

<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>12/18/2012</b></p>
<p><b>REPORTS &amp; RECOMMENDATIONS</b></p>	<p><b>Geographic Marketing Advantage, LLC Agreement for Geographic Information System (GIS) Support and Database Maintenance Services for 2013</b></p>	<p><b>ITEM NUMBER</b></p> <p><i>G.5.</i></p>

Geographic Marketing Advantage, LLC has served as the City's primary consultant on its GIS system. City staff is very pleased with the performance of this company and its employees and is interested in continuing this relationship for an additional year. The employees, Todd Niedermeyer and Brian Fausel, have been very responsive in addressing our needs and very dedicated to continuing to move GIS forward.

At their November 28, 2012 meeting, the Technology Commission approved a motion recommending to the Common Council to continue the City's GIS service contract with Geographic Marketing Advantage, LLC for 2013, particularly given the specialized expertise of the City's software.

Staff seeks authority to execute a contract extending the term through 2013 and adjusting the rates by 2% effective January 1, 2013. The requested 2% rate adjustment is in line with City employee wage increases for 2013. Other than the rate adjustments, the 2013 contract would be in the same form as for the current year.

The contract would reflect the 2013 budget as approved and, in general, is funded approximately 82% by the General Fund with 18% split between the Sewer and Water Funds. The current contract is attached for your convenience.

Staff recommends approval.

### **COUNCIL ACTION REQUESTED**

Motion to authorize the Director of Administration to execute a contract with Geographic Marketing Advantage, LLC for Geographic Information System Support and Database Maintenance Services in a form substantially equivalent to the 2012 contract but incorporating a 2% rate increase effective January 1, 2013.

## PROFESSIONAL SERVICES AGREEMENT

This AGREEMENT, made and entered into this 1<sup>st</sup> day of January, 2012, between the City of Franklin, 9229 West Loomis Road, Franklin, Wisconsin 53132 (hereinafter "CLIENT") and Geographic Marketing Advantage, LLC, a Wisconsin Limited Liability Corporation (hereinafter "CONSULTANT"), whose principal place of business is 8757 W. Elm Ct, Franklin, WI 53132.

### WITNESSETH

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

WHEREAS, in the judgment of CLIENT, it is necessary and advisable to employ CONSULTANT in connection with outsourcing the design, development, and operation of an enterprise GIS for the City of Franklin.

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

#### I. BASIC SERVICES AND AGREEMENT ADMINISTRATION

- A. CONSULTANT shall provide services to CLIENT for the continuation of services for operation and support of the City of Franklin's GIS and for performing updates and maintenance to the GIS database. Services to be provided under this AGREEMENT are provided in Attachment A.
- B. CONSULTANT shall serve as CLIENT's professional representative in matters to which this AGREEMENT applies, and will give consultation and advice to CLIENT during the performance of said services. CONSULTANT may employ the services of outside consultants and subcontractors when deemed necessary by CONSULTANT to complete work under this AGREEMENT.
- C. CONSULTANT is an independent contractor and all persons furnishing services hereunder are employees of, or independent subcontractors to, CONSULTANT 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 CONSULTANT as employer. CLIENT understands that express AGREEMENTS may exist between CONSULTANT 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.

- E. CONSULTANT maintains certain copyrighted source documents that are subject to periodic independent evaluation and updates. CONSULTANT reserves the right to use copyrighted source documents and be compensated for such use, in an amount as mutually agreed upon, when it is necessary or convenient to accomplish the Basic Services covered by this AGREEMENT, and the fee for such use would be less than or equal to the cost of providing the same service through the creation of original source documents. For all copyrighted works provided to CLIENT, CONSULTANT grants CLIENT permission to reproduce such works in any manner; prepare derivative works; and lend, lease, rent, or transfer ownership to any private or public entity involved with the operation, financing, and use of the City of Franklin GIS. CLIENT agrees that the use of materials prepared from copyrighted source documents will be limited to the project needs encompassed by this AGREEMENT. Use of materials prepared from copyrighted source documents for other purposes shall be limited to reproduction for criticism, comment, news reporting, teaching, scholarship, research, or similar activities covered by the "fair use" principles of the copyright law. All copyrighted source documents will be clearly marked by the CONSULTANT.

## II. FEES AND PAYMENTS

CLIENT agrees to pay CONSULTANT, for and in consideration of the performance of Basic Services further described in Attachment A for a total not-to-exceed cost in the amount of \$120,350, in accordance with Attachment "B" and subject to the terms detailed below:

- A. CONSULTANT may bill CLIENT and be paid for all work satisfactorily completed hereunder on a monthly basis. CLIENT agrees to pay undisputed CONSULTANT's invoice within 30 days of invoice date for all approved work.
- B. CONSULTANT will invoice CLIENT on an hourly basis for tasks identified in Attachment A. Total cost will not exceed \$111,888 unless changes to the project budget are specifically agreed upon by CONSULTANT and CLIENT and documented in writing. For services rendered, invoices will clearly state the percentage of work completed and the fee earned.
- C. In consideration of the faithful performance of this AGREEMENT, the CONSULTANT 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 draft and final reports, it will notify CONSULTANT in writing within thirty (30) days of receipt of report and the CONSULTANT will remedy the deficiencies within thirty (30) days of receiving CLIENT's review.
- E. CONSULTANT shall not initiate any services prior to January 1, 2012 and shall complete all services covered by this AGREEMENT by December 31, 2012, excepting for delays caused through no fault of the CONSULTANT or except when continued month-to-month as provided for herein.

### III. MODIFICATION AND ADDITIONAL SERVICES

- A. CLIENT may, in writing, request changes in the Basic Services required to be performed by CONSULTANT under this AGREEMENT. Upon acceptance of the request of such changes, CONSULTANT shall submit a "Change Order Request Form" to CLIENT for authorization and notice to proceed signature and return to CONSULTANT. Should any such actual changes be made, an equitable adjustment as mutually agreed upon will be made to compensate CONSULTANT for any incremental labor or direct costs. Any claim by CONSULTANT for adjustments hereunder must be made to CLIENT in writing no later than forty-five (45) days after receipt by CONSULTANT of notice of such changes from CLIENT.
- B. CLIENT and CONSULTANT reserve the right to subsequently amend this AGREEMENT to include additional services. Compensation and schedule for completion for additional services will be as agreed by CLIENT and CONSULTANT prior to the start of work on said additional services and may be incorporated as an Addendum to this AGREEMENT.

### IV. ASSISTANCE AND CONTROL

- A. Todd Niedermeyer, or designee, will perform the work of the CONSULTANT, 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 CONSULTANT with all available information concerning PROJECT as deemed necessary by CONSULTANT.
- C. CONSULTANT will appoint, subject to the approval of CLIENT, Todd Niedermeyer as CONSULTANT's Project Manager and other key providers of the Basic Services. Substitution of other staff may occur only with the consent of CLIENT.
- D. CONSULTANT shall maintain all records pertaining to this AGREEMENT until at least three (3) years following its completion of the services hereunder and CLIENT shall have the right to inspect and copy such records upon request.

### V. TERMINATION

- A. This AGREEMENT may be terminated by either party to this AGREEMENT upon thirty (30) days written notice. Upon such termination by CLIENT, CONSULTANT shall be entitled to payment of such amount as shall fairly compensate CONSULTANT for all work performed and expenses incurred 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, CONSULTANT shall deliver to CLIENT all data, reports, summaries, correspondence, and other written, printed, or tabulated material pertaining in any way to Basic Services that CONSULTANT may have accumulated. Such material is to be delivered to CLIENT whether in completed form or in process. CLIENT shall hold CONSULTANT harmless for any work that is incomplete due to early termination.

C. The rights and remedies of CLIENT and CONSULTANT 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 CONSULTANT 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
B. Automobile Liability: Bodily Injury/Property Damage	\$1,000,000
C. Workers' Compensation and Employer's Liability	Per Statute
D. Professional Liability	\$1,000,000

Upon the execution of this AGREEMENT, CONSULTANT 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 written notice to CLIENT.

The CONSULTANT agrees, to the fullest extent permitted by law, to indemnify, defend, and hold harmless the CLIENT from any damage, liability or cost, including reasonable attorney's fees and costs of defense, arising from any negligent or intentional and wrongful act or omission of CONSULTANT.

## VII. TIME FOR COMPLETION

Subject to the conditions of Section II E., CONSULTANT shall commence immediately upon receipt of a Notice to Proceed to complete all work required herein. The CONSULTANT shall exert all reasonable effort to adhere to the services in Attachment A except that the services may be notified with the approval of CLIENT and shall be extended day for day for any delay introduced during CLIENT's review of products or in the general conduct of the project.

## VIII. DISPUTES

This AGREEMENT shall be construed under and governed by the laws of the State of Wisconsin. The venue for all 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.

**IX. CONFIDENTIALITY**

CONSULTANT shall keep confidential, except as may be required to perform its obligations under this AGREEMENT, any and all confidential information of the CLIENT of which the CONSULTANT has knowledge, possession, or to which the CONSULTANT has access. This confidentiality obligation shall survive the termination of this AGREEMENT.

**X. TERM**

This AGREEMENT shall cover a period including all of calendar year 2012 and shall continue thereafter on a month-to-month basis, at the fixed hourly rates provided for herein, until such time that the AGREEMENT is terminated, as provided for herein, or modified or extended by a separate, future AGREEMENT.

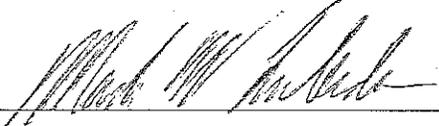
**XI. AMMENDMENTS TO THE AGREEMENT**

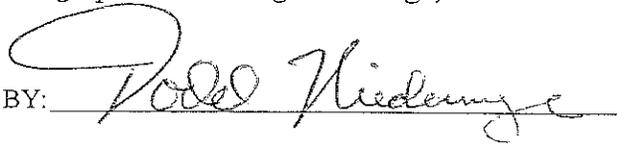
This AGREEMENT may only be amended by written instrument signed by both CLIENT and CONSULTANT.

IN WITNESS WHEREOF, the parties have caused this AGREEMENT to be executed on the day and year first above written.

City of Franklin, Wisconsin

Geographic Marketing Advantage, LLC

BY: 

BY: 

PRINT NAME: Mark W. Lubarda

PRINT NAME: Todd Niedermeyer

TITLE: Director of Administration

TITLE: President, Sole Member

DATE: 8/16/12

DATE: 8/16/12

## Attachment A

### Continued GIS Support and Services for 2012

#### On-Site Management and Technical Support of GIS Operation

- Monitor results of the GIS Rewrite Project to determine continued effectiveness and operability and to determine additional potential improvements.
- Continue communications and coordination with the City's Administration and Information Technology Support Providers
- Provide technical and programming services as needed by the City
- Setup login parameters for ArcGIS licenses
- Support database management
- Evaluate data quality and data errors
- Provide GIS user support
- Produce product to support special requests, including but not limited to map development
- Provide continued documentation, instruction and training
- Installation of software
- Load new and revised GIS data
- Provide other support as needed by the City
- Provide training on GIS applications and tools, including website tools
- Perform GIS database updates and maintenance, including related applications such as but not limited to Signview and Sewerview (Note: City staff will also continue to perform similar and related tasks. As such, Contractor will be evaluated on this aspect based upon their accuracy and productivity in performance of this contracted service.)
- Work with ESRI and Cartegraph Products and Services
- Help develop, support, and promote additional GIS applicability and use throughout City Departments.
- Maintenance and continued development, with approval of the Director of Administration, of the web-based GIS portal used for public access to mapping services.

**Attachment B**

**Geographic Marketing Advantage, LLC  
TOTAL "NOT TO EXCEED" BUDGET  
for  
Continued On-Site Support Services And  
GIS Database Updates and Maintenance**

<b>Service</b>	<b>Approx. Number of Hours Per Week</b>	<b>Approx. Number of Weeks</b>	<b>Approx. Total Hours</b>	<b>Fixed Hourly Rate</b>	<b>Budget</b>
On-Site Administrative and Project Management Support of GIS Operations (Project Manager)	16	50	800	\$82.35	\$65,880
Technical and Mapping Support	16	50	800	\$57.51	\$46,008
<b>Total Estimated Expenditure Available for Additional Services Authorized in Writing</b>					\$111,888
<b>Total "Not to Exceed"</b>					\$8,462
					\$120,350

<b>APPROVAL</b> <i>slw</i> 	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE 12/18/2012</b>
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<b>REPORTS &amp; RECOMMENDATIONS</b>	<b>Information Technology Services Agreement between Heartland Business Systems and the City of Franklin</b>	<b>ITEM NUMBER 6.6.</b>
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Heartland Business Systems (HBS) has served as the service agent for the City of Franklin's Information Services for the past two years after having absorbed Connection Strategies Enterprises, Inc and its staff, which had served the City since 2004. Staff and the Technology Commission have remained very pleased with their service, competencies, and responsiveness.

The contract continues the use of the "Dual Technician" option which was created and incorporated in 2010. The "Dual Technician" requires the caliber of a Level II Technician but recognizes that they will perform both Level I and Level II work, and as such the hourly rate was blended. One Dual Technician is housed primarily at City Hall and one at the Police Department; however, there is a lot of coordination and cross-training between the two. This option ensures the City routinely has two Level II caliber individuals at its immediate access and continues to better address the service level requested by the Police Chief. The contract also continues to include an emergency, after-hours rate for the SQL Database Administrator, if one were called in during a crisis. Similarly, access to field engineers on an "as needed" basis was incorporated.

Staff seeks authority to execute a 2013 contract with HBS which would be similar to the current contract, except for the following changes:

- Adjust the rates by 2% effective January 1, 2013. HBS rates were last increased in 2011 by 2% and remained at those same rates with no increase for 2012. The requested adjustment is very much in line with City employee wage adjustments and equals the adjustment proposed for the City's other IT contractor.
- Add language for "performing special projects, as separately identified and authorized in writing (including via email), on a non-emergency basis and typically with a "not-to-exceed" resource limitation". These special projects would be performed at a rate of up to \$69.50 an hour for those special projects occurring outside of the regular non-emergency hours.
- Non-emergency hours were changed throughout the contract where needed to reflect the time period of 7 a.m. to 5 p.m. instead of 8:30 a.m. to 5 p.m.

A red-lined version of the 2013 contract incorporating the above changes is attached. The new rates were anticipated in the 2013 budget, so funding within the Information Services budget is available for the current service level. The Technology Commission and staff recommend approval.

### **COUNCIL ACTION REQUESTED**

Motion to authorize the Director of Administration to execute the attached Information Technology Services Agreement between Heartland Business Systems and the City of Franklin effective January 1, 2013.

# HEARTLAND BUSINESS SYSTEM INFORMATION TECHNOLOGY SERVICES AGREEMENT

**CUSTOMER:** City of Franklin, Wisconsin  
(hereafter referred to as "CITY")  
**PROJECT:** Information Technology Services

## **PREAMBLE**

Whereas, the CITY had contracted with Connection Strategies Enterprises, Inc. (CSEI) since 2003 for the provision of computer and network services, which contract was assigned by CSEI to Heartland Business Systems (hereafter referred to as HBS). The CITY and HBS then mutually entered into a contract providing for HBS to provide certain Information Technology Services.

Whereas the parties (the CITY and HBS) desire to modify the contract to provide for a rate increase and an extension of the term.

Therefore, the parties agree that this contract shall serve as the stipulation of the services, service levels, pricing, and other such terms as mutually agreed to between HBS and the CITY; acknowledgement by the parties of the prior assignment of the CSEI contract to HBS; the acceptance by HBS of all the terms and conditions included and incorporated herein; and the establishment of a contract between the CITY and HBS. As such, throughout this contract "HBS" shall be understood to continue to incorporate CSEI's contractual obligations as previously assigned to HBS.

## **CITY NEEDS**

The CITY needs technical services with respect to its Local Area Network ("LAN"), Wide Area Network ("WAN"), desktop support, communications systems, and Information Technology ("IT") functions. Specifically, the CITY has a need for regularly scheduled Level I and Level II on-site technical support and such additional technical support as requested, on an on-call basis and on a scheduled part time basis with respect to the CITY'S LAN and WAN.

## **DESCRIPTION OF SERVICES**

HBS will provide qualified technical personnel as necessary to complete designated objectives agreed upon with CITY, as described in the CSEI Proposal dated October 31, 2003 (incorporated herein and as previously attached to prior contracts), as described in the City of Franklin Request for Proposal dated October 2003 and as both are specifically modified herein. Service records will be provided to the CITY for each visit, as appropriate.

- A. **Level I Support:** HBS will provide full-time desk top support technicians ("Level I Technician") to provide IT support to CITY'S staff with respect to the software and hardware on the work stations and printers connected to CITY'S LAN and WAN and communications systems. The Level I Technicians will be available on premises between the hours of 8:30 A.M. and 5:00 P.M., Monday through Friday, as requested by the CITY and as mutually scheduled, averaging 60 hours per week, except on days and for weeks when the CITY'S offices are closed and on regularly scheduled holidays of the CITY. The Level I Technicians will be available to work non-scheduled hours, as mutually agreeable between CSEI and the CITY and if such non-scheduled hours would result in an individual Level I Technician working more than 40 hours in any particular Monday through Friday work week, the Level I Technician will be allowed a reduction in the regularly scheduled hours for such week such that the total hours worked during such week by the Level I Technician will not exceed 40 hours, unless otherwise mutually agreed to.

Additionally, the Level I Technician shall provide hardware support involving the rebuilding, upgrading, and maintaining of workstations and be responsible for communications with software and hardware vendors.

- B. Level II Support. HBS will provide to the CITY, as requested by the CITY and as provided for herein, Level II Technician(s) on premises between the hours of 8:30 a.m. and 5:00 p.m. Monday through Friday (normal work period), except for days when the CITY'S offices are closed and on regularly scheduled holidays of the CITY, but not to exceed an average of 28 hours per week. Such hours may be rescheduled, by mutual agreement, outside the normal work period if circumstances indicate or completion of the task is best performed outside the normal work period. The personnel providing such services (the "Level II Technicians") will perform and assist in the maintenance and administration of the CITY'S LAN, WAN, and on special projects as requested by the CITY. The Level II Technician(s) will also be available to support the Level I Technician.
- C. SQL Database Administration. HBS will provide to the CITY, as requested by the CITY, a database administrator to provide the following services relative to maintenance of the CITY'S SQL Databases:
- Check logs to ensure that the server is not having problems;
  - Ensure that back-ups are being completed successfully;
  - Periodically perform test restores of backups to ensure that disaster recovery needs are being met;
  - Evaluate long running queries to determine if there are performance issues and recommendations to fix those issues; and
  - Continually make recommendations to assure an integrated data based systems environment.
- D. Project Manager Support. HBS, at no additional cost, will provide Project Manager Support to CITY on an as requested basis, including but not limited to attendance at a twice-monthly status meeting. In accordance with "Additional Services" below, in special circumstances and with prior written agreement as to scope of services and the cost thereof, the Project Manager may work directly on special projects as requested in writing by the CITY.
- E. General Support Services. Level I Support, Level II Support, Dual Technician Support, and the Database Administrator shall do the following:
- Provide to the CITY on a weekly basis a description of work performed, listed by Department and End User.
  - Be available for emergencies and after hours support 24 hours per day / 7 days per week.
  - Provide reports, as requested, to the CITY'S Technology Commission or Common Council concerning IT recommendations, hardware and software updates, and new technology.
  - Perform special projects occurring outside of regular non-emergency hours (including those as otherwise scheduled), as separately identified and authorized in writing (including via email), on a non-emergency basis and typically with a "not-to-exceed" resource limitation. [Note: As special projects occur outside of regular non-emergency hours, including those as otherwise scheduled, such projects will typically involve research projects and lower priority projects and may more commonly occur with projects causing a work load in excess of 45-50 hours in a given week(s).]
- F. Dual Technician Support. A "Dual Technician" performs both Level I and Level II Support, as described in sections A. and B. above. A Dual Technician is provided as an alternative to using Level I and Level II Support personnel. The decision to select the Level I / Level II Technician alternative versus the Dual Technician alternative shall be the prerogative of the CITY. In the event that and during

a term where the CITY is using two full time Dual Technicians (generally 40 hours per week, 50 weeks per year each), the CITY may also contract for additional Level I Support personnel. Except by mutual agreement of the CITY and HBS, a determination by the CITY to switch to the alternative not then currently in place may not be altered for at least 6 months after implementation. Once HBS has been notified by the CITY of its determination to change alternatives, HBS has 4 weeks to implement the new alternative, which time may be extended at the discretion of the Director of Administration.

## **TERMS AND CONDITIONS**

### **1. SCOPE**

HBS will provide the services (the "Services") specifically requested by CITY as set forth in "Description of Services" above, subject to the terms, conditions, limitations, and exclusions stipulated herein.

### **2. TERM OF AGREEMENT**

This Agreement shall commence effective January 1, 2013 ~~April 4, 2011~~ and cover a period including all of calendar year 2013 ~~2011~~ and shall continue thereafter on a month-to-month basis until such time that the agreement is terminated, as provided for herein, or modified or extended by a separate, future agreement.

### **3. PLACE OF SERVICE**

Services provided for herein will be performed at the various CITY properties and facilities, unless otherwise agreed to in writing by the parties.

### **4. LIABILITY FOR SERVICES**

CITY is relying upon HBS's expertise in the provision of services, materials, and products under this Agreement and HBS warrants that it will provide such services, materials, and products in a professional, timely, and efficient manner and as would a reasonable and prudent provider in the computer and related technology services industry in the Southeastern Wisconsin area. Any limitation of liability may be made subject to required insurance coverages.

### **5. LICENSES/COPYRIGHTS**

HBS agrees that any software sold to CITY by HBS shall include a license authorizing CITY'S use of the software for its intended purpose. HBS agrees to indemnify and hold CITY harmless from any and all claims, liabilities, damages, costs and expenses, including but not limited to reasonable attorneys fees, arising out of or related to HBS's sale of software to the CITY without the appropriate license allowing CITY to use the software for its intended purpose.

### **6. REPRESENTATIONS**

No employee or agent of HBS is authorized to make any representation or warranty binding upon HBS, unless contained within this Agreement. This Agreement may be modified only by written instrument signed by both parties hereto. In the event CITY has forms containing terms different than as contained herein, the terms contained herein shall prevail, and any terms contained on CITY'S forms shall not be deemed accepted by HBS. In the event HBS has forms containing terms different than as contained herein, the terms contained herein shall prevail, and any terms contained on HBS's forms shall not be deemed accepted by CITY.

