within the easement.

**ANALYSIS**

Staff has reviewed the application and recommends to allow the installation of the fence within the public storm drainage easement. The property owner will be fully responsible for any repair and/or restoration of the public storm 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 public storm 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, and the Mortgage Holder Consent set forth on Exhibit B annexed hereto, respectively.

**OPTIONS**

Approve or Deny

**FISCAL NOTE**

No Impact on Budget.

**RECOMMENDATION**

Resolution 2022-\_\_\_\_\_ a resolution authorizing the installation of a fence within the 20-foot public storm drainage easement upon Lot 4 in block 19 in Southwood East Add'n. No. 1 (9138 S. 29<sup>th</sup> Street) (TKN 879-0293-000) (Juan Daniel & Lindsey B. Aponta-Mora, Applicants)

Engineering: GEM



STATE OF WISCONSIN : CITY OF FRANKLIN : MILWAUKEE COUNTY

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

RESOLUTION AUTHORIZING THE INSTALLATION OF A FENCE WITHIN  
THE 20-FOOT PUBLIC STORM DRAINAGE EASEMENT  
UPON LOT 4 IN BLOCK 19 OF SOUTHWOOD EAST ADD’N. NO. 1  
(9138 S. 29TH STREET) (TKN 879-0293-000)  
(JUAN DANIEL & LINDSEY B. APONTA-MORA, APPLICANTS)

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WHEREAS, the Southwood East Add’n. No. 1 Subdivision Plat prohibits the building of structures within the 20-foot " Public Storm Drainage Easement," described thereon; and

WHEREAS, Juan Daniel & Lindsey B Aponta-Mora having applied for the installation of a new Vinyl, 6x6 foot panel fence at their property located at 9138 S. 29<sup>th</sup> Street., zoned R-6 Residential, bearing Tax Key No. 879-0293-000, more particularly described as follows:

Lot 4 in Block 19 in Southwood East Add’n. No 1, being a re-division of lots 1 through 9 inclusive, Block 1, and Lot 5, Block 6 in Southwood East, being a part of the Northeast 1/4 of the Southeast 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 upon a 20-foot “Public Storm Water Drainage Easement” restriction which extends approximately 85 feet along the full length of said rear yard lot line; and

WHEREAS, the 20-foot “Public Storm Drainage Easement” restrictions upon the Final Plat for Southwood East Add’n. No. 1 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 20-foot Public Storm Drainage Easement restriction only so as to allow for the subject fence installation; and

WHEREAS, the Common Council having considered the proposed location of and type of fence to be installed 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 installation of the proposed fence of the type and specifications as described and only upon the location as set forth within the plans accompanying

the application of Juan Daniel & Lindsey B. Aponta-Mora filed on May 18, 2022, be and the same is hereby authorized and approved and that the "Public Storm 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, and the Mortgage Holder Consent set forth on Exhibit B annexed hereto, respectively.

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, and as applicable, Exhibit B.

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

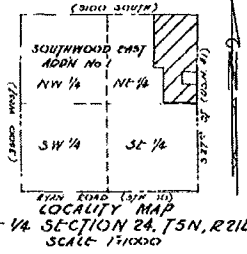
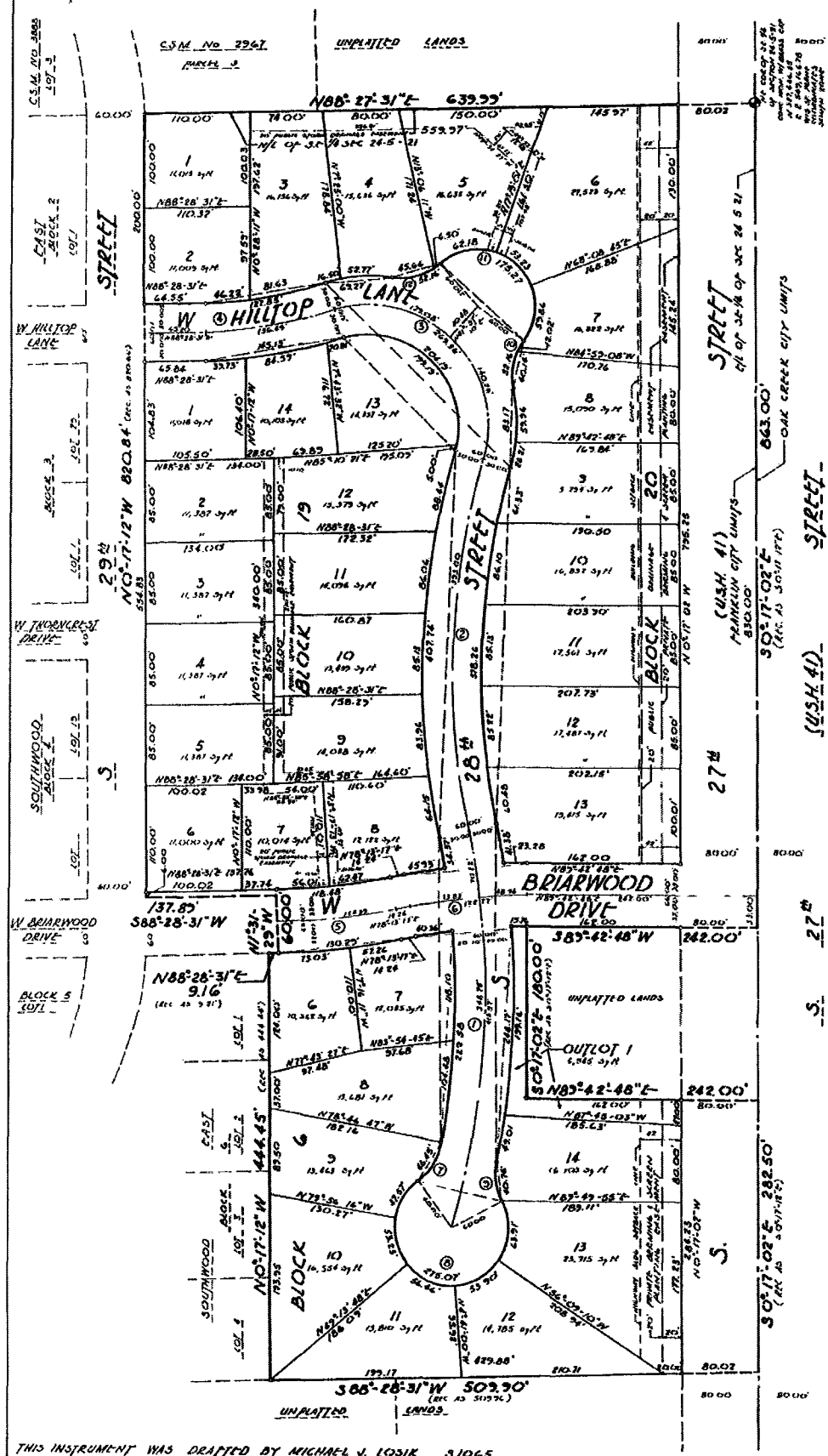
ATTEST:

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

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

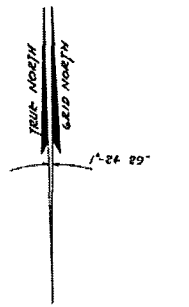
# SOUTHWOOD EAST ADD'N. NO. 1

BEING A REDIVISION OF LOTS 1 THROUGH 9 INCLUSIVE, BLOCK 1, AND LOT 5, BLOCK 6 IN SOUTHWOOD EAST, BEING A PART OF THE NE 1/4 OF THE SE 1/4 OF SECTION 24, TOWN 5 NORTH, RANGE 21 EAST IN THE CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN



SCALE 1" = 60'

MICHAEL J. LOSIK & ASSOCIATES  
 MILWAUKEE, WISCONSIN  
 PROFESSIONAL ENGINEERS - LAND SURVEYORS



**NOTES**  
 \* INDICATES A 2" x 30" IRON PIPE WEIGHING 3.65 LBS PER LINEAL FOOT. ALL OTHER LOT CORNERS ARE STAKED WITH A 1" x 24" IRON PIPE WEIGHING 1.13 LBS PER LINEAL FOOT. ALL BEARINGS ARE REFERENCED TO GRID NORTH OF THE WISCONSIN STATE PLANE COORDINATE SYSTEM - SOUTH ZONE. ALL LINEAR MEASUREMENTS HAVE BEEN MADE TO THE NEAREST ONE-HUNDRETH OF A FOOT. ALL ANGULAR MEASUREMENTS HAVE BEEN MADE TO THE NEAREST SECOND AND COMPUTED TO THE NEAREST ONE-HALF SECOND.

**ACCESS RESTRICTION:**  
 DANCE DANCE MARKET, 2300 W. 27th Street, Franklin, WI 53128, is hereby notified that the easement shown on this plat is for the use of the public and is not to be used for any other purpose. If any person or persons are found to be using the easement for any other purpose, they shall be liable for the cost of any and all damages caused by such use. This restriction shall constitute a restriction on the use of the easement for any other purpose and shall be enforceable by the Department of Transportation.

There are no objections to this plat with respect to Secs. 238.15, 238.16, 238.23 and 238.24 (1) and (2), Wis. Stats. ch. 193 if the 1/4" Admin. Code No. 10.01, Sec. 238.12 (1), Wis. Stats. or by the Courts. Filed 1/23/84.

Department of Development



DATED THIS 12th DAY OF SEPTEMBER, 1983

# SOUTHWOOD EAST ADD'N. NO. 1

BEING A REDIVISION OF LOTS 1 THROUGH 3 INCLUSIVE, BLOCK 1, AND LOT 5, BLOCK 6 IN SOUTHWOOD EAST, BEING A PART OF THE NE 1/4 OF THE SE 1/4 OF SECTION 28, TOWN 5 NORTH, RANGE 21 EAST IN THE CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN

LINE	TYPE	START	END	CURVE DATA	BEARING	DISTANCE	AREA
1	1/4	118.00	118.00	118.00			
2	1/4	118.00	118.00	118.00			
3	1/4	118.00	118.00	118.00			
4	1/4	118.00	118.00	118.00			
5	1/4	118.00	118.00	118.00			
6	1/4	118.00	118.00	118.00			
7	1/4	118.00	118.00	118.00			
8	1/4	118.00	118.00	118.00			
9	1/4	118.00	118.00	118.00			
10	1/4	118.00	118.00	118.00			
11	1/4	118.00	118.00	118.00			
12	1/4	118.00	118.00	118.00			

BEING A REDIVISION OF LOTS 1 THROUGH 3 INCLUSIVE, BLOCK 1, AND LOT 5, BLOCK 6 IN SOUTHWOOD EAST, BEING A PART OF THE NE 1/4 OF THE SE 1/4 OF SECTION 28, TOWN 5 NORTH, RANGE 21 EAST IN THE CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN

EXCEPTING THEREFROM THOSE PARTS HERETOFORE DEDICATED FOR PUBLIC STREET PURPOSES

THAT I MADE SAID SURVEY, LAND DIVISION AND PLAT UNDER THE DIRECTION OF STAR SURVEY CORPORATION, OWNER OF SAID LAND.

THAT SUCH PLAT IS A CORRECT REPRESENTATION OF THE EXTERIOR BOUNDARIES OF THE LAND SURVEYED AND THE SUBDIVISION THEREOF MADE.

THAT I AM FULLY AWARE OF THE PROVISIONS OF CHAPTER 236 OF THE WISCONSIN STATUTES AND CHAPTER 21 OF THE CITY OF FRANKLIN MUNICIPAL CODE IN SUBJECTING, DIVIDING AND MAPPING THE SAME.

DATED THIS 12th DAY OF SEPTEMBER, 1983

*Michael J. Losik*  
MICHAEL J. LOSIK, P.L.S.  
REGISTERED LAND SURVEYOR, 3 1065

**CORPORATE OWNER'S CERTIFICATE OF DEDICATION**

THE SERVICE CORPORATION, A CORPORATION DULY ORGANIZED AND EXISTING UNDER AND BY VIRTUE OF THE LAWS OF THE STATE OF WISCONSIN, AS OWNER, DOES HEREBY CERTIFY THAT SAID CORPORATION CAUSED THE LAND DESCRIBED ON THIS PLAT TO BE SURVEYED, DIVIDED, MAPPED AND DEDICATED AS REPRESENTED ON THIS PLAT.

THE SERVICE CORPORATION, DOES FURTHER CERTIFY THAT THIS PLAT IS REQUIRED BY SECTION 236.01, OF SECTION 236.12 TO BE SUBMITTED TO THE FOLLOWING FOR APPROVAL OR OBJECTION:

- CITY OF FRANKLIN
- DEPARTMENT OF DEVELOPMENT
- MILWAUKEE COUNTY PLANNING

IN WITNESS WHEREOF, THE SAID SERVICE CORPORATION HAS CAUSED THESE PRESENTS TO BE SIGNED BY LEONARD J. SWANBERG, ITS PRESIDENT AND CHIEF FINANCIAL OFFICER AND BY DAVID N. BALKER, SECRETARY OF SAID CORPORATION, BOTH OF WHOM ARE PERSONS WHO, AT THE TIME SAID INSTRUMENT WAS ADDED TO CORPORATE RECORDS TO BE HERETOFORE APPLIED ON THIS 6th DAY OF JUNE, 1984.

IN THE PRESENCE OF:

*Leonard J. Swanberg*  
LEONARD J. SWANBERG  
PRESIDENT

*David N. Balcer*  
DAVID N. BALKER  
SECRETARY

STATE OF WISCONSIN }  
COUNTY OF MILWAUKEE } ss

PERSONALLY CAME ME THIS 6th DAY OF JUNE, 1984, LEONARD J. SWANBERG, PRESIDENT, AND DAVID N. BALKER, SECRETARY OF THE ABOVE-MENTIONED CORPORATION, TO ME KNOWN TO BE THE PERSONS WHO EXECUTED THE FOREGOING INSTRUMENT, AND TO ME KNOWN TO BE SUCH OTHERS (SIGNED AND SEALED) OF SAID CORPORATION, AND ACKNOWLEDGED THAT THEY EXECUTED THE FOREGOING INSTRUMENT AS SUCH OFFICERS AS THE DEED OF SAID CORPORATION, BY ITS AUTHORITY.

**COUNTY TREASURER'S CERTIFICATE**

STATE OF WISCONSIN }  
COUNTY OF MILWAUKEE } ss

I, PAUL L. MCCORMACK, BEING DULY ELECTED, QUALIFIED AND ACTING TREASURER OF THE COUNTY OF MILWAUKEE, DO HEREBY CERTIFY THAT THE RECORDS IN MY OFFICE SHOW NO UNRECORDED SALES AND NO UNPAID TAXES OR SPECIAL ASSESSMENTS AS OF JUNE 6, 1984, AFFECTING THE LAND INCLUDED IN THE PLAT OF SOUTHWOOD EAST ADD'N. NO. 1.

DATED: 6-6-84

*Paul L. McCormack*  
PAUL L. MCCORMACK  
TREASURER, COUNTY OF MILWAUKEE  
PAGE 3, NO. 6036

**CERTIFICATE OF CITY TREASURER**

STATE OF WISCONSIN }  
COUNTY OF MILWAUKEE } ss

I, MARGARET ELLIS, BEING DULY APPOINTED, QUALIFIED AND ACTING CITY TREASURER OF THE CITY OF FRANKLIN, DO HEREBY CERTIFY THAT IN ACCORDANCE WITH THE RECORDS IN MY OFFICE, THERE ARE NO UNPAID TAXES OR UNPAID SPECIAL ASSESSMENTS AS OF JUNE 7, 1984, AFFECTING THE LAND INCLUDED IN THE PLAT OF SOUTHWOOD EAST ADD'N. NO. 1.

JUNE 7, 1984

*Margaret Ellis*  
MARGARET ELLIS  
DEPUTY CITY TREASURER, CITY OF FRANKLIN  
MURPHY 71204

**COMMON COUNCIL RESOLUTION NO. 84-2174**

RESOLVED, THAT THE PLAT OF "SOUTHWOOD EAST ADD'N. NO. 1" IN THE CITY OF FRANKLIN, IS HEREBY APPROVED CONCOMITANTLY BY THE COMMON COUNCIL.

JUNE 9, 1984

*Michael J. Losik*  
MICHAEL J. LOSIK  
MAYOR

I HEREBY CERTIFY THAT THE FOREGOING IS A COPY OF A RESOLUTION ADOPTED BY THE COMMON COUNCIL OF THE CITY OF FRANKLIN, AND THAT ALL CONDITIONS OF APPROVAL HAVE BEEN MET AS OF THE 6th DAY OF JUNE, 1984. THEREFORE THIS PLAT IS APPROVED.

*Gregory P. Gregory*  
GREGORY P. GREGORY, CITY CLERK  
MILWAUKEE

**SURVEYOR'S CERTIFICATE**

STATE OF WISCONSIN }  
COUNTY OF MILWAUKEE } ss

I, MICHAEL J. LOSIK, REGISTERED LAND SURVEYOR, DO HEREBY CERTIFY THAT I HAVE SURVEYED, DIVIDED AND MAPPED "SOUTHWOOD EAST ADD'N. NO. 1," BEING A REDIVISION OF LOTS 1 THROUGH 3 INCLUSIVE, BLOCK 1, AND LOT 5, BLOCK 6 IN SOUTHWOOD EAST, BEING A PART OF THE NE 1/4 OF THE SE 1/4 OF SECTION 28, TOWN 5 NORTH, RANGE 21 EAST, IN THE CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT A CONCRETE MONUMENT WITH A BRASS CAP MARKING THE LOCATION OF THE NORTHEAST CORNER OF THE SAID SOUTHWEST 1/4 SECTION; SAID POINT BEING THE POINT OF BEGINNING OF LANDS HEREINAFTER DESCRIBED; THENCE SOUTH 07° 07' 45" EAST 336.25 FEET TO THE POINT OF BEGINNING OF SAID SOUTHWEST 1/4 SECTION AND THE CENTERLINE OF SOUTH 27th STREET; 863.00 FEET TO A POINT; THENCE S 85° 42' 45" WEST AND ALONG THE WESTERLY BOUNDARY OF AND THEN THE SOUTH LINE OF DEARBWOOD DRIVE, 25.00 FEET TO A POINT; THENCE SOUTH 07° 17' 08" EAST (RECORDED AS 50-11-12E) AND PARALLEL TO THE EAST LINE OF THE SAID SOUTHWEST 1/4 SECTION, 180.00 FEET TO A POINT; THENCE NORTH 85° 28' 28" EAST AND PARALLEL TO THE SOUTH LINE OF SAID DEARBWOOD DRIVE, 847.00 FEET TO A POINT IN THE EAST LINE OF THE SAID SOUTHWEST 1/4 SECTION; THENCE SOUTH 27° 08' EAST (RECORDED AS 50-17-12E) AND ALONG THE EAST LINE OF THE SAID SOUTHWEST 1/4 SECTION AND THE CENTERLINE OF SOUTH 27th STREET, 288.50 FEET TO A POINT; THENCE SOUTH 85° 28' 31" WEST 303.50 FEET TO A POINT; THENCE NORTH 0° 15' 12" WEST AND ALONG THE EAST LINE OF LOTS 4, 3, 2 AND 1, IN BLOCK 6, IN SOUTHWOOD EAST, 444.45 FEET (RECORDED AS 84-44) TO A POINT IN THE SOUTH LINE OF DEARBWOOD DRIVE; THENCE NORTH 85° 28' 31" EAST AND ALONG THE SOUTH LINE OF DEARBWOOD DRIVE, 316 FEET (RECORDED AS 8-21) TO A POINT; THENCE NORTH 17° 31' WEST AND 1/4 BROADWAY, 147.00 FEET TO A POINT; THENCE NORTH 60.00 FEET TO A POINT IN THE NORTH LINE OF SAID STREET; THENCE SOUTH 85° 28' 31" WEST AND ALONG THE NORTH LINE OF DEARBWOOD DRIVE, 137.83 FEET TO A POINT IN THE EAST LINE OF SOUTH 20th STREET; THENCE NORTH 0° 17' 15" WEST AND ALONG THE EAST LINE OF SOUTH 20th STREET, 820.84

THIS INSTRUMENT WAS DRAFTED BY MICHAEL J. LOSIK, 3 1065

There are no objections to this plat with respect to Secs. 236.15, 236.16, 236.20 and 236.21 (1) and (2), Wis. Stats., §§ 236.15 et seq. of the Wis. Statutes Code as provided by Sec. 236.12 (1), Wis. Stats., or by the County Planning No. 1.

Confiled this 20th day of February, 1984.

*Jeane A. Starn*  
Department of Development

WISCONSIN  
MILWAUKEE COUNTY  
LAND SURVEYOR  
MICHAEL J. LOSIK  
3 1065  
MILWAUKEE, WIS.

SHEET 2 OF 2

07/13/2022

To,

Alli Alqayyim,

City of Franklin-Engineering Department

9229 W Loomis Rd, WI

Ali,

We are getting a backyard fence installed in our home at 9138 S. 29<sup>th</sup> St, Franklin, WI.

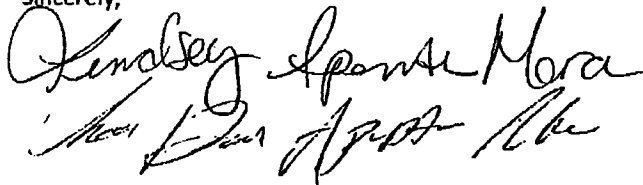
We have submitted the following documents for the fence permit to the Engineering Department and the Inspection Department:

- 1- Fence permit application.
- 2- Plat of Survey with marked area for the suggested fence.
- 3- Fence style picture-Vinyl 6x6 panels

Please note that the fence in the east side of our lot that would go in the public storm drainage easement, and it will be offset five (5) feet to the west from the east property line of our lot.

I am requesting you to kindly consider the five (5) feet variance to be granted by the board, to allow us to have the backyard fence in our home at 9138 S. 29<sup>th</sup> St, per the submitted documents.

Sincerely,

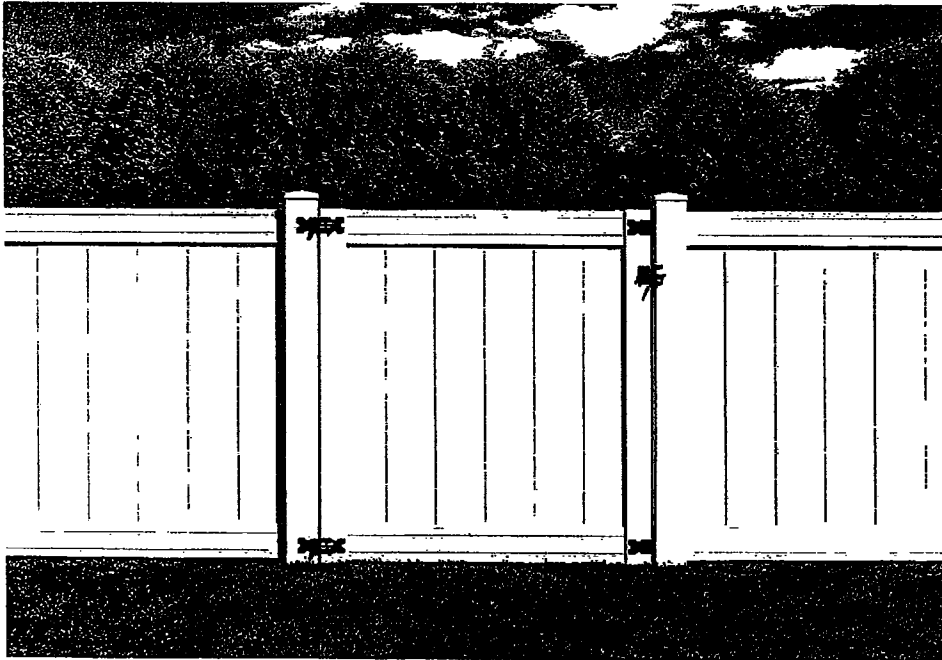


Juan Daniel & Lindsey B Aponte Mora

E-MAIL: lindsey.meyer88@yahoo.com

CITY OF FRANKLIN

MAY 18 2022 <b>CITY OF FRANKLIN</b> <b>BUILDING PERMIT APPLICATION</b> <i>21' x 11' 5'</i> 8229 W LOOMIS ROAD, FRANKLIN, WI 53132 <i>June 15</i> Phone (414) 425-0084 Fax (414) 425-7513 Application Forms and Handouts can be found at <a href="http://www.franklinwi.gov">www.franklinwi.gov</a>		Application No.  Permit No.
INSPECTION DEPT Project Address <u>9138 S 29th St</u>		Unit or Suite # Project/Business Name (if applicable)
Property Owner's Name <u>LINDSEY APONTE MORA</u>		Email Address <u>LINDSEY.MEYER88@yahoo.com</u>
Mailing Address <u>9138 S 29th St</u>		Phone <u>414-779-0623</u>
City <u>FRANKLIN</u>		Zip <u>53132</u>
Contractor Name <u>DURANGO HOME IMPROVEMENTS</u>		WI DC# / Exp. Date: <u>81-3136422 2/28/24</u>
Dwelling Contractor Qualifier Name (1 or 2 family dwellings)		WI DCQ# / Exp. Date: Email Address
Mailing Address <u>3360 S 46th St</u>		Phone <u>414-758-9157</u>
City <u>GREENFIELD</u>		Fax:
Zip <u>53219</u>		Email Address
Applicant (if other than owner or contractor)		Email Address
Mailing Address		City
Zip		Phone
Project Type <input type="checkbox"/> 1 & 2 Family <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial <input type="checkbox"/> Institutional <input type="checkbox"/> Multi Family - # of Units _____		
PERMIT TYPE. *THESE ITEMS HAVE PLAN REVIEW FEES DUE WITH APPLICATION - PLEASE SEE RESPECTIVE HANDOUTS		
<input type="checkbox"/> New (other than 1 & 2 family) <input checked="" type="checkbox"/> Fence - Type and Height <u>Vinyl 6x6 panels</u>		
<input type="checkbox"/> Addition <input type="checkbox"/> Spa/Hot Tub <input type="checkbox"/> On Slab <input type="checkbox"/> On Deck		
<input type="checkbox"/> Alteration <input type="checkbox"/> Pool <input type="checkbox"/> In Ground <input type="checkbox"/> Above Ground (Ht. above ground) _____		
<input type="checkbox"/> Demolition <input type="checkbox"/> Deck <input type="checkbox"/> Attached <input type="checkbox"/> Detached <input type="checkbox"/> Pool		
<input type="checkbox"/> Building Damage Repair <input type="checkbox"/> Occupancy - \$225 plus \$7 Technology Fee (Commercial, Industrial, Institutional only)		
<input type="checkbox"/> Building Move <input type="checkbox"/> Accessory Bldg./Garage (> 120 sq. ft.) Size _____ on slab		
<input type="checkbox"/> Foundation Repair *(plan review fee required for > 150 sq. ft.)		
<input type="checkbox"/> Fireplace		
<input type="checkbox"/> Other _____		
<input type="checkbox"/> Accessory Building (wood) OR <input type="checkbox"/> Prefab Storage Encl (metal, vinyl resin) (120 sq ft. or <) Size _____		
<input type="checkbox"/> Reroofing <input type="checkbox"/> Complete Tear Off <input type="checkbox"/> Over One Layer - Type of Material _____		
<input type="checkbox"/> Residing - Existing Material _____ Replacement Material _____		
Additional Project Description _____		
Estimate "Net" Total Project Cost: \$ <u>7,000</u> Estimate Total Project Cost: \$ <u>7,000</u> ("Net" excludes cost for Plumbing/Electrical/HVAC work)		
<b>Cautionary Statement To Owners Obtaining Building Permits</b> 101.65(1r) of the Wisconsin Statutes requires municipalities that enforce the Uniform Dwelling Code to provide an owner who applies for a building permit with a statement advising the owner that: If the owner hires a contractor to perform work under the building permit and the contractor is not bonded or insured as required under s 101.654 (2) (a) the following consequences might occur (a) The owner may be held liable for any bodily injury to or death of others or for any damage to the property of others that arises out of the work performed under the building permit or that is caused by any negligence by the contractor that occurs in connection with the work performed under the building permit. (b) The owner may not be able to collect from the contractor damages for any loss sustained by the owner because of a violation by the contractor of the one- and two- family dwelling code or an ordinance enacted under sub (1) (a), because of any bodily injury to or death of others or damage to the property of others that arises out of the work performed under the building permit or because of any bodily injury to or death of others or damage to the property of others that is caused by any negligence by the contractor that occurs in connection with the work performed under the building permit.		
CONTACT PERSON (print) <u>LINDSEY APONTE MORA</u>		PHONE <u>414-779-0623</u>
APPLICANT'S SIGNATURE <u>Lindsey Aponte</u>		DATE <u>5/18/22</u>
FAILURE TO OBTAIN PERMIT PRIOR TO STARTING WORK FIRST OFFENSE TRIPLE FEES, SUBSEQUENT OFFENSES QUADRUPLE FEES SEPARATE PERMITS REQUIRED FOR PLUMBING, ELECTRICAL AND HVAC		



**OWNER'S ACKNOWLEDGEMENT OF CONDITIONS FOR FENCES LOCATED IN  
WE ENERGIES UTILITY EASEMENTS**

Fences may be permitted in We Energies utility easements only subject to the following:

1. The fence shall not be positioned nearer than 3' to any side of a transformer if present.
2. The fence shall not be positioned nearer than 10' to the door of any transformer if present. *EXCEPTION. If a gate or easily removable section of fence is positioned directly in front of the door and measures at least as wide as the door to the transformer, the distance may be reduced to 3'.*
3. We Energies will not repair or replace any portion of the fence in the utility easement if the fence needs to be removed for any utility work including clearing obstructions in the easement area.
4. The fence shall not be attached to any utility equipment.
5. "Digger's Hotline" shall be contacted prior to any excavation work.
6. This authorization only applies to We Energies utility easements.

Property Owner(s) hereby acknowledges that he/she has read and understands the above conditions

Sign *Lindsey Aponte Mora* Print LINDSEY APONTE MORA

Sign *Juan Daniel Aponte Mora* Print JUAN DANIEL APONTE MORA

NOTE: The owner must sign this acknowledgement and include it with their fence permit submittal.



*full copy*  
**PLAT OF SURVEY**

Cade Homes, Inc.  
 Anthony Gonzalez  
 879-0293

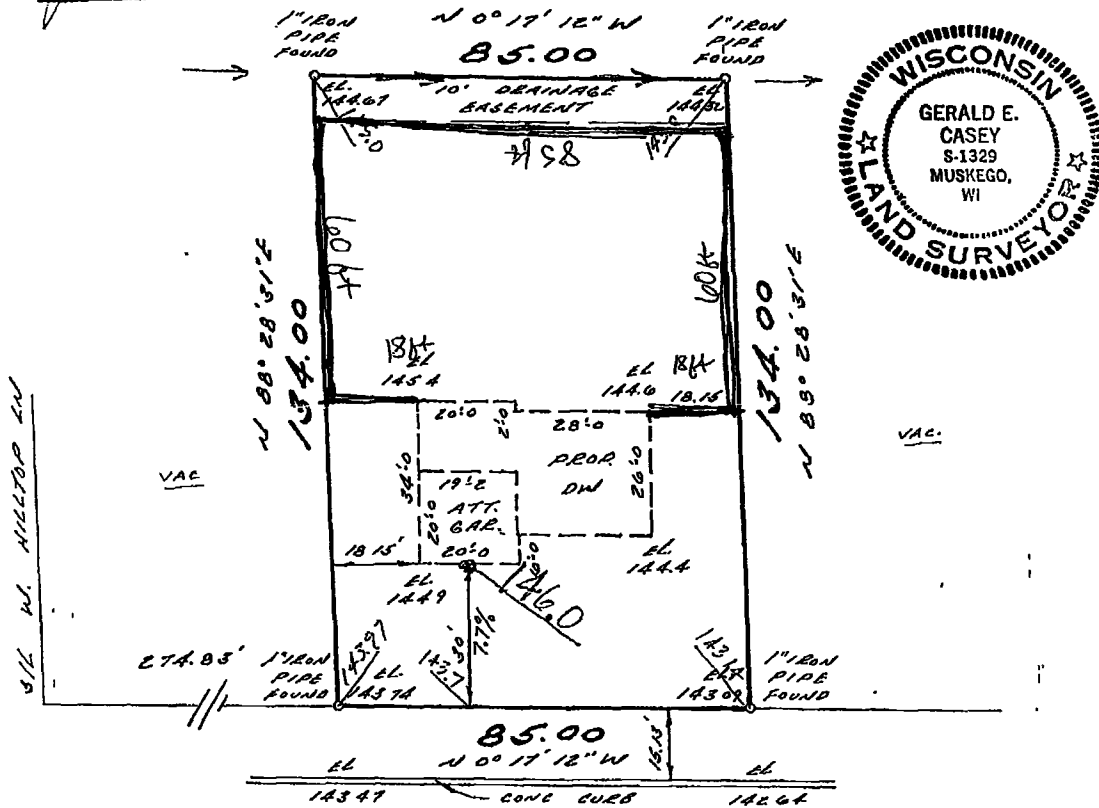
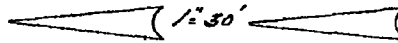
**LOCATION:** 9138 South 29th Street, Franklin, Wisconsin

**LEGAL DESCRIPTION:** Lot 4 in Block 19 in SOUTHWOOD EAST ADD'N. NO. 1, being a re-division of Lots 1 through 9 inclusive, Block 1, and Lot 5, Block 6 in Southwood East, being a part of the NE 1/4 of the SE 1/4 of Section 24, Town 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin.

November 5, 1984

Survey No. 62925

**APPROVED**  
 FINISHED GRADE ELEVATION = 146.0  
 AT *Garage* CITY OF FRANKLIN DATUM  
 CITY ENGINEER PER DATE 11/12/84



S. 29TH ST.

**METROPOLITAN SURVEY SERVICE, INC.**  
 REGISTERED LAND SURVEYORS  
 10 W JANESVILLE RD. HALES CORNERS, WI 53130  
 529-5380

I HEREBY CERTIFY THAT I HAVE SURVEYED THE ABOVE DESCRIBED PROPERTY AND THAT THE ABOVE MAP IS A TRUE REPRESENTATION THEREOF AND SHOWS THE SIZE AND LOCATION OF THE PROPERTY ITS EXTERIOR BOUNDARIES, THE LOCATION OF ALL VISIBLE STRUCTURES AND DIMENSIONS OF ALL PRINCIPAL BUILDINGS THEREON, BOUNDARY FENCES, APPARENT EASEMENTS AND ROADWAYS AND VISIBLE ENCROACHMENTS, IF ANY

THIS SURVEY IS MADE FOR THE EXCLUSIVE USE OF THE PRESENT OWNERS OF THE PROPERTY AND ALSO THOSE WHO PURCHASE, MORTGAGE, OR GUARANTEE THE TITLE THERETO WITHIN ONE (1) YEAR FROM DATE HEREOF.

