

CITY OF FRANKLIN
COMMON COUNCIL MEETING**
FRANKLIN CITY HALL COUNCIL CHAMBERS
9229 W. LOOMIS ROAD, FRANKLIN, WISCONSIN
AGENDA*
TUESDAY, DECEMBER 17, 2013, 6:30 P.M.

- A. Call to Order and Roll Call

- B.
 - 1. Citizen Comment Period
 - 2. Announcements from Mayor Taylor of upcoming community events & news items:
 - a. Application for a Zoning Compliance Permit approval for the expansion of Baptista's Bakery, Inc. for the property located at 4625 Oakwood Park Drive in the Franklin Business Park, by TI Investors of Franklin, LLC, a subsidiary of Zilber, Ltd., and Baptista's Bakery, Inc. (scheduled for consideration by the Community Development Authority on Thursday, December 19, 2013 at 6:00 p.m.) (Mayor Taylor).

- C. Approval of Minutes
 - 1. Approval of regular meeting of December 3, 2013.
 - 2. Approval of special meeting of December 11, 2013.

- D. Hearings
 - 1. Public Hearing regarding a proposed ordinance to amend the City of Franklin 2025 Comprehensive Master Plan to change the City of Franklin 2025 Future Land Use Map for property located at approximately 11120 W. Loomis Road, from Residential and Areas of Natural Resource Features to Institutional (Victory of Lamb, Inc. applicant) and Areas of Natural Resource Features.

- E. Organizational Business
 - 1. Appointment of Inspectors of Election for 2014-2015.

- F. Letters and Petitions

- G. Reports and Recommendations
 - 1. Donation from Brenwood Park residents in the amount of \$415 to the Fire Department.
 - 2. Ordinance to amend the City of Franklin 2025 Comprehensive Master Plan to change the City of Franklin 2025 Future Land Use Map for property located at approximately 11120 W. Loomis Road from Residential Use and Natural Resources Use to Institutional Use and Natural Resources Use (approximately 14.95 acres) (Victory of Lamb, Inc., applicant).
 - 3. Ordinance to amend the Unified Development Ordinance (Zoning Map) to rezone a certain parcel of land from R-3 Suburban/Estate Single-Family Residence District to I-1 Institutional District (approximately 11120 W. Loomis Road) (approximately 14.95 acres) (Victory of Lamb, Inc., applicant).
 - 4. Resolution Authorizing Certain Officials to Execute an Agreement for Maintenance of the Security and Paging System in the Franklin Law Enforcement Center Services with SimplexGrinnell LP.
 - 5. Resolution Authorizing Certain Officials to Execute an Agreement for South Door Entry Security Equipment for the Franklin Law Enforcement Center with SimplexGrinnell LP.
 - 6. Ordinance to Amend the Franklin Municipal Code as it Pertains to Court Costs Imposed in Municipal Court Actions.

7. Modification of the Professional Services Agreement with Ruekert-Mielke pertaining to Impact Fee Updates.
8. Ordinance to amend Ordinance 2012-2096 (an ordinance adopting the 2013 budgets and tax levy for the City of Franklin), as amended, to modify the budget of the Development-Impact Fee Fund adding \$9,000 to the "Other Professional Services" line item, funded from Existing Administrative Fees for the modification of the Professional Services Agreement with Ruekert-Mielke for an Impact Fee Update which incorporates an Additional Project Contingency for the final completion of the project.
9. 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, 2014, with JSA Civil Environmental Engineers, Inc.
10. Resolution awarding contract to the low bidder, Musson Brothers, Inc. in the amount of \$245,508.25, for the S. 36th Street Private Property Sanitary Sewer Lateral Inflow and Infiltration rehabilitation from W. Missouri Avenue to W. Madison Boulevard.
11. Resolution awarding contract to the low bidder, Stark Asphalt, in the amount of \$52,595.00 for the installation of concrete sidewalk on S. 51st Street from W. Minnesota Avenue north 1,340 feet to W. Rawson Avenue.
12. Resolution authorizing officials to execute an Intergovernmental Agreement with the Milwaukee Metropolitan Sewerage District (MMSD) for the private property infiltration and inflow (PPII) elimination on S. 36th Street between W. Missouri Avenue and W. Madison Boulevard.
13. Ordinance to Amend the Municipal Code to Provide for the Preservation of Blight Created by the Boarding Up of Windows upon Unoccupied Dwelling Structures (Ald. Taylor).
14. Amendment to the Agreement with Milwaukee County for the 2013 Clare Meadows North Handicap Accessible Sidewalk Community Development Block Grant Project, Phase III, granting an extension of the project to July 1, 2014.
15. Resolution to amend the City of Franklin Bargaining Employees' Retirement Plan and the City of Franklin Certain Employees' Retirement Plan to amend plan names, eligibility, employer pick-up contributions, vesting, and to meet federal requirements and to incorporate such into the employee handbook.
16. Aerotropolis Milwaukee Interlocal Cooperation Agreement.
17. Representation at the South Suburban Chamber of Commerce Annual Awards Dinner.
18. Authority to purchase MSGovern's "OpenForms" Upgrade to the City's Permitting Software for an amount not-to-exceed \$17,320.
19. 2014 Information Technology Services Agreement between Heartland Business Systems and the City of Franklin.
20. Geographic Marketing Advantage, LLC Agreement for Geographic Information System (GIS) Support and Database Maintenance Services for 2014.

H. Licenses and Permits

1. Miscellaneous Licenses.

I. Bills

1. Vouchers and Payroll approval.

J. Adjournment

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

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

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

REMINDERS:

December 25 & 26	HOLIDAY-CITY HALL CLOSED	
December 31 & January 1	HOLIDAY-CITY HALL CLOSED	
January 6	Committee of the Whole	6:30 p.m.
January 7	Common Council	6:30 p.m.

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<p>APPROVAL</p> <p><i>Slw</i></p>	<p>REQUEST FOR COUNCIL ACTION</p>	<p>MEETING DATE</p> <p>December 17, 2013</p>
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<p>ANNOUNCEMENTS FROM MAYOR TAYLOR</p>	<p>Application for a Zoning Compliance Permit approval for the expansion of Baptista's Bakery, Inc. for the property located at 4625 Oakwood Park Drive in the Franklin Business Park, by TI Investors of Franklin, LLC, a subsidiary of Zilber, Ltd., and Baptista's Bakery, Inc. (scheduled for consideration by the Community Development Authority on Thursday, December 19, 2013 at 6:00 p.m.) (Mayor Taylor)</p>	<p>ITEM NUMBER</p> <p><i>B.2.a.</i></p>
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The above application was received during the later afternoon on December 13, 2013. Staff understands that the application is part of a pre-closing process involved in the acquisition of the subject site, being previously occupied and operated by Harley-Davidson, Inc. TI Investors of Franklin, LLC, a subsidiary of Zilber, Ltd., is the purchaser under a pending offer to purchase the site. The property will be used and occupied by Baptista's Bakery, Inc. in connection with the expansion of its current operations in the Franklin Business Park. Attached is a copy of a news article reporting on the consideration and search efforts for an expansion site by Baptista's Bakery, Inc. Also attached is a copy of the application. The subject matter is scheduled for consideration by the Community Development Authority on Thursday, December 19, 2013 at 6:00 p.m.

COUNCIL ACTION REQUESTED

The subject matter is presented to the Common Council for information purposes. No action is requested.

From the The Business Journal

[:http://www.bizjournals.com/milwaukee/news/2013/08/20/baptistas-bakery-cooking-up-another.html](http://www.bizjournals.com/milwaukee/news/2013/08/20/baptistas-bakery-cooking-up-another.html)

Aug 20, 2013, 2:03pm CDT Updated: Aug 21, 2013, 12:25pm CDT

Baptista's Bakery cooking up another expansion



Jeff Engel

Reporter- *The Business Journal*

[Email](#) | [Twitter](#) | [LinkedIn](#) | [Google+](#)

Baptista's Bakery Inc. is scouting a site for a new facility, the company told The Business Journal.

The Franklin developer and manufacturer of custom snacks hasn't selected a location but likely will build a facility in lieu of leasing or buying an existing building, Baptista's president Tom Howe said.

The company is considering southeast Wisconsin and other "business-friendly states."

"With sales growth being what it is, we anticipate with new products and new customers we will need another facility by the beginning of 2015," Howe told The Business Journal.

Baptista's is fresh off opening a \$75 million, 125,000-square-foot addition last year that nearly doubled its footprint, which now stands at 260,000 square feet. Both facilities are located at 4625 W. Oakwood Park Drive.

Baptista's currently employs about 350 people but will grow that to around 400 when the facility that opened last year is fully operational, Howe said.

The company was recognized on Friday as a winner in The Business Journal's Fastest Growing Firms awards. It saw 99 percent sales growth between 2010 and 2012.

Jeff Engel is The Business Journal's reporter covering the manufacturing industry and technology.

Planning Department
9229 West Loomis Road
Franklin, Wisconsin 53132
Email: generalplanning@franklinwi.gov



City of Franklin

Phone: (414) 425-4024
Fax: (414) 427-7691
Web Site: www.franklinwi.gov

ZONING COMPLIANCE APPLICATION

(Complete, accurate and specific information must be entered, including full legal names. Please Print.)