### **7. INDEMNIFICATION**

To the fullest extent permitted by law, HBS, its subcontractor, agents, servants, officers or employees shall indemnify and hold harmless the CITY, including, but not limited to, its respective elected and appointed officials, officers, employees and agents, from any and all claims brought by any person or

entity whatsoever, arising from any act, error, or omission of HBS during HBS'S performance of the Agreement or any other agreements of HBS entered into by reason thereof. HBS shall indemnify and defend the CITY including, but not limited to, its respective elected and appointed officials, officers, employees and agents, with respect to any claim arising, or alleged to have arisen from negligence and/or willful, wanton or reckless acts or omissions of HBS, its subcontractor, agents, servants, officers, or employees and any or all losses or liabilities resulting from any such claims, including, but not limited to, all damage awards, costs and reasonable attorney's fees.

8. NON-SOLICITATION OF EMPLOYMENT

HBS and CITY agree not to offer, promise, or engage in employment with personnel and/or contractors from the staff of the other for a period of six (6) months from the completion of the assignment and/or during the time that the assignment is in progress.

9. ASSIGNMENT/SUBCONTRACTORS

This Agreement shall not be assigned by either party without the express written consent of the other party. This Agreement shall be binding and shall inure to the benefit of the parties hereto and their successors and permitted assigns. HBS agrees not to subcontract any of the Services without the prior written approval of the CITY, which shall not be unreasonably withheld.

10. TERMINATION/CANCELLATION

A. The agreement may be canceled by either party, for any reason, upon submission of a 30-day written notice of termination to the other party. HBS shall be responsible for continuation of services during the termination notice period and the CITY shall be responsible for payment for services performed according to the agreement during the termination period.

B. This Agreement may be terminated, at any time, by the mutual agreement of the CITY and HBS.

11. HARDWARE AND SOFTWARE PURCHASES

Any sales, excise, duty or other tax or fee imposed by any government authority on the Services shall be the responsibility of CITY. HBS and CITY agree to use their best efforts to allow CITY to make all hardware and software purchases directly if such direct purchases will allow for a reduction in cost and/or sales taxes to be paid by CITY.

12. EXTENSION

This Agreement may be extended by an agreement signed by both parties. The price for Services during any extension period shall be the HBS standard price at the time of extension, unless otherwise mutually agreed to in writing.

13. ENTIRE AGREEMENT

This Agreement represents and expresses the entire agreement between the parties as to the subject matter hereof, and supersedes all prior understandings or agreements, whether oral or written. No employee or agent of HBS is authorized to make any representation or warranty binding upon HBS, unless contained within this Agreement. This Agreement may be modified only by written instrument signed by both parties hereto. In the event CITY has forms containing terms different than as contained herein, the terms contained herein shall prevail, and any terms contained on CITY'S forms shall not be deemed accepted by HBS. In the event HBS has forms containing terms different than as contained herein, the terms contained herein shall prevail, and any terms contained on HBS'S forms shall not be deemed accepted by CITY.

14. SEVERABILITY

If any portion of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then this Agreement, including all of the remaining terms, will remain in force and effect as if such invalid or unenforceable term had never been included.

15. GOVERNING LAW

The terms of this Agreement shall be construed and enforced under the laws of the State of Wisconsin, and any action to challenge or enforce the provisions of this Agreement shall have as its venue the Circuit Court for Milwaukee County, Wisconsin. The prevailing party in any litigation commenced pertaining to this Agreement shall be entitled to its reasonable costs of litigation, including, without limitation, reasonable attorneys' fees, to be paid by the other party as part of the award or judgement resulting from such litigation.

16. CONFLICT OF INTEREST

To the best of HBS'S knowledge, no employee of HBS presently has any interest which would conflict in any manner or degree with the performance of the Services. HBS shall not undertake, during the term of this Agreement, any activity which would conflict in any manner or degree, with the performance of the Services.

17. INDEPENDENT CONTRACTOR

HBS and the CITY agree that HBS is not an employee of the CITY and that the relationship between the CITY and HBS is that of independent contractor. Neither HBS or CITY has the right or authority to assume or create any obligations or responsibilities, express or implied, on behalf of the other and may not bind the other in any manner whatsoever without the express written permission of the other as to such matter.

18. AUDIT

HBS agrees to maintain all written records pertaining to the Services for a period of three (3) years from the performance date associated with the service provided HBS shall make such records available to CITY for review during such three (3) year term during normal business hours at HBS'S office upon CITY'S written request.

19. CONFIDENTIALITY

HBS agrees that HBS and all of its employees shall maintain strict confidence regarding all privileged or confidential information received by or brought to the attention of its employees by reason of this agreement or in the performance of duties provided for herein. HBS acknowledges that violation of this section may, particularly with regard to confidential Police Department records, constitute a criminal violation, as well as a contract violation. This section shall in no way restrict HBS from acting in accordance with the laws of the City of Franklin, State of Wisconsin, or United States of America.

20. PROJECT PERSONNEL

HBS shall designate qualified and responsible employees to perform the services provided for herein; however, the individuals so designated shall require approval by the CITY, which approval shall not unreasonably be withheld. Upon request by the CITY, HBS shall provide the CITY with a listing of the full name, residential address, and birth date of employees assigned to this project.

**TERMS OF PAYMENT**

Invoices will be submitted monthly by HBS to the CITY for actual time charges incurred. The CITY will pay all non-disputed invoices promptly or within thirty (30) days of receipt thereof.

HBS will provide Level I contractor services based on the requirements explained in Section 6.1 of the Request for Proposal (October 2003) and as set forth and specifically modified herein at the rate of ~~\$37.16~~ \$37.90 an hour effective ~~January 1, 2013~~ April 4, 2011.

HBS will provide Level II contractor services based on the requirements explained in Section 6.2 of the Request for Proposal (October 2003) and as set forth and specifically modified herein at the rate of ~~\$66.67~~ \$68.00 an hour for non-emergency hours (~~7 a.m. to 5 p.m. 8:30 a.m.-5:00 p.m.~~ Monday – Friday (excluding holidays) and as otherwise scheduled)- and ~~\$78.80~~ \$80.38 an hour for emergency reports, both effective ~~January 1, 2013~~ April 4, 2011.

HBS will provide “Dual Technician Support services as set forth herein and consistent with and based on the requirements explained in Section 6.2 of the Request for Proposal (October 2003) at the rate of ~~\$50.49~~ \$51.50 an hour for non-emergency hours (~~7 a.m. to 5 p.m. 8:30 a.m.-5:00 p.m.~~ Monday – Friday (excluding holidays) and as otherwise scheduled), up to \$69.50 an hour for special projects occurring outside of regular non-emergency hours. and ~~\$78.80~~ \$80.38 an hour for emergency reports, both effective ~~January 1, 2013~~ April 4, 2011.

When requested in writing, including via e-mail, HBS will provide Database Administration contractor services and the rate for such services shall be ~~\$78.80~~ \$80.38 an hour for non-emergency hours (~~7 a.m. to 5 p.m. 8:30 a.m.-5:00 p.m.~~ Monday – Friday, excluding holidays and as otherwise scheduled) and ~~\$112.20~~ \$114.44 an hour for emergency reports, both effective ~~January 1, 2013~~ April 4, 2011.

The above rates of service may be adjusted by mutual agreement of both parties at any time during this agreement.

### **ADDITIONAL COSTS**

In addition to amounts billed in accordance with the Terms of Payment section of this Agreement, CITY shall be responsible for certain additional technical support costs, such as specialty field engineers, -as mutually agreed to in writing prior to performing such services requiring the additional technical support. Rates for such additional services shall be as , unless otherwise mutually agreed to in writing prior to performing such services; ~~shall be as listed in the CSEI Proposal dated October 31, 2003, and increased by three percent (3%).~~

### **INSURANCE**

HBS shall, during the life of this Agreement, maintain insurance coverage with an authorized insurance carrier acceptable to the City in amounts at least equal to the minimum limits set forth below:

A.	Limit of General/Commercial Liability	\$1,000,000
B.	Automobile Liability: Bodily Injury/Property Damage	\$1,000,000
C.	Excess Liability for General Commercial or Automobile Liability	\$1,000,000
D.	Worker’s Compensation and Employer’s Liability	Per Statute
E.	Professional Liability	\$1,000,000

Upon the execution of this Agreement, HBS shall provide the CITY with certificates of insurance evidencing the above coverages and providing the CITY the right that they may not be cancelled or amended without 30 days prior written notice to the CITY.



<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>December 18, 2012</b></p>
<p style="text-align: center;"><b>REPORTS AND RECOMMENDATIONS</b></p>	<p>A Resolution Authorizing Certain Officials to Execute an Agreement to Continue Professional Environmental Engineering Services to Monitor Compliance at the Metro Recycling &amp; Disposal Facility to December 31, 2013, with JSA Civil Environmental Engineers, Inc.</p>	<p style="text-align: center;"><b>ITEM NUMBER</b></p> <p style="text-align: center;"><i>G.7.</i></p>

JSA Civil Environmental Engineers, Inc. has been providing landfill monitoring services at the Metro landfill for the past 8 years. The last annual contract expires December 31, 2012. Attached is a draft contract to renew the terms of the 2012 agreement for 2013 (mileage charge cost is the same as for 2012; hourly rates remain the same and JSA states that those hourly rates have not changed since 2008, which will result in a request for a rate increase for the year 2014) and a resolution authorizing same. Waste Management of Wisconsin, Inc. is obligated to provide reimbursement for the contract cost pursuant to Article IV.24.B. of the WWMI Metro Landfill Facility Greenspace Protection and Limited Landfill Expansion Agreement dated August 16, 2010. The contract price is a cost not to exceed \$20,000.00, as adjusted by the consumer price index as set forth in the Agreement.

**COUNCIL ACTION REQUESTED**

A motion to adopt A Resolution Authorizing Certain Officials to Execute an Agreement to Continue Professional Environmental Engineering Services to Monitor Compliance at the Metro Recycling & Disposal Facility to December 31, 2013, with JSA Civil Environmental Engineers, Inc.

STATE OF WISCONSIN

CITY OF FRANKLIN

MILWAUKEE COUNTY

RESOLUTION NO. 2012-\_\_\_\_\_

A RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO EXECUTE AN AGREEMENT TO CONTINUE PROFESSIONAL ENVIRONMENTAL ENGINEERING SERVICES TO MONITOR COMPLIANCE AT THE METRO RECYCLING & DISPOSAL FACILITY TO DECEMBER 31, 2013, WITH JSA CIVIL ENVIRONMENTAL ENGINEERS, INC.

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WHEREAS, JSA Civil Environmental Engineers, Inc. having proposed to provide continued services as previously approved by the Common Council for the monitoring of the Metro Recycling & Disposal Facility landfill operations, for compliance with applicable state and local laws, codes, rules, orders and ordinances and siting agreements, to the end of the year 2013, the cost of such services being reimbursable to the City pursuant to Article IVB. of the WMWI Metro Landfill Facility Greenspace Protection and Limited Landfill Expansion Agreement; and

WHEREAS, the Common Council having considered such proposal and the resources currently available to obtain such monitoring services, and the benefit to the Community from the provision of such services and having found such proposal to be reasonable.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that the agreement for Professional Environmental Engineering Services to Monitor Compliance at Metro Recycling & Disposal Facility landfill, with JSA Civil Environmental Engineers, Inc., as previously extended by the Common Council to December 31, 2012, be further extended to December 31, 2013, to provide services limited to bi-monthly audits, reports thereon and government meeting attendance limited to one hour each meeting, and such prior contract terms as may be applicable thereto, at cost not to exceed \$20,000.00, as adjusted by the consumer price index as set forth in the WMWI Metro Landfill Facility Greenspace Protection and Limited Landfill Expansion Agreement dated August 16, 2010, at Article IV.24.B., and all in such form and content as annexed hereto, be and the same is hereby approved.

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

Introduced at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

RESOLUTION NO. 2012-\_\_\_\_\_

Page 2

APPROVED:

\_\_\_\_\_  
Thomas M. Taylor, Mayor

ATTEST:

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

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

# STANDARD AGREEMENT FOR SERVICES TO MONITOR COMPLIANCE AT METRO RECYCLING AND DISPOSAL FACILITY DURING OPERATIONS AND CONSTRUCTION

**This Standard Agreement for Services (the "AGREEMENT") is between JSA Civil Environmental Engineers, Inc., a Subchapter S Corporation, organized pursuant to Wisconsin Law, (CONSULTANT) and the City of Franklin, a municipal corporation organized pursuant to Wisconsin Law (CLIENT).**

## ARTICLE . SCOPE OF SERVICES

The CONSULTANT shall provide consulting services (the "Services") as described in Attachment A. An initial draft of the Auditor's Manual shall be provided to the Metro Recycling & Disposal Facility Monitoring Committee by CONSULTANT within 7 (all days shall be calendar days) days of the date of notice and authorization to CONSULTANT to proceed. CONSULTANT shall further respond to any Committee requirements upon such Auditor's Manual within 7 days of receipt. Odor monitoring Services shall commence within 7 days of the Monitoring Committee's approval of the Auditor's Manual. Notwithstanding anything to the contrary set forth in Attachment A, all auditing reports shall additionally be provided by CONSULTANT to the Monitoring Committee; reports to the City of Franklin shall be to the City Clerk; and all reports prepared in the ordinary course of business shall be delivered electronically, except for quarterly reports, which shall be delivered in paper form to the Monitoring Committee and the City Clerk. Electronic transmissions of all reports shall be made by CONSULTANT within 24 hours of the completions of such reports. Initial odor complaint mapping shall be completed by CONSULTANT concurrent with the completion of the Auditor's Manual. Hours budgeted for operations and construction auditing within Attachment A include and are sufficient to allow for the provision of professional advice by CONSULTANT upon the request of CLIENT, as to available remedies or available remedial action, which may be necessary to cure any occurrences or conditions disclosed upon audit.

## ARTICLE 2. COMPENSATION

Compensation to be paid by CLIENT to the CONSULTANT is described in Attachment A. Notwithstanding anything to the contrary set forth in Attachment A, CONSULTANT shall provide those Services and those Service hours per Task for such total compensation and expenses as shall not exceed those "TOTAL" amounts as are specifically allocated to such Tasks, respectively, in Attachment A. Such TOTAL amounts include all costs for labor, overhead, G&A, benefits, taxes, profit and all actual reasonable expenses, which shall be in such amounts and as set forth upon the "Standard Rates and Conditions" schedule contained within Attachment A. Total compensation and expenses for all landfill operations auditing Services (including odor monitoring) to be provided annually, commencing January 1, 2013, shall not exceed \$20,000.00, as adjusted by the consumer price index as set forth in the WMWI Metro Landfill Facility Greenspace Protection and Limited Landfill Expansion Agreement dated August 16, 2010, at Article IV.24.B.

# **STANDARD AGREEMENT FOR SERVICES TO MONITOR COMPLIANCE AT METRO RECYCLING AND DISPOSAL FACILITY DURING OPERATIONS AND CONSTRUCTION**

## **ARTICLE 3. TERMS OF PAYMENT**

Payment by CLIENT to CONSULTANT shall be monthly, based on the invoicing provided by CONSULTANT.

### **A. INVOICING**

The CONSULTANT shall submit itemized invoices to CLIENT for progress payments once each month during the progress of the Services. Such invoices will represent the value of the completed Services, and will be prepared in such form and supported by documentation as CLIENT may reasonably require.

### **B. PAYMENTS**

CLIENT will review and approve invoices for payment. CLIENT will make payment to the CONSULTANT within thirty (30) days after receipt of the invoice. Progress payments to CONSULTANT will not constitute acceptance of the Services.

### **C. LIENS**

CONSULTANT will promptly pay for all services, labor, material, and equipment used or employed in the Services, and will maintain all materials, equipment, structures, buildings, premises, and other subject matter hereof free and clear of mechanic's or other liens.

## **ARTICLE 4. OBLIGATION OF CONSULTANT**

### **A. INDEPENDENT CONTRACTOR**

CONSULTANT is an independent contractor and will maintain complete control of and responsibility for its employees, subcontractors, and agents. The CONSULTANT shall also be solely responsible for the means and methods for carrying out the Services.

### **B. REPORTING**

CONSULTANT shall, if requested by CLIENT, submit with its monthly invoice, progress reports, in a form acceptable to CLIENT.

### **C. PERFORMANCE**

The standard of care applicable to CONSULTANT Services will be the degree of skill and diligence normally employed by others performing the same or similar Services and that of a professional engineer in Southeastern Wisconsin. The CONSULTANT will reperform any Services not meeting this standard without additional compensation.

### **D. WORKING FILES**

CONSULTANT will maintain files containing all work documentation including calculations, assumptions, interpretations of regulations, sources of information, and other raw data required in the performance of this AGREEMENT. CONSULTANT will provide copies of the information contained in its working files to CLIENT upon request of CLIENT and at the CLIENT'S cost. All copies of information and data given to CONSULTANT by CLIENT or generated by CONSULTANT in performance of the Services will be delivered by the CONSULTANT to CLIENT upon termination of the AGREEMENT. CONSULTANT may retain one copy of any documentation pertaining to the Services performed after the termination of this AGREEMENT.

### **E. HOLD HARMLESS**

CONSULTANT shall and hereby agrees to indemnify, defend, hold harmless and release CLIENT

# STANDARD AGREEMENT FOR SERVICES TO MONITOR COMPLIANCE AT METRO RECYCLING AND DISPOSAL FACILITY DURING OPERATIONS AND CONSTRUCTION

(including its directors, officers, employees, representatives and agents) for any and all losses, demands, damages, claims, costs and expenses (including reasonable attorney's fees and costs) relating to or resulting from bodily injury or death, and for damage to property during or related to the Services under this AGREEMENT; provided, however, this release shall not be effective as to the extent that any such bodily injury or death or damage to property resulted from gross negligence or willful misconduct of CLIENT.

## F. CODES, LAWS, AND REGULATIONS

CONSULTANT will comply with all applicable codes, laws, regulations, standards, and ordinances in force during the term of this AGREEMENT. CLIENT shall provide copies of local ordinances and agreements pertaining to the site to CONSULTANT.

## G. PERMITS, LICENSES, AND FEES

CONSULTANT will obtain and pay for all permits and licenses required by law that are associated with the CONSULTANT'S performance of the Services and will give all necessary notices.

## H. INSURANCE

CONSULTANT shall, during the term of the AGREEMENT, maintain insurance coverage with an authorized insurance carrier acceptable to CLIENT in amounts equal to the minimum limits set forth below

A. Limit of General/Commercial Liability	\$1,000,000.00
B. Automobile Liability; Bodily Injury/Property Damage	\$1,000,000.00
C. Worker's Compensation and Employer's Liability	Statutory
D. Professional Liability	\$1,000,000.00

Certificates of insurance evidencing the above shall be delivered to CLIENT on request and shall provide that such coverages may not be canceled or amended without 30 day prior notice to CLIENT and naming CLIENT as an additional insured for General Liability.

## I. ACCESS TO RECORDS

The CONSULTANT will maintain accounting records, in accordance with generally accepted accounting principles and practices, to substantiate all invoiced amounts. Unless otherwise provided in a Task Order said records will be available for examination by CLIENT during CONSULTANT'S normal business hours for a period of three (3) years after CONSULTANT'S final invoice to the extent required to verify the costs incurred hereunder.

## J. SUSPENSION OF WORK

The CONSULTANT will, upon written notice from CLIENT, suspend, delay or interrupt all or a part of the Services. In such event, CONSULTANT will resume the Services upon written notice from CLIENT, and an appropriate extension of time will be mutually agreed upon and added to CONSULTANT'S time of performance. CLIENT will reimburse CONSULTANT for reasonable termination and start up costs should work be suspended, interrupted or delayed unless due to the wrongful act or omission of CONSULTANT under this AGREEMENT or its duties of skill and diligence.

## K. WORKING RELATIONSHIP BETWEEN WASTE MANAGEMENT OF WISCONSIN, Inc., J Spear Associates, Inc. AND THE CITY OF FRANKLIN

During the term of this AGREEMENT no CONSULTANT employee or subconsultant working under this AGREEMENT shall knowingly perform any work for Waste Management of Wisconsin, Inc. or any of its subsidiaries. No CONSULTANT employee or subconsultant who has done work for Waste Management of Wisconsin, Inc. within two years of this AGREEMENT shall be

# STANDARD AGREEMENT FOR SERVICES TO MONITOR COMPLIANCE AT METRO RECYCLING AND DISPOSAL FACILITY DURING OPERATIONS AND CONSTRUCTION

assigned to work under this AGREEMENT.

## L. CONFLICT OF INTEREST

CONSULTANT warrants that neither it nor any of its affiliates, their officers, employees or agents, have 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, their officers, employees or agents, will acquire directly or indirectly any such interest. CONSULTANT warrants that it will immediately notify CLIENT if any actual or potential conflict of interest arises or becomes known to CONSULTANT. Upon receipt of such notification, review and written approval is required from CLIENT for the CONSULTANT to continue to perform work under this AGREEMENT.

## M. CONSULTANT'S PERSONNEL AT THE SUBJECT SITE

The presence of duties of CONSULTANT'S personnel at the subject site, whether as onsite representatives or otherwise, do not make CONSULTANT or its personnel in any way responsible for those duties that belong to the CLIENT and/or contractors, or other entities, and do not relieve the contractors or any other entity of their obligations, duties, and responsibilities, including, but not limited to, all construction/operation methods, means, techniques, sequences, and procedures necessary for coordinating and completing all portions of work in accordance with the Contract Documents and any health and safety precautions required by such activities. CONSULTANT and its personnel have no authority to exercise control over any contractor or other entity or their employees in connection with their work or any health and safety precautions and have no duty for inspecting, noting, observing, correcting, or reporting on health and safety deficiencies of the contractor or other entity or any other persons at the site other than CONSULTANT'S own personnel.

The presence of CONSULTANT'S personnel at the subject site is for the purpose of providing CLIENT a greater degree of confidence that the complete work will conform to the applicable siting agreements and local and state laws, rules, codes, orders, and ordinances and that the integrity of the terms as reflected in the applicable siting agreements and local and state laws, rules, codes, orders, and ordinances have been implemented and preserved by the contractors. CONSULTANT neither guarantees the performance of the contractors nor assumes responsibility for contractor's failure to perform their work in accordance with the applicable siting agreements and local and state laws, rules, codes, orders, and ordinances.

## ARTICLE 5. OBLIGATIONS OF CLIENT

### A. TIMELY REVIEW

CLIENT will examine the CONSULTANT'S studies, reports, proposals, and other related documents and render decisions required by CONSULTANT a timely manner.

### B. PROMPT NOTICE

CLIENT will give written notice to CONSULTANT whenever CLIENT observes or becomes aware of any development that affects the scope or timing of CONSULTANT Services, or any defect in the work of the CONSULTANT.