**GERALD E. CASEY**  
 REGISTERED LAND SURVEYOR-S-1329

SIGNED *Gerald E. Casey*

*full copy*  
**PLAT OF SURVEY**

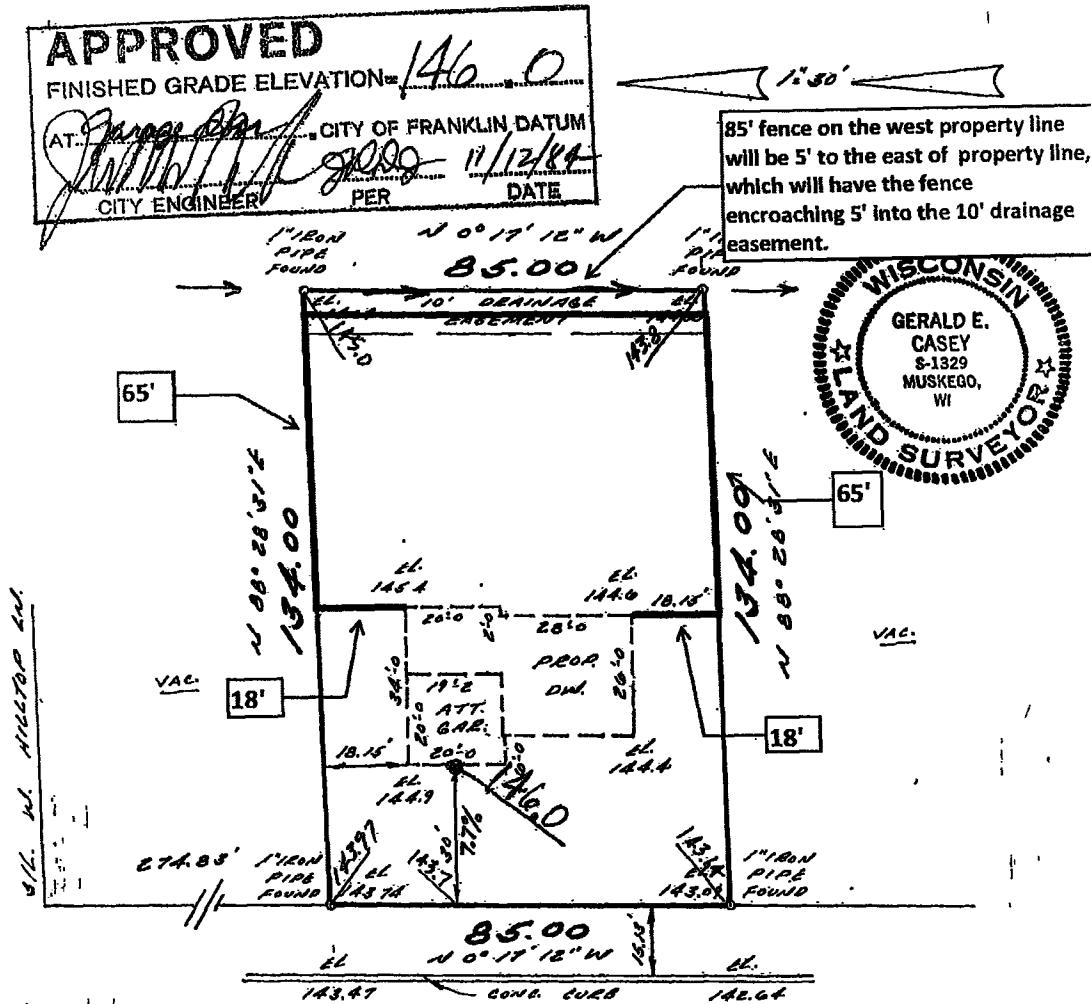
Cade Homes, Inc.  
 Anthony Gonzalez  
 879-0293

**LOCATION:** 9138 South 29th Street, Franklin, Wisconsin

**LEGAL DESCRIPTION:** Lot 4 in Block 19 in SOUTHWOOD EAST ADD'N. NO. 1, being a re-division of Lots 1 through 9 inclusive, Block 1, and Lot 5, Block 6 in Southwood East, being a part of the NE 1/4 of the SE 1/4 of Section 24, Town 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin.

November 5, 1984

Survey No. 62925



S. 29TH ST.

**METROPOLITAN SURVEY SERVICE, INC.**  
 REGISTERED LAND SURVEYORS  
 100 W. JANESVILLE RD. HALES CORNERS, WI 53130  
 529-5380

I HEREBY CERTIFY THAT I HAVE SURVEYED THE ABOVE DESCRIBED PROPERTY AND THAT THE ABOVE MAP IS A TRUE REPRESENTATION THEREOF AND SHOWS THE SIZE AND LOCATION OF THE PROPERTY, ITS EXTERIOR BOUNDARIES, THE LOCATION OF ALL VISIBLE STRUCTURES AND DIMENSIONS OF ALL PRINCIPAL BUILDINGS THEREON, BOUNDARY FENCES, APPARENT EASEMENTS AND ROADWAYS AND VISIBLE ENCROACHMENTS, IF ANY.

THIS SURVEY IS MADE FOR THE EXCLUSIVE USE OF THE PRESENT OWNERS OF THE PROPERTY, AND ALSO THOSE WHO PURCHASE, MORTGAGE, OR GUARANTEE THE TITLE THERETO WITHIN ONE (1) YEAR FROM DATE HEREOF.

**GERALD E. CASEY**  
 REGISTERED LAND SURVEYOR-S-1329

SIGNED *Gerald E. Casey*

Exhibit A

Acceptance

The undersigned, Lindsey B Aponte Mora and Juan Daniel, owner of the property located at 9138 South 29th Street, Franklin, Wisconsin 53132, Tax Key No. 879-0293-000, does hereby agree to, consent to and accepts the terms and provisions of the City of Franklin Resolution No. 2022-\_\_\_\_\_, and that in consideration of the making of such grant to allow the installation of a fence within the 20-foot public storm 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. 2022-\_\_\_\_\_, 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 12 day of September, 2022.

Property owner Lindsey Aponte Mora

By: Lindsey Aponte Mora

By: Juan Daniel Aponte Mora

Exhibit B

Mortgage Holder Consent

The undersigned, Rocket Mortgage, LLC, a limited liability company ("Mortgagee"), as Mortgagee under that certain Mortgage encumbering the protected property and recorded in the Office of the Register of Deeds for Milwaukee County, Wisconsin, on August 15, 2019, as Document No. 10898337, hereby consents to the execution of the foregoing Resolution No. 2022-\_\_\_\_\_, Authorizing the Installation of a Fence Within the 20-Foot Public Storm Drainage Easement.

IN WITNESS WHEREOF, Mortgagee has caused these presents to be signed by its duly authorized officer[s], and its corporate seal to be hereunto affixed, as of the day and year first above written.

Rocket Mortgage LLC  
A limited liability company

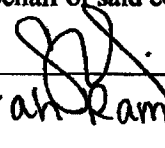
By: Mallory A Counce

Name: Mallory A Counce

Title: Assistant Secretary of MERS

STATE OF Michigan        )  
  )ss  
COUNTY OF Wayne     )

On this, the 6<sup>th</sup> day of September, 2022, before me, the undersigned, personally appeared Mallory Counce, as Assistant Secretary of MERS of Rocket Mortgage LLC, a limited liability company, and acknowledged that (s)he executed the foregoing instrument on behalf of said corporation, by its authority and for the purposes therein contained.

Name:   
Sarah Ramirez

Notary Public, State of Michigan

My commission expires 12/19/2026

SARAH RAMIREZ  
NOTARY PUBLIC - STATE OF MICHIGAN  
COUNTY OF WAYNE  
My Commission Expires December 19, 2026  
Acting in the County of WAYNE

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<b>APPROVAL</b>  <i>slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MTG. DATE</b> September 20, 2022
Reports & Recommendations	<b>A Resolution Authorizing Certain Officials to  Execute a Development Agreement with  Karley J. Blake Mutter and Jacob W. Mutter for  8973 W. Lake Pointe Drive (TKN 839-9996-007)</b>	<b>ITEM NO.</b>  <b>G.10.</b>

**BACKGROUND**

Pursuant to the approval of a single-family home construction at 8973 W. Lake Pointe Drive, the public roadway (W. Lake Pointe Drive) must be extended to accommodate driveway access for the proposed home.

**ANALYSIS**

This agreement provides for the necessary public improvements required for this development. Included in the agreement is the extension of the public road (including right-of-way), curb and gutter, sidewalk, and necessary pavement improvements.

Insurance certificates were requested and submitted and have been reviewed for conformance with current City requirements. The insurance certificates provided do not meet the City standard requirements in two areas:

- General/Commercial Liability requirement of \$2,000,000/\$4,000,000
  - Provided \$1,000,000/\$3,000,000
- Professional Liability requirement is \$2,000,000 single limit
  - Not provided

Staff has reviewed the development plans and associated risks and believes that, in this specific development, the very limited scope and complexity of the public improvements does not put the City at significant risk. The excess Umbrella Liability (\$15,000,000 provided) policy is acceptable to cover the General/Commercial Liability shortage in this case and a waiver of Professional Liability is reasonable.

**OPTIONS**

It is recommended that the Common Council approve the attached Development Agreement with the above exceptions to the City's standard General/Commercial Liability and Professional Liability insurance requirements.

**FISCAL NOTE**

Municipal services and contingencies are accepted with percentages and are included in surety.

**RECOMMENDATION**

Motion to adopt Resolution No. 2022-\_\_\_\_\_ a resolution authorizing certain officials to execute a development agreement with Karley J. Blake Mutter and Jacob W. Mutter for 8973 W. Lake Pointe Drive (TKN 839-9996-007).

Engineering: TAB

**CITY OF FRANKLIN**

**WISCONSIN**

**DEVELOPMENT AGREEMENT**

**FOR**

**8973 W LAKE POINTE DRIVE**

**July 2022**

**DEVELOPMENT AGREEMENT  
FOR  
8973 W LAKE POINTE DRIVE**

ARTICLES OF AGREEMENT (THIS "Agreement") made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by and between Karley J. Blake Mutter & Jacob W. Mutter, hereinafter called the "Developer" as party of the first part, and the City of Franklin, a municipal corporation of Milwaukee County, Wisconsin, party of the second part, hereinafter called the "City".

**WITNESSETH:**

WHEREAS, the Developer desires to improve and develop certain lands located in the City as described on attached Exhibit "A" (the "Development"), and for that purpose cause the installation of certain public improvements, hereinafter described in this Agreement and the exhibits hereto (the "Improvements"), and

WHEREAS, the Developer having applied to the City for construction of a single-family home at the site described on attached Exhibit "A", and the approval[s] thereof by the City providing that as a condition of approving the Development, that the Developer make and install, or have made and have installed, any public improvements reasonably necessary to wit: extension of W Lake Pointe Drive; and

WHEREAS, the public works schedule and budget of the City does not now include the Improvements for the Development and normally there would be a considerable delay in the installation of the Improvements unless this Agreement is entered into by the parties; and

WHEREAS, the City believes that the orderly planned development of the Development will best promote the health, safety and general welfare of the community, and hence is willing to approve the Development provided the Developer proceed with the installation of the Improvements in and as may be required for the Development, on the terms and conditions set forth in this Agreement and the exhibits attached hereto.

NOW, THEREFORE, in consideration of the payment of One Dollar (\$1.00) and other good and valuable consideration to each in hand paid by the other, receipt of which is hereby acknowledged and in consideration of the mutual covenants herein contained, the parties agree:

1. The legal description of the Development is set forth on attached Exhibit "A".
2. The improvements aforementioned shall be as described in Exhibit "B" except as noted in Exhibit "E".
3. The Developer shall prepare plans and specifications for the aforesaid Improvements, under direction of the City Engineer, and to be approved by the City Engineer. After receiving the City's approval thereof, the Developer shall take bids, and award contracts (the "Improvements Contracts") for and install all of the improvements in accordance with standard engineering and public works



practices, and the applicable statutes of the State of Wisconsin. The Improvements shall be based on the construction specifications stated in attached Exhibit "F".

4. The full cost of the Improvements will include all labor, equipment, material, engineering, surveying, inspection and overhead costs necessary or incidental to completing the Improvements (collectively the "Improvements Costs"). Payment for the Improvements Costs will be made by the Developer periodically as the Improvements are completed as provided in the Improvements Contracts. The total estimated cost of the Improvements is six thousand, four hundred, twenty-five and 00/100 Dollars as itemized in attached Exhibit "D".
5. To assure compliance with all of Developer's obligations under this Agreement, prior to the issuance of any building permits, the Developer shall file with the City a Financial Guarantee (the "Financial Guarantee"), which may be either in the form of a Letter of Credit, a Performance Bond or a direct deposit with the City, and such form shall be the choice of the Developer, in the initial amount of \$6,425.00, representing the estimated costs for the Improvements as shown in attached Exhibit "D". Upon the written approval of the City Engineer, the amount of the Financial Guarantee may be reduced periodically as the Improvements are paid for and approved by the City so that following each such reduction, the Financial Guarantee equals the total amount remaining for Improvements Costs pertaining to Improvements for which Developer has not paid as set forth in the Improvements Contracts for the Improvements or which remain unapproved by the City. The Financial Guarantee shall be issued by a bank or other financial institution (the "Surety Guarantee Issuer") reasonably satisfactory to the City, for the City as "Beneficiary", in a form satisfactory to the City Attorney, if forgoing direct deposit with the City. Failure to file the Financial Guarantee within ten (10) days after written demand by the City to the Developer shall make and render this Agreement null and void, at the election of the City. Upon acceptance by the City (as described below) of and payment by Developer for all the completed Improvements, the Financial Guarantee shall be released and surrendered by the City to the Developer, and thereafter the Developer shall have no further obligation to provide the Financial Guarantee to the City under this Paragraph 5., except as set forth under Paragraph 13. below.
6. In the event the Developer fails to pay the required amount for the Improvements or services enumerated herein within thirty (30) days or per contract after being billed for each improvement of each stage for any Improvement Costs at the time and in the manner provided in this Agreement, and if amounts remain unpaid after an additional thirty (30) days written notice to Developer, the City may notify the Guarantee Issuer in writing to make the said payments under the terms of the Financial Guarantee to the Contractor, within the later of the time frame stipulated in the Financial Guarantee or five (5) days after receiving a written demand from the City to make such payment. Demand shall be sent by registered letter with a return receipt requested, addressed to the Surety Guarantee Issuer at the address

indicated on the Financial Guarantee, with a copy to the Developer, described in Paragraph five (5) above. It is understood between the parties to this Agreement, that billings for the Improvement Costs shall take place as the various segments and sections of the Improvements are completed and certified by the City Engineer as complying with the approved plans and applicable provisions of the Franklin Municipal Code.

In addition, the City Engineer may demand that the Financial Guarantee be extended from time to time to provide that the Financial Guarantee be in force until such time that all improvements have been installed and accepted through the one (1) year guarantee period as set forth under Paragraph 13. below, including the fourteen (14) months following substantial completion of the Improvements and 10% limitations also set forth thereunder. For the purposes of this Agreement, "Substantial Completion" is defined as being the date that the binder course of asphalt is placed on the public roadway of the Development. Demand for said extension shall be sent by registered letter with a return receipt, with a copy to the Developer. If said Financial Guarantee is not extended for a minimum of a one (1) year period prior to expiration date of the Financial Guarantee (subject to any then applicable of the aforementioned limitations), the City may send written notice to the Surety Guarantee Issuer to make payment of the remaining balance of the Financial Guarantee to the City to be placed as an escrow deposit.

7. The following special provisions shall apply:
  - (a) Those special provisions as itemized on attached Exhibit "C" and attached Exhibit "E" are hereby incorporated by reference in this Agreement and made a part hereof as if fully set forth herein.
  - (b) The laterals mentioned in Exhibit "B" are to be installed before street surfacing mentioned in Exhibit "B" is commenced.
  - (c) To the extent necessary to accommodate public utilities easements on the Development, easements will be dedicated for the use of the Electric Company, the Telephone Company and Cable Company to provide utility services to the Development. All utilities shall be underground except for any existing utility poles/lines.
  - (d) The curb face to curb face width of the roads in the Development shall be as determined by the City Engineer.
  - (e) Fee title to all of the Improvements and binding easements upon lands on which they are located, shall be dedicated and given by the Developer to the City, in form and content as required by the City, without recourse, and free and clear of all liens or encumbrances, with final inspection and approval of the Improvements and accompanying title and easement

documents by the City constituting acceptance of such dedication. The Improvements shall thereafter be under the jurisdiction of, the City and the City shall maintain, at the City's expense, all of the Improvements after completion and acceptance thereof by the City. Necessary permits shall be obtained for all work described in this Agreement.

8. The Developer agrees that it shall be fully responsible for all the Improvements in the Development and appurtenances thereto during the period the Improvements are being constructed and continuing until the Improvements are accepted by the City (the "Construction Period"). Damages that may occur to the Improvements during the Construction Period shall be replaced or repaired by the Developer. The Developer's obligations under this Paragraph 8., as to any improvement, terminates upon acceptance of that improvement by the City.
9. The Developer shall take all reasonable precautions to protect persons and property of others on or adjacent to the Development from injury or damage during the Construction Period. This duty to protect shall include the duty to provide, place and maintain at and about the Development, lights and barricades during the Construction Period.
10. If the persons or property of others sustain loss, damage or injury resulting directly or indirectly from the work of the Developer or its subcontractors or materialmen in their performance of this Agreement or from its failure to comply with any of the provisions of this Agreement or of law, the Developer shall indemnify and hold the City harmless from any and all claims and judgments for damages, and from costs and expenses to which the City may be subjected or which it may suffer or incur by reason thereof, provided; however, that the City shall provide to the Developer promptly, in writing, notice of the alleged loss, damage or injury.
11. Except as otherwise provided in Paragraph 12. below, the Developer shall indemnify and save harmless the City, its officers, agents and employees, and shall defend the same, from and against any and all liability, claims, loss, damages, interest, actions, suits, judgments, costs, expenses, and attorneys' fees, to whomsoever owed and by whomsoever and whenever brought or obtained, which in any manner results from or arises in connection with:
  - (a) the negligent or willfully wrongful performance of this Agreement by the Developer or any subcontractor retained by the Developer;
  - (b) the negligent or willfully wrongful construction of the Improvements by the Developer or by any of said subcontractors;
  - (c) the negligent or willfully wrongful operation of the Improvements by the Developer during the Construction Period;

- (d) the violation by the Developer or by any of said subcontractors of any applicable law, rule, regulation, order or ordinance; or
  - (e) the infringement by the Developer or by any of said subcontractors of any patent, trademark, trade name or copyright.
12. Anything in this Agreement to the contrary notwithstanding, the Developer shall not be obligated to indemnify the City or the City's officers, agents or employees (collectively the "Indemnified Parties") from any liability, claim, loss, damage, interest, action, suit, judgment, cost, expenses or attorneys fees which arise from or as a result of the negligence or willful misconduct of any of the Indemnified Parties.
13. The Developer hereby guarantees that the Improvements will be free of defects in material and/or workmanship for a period of one (1) year from the date of acceptance of the Improvements by the City. To secure the Developer's obligations under said guaranty upon acceptance of the Improvements by the City, the Developer will provide to the City a Financial Guarantee equal to 10% of the sub-total in Exhibit "D" of the total Improvements Costs, which Financial Guarantee shall expire one (1) year after the Improvements have been accepted by the City or continue the existing base Financial Guarantee maintaining a minimum of 10% of the sub-total in Exhibit "D" of the total Improvements Costs for one (1) year after the improvements have been accepted by the City. This Financial Guarantee shall be a partial continuation of, and not in addition to, the Financial Guarantee described in Paragraph 5. above.
14. (a) The Developer shall not commence work on the Improvements until it has obtained all insurance coverage required under this Paragraph 14. and has filed certificates thereof with the City:

Developer provided \$1M/\$3M  Excess Umbrella to cover the shortage.	A. General/Commercial Liability ( <i>Must have General/Commercial</i> )	<del>\$2,000,000</del> <del>\$4,000,000</del> <del>\$3,000,000</del> <sup>\$1,000,000</sup> per each occurrence for bodily injury, personal injury, and property damage per general aggregate, <i>CITY shall be named as an additional insured on a primary, non-contributory basis.</i>
	B. Automobile Liability ( <i>Must have auto liability</i> )	\$1,000,000 combined single limit  <i>CITY shall be named as an additional insured on a primary, non-contributory basis.</i>

	C. Contractor's Pollution Liability (If applicable)	\$1,000,000 per occurrence \$2,000,000 aggregate  <i>CITY shall be named as an additional insured on a primary, non-contributory basis.</i>
Developer provided \$15M	D. Umbrella or Excess Liability Coverage for General/Commercial, Automobile Liability, and Contractor's Pollution Liability	\$10,000,000 per occurrence for bodily injury, personal injury, and property  <i>CITY shall be named as an additional insured on a primary, non-contributory basis</i>
	E. Worker's Compensation and Employers' Liability (Must have workers compensation)	Statutory  <i>Contractor will provide a waiver of subrogation and/or any rights of recovery allowed under any workers' compensation law.</i>
Reasonable to waive for this development	<del>F. Professional Liability (Errors &amp; Omissions) (If applicable)</del>	<del>\$2,000,000 single limit</del> N/A

(b) The Developer shall file a certificate of insurance containing a thirty (30) day notice of cancellation to the City prior to any cancellation or change of said insurance coverage which coverage amounts shall not be reduced by claims not arising from this Agreement.

15. The Developer shall not be released or discharged of its obligations under this Agreement until the City has completed its final inspection of all the Improvements and the City has issued its written approval of all of the Improvements, which approval shall not be unreasonably withheld or delayed, and Developer has paid all of the Improvements Costs, at which time the Developer shall have no further obligations under this Agreement except for the one (1) year guaranty under Paragraph 13.
16. The Developer and the City hereby agree that the cost and value of the Improvements will become an integral part of the value of the Development and that no future lot assessments or other types of special assessments of any kind will be made against the Development by the Developer or by the City for the benefit of the Developer, to recoup or obtain the reimbursement of any Improvement Costs for the Developer.
17. Execution and performance of this Agreement shall be accepted by the City as adequate provision for the Improvements required by the City Engineer.
18. Penalties for Developer's failure to perform any or all parts of this Agreement shall be in accordance with Division 15-9.0500, Violations, Penalties, and Remedies of the Unified Development Ordinance and §1-19. Penalty provisions of the City of Franklin Municipal Code, as amended from time to time, in addition

to any other remedies provided by law or in equity so that the City may obtain Developer's compliance with the terms of this Agreement as necessary.

This Agreement shall be binding upon the parties hereto and their respective successors and assigns, excepting that the parties hereto do not otherwise intend the terms or provisions of this Agreement to be enforceable by or provide any benefit to any person or entity other than the party of the first part and the party of the second part. Developer shall not convey or assign any of its rights or obligations under this contract whatsoever without the written consent of the City, which shall not be unreasonably withheld upon a showing that any successor or assignee is ready, willing and able to fully perform the terms hereof and the Developer remains liable hereunder. This Agreement shall run with the land.

[The remainder of this page is intentionally left blank. Signatures are on the following pages.]



CITY OF FRANKLIN

By: \_\_\_\_\_  
Name: Stephen R. Olson  
Title: Mayor

COUNTERSIGNED:

By: \_\_\_\_\_  
Name: Sandra L. Wesolowski  
Title: City Clerk

Party of the Second Part

STATE OF WISCONSIN )  
  )ss.  
\_\_\_\_\_ COUNTY )

Personally came before me this \_\_\_\_ day of \_\_\_\_\_, 2022, the above named Stephen R. Olson, Mayor, and Sandra L. Wesolowski, City Clerk, of the above named municipal corporation, City of Franklin, to me known to be such Mayor and City Clerk of 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 and pursuant to Resolution No. \_\_\_\_\_, adopted by its Common Council on the \_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Notary Public, Milwaukee County, WI  
My commission expires: \_\_\_\_\_

This instrument was drafted by the City Engineer for the City of Franklin.

Form approved:

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



**INDEX OF EXHIBITS  
TO  
DEVELOPMENT AGREEMENT  
FOR  
8973 W LAKE POINTE DRIVE**

Exhibit A	Legal Description of Development
Exhibit B	General Description of Required Development Improvements
Exhibit C	General Development Requirements
Exhibit D	Estimated Improvement Costs
Exhibit E	Additional Development Requirements
Exhibit F	Construction Specifications

**EXHIBIT "A"**  
**TO**  
**DEVELOPMENT AGREEMENT**  
**FOR**  
**8973 W LAKE POINTE DRIVE**

<p><b>LEGAL DESCRIPTION OF DEVELOPMENT</b></p>
--

Outlot 1 of Certified Survey Map No. 6416 – Southwest ¼ of Section 16, Township 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin.

**EXHIBIT "B"**  
**TO**  
**DEVELOPMENT AGREEMENT**  
**FOR**  
**8973 W LAKE POINTE DRIVE**

<p>GENERAL DESCRIPTION OF REQUIRED DEVELOPMENT IMPROVEMENTS</p>
---

Description of improvements required to be installed to develop 8973 W Lake Pointe Drive.

- \*S Denotes contract for improvements to be awarded, financed and paid for by the Developer in lieu of special assessments.
- \*C Denotes contract for improvements to be awarded by the City, but financed and paid for by the Developer in accordance with this agreement.
- (N.A.) Denotes improvement is not required to be installed in the Development.
- (1) Denotes that the City is to pay for a portion of the improvement, in accordance with this agreement, as computed by the City Engineer.

General Description of Improvements  
(refer to additional sheets for concise breakdown)

1. Grading of all lots and blocks within the Development in conformance with the approved grading plan. \*S
2. Grading of the streets within the Development in accordance with the established street grades and the City approved street cross-section and specifications. \*S
3. Installation of concrete or asphalt permanent pavement with vertical face concrete curb and gutter in accordance with present City specifications. \*S
4. Sanitary sewer main and appurtenances in the streets and/or easement in the Development, to such size and extent as determined by the master sewer plan and/or City Engineer, as necessary to provide adequate service for the final Development and drainage area. (N.A.)

5. Laterals and appurtenances from sanitary sewer main to each lot line; one for each lot as determined by the City. \*S
6. Water main and fittings in the streets and/or easement in the Development, to such size and extent as determined by the master water plan and/or the City Engineer as necessary to provide adequate service for the final Development and service area. (N.A.)
7. Laterals and appurtenances from water main to the street line; one for each lot, as determined by the City Engineer together with curb stop as specified by the City. \*S
8. Hydrants and appurtenances provided and spaced to adequately service the area and as the City shall require. (N.A.)
9. Paved streets with curb and gutter in the Development to the approved grade and in accordance with the City specifications. \*S
10. Concrete sidewalks in the Development to the approved grade and in accordance with the City specifications. \*S
11. Concrete, asphalt or chipped pedestrian walks in dedicated pedestrian ways and easements in the Development as approved by the City. (N.A.)
12. Concrete driveways between the street line and curb and gutter for each lot as specified and approved by the City. \*S
13. Street trees. (N.A.)
14. Protective fencing adjacent to pedestrian ways, etc. (N.A.)
15. Engineering, planning and administration services as approved. \*S
16. Drainage system as determined and/or approved by the City to adequately drain the surface water from the Development and drainage basin area in accordance with the master drainage plan and/or approved system plan. \*S
17. Street lighting and appurtenances along the street right-of-way as determined by the City. (N.A.)
18. Street signage in such locations and such size and design as determined by the City. (N.A.)
19. Title evidence on all conveyances. \*S

**EXHIBIT "C"**  
**TO**  
**DEVELOPMENT AGREEMENT**  
**FOR**  
**8973 W LAKE POINTE DRIVE**

**GENERAL DEVELOPMENT REQUIREMENTS**

I. GENERAL

- A. The Developer shall prepare a plat of the land, plans for improvements, as-built drawings of the improvements and all other items in accordance with all applicable state laws and City ordinances and regulations.
- B. All improvements shall be installed in accordance with all City specifications and ordinances.
- C. The entire Development as proposed shall be recorded.

II. LOT SIZE AND UNIT SIZE

- A. Lots
  - 1. All lots shall be as shown on the final approved plat.
- B. Units
  - 1. The minimum area of any living unit built in the project shall be as specified in the Franklin Municipal Code and Unified Development Ordinance in effect at the time the permit is issued unless otherwise specified in the agreement.

III. WATER SYSTEM

- A. Availability
  - 1. Each and every lot in the Development shall be served by a water main.
  - 2. Laterals shall be laid to each and every lot. Size shall be approved by the City Engineer.

3. Fire hydrants shall be available to the City's Fire and Public Works Departments, and both City Departments shall have free and unlimited use of the water.

B. Construction

1. All construction shall be in accordance with the specifications of the City.
2. Inspection of the work shall be at the Developer's expense.
3. Mains and appurtenances including all pipe, hydrants, gate valves, laterals and curb stop boxes shall be installed.

IV. SANITARY SEWER SYSTEM

A. Components

Sanitary sewerage service through and within the Development shall be provided. It shall consist of without limitation because of enumeration, sanitary sewer, manholes, appurtenances, laterals, and other appurtenances.

B. Availability

1. Each and every building in the Development shall be served by a sanitary sewer.
2. Laterals shall be laid to the lot line of each and every lot.

V. STREETS

A. Location

1. Streets shall be constructed in such a manner that the centerline of roadway shall be centerline of right-of-way.
2. Streets shall be constructed in each and every road right-of-way platted and shall be built to the exterior lot line of the Development whenever possible except as noted in Exhibit "E".

B. Names

The names of all streets shall be approved by the City Engineer.

C. Construction

1. All streets shall be built in accordance with the specifications on file in the City Engineer's Office.
2. All streets shall be constructed with 8" of stonebase, 4" of A/C binder course and 2" A/C surface course prior to Development certification.
3. The construction shall be inspected by the City or its agent and all fees due to such inspection shall be paid by Developer.

D. Snow Removal and Ice Control

The responsibility for snow removal and ice control on all streets within the Development shall lie with the Developer until:

- a) The plat is recorded; and
- b) The streets have been provisionally approved by the City.

VI. PERMITS ISSUED

A. Building Permits

1. No building permits shall be issued until the plat has been recorded.

B. Occupancy Permits

1. No temporary occupancy permits shall be issued until:
  - a) Streets have been paved except for the final lift of asphalt.
  - b) The gas, telephone and electrical services have been installed and are in operation.
  - c) The water system is installed, tested and approved.
  - d) The site is stabilized and all drainage facilities have been re-certified.

VII. DEED RESTRICTIONS

- A. A Financial Guarantee approved by the City Attorney in the full amount of all non-assessable improvements not yet installed and approved as of the date of this Agreement shall be submitted to the City before any permits are issued.

B. The time of completion of improvements.

1. The Developer shall take all action necessary so as to have all the improvements specified in this Agreement installed and approved by the City before two years from the date of this agreement.
2. Should the Developer fail to take said action by said date, it is agreed that the City, at its option and at the expense of the Developer, may cause the installation of or the correction of any deficiencies in said improvements.

VIII. CHARGES FOR SERVICES BY THE CITY OF FRANKLIN

A. Fee for Checking and Review

At the time of submitting the plans and specifications for the construction of the Development improvements, a fee equal to two-and-one-fourth percent (2¼ %) of the cost of the improvements as estimated by the City Engineer at the time of submission of improvement plans and specifications, to partially cover the cost to the City of checking and reviewing such plans and specifications provided that cost does not exceed \$250,000.00; a fee equal to one-and-three-fourth percent (1¾ %) of such cost, if the cost is in excess of \$250,000.00, but not in excess of \$500,000.00; and one-and-one-fourth percent (1¼ %) of said cost in excess of \$500,000.00. At the demand of the Developer or City Engineer, the fee may be recomputed after the work is done in accordance with the actual cost of such improvements and the difference, if any, shall be paid by or remitted to the Developer. Evidence of cost shall be in such detail and form as required by the City Engineer.



**EXHIBIT "D"**  
**TO**  
**DEVELOPMENT AGREEMENT**  
**FOR**  
**8973 W LAKE POINTE DRIVE**

**ESTIMATED IMPROVEMENT COSTS**

All improvement costs, including but not limited to preparation of plans, installation of facilities and inspection shall be borne by the Developer in accordance with Paragraph (4) of this Agreement.

Said costs for the project are estimated to be as follows:

DESCRIPTION	COSTS
Grading (including Erosion Control)	\$800
Sanitary System	N/A
Water System	N/A
Storm Sewer System	N/A
Paving (including sidewalk)	\$5,625
Street Trees ( x \$400/lot)	N/A
Street Lights ( ) @ approximately \$5,000/ea.	N/A
Street Signs	N/A
Underground Electric, Gas and Telephone	N/A
Storm Water Management	\$0
SUBTOTAL	\$6,425
Engineering/Consulting Services	Included in above cost
Municipal Services (7% of Subtotal)	\$450
Contingency Fund (20% of Subtotal)	\$1,285
<b>TOTAL:</b>	<b>\$8,160</b>

Total: Eight thousand, one-hundred, sixty and 00/100 Dollars.

APPROVED BY: \_\_\_\_\_ Date: \_\_\_\_\_  
Glen E. Morrow, City Engineer

**EXHIBIT "E"**  
**TO**  
**DEVELOPMENT AGREEMENT**  
**FOR**  
**8973 W LAKE POINTE DRIVE**

<b>ADDITIONAL DEVELOPMENT REQUIREMENTS</b>
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1. The Developer shall make every effort to protect and retain all existing trees, shrubbery, vines and grasses pursuant to the approved Natural Resource Protection Plan (the "NRPP"). Trees shall be protected and preserved during construction in accordance with sound conservation practices as outlined in §§15-8.0204A. through F. of the Unified Development Ordinance.
  
2. The Developer shall cause all grading, excavations, open cuts, side slopes and other land surface disturbances to be so mulched, seeded, sodded or otherwise protected that erosion, siltation, sedimentation and washing are prevented in accordance with the plans and specifications approved by the City Engineer as outlined in §§15-8.0203H.1. through 5. of the Unified Development Ordinance.
  
3. The requirements for the installation of concrete driveway approaches shall be omitted from this agreement because the Developer will require that the owners of said lots install concrete driveway approaches, as required by the Franklin Building Inspector.
  
4. The Developer shall be responsible for cleaning up the debris that has blown from buildings under construction within the Development. The Developer shall clean up all debris within forty-eight (48) hours after receiving a notice from the City Engineer.
  