Date: <u>12/13/13</u>	
Property Owner(s) (Legal Entity Name): <u>TI Investors of Franklin LLC</u>	Business Owner (Legal Entity Name): <u>Baptista's Bakery, Inc.</u>
Address: <u>c/o Towne Realty, Inc. 710 N. Plankinton Ave, 1100</u>	Address: <u>4625 Oakwood Park Drive</u>
City: <u>Milwaukee</u> State: <u>WI</u> Zip: <u>53203</u>	City: <u>Franklin</u> State: <u>WI</u> Zip: <u>53132-6161</u>
Phone: <u>(414) 274-2637</u> Fax: <u>(414) 274-2744</u>	Phone: <u>(414) 409-2150</u> Fax: <u>(414) 409-2250</u>
Email Address: <u>Tom.Bernacchi@zilber.com</u>	Email Address: <u>jbecker@baptista.com</u>
Business Name (Name your business will operate under): <u>TI Investors of Franklin LLC</u>	Describe types of vehicles associated with the business and frequency of delivery or pick-up activities (if applicable): <u>see attached</u>
Proposed Location (Address): <u>1000 S. Franklin Drive</u>	Number of Employees: <u>see attached</u>
Hours of Operation: <u>see attached</u>	
Description of Business: <u>office, warehouse, storage, staging and distribution of food products and materials relating to operations of Baptista's Bakery, Inc., facility located across the street at 4625 Oakwood Park Drive, Franklin, WI</u>	
All Zoning Compliance submittals must include and be accompanied by the following: <input checked="" type="checkbox"/> This Application form accurately completed with original signatures (facsimiles and copies will not be accepted). <input checked="" type="checkbox"/> Application Filing Fee: \$100, payable to the City of Franklin. <input checked="" type="checkbox"/> A detailed description of the proposed business. <input checked="" type="checkbox"/> A Site Plan showing the following: (1) Property lines and existing structures; (2) North arrow, property address and street name; (3) Parking and vehicle circulation areas, identifying number of stalls available and location of handicapped parking stalls; (4) Location of all ingress/egress points for the property; and (5) any landscaping modifications.	
<ul style="list-style-type: none">A meeting must be scheduled with the Planning Department prior to Application submittal.Upon receipt of a complete submittal, staff review will be conducted within ten business days.	
The applicant and property owner(s) hereby certify that: (1) all statements and other information submitted as part of this application are true and correct to the best of applicant's and property owner(s) knowledge; (2) the applicant and property owner(s) has/have read and understand all information in this application; and (3) the applicant and property owner(s) agree that any approvals based on representations made by them in this Application and its submittal, and any subsequently issued building permits or other type of permits, may be revoked without notice if there is a breach of such representation(s) or any condition(s) of approval. By execution of this application, the property owner(s) authorize the City of Franklin and/or its agents to enter upon the subject property(ies) between the hours of 7:00 a.m. and 7:00 p.m. daily for the purpose of inspection while the application is under review. The property owner(s) grant this authorization even if the property has been posted against trespassing pursuant to Wis. Stat. §943.13. (The business owner's signature must be from a Managing Member if the business operates as a limited liability company or from the President or Vice President if the business operates as a corporation. A signed owner's authorization letter may be provided in lieu of the business owner's signature below, and a signed owner's authorization letter or lease agreement may be provided in lieu of the property owner's signature[s] below. If more than one, all of the owners of the property must sign this Application).	
Signature of Property Owner: By: <u>Thomas G. Bernacchi</u> Name and Title: <u>Vice President</u> Date: <u>12/13/13</u>	Signature of Business Owner: By: <u>J. Becker</u> Name and Title: <u>Don Becker VP Finance</u> Date: <u>12/13/13</u>
Signature of Property Owner: _____ Name and Title: _____ Date: _____	Project Contact Name: _____ Company: _____ Phone: _____ Email: _____
Property is under contract for sale. Application is conditioned upon closing occurring. Signatures of contract owner and business owner are included. Contract owner is authorized to submit this application pursuant to its purchase contract.	

DEPARTMENT USE ONLY

- APPROVED
- DENIED

Reviewer's Signature: _____

Date: _____ 4-digit SIC code (if applicable): _____

Staff Comments / Conditions of Approval:

Attachment

The property is under contract for purchase by TI Investors of Franklin, LLC, a subsidiary of Zilber, Ltd. Upon acquisition, it will be leased to Baptista's Bakery, Inc. in connection with expansion of its current operations in the Franklin Business Park. The effectiveness of this application is conditioned upon closing occurring.

The property will be used and occupied by Baptista's Bakery, Inc. It will be used for office, warehouse, storage, staging, final packaging and repackaging, and distribution of food products, equipment and materials relating thereto, including storage or consignment of associated materials and packaging on behalf of customers, vendors, or other third parties, all associated with the operations and activities of Baptista's Bakery, Inc. located across the street at 4625 West Oakwood Park Drive (the "Existing Baptista's Facility"). The project reflects further strategic investment by Baptista's Bakery, Inc. in the City of Franklin and its workforce.

In essence, the activities at the property will reflect an expansion and growth of the activities already occurring at the existing Baptista's Facility. The operations taking place at the property will fall into three categories: (1) internal warehouse operations, (2) externally oriented shipping and receiving operations, and (3) operational transfers occurring between the Existing Baptista's Facility and the warehouse property. The two buildings will be operated together, as an integrated operational flow of raw materials onto the Baptista's campus, production of finished goods, packaging of those goods, and shipment of products to customers. The portion of those activities taking place at the property, including the activities involving movement back and forth between the two properties, are described in greater detail as follows:

1) Internal Warehouse Operations:

- a. Hours of Operation:
 - i. Mon 6 am – Sat. 6 am, 24 hours, staffed 3 shifts
 - ii. Saturday hours TBD depending on production needs
- b. Staffing:
 - i. Estimating 4 employees on 1st and 3 on 2nd shifts, and 2 employees on 3rd shift
 - ii. Not fully staffed probably until April, or when volume demands it
- c. Activities – general warehousing and staging as described above.
- d. Vehicles involved will be forklifts and similar pallet moving equipment operated predominantly inside the building or in order to load trailers at the loading docks.

2) External Shipping / Receiving Operations:

- a. Hours and Levels of Activity:
 - i. Out-bound: 2 trailers every hour on the hour, from 6:00 a.m. to 9:00 p.m.
 - ii. Inbound: 12-15 deliveries over the period of 6:00 a.m. to 8:00 p.m., with the majority of the volume during regular business hours
- b. Because use of this facility reflects growth of the operations at the Existing Baptista's Facility, many of the truck deliveries that have historically been directed to the Existing Baptista's Facility now will be directed to the warehouse property, thus minimizing the volume and proximity of truck traffic to adjoining properties located adjacent to the business park.

- c. The charts attached as Exhibits A and B provide graphic representation of the hours of operation and anticipated traffic counts.
- d. Operational Controls: truck drivers will be instructed to enter the business park from the north end and approach the property from the roadways located on the north and west sides of the property (i.e., Ironwood Drive and West Franklin Drive), thus minimizing the volume and proximity of truck traffic to adjoining properties located adjacent to the business park.
- a. Vehicles involved in these activities will include both over-the-road diesel tractor trailers and lighter-duty gas powered trucks.

3) **Warehouse Transfer Operations (Operational Transfers Between the Property and the Existing Baptista's Facility):**

- a. Hours and Levels of Activity:
 - i. Mon 6 am – Sat 6 am
 - ii. 1 to 1.5 loads per hour, 24-36 loads per day
- b. The charts attached as Exhibits A and B provide graphic representation of the hours of operation and anticipated traffic counts.
- c. Operational Controls:
 - i. Smaller "yard dog" trucks will be the primary vehicles used in connection with trailer transfers between the buildings.
 - ii. Truck drivers, who will be Baptista's Bakery employees, will use the direct line of roadways between the buildings (i.e., Ironwood Drive and West Franklin Drive), which will mean they will approach both buildings from the roadways located on the north side of the property, thus minimizing the proximity of truck traffic to adjoining properties located adjacent to the business park.
- d. Vehicles involved in these activities will be primarily smaller gas-powered yard-dog vehicles used to shuttle trailers between the buildings.

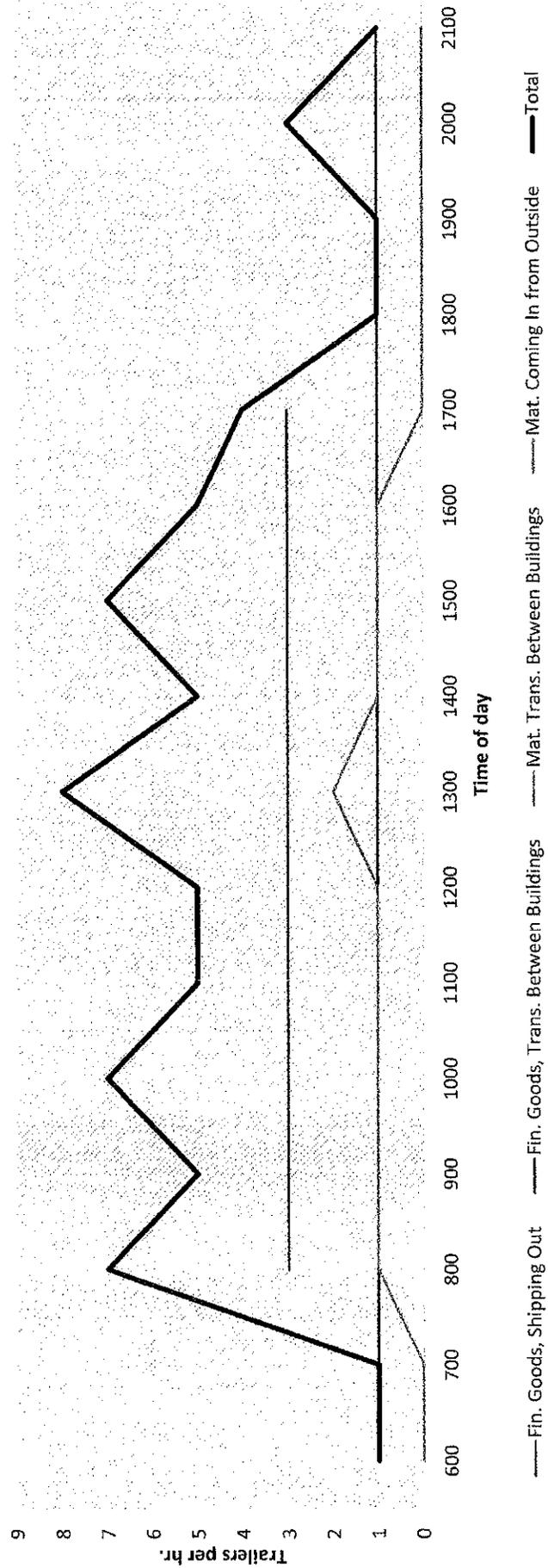
4) **Miscellaneous:**

- 1. From time to time, Baptista's will need to access the warehouse property on the weekends.