### C. CHANGES

CLIENT may, by written order only, make changes, revisions, additions, or deletions (collectively

# **STANDARD AGREEMENT FOR SERVICES TO MONITOR COMPLIANCE AT METRO RECYCLING AND DISPOSAL FACILITY DURING OPERATIONS AND CONSTRUCTION**

hereinafter called "changes") in the Services. CONSULTANT will immediately, upon knowledge of any potential changes (including actions, inactions, and written or oral communications) that do not conform to the authorized method of directing changes specified herein, notify CLIENT of such changes and will request written disposition. The CONSULTANT will not proceed with any changes unless notified to proceed in writing by CLIENT. Nothing herein will be construed as relieving the CONSULTANT of its obligations to perform, including without limitation, the failure of the parties to agree upon the CONSULTANT entitlement to, or the amount of, any adjustment in time or compensation. Any claim by the CONSULTANT for an adjustment under this paragraph must be preceded by CONSULTANT'S written notice to CLIENT prior to performing any work or changes that such work or changes will require additional payment to that contemplated by this AGREEMENT. If the Services are reduced by changes, such action will not constitute a claim for damages based on loss of anticipated profits.

## **D. AUTHORITY OF CLIENT**

The authority and responsibility of CLIENT are limited to the provisions set forth in this AGREEMENT.

## **ARTICLE 6. GENERAL LEGAL PROVISIONS**

### **A. PROPRIETARY INFORMATION**

All prices, rates, designs, reports, data, services, specifications, and other information related to the Services contain and comprise proprietary and company confidential information of CLIENT, and potentially other teaming partners. Except for the purpose hereof, CONSULTANT shall not publish or disclose to any third party or make use of such information during or at any time following the expiration or earlier termination hereof except if such disclosure is required by CLIENT, order of a court of competent jurisdiction, or otherwise required by applicable law.

### **B. ASSIGNMENTS**

Neither party shall have the power to or will assign any of the duties or rights or any claim arising out of or related to this AGREEMENT, whether arising in tort, contract or otherwise, without the written consent of the other party. Any unauthorized assignment is void and unenforceable. These conditions and the entire AGREEMENT are binding on the heirs, successors, and assigns of the parties hereto.

### **C. WAIVERS**

No waiver by either party of any default by the other party in the performance of any provision of this AGREEMENT will operate as, or be construed as, a waiver of any future default, whether like or different in character.

### **D. FORCE MAJEURE**

Neither party to this AGREEMENT will be liable to the other party for delays in performing the Services, or for the direct or indirect cost resulting from such delays, that may result from labor strikes, riots, war, and acts of governmental authorities, extraordinary weather conditions or other natural catastrophe, or any cause beyond the reasonable control or contemplation of either party.

### **E. AUTHORIZATION TO PROCEED**

Verbal authorization by CLIENT, followed by confirming letter to CONSULTANT will be authorization for CONSULTANT to proceed with the Services.

### **F. NO THIRD PARTY BENEFICIARIES**

This AGREEMENT gives no rights or benefits to anyone other than the CONSULTANT and

# STANDARD AGREEMENT FOR SERVICES TO MONITOR COMPLIANCE AT METRO RECYCLING AND DISPOSAL FACILITY DURING OPERATIONS AND CONSTRUCTION

CLIENT and has no third party beneficiaries.

## G. JURISDICTION

The laws of the State of Wisconsin shall govern the validity of this AGREEMENT its interpretation and performance, and any other claims related to it. The venue for any dispute shall be the Circuit Court for Milwaukee County. The prevailing party in any such litigation shall be entitled to be awarded its reasonable attorney's fees.

## H. SEVERABILITY AND SURVIVAL

If any of the Provisions contained in this AGREEMENT are held invalid, illegal, or unenforceable the unenforceability of the other remaining provisions shall not be impaired thereby. Limitations of liability, indemnities, and other express representations shall survive termination of this AGREEMENT for any cause.

## I. TERMINATION

### (1) TERMINATION FOR CONVENIENCE

CLIENT, for its convenience, may, effective forthwith upon any notice, terminate all or part of this AGREEMENT. In such event the CONSULTANT will be entitled to compensation for the Services competently performed up to the date of termination. The CONSULTANT' will not be entitled to compensation for profit on the Services not performed.

### (2) TERMINATION FOR DEFAULT

CLIENT may, by written notice, terminate the whole or any part of the AGREEMENT for default in the event that the CONSULTANT fails to perform any of the provisions of this AGREEMENT, or fails to make progress as to endanger performance of the AGREEMENT in accordance with its terms, or, in the opinion of CLIENT, becomes financially or legally incapable of completing the Services and does not correct such to CLIENT'S reasonable satisfaction within a period of seven (7) working days after receipt of notice from CLIENT specifying such failure.

If after notice of termination, it is determined for any reason that the CONSULTANT was not in default or that the default was excusable, the rights and obligations of the parties will be the same as if the notice of termination had been issued pursuant to TERMINATION FOR CONVENIENCE.

In the event of termination for default, the CONSULTANT will not be entitled to termination expenses. Regardless of the cause of termination the CONSULTANT shall deliver legible copies of all completed or partially completed work products and instruments of service including, but not limited to laboratory, field or other notes log book pages, terminal data, computations and designs.

The rights and remedies of CLIENT provided in this Article will not be exclusive and are in addition to any other rights and remedies provided by law or equity or under this AGREEMENT.

## J. DELAYS AND EXTENSION OF TIME

If the CONSULTANT is delayed in the progress of the Services by any act or neglect of CLIENT or by any separate teaming partner, or by strikes, lockouts, fire, unusual weather conditions, or unavoidable casualties, the CONSULTANT will, within twenty-four (24) hours of the start of the occurrence give notice to CLIENT of the cause of the potential delay and estimate the possible

# STANDARD AGREEMENT FOR SERVICES TO MONITOR COMPLIANCE AT METRO RECYCLING AND DISPOSAL FACILITY DURING OPERATIONS AND CONSTRUCTION

time extension involved. Due to the time sensitive nature of the Services bring provided by CONSULTANT any extension or delays in CONSULTANT'S performance must be negotiated by the parties such that CLIENT can still meet deadlines which are established by entities that are not parties to this AGREEMENT. No extension of time will be granted to the CONSULTANT for delays occurring to parts of the Services that have no measurable impact on the completion of the Services under this AGREEMENT. No extension of time will be considered for weather conditions normal to the area in which the Services are being performed. Unusual weather conditions if determined by CLIENT to be of a severity that would stop all progress may be considered as cause for an extension of completion time. Delays in delivery of equipment or material purchased by the CONSULTANT or its subcontractors will not be considered as a just cause for delay. The CONSULTANT will be fully responsible for the timely ordering, scheduling, expediting, and/or delivery of all equipment, materials, and personnel.

## K. TERM OF AGREEMENT

The AGREEMENT shall extend to and expire upon December 31, 2013. This term may be extended by mutual consent of both parties.

## ARTICLE 7. NOTICES

For the purposes of this agreement, notices will be by United States Mail to:

For the CLIENT:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

For the CONSULTANT:

JSA Civil Environmental Engineers, Inc.  
325 W. Vine Street  
Milwaukee, WI 53212  
ATTN: Jo-Walter Spear, Jr., P.E.

## ARTICLE 8. SIGNATURES AND ATTACHMENTS

A. The following attachments are made part of this AGREEMENT: Attachment A.

B. This AGREEMENT executed in duplicate original, represents the entire AGREEMENT between the parties, supersedes all prior agreements and understandings and may be changed only a written amendment executed by both parties:

Approved for JSA Civil Environmental Engineers, Inc.

Accepted for \_\_\_\_\_

By \_\_\_\_\_

By: \_\_\_\_\_

Name: Jo-Walter Spear, Jr., P.E.

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

**STANDARD AGREEMENT FOR SERVICES TO MONITOR  
COMPLIANCE AT METRO RECYCLING AND DISPOSAL  
FACILITY DURING OPERATIONS AND CONSTRUCTION**

Title: Project Manager

Title: \_\_\_\_\_

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

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

# **JSA Civil Environmental Engineers, Inc. (JSA) Scope of Professional Engineering Services to The City of Franklin, WI**

## **LANDFILL OPERATIONS AUDITING**

The scope of services has been broken down into the following tasks:

### **Task 1 Auditor's Manual**

The auditor's manual is reviewed and updated, annually. The budget for this task assumes one hour to review and update the manual.

**Deliverables:** Auditors Manual

### **Task 2 Operations and Construction Audit**

JSA auditors will perform audits of landfill operations and any construction activities occurring during the audit. The audit of operations will include, but not be limited to, observation of waste receipt; weigh-in, placement and compaction of wastes; the application of cover materials and cover integrity; odor monitoring (on-site and off-site); leachate management, including leachate recirculation, evaporation, and disposal; landfill gas recovery system operations; flare stability and consistency; vegetation observations for signs of landfill gas or leachate stress; and other necessary operations for the facility. To maximize the efficiency of the audits, JSA has prepared an audit form that encompasses regulatory, permit, and contractual requirements, as well as other standards of practice in the solid waste industry. JSA has used this form, or one similar to it, at other facilities. JSA will provide the City of Franklin, Metro Waste Disposal and Recycling Monitoring Committee (Committee) and Metro Waste Disposal and Recycling Facility (Metro) with an audit report following each site visit. Particular attention will be paid to activities and procedures that do not conform the contract between Metro and the City of Franklin (City). We will provide our findings and recommendations to the Committee in writing.

Inspection of operations will be conducted during each site visit, as appropriate. Construction continues at a landfill after the major actions of building new cells. The addition of a new landfill gas recovery well, placement of incremental cap areas, erosion damage repairs and other construction activities will be observed if they are in process during the audit.

Our team has extensive experience in all aspects of landfill construction and operation and will draw upon our Project Manager's experience with landfill construction and operations, with the support of our Principal, who has over 30 years of landfill construction and operations experience. We will use our experience to anticipate problems and to keep the City fully informed of the project status.

Our budget for this task is based on the assumption that one team member will spend 3 to 4 hours at the site each week, with senior review of the audit reports.

During periods of intense or complex construction, the audits may consume more time than anticipated above. Our experience in other audit situations is that there are opportunities to manage the total budget to prevent budget over runs at the project level.

**Deliverables:** Copy of landfill operations audit report following each site visit, including a copy of the landfill construction audit report for construction activity occurring during the audit; Year End Report

### **Task 3 Odor Monitoring**

JSA will conduct Odor Monitoring before and during every audit event at the Metro site. A course about the landfill has been defined for the limits of odor monitoring and the results of each event are recorded upon a map that is included in the Audit report. JSA also maintains an online database of all odors reported and their geographic location about the Metro site.

**Deliverables:** Copy of the Odor Monitoring Map with every Audit Report, provide and maintain online database of odor complaints.

### **Task 4 Environmental Monitoring and Data Analysis**

At the direction of the City or the Committee, JSA will review and evaluate groundwater quality and surface water quality data, groundwater elevation data, leachate quality data; and landfill gas data provided by Metro to the City or the Wisconsin Department of Natural Resources (WDNR). This evaluation will include both a general trend analysis and a trend analysis that relates to the background data.

If our team identifies significant changes or anomalies in the groundwater or surface water data, we will evaluate the impact of the landfill on those changes and notify the City. At the request of the City, we will identify appropriate mitigation actions and present these actions in a technical memorandum for the City's review.

**Deliverables:** Quarterly and Annual review of Metro's analysis of groundwater and surface water

quality and an assessment of the numerical results; a memorandum summarizing the observation during a quarterly groundwater and surface water monitoring event; quarterly and annual review of Metro's sampling and analysis of landfill gas and an assessment of the numerical results; and a memorandum summarizing the observation during a landfill gas monitoring event.

### **Task 5 Facility Closure and Post-Closure Care Monitoring**

At the direction of the City, JSA will make independent annual determinations of the funding level (+30% or -50%) necessary to close the landfill and to monitor and maintain it for a period of 30-years following closure. This level will be compared to the current balance of the facility closure, monitoring, and maintenance funds or current calculations of that fund, by Metro. We will provide a written assessment to the City indicating whether sufficient funds have been set aside.

**Deliverable:** Annual written report assessing funding requirements for closure and post-closure monitoring.

### **Task 6 Attendance at Landfill Committee Meetings**

JSA will attend the Committee Meetings in order to address questions from members of the committee. Typically, the Auditor and/or an engineer will attend the meeting, based on our understanding of committee concerns. We request to be placed on the agenda early in the meeting and will attend for a period of one hour at no cost to the City. If we are requested to remain after the hour, the City will be billed for the time at the regular hourly rate of our attendees. The budget for this task assumes that we will spend no more than one hour at the meetings.

**Deliverable:** Documentation as requested by the committee at prior meetings, if any.

### **Task 7 Additional Services as Requested**

JSA is prepared to perform a variety of tasks for the duration of the contract period not specifically addressed in the scope of services. Our experience suggests that the flexibility offered by this arrangement will be extremely valuable to the City. Because of the variety of situations that are encountered in the course of landfill construction and operation, there are services that may be requested that can not be envisioned at the time the scope of services is written. The following list is not a proposal for additional services, but a short lists of examples of services we have been asked to provide during an audit contract that were not envisioned in the contract:

- Consultation regarding storm water and erosion control when problems occur,
- Consultation regarding alternative daily cover,
- Consultation regarding the Operator's plans to meet new regulations including air quality, gas management, and NPDES regulations,
- Consultation regarding Operator proposals to change environmental monitoring plans,
- Solid waste market assessment and consultation,
- Consultation on the effectiveness and selection of landfill deodorants,
- Consultation on and the preparation of comments regarding legislation or regulation that effects landfill operation or impacts the agreement between the community and the landfill

**Deliverable:** Deliverable and level-of-effort for activities under this Task will be developed on a case by case basis as requested by the City.



**CIVIL ENVIRONMENTAL ENGINEERS**

325 West Vine Street / Milwaukee, WI 53212-3606 / 414-263-2122

December 6, 2012

Project No: 1036.10066

Jesse Wesolowski, Esq  
Attorney to the City of Franklin  
11402 W. Church Street  
Franklin, Wisconsin 53132

Re: 2013 JSA Civil Environmental Engineers' Professional Services for the City of Franklin

Dear Jesse;

We, JSA Civil Environmental Engineers (JSA), would like to continue to offer our Professional Services to the City of Franklin. We consider the City of Franklin to be a Legacy Client and offer rates and terms that we have maintained since 2008. These rates and conditions are attached.

Also attached, please find our "Scope of Professional Services". JSA currently audits the WMWI Metro Facility twice per month and reports directly to the Waste Facility Monitoring Committee, and its Chair, Marvin Wolff. The product of the audits, a final report, is placed on the web at <http://jsacivil.com/pages/audit/franklin.html>.

I, and my staff, greatly appreciate the experience and the continued opportunity to serve the City of Franklin. If you, or the City of Franklin, have any questions or comments regarding our current or future services, please do not hesitate to contact me.

Thank you

A handwritten signature in black ink, appearing to read 'Jo-Walter Spear, Jr.'.

Jo-Walter Spear, Jr., P.E., S.C.

JSA Civil Environmental Engineers, Project Manager



## CIVIL ENVIRONMENTAL ENGINEERS

325 West Vine Street / Milwaukee, WI 53212-3606 / 414-263-2122

### Standard Rates and Conditions For Legacy Clients 2013

<b>Title</b>	<b>Rate</b>
Principal	\$120.00
Project Manager	\$ 85.00
Administration	\$ 50.00
Engineering Technician	\$ 50.00

Mileage is billed at \$ 0.63 per mile and travel is billed at one-half the traveler's hourly rate. Copies are billed at \$ 0.10 per page for letters, memoranda, reports, etc. Drawings are billed at \$ 0.75 per square foot of drawing for black and white and \$ 8.00 per square foot for color. All other direct expenses are itemized on our invoice. Invoicing will include any disposable supplies or special equipment, as applicable. Clients will be provided with a secure Intranet page, for the receipt and maintenance of deliverables and other documents. Our secure intranet page is also available for collaborative document development and review. A 10 % surcharge will be applied to all expenses to cover administration and management. Each client invoice is assessed a \$50.00 Administrative Services Fee to recover accounting and billing costs.

JSA Civil Environmental Engineers charges time on the basis of the nearest ½ hour for engineers and planners and the nearest ¼ hour for graphics, CAD, and Administrative personnel. Invoicing is done at least once each month, either around the middle of the month or the end of the month, based on client preference. Invoices will be submitted within ten (10) days of the close of the billing period and are payable upon receipt. Should invoices be issued outside of this schedule, they are due and payable upon receipt. J Spear Associates reserves the right to assess late charges of 5.0% of the principal per month against all invoices not paid within 60 days of issuance. In addition, work on the project by JSA may be suspended and data, reports and/or other products withheld, should invoices not be paid within 45 days. Invoices are due and payable upon receipt. Invoices paid within fifteen (15) days of issuance are eligible for a 2.5% discount, which maybe taken by the client when making payment.

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<b>APPROVAL</b> <i>Slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b> December 18, 2012
<b>REPORTS AND RECOMMENDATIONS</b>	Milwaukee County change of administrative authority for the Milwaukee County Correctional Facility-South	<b>ITEM NUMBER</b> <i>G.8.</i>

The Common Council referred this matter to the Community Safety Response Task Force at its regular meeting on December 4, 2012. The CSRTF met at 3:00 p.m. on December 13, 2012. The CSRTF adopted a motion directing the Chief of Police and the City Attorney to draft a letter to Milwaukee County for review by the Common Council expressing the City's deep concern with regard to the above subject matter for the primary purpose and duty of public safety and the security of the Community and that the City of Franklin should participate in any decision-making process upon the subject matter due not only to the facility's locale, but also because of the City's investment of local governmental safety resources in the event of any breach. The draft letter is under preparation at the time of this writing and will be delivered to the Common Council for this meeting.

**COUNCIL ACTION REQUESTED**

A motion to approve the letter to Milwaukee County regarding the Milwaukee County change of administrative authority for the Milwaukee County Correctional Facility-South and to direct the City Clerk to deliver same accordingly.

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<b>APPROVAL</b> <i>slw</i> <i>[Signature]</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b> <b>12/18/12</b>
<b>REPORTS &amp; RECOMMENDATIONS</b>	<b>A RESOLUTION REGARDING COMPENSATION TO THE CITY OF FRANKLIN FOR CELLULAR 9-1-1 RESPONSE SERVICES WITHIN MILWAUKEE COUNTY</b>	<b>ITEM NUMBER</b> <i>G.9.</i>

At the Common Council meeting of December 4, 2012, the Common Council approved a motion offered by Alderman Taylor that staff prepare a resolution requesting commensurate consideration by Milwaukee County for payment for Cellular 9-1-1 Response Services within the City of Franklin.

**COUNCIL ACTION REQUESTED**

A motion to approve Resolution # \_\_\_\_\_, "A RESOLUTION REGARDING COMPENSATION TO THE CITY OF FRANKLIN FOR CELLULAR 9-1-1 RESPONSE SERVICES WITHIN MILWAUKEE COUNTY"



A STATE OF WISCONSIN: CITY OF FRANKLIN: MILWAUKEE COUNTY

RESOLUTION NO. 2012-\_\_\_\_\_

A RESOLUTION REGARDING COMPENSATION TO THE CITY OF FRANKLIN FOR CELLULAR 9-1-1 RESPONSE SERVICES WITHIN MILWAUKEE COUNTY

WHEREAS, Milwaukee County is considering entering into an agreement with the City of Milwaukee that will effectively result in the City of Milwaukee being paid by Milwaukee County for the City of Milwaukee agreeing to receive and respond to cellular 9-1-1 calls originating from City of Milwaukee residents; and

WHEREAS, the City of Franklin similarly supports local municipalities directly responding to cellular 9-1-1 emergency calls initiated within the local municipality's boundaries; and

WHEREAS, the City of Franklin taxpayers pay Milwaukee County a property tax levy based on a property tax rate that is fair and equitable to that paid by residents of the City of Milwaukee and, as such, the City of Franklin taxpayers deserve fair and equitable consideration by Milwaukee County in service provision and resource distribution; and

WHEREAS, in the event of payment by Milwaukee County to the City of Milwaukee for cellular 9-1-1 police services, the City of Franklin expects fair and equitable treatment and expects fair and equitable payment, compensation, or reimbursement for similar cellular 9-1-1 response services to City of Franklin residents; and

WHEREAS, failure to subsequently compensate the City of Franklin in a similar manner would constitute unfair and inequitable treatment of the Citizens of Franklin and would effectively result in an unfair and inappropriate re-distribution of County property tax dollars (partially funded by City of Franklin residents) to the City of Milwaukee.

NOW, THEREFORE, BE IT RESOLVED that the City of Franklin respectfully requests payment, compensation, or reimbursement for its cellular 9-1-1 response services within the City of Franklin if the County provides any such payment or compensation to any other municipality within Milwaukee County.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Director of Clerk Services is hereby directed to distribute this resolution to the County Executive, the County Board Chairwoman, and the Milwaukee County Fiscal and Budget Administrator.

Introduced at a regular meeting of the Common Council of the City of Franklin this 18th day of December, 2012 by Alderman Taylor.

Passed and adopted by the Common Council of the City of Franklin this 18th day of December, 2012.

APPROVED:

\_\_\_\_\_  
Thomas M. Taylor, Mayor

ATTEST:

\_\_\_\_\_  
Sandra L. Wesolowski, Director of Clerk Services

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

APPROVAL <i>slw</i>	REQUEST FOR COUNCIL ACTION	MTG. DATE 12/18/12
Reports & Recommendations	SUBJECT: Authorization to proceed with the acquisition of W. Marquette Avenue from S. 49 <sup>th</sup> Street to the west property line of the Pleasant View Elementary School site and the acquisition of W. Evergreen Street from a point 800 feet east of S. 51 <sup>st</sup> Street west 540 feet to the west line of the City's undeveloped park land south of Pleasant View Elementary School	ITEM NO.  <i>G.10.</i>

**BACKGROUND**

Pursuant to the adopted 2013 budget that included funding for the extension of W. Marquette Avenue and W. Evergreen Street, it is staff's recommendation that the City proceed with the necessary steps to acquire the right-of-way.

**ANALYSIS**

Staff recommends that Evergreen Street extension be reduced to a 60 foot right-of-way vs. the existing portion which is an 80 foot right-of-way and the width of the pavement of W. Evergreen Street be set as a 28 foot face to face vs. the existing width of 40 foot fact to face width. Also, that the extension of W. Marquette Avenue right-of-way be set as a 66 foot right-of-way which will be wide enough to allow for the construction of a sidewalk in the future. The proposed plan for the extension of W. Marquette Avenue is to place the roadway just south of the existing tree line as the tree line contains a number of good tree specimens and to connect to the existing W. Marquette Avenue on center line.

With this approval, the proposed street extensions will be sent to the Board of Public Works to review and approve the legal descriptions and sent to the Planning Commission to determine the necessity for the right-of-way acquisition. After the approvals as indicated above, a resolution determining necessity will be placed on the Common Council agenda along with an agreement for the completion of the appraisals and negotiations for the acquisition.

**OPTION**

Approve

or

Table

**FISCAL NOTE**

Funding is included in the 2013 budget.