5. The Developer shall be responsible for cleaning up the mud and dirt on the roadways until such time as the final lift of asphalt has been installed. The Developer shall clean the roadways within forty-eight (48) hours after receiving a notice from the City Engineer.
  
6. Prior to commencing site grading, the Developer shall submit for approval by the City Engineer an erosion and silt control plan. Said plan shall provide sufficient control of the site to prevent siltation downstream from the site. The Developer shall maintain the erosion and siltation control until such time that vegetation sufficient to equal pre-existing conditions has been established.
  
7. The Developer shall preserve the environmental natural resource features as shown on the Natural Resource Protection Plan and shall install an orange snow fence and silt fence around the environmental natural resource features prior to land disturbing.

8. The Developer shall construct storm water management facilities as required in the Storm Water Management Plan in accordance with the plans and specifications approved by the City Engineer. Maintenance of said storm water management facilities shall be the responsibility of the Developer and/or owners association.
9. Construction Requirement: Prior to issuance of any occupancy permits other than in the case of the issuance of any model structure permits, all necessary grading and improvements shall be completed as directed by the City Engineer.

**EXHIBIT "F"**  
**TO**  
**DEVELOPMENT AGREEMENT**  
**FOR**  
**8973 W LAKE POINTE DRIVE**

<b>CONSTRUCTION SPECIFICATIONS</b>
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The following specifications shall be used for the construction of the various improvements.

ITEM	SPECIFICATION
Storm & Sanitary Sewer	STANDARD SPECIFICATIONS FOR SEWER AND WATER CONSTRUCTION IN WISCONSIN, most current edition CITY OF FRANKLIN
Water Mains	STANDARD SPECIFICATIONS FOR SEWER AND WATER CONSTRUCTION IN WISCONSIN, most current edition CITY OF FRANKLIN
Concrete Curb & Gutter	CITY OF FRANKLIN
Streets: Construction	CITY OF FRANKLIN
Materials Asphalt	CITY OF FRANKLIN
Aggregate	CITY OF FRANKLIN
Concrete	CITY OF FRANKLIN
Cross Section	CITY OF FRANKLIN



STATE OF WISCONSIN: CITY OF FRANKLIN: MILWAUKEE COUNTY

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

A RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO EXECUTE A DEVELOPMENT AGREEMENT WITH KARLEY J. BLAKE MUTTER AND JACOB W. MUTTER FOR 8973 W. LAKE POINTE DRIVE (TKN 839-9996-007)

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WHEREAS, the development of a single-family home at 8973 W. Lake Pointe Drive requires public improvements and it is necessary to enter into a Development Agreement for this development; and

WHEREAS, it is in the best interest of the City of Franklin to provide an orderly planned development at 8973 W. Lake Pointe Drive; and

WHEREAS, the developer is willing to proceed with the installation of the improvements provided for in the Development Agreement.

NOW, THEREFORE BE IT RESOLVED by the Mayor and Common Council of the City of Franklin that the Mayor and City Clerk are hereby authorized and directed to execute the Development Agreement on behalf of the City with the developer.

BE IT FURTHER RESOLVED that the City Clerk is directed to record the Development Agreement with the Register of Deeds for Milwaukee County.

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 \_\_\_\_\_

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<p><b>APPROVAL</b> <i>slw</i></p>	<p><b>REQUEST FOR COUNCIL ACTION</b></p>	<p><b>MEETING DATE</b> 09/20/2022</p>
<p><b>REPORTS &amp; RECOMMENDATIONS</b></p>	<p><b>Authorize a Consulting Services Agreement with Foth Infrastructure and Environment LLC for general planning services</b></p>	<p><b>ITEM NUMBER</b> <b>G.11.</b></p>

**BACKGROUND**

The City Development Department is seeking Council approval to transfer \$5,000 from the Salaries-FT (full time) fund to the Other Professional Services account in the 2022 fiscal year.

City Development staff is requesting this reallocation of funds for a planning services agreement with a budget of \$5,000, specifically for development and plan review services, including but not limited to items such as site plans, landscaping plans, lighting plans, architectural plans, certified survey maps. Planning services include is the review of site plans, landscaping plans, lighting plans, architectural plans, certified survey maps, and other such plans that are part of or related to applications submitted to the City Development Department.

Note: in section VI Insurance, the minimum limit of General/Commercial Liability is \$1,000,000/\$2,000,000 as this is an agreement for professional services, not for contractor services that normally requires a minimum limit of \$2,000,000/\$4,000,000.

**FISCAL IMPACT**

General Fund budget, planning division, transferring \$5,000 of Salaries-FT funds from account number 01-0621-5111 to the Other Professional Services budget account number 01-0621-5219.

City Development staff is requesting council approval to use budgeted personnel appropriations for these consulting services due to the vacancy of the Planning Manager position. The purpose of the funding is not changing, so no formal budget amendment is required.

**COUNCIL ACTION REQUESTED**

Motion to authorize a Consulting Services Agreement with Foth Infrastructure and Environment LLC for general planning services; utilizing 2022 budgeted personnel finds in the planning division budget; and authorize the Mayor to execute and administer the appropriate, related contract.



## **A G R E E M E N T**

This AGREEMENT, made and entered into this \_\_\_\_ day of \_\_\_\_\_, between the City of Franklin, 9229 West Loomis Road, Franklin, Wisconsin 53132 (hereinafter “CLIENT”) and Foth Infrastructure and Environment LLC (hereinafter “CONTRACTOR”), whose principal place of business is 7044 S Ballpark Drive, Franklin, WI 53132.

### **W I T N E S S E T H**

WHEREAS, the CONTRACTOR is duly qualified and experienced as a municipal services contractor and has offered services for the purposes specified in this AGREEMENT; and

WHEREAS, in the judgment of CLIENT, it is necessary and advisable to obtain the services of the CONTRACTOR to provide ongoing planning services;

NOW, THEREFORE, in consideration of these premises and the following mutual covenants, terms, and conditions, CLIENT and CONTRACTOR agree as follows:

#### **I. BASIC SERVICES AND AGREEMENT ADMINISTRATION**

- A. CONTRACTOR shall provide services to CLIENT for development and plan review services, including but not limited to items such as site plans, landscaping plans, lighting plans, architectural plans, certified survey maps, and other such plans that are part of or related to applications submitted to the City of Franklin Planning Department. Additionally, services also include all general planning services such as, but not limited to, site visits, presentation at meetings of boards and commissions and the Common Council, customer support, and assisting individuals in understanding and following the Unified Development Ordinance, applications, and code and application processes and requirements, as described in CONTRACTOR’s proposal to CLIENT dated 9/8/22, annexed hereto and incorporated herein as Attachment A.
- B. CONTRACTOR shall serve as CLIENT’s professional representative in matters to which this AGREEMENT applies. CONTRACTOR may employ the services of outside consultants and subcontractors when deemed necessary by CONTRACTOR to complete work under this AGREEMENT following approval by CLIENT.
- C. CONTRACTOR is an independent contractor and all persons furnishing services hereunder are employees of, or independent subcontractors to, CONTRACTOR and not of CLIENT. All obligations under the Federal Insurance Contribution Act (FICA), the Federal Unemployment Tax Act (FUTA), and income tax withholding are the responsibility of CONTRACTOR as employer. CLIENT understands that express AGREEMENTS may exist between CONTRACTOR and its employees regarding extra work, competition, and nondisclosure.
- D. During the term of this AGREEMENT and throughout the period of performance of any resultant AGREEMENT, including extensions, modifications, or additions thereto, and for a period of one (1) year from the conclusion of such activity, the

parties hereto agree that neither shall solicit for employment any technical or professional employees of the other without the prior written approval of the other party.

## **II. FEES AND PAYMENTS**

CLIENT agrees to pay CONTRACTOR, for and in consideration of the performance of Basic Services further described in Attachment A, [at our standard billing rates] [with a not-to-exceed budget of \$5,000], subject to the terms detailed below:

- A. CONTRACTOR may bill CLIENT and be paid for all work satisfactorily completed hereunder on a monthly basis. CLIENT agrees to pay CONTRACTOR's invoice within 30 days of invoice date for all approved work.
- B. Total price will not exceed budget of \$5,000. For services rendered, monthly invoices will include a report that clearly states the hours and type of work completed and the fee earned during the month being invoiced.
- C. In consideration of the faithful performance of this AGREEMENT, the CONTRACTOR will not exceed the fee for Basic Services and expenses without written authorization from CLIENT to perform work over and above that described in the original AGREEMENT.
- D. Should CLIENT find deficiencies in work performed or reported, it will notify CONTRACTOR in writing within thirty (30) days of receipt of invoice and related report and the CONTRACTOR will remedy the deficiencies within thirty (30) days of receiving CLIENT's review. This subsection shall not be construed to be a limitation of any rights or remedies otherwise available to CLIENT.

## **III. MODIFICATION AND ADDITIONAL SERVICES**

- A. CLIENT may, in writing, request changes in the Basic Services required to be performed by CONTRACTOR and require a specification of incremental or decremental costs prior to change order agreement under this AGREEMENT. Upon acceptance of the request of such changes, CONTRACTOR shall submit a "Change Order Request Form" to CLIENT for authorization and notice to proceed signature and return to CONTRACTOR. Should any such actual changes be made, an equitable adjustment will be made to compensate CONTRACTOR or reduce the fixed price, for any incremental or decremental labor or direct costs, respectively. Any claim by CONTRACTOR for adjustments hereunder must be made to CLIENT in writing no later than forty-five (45) days after receipt by CONTRACTOR of notice of such changes from CLIENT.

## **IV. ASSISTANCE AND CONTROL**

- A. Régulo Martínez-Montilva, Principal Planner, will coordinate the work of the CONTRACTOR, and be solely responsible for communication within the CLIENT's organization as related to all issues originating under this AGREEMENT.

- B. CLIENT will timely provide CONTRACTOR with all available information concerning PROJECT as deemed necessary by CONTRACTOR.
- C. CONTRACTOR will appoint, subject to the approval of CLIENT, Orrin Sumwalt, AICP CONTRACTOR's Project Manager and other key providers of the Basic Services. Substitution of other staff may occur only with the consent of CLIENT.

**V. TERMINATION**

- A. This AGREEMENT may be terminated by CLIENT, for its convenience, for any or no reason, upon written notice to CONTRACTOR. This AGREEMENT may be terminated by CONTRACTOR upon thirty (30) days written notice. Upon such termination by CLIENT, CONTRACTOR shall be entitled to payment of such amount as shall fairly compensate CONTRACTOR for all work approved up to the date of termination, except that no amount shall be payable for any losses of revenue or profit from any source outside the scope of this AGREEMENT, including but not limited to, other actual or potential agreements for services with other parties.
- B. In the event that this AGREEMENT is terminated for any reason, CONTRACTOR shall deliver to CLIENT all data, reports, summaries, correspondence, and other written, printed, or tabulated material pertaining in any way to Basic Services that CONTRACTOR may have accumulated. Such material is to be delivered to CLIENT whether in completed form or in process. CLIENT shall hold CONTRACTOR harmless for any work that is incomplete due to early termination.
- C. The rights and remedies of CLIENT and CONTRACTOR under this section are not exclusive and are in addition to any other rights and remedies provided by law or appearing in any other article of this AGREEMENT.

**VI. INSURANCE**

The CONTRACTOR shall, during the life of the AGREEMENT, maintain insurance coverage with an authorized insurance carrier at least equal to the minimum limits set forth below:

A. Limit of General/Commercial Liability	\$1,000,000/\$2,000,000
B. Automobile Liability: Bodily Injury/Property Damage	\$1,000,000
C. Excess Liability for General Commercial or Automobile Liability	\$10,000,000
D. Worker's Compensation and Employers' Liability	\$500,000
E. Professional Liability	\$2,000,000

The CLIENT shall be named as an additional insured on a primary, non-contributory basis for General/Commercial Liability, Auto Liability, and Excess Liability.

The CONTRACTOR shall provide a waiver of subrogation and/or any rights of recovery allowed under and worker's compensation law.

Upon the execution of this AGREEMENT, CONTRACTOR shall supply CLIENT with a suitable statement certifying said protection and defining the terms of the policy issued, which shall specify that such protection shall not be cancelled without thirty (30) calendar days prior notice to CLIENT, and naming CLIENT as an additional insured for General Liability.

## **VII. INDEMNIFICATION AND ALLOCATION OF RISK**

- A. To the fullest extent permitted by law, CONTRACTOR shall indemnify and hold harmless CLIENT, CLIENT'S officers, directors, partners, and employees from and against costs, losses, and damages (including but not limited to reasonable fees and charges of engineers, architects, attorneys, and other professionals, and reasonable court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of CONTRACTOR or CONTRACTOR'S officers, directors, partners, employees, and consultants in the performance of CONTRACTOR'S services under this AGREEMENT.
- B. To the fullest extent permitted by law, CLIENT shall indemnify and hold harmless CONTRACTOR, CONTRACTOR'S officers, directors, partners, employees, and consultants from and against costs, losses, and damages (including but not limited to reasonable fees and charges of engineers, architects, attorneys, and other professionals, and reasonable court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of CLIENT or CLIENT'S officers, directors, partners, employees, and consultants with respect to this AGREEMENT.
- C. Nothing contained within this AGREEMENT is intended to be a waiver or estoppel of the contracting municipality CLIENT or its insurer to rely upon the limitations, defenses, and immunities contained within Wisconsin law, including those contained within Wisconsin Statutes §§ 893.80, 895.52, and 345.05. To the extent that indemnification is available and enforceable, the municipality CLIENT or its insurer shall not be liable in indemnity or contribution for an amount greater than the limits of liability for municipal claims established by Wisconsin Law.

## **VIII. TIME FOR COMPLETION**

CONTRACTOR shall commence work immediately having received a Memorandum from the Department of City Development.

## **IX. DISPUTES**

This AGREEMENT shall be construed under and governed by the laws of the State of Wisconsin. The venue for any actions arising under this AGREEMENT shall be the Circuit Court for Milwaukee County. The prevailing party shall be awarded its actual costs of any such litigation, including reasonable attorney fees.

## **X. RECORDS RETENTION**

CONTRACTOR shall maintain all records pertaining to this AGREEMENT during the term of this AGREEMENT and for a period of 3 years following its completion. Such records shall be made available by the CONTRACTOR to CLIENT for inspection and copying upon request.

**XI. MISCELLANEOUS PROVISIONS**

- A. Professionalism. The same degree of care, skill and diligence shall be exercised in the performance of the services as is possessed and exercised by a member of the same profession, currently practicing, under similar circumstances, and all persons providing such services under this AGREEMENT shall have such active certifications, licenses and permissions as may be required by law.
- B. Pursuant to Law. Notwithstanding anything to the contrary anywhere else set forth within this AGREEMENT, all services and any and all materials and/or products provided by CONTRACTOR under this AGREEMENT shall be in compliance with all applicable governmental laws, statutes, decisions, codes, rules, orders, and ordinances, be they Federal, State, County or Local.
- C. Conflict of Interest. CONTRACTOR warrants that neither it nor any of its affiliates has any financial or other personal interest that would conflict in any manner with the performance of the services under this Agreement and that neither it nor any of its affiliates will acquire directly or indirectly any such interest. CONTRACTOR warrants that it will immediately notify the CLIENT if any actual or potential conflict of interest arises or becomes known to the CONTRACTOR. Upon receipt of such notification, a CLIENT review and written approval is required for the CLIENT to continue to perform work under this Agreement.
- D. This AGREEMENT may only be amended by written instrument signed by both CLIENT and CONTRACTOR.

**XII. CONTROLLING TERMS AND PROVISIONS**

The aforesaid terms and provisions shall control over any conflicting term or provision of any CONTRACTOR proposal, Attachment, Exhibit, and standard terms and provisions annexed hereto.

IN WITNESS WHEREOF, the parties have caused this AGREEMENT to be executed on the day and year first above written.

CITY OF FRANKLIN, WISCONSIN

Carrie L. Voskuil

BY \_\_\_\_\_

BY \_\_\_\_\_

PRINT NAME Stephen R. Olson

PRINT NAME \_\_\_\_\_

TITLE Mayor

TITLE \_\_\_\_\_

DATE \_\_\_\_\_

DATE \_\_\_\_\_

BY \_\_\_\_\_

Andy Schultz

PRINT NAME Denise D Gilbert

BY \_\_\_\_\_

TITLE Director of Finance and Treasurer

PRINT NAME \_\_\_\_\_

DATE \_\_\_\_\_

TITLE \_\_\_\_\_

BY \_\_\_\_\_

DATE \_\_\_\_\_

PRINT NAME Sandra L Wesolowski

TITLE City Clerk

DATE \_\_\_\_\_

Approved as to form

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

DATE \_\_\_\_\_

**ATTACHMENT A**

Foth Infrastructure and Environment LLC will provide general planning services to the City of Franklin on an on call basis. The hourly rate for all Foth planners will be \$139/hour. Usual and customary expenses such as mileage, postage, delivery and printing are not included in the above rates and will be invoiced at cost. Rates are subject to annual adjustments.

<b>APPROVAL</b>  <i>slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MTG. DATE</b> September 20, 2022
Reports & Recommendations	<b>A Resolution Authorizing Certain Officials to Accept  Water Main Easements and,  Upon Approval of the City Engineer,  Vacate an Existing Water Main Easement  for Sleep Inn &amp; MainStay Suites Hotel at  6868 South Ballpark Drive (TKN 744-1010-000)</b>	<b>ITEM NO.</b>  <b>G.12.</b>

**BACKGROUND**

Sleep Inn & MainStay Suites Hotel will be constructing facilities such that their proposed building footprint is in conflict with an existing public water main easement. The water main and easement will be relocated by vacating the existing water main easement and dedicating a new water main and easement to the City.

Additionally a fire hydrant is being proposed along the east side of the proposed building. This hydrant will require a new water main easement.

**ANALYSIS**

The attached easements include the land to accommodate the water main and all applicable appurtenances. The water main and all applicable appurtenances will be accepted after construction is complete and applicable inspection and testing indicate that the facilities are satisfactorily installed per applicable plans and specifications.

Upon completion of the water main relocation, and approval by the City Engineer, the existing easement area will be vacated.

**OPTIONS**

- A. Authorize the Mayor and City Clerk to sign said easements and have said easements recorded with the Register of Deeds for Milwaukee County and, upon approval of the City Engineer, vacate the existing water main easement, or
- B. Provide further direction to Staff.

**FISCAL NOTE**

No financial impact.

**RECOMMENDATION**

(Option A) Motion to adopt Resolution No. 2022- \_\_\_\_\_ a resolution to accept water main easements and, upon approval of the City Engineer, vacate an existing water main easement for Sleep Inn & Mainstay Suites Hotel at 6868 South Ballpark Drive (TKN 744-1010-000).



## WATER MAIN EASEMENT

(Ballpark Commons / Sleep Inn – Mainstay Suites)  
6868 South Ballpark Drive  
Tax Key Number 744 1010 000

THIS INDENTURE, made by and between the CITY OF FRANKLIN, a municipal corporation of the State of Wisconsin, hereinafter referred to as "City," and Hotel @ Ballpark Commons LLC, a Wisconsin Limited Liability Company, owner, (including heirs, executors, administrators, successors and assigns of above owner(s) as may be or may become applicable), hereinafter called "Grantor," (If more than one grantor is listed above, said language herein referring thereto shall be interpreted in the plural and refer jointly and severally to such grantors).

### WITNESSETH

WHEREAS, Grantor is the owner and holder of record Title to certain real property described on Exhibit "A" which is attached hereto and incorporated herein (the Property); and

WHEREAS, the City desires to acquire a permanent easement with the right of entry in and across the property hereinafter described with the right to build and construct and/or operate, maintain, repair, enlarge, reconstruct, relocate and inspect as may be or may become applicable the following facilities and appurtenances thereto, hereinafter called "Facilities," in, upon and across said portion of the property; a water main and associated fire hydrants, all as shown on the plan attached hereto as Exhibit "B"; and

WHEREAS, the initial construction and installation of the Facilities shall be made by Grantor at Grantor's expense and the Facilities shall be the property of the City and be deemed dedicated to the City upon the City's inspection and approval of the Facilities as installed, subject to the terms and conditions set forth below:

NOW, THEREFORE, in consideration of the grant of the easement hereinafter described and the payment of One Dollar (\$1.00) and other valuable considerations to the Grantor, receipt whereof is hereby acknowledged, said Grantor, being the owner and person interested in the land hereinafter described does hereby grant unto the City a permanent easement in that part of the Southwest  $\frac{1}{4}$ , Southeast  $\frac{1}{4}$ , and Northeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of Section Four (4), Township Five (5) North, Range Twenty-one (21) East, in the City of Franklin, Milwaukee County, Wisconsin, more particularly described on Exhibit C attached hereto (the "Easement Area").

### UPON CONDITION

1. That said Facilities shall be maintained and kept in good order and condition by the City. Responsibility for maintaining the ground cover and landscaping within the Easement Area shall be that of the Grantor (including heirs, executors, administrators, successors and assigns).
2. That in and during whatever construction, reconstruction, enlargement or repair work is or becomes necessary in constructing and/or maintaining of said Facilities, so much of the surface or subsurface of the property as may be disturbed, will at the expense of the City be replaced in substantially the same condition as it was prior to such disturbance; except that the City will in no case be responsible for replacing or paying for replacing any aesthetic plantings or improvements other than ordinary lawns or standard walks, roadways, driveways and parking lot surfacing which were required to be removed in the course of doing the above work. However, the City shall save harmless the Grantor from any loss, damage, injury or liability resulting from negligence on the part of the City in connection with said work involved in constructing and/or maintaining of said Facilities; provided that if above loss, damage, injury or liability results from the joint negligence of parties hereto, then the liability therefore shall be borne by them in proportion to their respective degree of negligence; provided further, however, that these provisions are subject to the legal defenses which under law the City is entitled to raise excepting the defense of so-called "sovereign immunity."

3. That no structure may be placed within the limits of the easement by the Grantor except that improvements such as walks, pavements for driveways and parking lot surfacing may be constructed or placed within the Easement Area.
4. That, in connection with the construction by the Grantor of any structure or building abutting said easement defined limits, the Grantor will assume all liability for any damage to the Facilities in the above described property. The Grantor will also save and keep the City clear and harmless from any claims for personal injuries or property damage caused by any negligence of the Grantor or person other than the Grantor, arising out of the construction by the Grantor of any structure or building abutting the said easement defined limits, and shall reimburse the City for the full amount of such loss or damage.
5. That no charges will be made against said lands for the cost of maintenance or operation of said Facilities in the afore-described property. Whenever the Grantor makes application for a service connection, the regular and customary service connection charge in effect at the time of the application shall be charged and paid. The Grantor shall be responsible for the routine maintenance of land on which the easement is located.
6. All conditions pertaining to the "Maintenance of Water Service Piping" as set forth in Chapter 5.12 of the "Rules and Regulations Governing Water Service" and subsequent amendments thereto shall apply to all water services which are within the easement defined limits and also within the limits of any adjoining easements; except that the City of Franklin Water Works, a utility owned by the City of Franklin shall in no case be responsible for maintaining at its expense any portion of said water services outside of the easement defined limits and outside the limits of any adjoining easements regardless of any statement to the contrary in said "Rules and Regulations Governing Water Service."
7. The Facilities shall be accessible for maintenance by the City at all times. The Grantor shall submit plans for approval to the City Engineer for any underground installation within the Easement Area, which approval shall not be unreasonably withheld, conditioned or delayed.
8. That the Grantor shall submit plans for all surface alterations of plus or minus 1 foot or greater within the limits of said easement. Said alterations shall be made only with the approval of the City Engineer of the City of Franklin, which approval shall not be unreasonably withheld, conditioned or delayed.
9. The City and Grantor shall each use, and take reasonable measures to cause their employees, officers, customers, agents, contractors and assigns to use, the Easement Area in a reasonable manner and so as not to obstruct or otherwise use the Easement Area in a manner that would unreasonably interfere with the use thereof by the other party hereto or its employees, officers, customers, agents, contractors and assigns.
10. The City and Grantor each hereby waives all rights of subrogation that either has or may hereafter have against the other for any damage to the Easement Area or any other real or personal property or to persons covered by such party's insurance, but only to the extent of the waiving party's insurance coverage; provided, however, that the foregoing waivers shall not invalidate any policy of insurance now or hereafter issued, it being hereby agreed that such a waiver shall not apply in any case which would result in the invalidation of any such policy of insurance and that each party shall notify the other if such party's insurance would be so invalidated.
11. Either party hereto may enforce this easement by appropriate action, and should it prevail in such litigation, that party shall be entitled to recover, as part of its costs, reasonable attorneys' fees.
12. This easement may not be modified or amended, except by a writing executed and delivered by the City and Grantor or their respective successors and assigns.
13. No waiver of, acquiescence in, or consent to any breach of any term, covenant, or condition hereof shall be construed as, or constitute, a waiver of, acquiescence in, or consent to any other, further, or succeeding breach of the same or any other term, covenant, or condition.

14. If any term or provision of this easement shall, to any extent, be invalid or unenforceable under applicable law, then the remaining terms and provisions of this easement shall not be affected thereby, and each such remaining term and provision shall be valid and enforceable to the fullest extent permitted by applicable law.
15. This easement shall be construed and enforced in accordance with the internal laws of the State of Wisconsin.
16. It is understood that in the event the Property may become portions of public streets; in which event, in the proceedings for the acquisition of the property needed for such streets by purchase, dedication or by condemnation, said lands shall be considered the same as though this easement had not been executed or any rights granted thereby exercised.
17. That the Grantor shall submit as-built drawings of the installed facilities on mylar for approval to the City Engineer, which approval shall not be unreasonably withheld, conditioned, or delayed.

IN WITNESS WHEREOF, the Grantor has hereunto set its hands and seals

ON THIS DATE OF: September 15th 2022

Hotel @ Ballpark Commons LLC  
Company Name

Hotel @ Ballpark Commons LLC  
Company Name Printed

By: \_\_\_\_\_  
Name and Title

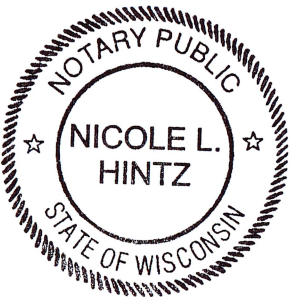
Thomas Johns the Owner  
Name & Title Printed

STATE OF Wisconsin SS

COUNTY OF Milwaukee

Before me personally appeared on the 15th day of September, 2022, the above named Thomas J Johns Owner of Hotel @ Ballpark Commons  
(Name printed) (Title) (Development)

to me known to be the person(s) who executed the foregoing EASEMENT and acknowledged the same as the voluntary act and deed of said corporation



[Signature]  
Notary Public

My commission expires 12/06/2025

CITY OF FRANKLIN

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

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

STATE OF WISCONSIN  
SS  
COUNTY OF MILWAUKEE

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ before me personally appeared Stephen R. Olson and Sandra L. Wesolowski who being by me duly sworn, did say that they are respectively the Mayor and City Clerk of Franklin, and that the seal affixed to said instrument is the corporate seal of said municipal corporation, and acknowledged that they executed the foregoing assignment as such officers as the deed of said municipal corporation by its authority, and pursuant to Resolution File No. \_\_\_\_\_ adopted by its Common Council on \_\_\_\_\_, 20\_\_.

Notary Public \_\_\_\_\_

My commission expires \_\_\_\_\_

MORTGAGE HOLDER CONSENT

The undersigned, FORTE BANK, a Wisconsin banking corporation ("Mortgagee"), as Mortgagee under that certain Mortgage encumbering the Property and recorded in the Office of the Register of Deeds for Milwaukee County, Wisconsin, on \_\_\_\_\_, 20\_\_\_\_, as Document No. \_\_\_\_\_ and its addition as an encumbrance against title to the Property.

IN WITNESS WHEREOF, Mortgagee has caused these presents to be signed by its duly authorized officers and its corporate seal to be hereunto affixed, as of the day and year first above written.

[Signature]  
a Wisconsin Banking Corporation

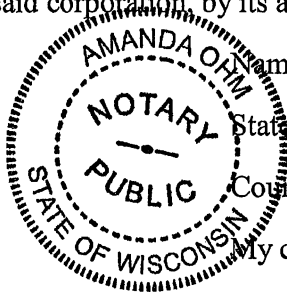
FORTE BANK  
Name of Wisconsin Banking Corporation typed or printed

By: [Signature]  
Aaron J. Lensink, Senior Vice President  
Print Name & Title

STATE OF WISCONSIN )

COUNTY OF ~~MILWAUKEE~~ <sup>s.s.</sup> Washington

On this, the 15<sup>th</sup> day of September 2022, before me, the undersigned, personally appeared Aaron J. Lensink, the Sr. Vice President of FORTE BANK, a Wisconsin banking corporation, and acknowledged that (s)he executed the foregoing instrument on behalf of said corporation, by its authority and for the purposes therein contained.



Name: [Signature] Amanda Ohm  
Notary Public  
State of Wisconsin  
County of Washington  
My commission expires on: 05/09/2026

This instrument was drafted by the City of Franklin.

Approved as to contents  
Date: \_\_\_\_\_

\_\_\_\_\_  
Glen Morrow, Manager of Franklin Municipal Water Utility

Approved as to form only  
Date: \_\_\_\_\_

\_\_\_\_\_  
Jesse Wesolowski, City Attorney

Exhibit A  
(Legal Description of Property)

**Legal Description Lot 4**

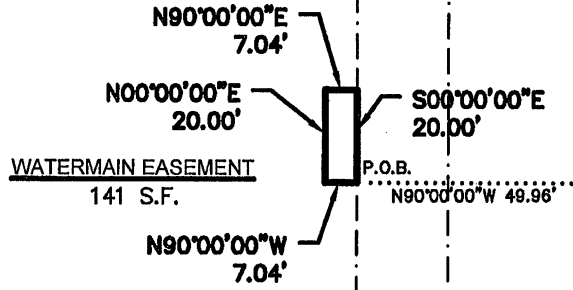
LOT 4 OF CERTIFIED SURVEY MAP NO. 9043, BEING THAT VACATED PORTION OF CRYSTAL RIDGE DRIVE RECORDED IN THE MILWAUKEE COUNTY REGISTER OF DEEDS AS DOCUMENT NO. 10773453 AND LANDS IN THE SOUTHWEST  $\frac{1}{4}$  OF THE SOUTHEAST  $\frac{1}{4}$  AND THE NORTHEAST  $\frac{1}{4}$  OF THE SOUTHEAST  $\frac{1}{4}$  OF SECTION 4, TOWN 5 NORTH, RANGE 21 EAST, IN THE CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN.

LOT 4 CONTAINS 156,128 SQUARE FEET OR 3.5612 ACRES

# EXHIBIT B

OUTLOT 1  
CSM 9041

**BALLPARK DRIVE**  
80' PRIVATE ROAD



WATERMAIN EASEMENT  
141 S.F.

LOT 4  
CSM 9043

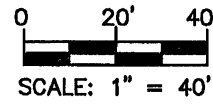
EXISTING WATERMAIN EASEMENT

**C.T.H. "U"**  
**SOUTH 76 STREET**  
PUBLIC HIGHWAY WIDTH VARIES

N00°25'03"W 94.71'

SOUTHEASTERLY  
CORNER  
LOT 4

**WEST LOOMIS ROAD**  
HIGHWAY RIGHT OF WAY WIDTH VARIES



File: R:\2014\146548 Ballpark Commons\dwg\146548 Exhibit -- Hotel Hydrant Easement.dwg Layout: SHEET 1 User: dsponjar Plotted: Sep 07, 2022 - 12:04pm

**JSD**  
MILWAUKEE REGIONAL OFFICE  
W238 N1810 BUSSE ROAD, SUITE 100  
WAUKESHA, WISCONSIN 53186  
P. 262.513.0666

PROJECT:  
**ROC AND  
BRAVEHART**  
7044 S. BALLPARK DR.  
FRANKLIN, WI

SHEET TITLE:  
**PROPERTY EXHIBIT  
HYDRANT EASEMENT**  
LOT 4, C.S.M. 9043

PROJECT NUMBER:  
14-6548-G  
DRAWN BY: DHS CHECKED BY: AWW  
DATE: 8/29/22

SHEET NUMBER:  
1 OF 2

# EXHIBIT C

## LEGAL DESCRIPTION

PART OF LOT 4, CERTIFIED SURVEY MAP NO. 9043, BEING PART OF THE SOUTHWEST 1/4, SOUTHEAST 1/4 AND NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 4, TOWNSHIP 5 NORTH, RANGE 21 EAST, IN THE CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN, BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEASTERLY CORNER OF SAID LOT 4, THENCE N00°25'03"W ALONG THE EAST LINE OF SAID LOT 94.71 FEET; THENCE N90°00'00"W 49.96 FEET TO A POINT ON THE WEST LINE OF AN EXISTING WATERMAIN EASEMENT, BEING THE POINT OF BEGINNING OF LANDS TO BE DESCRIBED; THENCE CONTINUING N90°00'00"W 7.04 FEET; THENCE N00°00'00"E 20.00 FEET; THENCE N90°00'00"E 7.04 FEET; THENCE S00°00'00"E 20.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 141 SQUARE FEET.

File: R:\2014\1408548 Ballpark Commons\dwg\146548 Exhibit - Hotel Hydrant Easement.dwg Layout: SHEET 2 User: dspamjar Plotted: Sep 07, 2022 - 12:02pm



MILWAUKEE REGIONAL OFFICE  
W236 N1610 BUSSE ROAD, SUITE 100  
WAUKESHA, WISCONSIN 53186  
P. 262.513.0666

PROJECT:  
**ROC AND  
BRAVEHART**  
7044 S. BALLPARK DR.  
FRANKLIN, WI

SHEET TITLE:  
**PROPERTY EXHIBIT  
HYDRANT EASEMENT  
LOT 4, C.S.M. 9043**

PROJECT NUMBER:  
14-6548-G  
DRAWN BY: DHS CHECKED BY: AWW  
DATE:  
8/29/22

SHEET NUMBER:  
2 OF 2



## WATER MAIN EASEMENT

(Ballpark Commons / Sleep Inn – Mainstay Suites)  
6868 South Ballpark Drive  
Tax Key Number 744 1010 000

THIS INDENTURE, made by and between the CITY OF FRANKLIN, a municipal corporation of the State of Wisconsin, hereinafter referred to as "City," and Hotel @ Ballpark Commons LLC, a Wisconsin Limited Liability Company, owner, (including heirs, executors, administrators, successors and assigns of above owner(s) as may be or may become applicable), hereinafter called "Grantor," (If more than one grantor is listed above, said language herein referring thereto shall be interpreted in the plural and refer jointly and severally to such grantors).