Time	Logistics Overview - Trailers per Hour					Total
	Finished Goods, Shipping Outside	Materials Coming In, from Outside	Finished Goods, Between Buildings	Materials, Between Buildings	Between Buildings	
0600		0	1			1
0700		0	1			1
0800	3	1	1	2		7
0900	3	1	1			5
1000	3	1	1	2		7
1100	3	1	1			5
1200	3	1	1			5
1300	3	2	1	2		8
1400	3	1	1			5
1500	3	1	1	2		7
1600	3	1	1			5
1700	3	0	1			4
1800		0	1			1
1900		0	1			1
2000		0	1	2		3
2100		0	1			1
	30	10	16	10		66

Note: We will ramp up to these levels by 3Q2014

Logistics Overview



- RES. 2013-6943
SPECIAL USE
THE ROCK SPORTS
COMPLEX, LLC, 7150 S.
76TH ST.
- G.4. Alderman Mayer moved to adopt Resolution No. 2013-6943, A RESOLUTION IMPOSING CONDITIONS AND RESTRICTIONS FOR THE APPROVAL OF A SPECIAL USE FOR AN INDOOR BASEBALL EDUCATIONAL/PRACTICE PHYSICAL FITNESS FACILITY USE UPON PROPERTY LOCATED AT 7150 SOUTH 76TH STREET (THE ROCK SPORTS COMPLEX, LLC, APPLICANT). Seconded by Alderman Taylor. All voted Aye; motion carried.
- STORM WATER
MAINTENANCE
AGREEMENT
- G.5. Alderman Dandrea moved to table A RESOLUTION ACCEPTING A STORM WATER MAINTENANCE AGREEMENT FROM AVIAN ESTATES, LLC until returned by the Engineering Department. Seconded by Alderman Taylor. All voted Aye; motion carried.
- RES. 2013-6944
EASEMENTS
AVIAN ESTATES
SUBDIVISION
- G.6. Alderman Dandrea moved to adopt Resolution No. 2013-6944, A RESOLUTION FOR ACCEPTANCE OF STORM DRAINAGE, SANITARY, WATERMAIN AND STORMWATER MANAGEMENT AND ACCESS EASEMENTS FOR AVIAN ESTATES SUBDIVISION LOCATED AT W. AVIAN COURT OFF OF W. PUETZ ROAD. Seconded by Alderman Taylor. All voted Aye; motion carried.
- RES. 2013-6945
RELEASE PREVIOUSLY
REQUIRED AND
RECORDED PUBLIC
EASEMENTS.
- G.7. Alderman Dandrea moved to adopt Resolution No. 2013-6945, A RESOLUTION TO RELEASE PREVIOUSLY REQUIRED AND RECORDED PUBLIC EASEMENTS UPON PROPERTY NOW WITHIN THE AVIAN ESTATES SUBDIVISION AS THE PUBLIC NEEDS SERVED BY SUCH PRIOR EASEMENTS HAVE BEEN MET WITH THE EASEMENTS REQUIRED AS A CONDITION OF THE APPROVAL OF THE AVIAN ESTATES SUBDIVISION PLAT. Seconded by Alderman Taylor. All voted Aye; motion carried.
- RES. 2013-6946
SURVEY SERVICES FOR
NEW SEWER & WATER
UTILITY BUILDING
- G.8. Alderman Schmidt moved to adopt Resolution No. 2013-6946, A RESOLUTION AUTHORIZING OFFICIALS TO EXECUTE A SURVEY SERVICES PROPOSAL FOR THE PROPOSED NEW SEWER AND WATER UTILITY OPERATIONS BUILDING. Seconded by Alderman Mayer. All voted Aye; motion carried.
- CONTRACT WITH
MSGovern
- G.9. Alderman Taylor moved to authorize the Director of Administration to accept and execute the "Quote" in the amount of \$16,500 from MSGovern for data conversion services, dated October 31, 2013. Seconded by Alderman Schmidt. All voted Aye; motion carried.

2014 PROPERTY AND
CASUALTY INSURANCE
COVERAGE

G.10. Alderman Taylor moved to authorize the Director of Administration to renew and execute the City's casualty insurance plans with R&R Insurance/League of Wisconsin Municipalities Mutual Insurance, the Local Government Property Insurance Fund, and CNA for the upcoming 2014 year, including incorporating the Monies/Securities coverage within the CNA Crime policy and to further authorize release of premium payments in accordance with or as required by said policy documents. Seconded by Alderman Dandrea. All voted Aye; motion carried.

RES. 2013-6947
CITY OF FRANKLIN'S
EMPLOYEE HEALTH
BENEFIT PLAN

G.11. Alderman Dandrea moved to adopt Resolution No. 2013-6947, A RESOLUTION ADOPTING A POLICY THAT THE CITY OF FRANKLIN'S EMPLOYEE HEALTH BENEFIT PLAN SHALL MAINTAIN A LEVEL OF BENEFITS TO ENSURE THAT THE CITY IS NOT SUBJECT TO THE AFFORDABLE CARE ACT'S "CADILLAC TAX". Seconded by Alderman Taylor. All voted Aye; motion carried.

INSURANCE BROKER
SERVICES BID

G.12. Alderman Schmidt moved to approve that the City adopt a practice of bidding out insurance broker services every 3 years starting at a point as determined by the Common Council (and that the Director of Administration is hereby directed to initially implement the practice in 2014, unless otherwise postponed by the Common Council following its consideration of a report on workload, projects, and outstanding Common Council directives). Seconded by Alderman Mayer. All voted Aye; motion carried.

COMMITTEE OF THE
WHOLE
RECOMMENDATIONS

- G.13.
- A. No action was taken on a concept review for a proposed office/retail development (5600, 5602, and 5610 W. Rawson Avenue) (Blind Squirrel Development LLC, applicant).
 - B. No action was taken on an update on property condition complaints.
 - C. Reclassification of the Position of "Director of Administration" to "City Administrator". Alderman Taylor moved to table to July 2014. Seconded by Alderman Dandrea. Upon voice vote, Alderman Skowronski voted No; motion carried.
 - D. Alderman Taylor moved to enter closed at 7:30 p.m. pursuant to Wis. Stats. 19.85(1)(e) for consideration of deliberating or negotiating a service contract and conducting public business which requires a closed session for competitive or bargaining reasons, in order to consider amendment of the terms of the service contract for Wireless Emergency Network Service (WENS) between the City of Franklin and Inspiron Logistics, up to and including consideration of termination of the contract, and/or in accordance with Wis. Stats. 19.85(1)(g) to

COMMITTEE OF THE
WHOLE
RECOMMENDATIONS-
CONTINUED

confer with legal counsel for the government body concerning strategy to be adopted by the body with respect to litigation in which the City is likely to become involved in relation to consideration of said contract termination, and may reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate. Seconded by Alderman Dandrea. On roll call, Aldermen Dandrea, Mayer, Wilhelm, Taylor and Schmidt voted Aye; Alderman Skowronski voted No. Motion carried.

Upon reentering open session at 8:30 p.m., Alderman Mayer moved to direct the Director of Administration to contact Inspiron Logistics chief executive and/or designee to request that he appear in person to explain and provide assurances that the Emergency Alert System is working properly and to guarantee in writing that there will never be a future failure of the emergency alert system for Franklin. Seconded by Alderman Dandrea. All voted Aye; motion carried.