**RECOMMENDATION**

Motion to authorize staff to proceed with the acquisition of the right-of-way for the extension of W. Marquette Avenue from S. 49<sup>th</sup> Street to the west property line of the Pleasant View Elementary School site and W. Evergreen Street from a point 800 feet east of S. 51<sup>st</sup> Street west 540 feet to the west line on the City's undeveloped park land south of the Pleasant View Elementary School and refer said acquisition to the Board of Public Works and Planning Commission.

JMB/sg

## Legal Description

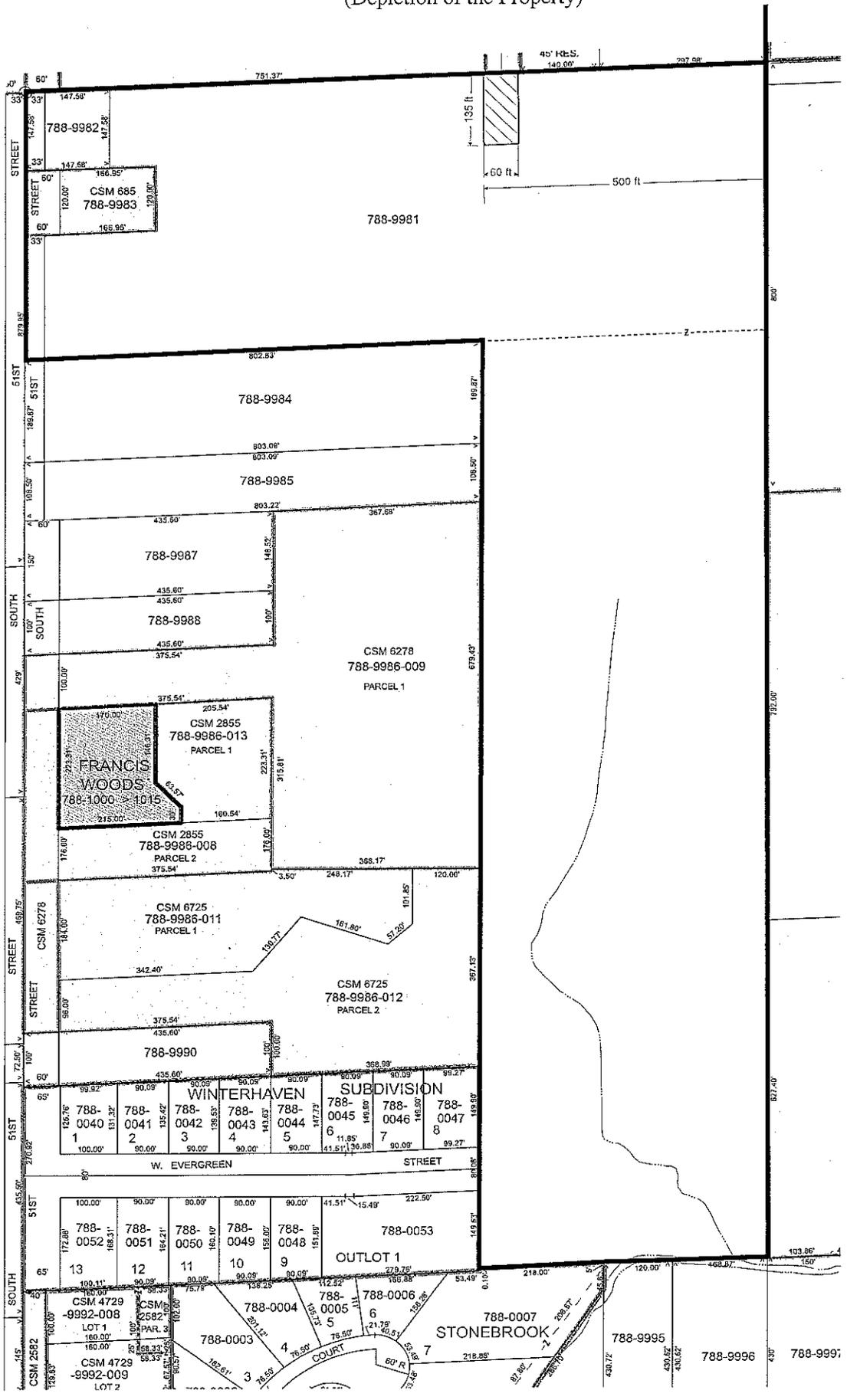
### Acquisition of 60-ft Right of Way for the Extension of West Evergreen Street Tax Key No. 788 9981 000

Being a part of the recorded Final Judgment, Document # 09949223, Recorded on December 23, 2010 and being a part of the recorded Quit Claim Deed, Document # 4980272, Recorded on February 17, 1976 at Milwaukee County Register of Deeds, also being a part of the West 1/2 of the SE 1/4 of Section 11, Township 5 North, Range 21 East, in the City of Franklin, Milwaukee County, bounded and described as follows:

Commencing at the Northeast corner of said SE ¼ of Section 11; thence S87°47'45"W along the North line of said 1/4 of Section, 1309.06 feet to point which is also the west 1/2 of said section; thence S00°00'32"W, along the west 1/2 of said 1/4 section, 495.48 feet to a point; thence S00°02'19"W, 304.22 feet to a point which is also the NW corner of the recorded Certified Survey Map No. 6540; thence S00°00'24"W along the west line of said Certified Survey Map, 1059.66 feet to the point of beginning of the land to be described; thence S87°28'06"W, 48.48 feet to a point; thence southwesterly 121.94 feet along the arc of a curve, whose center lies to the southeast, whose radius is 180.00 feet and whose chord bears S68°03'39"W, 119.62 feet to a point; thence S48°39'11"W, 116.26 feet to a point; thence southwesterly 81.29 feet along the arc of a curve, whose center lies to the northwest, whose radius is 120.00 feet and whose chord bears S68°03'39"W, 79.75 feet to a point; thence S87°28'06"W, 185.83 feet to a point; thence S00°00'15"W along the east line of the recorded Winterhaven Subdivision, 60.06 feet to a point; thence N87°28'06"E, 188.48 feet to a point; thence northeasterly 121.94 feet along the arc of a curve, whose center lies to the northwest, whose radius is 180.00 feet and whose chord bears N68°03'39"E, 119.62 feet to a point; thence N48°39'11"E, 116.26 feet to a point; thence northeasterly 81.29 along the arc of a curve, whose center lies to the southeast, whose radius is 120.00 feet and whose chord bears N68°03'39"E, 79.75 feet to a point; thence N87°28'06"E, 45.82 feet to a point; thence N00°00'24"E along the west line of the recorded Certified Survey Map No. 6540, 60.06 feet to a point of beginning.

Said lands containing 33228 square feet or 0.76 acres.

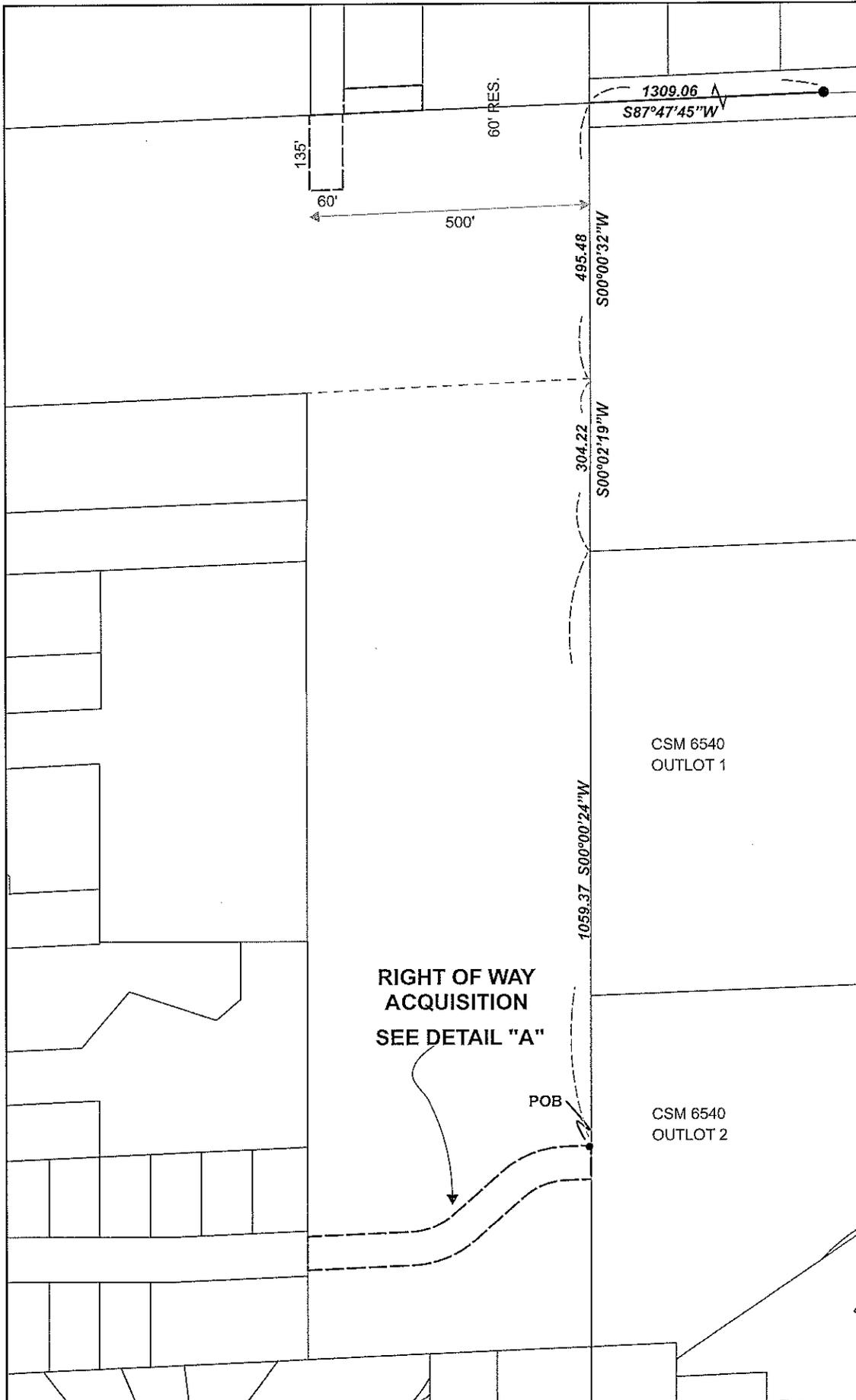
EXHIBIT A-1  
(Depiction of the Property)





SCALE: 1" = 200'

### EXHIBIT B (Depiction of the Facility)



CHECKED AND APPROVED BY: JOHN M. BENNETT, PE, CITY ENGINEER

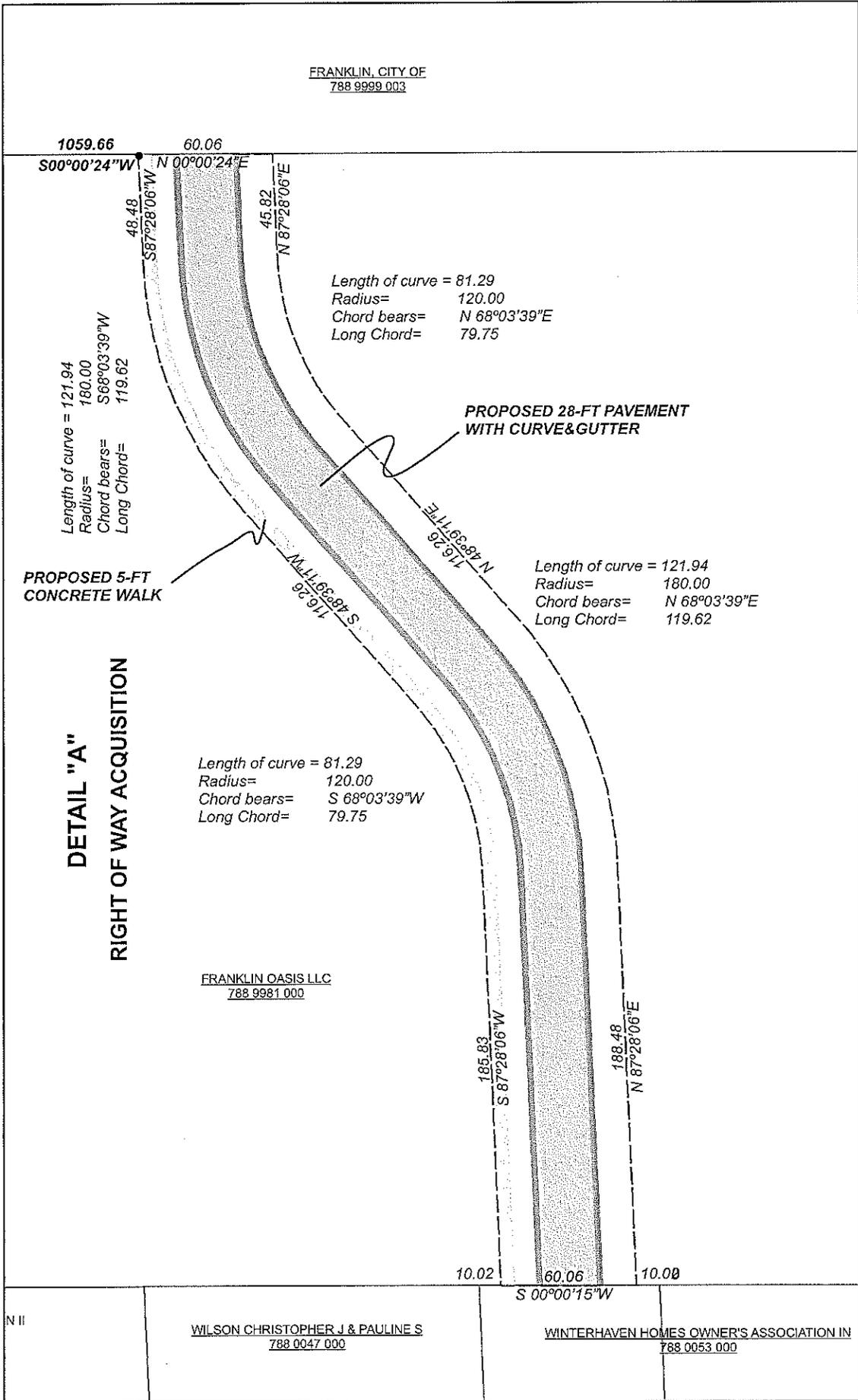
CITY OF FRANKLIN  
ENGINEERING DEPARTMENT  
RMA 12/11/12



SCALE: 1" = 50'

### DETAIL "A"

FRANKLIN, CITY OF  
788 9999 003



CHECKED AND APPROVED BY: JOHN M. BENNETT, PE, CITY ENGINEER

CITY OF FRANKLIN  
ENGINEERING DEPARTMENT  
RMA 12/11/12

## Legal Description

Acquisition of 66-ft Right of Way for the Extension of  
West Marquette Avenue  
(From the W 1/2 of the SE 1/4 of Section 11 to 49th Street)  
Tax Key No. 788 9981 000

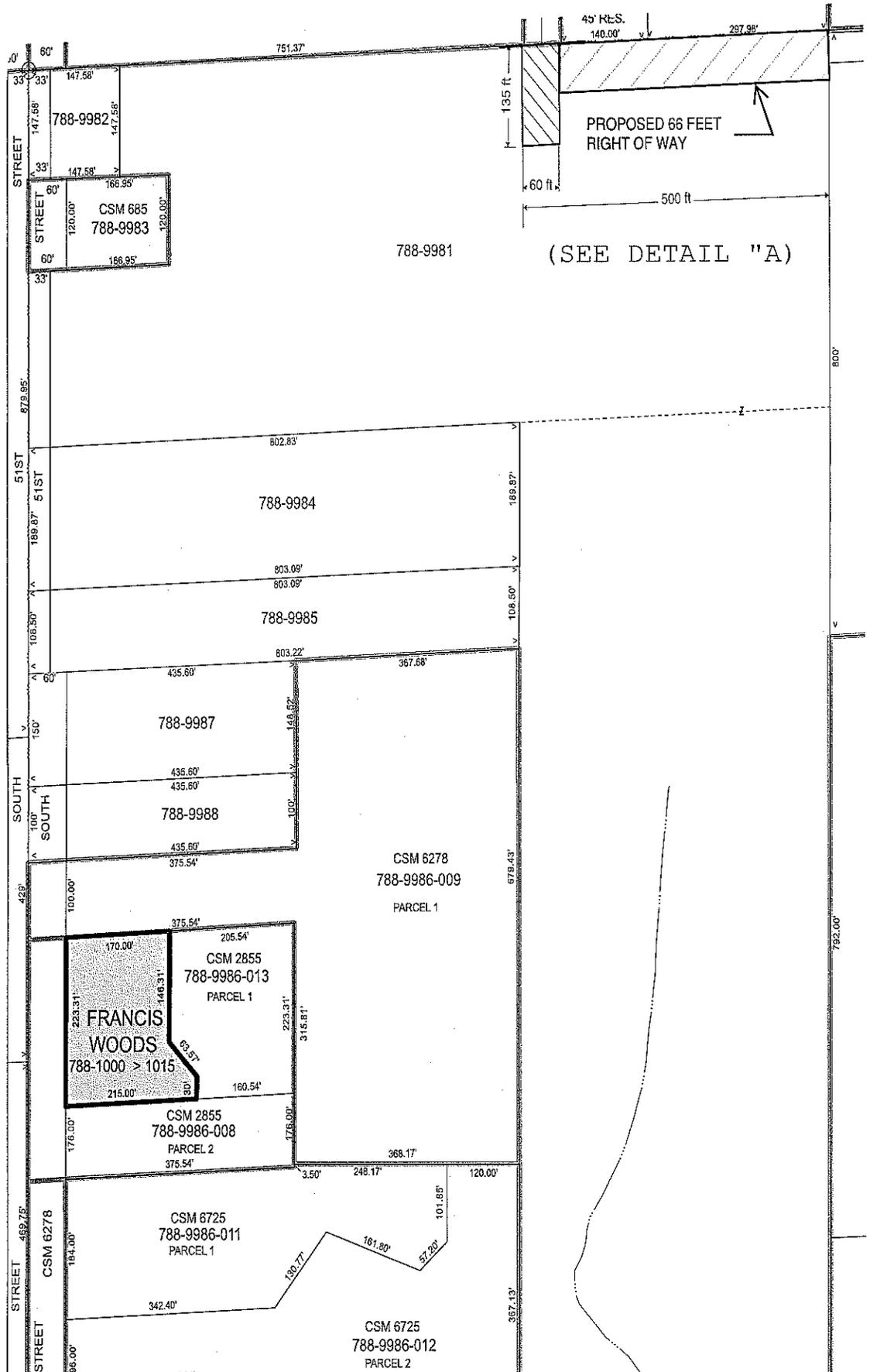
Being a part of the recorded Final Judgment, Document # 09949223, Recorded on December 23, 2010 and being a part of the recorded Quit Claim Deed, Document # 4980272, Recorded on February 17, 1976 at Milwaukee County Register of Deeds, also being a part of the West 1/2 of the SE 1/4 of Section 11, Township 5 North, Range 21 East, in the City of Franklin, Milwaukee County, bounded and described as follows:

Commencing at the Northeast corner of said SE ¼ of Section 11; thence S87°47'45"W along the North line of said 1/4 of Section, 1309.06 feet to point which is also the west 1/2 of said section and the point of beginning of the land to be described; thence S00°00'32"W, 66.05 feet to a point; thence S87°47'45"W, 439.96 feet to a point which is also the east line of the reserved right of way; thence N00°00'32"E, along the east line of said right of way 66.05 feet to a point; thence N87°47'45"E along the North line of said 1/4 section, 440.33 feet to a point of beginning.

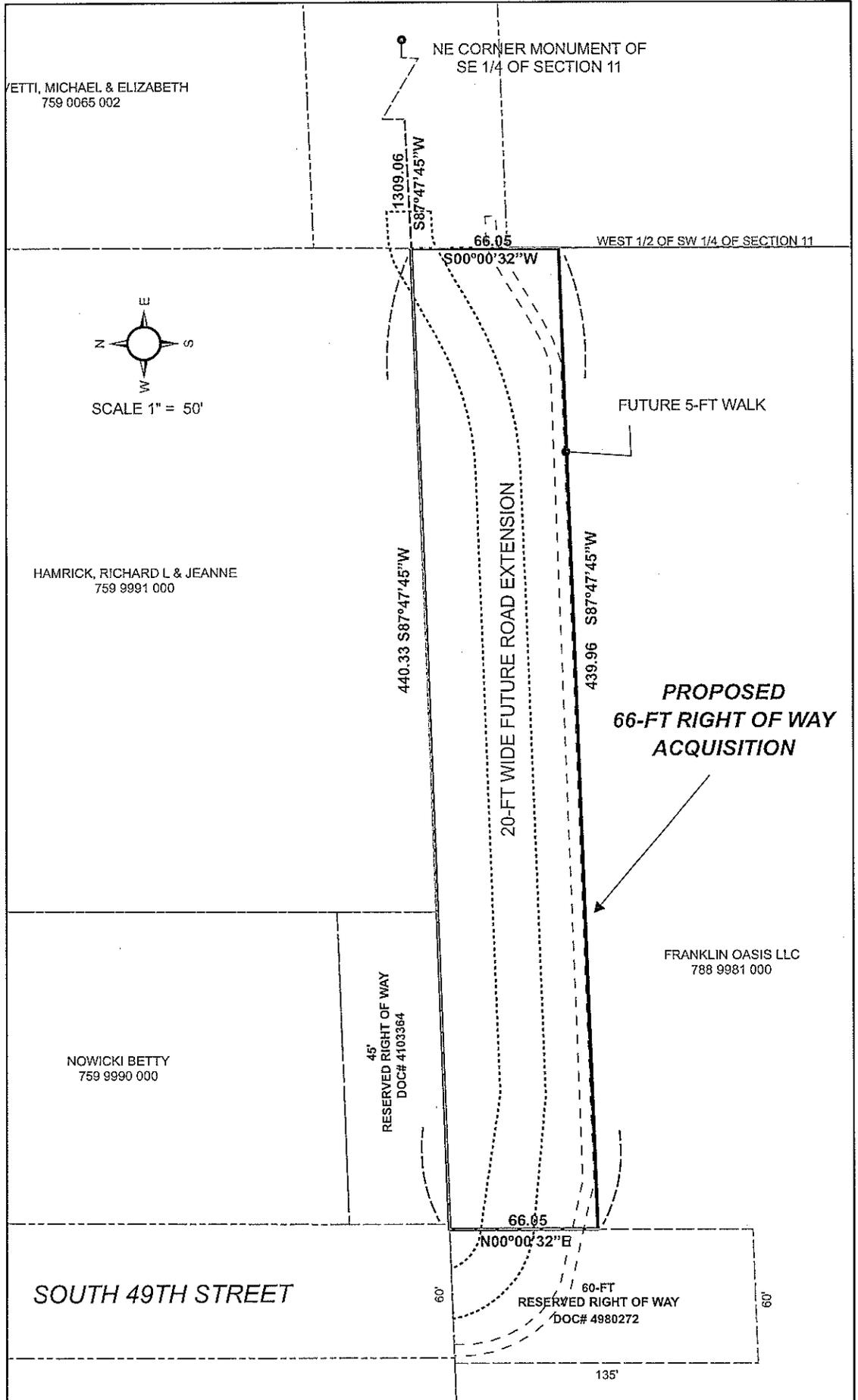
Said lands containing 29,072 square feet or 0.67 acres.