### WITNESSETH

WHEREAS, Grantor is the owner and holder of record Title to certain real property described on Exhibit "A" which is attached hereto and incorporated herein (the Property); and

WHEREAS, the City desires to acquire a permanent easement with the right of entry in and across the property hereinafter described with the right to build and construct and/or operate, maintain, repair, enlarge, reconstruct, relocate and inspect as may be or may become applicable the following facilities and appurtenances thereto, hereinafter called "Facilities," in, upon and across said portion of the property; a water main and associated fire hydrants, all as shown on the plan attached hereto as Exhibit "B"; and

WHEREAS, the initial construction and installation of the Facilities shall be made by Grantor at Grantor's expense and the Facilities shall be the property of the City and be deemed dedicated to the City upon the City's inspection and approval of the Facilities as installed, subject to the terms and conditions set forth below:

NOW, THEREFORE, in consideration of the grant of the easement hereinafter described and the payment of One Dollar (\$1.00) and other valuable considerations to the Grantor, receipt whereof is hereby acknowledged, said Grantor, being the owner and person interested in the land hereinafter described does hereby grant unto the City a permanent easement in that part of the Southwest ¼, Southeast ¼, and Northeast ¼ of the Southeast ¼ of Section Four (4), Township Five (5) North, Range Twenty-one (21) East, in the City of Franklin, Milwaukee County, Wisconsin, more particularly described on Exhibit C attached hereto (the "Easement Area").

### UPON CONDITION

1. That said Facilities shall be maintained and kept in good order and condition by the City. Responsibility for maintaining the ground cover and landscaping within the Easement Area shall be that of the Grantor (including heirs, executors, administrators, successors and assigns).
2. That in and during whatever construction, reconstruction, enlargement or repair work is or becomes necessary in constructing and/or maintaining of said Facilities, so much of the surface or subsurface of the property as may be disturbed, will at the expense of the City be replaced in substantially the same condition as it was prior to such disturbance; except that the City will in no case be responsible for replacing or paying for replacing any aesthetic plantings or improvements other than ordinary lawns or standard walks, roadways, driveways and parking lot surfacing which were required to be removed in the course of doing the above work. However, the City shall save harmless the Grantor from any loss, damage, injury or liability resulting from negligence on the part of the City in connection with said work involved in constructing and/or maintaining of said Facilities; provided that if above loss, damage, injury or liability results from the joint negligence of parties hereto, then the liability therefore shall be borne by them in proportion to their respective degree of negligence; provided further, however, that these provisions are subject to the legal defenses which under law the City is entitled to raise excepting the defense of so-called "sovereign immunity."

3. That no structure may be placed within the limits of the easement by the Grantor except that improvements such as walks, pavements for driveways and parking lot surfacing may be constructed or placed within the Easement Area.
4. That, in connection with the construction by the Grantor of any structure or building abutting said easement defined limits, the Grantor will assume all liability for any damage to the Facilities in the above described property. The Grantor will also save and keep the City clear and harmless from any claims for personal injuries or property damage caused by any negligence of the Grantor or person other than the Grantor, arising out of the construction by the Grantor of any structure or building abutting the said easement defined limits, and shall reimburse the City for the full amount of such loss or damage.
5. That no charges will be made against said lands for the cost of maintenance or operation of said Facilities in the afore-described property. Whenever the Grantor makes application for a service connection, the regular and customary service connection charge in effect at the time of the application shall be charged and paid. The Grantor shall be responsible for the routine maintenance of land on which the easement is located.
6. All conditions pertaining to the "Maintenance of Water Service Piping" as set forth in Chapter 5.12 of the "Rules and Regulations Governing Water Service" and subsequent amendments thereto shall apply to all water services which are within the easement defined limits and also within the limits of any adjoining easements; except that the City of Franklin Water Works, a utility owned by the City of Franklin shall in no case be responsible for maintaining at its expense any portion of said water services outside of the easement defined limits and outside the limits of any adjoining easements regardless of any statement to the contrary in said "Rules and Regulations Governing Water Service."
7. The Facilities shall be accessible for maintenance by the City at all times. The Grantor shall submit plans for approval to the City Engineer for any underground installation within the Easement Area, which approval shall not be unreasonably withheld, conditioned or delayed.
8. That the Grantor shall submit plans for all surface alterations of plus or minus 1 foot or greater within the limits of said easement. Said alterations shall be made only with the approval of the City Engineer of the City of Franklin, which approval shall not be unreasonably withheld, conditioned or delayed.
9. The City and Grantor shall each use, and take reasonable measures to cause their employees, officers, customers, agents, contractors and assigns to use, the Easement Area in a reasonable manner and so as not to obstruct or otherwise use the Easement Area in a manner that would unreasonably interfere with the use thereof by the other party hereto or its employees, officers, customers, agents, contractors and assigns.
10. The City and Grantor each hereby waives all rights of subrogation that either has or may hereafter have against the other for any damage to the Easement Area or any other real or personal property or to persons covered by such party's insurance, but only to the extent of the waiving party's insurance coverage; provided, however, that the foregoing waivers shall not invalidate any policy of insurance now or hereafter issued, it being hereby agreed that such a waiver shall not apply in any case which would result in the invalidation of any such policy of insurance and that each party shall notify the other if such party's insurance would be so invalidated.
11. Either party hereto may enforce this easement by appropriate action, and should it prevail in such litigation, that party shall be entitled to recover, as part of its costs, reasonable attorneys' fees.
12. This easement may not be modified or amended, except by a writing executed and delivered by the City and Grantor or their respective successors and assigns.

13. No waiver of, acquiescence in, or consent to any breach of any term, covenant, or condition hereof shall be construed as, or constitute, a waiver of, acquiescence in, or consent to any other, further, or succeeding breach of the same or any other term, covenant, or condition.
14. If any term or provision of this easement shall, to any extent, be invalid or unenforceable under applicable law, then the remaining terms and provisions of this easement shall not be affected thereby, and each such remaining term and provision shall be valid and enforceable to the fullest extent permitted by applicable law.
15. This easement shall be construed and enforced in accordance with the internal laws of the State of Wisconsin.
16. It is understood that in the event the Property may become portions of public streets; in which event, in the proceedings for the acquisition of the property needed for such streets by purchase, dedication or by condemnation, said lands shall be considered the same as though this easement had not been executed or any rights granted thereby exercised.
17. That the Grantor shall submit as-built drawings of the installed facilities on mylar for approval to the City Engineer, which approval shall not be unreasonably withheld, conditioned, or delayed.

IN WITNESS WHEREOF, the Grantor has hereunto set its hands and seals

ON THIS DATE OF: September 15th 2022

Hotel @ Ballpark Commons LLC  
Company Name

Hotel @ Ballpark Commons LLC  
Company Name Printed

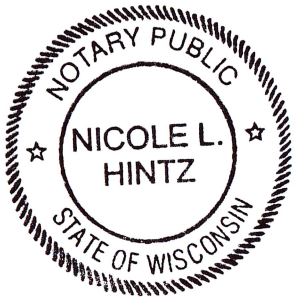
By: [Signature]  
Name and Title

Thomas J. Johns Owner  
Name & Title Printed

STATE OF Wisconsin SS  
COUNTY OF Milwaukee

Before me personally appeared on the 15<sup>th</sup> day of September, 2022, the above named Thomas J. Johns, Owner of Hotel @ Ballpark Commons  
(Name printed) (Title) (Development)

to me known to be the person(s) who executed the foregoing EASEMENT and acknowledged the same as the voluntary act and deed of said corporation



[Signature]  
Notary Public

My commission expires 12/06/2025

CITY OF FRANKLIN

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

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

STATE OF WISCONSIN SS  
COUNTY OF MILWAUKEE

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ before me personally appeared Stephen R. Olson and Sandra L. Wesolowski who being by me duly sworn, did say that they are respectively the Mayor and City Clerk of Franklin, and that the seal affixed to said instrument is the corporate seal of said municipal corporation, and acknowledged that they executed the foregoing assignment as such officers as the deed of said municipal corporation by its authority, and pursuant to Resolution File No. \_\_\_\_\_ adopted by its Common Council on \_\_\_\_\_, 20\_\_.

Notary Public \_\_\_\_\_

My commission expires \_\_\_\_\_





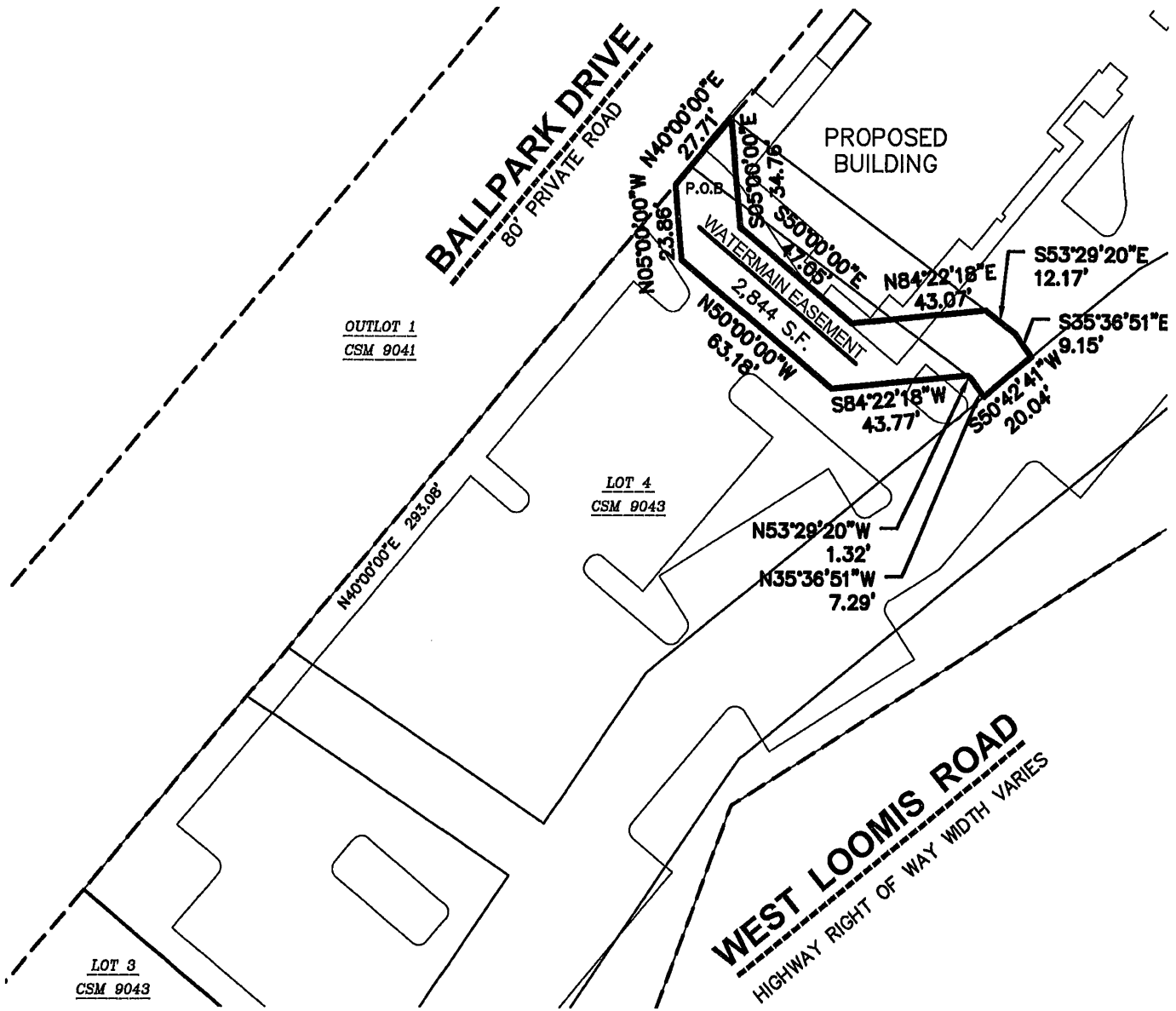
Exhibit A  
(Legal Description of Property)

**Legal Description Lot 4**

LOT 4 OF CERTIFIED SURVEY MAP NO. 9043, BEING THAT VACATED PORTION OF CRYSTAL RIDGE DRIVE RECORDED IN THE MILWAUKEE COUNTY REGISTER OF DEEDS AS DOCUMENT NO. 10773453 AND LANDS IN THE SOUTHWEST  $\frac{1}{4}$  OF THE SOUTHEAST  $\frac{1}{4}$  AND THE NORTHEAST  $\frac{1}{4}$  OF THE SOUTHEAST  $\frac{1}{4}$  OF SECTION 4, TOWN 5 NORTH, RANGE 21 EAST, IN THE CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN.

LOT 4 CONTAINS 155,128 SQUARE FEET OR 3.5612 ACRES

# EXHIBIT B



SCALE: 1" = 50'

File: R:\2014\14CS548 Ballpark Commons\dwg\146548 Exhibit - Hotel Watermain Easement.dwg Layout: SHEET 1 User: dspanjor Plotted: Sep 07, 2022 - 11:15am



MILWAUKEE REGIONAL OFFICE  
W238 N1610 BUSSE ROAD, SUITE 100  
WALKESHA, WISCONSIN 53188  
P. 262.613.0666

**PROJECT:**  
**ROC AND BRAVEHART**  
 7044 S. BALLPARK DR.  
 FRANKLIN, WI

**SHEET TITLE:**  
**PROPERTY EXHIBIT**  
**WATERMAIN EASEMENT**  
 LOT 4, C.S.M. 9043

**PROJECT NUMBER:**  
 14-6548-G  
**DRAWN BY:** DHS  
**CHECKED BY:** AWW  
**DATE:** 8/29/22

**SHEET NUMBER:**  
 1 OF 2

# EXHIBIT C

## LEGAL DESCRIPTION

PART OF LOT 4, CERTIFIED SURVEY MAP NO. 9043, BEING PART OF THE SOUTHWEST 1/4, SOUTHEAST 1/4 AND NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 4, TOWNSHIP 5 NORTH, RANGE 21 EAST, IN THE CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN, BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWESTERLY CORNER OF LOT 4; THENCE N40°00'00"E ALONG THE WESTERLY LINE OF SAID LOT 4, 293.08 FEET TO THE POINT OF BEGINNING OF LANDS TO BE DESCRIBED; THENCE CONTINUING ALONG SAID WESTERLY LINE N40°00'00" E 27.71 FEET; THENCE S05°00'00"E 34.76 FEET; THENCE S50°00'00"E 47.05 FEET; THENCE N84°22'18"E 43.07 FEET; THENCE S53°29'20"E 12.17 FEET; THENCE S35°36'51"E 9.15; THENCE S50°42'41"W 20.04; THENCE N35°36'51"W 7.29 FEET; THENCE N53°29'20"W 1.32; THENCE S84°22'18"W 43.77 FEET; THENCE N50°00'00"W 63.18 FEET; THENCE N05°00'00"W 23.86 FEET TO THE POINT OF BEGINNING.

CONTAINING 2,844 SQUARE FEET.

File: R:\2014\14-C6548 Ballpark Commons\dwg\146548 Exhibit - Hotel Watermain Easement.dwg Layout: SHEET 2 User: dapanjor Plotted: Sep 15, 2022 - 9:55am



MILWAUKEE REGIONAL OFFICE  
W238 N1810 BUSSE ROAD, SUITE 100  
WAUKESHA, WISCONSIN 53188  
P. 262.513.0866

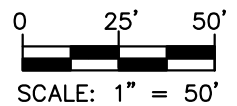
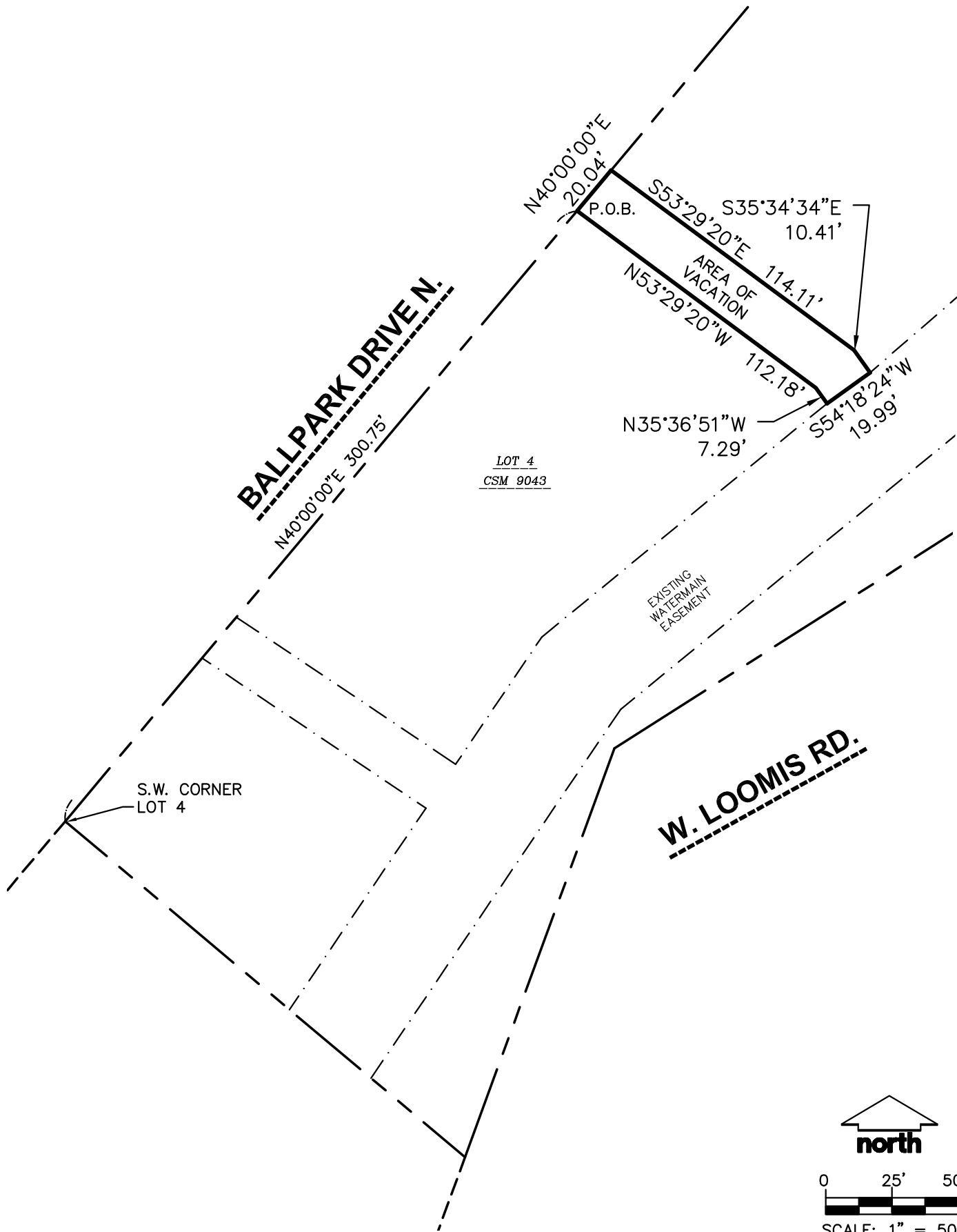
PROJECT:  
**ROC AND  
BRAVEHART**  
7044 S. BALLPARK DR.  
FRANKLIN, WI

SHEET TITLE:  
**PROPERTY EXHIBIT  
WATERMAIN EASEMENT**  
LOT 4, C.S.M. 9043

PROJECT NUMBER:  
14-6548-G  
DRAWN BY: DHS CHECKED BY: AWW  
DATE: 8/29/22

SHEET NUMBER:  
2 OF 2





**JSD** Professional Services, Inc.  
 • Engineers • Surveyors • Planners  
 MILWAUKEE REGIONAL OFFICE  
 W238 N1610 BUSSE ROAD, SUITE 100  
 WAUKESHA, WISCONSIN 53188  
 P. 262.513.0666

PROJECT:  
**ROC VENTURES**  
**7744 S BALLPARK DR**  
 FRANKLIN, WI

SHEET TITLE:  
**WATERMAIN EASEMENT VACATION**

JSD PROJECT NUMBER:  
 14-6548-G  
 DRAWN BY: DHS  
 CHECKED BY: AWW  
 DATE:  
 9/13/22

SHEET NUMBER:  
 1 OF 2

**LEGAL DESCRIPTION**

PART OF LOT 4 OF CERTIFIED SURVEY MAP NO. 9043, BEING PART OF THE SOUTHEAST 1/4 AND NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 4, TOWNSHIP 5 NORTH, RANGE 21 EAST, IN THE CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN, THE AREA OF A WATERMAIN EASEMENT TO BE VACATED IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWESTERLY CORNER OF SAID LOT 4; THENCE N40°00'00"E ALONG THE WESTERLY LINE OF SAID LOT 300.75 FEET TO THE POINT OF BEGINNING OF LANDS TO BE DESCRIBED; THENCE CONTINUING N40°00'00"E 20.04 FEET; THENCE S53°29'20"E 114.11 FEET; THENCE S35°34'34"E 10.41 FEET; THENCE S54°18'24"W 19.99 FEET; THENCE N35°36'51"W 7.29 FEET; THENCE N53°29'20"W 112.18 FEET TO THE POINT OF BEGINNING.

CONTAINING 2,440 SQUARE FEET.



PROJECT:  
**ROC  
 VENTURES  
 7744 S BALLPARK DR  
 FRANKLIN, WI**

SHEET TITLE:  
**WATERMAIN  
 EASEMENT  
 VACATION**

JSD PROJECT NUMBER:  
 14-6548-G  
 DRAWN BY: DHS      CHECKED BY: AWW  
 DATE:  
 9/13/22

SHEET NUMBER:  
 2 OF 2

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

A RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO  
ACCEPT WATER MAIN EASEMENTS AND,  
UPON APPROVAL OF THE CITY ENGINEER,  
VACATE AN EXISTING WATER MAIN EASEMENT  
FOR SLEEP INN & MAINSTAY SUITES HOTEL AT  
6868 SOUTH BALLPARK DRIVE (TKN 744-1010-000)

WHEREAS, Sleep Inn & MainStay Suites Hotel will be constructing facilities at 6868 South Ballpark Drive such that their proposed building footprint is in conflict with an existing public water main easement; and

WHEREAS, the water main and easement will be relocated by vacating the existing water main easement and dedicating a new water main and easement to the City; and

WHEREAS, a fire hydrant is being proposed along the east side of the proposed building, requiring an additional new water main easement; and

WHEREAS, the water main and all applicable appurtenances will be accepted after construction is complete and applicable inspection and testing indicate that the facilities are satisfactorily installed per applicable plans and specifications; and

WHEREAS, upon completion of the water main relocation, and approval by the City Engineer, the existing easement area will be vacated.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin that it would be in the best interest of the City to accept such easements, and therefore the Mayor and City Clerk are hereby authorized and directed to execute the easements accepting them on behalf of the City.

BE IT FURTHER RESOLVED, that the City Clerk is directed to record said easement with the Register of Deeds for Milwaukee County.

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

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

APPROVED:

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

ATTEST:

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

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

<b>APPROVAL</b> <i>slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MTG. DATE</b> September 20, 2022
Reports & Recommendations	<b>A Resolution Authorizing Certain Officials to  Accept a Public Recreational Trail Easement  at 6868 South Ballpark Drive (TKN 744-1010-000)</b>	<b>ITEM NO.</b> <b>G.13.</b>

**BACKGROUND**

On September 23, 2021, Plan Commission adopted Resolution No. 2021-022, a resolution approving a site plan for construction of a Sleep Inn & MainStay Suites Hotel within Planned Development District No. 37 (The Rock Sports Complex/Ballpark Commons). The following condition was included, *“the developer agrees to donate the land or grant an easement for a potential trail on S. 76th Street, and the developer agrees to bear the cost of the park impact fee match ”*

**ANALYSIS**

The attached easement includes the land to accommodate a public recreational trail as well as additional language specifying the requirements of the Resolution No. 2021-022 condition -

*“The Grantor hereby agrees to and shall provide payment to Grantee upon Grantee’s commencement of the installation of the Public Recreational Trail that amount of money which is the park impact fee match for the project, i e., the difference between the total project installation cost, and the amount of impact fees payable to the Grantee for the project cost payments The park impact fee match payment is required pursuant to City of Franklin Plan Commission Resolution No 2021-022, the amount to be paid for park impact fees shall be such amount as may be adjusted over time and due at the time of payment, the current (at the date of entry into this Easement by the parties) amount of park impact fees is 62% of eligible project costs.”*

It is recommended that the Common Council authorize the Mayor and City Clerk to sign said easement, and have said easement recorded with the Register of Deeds for Milwaukee County.

**FISCAL NOTE**

Acceptance of the easement has no financial impact.

**RECOMMENDATION**

(Option A) Motion to adopt Resolution No. 2022- \_\_\_\_\_ a resolution authorizing certain officials to accept a Public Recreational Trail Easement at 6868 South Ballpark Drive (TKN 744-1010-000)

Engineering: TAB

Document Number	<b>PUBLIC RECREATIONAL TRAIL EASEMENT</b>	
	Document Name	

This Public Recreational Trail Easement (the "Easement") by and between **Hotel @ Ballpark Commons LLC**, (the "Grantor"), and the **City of Franklin**, (the "Grantee") is entered into by and between the parties this 15<sup>th</sup> day of September, 2022.

RECITALS

A. Grantor is the owner of certain real property located at 6868 South Ballpark Drive, in the City of Franklin, Milwaukee County, Wisconsin, which is more fully described in the attached Exhibit A (the "Property").

B. Grantor desires to grant to Grantee a perpetual easement for the purpose of creating and maintaining a public recreational trail easement on and through the Property pursuant to the terms and conditions of this Easement.

BASED UPON THE FOREGOING RECITALS, the mutual agreements within this Easement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Grantor and Grantee agree as follows:

1. **Grant of Easement:** Grantor (including heirs, executors, administrators, personal representatives, successors, and assigns) grants to Grantee, and its employees, agents, licenses, and contractors a perpetual easement over and across the land hereinafter specifically described, to install, operate, maintain, repair, reconstruct, inspect and/or extend a recreational trail for public pedestrian, bicycle, and similar non-motorized use. The location of the easement area with respect to the Grantor's land is as shown and described on the attached Exhibit B and Exhibit C, respectively (the "Easement Area"). Specifically, under this Easement, Grantee shall have the right to keep access to the easement open by removing vegetation and by cutting or trimming trees, shrubs, or other vegetation that may encroach on the Easement Area provided that Grantee shall dispose of all cuttings and trimmings by hauling them away from the Property.

a. The Grantor hereby agrees to and shall provide payment to Grantee upon Grantee's commencement of the installation of the Public Recreational Trail that amount of money which is the park impact fee match for the project, *i.e.*, the difference between the total project installation cost, and the amount of impact fees payable to the Grantee for the project cost payments. The park impact fee match payment is required pursuant to City of Franklin Plan Commission Resolution No. 2021-022; the amount to be paid for park impact fees shall be such amount as may be adjusted over time and due at the time of payment, the current (at the date of entry into this Easement by the parties) amount of park impact fees is 62% of eligible project costs.

2. **Use of Easement:** Grantor shall not construct, place, grant, allow, or maintain any structures or impediments of any kind within the Easement Area including, but not limited to, buildings, fences, gardens, and other landscaping that would inhibit access by the Grantee and/or members of the public, such that Grantee shall have the full enjoyment and use of the rights herein granted, including but not limited to, the rights to remove and to clear all structures and obstructions which might interfere with the rights herein contained and the free and full right of ingress and egress over and across the Easement Area and other adjacent lands of the grantor to and from said Easement Area and the use of said Easement Area and other adjacent lands of the grantor as necessary or convenient for the full enjoyment and use of the rights herein granted. Trees, bushes, branches and roots may be trimmed or removed so as not to interfere with Grantee's use of the Easement Area. Subject to the above, Grantor reserves the right to use the Easement Area for purposes that will not interfere with the Grantee's full enjoyment of the Easement rights granted in this Easement. If Grantor, upon reasonable notice to the Grantee,

Recording Data
Name and Return Address City of Franklin c/o City Clerk 9229 W. Loomis Road Franklin, Wisconsin 53132
Parcel Identification Number

initiates improvements on the Property which would interfere with the use of the Easement Area, the Grantee agrees to pay for the relocation of the Easement Area to accommodate said improvements.

3. **Restoration and Maintenance:** Except in the case of a breach by Grantor or a termination by agreement under Paragraph 9 below, Grantee agrees to restore or cause to have restored the Grantor's land as nearly as is reasonably possible to the condition existing prior to such entry by the Grantee or its agents. This restoration however, does not apply to any trees, bushes, branches or roots which may interfere with Grantee's use of the Easement Area. Regular maintenance of the surface of the Easement Area shall be the sole responsibility of the Grantee.

4. **Indemnification:** To the fullest extent permitted by law, Grantee shall indemnify and hold harmless Grantor and its officers, directors, partners, and employees from and against costs, losses, and damages caused solely by the negligent acts or omissions of Grantee or Grantee's officers, directors, partners, employees, agents, and consultants in the performance activities called for under the Restoration and Maintenance provisions of Paragraph 3 above. However, nothing contained within this Easement is intended to be a waiver or estoppel of the Grantee or its insurer to rely upon the limitations, defenses, and immunities contained within Wisconsin law, including but not limited to those contained within Wis. Stat. §§ 893.80, 895.52, and 345.05. To the extent that indemnification is available and enforceable, the Grantee or its insurer shall not be liable in indemnity or contribution for an amount greater than the limits of liability for municipal claims established by Wisconsin Law.

5. **Exercise of Rights:** It is agreed that the complete exercise of the rights herein conveyed may be gradual and not fully exercised until some time in the future and that none of the rights herein granted shall be lost by non-use.

6. **Waiver:** No delay or omission by any party in exercising any right or power arising out of any default under any of the terms or conditions of this Easement shall be construed to be a waiver of the right or power. A waiver by a party of any of the obligations of the other party shall not be construed to be a waiver of any breach of any other terms or conditions of this Easement.

7. **Enforcement:** Enforcement of this Easement may be proceedings at law or in equity against any person or persons violating or attempting or threatening to violate any term or condition in this Easement, either to prevent a violation or to obtain any other relief. Should a party enforcing this Easement by appropriate action prevail in litigation, that party shall be entitled to recover, as part of its costs, reasonable attorney's fees.

8. **Entire Agreement; Amendment:** This Easement contains the entire agreement between the parties relating to the rights granted and obligations assumed. Any modifications to this Easement must be in writing and signed by both parties.

9. **Termination:** This Easement may be terminated only by a written agreement signed by all owners of record and other successors to the respective interests of Grantor and Grantee. Grantee, its successors, and assigns may execute and record a release of this Easement at any time. This Easement shall also terminate if the purposes of the Easement cease to exist, are abandoned by Grantee, or become impossible to perform.

10. **Governing Law:** This Easement shall be construed and enforced in accordance with the internal law of the State of Wisconsin.

11. **Covenants Run with Land:** All of the terms and conditions in this Easement, including the benefits and burden, shall run with the land and shall be binding upon, inure to the benefit of, and be enforceable by the Grantor and the Grantee and their respective successors and assigns. Grantor shall cooperate with Grantee in recording any instrument deemed necessary by Grantee to address the provisions of Wis. Stat. § 893.33(6).

[SIGNATURE PAGES FOLLOW]

GRANTOR

[Signature]  
Hotel @ Bellpark Commons LLC

By: Dunn

ACKNOWLEDGMENT

STATE OF WISCONSIN )  
  )  
MILWAUKEE COUNTY )

Personally, came before me this 15<sup>th</sup> day of September, 2022, the above-named, Thomas Jacob Johns to me known to be the persons who executed the foregoing instrument and acknowledged the same.

[Signature]  
Notary Public, Milwaukee County, Wisconsin  
My commission (expires) (is) 12/06/2025

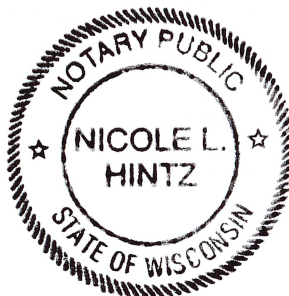






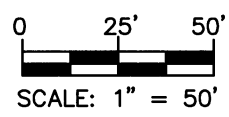
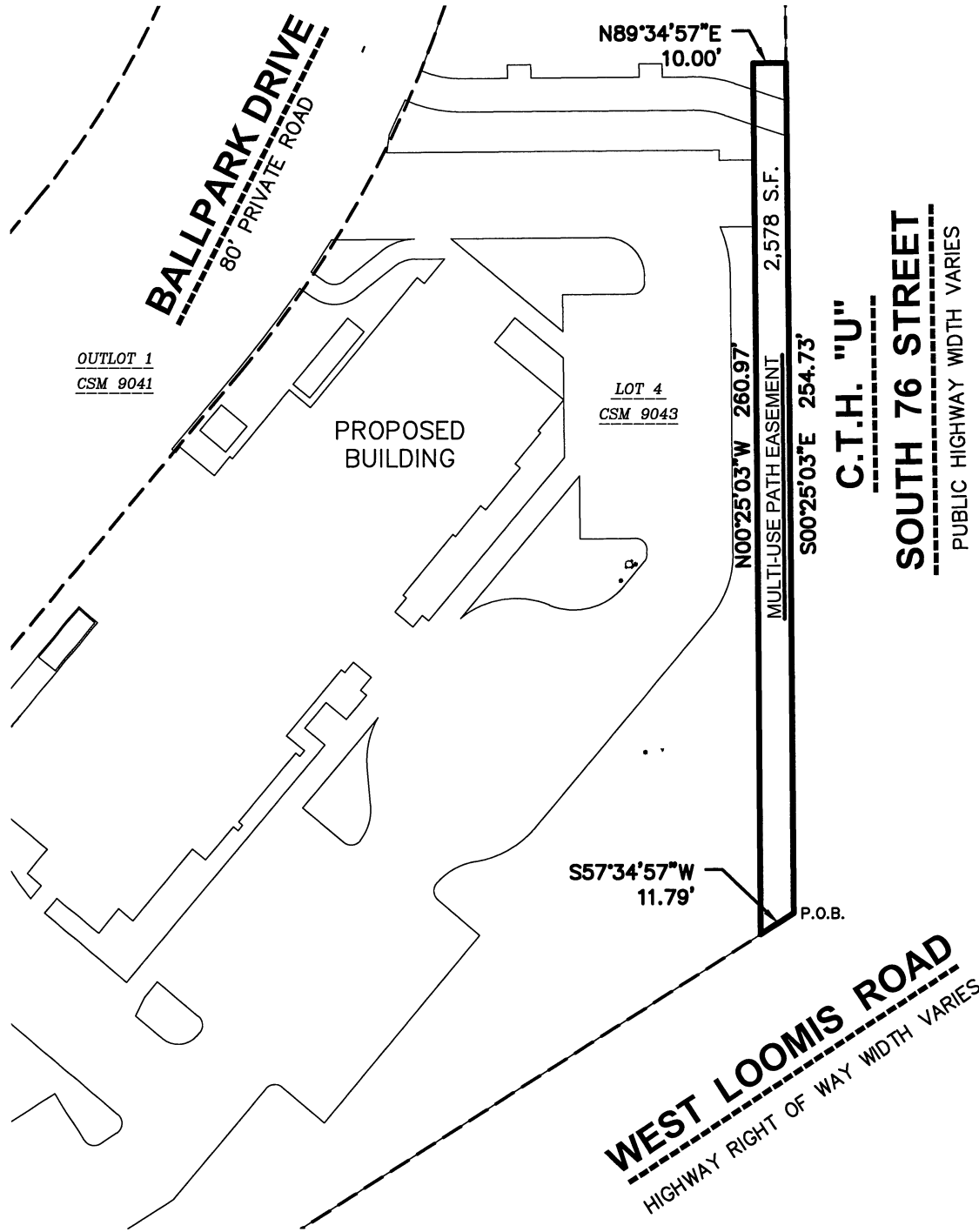
Exhibit A  
(Legal Description of Property)

**Legal Description Lot 4**


LOT 4 OF CERTIFIED SURVEY MAP NO. 9043, BEING THAT VACATED PORTION OF CRYSTAL RIDGE DRIVE RECORDED IN THE MILWAUKEE COUNTY REGISTER OF DEEDS AS DOCUMENT NO. 10773453 AND LANDS IN THE SOUTHWEST  $\frac{1}{4}$  OF THE SOUTHEAST  $\frac{1}{4}$  AND THE NORTHEAST  $\frac{1}{4}$  OF THE SOUTHEAST  $\frac{1}{4}$  OF SECTION 4, TOWN 5 NORTH, RANGE 21 EAST, IN THE CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN.