MISCELLANEOUS
LICENSES

H.1. Alderman Taylor moved to grant the following licenses:

Operator License to Cope, Katherine M., 4032 S. 77th St., Apt. #2, Milw.; Schuster, Aaryn R., 1828 E. Eden Pl., St. Francis and Serchen, Graham W., 10510 W. Cortez Cir. #20;

People Uniting for the Betterment of Life and Investment in the Community (PUBLIC) Grants to:

Fleet Reserve Association Branch 14-Scholarships, fee waivers-Labor Day Fair permit on 8/31-9/1/14 at St. Martins Fair;

Franklin City Civic Celebrations, fee waivers-temporary operator licenses, entertainment & amusement license, Class B beer & wine, soda and park permits on 7/3-7/5/14 at Lions Legend Park I & II subject to obtaining signatures and budget projections;

Franklin Lions Club-Meetings & Fundraisers, fee waivers-St. Martins Fair permits, park permits, temporary Class B beer & wine licenses and temporary operator licenses on 4/19, 7/8, 7/22, 8/13, 8/26, 8/31-9/1/14 at St. Martins Fair, Legend Park I and Ken Windl;

Franklin Park Concerts-Free Concerts, fee waivers-park permits, band shell fees, temporary entertainment & amusement license on 6/22, 7/6, 7/20, 8/3, 8/17/14 at Legend Park I;

Franklin Police Dept.-National Night Out Kick-off, fee waivers-park permit, temporary entertainment & amusement and food license on 8/4/14 at Library, Library parking lot and Legend Park I baseball field area;

Safety City/Health Dept., fee waivers-park permit for summer of 2014 (dates to be determined) at Ken Windl Park;

MISCELLANEOUS
LICENSES-
CONTINUED

Saint Martin of Tours-Fund Raisers, fee waivers-Labor Day Fair Permit, Temporary Class B beer & wine temporary entertainment & amusement and temporary operator licenses on 2/15, 3/29, 5-16-18, 8/31-9/1 for fall/winter fund raiser (dates to be determined) at St. Martins Fair and Saint Martin of Tours Church or School;

VFW Post 10394 Franklin-Hales Corners-Fund Raisers, fee waivers-temporary entertainment & amusement, temporary Class B beer and St. Martins Fair permit on 8/31-9/1/14, brat fry fund raiser date(s) to be determined at St. Martins Fair, Pick n Save (Hwy. 100 & Drexel Ave., 76th St. and Rawson Ave.);

Knights of Columbus-Arts & Crafts Show, fee waivers-extraordinary event, temporary Class B beer license and temporary Operators License on 8/31/14 at Sacred Heart School of Theology subject to submittal of insurance certificate;

Victory of the Lamb Church-Fall Family Festival, fee waivers-park permit, temporary entertainment & amusement, food license on 10/4/14 at Lions Legend Park I subject to submittal of insurance certificate. Seconded by Alderman Skowronski. All voted Aye; motion carried.

VOUCHERS AND
PAYROLL

I.1. Alderman Dandrea moved to approve net general checking account City vouchers in the range of Nos. 150165 through 150291 dated November 25 and November 27, 2013 in the amount of \$403,148.06. Seconded by Alderman Mayer. On roll call, all voted Aye. Motion carried.

Alderman Schmidt moved to approve net general checking account City payroll in the amount of \$238,915.11 dated November 29, 2013. Seconded by Alderman Dandrea.

Alderman Dandrea moved to approve net general checking account health claims in the amount of \$165,244.84 dated November 28, 2013. Seconded by Alderman Mayer.

Alderman Schmidt moved to approve the net payroll dated November 29, 2013 in the amount of \$369,733.98 (estimate previously approved at \$362,000.00). Seconded by Alderman Dandrea.

Alderman Skowronski motion to approve the net payroll dated December 13, 2013 estimated at \$318,000.00 and payments of the various payroll deductions estimated at \$211,000.00 plus any City matching payments, where required. Seconded by Alderman Dandrea. On roll call, all voted Aye. Motion carried.

ADJOURNMENT

J. Alderman Taylor moved to adjourn the meeting at 8:34 p.m. Seconded by Alderman Schmidt. All voted Aye; motion carried.

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CITY OF FRANKLIN
SPECIAL COMMON COUNCIL MEETING
DECEMBER 11, 2013
MINUTES

- ROLL CALL
- I. The special meeting of the Common Council was held on December 11, 2013 and called to order at 6:30 p.m. by Mayor Tom Taylor in the Franklin City Hall Council Chambers, 9229 W. Loomis Road, Franklin, Wisconsin. On roll call, the following were in attendance: Aldermen Mark Dandrea, Daniel M. Mayer, Kristen Wilhelm, Steve Taylor, Doug Schmidt, and Ken Skowronski. Also present were Planning Manager Joel Dietl, Senior Planner Nick Fuchs, Director of Finance and Treasurer Paul Rotzenberg, Assistant City Engineer Ron Romeis, Director of Administration Mark Luberda, City Attorney Jesse Wesolowski, Assistant City Attorney Brian Sajdak, and City Clerk Sandi Wesolowski.
- CDA AND FFEDC
- The City of Franklin Community Development Authority and the Forward Franklin Economic Development Committee also met at the same time and place and upon quorum and call to order, met concurrently with the Common Council upon the subject matter listed on the Common Council agenda only.
- CITIZEN COMMENT
- II. Citizen comment period was opened at 6:39 p.m. and closed at 6:39 p.m.
- CLOSED SESSION
FUTURE BUSINESS
PARKS
- III. Alderman Taylor moved to enter closed session pursuant to Wis. Stat. §19.85(1)(e) for market competition and bargaining reasons, to deliberate and consider terms relating to the potential acquisition and development of property within the City for future business park(s), service, product and potential investment proposals for such purpose(s) and the investing of public funds and governmental actions in relation thereto and to effect such development, including service, product and potential investment contract terms and provisions, and including the terms and provisions of potential development agreement(s) for the development of property within a tax incremental district for future business park purposes, and to reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate. Seconded by Alderman Schmidt. On roll call, all voted Aye. Motion carried.
- ADJOURNMENT
- J. Upon reentering open session, Alderman Skowronski moved to adjourn the meeting at 9:04 p.m. Seconded by Alderman Mayer. All voted Aye; motion carried.

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D.1.

CITY OF FRANKLIN
NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN THAT THE COMMON COUNCIL OF THE CITY OF FRANKLIN will conduct a public hearing on Tuesday, December 17, 2013, at 6:30 p.m., or as soon thereafter as the matter may be heard, in the Common Council Chambers at the Franklin City Hall, 9229 West Loomis Road, Franklin, Wisconsin 53132, to hear public comment regarding a proposed ordinance to amend the City of Franklin 2025 Comprehensive Master Plan to change the City of Franklin 2025 Future Land Use Map for property located at approximately 11120 West Loomis Road, from Residential and Areas of Natural Resource Features to Institutional (Victory of Lamb, Inc., applicant) and Areas of Natural Resource Features. The property which is the subject of this application bears tax key no. 889-9989-000, consisting of approximately 14.95 acres of land. This public hearing is being held pursuant to the requirements of Wis. Stat. § 66.1001(4)(d). The public is invited to attend the public hearing and to provide input. The proposed ordinance to amend the City of Franklin 2025 Comprehensive Master Plan is available and open for inspection by the public in the Office of the City Clerk at Franklin City Hall, 9229 West Loomis Road, Franklin, Wisconsin 53132, during normal business hours. The proposed draft ordinance is also available and open for inspection by the public at the Franklin Public Library, 9151 West Loomis Road, Franklin, Wisconsin 53132, during normal business hours. In addition, the draft ordinance is available for review at www.franklinwi.gov. Any questions or comments about the proposed amendment to the Comprehensive Master Plan may be directed to Joel Dietl, City of Franklin Planning Manager, at 414-425-4024.

Dated this 6th day of November, 2013.

Sandra L. Wesolowski
City Clerk

N.B. Class I

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APPROVAL <i>Slw</i>	REQUEST FOR COUNCIL ACTION	MEETING DATE 12/17/2013
ORGANIZATIONAL BUSINESS	Appointment of Inspectors of Election	ITEM NUMBER <i>E. I.</i>

Pursuant to §7.30(4)(a), (b)1, Wis. Stats., the following are Mayoral appointments of inspectors of election and alternates for 2014-2015:

Carol Brunner	Mary Dicks	James Bartnicki
Patricia Farchione	Kenneth Cook	Lois Fratrack
Richard Koehler	Jaylene Wiese	Erin Arneson
Michael Barber	John Aschenbrenner	Dorothy Bosch
Shirley Koehler	Muriel Aschenbrenner	Charles Fleischman
Layne Litwin	Diane Schauer	Cynthia Fleischman
Kathleen Bennett	Leo Hoffer	Carolyn Fleischman
Gail Ankerson	Judy Herubin	Janice Kauth
Mary Schroeder	Bonita Davids	Shirley Kammers
Mary Bartnicki	Carol Manning	James O'Malley
Mary Kay Trejo	Sandra Barnhart	Sandra Couillard
Mary DeMotto	Robert Hintzke	Ann Barnes
Wayne Witkowski	Wesley Cannon	James Barnes
Monica Scherfer Henry	Carole Donovan	Ronald Dyszelski
Becky Diedrich	Jean Gross	Cathy Lange
Judith Witkowski	Ronald Reikowski	Roger Lange
Donna Erickson	Annabelle Gutmann	Philip Nickerson
Joan Ziebart	Frank Levar	Anita Nickerson
Donna Erickson	Judy Brooks-Levar	Theresa Smikowski
Bernard Bellin	Nannette Boinski	Theresa Gamble
William Larry Gamble	Edith Gamble	Marilyn Ganas
Laurie Ganske	Gary Ganske	Patricia Graef
Colleen Mutranowski	Sandra Groth	Gary Groth
Marlene Magarich	Sandra Meister	David Meister
Shirley Meyer	Victoria Rakowski	Joanne Wice
Sandra Nichols	David Wilke	Penelope Woodcock
Peter Woodcock	Janice Collins	Julie Marso
Karen Grochowski	Valori Schmidt	Robert Szudrowitz
Timothy Bienen	Mary Brittnacher	Ray Fisher
Judith White	Joseph Brooks	Nicholas Nowak
Penny Garbisch	James Martine	Patti Logsdon
Dale Kazmierczak	Tim Dake	

COUNCIL ACTION REQUESTED

Motion to confirm Mayoral appointments of inspectors of election and alternates as submitted for 2014-2015.

7.30 Appointment of election officials.

(1) NUMBER.