EXHIBIT B  
(Depiction of the Facilities)



# DETAIL "A"



CHECKED AND APPROVED BY: JOHN M. BENNETT, PE, CITY ENGINEER

CITY OF FRANKLIN, ENGINEERING DEPARTMENT

## Legal Description

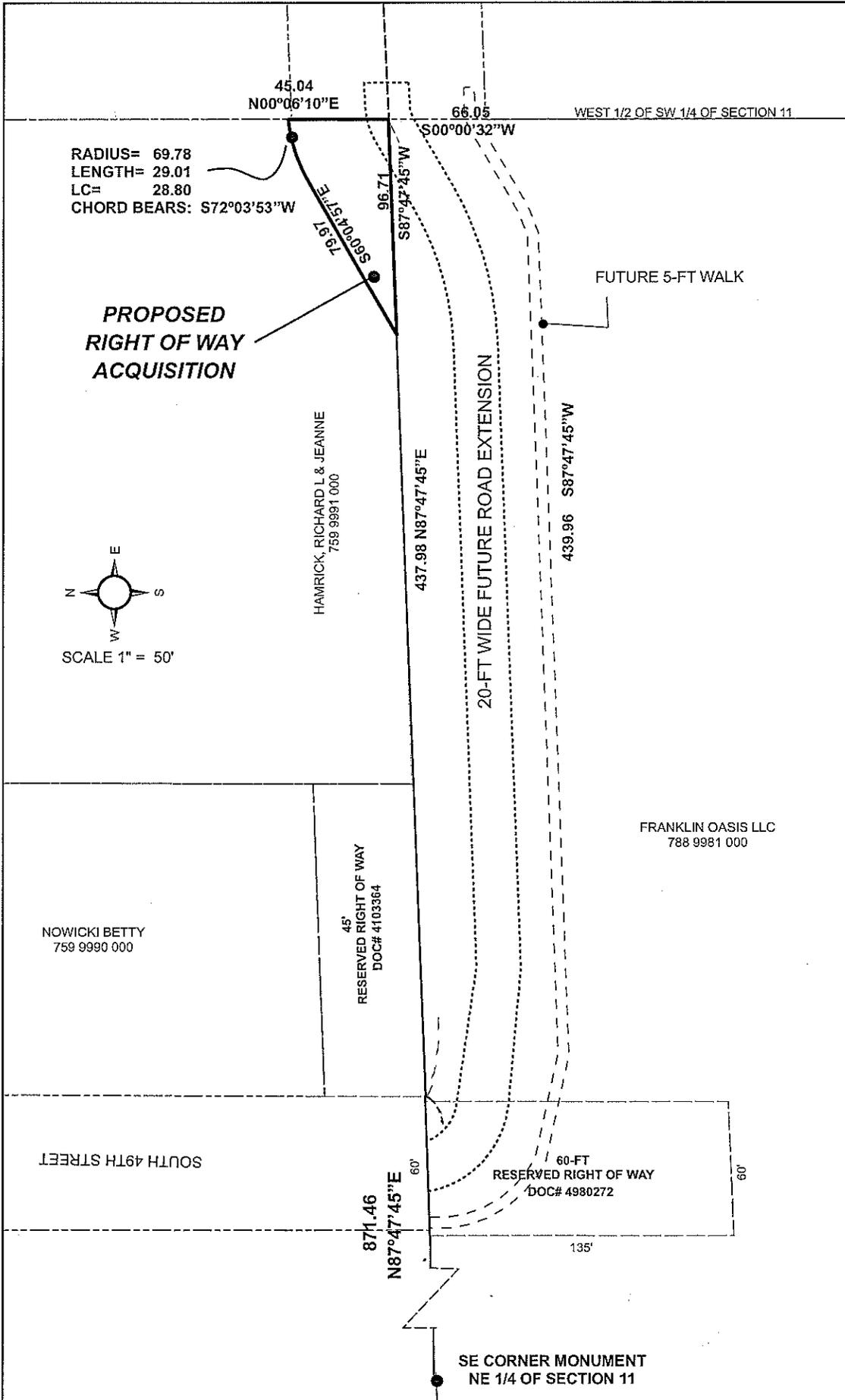
Acquisition of a part of Right of Way for the Extension of  
West Marquette Avenue  
Tax Key No. 759 9991 000

Being a part of the recorded Warranty Deed, Document # 3460378, Volume 3529 of Deeds on page 87, Recorded on January 12, 1956 at Milwaukee County Register of Deeds, also being a part of the NE 1/4 of Section 11, Township 5 North, Range 21 East, in the City of Franklin, Milwaukee County, bounded and described as follows:

Commencing at the Southwest corner of said NE 1/4 of Section 11; thence N87°47'45"E along the South line of said 1/4 of Section, 871.46 feet to a point; thence continuing N87°47'45"E, 437.98 feet to a point on the north and south 1/8 line being also the point of beginning of the land to be described; thence N00°06'10"E, 45.04 feet to a point; thence Southwesterly 29.01 feet along the arc of a curve whose center lies to the southeast, whose Radius is 69.78 feet, whose chord bears S72°03'53"W, 28.80 feet to a point; thence S60°04'57"W, 79.97 feet to a point; thence N87°47'45"E along the North line of said 1/4 section, 96.71 feet to a point of beginning.

Said lands containing 2,444 square feet or 0.06 acres.

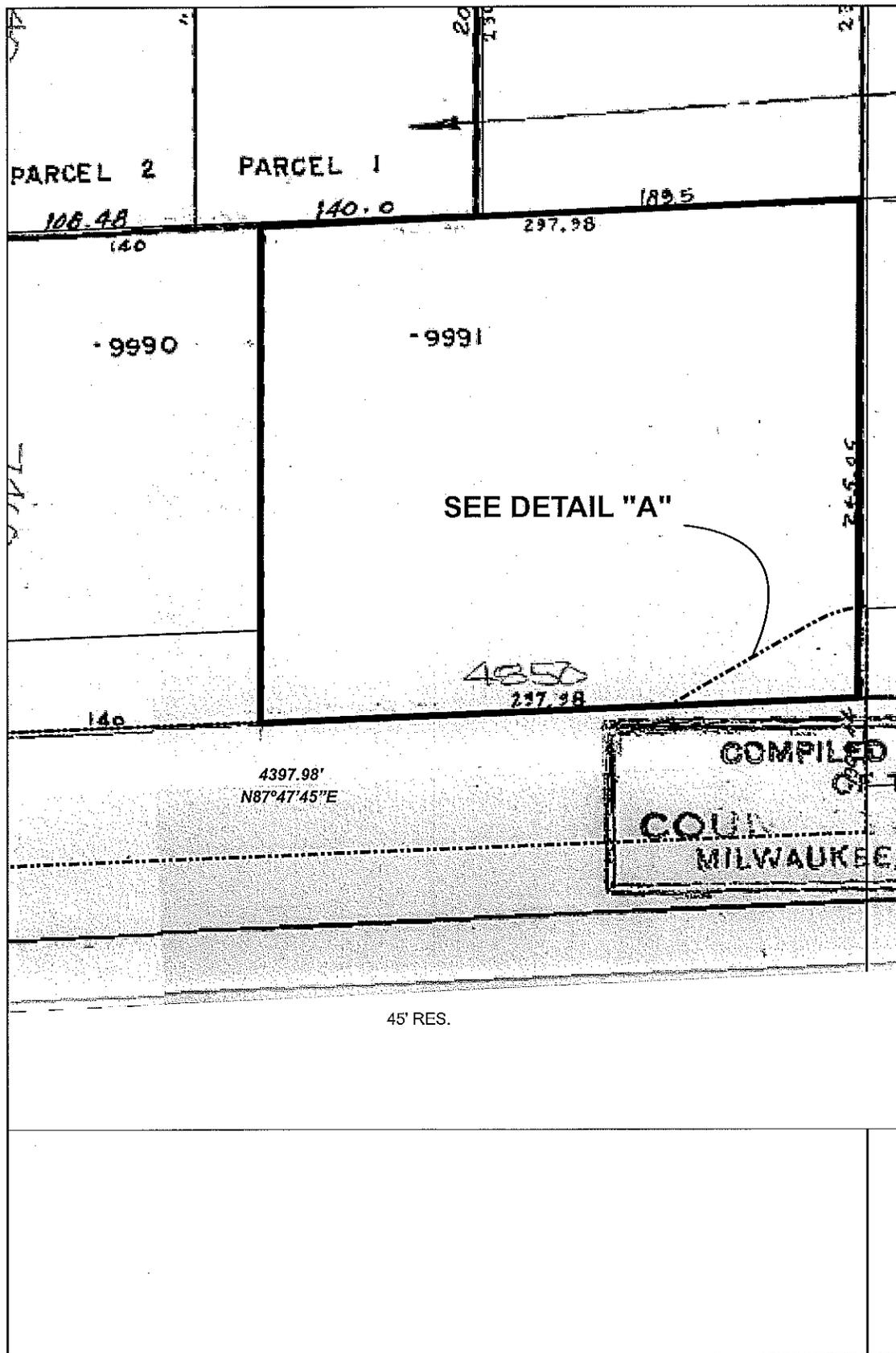
**DETAIL "A"**



CHECKED AND APPROVED BY: JOHN M. BENNETT, PE, CITY ENGINEER

CITY OF FRANKLIN, ENGINEERING DEPARTMENT

EXHIBIT "B"  
(Depiction of the Facility)



<b>APPROVAL</b> <i>slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MTG. DATE</b> 12/18/12
Reports & Recommendations	<b>SUBJECT:</b> A resolution authorizing the City to execute an Intergovernmental Agreement allowing the Village of Mount Pleasant to act as fiscal agent for the Southeast Wisconsin Clean Water Network.	<b>ITEM NO.</b> <i>E.11.</i>

### **BACKGROUND**

In March of 2008, the City approved participation in the above named network. The network provides services which identifies and educates the public to the negative impacts of storm water runoff from urban lands to local streams and is subject to a WPDES Municipal Separate Storm Sewer Discharge General Permit under NR 216 Wisconsin Administrative Code. The DNR permit requires municipalities to implement an information and education program related to water pollution caused by storm water discharges.

### **ANALYSIS**

It is advantageous for the City to continue to be a part of the network to share resources and coordinate information and educational activities between the municipalities. The network has proven to be cost-effective, aggressive and creative in satisfying the municipal permit requirements. Municipalities working alone would be with overlapping efforts.

The network continues to apply for and receive DNR grant(s). The grant(s) help to reduce the annual fee(s).

The Village of Mount Pleasant has volunteered, taking over for the Village of Bristol, to serve as fiscal agent for the network for a two year period.

### **OPTION**

Remain in the group network (or) meet program requirements as an individual community.

### **FISCAL NOTE**

The financial requirement to establish and maintain the group network for the two-year program has been allocated based on community population. The fee for the City of Franklin for 2013 and 2014 is \$3,559.43.

Funds are budgeted for in 2013.

### **RECOMMENDATION**

Motion to adopt Resolution No. 2012- \_\_\_\_\_, a resolution authorizing the City to execute an Intergovernmental Agreement allowing the Village of Mount Pleasant to act as fiscal agent for the Southeast Wisconsin Clean Water Network, on City Attorney's acceptance.

JMB/db

STATE OF WISCONSIN: CITY OF FRANKLIN: MILWAUKEE COUNTY

RESOLUTION NO. 2012 - \_\_\_\_\_

A RESOLUTION AUTHORIZING THE CITY  
TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT  
ALLOWING THE VILLAGE OF MOUNT PLEASANT  
TO ACT AS FISCAL AGENT  
FOR THE SOUTHEAST WISCONSIN CLEAN WATER NETWORK

-----  
WHEREAS, the City of Franklin must comply with the terms as found in WPDES Municipal Separate Storm Sewer Discharge General Permit under NR 216 Wisconsin Administrative Code; and

WHEREAS, this WPDES permit requires the City to implement an information and education program relating to water pollution caused by storm water discharges; and

WHEREAS, sharing resources and coordinating information and educational activities between the City and other municipalities can be a cost-effective way to satisfy the municipal permit requirements; and

WHEREAS, the Southeast Wisconsin Clean Water Network can provide necessary services at a prorated cost.

WHEREAS, it is necessary that one municipal member serve as a fiscal agent; and

WHEREAS, the Village of Mount Pleasant has volunteered to serve as fiscal agent for a two year period, 2013 and 2014.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Common Council of the City of Franklin, which the Mayor and City Clerk are authorized to execute an Intergovernmental Agreement whereby the City of Franklin is allowing the Village of Mount Pleasant to act as fiscal agent for the Southeast Wisconsin Clean Water Network for a Storm Water Information and Education Program.

City of Franklin becomes a member of the Southeast Wisconsin Clean Water Network.

Introduced at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2012 by Alderman \_\_\_\_\_.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

APPROVED:

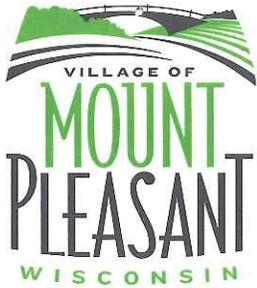
\_\_\_\_\_  
Thomas M. Taylor, Mayor

ATTEST:

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

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

RJR/db



RECEIVED

OCT 31 2012

City of Franklin  
Engineering Department

October 29<sup>th</sup>, 2012

Ron Romeis, P.E. - Assistant City Engineer  
City of Franklin  
9229 W. Loomis Road  
Franklin, WI 53132

Re: New Intergovernmental Agreement  
Southeast WI Clean Water Network

Dear Mr. Romeis,

Due to the pending expiration of the two-year contract between the Village of Bristol and the Root-Pike Watershed Initiative Network for the S.E. WI Clean Water Network's *Keep Our Waters Clean* campaign, the Village of Mount Pleasant has recently taken steps to take over the role of fiscal agent for the S.E. WI Clean Water Network.

The Village of Mount Pleasant is already the acting fiscal agent for the S.E. WI Clean Water Network's Department of Natural Resources' Urban Non-Point Source & Stormwater Management Grant, which has a grant period extending through 2013. As such, this change allows the S.E. WI Clean Water Network to utilize a single fiscal agent for all activities, simplifying the overall group interaction.

The next step in this process is the execution of an intergovernmental agreement between your municipality and the Village of Mount Pleasant to allow us to act as fiscal agent for the S.E. WI Clean Water Network. The enclosed agreement is very similar to the one you are currently party to with the Village of Bristol, who currently serves as the fiscal agent.

Please sign both original copies of the enclosed agreement, retain one for your records, and return the other to:

Village of Mount Pleasant  
8811 Campus Drive  
Mt. Pleasant, WI 53406  
Attn: Tony Beyer

If you have any questions or concerns regarding the agreement, Please do not hesitate to contact me at (262) 664-7849.

Sincerely,  
The Village of Mount Pleasant

  
Tony Beyer  
Water Systems Engineer

Encl.

8811 Campus Drive  
Mount Pleasant, WI  
53406

T: 262.664.7800  
F: 262.664.7801  
info@mtpleasantwi.gov  
www.mtpleasantwi.gov

Police Non-Emergency  
T: 262.884.0454

South Shore Fire Dept.  
Non-Emergency  
T: 262.554.8812

RESOLUTION 22-2012

**Resolution Authorizing the Village of Mount Pleasant to Act as Fiscal Agent for the Southeast Wisconsin Clean Water Network**

WHEREAS, the Village of Mt. Pleasant and seventeen other members of the Southeast Wisconsin Clean Water Network (Village of Bristol, City of Kenosha, County of Kenosha, Village of Pleasant Prairie, Town of Salem, Village of Silver Lake, Town of Somers, City of Franklin, Village of Greendale, Village of Hales Corners, City of Oak Creek, Village of Caledonia, City of Racine, Village of Sturtevant, Village of Wind Point, City of New Berlin and UW-Parkside) agree to contribute the local share needed to fund a Public Education and Outreach program as required by the Wisconsin Department of Natural Resources WPDES storm water group permit to comply with Administrative code NR216; and

WHEREAS, all eighteen representing members of the Southeast Wisconsin Clean Water Network group permit have agreed to have the Village of Mount Pleasant act as fiscal agent for the group and have agreed to execute Intergovernmental Agreements with the Village of Mount Pleasant to secure funding for the Public Education and Outreach program; and

WHEREAS, the Village of Mt. Pleasant will execute a contract with the Root-Pike Watershed Initiative Network to implement the Public Education and Outreach program using the funds collected from the Southeast Wisconsin Clean Water Network;

WHEREAS, the Village of Mt. Pleasant agrees to act as fiscal agent for the Village of Mount Pleasant and seventeen other members of the Southeast Wisconsin Clean Water Network for the purpose of implementing a Public Education and Outreach program; and

NOW, THEREFORE BE IT RESOLVED, that the Village of Mt. Pleasant authorizes the Village President to sign agreements and contracts to act as fiscal agent on behalf of the members of the Southeast Wisconsin Clean Water Network and to authorize staff to complete the activities required to implement the Public Education and Outreach program funding.

Adopted by the Village Board of the Village of Mount Pleasant, Racine County, Wisconsin, this 22<sup>nd</sup> day of October, 2012.

VILLAGE OF MOUNT PLEASANT

By: \_\_\_\_\_

Jim Majdoch, Village President

Attest: \_\_\_\_\_

Veronica Rudychew, Village Clerk/Treasurer

## Intergovernmental Agreement Southeast Wisconsin Clean Water Network

**Between the VILLAGE OF MOUNT PLEASANT and the CITY OF FRANKLIN**

**A member of the Southeast Wisconsin Clean Water Network for a Storm Water Information and Education Program Services, named Keep Our Waters Clean.**

Whereas the CITY OF FRANKLIN, as a member of the SOUTHEAST WISCONSIN CLEAN WATER NETWORK ("S.E. WI Clean Water Network"), recognizes the negative impacts storm water runoff from urban lands can have on local water resources and are subject to a WPDES Municipal Separate Storm Sewer Discharge General Permit under NR 216 Wisconsin Administrative Code; and

Whereas, the Municipal Permit requires the VILLAGE OF MOUNT PLEASANT and the other municipal members of the S.E. WI Clean Water Network to implement an Information and Education Program relating to water pollution caused by storm water discharges.

Whereas, sharing resources and coordinating information and educational activities between the VILLAGE OF MOUNT PLEASANT and the towns, villages, cities and counties that comprise the S.E. WI Clean Water Network can be a cost-effective way to satisfy the municipal permit requirements for all units of government.

Now, therefore, in consideration of these premises and under the authority of subsection 66.0101 Wis. Stats., the VILLAGE OF MOUNT PLEASANT and the CITY OF FRANKLIN agrees to join the SOUTHEAST WISCONSIN CLEAN WATER NETWORK and cooperate on the implementation of an Information and Education Program, titled Keep Our Waters Clean! (the "*Keep Our Waters Clean project*"), in accordance with the following:

**A)SERVICES.** Starting January 1, 2013 the ROOT-PIKE WATERSHED INITIATIVE NETWORK ("Root-Pike WIN") agrees to provide the S.E. WI Clean Water Network with information and educational program services under a contract and in accordance with the ***Keep Our Waters Clean project***. When implemented, the *Keep Our Waters Clean Plan* is designed to meet the requirements titled, "Public Education and Outreach" (Section 2.1) and "Public Involvement and Participation" (Section 2.2) of the WPDES Municipal Separate Storm Sewer Discharge General Permit under Chapter NR 216 Wis. Admin. Code. The *Keep Our Waters Clean Plan* describes an annual work plan of actions, a timetable, oversight process, program goals by target audience, planned activities, evaluation, and the management and coordination roles of the MUNICIPALITY MEMBERS OF THE S.E. WI CLEAN WATER NETWORK, the Advisory Committee of the S.E. WI Clean Water Network during the implementation. The VILLAGE OF MOUNT PLEASANT and other members (TOWN, VILLAGE, CITY, COUNTY) of the S.E. WI Clean Water Network agree to assign a representative who will participate in at least two program planning and implementation meetings each year and will take the lead in facilitating the participation in the activities described in the Plan. It is understood that the VILLAGE OF MOUNT PLEASANT and other members of the S.E. WI CLEAN WATER NETWORK must implement the program described in the Plan to maintain compliance with their respective Municipal Permits and all members are subject to annual evaluations by the Wisconsin Department of Natural Resources. The VILLAGE OF MOUNT PLEASANT agrees to serve as the fiscal agent for the SOUTHEAST WISCONSIN CLEAN WATER NETWORK and will be reimbursed in the amount of \$1,000 per year for its oversight services.

**B) FEES.** By March 1 of 2013 and 2014 each member of the S.E. WI Clean Water Network (County, City, Village, Town) agrees to pay the VILLAGE OF MOUNT PLEASANT the applicable fee shown in the Plan for the Information and Education Program services for the *Keep Our Waters Clean Plan*. The fee is designed to cover costs for work performed by the Root-Pike WIN for the Greener Yards, Cleaner Waters program, for coordinating meetings of the Clean Water Network, and for coordinating the WIDNR NPES Planning Grant and its Respect Our Waters advertising campaign. After 2014, this fee will be subject to an annual increase not to exceed 5 percent. The VILLAGE OF MOUNT PLEASANT will notify the (County, City, Village, Town) of the applicable fee by September 15 of the preceding year.

**C) REPRESENTATIVE/CONTACT.** Upon execution of this agreement, the VILLAGE OF MOUNT PLEASANT and the CITY OF FRANKLIN and municipal member of the S.E. WI CLEAN WATER NETWORK shall designate a primary contact person who will take the lead and be responsible for carrying out the activities described in the *Keep Our Waters Clean Plan*.

**D) REPORTING.** By FEBRUARY 1 of each year, as required by the Municipal Permit, the VILLAGE OF MOUNT PLEASANT will provide (County, City, Village, Town) with a detailed report of activities carried out by the ROOT-PIKE WIN and the progress toward the goals listed in the *Keep Our Waters Clean Plan*. The (County, City, Village, Town) will be responsible for tracking and documenting their own activities and submitting all required reports to the Wisconsin Department of Natural Resources with copies to the VILLAGE OF MOUNT PLEASANT.

#### **E) MISCELLANEOUS PROVISIONS**

**1. Effective Date.** Upon execution by the VILLAGE OF MOUNT PLEASANT and the CITY OF FRANKLIN this Agreement shall take effect on FEBRUARY 1, 2013 and shall remain in effect through the term of the Municipal Permit or until otherwise terminate by either party under sub. 3. below.