LOT 4 CONTAINS 155,128 SQUARE FEET OR 3.5612 ACRES

# EXHIBIT B



File: R:\2014\1406548 Ballpark Commons\dwg\146548 Exhibit - Hotel MULTI-USE PATH.dwg Layout: SHEET 1 User: dsparnjar Plotted: Sep 07, 2022 - 11:26am

 <b>MILWAUKEE REGIONAL OFFICE</b> W238 N1610 BUSSE ROAD, SUITE 100 WAUKESHA, WISCONSIN 53188 P. 262.513.0666	PROJECT:	SHEET TITLE:	PROJECT NUMBER:	SHEET NUMBER:
	<b>ROC AND BRAVEHART</b>	<b>PROPERTY EXHIBIT</b>	14-6548-G	1 OF 2
	7044 S. BALLPARK DR. FRANKLIN, WI	MULTI-USE PATH LOT 4, C.S.M. 9043	DRAWN BY: DHS CHECKED BY: AWW DATE: 8/29/22	

# EXHIBIT C

## LEGAL DESCRIPTION

PART OF LOT 4, CERTIFIED SURVEY MAP NO. 9043, BEING PART OF THE SOUTHWEST 1/4, SOUTHEAST 1/4 AND NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 4, TOWNSHIP 5 NORTH, RANGE 21 EAST, IN THE CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN, BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE EASTERLY CORNER OF LOT 4, BEING THE POINT OF BEGINNING OF LANDS TO BE DESCRIBED; THENCE S57°34'57"W 11.79 FEET; THENCE N00°25'03"W 260.97 FEET; THENCE N89°34'57"E 10.00 FEET; THENCE S00°25'03"E 254.73 FEET TO THE POINT OF BEGINNING.

CONTAINING 2,578 SQUARE FEET.

File: R:\2014\146548 Ballpark Commons\dwg\146548 Exhibit - Hotel MULTI-USE PATH.dwg Layout: SHEET 2 User: dspanjr Plotted: Sep 07, 2022 - 11:27am



MILWAUKEE REGIONAL OFFICE  
W238 N1610 BUSSE ROAD, SUITE 100  
WAUKESHA, WISCONSIN 53188  
P. 262.613.0666

PROJECT:

**ROC AND  
BRAVEHART**  
7044 S. BALLPARK DR.  
FRANKLIN, WI

SHEET TITLE:

**PROPERTY EXHIBIT**  
MULTI-USE PATH  
LOT 4, C.S.M. 9043

PROJECT NUMBER:

14-6548-G

DRAWN BY: CHECKED BY:  
DHS AWW

DATE:

8/29/22

SHEET NUMBER:

2 OF 2

STATE OF WISCONSIN

CITY OF FRANKLIN

MILWAUKEE COUNTY

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

A RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO  
ACCEPT A PUBLIC RECREATIONAL TRAIL EASEMENT  
AT 6868 SOUTH BALLPARK DRIVE (TKN 744-1010-000)

WHEREAS, Plan Commission adopted Resolution No. 2021-022 on September 23, 2021, a resolution approving a site plan for construction of a Sleep Inn & MainStay Suites Hotel within Planned Development District No. 37 (The Rock Sports Complex/Ballpark Commons); and

WHEREAS, Condition No. 7 of Resolution No. 2021-022 provided that the Developer agrees to donate the land or grant an easement for a potential trail on S. 76th Street, and the developer agrees to bear the cost of the park impact fee match; and

WHEREAS, the Public Recreational Trail Easement includes the land to accommodate a public recreational trail as well as additional language specifying the requirements of the Resolution No. 2021-022 Condition No. 7.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin that it would be in the best interest of the City to accept such easement, and therefore the Mayor and City Clerk are hereby authorized and directed to execute the easement accepting it on behalf of the City.

BE IT FURTHER RESOLVED, that the City Clerk is directed to record said easement with the Register of Deeds for Milwaukee County.

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

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

APPROVED:

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

ATTEST:

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

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

<p style="text-align: center;"><b>APPROVAL</b></p> <p style="text-align: center;"><i>slw</i></p>	<p style="text-align: center;"><b>REQUEST FOR COUNCIL ACTION</b></p>	<p style="text-align: center;"><b>MEETING DATE</b></p> <p style="text-align: center;"><b>9/20/2022</b></p>
<p style="text-align: center;"><b>REPORTS &amp; RECOMMENDATIONS</b></p>	<p style="text-align: center;"><b><i>3151 W. Elm Road, LLC v City of Franklin, Milwaukee County Circuit Court, Case No. 20-CV-3637; Full and Final Settlement Agreement and Release of All Claims. 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 litigation, and to re-enter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate</i></b></p>	<p style="text-align: center;"><b>ITEM NUMBER</b></p> <p style="text-align: center;"><b>G.14.</b></p>

A settlement agreement has been negotiated between the parties in the above-entitled Circuit Court Case, the City being represented by its insurer League of Wisconsin Municipalities Mutual Insurance counsel. Annexed hereto is a copy of a Full and Final Settlement Agreement and Release of All Claims.

**COUNCIL ACTION REQUESTED**

A motion to approve and accept the Full and Final Settlement Agreement and Release of All Claims, in such form and content as presented to the Common Council at this meeting, including the execution and delivery thereof by the Releasing Parties;

or

A motion to 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 litigation, and to re-enter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate.

## **FULL AND FINAL SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS**

3151 W. ELM ROAD, LCC and, its representative, DRAGAN RADETA (hereinafter “THE RELEASING PARTIES”) in consideration of Fifty-One Thousand and Five Hundred Dollars (\$51,500.00) and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, does hereby forever fully release and discharge the City of Franklin and its employees, officials, departments, successors, agents, assigns, insurers and reinsurers (including the League of Wisconsin Municipalities Mutual Insurance) (hereafter, the “Released Parties”) from any and all claims and causes of action, in any way arising out of or related to, the claims, allegations, incidents or events involving the condemnation of certain land owned by the Releasing Parties including, but not limited to, the claims and allegations set forth in the Complaints filed in both Milwaukee County Circuit Court, case no. 20cv3637 and Milwaukee County Circuit Court case no. 22cv3008 (hereinafter “the Complaints”). This Settlement Agreement and the amount of consideration is a global settlement resolving the parties’ litigation regarding the Complaints in both of those actions involving all allegations and claims therein for just compensation, attorney fees and other relief.

1. This Settlement Agreement by the RELEASING PARTIES is also made for and binding upon their heirs, successors and assigns. By this agreement any liability of subsidiaries, parent corporations, insurers, predecessors, successors, officers, directors, agents or employees of the Released Parties is also released and discharged. Further, any other persons or entities who are or might be liable, even though their identity or involvement in the allegations described above may not be presently known, are fully released and discharged.
2. This Settlement Agreement fully and forever extinguishes any and all claims and causes of action arising out of allegations set forth in the Complaint.
  - a. THE RELEASING PARTIES fully and forever release, waive, dismiss, surrender and discharge the Released Parties from any and all claims, complaints, demands, liabilities, grievances, rights of action and damages whatsoever in law or equity known or unknown, anticipated or unanticipated, asserted or could have been asserted, arising out of, based upon, or in any way connected with THE RELEASING PARTIES’ Complaints in both Milwaukee County Circuit Court, case no. 20cv3637 and Milwaukee County Circuit Court case no. 22cv3008 against the Released Parties. This release is intended to be construed broadly and includes, but is not limited to, any and all claims for just compensation, severance damages, any other damages or remedies under Chapter 32 of the Wisconsin Statutes, compensatory and/or punitive damages, pain and suffering, compensation or other benefits, interest, liquidated damages, penalties, costs and disbursements, attorney's fees, statutory damage awards or statutory indemnification, as well as any other element of recovery arising out of or related to claims and allegations in the Complaints or all other damages of whatever kind or nature whatsoever, both past and future, arising out of the claims and allegations as set forth in the Complaints.
  - b. In making this Settlement Agreement, all rights to bring any other claims against the

Released Parties are fully extinguished since full compensation for all injuries and damages has been paid.

3. This Settlement Agreement also extinguishes any claims or causes of action against the Released Parties under the Wisconsin Uniform Marital Property Act. THE RELEASING PARTIES agree to indemnify the Released Parties from any claims arising out of the Wisconsin Uniform Marital Property Act, including any expenses incurred in the defense of such claims.
4. THE RELEASING PARTIES further agree to indemnify and hold harmless the Released Parties against any claims which may be made by or on behalf of any child of THE RELEASING PARTIES individually, living or to be born for any claims or causes of action including those for loss of care, companionship, protection, services or benefits.
5. It is understood that the money paid for this unqualified Release is received not only as a full satisfaction for all known and unknown injuries and damages, but also is received for future injuries and damages. The extent of any future injuries and damages is unknown, but it is understood that it may result in a condition substantially different than it is today. THE RELEASING PARTIES understand that in making this Settlement Agreement they will have no right to make a claim against anyone, including the Released Parties, for more money even if they later become dissatisfied with this settlement for any reason whatsoever.
6. It is understood and agreed that this settlement is a full compromise of a disputed claim, and this settlement, or the payment of money, is not to be construed as an admission of liability or wrongdoing by the Released Parties. It is recognized that the Released Parties deny that they are liable for the claim and any claimed injuries and damages. In particular, the Released Parties deny that any basis exists for a claim arising out of the allegations.
7. Given the release of claims above, and for all the reasons stated above, THE RELEASING PARTIES agree neither they nor their heirs, successors and assigns, nor their children, shall commence any lawsuit, proceeding or other action against the Released Parties relating to the allegations in the Complaints. THE RELEASING PARTIES also agree to execute any and all supplemental documents or take all additional actions which may be necessary or appropriate to give full force and effect to the terms and intent of this Settlement Agreement.

**ADDITIONAL TERMS REGARDING  
ASSIGNMENT, INDEMNIFICATION AND SUBROGATION**

8. THE RELEASING PARTIES represent that no portion of this claim has been assigned to anyone else and that no other person or entity has any legal right to pursue this claim or share in the proceeds of the settlement including that no other person or entity has any such ownership, rights, liens, mortgages or other security to the property that is the subject of the claims and allegations in the Complaints.
9. In making this representation, THE RELEASING PARTIES further agree – upon receiving prompt written notice of any actual or threatened legal claims, demands or actions – to



indemnify the Released Parties for any money they may have to pay to any person or entity asserting any claim arising out of, or related to, any injuries or damages they sustained as alleged in the Complaints, including any claims based upon subrogation, derivation or assignment. THE RELEASING PARTIES also agree to indemnify the Released Parties for any expenses incurred in defending such claims.

10. If a lien or reimbursement right is successfully asserted against the settlement proceeds or against the Released Parties, THE RELEASING PARTIES agree to pay and satisfy such lien or reimbursement right, or to satisfy the same on a compromise basis, and to obtain a release of the Released Parties, and to indemnify and hold harmless the Released Parties from any costs, expenses, attorney fees, claims, actions, judgments, penalties or settlements resulting from the assertion or enforcement of any such lien or reimbursement right.

#### **OTHER TERMS**

11. With full knowledge and understanding of the contents of this Settlement Agreement, THE RELEASING PARTIES voluntarily enter into this settlement and do so without having relied on any statement or representation by the Released Parties, their representatives, or anyone retained by them. THE RELEASING PARTIES acknowledge that they had adequate time and opportunity to review the provisions of this Settlement Agreement and to consult with their attorneys.
12. The statements in this Settlement Agreement are contractual terms, and are not mere recitals. Any questions concerning this Settlement Agreement shall be determined and governed by the terms of this Settlement Agreement and the law of the State of Wisconsin.

**I HAVE READ THIS SETTLEMENT AGREEMENT, WHICH CONSISTS OF THREE PAGES, AND I UNDERSTAND THAT IT IS A FULL AND COMPLETE COMPROMISE AND FULL SETTLEMENT OF ALL CLAIMS FOR WHICH I HAVE BEEN FULLY COMPENSATED.**

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

\_\_\_\_\_  
DRAGAN RADETA, individually and as  
Representative of 3151 W. Elm Road, LLC

Subscribed and sworn to before me  
this \_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_  
My Commission: \_\_\_\_\_

**CONSENT OF ATTORNEY**


As attorneys for DRAGAN RADETA and 3151 W. ELM ROAD, LCC, I have reviewed with them the terms of this Settlement Agreement and I acknowledge that they consent to this settlement.

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

\_\_\_\_\_  
LUKE HUDOCK

HUDOCK LAW GROUP, LLC  
P.O. Box 83  
Muskego, WI 53150

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<b>APPROVAL</b>  	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b>  <b>9/20/2022</b>
<b>REPORTS &amp; RECOMMENDATIONS</b>	<p style="text-align: center;"><b>Approval of Tax Incremental District No. 8 Development Agreement Between the City of Franklin and SFT Franklin Oakwood, LLC, Spec Industrial Buildings Mixed Use Development at 3303 W. Oakwood Road bearing Tax Key No. 951-9994-002. The Common Council may enter closed session pursuant to Wis. Stat. § 19.85(1)(e), for competitive and bargaining reasons, to deliberate and consider terms relating to a Tax Incremental District No. 8 Potential Development Agreement Between the City of Franklin and SFT Franklin Oakwood, LLC, Spec Industrial Buildings Mixed Use Development, and the investing of public funds and governmental actions in relation thereto and to effect such development, including the terms and provisions of the potential development agreement for the development of property located at 3303 W. Oakwood Road, consisting of approximately 17.445 acres, and to re-enter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate</b></p>	<b>ITEM NUMBER</b>  <b>G.15.</b>
<p>At the September 6, 2022 Common Council Meeting, the Council approved the following motion in regard to this item. "to proceed as discussed in closed session to complete the development agreement and return to the Common Council".</p> <p>Attached is the proposed Project Development Agreement for Tax Incremental District No. 8 between the City of Franklin and SFT Franklin Oakwood, LLC, Spec Industrial Buildings Mixed Use Development at 3303 W. Oakwood Road bearing Tax Key No. 951-9994-002.</p> <p>Staff recommends approval of the Development Agreement.</p> <p>It is not anticipated to go into closed session for this item, however, if necessary, the Common Council may enter closed session pursuant to Wis. Stat § 19.85(1)(e), for competitive and bargaining reasons, to deliberate and consider terms relating to a Tax Incremental District No. 8 Potential Development Agreement Between the City of Franklin and SFT Franklin Oakwood, LLC, Spec Industrial Buildings Mixed Use Development, and the investing of public funds and governmental actions in relation thereto and to effect such development, including the terms and provisions of the potential development agreement for the development of property located at 3303 W Oakwood Road, consisting of approximately 17.445 acres, and to re-enter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate</p> <p style="text-align: center;"><b>COUNCIL ACTION REQUESTED</b></p> <p>Motion to approve the Project Development Agreement for Tax Incremental District No 8 between the City of Franklin and SFT Franklin Oakwood, LLC, Spec Industrial Buildings Mixed Use Development at 3303 W. Oakwood Road bearing Tax Key No 951-9994-002.</p>		

**TAX INCREMENTAL DISTRICT NO. 8  
DEVELOPMENT AGREEMENT  
BETWEEN THE CITY OF FRANKLIN AND  
SFT FRANKLIN OAKWOOD, LLC (Developer)  
270,000 SQUARE FOOT SPEC INDUSTRIAL BUILDING AT 3303 WEST OAKWOOD  
ROAD (Project )**

**THIS DEVELOPMENT AGREEMENT** (the "Agreement") is entered into as of September 20th, 2022 by and between **SFT FRANKLIN OAKWOOD, LLC**, a Wisconsin limited liability company, its successors and/or assigns ("Developer"), and the **CITY OF FRANKLIN, WISCONSIN**, a Wisconsin municipal corporation ("City").

**RECITALS**

City and Developer acknowledge the following:

A. Developer is the Owner of that certain real property legally described in **Exhibit A** attached hereto (the "Property").

B. The Property is located within the boundaries of Tax Incremental District No. 8, City of Franklin, Wisconsin (the "District"). Pursuant to Wis. Stat. § 66.1105 (the "Tax Increment Law"), the City adopted a plan for redevelopment within the District (the "Project Plan").

C. Developer plans on constructing approximately a minimum 270,000 square foot industrial/warehouse building and related improvements on the Property, with an estimated development cost of not less than \$17.5 million (the "Project"). Developer's tenants at their existing local buildings (including a manufacturer of outdoor/park equipment, a manufacturer of office finishes, Home Depot on-line fulfillment center, logistics companies handling GE medical equipment and PPG products, a German chemical company, a food manufacturer/processor and a manufacturer using significant electrical service) reflect the market interest expected at this Project. It is acknowledged that development of the Project as described above will be consistent with the Project Plan.

D. The City desires to encourage economic development, eliminate blight, expand its tax base and create new jobs within the City, the District and upon the Property. The City finds that the development of the Project and the fulfillment of the terms and conditions of this Agreement will further such goals, are in the vital and best interests of the City and its residents, and will serve a public purpose in accordance with state and local law.

E. The development of the Project would not occur without the financial participation of the City as set forth in this Agreement.

F. The City, pursuant to Common Council action dated September 20, 2022, has approved this Agreement and authorized its execution by the proper City officials on the City's behalf and has further approved the issuance of the Bond described herein.

G. Developer has approved this Agreement and authorized its execution by the appropriate representatives on its behalf.

## **AGREEMENTS**

In consideration of the RECITALS and the terms and conditions set forth herein, the parties agree and covenant as follows:

### **ARTICLE I DEVELOPER ACTIVITIES AND OBLIGATIONS**

A. Developer shall construct the Project in accordance with all applicable City zoning and building codes, ordinances and regulations. Developer warrants and represents to the City that the Project will contain approximately a minimum of 270,000 square feet of developed building space and that total development costs expended on the Project (inclusive of personal property) shall be not less than \$17.5 million. Subject to and conditioned upon the City's timely performance of the City's obligations set forth in Article II below, Developer shall commence construction not later than December 31, 2022 and substantially complete construction of the Project in accordance with final plans and specifications (including landscaping plans) approved by the City, including, but not limited to the terms, provisions and conditions of those plans described on the attached **Exhibit B** for the Project, and of which this Agreement and its terms and conditions are a condition thereof (the "Plans and Specifications"), on or before January 1, 2025 (the "Completion Date"). Copies of the Plans and Specifications will be retained at the offices of the City Economic Development Department. The Project shall be deemed to be substantially complete on the date that the City Building Inspector issues a certificate of occupancy for the Project, which certificate may be subject to completion of interior tenant improvements, landscaping and similar seasonal items and other non-material corrective actions. The City Building Inspector shall not issue the certificate of occupancy if the Project does not conform to the Plans and Specifications, subject to any changes to the Plans and Specifications that may have been approved by the City. The Project shall obtain and maintain a minimum assessed value of \$17,500,000 through the tax year 2036.

B. To the extent any improvements that will be dedicated to the public are included within the scope of work for the Project (the "Public Improvements"), Developer will complete the installation of the Public Improvements in accordance with City specifications, including the execution of a City standard form development agreement where applicable terms thereof are not specifically set forth in this Agreement, and will dedicate same to the City in accordance with City inspection and acceptance procedures. If required by applicable law, Developer agrees to comply with public bidding requirements under the Wisconsin Statutes for all work involving improvements to public rights of way or public property or that constitutes public improvements under applicable law (together referred to as the "Public Improvements"). The Public Improvements shall at all times be subject to City inspection and approval and the City or other public entity shall not be required to accept conveyance of the Public Improvements unless the Public Improvements have been constructed in a good and workmanlike manner, in accordance with the City-approved plans for the Public Improvements, and otherwise are in a condition reasonably acceptable to the City. Following approval by the City of the completed Public Improvements, the Public Improvements shall be conveyed to the City or other public

entity, to the extent appropriate. The Developer shall provide to the City or other public entity from the Developer and all contractors and consultants involved in connection with the construction and installation of the Public Improvements, a one-year warranty against defects in construction, materials and workmanship, in a form reasonably acceptable to the City. The Developer also shall provide to the City, at no additional cost to the City, an easement over portions of the Property for stormwater purposes, provided that such easement may not interfere with the development, construction or operation of the Project by Developer, its owners, tenants and/or successors or assigns.

C. The Developer shall arrange for funding for all costs of the Project in excess of the funds provided by its construction lender and the City. Developer will provide evidence to the reasonable satisfaction of the City that Developer has secured sufficient debt and equity financing commitments to enable the Project to proceed.

D. The Developer shall work cooperatively with the City to limit truck traffic into and out of the Project onto West Oakwood Road, west of South Hickory Street, after South Hickory Street is open to the traveling public. Developer agrees to install and maintain signage on the Property prohibiting westbound traffic from the Property in perpetuity, and shall periodically (at a minimum of at least once per year) notify tenants and occupants of the Property of this requirement, with successor tenants and occupants to also be notified forthwith upon their entry and use upon the Property, unless the City waives these requirements in the future. As are all other provisions of this Agreement, unless otherwise stated, these requirements shall run with the land and be binding upon Developer, owner and successors and assigns.

## ARTICLE II CITY ACTIVITIES AND OBLIGATIONS

A. City shall cooperate with Developer throughout the development and construction of the Project and the term of this Agreement and shall reasonably promptly review and/or process all submissions and applications in accordance with applicable City ordinances.

B. In consideration of the performance by Developer of its obligations under this Agreement, the City agrees to issue to the Developer a municipal revenue bond (the "Bond") in an amount of \$1,025,000. The City shall issue the Bond to the Developer not later than fifteen (15) days following the date Developer submits to the City a written certification of completion of the Project in the form attached hereto as **Exhibit C**.

C. Intentionally omitted.

D. The Bond shall be issued in substantially the form attached here to as **Exhibit D**. The Bond shall have a term that extends for eleven (11) years following the year in which the Project has been fully assessed as a completed project (e.g., assuming the Project is substantially completed on January 1, 2025 and fully assessed as of January 1, 2025, then the Bond would mature on December 31, 2036). Notwithstanding the foregoing, the term of the Bond shall be extended by one day for each day beyond any estimated completion date that the City's obligations under Subparagraph G below remain incomplete. Installments payments on the

Bond will be due and payable on March 1 of each year commencing on the March 1 (or any later date on which the City receives Tax Increment) following the issuance of the Bond (the "Bond Payment Date"). The amount of the annual payment due on each Bond Payment Date shall be paid from Tax Increment and shall be equal to the amount in set forth on the Schedule in Exhibit D . "Tax Increment" shall mean all tax increments (as defined by the Tax Increment Law) collected and retained by the City solely from the Property in a calendar year. If on any Bond Payment Date there shall be insufficient Tax Increment to pay the payment due on the Bond, the amount due but not paid shall accumulate and be payable on the next Bond Payment Date until the final Bond Payment Date. The Bond shall be subject to prepayment in whole or in part at any time at the sole option of the City. The amounts and maturities of the installments of principal of the Bond which are to be prepaid shall be selected by the City, in its sole discretions, without penalty.

THE BOND SHALL BE A SPECIAL, LIMITED REVENUE OBLIGATION OF THE CITY PAYABLE ONLY FROM TAX INCREMENT THAT IS APPROPRIATED BY THE COMMON COUNCIL OF THE CITY FOR THAT PURPOSE. No property or other asset of the City, except Tax Increment appropriated to make payments with respect to the Bond, is or shall be a source of payment of the City's obligations thereunder. The Bond shall not constitute a debt or obligation of the City, the County in which it is located, the State of Wisconsin or any political subdivision thereof within the meaning of any State constitutional provision, statutory provision or limitation, or charter provision or limitation thereof and shall not be a charge against their general credit or taxing powers.

THE CITY MAKES NO REPRESENTATION OR COVENANT, EXPRESS OR IMPLIED, THAT THE TAX INCREMENT, IF APPROPRIATED, WILL BE SUFFICIENT TO PAY, IN WHOLE OR IN PART, THE AMOUNTS WHICH ARE OR MAY BECOME DUE AND PAYABLE UNDER THE BOND. THE CITY'S OBLIGATION TO MAKE PAYMENTS ON THE BOND IS LIMITED TO THE AVAILABILITY OF TAX INCREMENT AND IS FURTHER SUBJECT TO ANNUAL APPROPRIATION BY THE COMMON COUNCIL.

In each year the staff of the City shall include the appropriation of Tax Increment in the City budget as submitted to the Common Council for consideration for the next succeeding fiscal year. If the Common Council determines not to appropriate any portion of such Tax Increment, written notice thereof shall be provided to the Developer within 14 days. The City agrees that, subject to annual appropriation of said funds, on an annual basis for the eleven years following the year that the Project is fully assessed, all funds in the special fund of the District which constitute Tax Increment will be used to make the payments due under the Bond as set forth on the Schedule in Exhibit D.

IF ON THE FINAL BOND PAYMENT DATE, THERE REMAIN AMOUNTS OUTSTANDING AND UNPAID ON THE BOND, THEN THE REMAINING BALANCE OF PRINCIPAL OF THE BOND SHALL BE DEEMED PAID IN FULL, IT BEING UNDERSTOOD THAT UPON THE FINAL BOND PAYMENT DATE, THE OBLIGATION OF THE CITY TO MAKE ANY FURTHER PAYMENTS ON THE BOND SHALL TERMINATE. THE CITY SHALL HAVE NO OBLIGATION OF ANY KIND WHATSOEVER TO PAY ANY AMOUNT OF PRINCIPAL ON THE BOND WHICH



REMAINS UNPAID AFTER THE FINAL BOND PAYMENT DATE, AND THE DEVELOPER OF THE BOND SHALL HAVE NO RIGHT TO RECEIVE PAYMENT OF SUCH AMOUNTS.

The City shall have no obligation to make payments on the Bond while the Developer is in default of any of its obligations under this Agreement or if no Tax Increment is available.

E. The City agrees that if: (i) the Developer is not in default of any of its obligations hereunder, (ii) there is Tax Increment available on a Bond Payment Date to make a payment on the Bond, and (iii) the Common Council determines not to appropriate all (up to, but not exceeding the amount of the payment then due) or any portion (if the amount available is less than the amount of the payment then due) of such Tax Increment for such year, then:

1. The City shall not be entitled to subsequently collect and retain any portion of the Tax Increment;

2. If any other tax increment revenue bonds issued by the City to other parties are then outstanding within the District (the "Other Bonds"), the City shall not appropriate any allocable tax increments and make payments on any of the Other Bonds in a greater proportion than the City has done for the Bond (for example, assume that in a given year, the City appropriates only 25% of the available Tax Increment for payment on the Bond; then as to such year, the City shall not appropriate more than 25% of the amount of any tax increments that, under the terms of any of the Other Bonds, are to be made available for such Other Bonds); and

3. Until such time as the City subsequently makes an annual appropriation of all Tax Increment available on a Bond Payment Date toward payments due on the Bond, the City shall not issue any new tax increment revenue bonds similar to the Bond to other parties or as related to other properties within the District.

F. Developer shall provide the City with a budget setting forth all of the costs for the Project not later than the earlier of: (i) the date that Developer executes a construction contract for the Project with a general contractor; or (ii) the date the City issues a building permit (as opposed to a footings and foundation permit) for the Project. The City shall review and reasonably approve a budget for the Project (as approved, the "Approved Budget"). A final reconciliation of the Project costs shall be performed by the City Engineer or designee at such time as an occupancy permit is issued for the Project. Developer shall make all of its records substantiating the costs of the Project available to the City Engineer or designee, including the monthly construction draws and backup information provided by Developer to its construction lender. Such information shall be held and treated as confidential and shall not be part of the public record associated with the Project, if and as may be permitted under the Wisconsin Open Records Law.

G. In further consideration of the performance by Developer of its obligations under this Agreement, the City agrees, at the City's sole cost and expense and without any assessments or charges to Developer, its owners, tenants, successors or assigns or to the Property: to (1) install, construct and open to the traveling public Hickory Road with an

estimated substantial completion date of December 31, 2022 (and with the final lift of asphalt to be installed in 2023) and (2) install, construct and open to the traveling public improvements to Elm Road serving the Project and the balance of the District as soon as reasonably practicable.

### **ARTICLE III PAYMENT OF TAXES; PAYMENT IN LIEU OF TAXES**

Throughout the life of the District, Developer will pay (or cause to be paid) all ad valorem property taxes lawfully assessed against any portion of the Property owned by the Developer before or when due under the law and Developer guarantees that such taxes shall not become delinquent. The foregoing shall not prohibit the Developer from contesting, in good faith, the assessed value of any portion of the Property, provided that Developer gives the City written notice in advance of initiating any such contest.

In the event that any portion of the Property becomes exempt from ad valorem taxes during the statutory life of the District and for a period of twenty (20) years thereafter (the "PILOT Term"), then the Developer or any successor Developer of such exempt portion of the Property shall make (or cause to be made) during the PILOT Term annual payments in lieu of taxes in amounts equal to what the ad valorem property taxes would have been for such portion of the Property (as determined by the City assessor) had it not been exempt. Such payment in lieu of taxes shall be due and payable at the same time and in the same manner as the ad valorem taxes would have been due and payable for such year. Developer's obligations under this Article III upon any default shall be collectible as a debt upon an action at law; and shall also be otherwise 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 the Developer or any successor Developer fails to make a payment in lieu of taxes when due, the City may, in addition to all other remedies available to it, levy a special assessment or special charge against the exempt portion of the Property in the amount of the unpaid payments. 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 Developer. Notwithstanding and in addition to the levying of such special assessment or special charge, the payment obligation under this Article shall be the personal obligation of the person or entity that is the Developer and/or owner, successors and assigns of the Property at the time that any portion of the Property becomes exempt from ad valorem taxes. The covenant contained in this Article shall be deemed to be a covenant running with the land and shall be binding upon all Developers and/or owners, successors and assigns of any portion of the Property for the duration of the PILOT Term. The City is hereby expressly declared to be a beneficiary of such covenant and entitled to enforce same against all successor Developers and/or owners of the Property.

Notwithstanding anything herein to the contrary, Developer reserves all rights to contest the amount of any assessment of the Property, provided that, before submitting any contest to the City, Developer shall provide the City at least ten days advance notice.

**ARTICLE IV  
NO PARTNERSHIP OR VENTURE**

Developer, its successors and/or assigns and/or owners of the Property, and their contractors or subcontractors shall be solely responsible for the completion of the Project. Nothing contained in this Agreement shall create or effect any partnership, venture or relationship between the City and Developer, its successors and/or assigns and/or owners of the Property, or any contractor or subcontractor employed by Developer, its successors and/or assigns and/or owners of the Property, in the construction of the Project.

**ARTICLE V  
CONFLICT OF INTEREST**

No member, officer or employee of the City, during his/her tenure or for one year thereafter, will have or shall have had any interest, direct or indirect, in this Agreement or any proceeds thereof, unless such member or officer abstained from any participation in the City review and process of the Project and the Agreement from the point of time when a potential conflict of interest arose and thereafter.

**ARTICLE VI  
WRITTEN NOTICES**

All notices required or permitted by this Agreement shall be in writing and shall be deemed to have been given (i) upon delivery to an officer or designated representative of the person entitled to such notice, if hand delivered, or (ii) two business days following deposit in the United States mail, postage prepaid, or with a nationally recognized overnight commercial carrier that will certify as to the date and time of delivery, airbill prepaid, or (iii) upon transmission if by facsimile, and each such communication or notice shall be addressed as follows, unless and until any of such parties notifies the other in accordance with this Article of a change of address:

If to the City:           City of Franklin  
                                  9229 West Loomis Road  
                                  Franklin, WI 53132  
                                  Attention: Peggy Steeno, Director of Administration  
                                  Facsimile No.: 414-427-7627

With a Copy to:        City of Franklin  
                                  9229 West Loomis Road  
                                  Franklin, WI 53132  
                                  Attention: Sandra L. Wesolowski, City Clerk  
                                  Facsimile No.: 414-425-6428

If to the Developer:   HSA Commercial, Inc.  
                                  100 South Wacker Drive, Suite 950  
                                  Chicago, IL 60606  
                                  Attention: Eric Ogden, Senior Vice President Acquisitions  
                                  Facsimile No.: 312-683-7242

With a Copy to:       Reinhart Boerner Van Deuren s.c.  
1000 North Water Street, Suite 1700  
Milwaukee, WI 53202  
Attention: Deborah C. Tomczyk, Esq.  
Facsimile No.: 414-298-8097

**ARTICLE VII  
DEFAULT**

A.       The occurrence of any one or more of the following events shall constitute a default by Developer hereunder (“Default”):

1.       Developer fails to pay any amounts when due under this Agreement and further fails to pay such amounts on or before ten days following written notice of such failure; or

2.       Any material representation or warranty made by Developer pursuant to this Agreement proves to have been false in any material respect as of the time when made or given; or

3.       Developer materially breaches or fails to perform timely or observe timely any of its covenants or obligations under this Agreement (other than relating to the payment of money), and such failure shall continue for thirty (30) days following notice thereof from the City (or such longer period of time as is otherwise expressly set forth herein or as is reasonably necessary to cure the default as long as the Developer has commenced the cure of the default within the thirty (30) day period, is diligently pursuing the cure of the default and as long as the default is cured not later than one hundred twenty (120) days following the notice thereof from the City or such longer period of time as is reasonably agreed to by the City); or

4.       Developer:

          (a)       makes a general assignment for the benefit of creditors or to an agent authorized to liquidate any substantial amount of its/his assets; or

          (b)       becomes the subject of an “order for relief” within the meaning of the United States Bankruptcy Code, or files a petition in bankruptcy, for reorganization or to effect a plan or other arrangement with creditors; or

          (c)       has a petition or application filed against it in bankruptcy or any similar proceeding, or has such a proceeding commenced against it and such petition, application or proceeding shall remain undismissed for a period of ninety (90) days or Developer shall file an answer to such a petition or application, admitting the material allegations thereof; or

          (d)       applies to a court for the appointment of a receiver or custodian for any of its/his assets or properties, with or without consent, and such receiver shall not be discharged within ninety days after his appointment; or

- (e) adopts a plan of complete liquidation of its/his assets; or
- (f) shall cease to exist.