(a) Except as authorized under par. (b), there shall be 7 inspectors for each polling place at each election. Except as authorized in par. (b), in municipalities where voting machines are used, the municipal governing body may reduce the number of inspectors to 5. A municipal governing body may provide for the appointment of additional inspectors whenever more than one voting machine is used or wards are combined under s. 5.15 (6) (b). A municipal governing body may provide by ordinance for the selection of alternate officials or the selection of 2 or more sets of officials to work at different times on election day, and may permit the municipal clerk or board of election commissioners to establish different working hours for different officials assigned to the same polling place. Alternate officials shall also be appointed in a number sufficient to maintain adequate staffing of polling places. Except for inspectors who are appointed under par. (b) and officials who are appointed without regard to party affiliation under sub. (4) (c), additional officials shall be appointed in such a manner that the total number of officials is an odd number and the predominant party under sub. (2) is represented by one more official than the other party.

(b) Each municipality may appoint one additional inspector to serve at each polling place without regard to party affiliation who shall serve as a greeter to answer questions and to direct electors to the proper locations for registration and voting and who shall be available to substitute for other election officials who must leave the room during the voting process.

(2) QUALIFICATIONS AND PROCEDURE.

(a) Only election officials appointed under this section or s. 6.875 may conduct an election. Except as otherwise provided in this paragraph and in ss. 7.15 (1) (k) and 7.52 (1) (b), each election official shall be a qualified elector of the ward or wards, or the election district, for which the polling place is established. A special registration deputy who is appointed under s. 6.55 (6) or an election official who is appointed under this section to fill a vacancy under par. (b) need not be a resident of the ward or wards, or the election district, but shall be a resident of the municipality, except that if a municipal clerk or deputy clerk serves as a registration deputy or is appointed to fill a vacancy under par. (b), the clerk or deputy clerk need not be a resident of the municipality, but shall be a resident of the state. No more than 2 individuals holding the office of clerk or deputy clerk may serve without regard to municipal residency in any municipality at any election. Special registration deputies who are appointed under s. 6.55 (6) may be appointed to serve more than one polling place. All officials appointed under this section shall be able to read and write the English language, be capable, and be of good understanding, and may not be a candidate for any office to be voted for at an election at which they serve. In 1st class cities, they may hold no public office other than notary public. Except as authorized under subs. (1) (b) and (4) (c), all inspectors shall be affiliated with one of the 2 recognized political parties which received the largest number of votes for president, or governor in nonpresidential general election years, in the ward or combination of wards served by the polling place at the last election. Excluding the inspector who may be appointed under sub. (1) (b), the party which received the largest number of votes is entitled to one more inspector than the party receiving the next largest number of votes at each polling place. Election officials appointed under this section may serve the electors of more than one ward where wards are combined under s. 5.15 (6) (b). If a municipality is not divided into wards, the ward requirements in this paragraph apply to the municipality at large.

(am) Except as otherwise provided in this paragraph, a pupil who is 16 or 17 years of age and who is enrolled in grades 9 to 12 in a public or private school or in a tribal school, as defined in s. 115.001 (15m), may serve as an inspector at the polling place serving the pupil's residence, with the approval of the pupil's parent or guardian. Any pupil who has at least a 3.0 grade point average or the equivalent may serve. In addition, a school board or governing body of a private school or tribal school may establish criteria for service by a pupil who does not have at least a 3.0 grade point average or the equivalent. A pupil may serve as an inspector at a polling place under this paragraph only if at least one election official at the polling place other than the chief inspector is a qualified elector of this state. No pupil may serve as chief inspector at a polling place under this paragraph. Before appointment by any municipality of a pupil as an inspector under this paragraph, the municipal clerk shall obtain written authorization from the pupil's parent or guardian for the pupil to serve for the election for which he or she is appointed. In addition, if a pupil does not have at least a 3.0 grade point average or the equivalent, the municipal clerk shall obtain written certification from the principal of the school where the pupil is enrolled that the pupil meets any criteria established by the school board or governing body for service as an inspector. Upon appointment of a pupil to serve as an inspector, the municipal clerk shall notify the principal of the school where the pupil is enrolled of the name of the pupil and the date of the election at which the pupil has been appointed to serve.

(b) When a vacancy occurs in an office under this section, the vacancy shall be filled by appointment of the municipal clerk. Unless the vacancy occurs in the position of an inspector appointed under sub. (1) (b), the vacancy shall be filled from the remaining names on the lists submitted under sub. (4) or from additional names submitted by the chairperson of the county party committee of the appropriate party under sub. (4) whenever names are submitted under sub. (4) (d). If the vacancy is due to candidacy, sickness or any other temporary cause, the appointment shall be a temporary appointment and effective only for the election at which the temporary vacancy occurs. The same qualifications that applied to original appointees shall be required of persons who fill vacancies except that a vacancy may be filled in cases of emergency or because of time limitations by a person who resides in another aldermanic district or ward within the municipality, and if a municipal clerk or deputy clerk fills the vacancy, the clerk or deputy, but not more than a total of 2 individuals in any

municipality, may serve without regard to the clerk's or deputy's municipality of residence, if the clerk or deputy meets the other qualifications.

(c) The governing body of any municipality may require all persons serving as election officials to prove their ability to read and write English and to have a general knowledge of the election laws. Examinations may be given to prove the qualifications can be met. The municipal clerk shall ensure that all training meets the training requirements prescribed in rules promulgated by the board under ss. 7.31 and 7.315.

(3) TABULATORS.

(a) Not less than 30 days before any election the governing body or board of election commissioners of any municipality, by resolution, may authorize the municipal clerk or executive director of the board of election commissioners to select and employ tabulators for any election. Such authorization applies to the elections specified in the resolution, and if not specified, applies until the authorization is modified or revoked.

(b) The tabulators shall assist and be under the direction of the election inspectors after the close of the polls.

→ **(4) APPOINTMENTS.**

(a) Except in cities where there is a board of election commissioners, the mayor, president or board chairperson of each municipality shall nominate to the governing body no later than their last regular meeting in December of each odd-numbered year the necessary election officials for each polling place and any election officials required under s. 7.52 (1) (b). If no regular meeting is scheduled, the mayor, president or chairperson shall call a special meeting for the purpose of considering nominations no later than December 31.

(b) The 2 dominant parties, under sub. (2), are each responsible for submitting a list of names from which all appointees to inspector positions, other than appointees to inspector positions authorized under sub. (1) (b), shall be chosen as follows:

1. In cities where there is a board of election commissioners, the aldermanic district committeemen or committeewomen under s. 8.17 of each of the 2 dominant recognized political parties shall submit a certified list no later than November 30 of each odd-numbered year containing the names of at least as many nominees as there are inspectors from that party for each of the voting wards in the aldermanic district. For inspectors serving under s. 7.52 (1) (b), the aldermanic district committeemen and committeewomen under s. 8.17 of the 2 dominant recognized political parties shall jointly submit a certified list of nominees containing at least twice as many nominees as there are inspectors from that party who are to be appointed under s. 7.52 (1) (b). The chairperson may designate any individual whose name is submitted as a first choice nominee. The board of election commissioners shall appoint, no later than December 31 of odd-numbered years, at least 5 inspectors for each ward. The board of election commissioners shall appoint all first choice nominees for so long as positions are available, unless nonappointment is authorized under par. (e), and shall appoint other individuals in its discretion. The board of election commissioners may designate such alternates as it deems advisable.

2.a. In municipalities other than cities and villages located in counties having a population of more than 500,000, the committees organized under s. 8.17 from each of the 2 dominant parties under sub. (2) shall submit a list containing at least as many names as there are needed appointees from that party. The list shall be submitted by the chairperson of each of the 2 committees to the mayor, president, or chairperson of the municipality. If committees are organized in subdivisions of a city, the list shall be submitted through the chairperson of the city committee. If there is no municipal committee, the list shall be submitted by the chairperson of the county or legislative district committee. Except as provided in par. (c), only those persons submitted by the chairperson of each committee under s. 8.17 may act as election officials. The chairperson may designate any individual whose name is submitted as a first choice nominee. The list shall contain the signature of the chairperson and secretary of the submitting committee.

b. In cities or villages located in counties having a population of more than 500,000, other than cities where there is a board of election commissioners, the aldermanic district or village committeeman or committeewoman for the ward or wards where each polling place is located, if there is one, or for inspectors serving under s. 7.52 (1) (b), the committeemen and committeewomen for the municipality acting jointly, shall submit a list containing at least as many names as there are needed appointees for inspector positions from the party represented by the committeeman or committeewoman or by the committeemen and committeewomen acting jointly. For appointments of inspectors in cities and villages where there is no aldermanic district or village committeeman or committeewoman, nominations shall proceed in the same manner as in municipalities located in counties having a population of 500,000 or less. The list shall be submitted to the mayor or president. Except as provided in par. (c), only those persons whose names are submitted as provided in this paragraph may act as election officials. The committeeman or committeewoman may designate any individual whose name is submitted as a first choice nominee. The list shall contain the signature of the aldermanic district or village committeeman or committeewoman or the chairperson of the appropriate committee.

c. Upon submission of each nominee's name, the governing body shall appoint each first choice nominee for so long as positions are available, unless nonappointment is authorized under par. (e), and shall appoint other nominees in its discretion. If any nominee is not appointed, the mayor, president, or chairperson of the municipality shall immediately nominate another person from the appropriate lists submitted and continue until the necessary number of election officials from each party is achieved at that meeting.

(c) Except with respect to inspectors who are appointed under sub. (1) (b), for so long as nominees are made available by the political parties under this section, appointments may be made only from the lists of submitted nominees. If the lists are

not submitted by November 30 of the year in which appointments are to be made, the board of election commissioners shall appoint, or the mayor, president or chairperson of a municipality shall nominate qualified persons whose names have not been submitted. If an insufficient number of nominees appears on the lists as of November 30, the board of election commissioners shall similarly appoint, or the mayor, president or chairperson shall similarly nominate sufficient individuals to fill the remaining vacancies. In addition, the mayor, president, or board chairperson of the municipality shall similarly nominate qualified persons to serve in the inspector positions authorized under sub. (1) (b). Any appointment which is made due to the lack of availability of names submitted under par. (b) may be made without regard to party affiliation.