**2. Review and Amendments.** The terms of the agreement shall be reviewed annually and may be modified if approved in writing by both parties and duly executed by the authorized representative. Annual fees for the Information And Education Program services shall be documented by invoice.

**3. Termination.** The VILLAGE OF MOUNT PLEASANT or the CITY OF FRANKLIN or any other municipal member of the S.E. WI Clean Water Network may terminate this Agreement at any time upon a 60-day written notice of intent. The Town, Village, City or County is responsible for notifying the Wisconsin Department of Natural Resources of any termination of this Agreement and for subsequent compliance with WIDNR permit requirements.

**4. Effect of Agreement.** This Agreement contains the entire Agreement of the parties. All parties recognize that this Agreement is the product of a unique set of circumstances. Accordingly, is mutually acknowledged that many of the provisions contained herein are unique into themselves and should not be seen as a precedent for any future Agreement between the VILLAGE OF MOUNT PLEASANT and other entities.

**5. Binding Agreement.** This Agreement is binding on the parties and their respective successors and assigns.

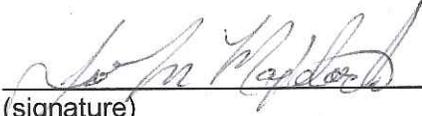
**Signed by the CITY OF FRANKLIN**

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(date)

\_\_\_\_\_  
(printed name & title)

**Signed by the VILLAGE OF MOUNT PLEASANT**

  
\_\_\_\_\_  
(signature)

10/29/12  
\_\_\_\_\_  
(date)

Jim Majdoch - Village President  
\_\_\_\_\_  
(printed name & title)

# SOUTHEAST WISCONSIN CLEAN WATER NETWORK

Submitted by Root-Pike Watershed Initiative Network

Contact: Susan Greenfield, 262-898-2055; susan@rootpikewin.org

2 Year Project			
MUNICIPALITIES	2013 Share	2014 Share	Total 2013, 2014 Share 5% increase per Agreement
Town of Bristol	\$896.89	\$896.89	\$1,793.78
City of Kenosha	\$3,588.64	\$3,588.64	\$7,177.28
County of Kenosha	\$896.89	\$896.89	\$1,793.78
Village of Pleasant Prairie	\$1,794.22	\$1,794.22	\$3,588.44
Town of Salem	\$1,794.22	\$1,794.22	\$3,588.44
Village of Silver Lake	\$896.89	\$896.89	\$1,793.78
Town of Somers	\$896.89	\$896.89	\$1,793.78
City of Franklin	\$3,559.43	\$3,559.43	\$7,118.86
Village of Greendale	\$2,373.00	\$2,373.00	\$4,746.00
Village of Hales Corners	\$2,373.00	\$2,373.00	\$4,746.00
City of Oak Creek	\$3,559.43	\$3,559.43	\$7,118.86
Village of Caledonia	\$2,373.00	\$2,373.00	\$4,746.00
Village of Mt. Pleasant	\$3,559.43	\$3,559.43	\$7,118.86
City of Racine	\$4,746.26	\$4,746.26	\$9,492.52
Village of Sturtevant	\$1,794.22	\$1,794.22	\$3,588.44
Village of Wind Point	\$896.89	\$896.89	\$1,793.78
City of New Berlin	\$3,559.43	\$3,559.43	\$7,118.86
UW - Parkside	\$896.89	\$896.89	\$1,793.78
<b>TOTALS</b>	<b>\$40,455.62</b>	<b>\$40,455.62</b>	<b>\$80,911.24</b>

<p><b>APPROVAL</b></p> <p><i>Stew</i></p>	<p><b>REQUEST FOR COUNCIL ACTION</b></p>	<p><b>MEETING DATE</b></p> <p>12/18/12</p>
<p><b>REPORTS &amp; RECOMMENDATIONS</b></p>	<p>Request from Franklin Historical Society to allow the Department of Public Works to transport disassembled sections of the Wendt barn from W. Oakwood Road to the Department of Public Works grounds where it will be stored for a period of time not to exceed two years</p>	<p><b>ITEM NUMBER</b></p> <p>6.12.</p>

The Wendt barn located in the 3200 block of W. Oakwood Road was donated to the Franklin Historical Society in 2012. A group of volunteers headed by Steve Gyuro disassembled the walls and roof of the barn for future restoration of a scaled down version of the original barn in Lions Legend Park behind the Old Town Hall. Fundraising for reconstruction of the barn remains an ongoing process and may require up to two years to complete. Therefore, components of the disassembled barn need to be placed in a safe, secure area for storage until sufficient funds are raised.

The Franklin Historical Society, therefore, seeks Common Council support to have Department of Public Works moved the salvaged timber from W. Oakwood Road to the Department of Public Works grounds for storage until such time that the barn can be reassembled in Lions Legend Park.

**COUNCIL ACTION REQUESTED**

Motion to grant Department of Public Works the authority to transport disassembled sections of the Wendt barn from W. Oakwood Road to the Department of Public Works grounds where it will be stored for a period of time not to exceed two years.

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<b>APPROVAL</b> <i>Slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE 12/18/2012</b>
<b>REPORTS &amp; RECOMMENDATIONS</b>	<b>A Resolution to amend the established non-elective and non-discretionary contribution by participating employees to the City of Franklin Bargaining Employees' Retirement Plan and to the City of Franklin Certain Employees' Retirement Plan</b>	<b>ITEM NUMBER</b> <i>G.13.</i>

The adopted 2013 budget anticipated a reduction in projected costs of maintaining the above referenced pension plans. To comply with the budget expectations it is necessary to modify the actions taken last year. On December 6, 2011, the Common Council initially approved a comparable measure and was provided, in part, the following description.

“The resolution provides the mechanism whereby the City indicates its authority and establishes its policy to deduct 4.2% from employees’ wages which will represent a contribution to the payment made by the City to the two pension plans involved. Doing it in this manner complies with the IRS and pension plan requirements. From the plans’ perspective, the contribution will still be fully employer funded, although from the City’s and employees’ perspective there will be shared funding of the pension obligations. Doing it in this manner avoids the need to amend the plan itself, which is a more cumbersome and time consuming process. Although that step is likely to occur at some point in the future. **Importantly, done in this manner the deductions are pre-tax, although by law they must remain post FICA deduction.**”

The City maintains two different pension plans which each require a different action to meet the expectation of the 2013 budget.

Defined Contribution Plan: The City of Franklin Certain Employees’ Retirement Plan is the defined contribution plan in which most qualified City employees, except Police, Fire, and DPW / Sewer and Water, participate. Those participants currently make a non-elective and non-discretionary contribution of 4.2%. The 2013 budget anticipated increasing this amount to 5.0%, or half of the Employer Contribution as set forth in Section 3.01 of the plan document. The attached resolution carries out that action.

With the expiration of their existing collective bargaining agreement at the end of this year, this requirement will affect members of the Teamsters unit commencing with January 1, 2013.

Defined Benefit Plan: The Defined Benefit Plan, formally known as the City of Franklin Bargaining Employees’ Retirement Plan, anticipated a greater reduction in projected costs of maintaining the plan because the cost of the plan significantly exceeds the comparable cost of maintaining the Defined Contribution Plan. The budget anticipated a savings of \$55,000 (between DPW, Sewer & Water, and custodial employees) beyond the savings obtained by increasing the non-elective and non-discretionary contribution by participating employees to 5.0 percent.

As you may recall, initially I recommended freezing the Defined Benefit Plan to current members only, freezing the plan to no new years of service accruals, and moving all participants to the Defined Contribution Plan for any years of service moving forward. Ultimately, the budget was adopted with the anticipated savings in place but with guidance to the Director of Administration to investigate alternative strategies for achieving the budgeted savings.

After much discussion, Principal Financial Group determined the cost of investigating plan design alternatives was \$14,000. Although the long term may require further evaluation of plan design components (as discussed further below), from the perspective of the 2013 budget it did not appear prudent to recommend spending \$14,000 to determine how to save \$55,000, particularly since it appeared evident these options were least desirable to employee participants. As such, these strategies were not investigated in detail and wage and contribution offsets were the primary considerations investigated.

Two alternatives were presented to employees impacted by this plan so that I could consider their input when determining my recommendation. The first alternative eliminated the 1.0 percent wage increases in January and July and increased the non-elective and non-discretionary contribution to 6.7 percent. The second alternative leaves the anticipated wage increases in place and increases the non-elective and non-discretionary contribution to 8.2 percent. The employees indicated a preference for the second alternative.

In summary, both alternatives provide the net savings necessary to satisfy the 2013 budget expectations. Alternative two, however, doesn't impose secondary impacts that could be characterized as unfair. Firstly, alternative two does not further penalize the affected employees by effectively eliminating the .5% total salary roll up that would otherwise occur in 2014 based upon the 2013 mid-year wage increase. Since this increase was a known and scheduled future cost and will be received by all of the other non-represented employees, it is not particularly fair and not necessary for the 2013 budget to eliminate this future roll up. Secondly, alternative two still enables each employee's future year retirement benefit to experience the 2% increase that would have otherwise been associated with the 2013 wage increase. Again, eliminating this future cost is not particularly fair given the employees in the Defined Contribution plan will continue to experience benefits from 2013 contributions and given it is not necessary for the 2013 budget. **As such, I recommend alternative two: providing the scheduled wage increases but increasing the non-elective and non-discretionary contribution to 8.2 percent.**

#### **FUTURE CONSIDERATIONS:**

1) It is not absolutely clear why the Defined Benefit plan survived over the years when all other non-WRS employee groups were moved to the Defined Contribution Plan long ago. Beyond simply chalking it up to the results of collective bargaining, two distinguishing factors stand out. First, this plan provides for a slightly earlier retirement date, age 60, than the Defined Contribution Plan. Second, which may intentionally correlate with the first item, the employees in this group comprise the non-WRS employees that perform physically demanding jobs. As has been the result in the past, the inclination for 2013 was to not dramatically, negatively impact the plan design components. The substantial increase in contribution rate for employees, however, is still a dramatic impact. The City should consider revising the contribution rate further only periodically (for example every three years), provided there have not been any significant changes in state, IRS, or GASB rules, in actuarial and economic assumptions, or in plan earnings ratios. In other words, if the plan and its inputs are remaining relatively stable the contribution rate should remain stable in the short term.

2) One should recognize that should the plan experience substantial earnings, thereby bringing the cost of the plan down to be more in line with the Defined Contribution plan, then it would be appropriate to reduce the non-elective and non-discretionary contribution to be more in line with that of the Defined Contribution Plan.

3) The adjustment to contributions recommended herein should not be interpreted to be the final, definitive action. Pensions are a long-term program that will always need to be considered and reconsidered over the

long term. As such, all parties, and participants, must recognize that the Defined Benefit Plan, its design components, and the future of the plan will always be a potential consideration. A Defined Benefit Plan creates a pension liability and risk that remains with the employer. It is, therefore, the City's obligation to manage these risks. Managing these risks typically involves three policy levers: plan design, contributions, and investment management and economic returns. The action recommended herein addresses contributions and resolves the 2013 issue, but I believe it also goes nearly as far as we should potentially consider with contributions. The City, however, must continue to monitor the costs and risks and mitigate the plan's risks if the plan costs become out of line.

4) It is worth noting that the employees' desire for stability within the plan is understandable, particularly given how the plan shapes their individual retirement future. Furthermore, I recognize the benefits of stability within the plan. Presuming contributions will nearly peak with this action and presuming investment management and economic returns are external to direct employee impact, the issue of plan design becomes the primary remaining lever available that would cause direct impact and immediate concern among participants. As such, future consideration of plan design changes, if any, should be done with very careful consideration and with professional expertise to avoid multiple actions over a period of years.

In relation to the employee contributions toward the Defined Contribution Plan, I am working with Principal and Attorney Matt Flanary on a plan amendment that will enable an amount equivalent to the non-elective and non-discretionary employee contribution to have an accelerated vesting schedule. I anticipate proposing that such amounts become 100% vested after completion of three years of employment, instead of the current seven. Employees perceive this contribution to be "their" money and see more immediate "ownership" of this money as fair. Due to the nature and requirements of this governmental plan the best way to accomplish the accelerated ownership is through amending the vesting provisions. I anticipate retaining a three year minimum participation requirement to ensure the employee was at least minimally committed to their employment with the City and to reduce plan administration burdens associated with maintaining small accounts and account balances for very short term employees. Such an amendment will have little impact on the fiscal dynamics of the plan and the City's net overall administration costs. **As there are, however, costs involved with the development of this proposal, it would be advisable that the Common Council provide me with such input if it is not interested in such an amendment at this time.** Absent such input, I will continue to work on the project and expect to present it in January with a 1/1/13 retroactive date. [Note that this amendment will also address the Library Board's request to amend the participation language related to Library Assistants and Library Shelves.].

This resolution will not impact Police and Fire employees, including Police and Fire command staff, who participate in the WRS system. It takes effect with the first payroll ending after 1/1/13.

The Personnel Committee will review this resolution at their meeting of 12/17/12. I will relay their recommendation at the Common Council meeting. I recommend approval.

## **COUNCIL ACTION REQUESTED**

Motion to adopt Resolution No. 2012-\_\_\_\_\_, "A Resolution to Amend the Established Non-Elective and Non-Discretionary Contribution by Participating Employees to the City of Franklin Bargaining Employees' Retirement Plan and to the City of Franklin Certain Employees' Retirement Plan."

A STATE OF WISCONSIN: CITY OF FRANKLIN: MILWAUKEE COUNTY

RESOLUTION NO. 2012-\_\_\_\_\_

A RESOLUTION TO AMEND THE ESTABLISHED NON-ELECTIVE AND NON-DISCRETIONARY CONTRIBUTION BY PARTICIPATING EMPLOYEES TO THE CITY OF FRANKLIN BARGAINING EMPLOYEES' RETIREMENT PLAN AND TO THE CITY OF FRANKLIN CERTAIN EMPLOYEES' RETIREMENT PLAN

WHEREAS, the City maintains (1) the City of Franklin Bargaining Employees' Retirement Plan; and (2) the City of Franklin Certain Employees' Retirement Plan (each a "Plan" and, together, the "Plans"); and

WHEREAS, the City currently funds the entire cost of the benefits under both Plans; and

WHEREAS, the City has determined, as is incorporated into and anticipated by the adopted 2013 budget, that employees should contribute further to the cost of the Plans' benefits beginning January 1, 2013.

NOW, THEREFORE, BE IT RESOLVED, that, beginning with each payroll period ending on or after January 1, 2013, each employee who is eligible to participate in the City of Franklin Certain Employees' Retirement Plan shall, to the maximum extent allowed by law, have his or her paycheck reduced by 5.0% and each employee who is eligible to participate in the City of Franklin Bargaining Employees' Retirement Plan shall, to the maximum extent allowed by law, have his or her paycheck reduced by 8.2%, both to represent a non-elective and non-discretionary contribution to the Plan that will be processed as an employer pick-up contribution under each Plan's current benefit and accrual language and Internal Revenue Code Section 414(h)(2); and

BE IT FURTHER RESOLVED, that, the Director of Administration and his delegate(s) are hereby authorized and directed to implement the employee required contribution by making appropriate changes to City policies, manuals and Plan documents, and to communicate this change to City employees.

All resolutions and parts of resolutions in contravention to this resolution are hereby repealed.

Introduced at a regular meeting of the Common Council of the City of Franklin this 18th day of December, 2012 by Alderman \_\_\_\_\_.

Passed and adopted by the Common Council of the City of Franklin this 18th day of December, 2012.

APPROVED:

\_\_\_\_\_  
Thomas M. Taylor, Mayor

ATTEST:

\_\_\_\_\_  
Sandra L. Wesolowski, Director of Clerk Services

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

<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>12/18/2012</b></p>
<p><b>REPORTS &amp; RECOMMENDATIONS</b></p>	<p>A RESOLUTION TO ESTABLISH THE 2013 NON-REPRESENTED EMPLOYEE GENERAL WAGE ADJUSTMENT; THE RATES OF PAY, WAGE SCHEDULE, AND PAY PLAN STRUCTURE FOR TEAMSTERS; AND THE EMPLOYEE COST SHARE OF MONTHLY HEALTH INSURANCE PREMIUM</p>	<p><b>ITEM NUMBER</b></p> <p><i>G.14.</i></p>

The attached Resolution achieves the following three purposes:

- 1) It authorizes the 2013 budgeted wage adjustments of 1% on approximately 1/1/13 and 1% on approximately 7/1/13 for non-represented employees and incorporates them into a Compensation Plan Addendum which becomes part of the Employee Handbook in accordance with the Handbook and the Civil Service System Personnel Administration Manual. Dates are approximate because for administrative ease the wage adjustments occur "on the start of the pay period closest to, but on or after, the date so referenced."
- 2) It establishes the basis of pay, pay structure, and step-and-grade structure for the Teamsters (generally clerical employees) upon the expiration of their current labor contract on 12/31/12.
- 3) It sets the employee premium share for health insurance for 2013 in accordance with the rates as anticipated in the 2013 budget: 16% of the applicable monthly health insurance premium as determined by the Director of Finance and Treasurer, except if the employee (and the spouse, where applicable) participates in the Health Risk Assessment the employee shall pay 12% of the monthly health insurance premium.

**COUNCIL ACTION REQUESTED**

Motion to adopt Resolution No. 2012-\_\_\_\_\_, "A RESOLUTION TO ESTABLISH THE 2013 NON-REPRESENTED EMPLOYEE GENERAL WAGE ADJUSTMENT; THE RATES OF PAY, WAGE SCHEDULE, AND PAY PLAN STRUCTURE FOR TEAMSTERS; AND THE EMPLOYEE COST SHARE OF MONTHLY HEALTH INSURANCE PREMIUMS".

A STATE OF WISCONSIN: CITY OF FRANKLIN: MILWAUKEE COUNTY

RESOLUTION NO. 2012-\_\_\_\_\_

A RESOLUTION TO ESTABLISH THE 2013 NON-REPRESENTED EMPLOYEE  
GENERAL WAGE ADJUSTMENT; THE RATES OF PAY, WAGE SCHEDULE, AND PAY PLAN  
STRUCTURE FOR TEAMSTERS; AND THE EMPLOYEE COST SHARE OF  
MONTHLY HEALTH INSURANCE PREMIUMS

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WHEREAS, the 2013 budget as adopted incorporated a 1/1/13 and 7/1/13 general wage adjustment of one percent (1%) for non-represented employees and anticipated employee health insurance premium contributions of 12% for those employees participating in the health risk assessment and 16% for those employees not participating in the health risk assessment, and

WHEREAS, the collective bargaining agreement with Teamsters will expire effective at the end of 12/31/12, and changes in state law prohibit certain items previously addressed within those collective bargaining agreements from being included in a subsequent collective bargaining agreement, including but not limited to, pay plan structure and benefit levels, and

WHEREAS, prudent personnel practices require that the basis of pay be established by resolution when not otherwise set by a labor agreement, and the Civil Service System Personnel Administration Program indicates that employee health insurance monthly premium shares should be established in conjunction with wage schedule approvals and consideration of a compensation plan, and

WHEREAS, the City retains a duty to bargain with the Teamsters relative to across-the-board wage increases for 2013 so the wage schedule and practices stipulated herein for such current union members are consistent with current practices and do not incorporate a wage increase at this time, and

WHEREAS, it is important to adopt a salary structure so that current employees and any new employees that may be hired in the event of vacancy know their conditions of employment.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Common Council of the City of Franklin that the 2013 non-represented employee general wage adjustment; the rates of pay, wage schedule, and pay plan structure for Teamsters; and the employee cost share of monthly health insurance premiums shall be adopted as set forth in the attached "Compensation Plan Addendum," dated 12/17/12, which is incorporated herein by reference, and that the "Compensation Plan Addendum" be incorporated as an appendix to the Employee Handbook and shall supersede Compensation Plan Addendums 12-6-11 and 12-14-11.

Introduced at a regular meeting of the Common Council of the City of Franklin this 17th day of December, 2012 by Alderman \_\_\_\_\_.

Passed and adopted by the Common Council of the City of Franklin this 17th day of December, 2011.

APPROVED:

\_\_\_\_\_  
Thomas M. Taylor, Mayor

ATTEST:

\_\_\_\_\_  
Sandra L. Wesolowski, Director of Clerk Services

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

Compensation Plan Addendum  
Salary Structures  
12-17-12

The following salary structures and related administrative policies are prepared in accordance with the Civil Service System Personnel Administration Program, Article 3 "Compensation Plan". The rates and tables below confirm the 2012 budgeted increase as implemented and establishes the 2013 increases as anticipated by the City of Franklin's 2013 Budget, as approved.

**Important:** All salary and wage rates referenced herein by date beginning 1/1/13 shall be effective on the start of the pay period closest to, but on or after, the date so referenced.

**I. Supervisory and Management Employees, Sergeants, and Employees not covered by a labor agreement:**

A. Salary ranges in the "Salary Ranges Non-Represented Employees" table (effective 7/1/2012 as prepared by Human Resources) will be adjusted by a 1% across-the-board with such an increase effective on 1/1/2013 and 7/1/2013. Upon implementation of the 7/1/2013 adjustment, employees at 96% or more of the midpoint of the range and with a "Satisfactory" (Standard) or better performance evaluation for the prior period shall receive the 1% wage increase upon the effective date and employees at less than 96% of the midpoint of the range and with a "Satisfactory" (Standard) or better performance evaluation for the prior period shall receive a wage increase in accordance with the "Linking Merit Increase to Base Pay" table.