B. The City shall be deemed to be in default in the event it materially breaches or fails to perform timely or observe timely any of its covenants or obligations under this Agreement, and such failure shall continue for thirty (30) days following notice thereof from Developer (or such longer period of time as is otherwise expressly set forth herein or as is reasonably necessary to cure the default as long as the City has commenced the cure of the default within the thirty (30) day period, is diligently pursuing the cure of the default and as long as the default is cured not later than one hundred twenty (120) days following the notice thereof from Developer or such longer period of time as is reasonably agreed to by the Developer).

C. Upon the occurrence of any Default by either party, upon ten (10) days notice, without further demand or action of any kind by the nondefaulting party and except as expressly set forth below, the nondefaulting party may, at its option, pursue any or all rights and remedies available at law or in equity. The City's rights shall include, but not be limited to temporary suspension of any payment of the City payments under this Agreement during the continuance of any Default by Developer. Upon the cure of any such Default on the part of Developer, then, if and to the extent the City suspended any payments of City payments, the City shall promptly distribute to Developer any payments so suspended and promptly resume payments of amounts due with respect to the City payments due under this Agreement and continue such payments so that, subject to available Tax Increment, the cumulative amount paid upon full amortization is equal to that amount contemplated under this Agreement.

No remedy shall be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement, and/or now or hereafter existing at law or in equity. No failure or delay on the part of any party in exercising any right or remedy shall operate as a waiver thereof nor shall any single or partial exercise of any right preclude other or further exercise thereof or the exercise of any other right or remedy.

Notwithstanding the foregoing, the City shall not terminate this Agreement or pursue, exercise or claim any rights or remedies arising out of a Default by Developer hereunder, except injunctive relief, specific performance or the temporary suspension of City payments unless Developer, its mortgage lender or their designees have not commenced commercially reasonable efforts to cure any such Default within 60 days after receipt of written notice from the City to Developer and its mortgage lender that if such efforts to cure such Default are not so commenced, then the City intends to pursue its other rights and remedies hereunder, including, without limitation, the right to terminate this Agreement.

D. In the event of a Default by either party, all reasonable fees, costs and expenses incurred by the nondefaulting party, including reasonable attorneys fees, in connection with the enforcement of this Agreement shall be paid by the defaulting party, including without limitation the enforcement of the nondefaulting party's rights in any bankruptcy, reorganization or insolvency proceeding.

**ARTICLE VIII  
MISCELLANEOUS**

A. Developer shall have in effect at all times, all permits, approvals and licenses as may be required by any governmental authority or, to the extent reasonably prudent or customary for similarly situated business operations, any non-governmental entity in connection with the development, construction, management and operation of the Project.

B. Developer shall maintain the following insurance policies issued by insurers licensed in the State of Wisconsin, with Best's A ratings and in the financial size category as insurers of similar projects, with such policies (the "Insurance Policies") covering loss by perils, hazards, liabilities and other risks and casualties and in such amounts as may be reasonably required by the City:

(i) Following completion of construction of the Project, "all risks" property insurance insuring against such risks as are insured against by Developers of similar projects, in amounts equal to 100% replacement cost of all buildings, improvements, fixtures, equipment and other real and personal property constituting the Project with an extended replacement cost endorsement; and

(ii) During the construction of the Project, builder's risk insurance in form and amounts reasonably satisfactory to the City; and

(iii) During the term of this Agreement, commercial general liability insurance covered under a comprehensive general liability policy including contractual liability in amounts maintained by Developers of similar projects, and insuring against bodily injury, including personal injury, death and property damage; and

(iv) Such other insurance as may be reasonably requested by the City.

Each Insurance Policy shall require the insurer to provide at least thirty (30) days prior written notice to the City of any material change or cancellation of such policy. The City shall be named as an additional insured/loss payee on all policies of insurance except worker's compensation insurance.

C. Subject to and conditioned upon City's timely performance of the City Obligations set forth in Article II above and one or more Force Majeure Events as set forth in paragraph F. of this Article, if the Developer does not substantially complete construction of the Project by the Completion Date, then the City may, in its sole discretion, terminate this Agreement upon written notice to the Developer, provided, however, that if Developer substantially completes construction of the Project within thirty (30) days (or such longer time as may reasonably be required) following receipt of such written election to terminate (a "Developer Savings Action"), this Agreement shall not terminate but shall continue in full force and effect. Upon an election to terminate that is not followed by any Developer Savings Action, the City shall thereafter have no further obligations under this Agreement and in addition thereto, the City may, in its sole discretion, terminate Tax Incremental District No. 8, City of Franklin, Wisconsin.

D. The prevailing party shall be entitled to collect all costs and expenses associated with the enforcement of the its rights against the other under this Agreement, including without limitation the enforcement of such rights in any bankruptcy, reorganization or insolvency proceeding involving Developer. Any and all such fees, costs and expenses incurred by the prevailing party which are to be paid by the other, shall be paid by on demand.

E. Developer hereby indemnifies, defends, covenants not to sue and holds the City harmless from and against all loss, liability, damage and expense, including attorneys' fees, suffered or incurred by the City in any way in connection with the Project, including without limitation: (a) the failure of Developer or its contractors, subcontractors, agents, employees, or invitees (while under control of Developer) to comply with any environmental law, rule, regulation or ordinance, or any order of any regulatory or administrative authority with respect thereto; (b) any release by Developer or its contractors, subcontractors, agents, employees, or invitees (while under control of Developer) of petroleum products or hazardous materials or hazardous substances on, upon or into the Project; (c) any and all damage to natural resources or real property or harm or injury to persons resulting from any failure by the Developer and/or its contractors, subcontractors and/or agents to comply with any law, rule, regulation or ordinance or any release of petroleum products or hazardous materials or hazardous substances as described in clauses (a) and (b) above; (d) any violation by Developer at the Project of any environmental law, rule, regulation or ordinance; (e) claims arising under the Americans With Disabilities Act or similar laws, rules, regulations or ordinances; (f) the failure by Developer to comply with any term or condition of this Agreement; (g) injury to or death of any person at the Project; injury to any property caused by or at the Project; and (h) the failure of Developer to maintain, repair or replace, as needed, any portion of the Project; except, in each of the foregoing instances described in (a) through (h) above, to the extent negligently or willfully and wrongfully caused by the City or its agents, employees, contractors or representatives.

The terms "hazardous substances" means any flammable explosives, radioactive materials, hazardous wastes, toxic substances, or related materials, including without limitation, any substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "toxic substances" under any applicable federal or state or local laws or regulations.

Except as caused, in whole or in part, by negligence or wrongful act or omission of the City, if the persons or property of others sustain loss, damage or injury resulting directly or indirectly from the negligence or wrongful act or omission of Developer or its contractors, subcontractors or materialmen in their performance of this Agreement or from Developer's failure to comply with any of the provisions of this Agreement or of law, Developer shall indemnify and hold the City harmless from any and all claims and judgments for damages, and from costs and expenses to which the City may be subjected or which it may suffer or incur by reason thereof, provided; however, that the City shall provide to Developer promptly, in writing, notice of the alleged loss, damage or injury.

Developer, its successors and/or assigns and/or owners of the Property, or any contractor or subcontractor retained by Developer, shall indemnify and save harmless the City, its officers, agents and employees, and shall defend the same, from and against any and all liability, claims, loss, damages, interest, actions, suits, judgments, costs, expenses, and attorneys' fees, to

whomsoever owed and by whomsoever and whenever brought or obtained, which in any manner results from or arises in connection with:

(i) The negligent or willfully wrongful performance of this Agreement by Developer, its successors and/or assigns and/or owners of the Property, or any contractor or subcontractor retained by Developer, its successors and/or assigns and/or owners of the Property;

(ii) The negligent or willfully wrongful construction of Developer Improvements by Developer, its successors and/or assigns and/or owners of the Property, or any contractor or subcontractor retained by Developer, its successors and/or assigns and/or owners of the Property;

(iii) The negligent or willfully wrongful operation of Developer Improvements by Developer, its successors and/or assigns and/or owners of the Property, or any contractor or subcontractor retained by Developer, its successors and/or assigns and/or owners of the Property, during Developer Construction Period;

(iv) The violation by Developer, its successors and/or assigns and/or owners of the Property, or any contractor or subcontractor retained by Developer, its successors and/or assigns and/or owners of the Property, of any law, rule, regulation, order or ordinance; or

(v) The infringement by Developer, its successors and/or assigns and/or owners of the Property, or any contractor or subcontractor retained by Developer, its successors and/or assigns and/or owners of the Property, of any patent, trademark, trade name or copyright.

F. Time is of the essence of each and every obligation or covenant contained in this Agreement; provided, however, that if the Developer is delayed or prevented from timely commencing or completing construction of the Project by reason of fire, earthquake, war, flood, riot, strikes, labor disputes, governmental restrictions, judicial order, public emergency, pandemic or other causes beyond the control of the Developer ("Force Majeure Event"), performance of such act shall be excused for the period of such delay and the time for the performance of any such act shall be extended for a period equivalent to such delay.

G. Nothing contained in this Agreement is intended to or has the effect of releasing Developer, its successors and/or assigns and/or owners of the Property, from compliance with all applicable laws, rules, regulations and ordinances in addition to compliance with all terms, conditions and covenants contained in this Agreement.

H. All financial reports and information required to be provided by Developer to the City under this Agreement shall be provided to the City's outside financial consultant for review on behalf of the City. The Developer warrants and represents the accuracy of all such financial reports and information. At the request of the Developer, all financial reports and information provided to the City or its financial consultant in connection with this Agreement shall be held and treated as confidential and shall not be part of the public record associated with the Project, if and as may be permitted under the Wisconsin Open Records Law. If a third party requests any information provided by Developer and the City determines that it needs to make such information available as an Open Record, the City shall provide Developer at least 30 days



notice in advance of making the record available. During the life of Tax Incremental District No. 8, City of Franklin, Wisconsin, the Developer shall provide annual income and expense information for the Project as requested by the City Assessor as is customary for the purposes of property valuation, which information shall be maintained in confidence pursuant to laws and other rules.

I. Prior to substantial completion of the Project, this Agreement may not be assigned by the Developer without the City's consent, which may be granted or withheld in the City's sole discretion, provided, however, Developer may assign this Agreement to an entity that controls, is controlled by, or is under common control with, Developer without the consent of the City. Notwithstanding the foregoing, the Developer may collaterally assign this Agreement and/or the Bond to the Developer's lender for the Project without the consent of the City. In the event that any such lender forecloses on its collateral and succeeds to Developership of the Property, the City shall fulfill its obligations hereunder provided that such lender, or the party purchasing the Property at a foreclosure sale, assumes in writing all of the obligations of the Developer hereunder.

J. Subject to and conditioned upon the City's timely performance of the City Obligations set forth in Article II above, Developer shall timely construct and complete the Project as its primary obligation under this Agreement. In the event of fire, damage or any other casualty to any part of the Project, Developer agrees, at its cost and expense, to rebuild, repair and replace the Project to substantially the condition or better than existed immediately prior to the casualty. The fair market value of the Project following reconstruction and/or repair by Developer must be substantially similar to the fair market value of the Project immediately prior to the casualty. Developer shall not be relieved of any of its obligations under the terms of this Agreement as a result of any fire, damage or any other casualty or during the period of repair or rebuilding or replacement of the Project. This obligation to repair, rebuild or replace shall remain in effect for a period expiring upon the later of: (i) the date of the expiration and closure of Tax Incremental District No. 8, City of Franklin, Wisconsin; or (ii) the date which is twenty (20) years after the date this Agreement is executed.

K. If the State laws regarding ad valorem taxation are amended or modified during the term of this Agreement such that the projected Tax Increments from the Property are materially reduced, i.e., seven percent (7%) or more, and there are no corresponding amendments or modifications to the Tax Increment Law to compensate for such reduction, the parties agree to work in good faith to consider amendments to this Agreement toward the end of rendering the respective positions of the parties generally equivalent to the positions set forth herein.

L. In the event that any term or provision of this Agreement is determined to be invalid or unenforceable for any reason, then the other terms and provisions of this Agreement shall not be affected thereby and said terms and provisions shall remain in full force and effect.

M. A Memorandum of Agreement shall be recorded in the office of the Register of Deeds of Milwaukee County, Wisconsin, prior to the recording of the mortgages securing any construction loan, or any other mortgage on the Project, it being understood by the parties that this Agreement will run with the land and will be binding upon the Project and any owner of all

or any portions of the Project and their successors and assigns in a form in substantial conformance with the attached **Exhibit E**.

N. This Agreement shall be construed pursuant to the laws of the State of Wisconsin. Except as otherwise specifically and expressly set forth in this Agreement, the venue for any disputes arising under this Agreement shall be the Circuit Court for Milwaukee County. The prevailing party shall be entitled to its costs, including its reasonable attorneys' fees, incurred in any litigation.

[Signature page(s) follow.]

IN WITNESS WHEREOF, this Agreement is executed as of the date first above written.

**DEVELOPER:**

SFT FRANKLIN OAKWOOD, LLC

By: \_\_\_\_\_  
(Name and Title)

Date: \_\_\_\_\_

STATE OF WISCONSIN    )  
  )ss.  
\_\_\_\_\_ COUNTY        )

Personally appeared before me this \_\_\_\_ day of \_\_\_\_\_, 2022, the above-named \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, to me known to be the persons who executed the foregoing agreement on behalf of the City and by its authority.

\_\_\_\_\_  
Notary Public State of Wisconsin  
My commission expires: \_\_\_\_\_

**City of Franklin, Wisconsin**

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

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Denise Gilbert, Director of Finance and  
Treasurer

Date: \_\_\_\_\_

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

Date: \_\_\_\_\_



## **EXHIBIT A**

### **Property Legal Description**

Lot 1 of Certified Survey Map No. 9362 recorded in the Office of the Register of Deeds for Milwaukee County, Wisconsin on November 5, 2021, as Document No. 11183864, said Certified Survey Map being a part of the Northeast 1/4 and Northwest 1/4 of the Northeast 1/4 of Section 36, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin.

**EXHIBIT B**

**City-Approved Plans for the Project**

**EXHIBIT C**

**Form of Certification of Completion**

**FORM OF CERTIFICATE OF COMPLETION**

\_\_\_\_\_, 20\_\_

City of Franklin  
Attn: City Clerk  
9229 West Loomis Road  
Franklin, WI 53132

Re: Certificate of Completion

Ladies & Gentleman,

This Certificate is being delivered pursuant to the Development Agreement dated as of September 20th, 2022 between the undersigned and the City of Franklin, Wisconsin.

The undersigned hereby certifies the Project has been completed in accordance with the requirements of the terms and conditions of the Development Agreement and that an occupancy certificate for the Project has been issued, a copy of which is attached hereto.

SFT FRANKLIN OAKWOOD, LLC

By: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT D**

UNITED STATES OF AMERICA  
STATE OF WISCONSIN  
COUNTY OF MILWAUKEE  
CITY OF FRANKLIN

MUNICIPAL SPECIAL, LIMITED REVENUE OBLIGATION BOND (“**Bond**”)

Number	Date of Original Issuance	Amount
1	_____, 20__	\$1,025,000

FOR VALUE RECEIVED, the City of Franklin, Milwaukee County, Wisconsin (the “**City**”), promises to pay to SFT Franklin Oakwood, LLC (the “**Developer**”), or registered assigns, but only in the manner, at the times, from the source of revenue and to the extent hereinafter provided, the principal amount of One Million Twenty Five Thousand and no/100s Dollars (\$1,025,000), subject to the terms and provisions of the Development Agreement between the City and Developer, dated as of September 20th, 2022. Developer has caused the Project described in the Development Agreement to achieve a minimum assessed value of \$17,500,000 which value shall be maintained through the tax year of 2036.

This Bond shall be payable in installments of principal due on March 1 (or on any later date when Tax Increment is received) (the “**Payment Dates**”) in each of the years and in the amounts set forth on the debt service schedule attached hereto as Schedule 1.

This Bond has been issued to finance a project within the City’s Tax Incremental District No. 8, pursuant to Article XI, Section 3 of the Wisconsin Constitution and Chapters 66 and 67, as applicable, of the Wisconsin Statutes and acts supplementary thereto, and is payable only from the income and revenues herein described, which income and revenues have been set aside as a special fund for that purpose and identified as the “Special Redemption Fund” provided for under the Resolution adopted on September 20, 2022, by the Common Council of the City (the “**Resolution**”). This Bond is issued pursuant to the Resolution and pursuant to the terms and conditions of the Tax Incremental District Development Agreement dated as of September 20th, 2022 between the City and the Developer (“**Development Agreement**”). This Bond does not constitute an indebtedness of the City within the meaning of any constitutional or statutory limitation or provision. This Bond shall be payable solely from Available Tax Increments generated by the Real Estate and appropriated by the Common Council to the payment of this Bond (the “**Revenues**”). Reference is hereby made to the Resolution and the Development Agreement for a more complete statement of the revenues from which and conditions and limitations under which this Bond is payable and the general covenants and provisions pursuant to which this Bond has been issued. The Resolution and Development Agreement are incorporated herein by this reference. All capitalized terms that are not otherwise defined in this Bond shall take on the meaning given to such terms in the Development Agreement.



If on any Payment Date there shall be insufficient Revenues appropriated to pay the principal due on this Bond, the amount due but not paid shall be deferred. If on any Bond Payment Date there shall be insufficient Revenues appropriated to pay the amount due on this Bond, the amount due but not paid shall be deferred. The deferred payment shall be payable on the next Payment Date to the extent the City has Available Tax Increment until the Final Payment Date (as defined below). The City shall have no obligation to pay any amount of this Bond which remains unpaid after the Final Payment Date. The owner of this Bond shall have no right to receive payment of any deferred amounts, unless there are available Revenues which are appropriated by the Common Council to principal payment of this Bond. If, in any calendar year, the Revenues exceed the amount payable in that year on the Bond (“**Surplus Increment**”), the City may, subject to appropriation of such payment by the Common Council, apply the Surplus Increment to prepayment of principal on the Bond. The “**Final Payment Date**” is March 1, 2036.

At the option of and in the sole discretion of the City, this Bond is subject to prepayment in whole or in part at any time.

The City makes no representation or covenant, express or implied, that the Tax Increments or other Revenues will be sufficient to pay, in whole or in part, the amounts which are or may become due and payable hereunder.

The City’s payment obligations hereunder are subject to appropriation, by the Common Council, of Tax Increments to make principal payments due on this Bond. In addition, as provided in Article II of the Development Agreement, the total amount to be paid shall in no event exceed the amount set forth above. When that amount of Revenue has been appropriated and applied to payment of this Bond, the Bond shall be deemed to be paid in full and discharged, and the City shall have no further obligation with respect hereto. Further, as provided in Article II Section D. of the Development Agreement, the City shall have no obligation to make payments on this Bond in the event the Developer is in default under any of the terms and conditions of the Development Agreement.

This Bond is a special, limited revenue obligation and not a general obligation of the City and is payable by the City only from the sources and subject to the qualifications stated or referenced herein. This Bond is not a general obligation of the City, and neither the full faith and credit nor the taxing powers of the City are pledged to the payment of amounts due on this Bond. Further, no property or other asset of the City, except the above-referenced Revenues, is or shall be a source of payment of the City’s obligations hereunder.

This Bond is issued by the City pursuant to, and in full conformity with, the Constitution and laws of the State of Wisconsin.

This Bond may be transferred or assigned, in whole or in part, only with the consent of the City. Interests in this Bond may not be split, divided or apportioned. In order to transfer or assign the Bond, the transferee or assignee shall surrender the same to the City either in exchange for a new, fully-registered municipal revenue obligation or for transfer of this Bond on the registration records for the Bond maintained by the City. Each permitted transferee or

assignee shall take this Bond subject to the foregoing conditions and subject to all provisions stated or referenced herein and in the Development Agreement.

It is hereby certified and recited that all conditions, things and acts required by law to exist or to be done prior to and in connection with the issuance of this Bond have been done, have existed and have been performed in due form and time.

IN WITNESS WHEREOF, the Common Council of the City of Franklin has caused this Bond to be signed on behalf of the City by its duly qualified and acting Mayor and City Clerk, and its corporate seal to be impressed hereon, all as of the date of original issue specified above.

City of Franklin

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

(CITY SEAL)

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

**Schedule 1 of Bond Payment Schedule**

Subject to the City’s actual receipt of Available Tax Increment and the terms and conditions of the Development Agreement, the City shall make the following payments on the Bond to the Developer:

<b>Tax Year</b>	<b>Budget/Revenue Year</b>	<b>Estimated Payment (\$)</b>
2025	2026	\$43,459
2026	2027	\$44,762
2027	2028	\$92,211
2028	2029	\$94,977
2029	2030	\$97,826
2030	2031	\$100,761
2031	2032	\$103,784
2032	2033	\$106,898
2033	2034	\$110,104
2034	2035	\$113,408
2035	2036	\$116,810

Total \$1,025,000

Developer has caused the Project described in the Development Agreement to achieve a minimum assessed value of \$17,500,000 which value shall be maintained through the tax year 2036.

**REGISTRATION PROVISIONS**

This Bond shall be registered in registration records kept by the City Clerk of the City of Franklin, Milwaukee County, Wisconsin, such registration to be noted in the registration blank below and upon said registration records, and this Bond may thereafter be transferred only upon presentation of this Bond together with a written instrument of transfer approved by the City and duly executed by the Registered Owner or his or her or its attorney, such transfer to be made on such records and endorsed hereon.

Date of Registration	Name of Registered Owner	Signature of City Clerk
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

**EXHIBIT E**

**Memorandum of Development Agreement**

Document Number	MEMORANDUM OF DEVELOPMENT AGREEMENT  Document Title
<p><b>THIS MEMORANDUM OF DEVELOPMENT AGREEMENT ("Memorandum") is made effective as of the 20th day of September, 2022, by and between SFT FRANKLIN OAKWOOD, LLC, a Wisconsin limited liability company, and/or assigns ("Developer"), and the CITY OF FRANKLIN, a municipal corporation of Milwaukee County, Wisconsin ("City")</b></p> <p><b>WITNESSETH:</b></p> <p><b>WHEREAS,</b> Developer and the City entered into that certain Development Agreement dated as of September 20th, 2022 ("<b>Development Agreement</b>"). The full Development Agreement is available for inspection and copies can be obtained at the City of Franklin City Hall, and</p> <p><b>WHEREAS,</b> this Memorandum is being executed for the purpose of providing notice of the Development Agreement and certain terms thereof in the Office of the Register of Deeds for Milwaukee County, State of Wisconsin in order to place third parties on notice of the Development Agreement and Developer's and the City's rights and obligations thereunder, some of which are hereinafter summarized</p> <p><b>NOW, THEREFORE,</b> in consideration of the mutual covenants and promises contained in the Development Agreement, Developer and the City hereby acknowledge as follows</p>	<p>Recording Area</p> <hr/> <p>Name and Return Address</p> <p>City of Franklin Office of the City Clerk 9229 West Loomis Road Franklin, WI 53132 Attn: City Clerk</p> <hr/> <p>PIN</p>

1       **PROPERTY.** The "**Property**" is land located in the City of Franklin, Milwaukee County, State of Wisconsin, legally described on Exhibit A attached hereto

2       **TERM.** The Development Agreement shall run with the land pursuant to its terms unless terminated pursuant to its terms.

3       **NO MODIFICATION; DEVELOPMENT AGREEMENT CONTROLLING.** This Memorandum is only a summary of some of the terms and conditions contained in the Development Agreement and this Memorandum is not intended in any way to amend, alter, modify, abrogate, substitute or otherwise affect any of the terms or conditions contained in the Development Agreement, all of which are hereby incorporated herein in full by this reference. It is hereby understood and agreed that, notwithstanding this Memorandum, the terms and conditions contained in the Development Agreement shall in all events control the relationship between Developer and the City with respect to the subject matter therein contained. This Memorandum is solely for recording and notice purposes

4       **COUNTERPART SIGNATURES.** This Memorandum may be signed in two or more counterparts, all of which, when taken together, shall constitute one and the same instrument.

**[SIGNATURES APPEAR ON FOLLOWING PAGE]**

IN WITNESS WHEREOF, Developer and the City have executed this Memorandum effective as of the date first written above

DEVELOPER.

CITY.

CITY OF FRANKLIN

By \_\_\_\_\_  
Name:  
Title

By \_\_\_\_\_  
Stephen R Olson, Mayor

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

STATE OF WISCONSIN )  
 )ss.  
\_\_\_\_\_ COUNTY )

Personally appeared before me this \_\_\_\_ day of \_\_\_\_\_, 2022, the above-named \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, to me known to be the persons who executed the foregoing agreement on behalf of the City and by its authority

\_\_\_\_\_  
Notary Public State of Wisconsin  
My commission expires \_\_\_\_\_

STATE OF WISCONSIN )  
 )ss  
MILWAUKEE COUNTY )

Personally appeared before me this \_\_\_\_ day of September, 2022, the above-named Stephen R Olson and Sandra L. Wesolowski, Mayor and City Clerk, respectively, of the City of Franklin, Wisconsin, to me known to be the persons who executed the foregoing agreement on behalf of the City and by its authority

\_\_\_\_\_  
Notary Public State of Wisconsin  
My commission expires \_\_\_\_\_

This Document was drafted by.  
Deborah C Tomczyk, Esq  
Reinhart Boerner Van Deuren s c  
1000 North Water Street, Suite 1700  
Milwaukee, WI 53202

**EXHIBIT A**

**LEGAL DESCRIPTION**

Lot 1 of Certified Survey Map No. 9362 recorded in the Office of the Register of Deeds for Milwaukee County, Wisconsin on November 5, 2021, as Document No. 11183864, said Certified Survey Map being a part of the Northeast 1/4 and Northwest 1/4 of the Northeast 1/4 of Section 36, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin.



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<b>APPROVAL</b>  <i>slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b>  <b>9/20/2022</b>
<b>REPORTS &amp; RECOMMENDATIONS</b>	<b>Authorize the Purchase of Property for a Public Park in the Southwest Area of the City of Franklin. The Common Council may enter closed session pursuant to Wis. Stat. §19.85(1)(e), to consider the potential acquisition of properties intended to be used for public park purposes in the general southwest area of the City and to re-enter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate</b>	<b>ITEM NUMBER</b>  <b>G.16.</b>

At the August 16, 2022 Common Council Meeting, the Council approved the following motion in regards to this item: "to direct staff to proceed as discussed in closed session and to authorize the Mayor and City Clerk to execute the documents as will be finalized".

There are two parcels being considered for purchase, tax key 937-9999-004, approximately 40.25 acres, and tax key 892-9999-002, approximately 34.54 acres, as shown on the attached map. The purchase price agreed upon is \$1,500,000, plus estimated closing costs, for approximately 74.79 acres. Attached is the executed offer to purchase.

Staff is recommending the following as funding for this purchase:

- 2022 Capital Improvement Program Project Funds as follows-
    - Southwest Park Purchase \$224,000
    - Trailhead on School Property \$152,000
    - Froemming Park Tennis Court Resurface \$150,000
    - Ryan Creek Trail Sections \$66,500
    - Frisbee/Disc Golf Course \$20,000
    - Cricket Pitch Field-City Share \$12,800
    - Dog Park Amenities-City Share \$9,600
  - Park Impact Fees (on-hand): \$540,000
  - LWMMI Park Grant Funds Received in 2021 \$24,368
  - City Share of TID #3 Remainder Funds OR Fund Balance-Estimate \$305,732
- Total \$1,505,000

If this purchase is authorized, staff will bring back a formal budget amendment on October 4, 2022, along with a request for funds release so that the closing may occur in advance of the October 28, 2022 deadline listed in the executed offer.

It is not anticipated to go into closed session for this item; however, if necessary, the Common Council may enter closed session pursuant to Wis. Stat. §19.85(1)(e), to consider the potential acquisition of properties intended to be used for public park purposes in the general southwest area of the City and to re-enter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate.

### COUNCIL ACTION REQUESTED

Motion to authorize the purchase of property for a public park in the southwest area of the City of Franklin, and direct staff to draft a budget amendment for the same to be returned to Council on October 4, 2022 and execute all necessary agreements and documentation to finalize the purchase.

**WB-13 VACANT LAND OFFER TO PURCHASE**

1 LICENSEE DRAFTING THIS OFFER ON August 23, 2022 [DATE] IS (AGENT OF BUYER)

2 (~~AGENT OF SELLER/LISTING FIRM~~) (~~AGENT OF BUYER AND SELLER~~) ~~STRIKE THOSE NOT APPLICABLE~~

3 The Buyer, City of Franklin, a Wisconsin Municipal corporation,

4 offers to purchase the Property known as

5 City of Franklin property Tax Key Nos (Parcel Numbers) 892-9999-002 (0 S, 112th St) and 937-9999-004 (0 W Oakwood Rd)

6 [e.g., Street Address, Parcel Number(s), legal description, or insert additional description, if any, at lines 650-664, or  
7 attach as an addendum per line 686] in the City of Franklin

8 County of Milwaukee Wisconsin, on the following terms

9 **PURCHASE PRICE** The purchase price is One Million Five Hundred Thousand and 00/100

10 Dollars (\$1,500,000 00).

11 **INCLUDED IN PURCHASE PRICE** Included in purchase price is the Property, all Fixtures on the Property as of the date  
12 stated on line 1 of this Offer (unless excluded at lines 17-18), and the following additional items: none

13  
14 **NOTE: The terms of this Offer, not the listing contract or marketing materials, determine what items are included  
15 or not included. Annual crops are not part of the purchase price unless otherwise agreed.**

16 **NOT INCLUDED IN PURCHASE PRICE** Not included in purchase price is Seller's personal property (unless included at  
17 lines 12-13) and the following: none

18  
19 **CAUTION: Identify Fixtures that are on the Property (see lines 21-25) to be excluded by Seller or that are rented  
20 and will continue to be owned by the lessor.**

21 "Fixture" is defined as an item of property which is physically attached to or so closely associated with land so as to be  
22 treated as part of the real estate, including, without limitation, physically attached items not easily removable without damage  
23 to the premises, items specifically adapted to the premises and items customarily treated as fixtures, including, but not  
24 limited to, all perennial crops, garden bulbs; plants; shrubs and trees, fences, storage buildings on permanent foundations  
25 and docks/piers on permanent foundations.

26 **CAUTION: Exclude any Fixtures to be retained by Seller or that are rented on lines 17-18 or at lines 650-664 or in  
27 an addendum per line 686.**

28 **BINDING ACCEPTANCE** This Offer is binding upon both Parties only if a copy of the accepted Offer is delivered to Buyer  
29 on or before August 31, 2022

30 Seller may keep the Property on the market and accept secondary offers after binding acceptance of this Offer.

31 **CAUTION: This Offer may be withdrawn prior to delivery of the accepted Offer.**

32 **ACCEPTANCE** Acceptance occurs when all Buyers and Sellers have signed one copy of the Offer, or separate but identical  
33 copies of the Offer.

34 **CAUTION: Deadlines in the Offer are commonly calculated from acceptance. Consider whether short term  
35 Deadlines running from acceptance provide adequate time for both binding acceptance and performance.**

36 **CLOSING** This transaction is to be closed on October 28, 2022

37  
38 at the place selected by Seller, unless otherwise agreed by the Parties in writing. If the date for closing falls on a Saturday,  
39 Sunday, or a federal or a state holiday, the closing date shall be the next Business Day.

40 **CAUTION: To reduce the risk of wire transfer fraud, any wiring instructions received should be independently  
41 verified by phone or in person with the title company, financial institution, or entity directing the transfer. The real  
42 estate licensees in this transaction are not responsible for the transmission or forwarding of any wiring or money  
43 transfer instructions.**

44 **EARNEST MONEY**

45 ■ EARNEST MONEY of \$ \_\_\_\_\_ accompanies this Offer.

46 If Offer was drafted by a licensee, receipt of the earnest money accompanying this Offer is acknowledged-

47 ■ EARNEST MONEY of \$ \_\_\_\_\_ will be mailed, or commercially, electronically  
48 or personally delivered within \_\_\_\_\_ days ("5" if left blank) after acceptance.

49 All earnest money shall be delivered to and held by (listing Firm) (drafting Firm) (other identified as \_\_\_\_\_  
50 \_\_\_\_\_) ~~STRIKE THOSE NOT APPLICABLE~~

51 (listing Firm if none chosen; if no listing Firm, then drafting Firm; if no Firm then Seller).

52 **CAUTION: If a Firm does not hold earnest money, an escrow agreement should be drafted by the Parties or an  
53 attorney as lines 56-76 do not apply. If someone other than Buyer pays earnest money, consider a special  
54 disbursement agreement.**

55 ■ THE BALANCE OF PURCHASE PRICE will be paid in cash or equivalent at closing unless otherwise agreed in writing.

56 ■ ~~DISBURSEMENT IF EARNEST MONEY HELD BY A FIRM~~ If negotiations do not result in an accepted offer and the  
57 earnest money is held by a Firm, the earnest money shall be promptly disbursed (after clearance from payer's depository  
58 institution if earnest money is paid by check) to the person(s) who paid the earnest money. At closing, earnest money shall  
59 be disbursed according to the closing statement. If this Offer does not close, the earnest money shall be disbursed according  
60 to a written disbursement agreement signed by all Parties to this Offer. If said disbursement agreement has not been  
61 delivered to the Firm holding the earnest money within 60 days after the date set for closing, that Firm may disburse the  
62 earnest money (1) as directed by an attorney who has reviewed the transaction and does not represent Buyer or Seller;  
63 (2) into a court hearing a lawsuit involving the earnest money and all Parties to this Offer; (3) as directed by court order; (4)  
64 upon authorization granted within this Offer; or (5) any other disbursement required or allowed by law. The Firm may retain  
65 legal services to direct disbursement per (1) or to file an interpleader action per (2) and the Firm may deduct from the  
66 earnest money any costs and reasonable attorneys' fees, not to exceed \$250, prior to disbursement.