(d) A party committee or aldermanic district or village committeeman or committeewoman under s. 8.17 may submit additional names for inclusion in its list of nominations under this section at any time for the purpose of filling vacancies that occur during a term of office. However, an appointment need at no time be delayed because of the lack of availability of party nominees.

(e) If an appointing authority believes that, for good cause, it should not appoint an individual whose name is submitted as a first choice nominee under par. (b), it may request the board to authorize nonappointment. The board may permit nonappointment of an individual for cause demonstrated by an appointing authority.

(5) OATH OF OFFICE. Within 5 days after appointment of the election officials the municipal clerk shall give each appointee notice. The appointees shall file the official oath with the municipal clerk within 10 days after the mailing of the notice. Appointees to fill vacancies or any other election official who has not filed the oath, before receiving any ballots, shall sign the oath and return it to the municipal clerk. An inspector, after taking the oath, may administer any oath required to conduct an election.

(6) OFFICE TENURE.

(a) Except as provided in par. (am), the appointed election officials shall hold office for 2 years and until their successors are appointed and qualified. They shall serve at every election held in their ward during their term of office.

(am) A pupil appointed as an inspector under sub. (2) (am) shall serve as an inspector only for the election for which he or she is appointed. Nothing in this paragraph shall be construed to limit the number of times a pupil may be appointed as an inspector.

(b) Prior to the first election following the appointment of the inspectors, the municipal clerk shall appoint one of the inspectors at each polling place, other than an inspector who is appointed under sub. (1) (b), to serve as chief inspector. No person may serve as chief inspector at any election who is not certified by the board under s. 7.31 at the time of the election. The chief inspector shall hold the position for the remainder of the term unless the inspector is removed by the clerk or the inspector ceases to be certified under s. 7.31, except that whenever wards are combined or separated under s. 5.15 (6) (b), the municipal clerk shall appoint another inspector who is certified under s. 7.31 to serve as chief inspector at each polling place designated under s. 5.15 (6) (b). If a vacancy occurs in the position of chief inspector at any polling place, the municipal clerk shall appoint one of the other inspectors who is certified under s. 7.31 to fill the vacancy.

(c) If any election official appointed under this section lacks the qualifications set forth in this section, fails to attend training sessions required under s. 7.15 (1) (e) unless excused therefrom, is guilty of neglecting his or her official duties or commits official misconduct, the municipal clerk or board of election commissioners shall summarily remove the official from office and the vacancy shall be filled under sub. (2) (b).

RECEIVED
CITY OF FRANKLIN
2013 DEC -2 PM 12:48

Republican Party of Milwaukee County

P.O. Box 14665
West Allis, WI 53214
www.milwaukeecountygop.com

November 27, 2013

Mayor of Franklin
City of Franklin
9229 W. Loomis Road
Franklin, WI 53132

Dear Mayor of Franklin:

In accordance with Section 7.30(4) of the Wisconsin Statutes, which provides that the two dominant political parties shall provide a list of nominees for election inspectors by November 30 of each odd numbered year, the Republican Party of Milwaukee County (RPMC) is pleased to submit the enclosed list of persons who are being nominated as election inspectors by the RPMC. Please appoint the individuals on the enclosed list as election inspectors for a two year term, beginning January 1, 2014 through December 31, 2015. If you have any questions concerning this, please contact the RPMC's Chairman of the Elections and Pollworkers Committee, James McFarland, at (414)665-2720. Please forward a copy of the minutes of the meeting in which the election inspectors are appointed at the address shown above. Thank you for your cooperation and assistance.

Sincerely,



David Karst
Chairman, Republican Party of Milwaukee County

cc: City Clerk

Acknowledgement of Receipt:

By signing below, I am acknowledging receipt of the original of this letter.

By: Sandra L. Wesolowski
Name: SANDRA L. WESOLOWSKI
Title: City Clerk / Dir. of Clerk Services

Republican Pollworkers for City of Franklin

<u>Name</u>	<u>Address</u>	<u>Municipality, State</u>	<u>Zip Code</u>	<u>Phone Number</u>
Carol Brunner	7473 Karth Court	Franklin, WI	53132	(414)425-6231
Karen Grochowski	7521 S Nottingham Way	Franklin, WI	53132	4145293149
Valori Schmidt	11940 W Somerset Dr	Franklin, WI	53132	4144259189
Robert Szudrowitz	4149 W Pebble Beach Ct	Franklin, WI	53132	4144238598
Timothy Bienen	6858 S Dory Dr	Franklin, WI	53132	4144238140
Mary Kay Trejo	7713 Winston Way	Franklin, WI	53132	414-379-6114
Mary Brittnacher	3920 W Dory Ct	Franklin, WI	53132	4144213286
Julie Marso	8716 S. Avian Way	Franklin	53132	414-529-1554
Ray Fisher	3647 W. Anita Lane	Franklin	53132	414-421-5425
Patti Logsdon	12100 W. Belmar Drive	Franklin	53132	414-529-3519
Judith White	3302 W Franklin Ter	Franklin, WI	53132	4147612159
Joseph Brooks	3626 W Missouri Ave	Franklin, WI	53132	4144218492
Nicholas Nowak	7448 W. Pineberry Ridge	Franklin, WI	53132	4145290304
Penny Garbisch	3837 W Woodward Dr	Franklin, WI	53132	4147612972
James Martine	3922 W Lakeview Dr	Franklin, WI	53132	4144235779
Dale Kazmierczak	8012 W Bur Oak Ct	Franklin, WI	53132	4145293098
				rafisher4641@att.net
				blogsdon@wi.rr.com

<p>APPROVAL</p> <p><i>Slw</i></p>	<p>REQUEST FOR</p> <p>COUNCIL ACTION</p>	<p>MEETING DATE</p> <p>12/17/13</p>
<p>REPORTS AND RECOMMENDATIONS</p>	<p>Donation from Brenwood Park residents in the amount of \$415 to the Fire Department</p>	<p>ITEM NUMBER</p> <p><i>G.1.</i></p>

The City of Franklin Fire Department has received a donation from Brenwood Park residents Eileen Pfeiffer, Marge Flintrop, Doris Pischel, Dorothy Pratt, and Elin Rogahn. The Department plans to use the donation towards the provision of fire education and prevention activities in the community.

COUNCIL ACTION REQUESTED

Motion to accept the donation of \$415 on behalf of the Fire Department.

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<p style="text-align: center;">APPROVAL</p> <p style="text-align: center;"><i>Slw</i></p>	<p style="text-align: center;">REQUEST FOR COUNCIL ACTION</p>	<p style="text-align: center;">MEETING DATE</p> <p style="text-align: center;">12/17/13</p>
<p style="text-align: center;">REPORTS & RECOMMENDATIONS</p>	<p style="text-align: center;">ORDINANCE TO AMEND THE CITY OF FRANKLIN 2025 COMPREHENSIVE MASTER PLAN TO CHANGE THE CITY OF FRANKLIN 2025 FUTURE LAND USE MAP FOR PROPERTY LOCATED AT APPROXIMATELY 11120 WEST LOOMIS ROAD FROM RESIDENTIAL USE AND NATURAL RESOURCES USE TO INSTITUTIONAL USE AND NATURAL RESOURCES USE (APPROXIMATELY 14.95 ACRES) (VICTORY OF LAMB, INC., APPLICANT)</p>	<p style="text-align: center;">ITEM NUMBER</p> <p style="text-align: center;"><i>G.2.</i></p>