**II. Department of Public Works, Sewer and Water, and Custodial Employees (excludes clerical).**

**Hourly Wage Rates Effective July 1, 2012**  
**(Reflects a 1% Increase)**

	Starting Rate	After 1 Year			
Sewer & Water Operator I	25.1500	26.2300			
Sewer & Water Operator II	26.8600	27.9400			
Heavy Equipment Operator	25.1500	26.2300			
Mechanic I	26.2900	27.3800			
Assistant Mechanick	24.6500	25.2300			
Public Works Foreman	25.8500	26.9100			
	Start Step 1	6 months Step 2	1 year Step 3	2 years Step 4	3 years Step 5
Custodian	17.7000	18.6200	19.5600	20.7100	21.7900
Light Equipment Operator	21.1700	22.0800	23.1200	24.1300	25.1300
Sewer & Water Technician	21.1700	22.0800	23.1200	24.1300	25.1300

**Hourly Wage Rates Effective January 1, 2013**  
(Reflects a 1% Increase)

	Starting Rate	After 1 Year			
Sewer & Water Operator I	25.4005	26.4920			
Sewer & Water Operator II	27.1245	28.2160			
Heavy Equipment Operator	25.4005	26.4920			
Mechanic I	26.5532	27.6549			
Assistant Mechanick	24.9006	25.4821			
Public Works Foreman	26.1044	27.1755			
	Start Step 1	6 months Step 2	1 year Step 3	2 years Step 4	3 years Step 5
Custodian	17.8722	18.8106	19.7593	20.9121	22.0036
Light Equipment Operator	21.3813	22.2994	23.3501	24.3702	25.3801
Sewer & Water Technician	21.3813	22.2994	23.3501	24.3702	25.3801

**Hourly Wage Rates Effective July 1, 2013**  
(Reflects a 1% Increase)

	Starting Rate	After 1 Year			
Sewer & Water Operator I	25.6545	26.7569			
Sewer & Water Operator II	27.3957	28.4981			
Heavy Equipment Operator	25.6545	26.7569			
Mechanic I	26.8187	27.9315			
Assistant Mechanick	25.1496	25.7369			
Public Works Foreman	26.3654	27.4472			
	Start Step 1	6 months Step 2	1 year Step 3	2 years Step 4	3 years Step 5
Custodian	18.0509	18.9986	19.9569	21.1212	22.2236
Light Equipment Operator	21.5951	22.5224	23.5836	24.6139	25.6339
Sewer & Water Technician	21.5951	22.5224	23.5836	24.6139	25.6339

**III. Building Inspection, Engineering Technicians, and Police Department Clerical**

**Hourly Wage Rates Effective July 1, 2012**  
(Reflects a 1% Increase)

**Inspection Department**

	Start Step 1	1 year Step 2	2 years Step 3	3 years Step 4
First Asst. Bldg. Inspector	27.4720	28.6032	29.7647	30.2495
Asst. Bldg. Inspector	26.2095	27.3104	28.4113	28.8759
Plumbing Inspector	28.3103	29.0375	29.7748	30.8353
Electrical Inspector	28.3103	29.0375	29.7748	30.8353
Mechanical Inspector	24.9672	25.9873	27.0478	27.7144

**Police Department**

	Start Step 1	1 year Step 2	2 years Step 3	3 years Step 4
Court Admin Asst.	16.8600	18.2200	19.5900	20.9400
Deputy Police Admin Asst	15.9500	17.1300	18.3200	19.5300
Municipal Court Clerk	13.8200	14.8400	15.8500	16.8800
Police Utility Clerk	12.6000	13.5200	14.4200	15.3100

**Engineering Department**

	Start Step 1	1 year Step 2	2 years Step 3	3 years Step 4
Eng Tech I	15.6700	16.4900	17.3000	18.1300
Eng Tech II	18.6100	19.1000	20.4200	21.8100
Drain/Enviro Tech	20.5600	21.1500	21.7200	22.3000
Eng Tech III	20.5600	22.4700	24.4000	26.3200
Eng Tech IV	25.6000	27.5900	29.5900	31.5900

**Hourly Wage Rates Effective January 1, 2013  
(Reflects a 1% Increase)**

**Inspection Department**

	Start Step 1	1 year Step 2	2 years Step 3	3 years Step 4
First Asst. Bldg. Inspector	27.7467	28.8892	30.0623	30.5520
Asst. Bldg. Inspector	26.4716	27.5835	28.6954	29.1647
Plumbing Inspector	28.5934	29.3279	30.0725	31.1437
Electrical Inspector	28.5934	29.3279	30.0725	31.1437
Mechanical Inspector	25.2169	26.2472	27.3183	27.9915

**Police Department**

	Start Step 1	1 year Step 2	2 years Step 3	3 years Step 4
Court Admin Asst.	17.0255	18.4026	19.7899	21.1467
Deputy Police Admin Asst	16.1074	17.3009	18.5046	19.7287
Municipal Court Clerk	13.9550	14.9853	16.0054	17.0459
Police Utility Clerk	12.7308	13.6591	14.5670	15.4647

**Engineering Department**

	Start Step 1	1 year Step 2	2 years Step 3	3 years Step 4
Eng Tech I	15.6218	16.6582	17.4743	18.3108
Eng Tech II	18.8004	19.2901	20.6264	22.0240
Drain/Enviro Tech	20.7692	21.3609	21.9322	22.5238
Eng Tech III	20.7692	22.6972	24.6456	26.5838
Eng Tech IV	25.8595	27.8691	29.8889	31.9087

**Hourly Wage Rates Effective July 1, 2013  
(Reflects a 1% Increase)**

**Inspection Department**

	Start Step 1	1 year Step 2	2 years Step 3	3 years Step 4
First Asst. Bldg. Inspector	28.0242	29.1781	30.3630	30.8575
Asst. Bldg. Inspector	26.7363	27.8593	28.9824	29.4563
Plumbing Inspector	28.8793	29.6212	30.3733	31.4551
Electrical Inspector	28.8793	29.6212	30.3733	31.4551
Mechanical Inspector	25.4690	26.5096	27.5915	28.2715

**Police Department**

	Start Step 1	1 year Step 2	2 years Step 3	3 years Step 4
Court Admin Asst.	17.1957	18.5866	19.9878	21.3581
Deputy Police Admin Asst	16.2685	17.4739	18.6897	19.9260
Municipal Court Clerk	14.0945	15.1351	16.1654	17.2163
Police Utility Clerk	12.8582	13.7957	14.7127	15.6194

**Engineering Department**

	Start Step 1	1 year Step 2	2 years Step 3	3 years Step 4
Eng Tech I	15.9800	16.8248	17.6491	18.4939
Eng Tech II	18.9884	19.4830	20.8327	22.2442
Drain/Enviro Tech	20.9769	21.5745	22.1515	22.7490
Eng Tech III	20.9769	22.9242	24.8921	26.8496
Eng Tech IV	26.1181	28.1478	30.1878	32.2278

**IV. Clerical Employees (Teamsters)**

**Hourly Wage Rates Effective December 31, 2012**

	Start Step 1	1 year Step 2	2 years Step 3	3 years Step 4
Clerk Typist	15.1500	15.7200	17.7800	18.3600
Secretary	18.5600	19.2000	19.9200	20.5500
Account Clerk	18.7200	19.5300	20.2700	21.0800
Assessor Clerk	19.0200	19.8500	20.6000	21.4000
Inspection Permit Clerk	19.0200	19.8500	20.6000	21.4000
Administrative Clerk	18.7200	19.5300	20.2700	21.0800
Accountant	21.8400	22.6600	23.5800	24.4100

Note: The table incorporates the final wages rates as set forth in the labor contract that expires 12/31/12.

**V. Dispatchers**

**Hourly Wage Rates Effective December 31, 2012  
(Reflects a 1% Increase)**

Start Step 1	1 year Step 2	2 years Step 3	3 years Step 4
19.891	21.329	22.111	22.883

Dispatchers Continued

**Hourly Wage Rates Effective January 1, 2013**  
**(Reflects a 1% Increase)**

Start Step 1	1 year Step 2	2 years Step 3	3 years Step 4
20.0899	21.5423	22.3321	23.1118

**Hourly Wage Rates Effective July 1, 2013**  
**(Reflects a 1% Increase)**

Start Step 1	1 year Step 2	2 years Step 3	3 years Step 4
20.2908	21.7577	22.5554	23.3429

**VI.**

**A) Authorized Step System for Department of Public Works and Sewer and Water and Custodians:**

A new employee enters at Step 1, except as may be authorized in accordance with 3.2.2 of the Personnel Administration Program, and remains there until completing the six month introductory period. Upon successful completion of six months of continuous service, the employee automatically moves to Step 2. Movement to Step 3 occurs in the same manner after an additional six month period. Movement to Step 4 and Step 5 will occur after each additional twelve months of continuous service provided the employee has continued to receive satisfactory performance evaluations.

**B) Authorized Step System for Department Building Inspection, Engineering Technician**

**Employees, Police Department Clerical, Dispatchers, and Teamsters:** A new employee enters at Step 1, except as may be authorized in accordance with 3.2.2 of the Personnel Administration Program, and remains there until completing one year of continuous service. Upon completion of one year of continuous service, the employee automatically moves to Step 2. Movement to Step 3 and every step thereafter will occur after every twelve months of continuous service provided the employee has continued to receive satisfactory performance evaluations.

**VI. Employee Share of Monthly Health Insurance Premium**

Effective 1/1/12, participating employees shall pay 14% of the applicable monthly health insurance premium as determined by the Director of Finance and Treasurer, except if the employee (and the spouse, where applicable) participates in the Health Risk Assessment, as established by the City, the employee shall pay 10% of the monthly health insurance premium. (Note: The Plan Administrator may waive the participation requirement in whole or in part if, in his sole opinion, there is a significant, substantiated, and valid reason(s) for waiving the HRA participation requirement.)

Effective 1/1/13, participating employees shall pay 16% of the applicable monthly health insurance premium as determined by the Director of Finance and Treasurer, except if the employee (and the spouse, where applicable) participates in the Health Risk Assessment, as established by the City, the employee shall pay 12% of the monthly health insurance premium. (Note: The Plan Administrator may waive the participation requirement in whole or in part if, in his sole opinion, there is a significant, substantiated, and valid reason(s) for waiving the HRA participation requirement.)

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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>12/18/12</p>
<p><b>REPORTS &amp; RECOMMENDATIONS</b></p>	<p>A RESOLUTION TO RECEIVE LIBRARY BOARD WAGE RECOMMENDATIONS AND AUTHORIZE 2013 WAGE ADJUSTMENTS FOR THE LIBRARY EMPLOYEES FALLING UNDER THE CIVIL SERVICE SYSTEM</p>	<p><b>ITEM NUMBER</b></p> <p>G.15.</p>

Management and supervisory employees of the City of Franklin Library system fall under the management authority of the Library Board who establishes the salary ranges and wage adjustment for such positions.

Library employees falling under the Civil Service System fall under the Common Council's authority relative to the compensation schedule for such employees. The Library Board, however, is tasked with providing the Common Council and Civil Service Commission with a recommendation on wage and compensation matters for such positions.

The Library Board has previously discussed the same wage increases that are budgeted for other City positions. At their meeting of 12-17-12, the Library Board will consider the attached Library resolution which provides the Common Council with the required recommendation and formalizes their action. Their recommendation has been incorporated into the attached resolution for your approval.

I recommend approval.

**COUNCIL ACTION REQUESTED**

A motion to approve Resolution No. 2012-\_\_\_\_\_, "A RESOLUTION TO RECEIVE LIBRARY BOARD WAGE RECOMMENDATIONS AND AUTHORIZE 2013 WAGE ADJUSTMENTS FOR THE LIBRARY EMPLOYEES FALLING UNDER THE CIVIL SERVICE SYSTEM."

A STATE OF WISCONSIN: CITY OF FRANKLIN: MILWAUKEE COUNTY

RESOLUTION NO. 2012-\_\_\_\_\_

A RESOLUTION TO RECEIVE LIBRARY BOARD WAGE RECOMMENDATIONS  
AND AUTHORIZE 2013 WAGE ADJUSTMENTS FOR THE LIBRARY EMPLOYEES  
FALLING UNDER THE CIVIL SERVICE SYSTEM

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WHEREAS, on December 17, 2012, the Library Board will address "A Resolution to Recommend and Approve the General Salary and Wage Adjustments for 2013 for Library Employees," which resolution (attached) informs the Common Council of wage and salary actions and recommendations of the Library Board for 2013, and

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Franklin, Wisconsin, that the Common Council hereby acknowledges the actions and receives and files the recommendations of the Library Board, which resolution is attached and incorporated herein by reference.

BE IT FURTHER RESOLVED that the Common Council approves a general wage increase of 1% across-the-board on approximately 1/1/2013 and 7/1/2013 for Reference Librarian, Youth Reference Librarian, Youth Services Librarian, Shelver, and Library Assistant positions within the Civil Service System, which increases shall be effective on the start of the pay period closest to, but on or after, said dates.

BE IT FURTHER RESOLVED that the content of this resolution and of the referenced Library Board resolution, in a format as prepared by and determined by the Director of Administration, shall constitute "Compensation Plan Addendum 12-18-12: Library Employees" within the City of Franklin Employee Handbook.

Introduced at a regular meeting of the Common Council of the City of Franklin this 18th day of December, 2012 by Alderman \_\_\_\_\_.

Passed and adopted by the Common Council of the City of Franklin this 18th day of December, 2012.

APPROVED:

ATTEST:

\_\_\_\_\_  
Thomas M. Taylor, Mayor

\_\_\_\_\_  
Sandra L. Wesolowski, Director of Clerk Services

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

CITY OF FRANKLIN, WISCONSIN - LIBRARY BOARD

RESOLUTION DATE: December 17, 2012

A RESOLUTION TO RECOMMEND AND APPROVE THE GENERAL SALARY AND WAGE ADJUSTMENTS FOR  
2013 FOR LIBRARY EMPLOYEES

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WHEREAS, management and supervisory employees of the City of Franklin Library system fall under the management authority of the Library Board who establishes the salary ranges and wage adjustment for such positions, and

WHEREAS, in accordance with municipal ordinance and Wisconsin statutes, non-management and non-supervisory employees of the City of Franklin Library system fall under the City of Franklin Civil Service System and the City of Franklin Civil Service System Personnel Administration Program, which indicates in Section 3.1.2 that the Library Board shall recommend and the Common Council shall approve the compensation plan and salary structure for such employees, and

WHEREAS the Common Council approved a 2013 Budget with a general 1% across-the-board increase on approximately 1/1/13 and 7/1/2013 for City employees who are not members of a bargaining unit, which increase shall be effective on the start of the pay period closest to, but on or after, said date, and

WHEREAS, the Library Board believes it to be beneficial to provide a clear statement of the Library's compensation plan and salary structure, and the Library Board recommends approval by the Common Council of a commensurate resolution.

NOW, THEREFORE, BE IT RESOLVED by the Library Board of the City of Franklin, Wisconsin, that Library Board hereby

- A) authorizes a general wage increase of 1% across-the-board on approximately 1/1/13 and 7/1/2013 for supervisory and management employees of the Library, which increase shall be effective on the start of the pay period closest to, but on or after, said date, and
- B) recommends a general wage increase of 1% across-the-board on approximately 1/1/13 and 7/1/2013 for Reference Librarian, Youth Reference Librarian, Youth Services Librarian, Shelves, and Library Assistants positions within the Civil Service System, which increase shall be effective on the start of the pay period closest to, but on or after, said date.

NOW, THEREFORE, BE IT FURTHER RESOLVED that upon approval by the Common Council the content of this resolution, in a format as determined by the City, shall constitute "Compensation Plan Addendum 12-18-12: Library Employees" within the City of Franklin Employee Handbook.

Introduced at a regular meeting of the Library Board of the City of Franklin this 17th day of December, 2012.

Passed and adopted by the Library Board of the City of Franklin this 17th day of December, 2012.

APPROVED:

\_\_\_\_\_  
David W. Adam, Library Board President

ATTEST:

\_\_\_\_\_  
Barb Roark, Library Director  
YES \_\_\_ NOES \_\_\_ ABSENT \_\_\_

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<p><b>APPROVAL</b></p> <p><i>Slw</i> <i>MMT</i></p>	<p><b>REQUEST FOR COUNCIL ACTION</b></p>	<p><b>MEETING DATE</b></p> <p>12/18/12</p>
<p><b>REPORTS &amp; RECOMMENDATIONS</b></p>	<p><b>Resolution to Amend the Civil Service System Personnel Administration Program to Incorporate Promotion and Transfer language relative to Public Works and Sewer &amp; Water Positions</b></p>	<p><b>ITEM NUMBER</b></p> <p><i>G.16.</i></p>

Please see the attached memo from Dana Zahn to the Personnel Committee that addresses a unique promotional path wage problem that requires a correction to the Personnel Administration Program document.

The Personnel Committee recommended approval.

The attached resolution provides my recommendation on the best manner to incorporate the desired policy into the Personnel Administration Program document.

I recommend approval.

**COUNCIL ACTION REQUESTED**

Motion to approve Resolution 2012- \_\_\_\_\_, "Resolution to Amend the Civil Service System Personnel Administration Program to Incorporate Promotion and Transfer language relative to Public Works and Sewer & Water Positions"



Date: 11/14/2012

To: Personnel Committee Members

From: Dana Zahn

RE: Consideration of a possible pay scale change for DPW and S&W promotions

Employees in our Public Works and Sewer & Water departments are former AFSCME Union members and are now non-represented. In the past their wage rates were governed by the union labor agreement. They are now governed by a Compensation Plan Addendum which was adopted by a Common Council resolution. The current compensation plan was taken directly from the old labor agreement.

Our adopted Civil Service Manual and Employee Handbook both state that in the case of promotions the employee should move to the lowest salary in the new salary range that will award a 5% pay increase. In the past we have not used this language for the Public Works group due to their contracted wage rates. This conflict between the historical application of the salary structure and the recent application of the promotional language was not initially identified at the time the labor contract expired and the handbook language became applicable. As such, staff has been reviewing the issue but has continued to address promotions in the historical manner as there was no specific intent to change that practice.

Although the original wage rate structure is fine for outside hires, staff and department supervision request your consideration to change promotional rates for internal applicants that are already at the top of their range. We recently promoted a Sewer & Water Technician to Sewer & Water Operator I. A Technician is currently paid \$25.13/hour. The starting rate for an Operator I is \$25.15/hour, only a 2 cent increase. Likewise, we recently promoted a Light Equipment Operator (\$25.13/hour) to a Heavy Equipment Operator position (\$25.15/hour). The current structure gives the promoted employee a 2 cent increase at the promotion, with a \$1.08/hour increase after 1 year.

It is the opinion of staff and supervision that employees promoted from S&W Tech to Operator I or from Light Equipment Operator to Heavy Equipment Operator should be given ½ of the difference in top pay scales at the time of promotion, and the other ½ of the pay difference at the completion of their introductory period. This would mean the employee would receive \$25.68 at the time of the promotion and receive the top pay of \$26.23 after successful completion of their introductory period. This action would provide an initial raise upon promotion of 2.2%, which is less than the 5% anticipated by the across-the-board policy, but it would retain a portion of the wage rate available under the top of the pay schedule to ensure the individual can first perform the full scope of the job, as evidenced by successfully completing the introductory period, prior to being placed at the top of the wage scale.

The following motion is recommended: "I move to recommend to the Common Council that the Compensation Plan Addendum and Employee Handbook language relative to promotional wage increases be amended to provide for the promotional wage strategy recommended in the 11/14/2012 memo by Dana Zahn." A copy of the current salary structure is below for your convenience. If you have any additional questions, please feel free to contact me.

		Starting Rate	After 1 Year			
1-Jul-12 1.00%	Sewer & Water Operator I	25.15	26.23			
	Sewer & Water Operator II	26.86	27.94			
	Heavy Equipment Operator	25.15	26.23			
	Mechanic I	26.29	27.38			
	Assistant Mechanick	24.65	25.23			
	Public Works Foreman	25.85	26.91			
		Start Step 1	6 months Step 2	1 year Step 3	2 years Step 4	3 years Step 5
Custodian		17.70	18.62	19.56	20.71	21.79
Light Equipment Operator		21.17	22.08	23.12	24.13	25.13
Sewer & Water Technician		21.17	22.08	23.12	24.13	25.13

A STATE OF WISCONSIN: CITY OF FRANKLIN: MILWAUKEE COUNTY

RESOLUTION NO. 2012-\_\_\_\_\_

A RESOLUTION TO AMEND THE CIVIL SERVICE SYSTEM PERSONNEL  
ADMINISTRATION PROGRAM TO INCOPRORATE PROMOTION AND TRANSFER  
LANGUAGE RELATIVE TO PUBLIC WORKS AND SEWER & WATER POSITIONS

WHEREAS, Section 3.6 Promotion and Transfer of the Civil Service System Personnel Administration Program provides a single approach for addressing promotional wage increases that does not fit well with the approved compensation schedule for certain positions in the Department of Public Works and Sewer and Water Utility; and

WHEREAS, staff and the Personnel Committee recommend the following action in order to establish a reasonable and appropriate human resources practice consistent with the City's policy to provide for a wage increase at the time of a promotion.

NOW, THEREFORE, BE IT RESOLVED, that Section 3.6 Promotion and Transfer of the Civil Service System Personnel Administration Program be amended adding the following language as a new paragraph following the existing language of that Section:

“In the event of a promotion from Light Equipment Operator to Heavy Equipment Operator or from Sewer & Water Technician to Operator 1 where a five percent differential is not available, the following promotional path wage rates will occur instead of the five percent discussed above: The initial promotional wage shall be equal to the midpoint between the employee's then current rate in the position to be vacated and the top step of the promotional position and upon successful completion of the introductory period the employee shall be moved to the top step of the promotional position.”

NOW, THEREFORE, BE IT FURTHER RESOLVED, this amendment shall be effective retroactively to August 1, 2012.

All resolutions and parts of resolutions in contravention to this resolution are hereby repealed.

Introduced at a regular meeting of the Common Council of the City of Franklin this 18th day of December, 2012 by Alderman \_\_\_\_\_.

Passed and adopted by the Common Council of the City of Franklin this 18th day of December, 2012.

APPROVED:

ATTEST:

\_\_\_\_\_  
Thomas M. Taylor, Mayor

\_\_\_\_\_  
Sandra L. Wesolowski, Director of Clerk Services

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

<p><b>APPROVAL</b></p> <p><i>slw</i> <i>MMJ</i></p>	<p><b>REQUEST FOR COUNCIL ACTION</b></p>	<p><b>MEETING DATE</b></p> <p><b>12/18/2012</b></p>
<p><b>REPORTS &amp; RECOMMENDATIONS</b></p>	<p>Amendment to the City of Franklin Bargaining Employees' Retirement Plan and to the City of Franklin Certain Employees' Retirement Plan to comply with the Heroes Earnings Assistance and Relief Tax Act of 2008</p>	<p><b>ITEM NUMBER</b></p> <p><i>G.17.</i></p>

Prior to January 1, 2009, the City was required to certify that it had operationally implemented the requirements of the Heroes Earnings Assistance and Relief Tax Act of 2008 (the "Heart Act"), which action was taken in a timely manner. The City is now required to amend each retirement plan to incorporate the appropriate language directly into the plan documents. This Council Action sheet provides the necessary motion so that step can be completed.

In summary, the law requires that certain qualified retirement plans provide the same death benefit for a participant who dies while performing "qualified military service" as it would provide for an employee who dies while actively employed. I am working with Principal Financial Group and Attorney Matt Flanary, the head of the employee benefits practice at Buelow Vetter, on the appropriate language changes.

The final language as it is being drafted will incorporate all required provisions of the HEART Act but only incorporates optional provisions to the extent that such provisions are already an intended benefit of the plan. In other words, the language revisions will not expand the current scope or benefits of either plan except as mandated by the law. Such an action is appropriate given the overall concern regarding the cost of public sector pension plans and the recent cost shifting of the pension plan through employee contributions.

Attached for your information is a preliminary draft of the language as initially prepared by Principal and a summary of HEART Act provisions. The draft language includes all of the Acts optional provisions, so please recognize that one of the steps the Attorney will take is to pare the language back to become consistent with the current provisions of plan and restrict plan benefit expansion.