67 ■ ~~LEGAL RIGHTS/ACTION~~ The Firm's disbursement of earnest money does not determine the legal rights of the Parties  
68 in relation to this Offer. Buyer's or Seller's legal right to earnest money cannot be determined by the Firm holding the earnest  
69 money. At least 30 days prior to disbursement per (1), (4) or (5) above, where the Firm has knowledge that either Party  
70 disagrees with the disbursement, the Firm shall send Buyer and Seller written notice of the intent to disburse by certified  
71 mail. If Buyer or Seller disagrees with the Firm's proposed disbursement, a lawsuit may be filed to obtain a court order  
72 regarding disbursement. Small Claims Court has jurisdiction over all earnest money disputes arising out of the sale of  
73 residential property with one to four dwelling units. Buyer and Seller should consider consulting attorneys regarding their  
74 legal rights under this Offer in case of a dispute. Both Parties agree to hold the Firm harmless from any liability for good  
75 faith disbursement of earnest money in accordance with this Offer or applicable Department of Safety and Professional  
76 Services regulations concerning earnest money. See Wis Admin Code Ch REEB 18.

77 **TIME IS OF THE ESSENCE** "Time is of the Essence" as to (1) earnest money payment(s); (2) binding acceptance, (3)  
78 occupancy, (4) date of closing, (5) contingency Deadlines **STRIKE AS APPLICABLE** and all other dates and Deadlines in  
79 this Offer except \_\_\_\_\_

80 \_\_\_\_\_ If "Time is of the Essence" applies to a date or Deadline,  
81 failure to perform by the exact date or Deadline is a breach of contract. If "Time is of the Essence" does not apply to a date  
82 or Deadline, then performance within a reasonable time of the date or Deadline is allowed before a breach occurs.

83 **VACANT LAND DISCLOSURE REPORT** Wisconsin law requires owners of real property that does not include any  
84 buildings to provide Buyers with a Vacant Land Disclosure Report. Excluded from this requirement are sales exempt from  
85 the real estate transfer fee and sales by certain court-appointed fiduciaries, for example, personal representatives, who  
86 have never occupied the Property. The form of the Report is found in Wis Stat § 709.033. The law provides "§ 709.02  
87 Disclosure the owner of the property shall furnish, not later than 10 days after acceptance of a contract of sale, to  
88 the prospective buyer of the property a completed copy of the report. A prospective buyer who does not receive a report  
89 within the 10 days may, within 2 business days after the end of that 10-day period, rescind the contract of sale by  
90 delivering a written notice of rescission to the owner or the owner's agent." Buyer may also have certain rescission rights if  
91 a Vacant Land Disclosure Report disclosing defects is furnished before expiration of the 10 days, but after the Offer is  
92 submitted to Seller. Buyer should review the report form or consult with an attorney for additional information regarding  
93 rescission rights.

94 **PROPERTY CONDITION REPRESENTATIONS** Seller represents to Buyer that as of the date of acceptance Seller has  
95 no notice or knowledge of Conditions Affecting the Property or Transaction (lines 101-181) other than those identified in  
96 Seller's Vacant Land Disclosure Report dated \_\_\_\_\_ and delivered prior to/with acceptance \_\_\_\_\_, which was received by Buyer prior to Buyer  
97 signing this Offer and that is made a part of this Offer by reference **COMPLETE DATE OR STRIKE AS APPLICABLE**  
98 and none \_\_\_\_\_

99 \_\_\_\_\_  
100 **INSERT CONDITIONS NOT ALREADY INCLUDED IN THE DISCLOSURE REPORT**

- 101 "Conditions Affecting the Property or Transaction" are defined to include
- 102 a Flooding, standing water, drainage problems, or other water problems on or affecting the Property
  - 103 b Impact fees or another condition or occurrence that would significantly increase development costs or reduce the value  
104 of the property to a reasonable person with knowledge of the nature and scope of the condition or occurrence
  - 105 c Brownfields (abandoned, idled, or underused land that may be subject to environmental contamination) or other  
106 contaminated land on the property, or that contaminated soils on the property have been cleaned up under the Petroleum  
107 Environmental Cleanup Fund Act (PECFA), a Wisconsin Department of Natural Resources (DNR) remedial or cleanup  
108 program, the DATCP Agricultural Chemical Cleanup Program, or other similar program
  - 109 d Subsoil conditions that would significantly increase the cost of development, including, but not limited to, subsurface  
110 foundations or waste material, any type of fill, dumpsites where pesticides, herbicides, fertilizer, or other toxic or hazardous  
111 materials or containers for these materials were disposed of in violation of manufacturer or government guidelines or other  
112 laws regulating such disposal, high groundwater, adverse soil conditions, such as low load-bearing capacity, earth or soil  
113 movement, settling, upheavals, or slides, excessive rocks or rock formations, or other soil problems
  - 114 e Material violation of an environmental rule or other rule or agreement regulating the use of the Property
  - 115 f Defects caused by unsafe concentrations of, or unsafe conditions relating to, radon, radium in water supplies, lead in

- 116 soil, or other potentially hazardous or toxic substances on the Property, manufacture of methamphetamine or other
- 117 hazardous or toxic substances on the Property, or high voltage electric (100 KV or greater) or steel natural gas transmission
- 118 lines located on but not directly serving the Property
- 119 g Defects caused by unsafe concentrations of, unsafe conditions relating to, or the storage of, hazardous or toxic
- 120 substances on neighboring properties
- 121 h The Property is served by a joint well, Defects related to a joint well serving the Property, or Defects in a well on the
- 122 Property or in a well that serves the Property, including unsafe well water due to contaminants such as coliform, nitrates, or
- 123 atrazine, or any out-of-service wells or cisterns that are required to be abandoned (see § NR 812.26, Wis Adm Code) but
- 124 that are not closed or abandoned according to applicable regulations
- 125 l Defects in any septic system or other private sanitary disposal system on the Property, or any out-of-service septic
- 126 system serving the Property not closed or abandoned according to applicable regulations
- 127 j Underground or aboveground fuel storage tanks presently or previously on the Property for storage of flammable or
- 128 combustible liquids including, but not limited to, gasoline or heating oil, or Defects in the underground or aboveground fuel
- 129 storage tanks on or previously located on the Property Defects in underground or aboveground fuel storage tanks may
- 130 include items such as abandoned tanks not closed in conformance with applicable local, state, and federal law; leaking,
- 131 corrosion, or failure to meet operating standards (The owner, by law, may have to register the tanks with the Department
- 132 of Agriculture, Trade and Consumer Protection at P O Box 8911, Madison, Wisconsin, 53708, whether the tanks are in use
- 133 or not Department regulations may require closure or removal of unused tanks )
- 134 k Existing or abandoned manure storage facilities located on the property
- 135 l Notice of property tax increases, other than normal annual increases, or pending Property tax reassessment,
- 136 remodeling that may increase the Property's assessed value, pending special assessments, or Property is within a special
- 137 purpose district, such as a drainage district, that has authority to impose assessments on the Property
- 138 m Proposed, planned, or commenced public improvements or public construction projects that may result in special
- 139 assessments or that may otherwise materially affect the Property or the present use of the Property, or any land division
- 140 involving the Property without required state or local permits
- 141 n The Property is part of or subject to a subdivision homeowners' association, or the Property is not a condominium unit
- 142 and there are common areas associated with the Property that are co-owned with others
- 143 o Any zoning code violations with respect to the Property, the Property or any portion thereof is located in a floodplain,
- 144 wetland or shoreland zoning area under local, state or federal regulations, or the Property is subject to a mitigation plan
- 145 required by Wisconsin Department of Natural Resources (DNR) rules related to county shoreland zoning ordinances, that
- 146 obligates the Property owner to establish or maintain certain measures related to shoreland conditions, enforceable by the
- 147 county
- 148 p Nonconforming uses of the Property (a nonconforming use is a use of land that existed lawfully before the current zoning
- 149 ordinance was enacted or amended, but that does not conform to the use restrictions in the current ordinance), conservation
- 150 easements (a conservation easement is a legal agreement in which a property owner conveys some of the rights associated
- 151 with ownership of his or her property to an easement holder such as a governmental unit or a qualified nonprofit organization
- 152 to protect the natural habitat of fish, wildlife, or plants or a similar ecosystem, preserve areas for outdoor recreation or
- 153 education, or for similar purposes), restrictive covenants or deed restrictions on the Property, or, other than public rights-of-
- 154 way, nonowners having rights to use part of the Property, including, but not limited to, private rights-of-way and easements
- 155 other than recorded utility easements
- 156 q All or part of the Property has been assessed as agricultural land, has been assessed a use-value assessment
- 157 conversion charge, or payment of a use-value assessment conversion charge has been deferred
- 158 r All or part of the Property is subject to, enrolled in, or in violation of a farmland preservation agreement, Forest Crop
- 159 Law, Managed Forest Law, the Conservation Reserve Program, or a comparable program
- 160 s A dam is totally or partially located on the Property, or an ownership interest in a dam not located on the Property will
- 161 be transferred with the Property because the dam is owned collectively by a homeowners' association, lake district, or
- 162 similar group of which the Property owner is a member
- 163 t No legal access to the Property, or boundary or lot line disputes, encroachments or encumbrances (including a joint
- 164 driveway) affecting the Property Encroachments often involve some type of physical object belonging to one person but
- 165 partially located on or overlapping on land belonging to another, such as, without limitation, fences, houses, garages,
- 166 driveways, gardens, and landscaping Encumbrances include, without limitation, a right or claim of another to a portion of
- 167 the Property or to the use of the Property such as a joint driveway, liens, and licenses
- 168 u Government agency, court order, or federal, state, or local regulations requiring repair, alteration or correction of an
- 169 existing condition
- 170 v A pier attached to the Property not in compliance with state or local pier regulations, a written agreement affecting
- 171 riparian rights related to the Property, or the bed of the abutting navigable waterway is owned by a hydroelectric operator
- 172 w Material damage from fire, wind, flood, earthquake, expansive soil, erosion, or landslide
- 173 x Significant odor, noise, water diversion, water intrusion, or other irritants emanating from neighboring property
- 174 y Significant crop damage from disease, insects, soil contamination, wildlife, or other causes, diseased or dying trees or
- 175 shrubs, or substantial injuries or disease in livestock on the Property or neighboring property
- 176 z Animal, reptile, or other insect infestations, drainage easement or grading problems, excessive sliding, or any other
- 177 Defect or material condition

178 aa Archeological artifacts, mineral rights, orchards, or endangered species, or one or more burial sites on the Property  
179 bb Owner is a foreign person as defined in the Foreign Investment in Real Property Tax Act in 26 IRC § 1445(f)  
180 cc Other Defects affecting the Property such as any agreements that bind subsequent owners of the property, such as a  
181 lease agreement or an extension of credit from an electric cooperative  
182  **GOVERNMENT PROGRAMS:** Seller shall deliver to Buyer, within 10 days ("15" if left blank) after acceptance  
183 of this Offer, a list of all federal, state, county, and local conservation, farmland, environmental, or other land use programs,  
184 agreements, restrictions, or conservation easements, which apply to any part of the Property (e g , farmland preservation  
185 agreements, farmland preservation or exclusive agricultural zoning, use value assessments, Forest Crop, Managed Forest,  
186 Conservation Reserve Program, wetland mitigation, shoreland zoning mitigation plan or comparable programs), along with  
187 disclosure of any penalties, fees, withdrawal charges, or payback obligations pending, or currently deferred, if any This  
188 contingency will be deemed satisfied unless Buyer delivers to Seller, within 7 days after the deadline for delivery, a notice  
189 terminating this Offer based upon the use restrictions, program requirements, and/or amount of any penalty, fee, charge, or  
190 payback obligation  
191 **CAUTION: If Buyer does not terminate this Offer, Buyer is hereby agreeing that Buyer will continue in such**  
192 **programs, as may apply, and Buyer agrees to reimburse Seller should Buyer fail to continue any such program**  
193 **such that Seller incurs any costs, penalties, damages, or fees that are imposed because the program is not**  
194 **continued after sale. The Parties agree this provision survives closing.**  
195 **MANAGED FOREST LAND:** If all, or part, of the Property is managed forest land under the Managed Forest Law (MFL)  
196 program, this designation will continue after closing Buyer is advised as follows The MFL is a landowner incentive  
197 program that encourages sustainable forestry on private woodlands by reducing and deferring property taxes Orders  
198 designating lands as managed forest lands remain in effect for 25 or 50 years When ownership of land enrolled in the  
199 MFL program changes, the new owner must sign and file a report of the change of ownership on a form provided by the  
200 Department of Natural Resources and pay a fee By filing this form, the new owner agrees to the associated MFL  
201 management plan and the MFL program rules The DNR Division of Forestry monitors forest management plan  
202 compliance Changes a landowner makes to property that is subject to an order designating it as managed forest land,  
203 or to its use, may jeopardize benefits under the program or may cause the property to be withdrawn from the program  
204 and may result in the assessment of penalties For more information call the local DNR forester or visit  
205 <https://dnr.wisconsin.gov/topic/forestry>  
206 **USE VALUE ASSESSMENTS:** The use value assessment system values agricultural land based on the income that  
207 would be generated from its rental for agricultural use rather than its fair market value When a person converts agricultural  
208 land to a non-agricultural use (e g , residential or commercial development), that person may owe a conversion charge  
209 To obtain more information about the use value law or conversion charge, contact the Wisconsin Department of Revenue's  
210 Equalization Bureau or visit <http://www.revenue.wi.gov/>  
211 **FARMLAND PRESERVATION:** The early termination of a farmland preservation agreement or removal of land from such  
212 an agreement can trigger payment of a conversion fee equal to 3 times the per acre value of the land Contact the  
213 Wisconsin Department of Agriculture, Trade and Consumer Protection Division of Agricultural Resource Management or  
214 visit <http://www.datcp.state.wi.us/> for more information  
215 **CONSERVATION RESERVE PROGRAM (CRP):** The CRP encourages farmers, through contracts with the U S  
216 Department of Agriculture, to stop growing crops on highly erodible or environmentally sensitive land and instead to plant  
217 a protective cover of grass or trees CRP contracts run for 10 to 15 years, and owners receive an annual rent as well as  
218 certain incentive payments and cost share assistance for establishing long-term, resource-conserving ground cover  
219 Removing lands from the CRP in breach of a contract can be quite costly For more information call the state Farm Service  
220 Agency office or visit <http://www.fsa.usda.gov/>  
221 **SHORELAND ZONING ORDINANCES:** All counties must adopt uniform shoreland zoning ordinances in compliance with  
222 Wis Admin Code Chapter NR 115 County shoreland zoning ordinances apply to all unincorporated land within 1,000  
223 feet of a navigable lake, pond or flowage or within 300 feet of a navigable river or stream and establish minimum standards  
224 for building setbacks and height limits, cutting trees and shrubs, lot sizes, water runoff, impervious surface standards (that  
225 may be exceeded if a mitigation plan is adopted and recorded) and repairs to nonconforming structures Buyers must  
226 conform to any existing mitigation plans For more information call the county zoning office or visit <https://dnr.wi.gov/>  
227 Buyer is advised to check with the applicable city, town or village for additional shoreland zoning or shoreland-wetland  
228 zoning restrictions, if any  
229 **FENCES:** Wis Stat § 90.03 requires the owners of adjoining properties to keep and maintain legal fences in equal shares  
230 where one or both of the properties is used and occupied for farming or grazing purposes  
231 **CAUTION: Consider an agreement addressing responsibility for fences if Property or adjoining land is used and**  
232 **occupied for farming or grazing purposes.**  
233 **PROPERTY DEVELOPMENT WARNING:** If Buyer contemplates developing Property for a use other than the current use,  
234 there are a variety of issues that should be addressed to ensure the development or new use is feasible Buyer is solely  
235 responsible to verify the current zoning allows for the proposed use of the Property at lines 251-255 Municipal and zoning  
236 ordinances, recorded building and use restrictions, covenants and easements may prohibit certain improvements or uses  
237 and therefore should be reviewed Building permits, zoning or zoning variances, Architectural Control Committee approvals,  
238 estimates for utility hook-up expenses, special assessments, changes for installation of roads or utilities, environmental  
239 audits, subsoil tests, or other development related fees may need to be obtained or verified in order to determine the  
240 feasibility of development of, or a particular use for, a property Optional contingencies that allow Buyer to investigate certain  
241 of these issues can be found at lines 244-304 and Buyer may add contingencies as needed in addenda (see line 686)

242 Buyer should review any plans for development or use changes to determine what issues should be addressed in these  
243 contingencies

244 ~~PROPOSED USE CONTINGENCIES: This Offer is contingent upon Buyer obtaining, at Buyer's expense, the reports or~~  
245 ~~documentation required by any optional provisions checked on lines 256-281 below. The optional provisions checked on~~  
246 ~~lines 256-281 shall be deemed satisfied unless Buyer, within \_\_\_\_\_ days ("30" if left blank) after acceptance, delivers (1)~~  
247 ~~written notice to Seller specifying those optional provisions checked below that cannot be satisfied and (2) written evidence~~  
248 ~~substantiating why each specific provision referred to in Buyer's notice cannot be satisfied. Upon delivery of Buyer's notice,~~  
249 ~~this Offer shall be null and void. Seller agrees to cooperate with Buyer as necessary to satisfy the contingency provisions~~  
250 ~~checked at lines 256-281.~~

251 **Proposed Use:** Buyer is purchasing the Property for the purpose of \_\_\_\_\_  
252 \_\_\_\_\_

253 \_\_\_\_\_ [insert proposed use  
254 and type or style of building(s), size and proposed building location(s), if a requirement of Buyer's condition to  
255 purchase, e.g. 1400-1600 sq. ft. three-bedroom single family ranch home in northwest corner of lot].

256  **ZONING:** Verification of zoning and that the Property's zoning allows Buyer's proposed use described at lines  
257 251-255.

258  **SUBSOILS:** Written evidence from a qualified soils expert that the Property is free of any subsoil condition that  
259 would make the proposed use described at lines 251-255 impossible or significantly increase the costs of such  
260 development.

261  **PRIVATE ONSITE WASTEWATER TREATMENT SYSTEM (POWTS) SUITABILITY:** Written evidence from a  
262 certified soils tester that (a) the soils at the Property locations selected by Buyer, and (b) all other conditions that must  
263 be approved, meet the legal requirements in effect on the date of this Offer to obtain a permit for a POWTS for use of  
264 the Property as stated on lines 251-255. The POWTS (septic system) allowed by the written evidence must be one of  
265 the following POWTS that is approved by the State for use with the type of property identified at lines 251-255.  CHECK

266  ALL THAT APPLY:  conventional in-ground;  mound;  at grade;  in-ground pressure distribution;  holding  
267 tank;  other \_\_\_\_\_

268  **EASEMENTS AND RESTRICTIONS:** Copies of all public and private easements, covenants and restrictions  
269 affecting the Property and a written determination by a qualified independent third party that none of these prohibit or  
270 significantly delay or increase the costs of the proposed use or development identified at lines 251-255.

271  **APPROVALS/PERMITS:** Permits, approvals and licenses, as appropriate, or the final discretionary action by the  
272 granting authority prior to the issuance of such permits or building permit, approvals and licenses, for the following items  
273 related to Buyer's proposed use: \_\_\_\_\_  
274 \_\_\_\_\_

275  **UTILITIES:** Written verification of the location of the following utility service connections (e.g., on the Property, at  
276 the lot line, across the street, etc.)  CHECK AND COMPLETE AS APPLICABLE

277  electricity \_\_\_\_\_;  gas \_\_\_\_\_;  sewer \_\_\_\_\_;  
278  water \_\_\_\_\_;  telephone \_\_\_\_\_;  cable \_\_\_\_\_;  
279  other \_\_\_\_\_

280  **ACCESS TO PROPERTY:** Written verification that there is legal vehicular access to the Property from public  
281 roads.

282  **LAND USE APPROVAL/PERMITS:** This Offer is contingent upon (Buyer)(Seller)  STRIKE ONE ("Buyer" if neither  
283 stricken) obtaining the following, including all costs: a  CHECK ALL THAT APPLY  rezoning;  conditional use permit;  
284  variance;  other \_\_\_\_\_ for the Property for its proposed use described at lines 251-255.

285 Seller agrees to cooperate with Buyer as necessary to satisfy this contingency. Buyer shall deliver, within \_\_\_\_\_ days of  
286 acceptance, written notice to Seller if any item cannot be obtained, in which case this Offer shall be null and void.

287  **MAP OF THE PROPERTY:** This Offer is contingent upon (Buyer obtaining) (Seller providing)  STRIKE ONE ("Seller  
288 providing" if neither is stricken) a Map of the Property dated subsequent to the date of acceptance of this Offer prepared by  
289 a registered land surveyor, within \_\_\_\_\_ days ("30" if left blank) after acceptance, at (Buyer's) (Seller's)  STRIKE ONE  
290 ("Seller's" if neither is stricken) expense. The map shall show minimum of \_\_\_\_\_ acres, maximum of \_\_\_\_\_  
291 acres, the legal description of the Property, the Property's boundaries and dimensions, visible encroachments upon the  
292 Property, the location of improvements, if any, and \_\_\_\_\_  
293 \_\_\_\_\_

294 \_\_\_\_\_  STRIKE AND COMPLETE AS APPLICABLE. Additional map features that may  
295 be added include but are not limited to: staking of all corners of the Property; identifying dedicated and apparent streets; lot  
296 dimensions; total acreage or square footage; easements or rights-of-way.

297 **CAUTION: Consider the cost and the need for map features before selecting them. Also consider the time required**  
298 **to obtain the map when setting the deadline.**

299 This contingency shall be deemed satisfied unless Buyer, within 5 days after the deadline for delivery of said map, delivers  
300 to Seller a copy of the map and a written notice which identifies: (1) the significant encroachment, (2) information materially  
301 inconsistent with prior representations; or (3) failure to meet requirements stated within this contingency. Upon delivery of  
302 Buyer's notice, this Offer shall be null and void. Once the deadline for delivery has passed, if Seller was responsible to

303 provide the map and failed to timely deliver the map to Buyer, Buyer may terminate this Offer if Buyer delivers a written  
304 notice of termination to Seller prior to Buyer's Actual Receipt of said map from Seller

305 **INSPECTIONS AND TESTING** Buyer may only conduct inspections or tests if specific contingencies are included as a  
306 part of this Offer. An "inspection" is defined as an observation of the Property, which does not include an appraisal or testing  
307 of the Property, other than testing for leaking carbon monoxide, or testing for leaking LP gas or natural gas used as a fuel  
308 source, which are hereby authorized. A "test" is defined as the taking of samples of materials such as soils, water, air or  
309 building materials from the Property for laboratory or other analysis of these materials. Seller agrees to allow Buyer's  
310 inspectors, testers and appraisers reasonable access to the Property upon advance notice, if necessary, to satisfy the  
311 contingencies in this Offer. Buyer or licensees or both may be present at all inspections and testing. Except as otherwise  
312 provided, Seller's authorization for inspections does not authorize Buyer to conduct testing of the Property.

313 **NOTE: Any contingency authorizing testing should specify the areas of the Property to be tested, the purpose of**  
314 **the test, (e.g., to determine if environmental contamination is present), any limitations on Buyer's testing and any**  
315 **other material terms of the contingency.**

316 Buyer agrees to promptly restore the Property to its original condition after Buyer's inspections and testing are completed  
317 unless otherwise agreed to with Seller. Buyer agrees to promptly provide copies of all inspection and testing reports to  
318 Seller. Seller acknowledges that certain inspections or tests may detect environmental pollution that may be required to be  
319 reported to the Wisconsin Department of Natural Resources.

320  **INSPECTION CONTINGENCY:** This contingency only authorizes inspections, not testing (see lines 305-319)

321 (1) This Offer is contingent upon a qualified independent inspector conducting an inspection of the Property after the date  
322 on line 1 of this Offer that discloses no Defects.

323 (2) This Offer is further contingent upon a qualified independent inspector or independent qualified third party performing an  
324 inspection of the entire property \_\_\_\_\_

325 \_\_\_\_\_ (list any Property component(s)  
326 to be separately inspected, e.g., dumpsite, timber quality, invasive species, etc.) that discloses no Defects.

327 (3) Buyer may have follow-up inspections recommended in a written report resulting from an authorized inspection, provided  
328 they occur prior to the Deadline specified at line 333. Inspection(s) shall be performed by a qualified independent  
329 inspector or independent qualified third party.

330 Buyer shall order the inspection(s) and be responsible for all costs of inspection(s).

331 **CAUTION: Buyer should provide sufficient time for the Property inspection and/or any specialized inspection(s);**  
332 **as well as any follow-up inspection(s).**

333 This contingency shall be deemed satisfied unless Buyer, within \_\_\_\_\_ days ("15" if left blank) after acceptance, delivers  
334 to Seller a copy of the written inspection report(s) dated after the date on line 1 of this Offer and a written notice listing the  
335 Defect(s) identified in those report(s) to which Buyer objects (Notice of Defects).

336 **CAUTION: A proposed amendment is not a Notice of Defects and will not satisfy this notice requirement.**

337 For the purposes of this contingency, Defects do not include structural, mechanical or other conditions the nature and extent  
338 of which Buyer had actual knowledge or written notice before signing this Offer.

339 **NOTE: "Defect" as defined on lines 553-555 means a condition that would have a significant adverse effect on the**  
340 **value of the Property; that would significantly impair the health or safety of future occupants of the Property; or**  
341 **that if not repaired, removed or replaced would significantly shorten or adversely affect the expected normal life**  
342 **of the premises.**

343  **RIGHT TO CURE:** Seller (shall)(shall not) **STRIKE ONE** ("shall" if neither is stricken) have the right to cure the Defects.  
344 If Seller has the right to cure, Seller may satisfy this contingency by:

345 (1) delivering written notice to Buyer within \_\_\_\_\_ ("10" if left blank) days after Buyer's delivery of the Notice of Defects  
346 stating Seller's election to cure Defects;

347 (2) curing the Defects in a good and workmanlike manner; and

348 (3) delivering to Buyer a written report detailing the work done no later than three days prior to closing.

349 This Offer shall be null and void if Buyer makes timely delivery of the Notice of Defects and written inspection report(s) and:

350 (1) Seller does not have the right to cure; or

351 (2) Seller has the right to cure but

352 (a) Seller delivers written notice that Seller will not cure; or

353 (b) Seller does not timely deliver the written notice of election to cure.

354 **IF LINE 355 IS NOT MARKED OR IS MARKED N/A LINES 403-414 APPLY.**

355  **FINANCING COMMITMENT CONTINGENCY:** This Offer is contingent upon Buyer being able to obtain a written  
356 \_\_\_\_\_ [loan type or specific lender, if any] first mortgage loan commitment as described

357 below, within \_\_\_\_\_ days after acceptance of this Offer. The financing selected shall be in an amount of not less than \$  
358 \_\_\_\_\_ for a term of not less than \_\_\_\_\_ years, amortized over not less than \_\_\_\_\_ years. Initial

359 monthly payments of principal and interest shall not exceed \$ \_\_\_\_\_. Buyer acknowledges that lender's  
360 required monthly payments may also include 1/12th of the estimated net annual real estate taxes, hazard insurance

361 premiums, and private mortgage insurance premiums. The mortgage shall not include a prepayment premium. Buyer agrees  
362 to pay discount points in an amount not to exceed \_\_\_\_\_% ("0" if left blank) of the loan. If Buyer is using multiple loan



363 sources or obtaining a construction loan or land contract financing, describe at lines 650-664 or in an addendum attached  
364 per line 686 Buyer agrees to pay all customary loan and closing costs, wire fees, and loan origination fees, to promptly  
365 apply for a mortgage loan, and to provide evidence of application promptly upon request of Seller Seller agrees to allow  
366 lender's appraiser access to the Property

367 ~~■ LOAN AMOUNT ADJUSTMENT: If the purchase price under this Offer is modified, any financed amount, unless otherwise~~  
368 ~~provided, shall be adjusted to the same percentage of the purchase price as in this contingency and the monthly payments~~  
369 ~~shall be adjusted as necessary to maintain the term and amortization stated above.~~

370 ~~CHECK AND COMPLETE APPLICABLE FINANCING PROVISION AT LINE 371 or 372.~~

371  ~~FIXED RATE FINANCING: The annual rate of interest shall not exceed \_\_\_\_\_%~~

372  ~~ADJUSTABLE RATE FINANCING: The initial interest rate shall not exceed \_\_\_\_\_% The initial interest rate~~  
373 ~~shall be fixed for \_\_\_\_\_ months, at which time the interest rate may be increased not more than \_\_\_\_\_% ("2" if~~  
374 ~~left blank) at the first adjustment and by not more than \_\_\_\_\_% ("1" if left blank) at each subsequent adjustment.~~  
375 ~~The maximum interest rate during the mortgage term shall not exceed the initial interest rate plus \_\_\_\_\_% ("6" if~~  
376 ~~left blank) Monthly payments of principal and interest may be adjusted to reflect interest changes.~~

377 ~~■ SATISFACTION OF FINANCING COMMITMENT CONTINGENCY: If Buyer qualifies for the loan described in this Offer~~  
378 ~~or another loan acceptable to Buyer, Buyer agrees to deliver to Seller a copy of a written loan commitment.~~  
379 ~~This contingency shall be satisfied if, after Buyer's review, Buyer delivers to Seller a copy of a written loan commitment~~  
380 ~~(even if subject to conditions) that is:~~

- 381 (1) signed by Buyer, or,
- 382 (2) accompanied by Buyer's written direction for delivery.

383 Delivery of a loan commitment by Buyer's lender or delivery accompanied by a notice of unacceptability shall not satisfy  
384 this contingency.

385 ~~CAUTION: The delivered loan commitment may contain conditions Buyer must yet satisfy to obligate the lender to~~  
386 ~~provide the loan. Buyer understands delivery of a loan commitment removes the Financing Commitment~~  
387 ~~Contingency from the Offer and shifts the risk to Buyer if the loan is not funded.~~

388 ~~■ SELLER TERMINATION RIGHTS: If Buyer does not deliver a loan commitment on or before the Deadline on line 357-~~  
389 ~~Seller may terminate this Offer if Seller delivers a written notice of termination to Buyer prior to Seller's Actual Receipt of~~  
390 ~~written loan commitment from Buyer.~~

391 ~~■ FINANCING COMMITMENT UNAVAILABILITY: If a financing commitment is not available on the terms stated in this~~  
392 ~~Offer (and Buyer has not already delivered an acceptable loan commitment for other financing to Seller), Buyer shall~~  
393 ~~promptly deliver written notice to Seller of same including copies of lender(s) rejection letter(s) or other evidence of~~  
394 ~~unavailability.~~

395  ~~SELLER FINANCING: Seller shall have 10 days after the earlier of~~

- 396 (1) Buyer delivery of written notice of evidence of unavailability as noted in lines 391-394 or
- 397 (2) the Deadline for delivery of the loan commitment on line 357;

398 to deliver to Buyer written notice of Seller's decision to (finance this transaction with a note and mortgage under the same  
399 terms set forth in this Offer, and this Offer shall remain in full force and effect, with the time for closing extended accordingly.  
400 If Seller's notice is not timely given, the option for Seller to provide financing shall be considered waived Buyer agrees to  
401 cooperate with and authorizes Seller to obtain any credit information reasonably appropriate to determine Buyer's credit  
402 worthiness for Seller financing.

403 **IF THIS OFFER IS NOT CONTINGENT ON FINANCING COMMITMENT** Within \_\_\_\_\_ days ("7" if left blank) after  
404 acceptance, Buyer shall deliver to Seller either

- 405 (1) reasonable written verification from a financial institution or third party in control of Buyer's funds that Buyer has, at
- 406 the time of verification, sufficient funds to close; or

407 (2) \_\_\_\_\_  
408 \_\_\_\_\_ [Specify documentation Buyer agrees to deliver to Seller]

409 If such written verification or documentation is not delivered, Seller has the right to terminate this Offer by delivering written  
410 notice to Buyer prior to Seller's Actual Receipt of a copy of Buyer's written verification Buyer may or may not obtain  
411 mortgage financing but does not need the protection of a financing commitment contingency Seller agrees to allow Buyer's  
412 appraiser access to the Property for purposes of an appraisal Buyer understands and agrees that this Offer is not subject  
413 to the appraisal meeting any particular value, unless this Offer is subject to an appraisal contingency, nor does the right of  
414 access for an appraisal constitute a financing commitment contingency.