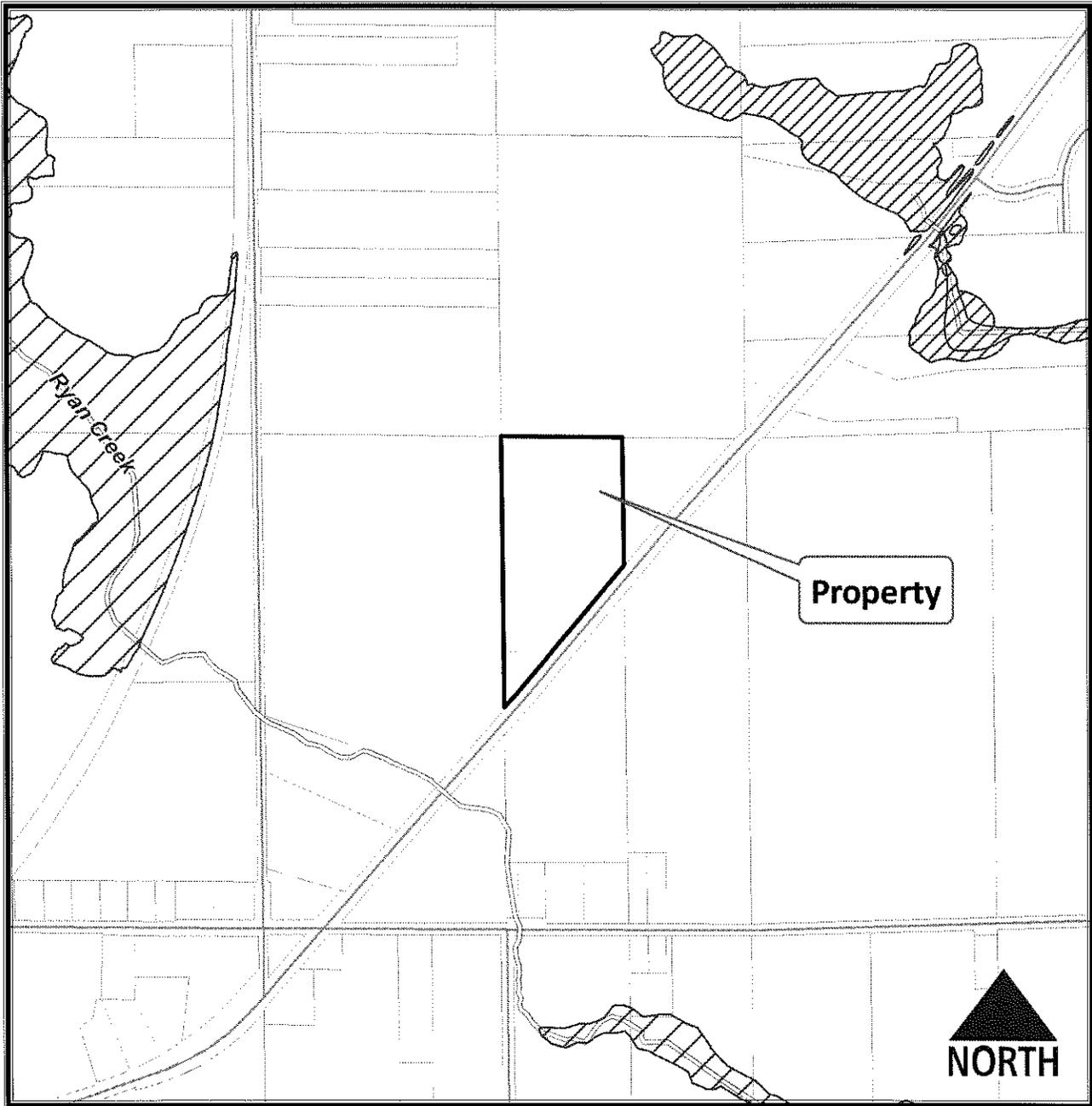
At its December 5, 2013, meeting the Plan Commission recommended approval of an ordinance to amend the City of Franklin 2025 Comprehensive Master Plan to change the City of Franklin 2025 Future Land Use Map for property located at approximately 11120 West Loomis Road from Residential Use and Natural Resources Use to Institutional Use and Natural Resources Use (approximately 14.95 acres) (Victory of Lamb, Inc., applicant).

COUNCIL ACTION REQUESTED

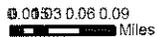
A motion to adopt Ordinance No. 2013-_____, an ordinance to amend the City of Franklin 2025 Comprehensive Master Plan to change the City of Franklin 2025 Future Land Use Map for property located at approximately 11120 West Loomis Road from Residential Use and Natural Resources Use to Institutional Use and Natural Resources Use (approximately 14.95 acres) (Victory of Lamb, Inc., applicant).



~11120 W. Loomis Road
TKN 889-9989-000



Planning Department
(414) 425-4024



2013 Aerial Photo

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

STATE OF WISCONSIN

CITY OF FRANKLIN

MILWAUKEE COUNTY

ORDINANCE NO. 2013-____

AN ORDINANCE TO AMEND THE CITY OF FRANKLIN 2025
COMPREHENSIVE MASTER PLAN TO CHANGE THE CITY OF FRANKLIN
2025 FUTURE LAND USE MAP FOR PROPERTY LOCATED AT APPROXIMATELY
11120 WEST LOOMIS ROAD FROM RESIDENTIAL USE AND NATURAL RESOURCES
USE TO INSTITUTIONAL USE AND NATURAL RESOURCES USE
(APPROXIMATELY 14.95 ACRES)
(VICTORY OF LAMB, INC., APPLICANT)

WHEREAS, pursuant to Wis. Stat. §§ 62.23(2) and (3) and 66.1001(4), the City of Franklin is authorized to prepare and adopt and to amend a comprehensive plan as defined in Wis. Stat. §§ 66.1001(1)(a) and 66.1001(2); and

WHEREAS, Victory of Lamb, Inc. has applied for an amendment to the Comprehensive Master Plan to change the City of Franklin 2025 Future Land Use Map designation for property located at approximately 11120 West Loomis Road from Residential Use and Natural Resources Use to Institutional Use and Natural Resources Use; and

WHEREAS, the Plan Commission of the City of Franklin by a majority vote of the entire Commission on December 5, 2013, recorded in its official minutes, has adopted a resolution recommending to the Common Council the adoption of the Ordinance to Amend the City of Franklin 2025 Comprehensive Master Plan to change the City of Franklin 2025 Future Land Use Map for property located at approximately 11120 West Loomis Road from Residential Use and Natural Resources Use to Institutional Use and Natural Resources Use; and

WHEREAS, the City of Franklin held a public hearing upon this proposed Ordinance, in compliance with the requirements of Wis. Stat. § 66.1001(4)(d); the Common Council having received input from the public at a duly noticed public hearing on December 17, 2013; and

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

SECTION 1: The City of Franklin 2025 Comprehensive Master Plan is hereby amended to change the City of Franklin 2025 Future Land Use Map designation for property located at approximately 11120 West Loomis Road from Residential Use and Natural Resources Use to Institutional Use and Natural Resources Use. Such property is more particularly described within Ordinance No. 2013- ____ of even-date herewith.

ORDINANCE NO. 2013-____

Page 2

SECTION 2: The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION 3: All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION 4: This ordinance shall take effect and be in force from and after its passage and publication.

Introduced at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2013, by Alderman _____.

Passed and adopted by a majority vote of the members-elect of the Common Council at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2013.

APPROVED:

Thomas M. Taylor, Mayor

ATTEST:

Sandra L. Wesolowski, City Clerk

AYES _____ NOES _____ ABSENT _____

<p style="text-align: center;">APPROVAL</p> <p style="text-align: center;"><i>Slw</i></p>	<p style="text-align: center;">REQUEST FOR COUNCIL ACTION</p>	<p style="text-align: center;">MEETING DATE</p> <p style="text-align: center;">12/17/13</p>
<p style="text-align: center;">REPORTS & RECOMMENDATIONS</p>	<p style="text-align: center;">ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE (ZONING MAP) TO REZONE A CERTAIN PARCEL OF LAND FROM R-3 SUBURBAN/ESTATE SINGLE-FAMILY RESIDENCE DISTRICT TO I-1 INSTITUTIONAL DISTRICT (APPROXIMATELY 11120 WEST LOOMIS ROAD) (APPROXIMATELY 14.95 ACRES) (VICTORY OF LAMB, INC., APPLICANT)</p>	<p style="text-align: center;">ITEM NUMBER</p> <p style="text-align: center;"><i>6.3.</i></p>

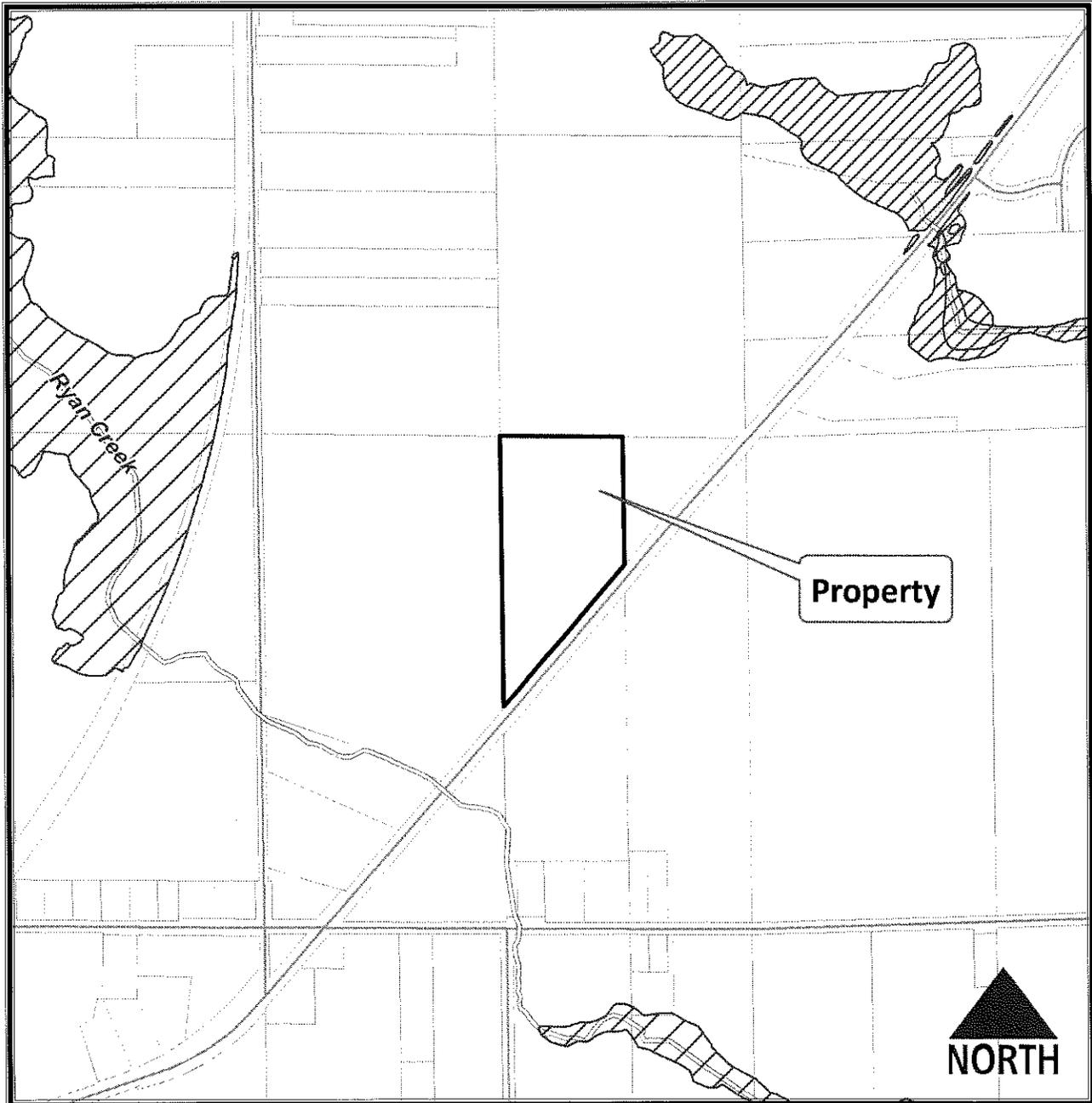
At its December 5, 2013, meeting the Plan Commission recommended approval of an ordinance to amend the Unified Development Ordinance (Zoning Map) to rezone a certain parcel of land from R-3 Suburban/Estate Single-Family Residence District to I-1 Institutional District (approximately 11120 West Loomis Road) (approximately 14.95 acres) (Victory of Lamb, Inc., applicant).