### **COUNCIL ACTION REQUESTED**

Motion to amend the City of Franklin Bargaining Employees' Retirement Plan and the City of Franklin Certain Employees' Retirement Plan for the purpose of complying with the Heroes Earnings Assistance and Relief Tax Act of 2008, incorporating all required provisions and incorporating the optional provisions to the extent that such provisions are already an intended benefit of the plan, and authorizing the Director of Administrator, as Plan Administrator, to approve final language as recommended by special counsel and to execute the amendments.

**AMENDMENT TO COMPLY WITH THE HEROES EARNINGS ASSISTANCE AND RELIEF TAX ACT OF 2008**

This amendment of the Plan is adopted to comply with the requirements of the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART Act) and the guidance provided in IRS Notice 2010-15. This amendment is to be construed in accordance with such law and guidance. This amendment shall continue to apply to the Plan, including the Plan as later amended, until such provisions are integrated into the Plan or the provisions of this amendment are specifically amended.

This amendment shall supersede any previous amendment and the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this amendment.

**CITY OF FRANKLIN BARGAINING EMPLOYEES' RETIREMENT PLAN**

The Plan named above gives the undersigned the right to amend it at any time. According to that right, the Plan is amended as follows:

By adding the following to the definition of Compensation in the DEFINITIONS SECTION of Article I:

Beginning January 1, 2009, Compensation shall include Differential Wage Payments.

By adding to the DEFINITIONS SECTION of Article I, the following definition beginning January 1, 2009:

**Differential Wage Payments** means any payments which are made by an Employer to an individual with respect to any period during which the individual is performing Qualified Military Service while on active duty for a period of more than 30 days, and represents all or a portion of the wages the individual would have received from the Employer if the individual were performing service for the Employer.

By adding the following to the definition of Employee in the DEFINITIONS SECTION of Article I:

Beginning January 1, 2009, the term Employee shall include any individual receiving Differential Wage Payments.

By adding to the DEFINITIONS SECTION of Article I, the following definition beginning January 1, 2007:

**Qualified Military Service** means any service in the uniformed services (as defined in Chapter 43 of Title 38 of the U.S. Code) by any individual if such individual is entitled to reemployment rights under such chapter with respect to such service.

If the Plan 100% vests a Participant at death, by adding the following to the definition of Vesting Percentage in the DEFINITIONS SECTION of Article I:

Beginning January 1, 2007, the Vesting Percentage for a Participant who dies while performing Qualified Military Service shall be 100%.

If the Plan 100% vests a Participant at disability, by adding the following to the definition of Vesting Percentage in the DEFINITIONS SECTION of Article I:

Beginning January 1, 2007, the Vesting Percentage for a Participant who becomes disabled (and such disability is determined to meet the definition of Totally and Permanently Disabled, while performing Qualified Military Service shall be 100%.

If the Plan does not 100% vest a Participant at death, by adding the following to the definition of Vesting Service in the DEFINITIONS SECTION of Article I:

Beginning January 1, 2007, if a Participant dies while performing Qualified Military Service, such service shall be included as service with the Employer.

If the Plan does not 100% vest a Participant at disability, by adding the following to the definition of Vesting Service in the DEFINITIONS SECTION of Article I:

Beginning January 1, 2007, if a Participant becomes disabled (and such disability is determined to meet the definition of Totally and Permanently Disabled, if defined in the Plan), while performing Qualified Military Service, such service shall be included as service with the Employer.

By adding the following to the definition of Compensation in the BENEFIT LIMITATION SECTION of Article IV:

Beginning January 1, 2009, Compensation shall include Differential Wage Payments.

If the Plan provides for a single sum death benefit for Active Participants in subparagraph (b) of the DEATH BENEFITS SECTION of Article V, by adding to such subparagraph the following:

On and after January 1, 2007, a Participant performing Qualified Military Service is considered to be an Active Participant for purposes of this subsection.

By striking the first sentence in the second paragraph in Article VIII and substituting the following:

In the event of the complete or partial termination of this Plan, the rights of all affected Participants to benefits accrued as of the date of such termination or partial termination (to the extent funded as of such date) shall be nonforfeitable.

By adding the following to the MILITARY SERVICE SECTION of Article X:

Beginning January 1, 2007, a Participant who dies on or after January 1, 2007 while performing Qualified Military Service is treated as having resumed and then terminated employment on account of death, in accordance with Code Section 401(a)(37) and any subsequent guidance. The survivors of such Participant are entitled to any additional benefits (other than an Accrued Benefit relating to the period of Qualified Military Service) provided under the Plan on account of death of the Participant.

This amendment is made an integral part of the aforesaid Plan and is controlling over the terms of said Plan with respect to the particular items addressed expressly therein. All other provisions of the Plan remain unchanged and controlling.

Unless otherwise stated on any page of this amendment, eligibility for benefits and the amount of any benefits payable to or on behalf of an individual who is an Inactive Participant on the effective date(s) stated above, shall be determined according to the provisions of the aforesaid Plan as in effect on the day before he became an Inactive Participant.

Signing this amendment, the undersigned, as plan sponsor, has made the decision to adopt this plan amendment. The undersigned is acting in reliance on their own discretion and on the legal and tax advice of their own advisors, and not that of any member of the Principal Financial Group or any representative of a member company of the Principal Financial Group.

Signed this \_\_\_\_\_ day of \_\_\_\_\_.

For the Employer

By: \_\_\_\_\_

\_\_\_\_\_  
Title

# HEART Act

## Summary of Provisions Affecting Retirement Plans

On June 17, 2008, President Bush signed into law the Heroes Earnings Assistance and Relief Tax (HEART) Act of 2008 (H.R. 6081). This Act amends the Internal Revenue Code of 1986, and provides tax and savings assistance to military veterans and their families. Following is a brief summary of the parts of the law that affect retirement plans and Individual Retirement Accounts (IRAs).

### **Required Survivor Benefits Payable on Account of Death During Qualified Military Service**

The law requires that all 401(a) qualified retirement plans (both defined benefit and defined contribution), 403(b) plans, and governmental 457(b) plans provide the same death benefit for a participant who dies while performing "qualified military service" as it would provide for an employee who dies while actively employed. For purposes of this Act, "qualified military service" is any service in the uniformed services on a voluntary or involuntary basis (including active duty, active duty for training, inactive duty training, and full-time National Guard) by an individual entitled to reemployment rights under the Uniformed Services Employment and Reemployment Rights Act (USERRA). This provision applies to such benefits as accelerated vesting, pre-retirement death benefits, ancillary life insurance, and any other benefits provided by the plan to participants who die while actively employed.

#### **Effective Date:**

Retirement plans must operationally comply with this provision for deaths occurring on or after 1/1/2007. Plans must be amended by the last day of the first plan year beginning on or after 1/1/2010 (1/1/2012 for governmental plans).

### **Distribution of Elective Deferral Contributions**

The HEART Act eased the prohibition on withdrawals of elective deferral contributions for employees in the military, including those receiving differential pay. Employees who serve a period of military service of more than 30 days will be treated as having a severance from employment and therefore can request a distribution (while on active duty) from the following money types:

- 401(k) elective deferrals (normally not available until age 59-1/2) and possibly other restricted contributions such as qualified non-elective contributions (QNECs) and qualified matching contributions (QMACs);
- amounts attributable to a salary reduction agreement under a 403(b) plan;
- amounts deferred under a 457(b) plan.

Participants withdrawing retirement funds under this provision will be subject to a six-month suspension on future pre-tax elective deferral contributions, Roth elective deferral contributions, and after-tax employee contributions to the plan.

#### **Effective Date:**

This provision is effective January 1, 2009. Conforming plan amendments must be in place by the end of the 2010 plan year (2012 plan year for governmental plans).

## **Optional Benefit Accruals or Employer Contributions on Account of Death or Disability During Qualified Military Service**

USERRA requires retirement plans to provide employees who return to work after a period of qualified military service benefit accruals or employer contributions that they would have received if they had been employed during the period of military service, if certain requirements are met.

The HEART Act extends the required USERRA provision to participants who die or become disabled during qualified military service. It allows (optional, not required) plan sponsors to amend their plans to provide benefit accruals or employer contributions to participants who die or become disabled during qualified military service, and who therefore cannot be reemployed. If adopted, this provision must be made available to participants on a reasonably equivalent basis.

The contributions and benefits that deceased and disabled participants would receive are the same as those they would have received under USERRA if they had returned to work immediately before the date of the death or disability. To determine the amount of these additional contributions and benefits, compensation is calculated under the deemed compensation rules of USERRA.

A defined benefit plan would count the qualified military service period for vesting and benefit accrual purposes, and the employer would fulfill any corresponding funding obligation related to the participant's period of qualified military service.

To determine the employer matching contributions in a defined contribution plan, the amount of the employee contributions and deferrals used to compute the employer matching contributions is based on the participant's average actual employee contributions or elective deferrals for (1) the 12-month period of service with the employer immediately prior to qualified military service, or (2) if service with the employer is less than 12-months, the actual length of continuous service with the employer.

### **Effective Date:**

A plan may adopt this provision for deaths and disabilities occurring on any date after 1/1/2007. If an employer chooses to comply with this provision, the plan should be amended by the last day of the first plan year beginning on or after 1/1/2010 (1/1/2012 for governmental plans).

## **Treatment of Differential Pay**

Some employers provide participants who enter military service "differential pay" that continues some or all of the salary they would have received if they had remained in their jobs. The Heart Act defines "differential pay" as any payment (1) made by an employer to an individual on active duty for a period of more than 30 days; and (2) representing all or a portion of the wages that individual would have received from the employer if performing services for the employer.

As of January 1, 2009, the HEART Act makes the following changes:

- Differential pay will be treated as employee wages subject to income tax withholding and must begin to be reported on Form W-2 instead of Form 1099.
- Those employees receiving differential pay must be considered employees of the employer.
- Differential pay must be treated as plan compensation. Based on current guidance, this appears to allow employees to make contributions to a qualified plan or IRA based on this pay, and allows employers to provide employer contributions and benefit accruals based on this pay.

### **Effective Date:**

This provision is effective January 1, 2009.

### Qualified Reservist Distributions Provisions Made Permanent

The Pension Protection Act (PPA) introduced a new withdrawal option available to 401(k) and 403(b) plans (and IRAs) called "qualified reservist distributions". This is an optional plan provision which permits penalty-free withdrawals from elective deferral accounts for participants called to active duty between 9/11/2001 and 12/31/2007. The Heart Act removes the ending date of 12/31/2007 and makes qualified reservist distributions permanent.

Qualified Reservist Distributions must meet several conditions:

- Participants must have been ordered or called to active duty after September 11, 2001 for a period of at least 180 days.
- Distributions must be made between the date the participant is called up and the date active duty ends.
- Distributions must be made only from accounts holding elective deferral contributions and earnings; matching or other employer contributions cannot be withdrawn under this type of distribution.

A participant may repay a qualified reservist distribution by contributing some or all of the distributed amount to an IRA at any time during the two-year period beginning when active duty ends (or if later, by August 17, 2008).

#### Effective Date:

If your plan currently offers qualified reservist distributions as allowed by PPA, you can continue to allow qualified reservist distributions after 12/31/2007, and this change will be included in the PPA amendment to your plan that must be signed by the end of your 2009 plan year.

If your plan does not currently offer qualified reservist distributions, these distributions can be added at anytime and can also be included as part of the PPA amendment that will be done during your 2009 plan year.

### Rollover of Military Death Payments

The Act provides that a beneficiary may rollover military death gratuities and Service members' group life insurance payments on a tax free basis to a Roth IRA or an Education Savings Account without regard to the contribution limits that would otherwise apply. These are not distributions from a retirement plan.

#### Effective Date:

This provision applies to payments made with respect to deaths occurring on or after the date of enactment (6/17/2008). Furthermore, payments received with respect to deaths that occurred on or after 10/7/01 and before the date of enactment may also be rolled over if the contribution is made no later than one year after the date of enactment (6/17/2009).



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<b>APPROVAL</b> <i>Slew</i> <i>MMA</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b> <b>12/18/2012</b>
<b>REPORTS &amp; RECOMMENDATIONS</b>	<b>2013 Casualty Insurance Coverage</b>	<b>ITEM NUMBER</b> <i>G.18.</i>

Since 2004, the City of Franklin has had its casualty insurance plans with the League of Wisconsin Municipalities Mutual Insurance Plan (LWMMI), agent being R&R Insurance, and the Local Government Property Insurance Fund (LGPIF). The Department of Administration has obtained quotes from these current agents and providers and recommends continuing the City's current liability and property insurance policies for the 2013 year as are currently in place (last year we moved the City's Auto Physical Damage coverage policy from LGPIF to LWMMI). One note of a change to the 2013 Auto Physical Damage policy through R&R/LWMMI is that "Replacement Cost Coverage" will be used instead of "Agreed Upon Value" for all City vehicles. This change is beneficial to the City.

The following table shows a summary of the 2012 premium costs and 2013 estimated premiums through R&R Insurance/LWMMI and the Local Government Property Insurance Fund (LGPIF).

Coverage	2012 Cost	2013 Cost	Carrier
Buildings/Personal Property	\$27,860	\$37,622	LGPIF
Contractors Equip.	5,961	4,616	LGPIF
Monies/Securities	1,699	1,699	LGPIF
<b>Subtotal-Property Insurance</b>	<b>\$35,520</b>	<b>\$43,937</b>	LGPIF
General Liability	100,392	103,404	R&R Ins./LWMMI
Police Professional	40,740	43,409	R&R Ins./LWMMI
Public Officials	52,968	54,552	R&R Ins./LWMMI
Auto Liability	28,680	30,305	R&R Ins./LWMMI
Auto Physical Damage	35,616	38,753	R&R Ins./LWMMI
Umbrella	13,800	15,484	R&R Ins./McGowan-American Alt.
Crime	1,445	1,487	R&R Ins./CNA
Boiler & Machinery	6,017	5,331	R&R Ins./Liberty Mutual
Storage Tank	3,234	3,324	R&R Ins./Nautilus
Workers Compensation	364,320	386,497	R&R Ins./United Heartland
<b>Subtotal-Liability Insurance</b>	<b>\$647,212</b>	<b>\$682,546</b>	
<b>Total - Property &amp; Liability</b>	<b>\$682,732</b>	<b>\$726,483</b>	

The 2013 Insurance Budget includes a total amount of \$730,813. As such, there are sufficient appropriations to fund the proposed policies.

### COUNCIL ACTION REQUESTED

Authorize the Director of Administration to renew the City's casualty insurance plans with R&R Insurance/League of Wisconsin Municipalities Mutual Insurance and the Local Government Property Insurance Fund as noted above for the upcoming 2013 year.

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<b>APPROVAL</b> <i>Slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b> December 18, 2012
<b>REPORTS AND RECOMMENDATIONS</b>	City purchase of property for sale (Tax Key No. 885-9996-000, 9.7 acres) in the Woodview Neighborhood in the vicinity of Planned Public Park Site Pn3 in the Comprehensive Outdoor Recreation Plan for public park purposes. The Common Council may enter closed session pursuant to Section 19.85(1)(e), Wis. Stats., to consider the potential acquisition of and an offer to sell the property bearing Tax Key No. 885-9996-000, and to reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate.	<b>ITEM NUMBER</b>  <i>G. 19.</i>

The Parks Commission and the Common Council have previously considered the above matter. The City recently received a new offer to sell.

**COUNCIL ACTION REQUESTED**

A motion to enter closed session pursuant to Section 19.85(1)(e), Wis. Stats., to consider the potential acquisition of and an offer to sell the property bearing Tax Key No. 885-9996-000, 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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<p>APPROVAL</p> <p><i>slw</i></p>	<p>REQUEST FOR COUNCIL ACTION</p>	<p>MEETING DATE</p> <p><b>12/18/2012</b></p>
<p>Licenses and Permits</p>	<p><b>Miscellaneous Permits</b></p>	<p>ITEM NUMBER</p> <p><i>H.1.</i></p>

See attached list from meeting of December 18, 2012

COUNCIL ACTION REQUESTED



# City of Franklin

9229 W. Loomis Road  
Franklin, WI 53132-9728

414-425-7500

## License Committee

### Agenda\*

### Alderman's Room

December 18, 2012 – 5:45 pm

1.	Call to Order & Roll Call	Time		
2.	License Application Reviews	Recommendations		
Type/ Time	Applicant Information	Approve	Hold	Deny
Operator 2012-13	<b>Birmingham, Christopher B</b> 2206 15 <sup>th</sup> Ave South Milwaukee, WI 53172 Root River Center			
Operator 2012-13	<b>Frenczak, Jason W</b> 6943 S Tumble Creek Dr Franklin, WI 53132 Franklin Mobil Mart - Roettgers			
Operator 2012-13	<b>Lipp, Ashley J</b> 1918 S Grand Ave Waukesha, WI 53189 Franklin Mobil Mart - Roettgers			
People Uniting for the Betterment of Life and Investment in the Community (PUBLIC) Grant	<b>Fleet Reserve Association Branch 14 - Scholarships</b> Fee Waivers: Labor Day Fair Permit Date of the Event(s): 9/1-9/2/2013 Location: St Martins Fair			
People Uniting for the Betterment of Life and Investment in the Community (PUBLIC) Grant	<b>Franklin City of-Civic Celebrations</b> Fee Waivers: Temporary Operator Licenses, Entertainment & Amusement License, Class B Beer & Wine, Soda and Park Permits Date of the Event(s):7/2-7/5/2013 Location: Lions Legend Park I & II			
People Uniting for the Betterment of Life and Investment in the Community (PUBLIC) Grant	<b>Franklin City of – National Night Out Kick-off</b> Fee Waivers: Park Permit, Temporary Entertainment & Amusement, Food Lic Date of the Event: 8/5/2013 Location: Library, Library Parking Lot and Legend Park 1 Baseball Field Area			
People Uniting for the Betterment of Life and Investment in the Community (PUBLIC) Grant	<b>Franklin City of -Safety City/Health Dept</b> Fee Waivers: Park Permit Date of the Event(s): 7/8 – 7/19/2013 & 8/12 – 8/23/2013 Location: Ken Windl Park			
People Uniting for the Betterment of Life and Investment in the Community (PUBLIC) Grant	<b>Franklin Historical Society - Barn Raising</b> Fee Waivers: Bldg Permits Date of the Event: to be determined – building barn Location: Legend Park I			
People Uniting for the Betterment of Life and Investment in the Community (PUBLIC) Grant	<b>Franklin Lions &amp; Lioness Club – Mtgs &amp; Fund Raisers</b> Fee Waivers: St Martins Fair Permits, Park Permits, Temporary Class B Beer & Wine Licenses and Temporary Operator Licenses Date of the Event(s): 3/30, 7/23, 8/13, 8/27 9/1-9/2/2013 Location: St Martins Fair, Legend Park 1 and Ken Windl			
People Uniting for the Betterment of Life and Investment in the Community (PUBLIC) Grant	<b>Franklin Park Concerts – Free Concerts</b> Fee Waivers: Park Permits, Band Shell fees, Temporary Entertainment and Amusement License Date of the Event(s): 6/23, 7/21, 8/4, 8/18/2013 Location: Legend Park I			

<b>People Uniting for the Betterment of Life and Investment in the Community (PUBLIC) Grant</b>	<b>Forest Park Middle School – Charity Fund Raiser</b> Fee Waivers: Park Permits, Date of the Event(s): 5/13/2013 - Rain Date 6/7/13 Location: Lions Legend Park I and II			
<b>People Uniting for the Betterment of Life and Investment in the Community (PUBLIC) Grant</b>	<b>Knights of Columbus - Arts &amp; Crafts Show</b> Fee Waivers: Extraordinary Event, Temporary Class B Beer License and Temporary Operator License Date of the Event(s): 9/1/2013 Location: Sacred Heart School of Theology			
<b>People Uniting for the Betterment of Life and Investment in the Community (PUBLIC) Grant</b>	<b>RAMS Club – Rainbow Aero Modelers Society</b> Fee Waivers: Temporary Entertainment & Amusement & Food License Date of the Event(s): 7/27 & 7/28/2013 Location: 7200 W Oakwood Rd – R.A.M.S. Field			
<b>People Uniting for the Betterment of Life and Investment in the Community (PUBLIC) Grant</b>	<b>Saint Martin of Tours - Fund Raisers</b> Fee Waivers: Labor Day Fair Permit, Temporary Class B Beer & Wine Temporary Entertainment & Amusement and Temp Operator Licenses Date of the Event(s): 4/13, 5/17-19, 9/1-2 Fall & Spring fund raiser dates to be determined Location: St Martins Fair and Saint Martin of Tours Church or School			
<b>People Uniting for the Betterment of Life and Investment in the Community (PUBLIC) Grant</b>	<b>Saint Paul's Lutheran School – Community Out Reach</b> Fee Waivers: Park Permit Date of the Event: 5/30/2013 Location: Lions Legend Park II			
<b>People Uniting for the Betterment of Life and Investment in the Community (PUBLIC) Grant</b>	<b>VFW Post 10394 Franklin-Hales Corners – Fund Raiser</b> Fee Waivers: Temporary Entertainment & Amusement, Temporary Class B Beer and St Martins Fair Permit Date of the Event(s): 9/1-2/2013 Location: St Martins Fair			
<b>People Uniting for the Betterment of Life and Investment in the Community (PUBLIC) Grant</b>	<b>Victory of the Lamb Church – Fall Family Festival</b> Fee Waivers: Park Permit, Temp Entertainment & Amusement, Food License Date of the Event: 10/12/2013 Location: Lions Legend Park I			
<b>People Uniting for the Betterment of Life and Investment in the Community (PUBLIC) Grant</b>	<b>Xaverian Missionaries – Annual Festival</b> Fee Waivers: Extraordinary Event License, Temporary Class B Beer and Wine License, Temporary Operator Licenses, Temporary Food License, and Sign Permits Date of the Event(s): 6/22-23/2013 Location: 4500 Xavier Dr			
<b>3.</b>	<b>Adjournment</b>	<b>Time</b>		

\*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>Slw CAP</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b> <b>12/18/12</b>
<b>Bills</b>	<b>Vouchers and Payroll Approval</b>	<b>ITEM NUMBER</b> <i>I. 1.</i>

Provided for Council approval is a list of vouchers dated December 18, 2012 Nos. 145353 through 145520 in the amount of \$ 1,768,411.07. Included in this listing is \$1,042.51 in library vouchers.

The net city vouchers for December 18, 2012 are \$1,767,368.56.

Approval is requested for the net payroll dated December 14, 2012 in the amount of \$344,034.08.

### COUNCIL ACTION REQUESTED

Motion approving net City vouchers in the range Nos. 145353 through Nos.145520 in the amount of \$1,767,368.56 dated December 18, 2012.

Motion approving net payroll dated December 14, 2012 in the amount of \$344,034.08.