415  **N/A APPRAISAL CONTINGENCY:** This Offer is contingent upon Buyer or Buyer's lender having the Property appraised  
416 at Buyer's expense by a Wisconsin licensed or certified independent appraiser who issues an appraisal report dated  
417 subsequent to the date stated on line 1 of this Offer, indicating an appraised value for the Property equal to or greater than  
418 the agreed upon purchase price

419 This contingency shall be deemed satisfied unless Buyer, within \_\_\_\_\_ days after acceptance, delivers to Seller a copy  
420 of the appraisal report indicating an appraised value less than the agreed upon purchase price, and a written notice objecting  
421 to the appraised value

422 ~~■ RIGHT TO CURE: Seller (shall) (shall not) **STRIKE ONE** ("shall" if neither is stricken) have the right to cure~~  
423 ~~If Seller has the right to cure, Seller may satisfy this contingency by delivering written notice to Buyer adjusting the purchase~~  
424 ~~price to the value shown on the appraisal report within \_\_\_\_\_ days ("5" if left blank) after Buyer's delivery of the appraisal~~

425 report and the notice objecting to the appraised value Seller and Buyer agree to promptly execute an amendment initiated  
426 by either party after delivery of Seller's notice, solely to reflect the adjusted purchase price  
427 This Offer shall be null and void if Buyer makes timely delivery of the notice objecting to appraised value and the written  
428 appraisal report and

429 (1) Seller does not have the right to cure, or

430 (2) Seller has the right to cure but

431 (a) Seller delivers written notice that Seller will not adjust the purchase price, or

432 (b) Seller does not timely deliver the written notice adjusting the purchase price to the value shown on the appraisal  
433 report

434 **NOTE: An executed FHA, VA or USDA Amendatory clause may supersede this contingency.**

435 **[N/A] CLOSING OF BUYER'S PROPERTY CONTINGENCY:** This Offer is contingent upon the closing of the sale of  
436 Buyer's property located at \_\_\_\_\_

437 no later than \_\_\_\_\_ (the Deadline) If closing does not occur by the Deadline, this Offer shall  
438 become null and void unless Buyer delivers to Seller, on or before the Deadline, reasonable written verification from a  
439 financial institution or third party in control of Buyer's funds that Buyer has, at the time of verification, sufficient funds to close  
440 or proof of bridge loan financing, along with a written notice waiving this contingency Delivery of verification or proof of  
441 bridge loan shall not extend the closing date for this Offer

442 **[N/A] BUMP CLAUSE:** If Seller accepts a bona fide secondary offer, Seller may give written notice to Buyer that another  
443 offer has been accepted If Buyer does not deliver to Seller the documentation listed below within \_\_\_\_\_ hours ("72" if  
444 left blank) after Buyer's Actual Receipt of said notice, this Offer shall be null and void Buyer must deliver the following

445 (1) Written waiver of the Closing of Buyer's Property Contingency if line 435 is marked,

446 (2) Written waiver of \_\_\_\_\_ (name other contingencies, if any), and

447  
448 (3) Any of the following checked below

449  Proof of bridge loan financing

450  Proof of ability to close from a financial institution or third party in control of Buyer's funds which shall provide  
451 Seller with reasonable written verification that Buyer has, at the time of verification, sufficient funds to close

452 Other \_\_\_\_\_

453  
454 [insert other requirements, if any (e g , payment of additional earnest money, etc )]

455 **[N/A] SECONDARY OFFER:** This Offer is secondary to a prior accepted offer This Offer shall become primary upon  
456 delivery of written notice to Buyer that this Offer is primary Unless otherwise provided, Seller is not obligated to give Buyer  
457 notice prior to any Deadline, nor is any particular secondary buyer given the right to be made primary ahead of other  
458 secondary buyers Buyer may declare this Offer null and void by delivering written notice of withdrawal to Seller prior to  
459 delivery of Seller's notice that this Offer is primary Buyer may not deliver notice of withdrawal earlier than \_\_\_\_\_ days ("7"  
460 if left blank) after acceptance of this Offer All other Offer Deadlines that run from acceptance shall run from the time this  
461 Offer becomes primary

462 **HOMEOWNERS ASSOCIATION** If this Property is subject to a homeowners association, Buyer is aware the Property may  
463 be subject to periodic association fees after closing and one-time fees resulting from transfer of the Property Any one-time  
464 fees resulting from transfer of the Property shall be paid at closing by (Seller) (Buyer) **[STRIKE ONE]** ("Buyer" if neither is  
465 stricken)

466 **CLOSING PRORATIONS** The following items, if applicable, shall be prorated at closing, based upon date of closing values  
467 real estate taxes, rents, prepaid insurance (if assumed), private and municipal charges, property owners or homeowners  
468 association assessments, fuel and \_\_\_\_\_

469 **CAUTION: Provide basis for utility charges, fuel or other prorations if date of closing value will not be used.**

470 Any income, taxes or expenses shall accrue to Seller, and be prorated at closing, through the day prior to closing

471 Real estate taxes shall be prorated at closing based on **CHECK BOX FOR APPLICABLE PRORATION FORMULA**

472  The net general real estate taxes for the preceding year, or the current year if available (Net general real estate  
473 taxes are defined as general property taxes after state tax credits and lottery credits are deducted ) NOTE THIS CHOICE  
474 APPLIES IF NO BOX IS CHECKED

475  Current assessment times current mill rate (current means as of the date of closing)

476  Sale price, multiplied by the municipality area-wide percent of fair market value used by the assessor in the prior  
477 year, or current year if known, multiplied by current mill rate (current means as of the date of closing)

478   
479 **CAUTION: Buyer is informed that the actual real estate taxes for the year of closing and subsequent years may be**  
480 **substantially different than the amount used for proration especially in transactions involving new construction,**  
481 **extensive rehabilitation, remodeling or area-wide re-assessment. Buyer is encouraged to contact the local**  
482 **assessor regarding possible tax changes.**

483  Buyer and Seller agree to re-prorate the real estate taxes, through the day prior to closing based upon the taxes on  
484 the actual tax bill for the year of closing, with Buyer and Seller each owing his or her pro-rata share Buyer shall, within 5

485 days of receipt, forward a copy of the bill to the forwarding address Seller agrees to provide at closing The Parties shall  
 486 re-prorate within 30 days of Buyer's receipt of the actual tax bill Buyer and Seller agree this is a post-closing obligation  
 487 and is the responsibility of the Parties to complete, not the responsibility of the real estate Firms in this transaction

488 **TITLE EVIDENCE**

489 ■ **CONVEYANCE OF TITLE** Upon payment of the purchase price, Seller shall convey the Property by warranty deed  
 490 (trustee's deed if Seller is a trust, personal representative's deed if Seller is an estate or other conveyance as  
 491 provided herein), free and clear of all liens and encumbrances, except municipal and zoning ordinances and agreements  
 492 entered under them, recorded easements for the distribution of utility and municipal services, recorded building and use  
 493 restrictions and covenants, present uses of the Property in violation of the foregoing disclosed in Seller's Vacant Land  
 494 Disclosure Report and in this Offer, general taxes levied in the year of closing and none

495 \_\_\_\_\_  
 496 \_\_\_\_\_ (insert other allowable exceptions from title, if  
 497 any) that constitutes merchantable title for purposes of this transaction Seller, at Seller's cost, shall complete and execute  
 498 the documents necessary to record the conveyance and pay the Wisconsin Real Estate Transfer Fee

499 **WARNING: Municipal and zoning ordinances, recorded building and use restrictions, covenants and easements**  
 500 **may prohibit certain improvements or uses and therefore should be reviewed, particularly if Buyer contemplates**  
 501 **making improvements to Property or a use other than the current use.**

502 ■ **TITLE EVIDENCE** Seller shall give evidence of title in the form of an owner's policy of title insurance in the amount of  
 503 the purchase price on a current ALTA form issued by an insurer licensed to write title insurance in Wisconsin Seller shall  
 504 pay all costs of providing title evidence to Buyer Buyer shall pay the costs of providing the title evidence required by Buyer's  
 505 lender and recording the deed or other conveyance

506 ■ **GAP ENDORSEMENT** Seller shall provide a "gap" endorsement or equivalent gap coverage at (Seller's)(Buyer's)  
 507 **STRIKE ONE** ("Seller's" if neither stricken) cost to provide coverage for any liens or encumbrances first filed or recorded  
 508 after the commitment date of the title insurance commitment and before the deed is recorded, subject to the title insurance  
 509 policy conditions, exclusions and exceptions, provided the title company will issue the coverage If a gap endorsement or  
 510 equivalent gap coverage is not available, Buyer may give written notice that title is not acceptable for closing (see lines 516-  
 511 523)

512 ■ **DELIVERY OF MERCHANTABLE TITLE** The required title insurance commitment shall be delivered to Buyer's attorney  
 513 or Buyer not more than 10 days after acceptance ("15" if left blank), showing title to the Property as of a date no more  
 514 than 15 days before delivery of such title evidence to be merchantable per lines 489-498, subject only to liens which will be  
 515 paid out of the proceeds of closing and standard title insurance requirements and exceptions, as appropriate

516 ■ **TITLE NOT ACCEPTABLE FOR CLOSING** If title is not acceptable for closing, Buyer shall notify Seller in writing of  
 517 objections to title within 10 days ("15" if left blank) after delivery of the title commitment to Buyer or Buyer's attorney In  
 518 such event, Seller shall have 10 days ("15" if left blank) from Buyer's delivery of the notice stating title objections, to  
 519 deliver notice to Buyer stating Seller's election to remove the objections by the time set for closing If Seller is unable to  
 520 remove said objections, Buyer shall have five days from receipt of notice thereof, to deliver written notice waiving the  
 521 objections, and the time for closing shall be extended accordingly If Buyer does not waive the objections, Buyer shall deliver  
 522 written notice of termination and this Offer shall be null and void Providing title evidence acceptable for closing does not  
 523 extinguish Seller's obligations to give merchantable title to Buyer

524 ■ **SPECIAL ASSESSMENTS/OTHER EXPENSES** Special assessments, if any, levied or for work actually commenced  
 525 prior to the date stated on line 1 of this Offer shall be paid by Seller no later than closing All other special assessments  
 526 shall be paid by Buyer "Levied" means the local municipal governing body has adopted and published a final resolution  
 527 describing the planned improvements and the assessment of benefits

528 **CAUTION: Consider a special agreement if area assessments, property owners association assessments, special**  
 529 **charges for current services under Wis. Stat. § 66.0627 or other expenses are contemplated. "Other expenses" are**  
 530 **one-time charges or ongoing use fees for public improvements (other than those resulting in special assessments)**  
 531 **relating to curb, gutter, street, sidewalk, municipal water, sanitary and storm water and storm sewer (including all**  
 532 **sewer mains and hook-up/connection and interceptor charges), parks, street lighting and street trees, and impact**  
 533 **fees for other public facilities, as defined in Wis. Stat. § 66.0617(1)(f).**

534 **LEASED PROPERTY** If Property is currently leased and lease(s) extend beyond closing, Seller shall assign Seller's rights  
 535 under said lease(s) and transfer all security deposits and prepaid rents thereunder to Buyer at closing The terms of the  
 536 ~~written~~ (oral) **STRIKE ONE** lease(s), if any, are \_\_\_\_\_

537 Seller is entitled to receive and retain the rent for the 2022 crop farming season. Buyer is entitled to all other ownership rights of the lease thereafter as further set forth in Addition Provisions on page 11

538 below \_\_\_\_\_ Insert additional terms, if any, at lines 650-664 or attach as an addendum per line 686

539 **DEFINITIONS**

540 ■ **ACTUAL RECEIPT** "Actual Receipt" means that a Party, not the Party's recipient for delivery, if any, has the document  
 541 or written notice physically in the Party's possession, regardless of the method of delivery If the document or written notice  
 542 is electronically delivered, Actual Receipt shall occur when the Party opens the electronic transmission

543 ■ **BUSINESS DAY** "Business Day" means a calendar day other than Saturday, Sunday, any legal public holiday under  
 544 Wisconsin or Federal law, and any other day designated by the President such that the postal service does not receive

545 registered mail or make regular deliveries on that day

546 ■ **DEADLINES** "Deadlines" expressed as a number of "days" from an event, such as acceptance, are calculated by  
547 excluding the day the event occurred and by counting subsequent calendar days The Deadline expires at Midnight on the  
548 last day Additionally, Deadlines expressed as a specific number of Business Days are calculated in the same manner  
549 except that only Business Days are counted while other days are excluded Deadlines expressed as a specific number of  
550 "hours" from the occurrence of an event, such as receipt of a notice, are calculated from the exact time of the event, and by  
551 counting 24 hours per calendar day Deadlines expressed as a specific day of the calendar year or as the day of a specific  
552 event, such as closing, expire at Midnight of that day "Midnight" is defined as 11 59 p m Central Time

553 ■ **DEFECT** "Defect" means a condition that would have a significant adverse effect on the value of the Property, that would  
554 significantly impair the health or safety of future occupants of the Property, or that if not repaired, removed or replaced would  
555 significantly shorten or adversely affect the expected normal life of the premises

556 ■ **FIRM** "Firm" means a licensed sole proprietor broker or a licensed broker business entity

557 ■ **PARTY** "Party" means the Buyer or the Seller, "Parties" refers to both the buyer and the Seller

558 ■ **PROPERTY** Unless otherwise stated, "Property" means the real estate described at lines 4-8

559 **INCLUSION OF OPTIONAL PROVISIONS** Terms of this Offer that are preceded by an OPEN BOX (  ) are part of  
560 this offer ONLY if the box is marked such as with an "X" They are not part of this offer if marked "N/A" or are left blank

561 **PROPERTY DIMENSIONS AND SURVEYS** Buyer acknowledges that any land dimensions, or total acreage or square  
562 footage figures, provided to Buyer by Seller or by a Firm or its agents, may be approximate because of rounding, formulas  
563 used or other reasons, unless verified by survey or other means

564 **CAUTION: Buyer should verify total square footage formula, total square footage/acreage figures, and land  
565 dimensions, if material.**

566 **DISTRIBUTION OF INFORMATION** Buyer and Seller authorize the agents of Buyer and Seller to (i) distribute copies of  
567 the Offer to Buyer's lender, appraisers, title insurance companies and any other settlement service providers for the  
568 transaction as defined by the Real Estate Settlement Procedures Act (RESPA), (ii) report sales and financing concession  
569 data to multiple listing service sold databases, (iii) provide active listing, pending sale, closed sale and financing concession  
570 information and data, and related information regarding seller contributions, incentives or assistance, and third party gifts,  
571 to appraisers researching comparable sales, market conditions and listings, upon inquiry, and (iv) distribute copies of this  
572 Offer to the seller or seller's agent of another property that Seller intends on purchasing

573 **MAINTENANCE** Seller shall maintain the Property and all personal property included in the purchase price until the earlier  
574 of closing or Buyer's occupancy, in materially the same condition it was in as of the date on line 1 of this Offer, except for  
575 ordinary wear and tear

576 **PROPERTY DAMAGE BETWEEN ACCEPTANCE AND CLOSING** If, prior to closing, the Property is damaged in an  
577 amount not more than five percent of the purchase price, other than normal wear and tear, Seller shall promptly notify Buyer  
578 in writing, and will be obligated to restore the Property to materially the same condition it was in as of the date on line 1 of  
579 this Offer Seller shall provide Buyer with copies of all required permits and lien waivers for the lienable repairs no later than  
580 closing If the amount of damage exceeds five percent of the purchase price, Seller shall promptly notify Buyer in writing of  
581 the damage and this Offer may be terminated at option of Buyer Should Buyer elect to carry out this Offer despite such  
582 damage, Buyer shall be entitled to the insurance proceeds, if any, relating to the damage to the Property, plus a credit  
583 towards the purchase price equal to the amount of Seller's deductible on such policy, if any However, if this sale is financed  
584 by a land contract or a mortgage to Seller, any insurance proceeds shall be held in trust for the sole purpose of restoring  
585 the Property

586 **BUYER'S PRE-CLOSING WALK-THROUGH** Within three days prior to closing, at a reasonable time pre-approved by  
587 Seller or Seller's agent, Buyer shall have the right to walk through the Property to determine that there has been no  
588 significant change in the condition of the Property, except for ordinary wear and tear and changes approved by Buyer, and  
589 that any Defects Seller has agreed to cure have been repaired in the manner agreed to by the Parties

590 **OCCUPANCY** Occupancy of the entire Property shall be given to Buyer at time of closing unless otherwise provided in  
591 this Offer at lines 534-538 or in an addendum attached per line 686, or lines 650-664 if the Property is leased At time of  
592 Buyer's occupancy, Property shall be free of all debris, refuse, and personal property except for personal property belonging  
593 to current tenants, or sold to Buyer or left with Buyer's consent Occupancy shall be given subject to tenant's rights, if any

594 **DEFAULT** Seller and Buyer each have the legal duty to use good faith and due diligence in completing the terms and  
595 conditions of this Offer A material failure to perform any obligation under this Offer is a default that may subject the defaulting  
596 party to liability for damages or other legal remedies

597 If Buyer defaults, Seller may  
598 ~~(1) sue for specific performance and request the earnest money as partial payment of the purchase price; or~~  
599 ~~(2) terminate the Offer and have the option to: (a) request the earnest money as liquidated damages; or (b) sue for actual~~  
600 ~~damages~~

601 If Seller defaults, Buyer may  
602 ~~(1) sue for specific performance; or~~  
603 ~~(2) terminate the Offer and request the return of the earnest money, sue for actual damages, or both~~

604 In addition, the Parties may seek any other remedies available in law or equity The Parties understand that the availability  
605 of any judicial remedy will depend upon the circumstances of the situation and the discretion of the courts If either Party  
606 defaults, the Parties may renegotiate the Offer or seek nonjudicial dispute resolution instead of the remedies outlined above  
607 By agreeing to binding arbitration, the Parties may lose the right to litigate in a court of law those disputes covered by the  
608 arbitration agreement

609 **NOTE: IF ACCEPTED, THIS OFFER CAN CREATE A LEGALLY ENFORCEABLE CONTRACT. BOTH PARTIES**  
610 **SHOULD READ THIS DOCUMENT CAREFULLY. THE FIRM AND ITS AGENTS MAY PROVIDE A GENERAL**  
611 **EXPLANATION OF THE PROVISIONS OF THE OFFER BUT ARE PROHIBITED BY LAW FROM GIVING ADVICE OR**  
612 **OPINIONS CONCERNING YOUR LEGAL RIGHTS UNDER THIS OFFER OR HOW TITLE SHOULD BE TAKEN AT**  
613 **CLOSING. AN ATTORNEY SHOULD BE CONSULTED IF LEGAL ADVICE IS NEEDED.**

614 **ENTIRE CONTRACT** This Offer, including any amendments to it, contains the entire agreement of the Buyer and Seller  
615 regarding the transaction All prior negotiations and discussions have been merged into this Offer This agreement binds  
616 and inures to the benefit of the Parties to this Offer and their successors in interest

617 **NOTICE ABOUT SEX OFFENDER REGISTRY** You may obtain information about the sex offender registry and persons  
618 registered with the registry by contacting the Wisconsin Department of Corrections on the Internet at <http://www.doc.wi.gov>  
619 or by telephone at (608) 240-5830

620 **FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT (FIRPTA)** Section 1445 of the Internal Revenue Code (IRC)  
621 provides that a transferee (Buyer) of a United States real property interest must pay or withhold as a tax up to 15% of the  
622 total "Amount Realized" in the sale if the transferor (Seller) is a "Foreign Person" and no exception from FIRPTA withholding  
623 applies A "Foreign Person" is a nonresident alien individual, foreign corporation, foreign partnership, foreign trust, or foreign  
624 estate The "Amount Realized" is the sum of the cash paid, the fair market value of other property transferred, and the  
625 amount of any liability assumed by Buyer

626 **CAUTION: Under this law if Seller is a Foreign Person, and Buyer does not pay or withhold the tax amount, Buyer**  
627 **may be held directly liable by the U.S. Internal Revenue Service for the unpaid tax and a tax lien may be placed**  
628 **upon the Property.**

629 Seller hereby represents that Seller is a non-Foreign Person, unless (1) Seller represents Seller is a Foreign Person in a  
630 condition report incorporated in this Offer per lines 94-97, or (2) no later than 10 days after acceptance, Seller delivers  
631 notice to Buyer that Seller is a Foreign Person, in which cases the provisions on lines 637-639 apply

632 **IF SELLER IS A NON-FOREIGN PERSON.** Seller shall, no later than closing, execute and deliver to Buyer, or a qualified  
633 substitute (attorney or title company as stated in IRC § 1445), a sworn certification under penalties of perjury of Seller's  
634 non-foreign status in accordance with IRC § 1445 If Seller fails to timely deliver certification of Seller's non-foreign status,  
635 Buyer shall (1) withhold the amount required to be withheld pursuant to IRC § 1445, or, (2) declare Seller in default of this  
636 Offer and proceed under lines 601-608

637 **IF SELLER IS A FOREIGN PERSON.** If Seller has represented that Seller is a Foreign Person, Buyer shall withhold the  
638 amount required to be withheld pursuant to IRC § 1445 at closing unless the Parties have amended this Offer regarding  
639 amounts to be withheld, any withholding exemption to be applied, or other resolution of this provision

640 **COMPLIANCE WITH FIRPTA.** Buyer and Seller shall complete, execute, and deliver, on or before closing, any instrument,  
641 affidavit, or statement needed to comply with FIRPTA, including withholding forms If withholding is required under IRC  
642 §1445, and the net proceeds due Seller are not sufficient to satisfy the withholding required in this transaction, Seller shall  
643 deliver to Buyer, at closing, the additional funds necessary to satisfy the applicable withholding requirement Seller also  
644 shall pay to Buyer an amount not to exceed \$1,000 for actual costs associated with the filing and administration of forms,  
645 affidavits, and certificates necessary for FIRPTA withholding and any withholding agent fees

646 **Any representations made by Seller with respect to FIRPTA shall survive the closing and delivery of the deed.**

647 Firms, Agents, and Title Companies are not responsible for determining FIRPTA status or whether any FIRPTA exemption  
648 applies The Parties are advised to consult with their respective independent legal counsel and tax advisors regarding  
649 FIRPTA

650 **ADDITIONAL PROVISIONS/CONTINGENCIES** It is understood by Buyer and acknowledged by Seller that there is no other  
651 offer to purchase the Property in existence upon the date of this Offer

652 Notwithstanding anything in this Offer to the contrary, Buyer shall be responsible for all closing costs referenced in this Offer  
653 including, but not limited to the Real Estate Transfer Fee, except for real estate taxes

654 This Offer shall be construed under and governed by the laws of the State of Wisconsin The venue for any actions arising  
655 under this Offer shall be the Circuit Court for Milwaukee County The prevailing party shall be awarded its actual costs  
656 of any such litigation, including reasonable attorney fees

657 The Mayor of the City of Franklin was authorized to execute this Offer, together with the City Clerk of the City of Franklin,  
658 by the Franklin Common Council on August 16, 2022

659 There is an existing verbal lease of the property for farmland use Any lease of property post closing shall be subject to a written  
660 lease approved by Buyer

661 Buyer and/or its consultants may enter the Property prior to closing for non-destructive investigations, including, but not  
662 limited to wetland delineations, tree and vegetation surveys, and topographic surveys

663 Seller shall check the applicable box in provisions F6, F9 and F9m to complete the Vacant Land Disclosure Report  
664 delivered to Buyer on August 16, 2022

665 **DELIVERY OF DOCUMENTS AND WRITTEN NOTICES** Unless otherwise stated in this Offer, delivery of documents and  
666 written notices to a Party shall be effective only when accomplished by one of the authorized methods specified at lines  
667 668-683

668 (1) **Personal** giving the document or written notice personally to the Party, or the Party's recipient for delivery if named at  
669 line 670 or 671

670 Name of Seller's recipient for delivery, if any \_\_\_\_\_

671 Name of Buyer's recipient for delivery, if any \_\_\_\_\_

672  (2) **Fax** fax transmission of the document or written notice to the following number

673 Seller ( \_\_\_\_\_ ) Buyer ( \_\_\_\_\_ )

674  (3) **Commercial** depositing the document or written notice, fees prepaid or charged to an account, with a commercial  
675 delivery service, addressed either to the Party, or to the Party's recipient for delivery, for delivery to the Party's address at  
676 line 679 or 680

677  (4) **U S Mail** depositing the document or written notice, postage prepaid, in the U S Mail, addressed either to the  
678 Party, or to the Party's recipient for delivery, for delivery to the Party's address

679 Address for Seller \_\_\_\_\_

680 Address for Buyer \_\_\_\_\_

681  (5) **Email** electronically transmitting the document or written notice to the email address

682 Email Address for Seller Mike Ignasiak@schreiberfoods.com

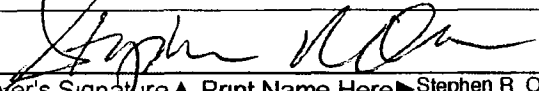
683 Email Address for Buyer JWesLaw@aol.com

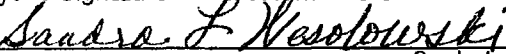
684 **PERSONAL DELIVERY/ACTUAL RECEIPT** Personal delivery to, or Actual Receipt by, any named Buyer or Seller  
685 constitutes personal delivery to, or Actual Receipt by, all Buyers or Sellers

686 **N/A** **ADDENDA:** The attached \_\_\_\_\_ is/are made part of this Offer

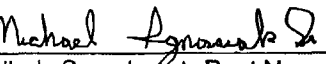
687 This Offer was drafted by [Licensee and Firm] Jesse A Wesolowski, Franklin City Attorney (State Bar No 1003204)

688 Wesolowski Reidenbach & Sajdak S C 11402 West Church Street Franklin, WI 53132

689 (X)  8/23/22  
690 Buyer's Signature ▲ Print Name Here ▶ Stephen R Olson, Mayor City of Franklin Date ▲

691 (X)  8/23/2022  
692 Buyer's Signature ▲ Print Name Here ▶ Sandra L Wesolowski, City Clerk, City of Franklin Date ▲

693 **SELLER ACCEPTS THIS OFFER. THE WARRANTIES, REPRESENTATIONS AND COVENANTS MADE IN THIS**  
694 **OFFER SURVIVE CLOSING AND THE CONVEYANCE OF THE PROPERTY. SELLER AGREES TO CONVEY THE**  
695 **PROPERTY ON THE TERMS AND CONDITIONS AS SET FORTH HEREIN AND ACKNOWLEDGES RECEIPT OF A**  
696 **COPY OF THIS OFFER.**

697 (X)  8/24/22  
698 Seller's Signature ▲ Print Name Here ▶ Michael Ignasiak Sr Managing Member Ignasiak Investment Co. LLC Date ▲

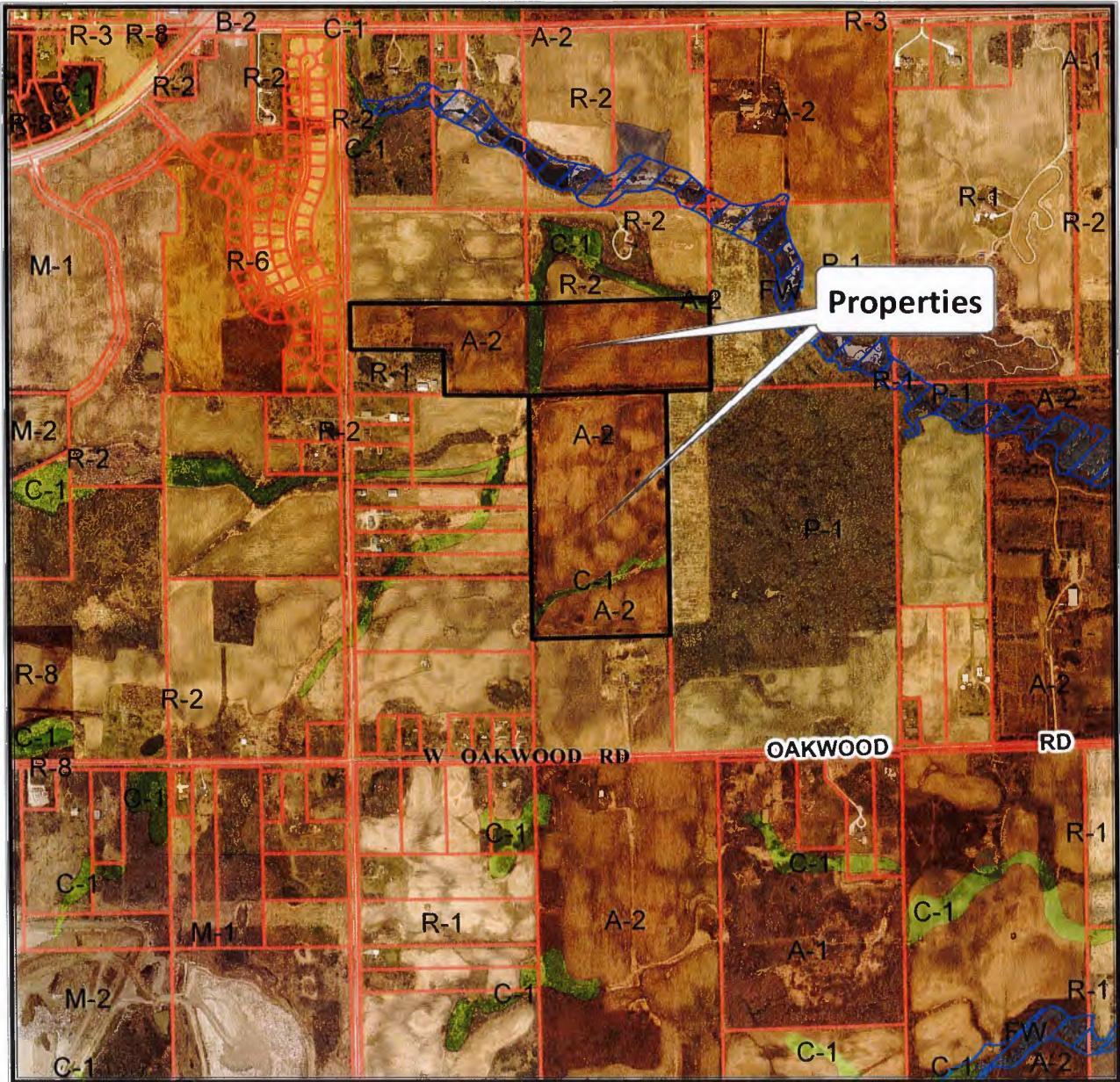
699 (X) \_\_\_\_\_  
700 Seller's Signature ▲ Print Name Here ▶ \_\_\_\_\_ Date ▲

701 This Offer was presented to Seller by [Licensee and Firm] N/A  
702 \_\_\_\_\_ on \_\_\_\_\_ at \_\_\_\_\_ a m /p m

703 This Offer is rejected \_\_\_\_\_ This Offer is countered [See attached counter] \_\_\_\_\_  
704 Seller Initials ▲ Date ▲ Seller Initials ▲ Date ▲



TKNs: 937 9999 004 & 892 9999 002



Planning Department  
(414) 425-4024



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

<p style="text-align: center;"><b>PPROVAL</b></p> <p style="text-align: center;"><i>slw</i></p>	<p style="text-align: center;"><b>REQUEST FOR COUNCIL ACTION</b></p>	<p style="text-align: center;"><b>MEETING DATE</b></p> <p style="text-align: center;"><b>9/20/2022</b></p>
<p><b>REPORTS AND RECOMMENDATIONS</b></p>	<p><b>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.</b></p>	<p><b>ITEM NUMBER</b></p> <p style="text-align: center;"><b>G.17.</b></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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<b>APPROVAL</b> <i>JW</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b> <b>09/20/2022</b>
<b>LICENSES AND PERMITS</b>	<b>MISCELLANEOUS LICENSES</b>	<b>ITEM NUMBER</b> <b>H.</b>

See attached listing from meeting of September 20, 2022.

**COUNCIL ACTION REQUESTED**

As recommended by the License Committee.



414-425-7500

**License Committee**

**Agenda\***

**Alderman Room**

**September 20, 2022 – 4:55 p.m.**

<b>1.</b>	<b>Call to Order &amp; Roll Call</b>	<b>Time:</b>
<b>2.</b>	<b>Applicant Interviews &amp; Decisions</b>	
<b>License Applications Reviewed</b>		<b>Recommendations</b>

<b>Type/ Time</b>	<b>Applicant Information</b>	<b>Approve</b>	<b>Hold</b>	<b>Deny</b>
<b>Class B Beer 2022-2023 5:00 p.m.</b>	DBA Splatter Paint Studio <b>Splatter Paint Studio LLC</b> Sajia Randolph, Agent 11217 W Forest Home Ave, #2			
<b>Extraordinary Entertainment &amp; Special Event 5:05 p.m.</b>	<b>Gujarati Samaj of Wisconsin Inc – Navratri Celebration</b> Person in Charge: Jalpesh Kanu Patel Location: 7095 S. Ballpark Dr. Dates of Event: Saturdays, October 1, 8, 15, 2022			
<b>Motel/Hotel License Review 5:15 p.m.</b>	<b>Review and Recommendation Regarding Hotel/Motel Licensing, Building Code, Health and Zoning Issues, and Enforcement Plan/Letter</b>			
<b>Fireworks Display Process 5:30 p.m.</b>	<b>Fireworks Display Process for License Committee Consideration and Discussion for Recommendation to the Common Council (Referred from 9/6/2022 Common Council Meeting)</b>			
<b>Operator 2022-2023 New 5:50 p.m.</b>	<b>Herber, Andrea M</b> Kwik Trip #857			
<b>Operator 2022-2023 New 5:55 p.m.</b>	<b>Wallace, Hanna J</b> The Rock Sports Complex			
<b>Operator 2022-2023 New</b>	<b>Dama, Alyssa M</b> Iron Mike's			
<b>Operator 2022-2023 New</b>	<b>Dillon, Kian D</b> Root River Center			

Type/ Time	Applicant Information	Approve	Hold	Deny
Operator 2022-2023 New	<b>Helm, Amber E</b> The Landmark			
Operator 2022-2023 New	<b>Hendren, Jessica L</b> Romey's Place			
Operator 2022-2023 New	<b>Molina, Jewell B</b> Iron Mike's			
Operator 2022-2023 New	<b>Scanlan, Natalie J</b> Walgreens #05459			
Operator 2022-2023 New	<b>Wendt, Maren M</b> Honey Butter Cafe			
3.	<b>Adjournment</b>			
		Time		

\*Notice is given that a majority of the Common Council may attend this meeting to gather information about an agenda item over which they have decision-making responsibility. This may constitute a meeting of the Common Council per State ex rel Badke v Greendale Village Board, even though the Common Council will not take formal action at this meeting.

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<b>APPROVAL</b> <i>DDG - slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b> <b>9/20/2022</b>
<b>Bills</b>	<b>Vouchers and Payroll Approval</b>	<b>ITEM NUMBER</b> <b>I</b>

Attached are vouchers dated August 30, 2022 and September 2, 2022 through September 15, 2022, Nos 189373 through Nos 189515 in the amount of \$ 1,056,244 20 Also included in this listing are EFT's Nos 5078 through Nos 5092 EFT, Nos 318(S), Library vouchers totaling \$ 378 51 and Water Utility vouchers totaling \$ 13,922 77

Early release disbursements dated August 30, 2022 and September 2, 2022 through September 14, 2022 in the amount of \$ 390,774 36 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

Attached is a list of property tax disbursements, Nos 17938 through Nos 17939 dated September 2, 2022 through September 15, 2022, in the amount of \$ 3,716 42 These payments have been released as authorized under Resolutions 2013-6920, 2015-7062 and 2022-7834

The net payroll dated September 9, 2022 is \$ 430,882 63, previously estimated at \$ 420,000 Payroll deductions dated September 9, 2022 are \$ 235,227 07, previously estimated at \$ 240,000

The estimated payroll for September 23, 2022 is \$ 460,000 with estimated deductions and matching payments of \$ 445,000

Approval to release payment of Hudock Law Group IOLTA in the amount of \$ 51,500 for 3151 W Elm Rd lawsuit settlement

### **COUNCIL ACTION REQUESTED**

Motion approving the following

- City vouchers with an ending date of September 15, 2022 in the amount of \$ 1,056,244 20 and
- Property Tax disbursements with an ending date of September 15, 2022 in the amount of \$ 3,716 42 and
- Payroll dated September 9, 2022 in the amount of \$ 430,882 63 and payments of the various payroll deductions in the amount of \$ 235,227 07, plus City matching payments and
- Estimated payroll dated September 23, 2022 in the amount of \$ 460,000 and payments of the various payroll deductions in the amount of \$ 445,000, plus City matching payments and
- Approval to release payment to Hudock Law Group IOLTA in the amount of \$ 51,500 00

**ROLL CALL VOTE NEEDED**