COUNCIL ACTION REQUESTED

A motion to adopt Ordinance No. 2013-_____, an ordinance to amend the Unified Development Ordinance (Zoning Map) to rezone a certain parcel of land from R-3 Suburban/Estate Single-Family Residence District to I-1 Institutional District (approximately 11120 West Loomis Road) (approximately 14.95 acres) (Victory of Lamb, Inc., applicant).



~11120 W. Loomis Road
TKN 889-9989-000



Planning Department
(414) 425-4024

0.00 0.03 0.06 0.09
Miles

2013 Aerial Photo

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

STATE OF WISCONSIN

CITY OF FRANKLIN

MILWAUKEE COUNTY

ORDINANCE NO. 2013-_____

AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT
ORDINANCE (ZONING MAP) TO REZONE A CERTAIN PARCEL
OF LAND FROM R-3 SUBURBAN/ESTATE SINGLE-FAMILY RESIDENCE
DISTRICT TO I-1 INSTITUTIONAL DISTRICT
(APPROXIMATELY 11120 WEST LOOMIS ROAD)
(APPROXIMATELY 14.95 ACRES)
(VICTORY OF LAMB, INC., APPLICANT)

WHEREAS, Victory of Lamb, Inc. having petitioned for the rezoning of a certain parcel of land from R-3 Suburban/Estate Single-Family Residence District to I-1 Institutional District, such vacant land being located at approximately 11120 West Loomis Road; and

WHEREAS, a public hearing was held before the City of Franklin Plan Commission on the 5th day of December, 2013, upon the aforesaid petition and the Plan Commission thereafter having determined that the proposed rezoning would promote the health, safety and welfare of the City and having recommended approval thereof to the Common Council; and

WHEREAS, the Common Council having considered the petition and having concurred with the recommendation of the Plan Commission and having determined that the proposed rezoning is consistent with the 2025 Comprehensive Master Plan of the City of Franklin, Wisconsin and would promote the health, safety and welfare of the Community.

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

SECTION 1: §15-3.0102 (Zoning Map) of the Unified Development Ordinance of the City of Franklin, Wisconsin, is hereby amended to provide that the zoning district designation for the property described below be changed from R-3 Suburban/Estate Single-Family Residence District to I-1 Institutional District:

That part of the East one-half (1/2) of the South East One-quarter (1/4) of Section numbered Nineteen (19), in Township numbered Five (5) North, Range numbered Twenty-one (21) East, Town of Franklin, bounded and described as follows: Commencing at a point on the North line of the South East 1/4 of Section 19 which point is 661.57 feet West of the North East corner of said South East 1/4; thence continuing West on said North line 661.57 feet to a point; thence South

on the North and South 1/8 line 1535.25 feet to a point in the center line of the Loomis Road; thence North 41°55' East along said center line 163.03 feet to a point; thence North 40°56' East along said center line 838.70 feet to a point; thence North 765.80 feet to the place of beginning (approximately 14.946 acres). Tax Key No. 889-9989-000.

SECTION 2: The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION 3: All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION 4: This ordinance shall take effect and be in force from and after its passage and publication.

Introduced at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2013, by Alderman _____.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2013.

APPROVED:

Thomas M. Taylor, Mayor

ATTEST:

Sandra L. Wesolowski, City Clerk

AYES _____ NOES _____ ABSENT _____

KORB TREDO ARCHITECTS

November 25, 2013

Project Narrative - Rezoning Application

Victory of the Lamb Lutheran Church – Proposed Facility at Hribar Trust property located near 10626 W. Loomis Rd., Franklin, Wisconsin, 53132

Proposed Building Size: 15,000 square feet

Primary Construction Materials: Steel Infill & masonry back-up with masonry veneer, metal panel, glass and wood

Proposed Location & Adjacent Land Uses

The proposed rezoning of the current Hribar Trust property on West Loomis Road in Franklin Wisconsin involves 14.9 acres on a parcel extending North from W. Loomis Road. The parcel has 7.17 acres of land available for development and 7.73 acres of protected wetlands surrounding the buildable area on all sides. Victory of the Lamb has completed due diligence including soil borings and a wetland delineation which has been surveyed and concurred with by SEWRPC. Surrounding properties include single family residential, agricultural, and commercial. The parcel is currently zoned as R-3 Single Family and used for active agricultural. Victory of the Lamb Lutheran Church is requesting to change the current zoning to I-1 Institutional to expand their current ministry, already in Franklin. There is not currently a plan to bring municipal sewer to the site at this time. The Wisconsin DOT has concluded that they would allow one private driveway onto Loomis Road which has a maximum dimension of thirty-five feet and will require a deceleration lane.

Comprehensive Master Plan

Currently the Comprehensive Master Plan and UDO do not have specific designated areas zoned for churches. The 2025 Comprehensive Master Plan shows future land use of this parcel to be "residential and areas of natural resource features". We believe that this property provides an ideal setting for a church and furthermore, a church use allows the property to be active while also maintaining a pristine suburban setting in the City of Franklin. Franklin's residents have expressed a need to be sensitive to the natural features of the city, therefore along with our owner we have developed a site and building that intend to be eco-friendly and sustainable, while also providing site amenities for Franklin's residents. The playground would provide younger families of Franklin access to parks and open space while also giving them access to a protected environmental resource. The current site has natural resources covering more than half of the acreage and would be completely protected with the current proposal which is a primary goal of Franklin's residents. The buffer that these resources provide from the surrounding neighbors will also be in keeping with the CMP. The early childhood learning center would provide a quality educational opportunity to the residents of Franklin for children under the typical school age.

Church History

Victory of the Lamb Lutheran Church is a Lutheran based congregation that began about 6 years ago with the goal of making a difference in people's lives that did not grow up attending church. After outgrowing several locations the congregation currently meets at the Showtime Cinema in Franklin. They currently have a Sunday worship attendance of around 200 and with a growing children and family style ministry will again soon outgrow their location. Much of the congregation lives in Franklin and a priority of the church has been to help people in need within the community. Victory of the Lamb would like to build a worship facility within Franklin that will allow them to continue to serve the community and also enhance the quality of life for present and future generations.

KORB TREDO ARCHITECTS

Proposed Development

The primary purpose of this new facility will be for worship and worship education. Auxiliary spaces will include children's worship, offices, and meeting rooms. The church plans to provide an early childhood development center within the Phase 1 building which is currently a permitted use under I-1 zoning in the UDO as SIC# 8249 (vocational schools not elsewhere classified).

The proposed 15,000 square foot facility will house a Worship center with an initial seating capacity of 300 which could be expanded within the same footprint to a capacity of 400. We believe that this size facility will allow for growth of the church while using multi-purpose spaces to reduce the overall footprint on this pristine site in order to help solidify the suburban character of Franklin. The facility will also house various meeting rooms and classrooms as well as a Victory Café and kitchen. The café would be for church functions only and would not be open to the public or used as a business.

Victory of the Lamb is discussing a partnership with Kayla's Krew a non-profit entity dedicated to creating accessible playground areas available to the public. Conceptual design includes a 15,000 square foot playground with restroom facilities which would be available to members of the community. Parking has been minimized to allow for views of the wetlands and will include landscaping in keeping with the natural environment. The initial parking count will be for 300 parishioners or 120 spaces and expansion of the parking lot would occur to the North of the proposed building if necessary to meet any higher capacity.

Possible Future Site Master Plan

Depending on the success of the church including financial capability and growth of the congregation the site has planned for the possibility of a future expansion. Future expansion would consist of additional space for children's Sunday school, office space, and a larger auditorium for worship services. The existing worship space would then be used for church gatherings and expansion of classroom areas. The future expansion would allow a total of 600 occupants. Parking would need to be expanded at this time to roughly 240 spaces total.

Hours and Days of Operation

Typically the church will run one service on Sundays at 9:30AM, however growth may require at least one additional service on Sundays. Normal business hours for offices and early childhood learning will generally fall between 7:00AM to 6:00PM, Monday thru Friday. Occasional special events may occur on Saturdays or on weekdays. Outdoor Worship may take place on a limited basis during the summer months.

Victory of the Lamb Lutheran Church
Korb Tredo Architects
Yaggy Colby Associates

R-3 SUBURBAN/ESTATE
SINGLE FAMILY
RESIDENCE DISTRICT
(AGRICULTURAL USE)

R-3 SUBURBAN/ESTATE
SINGLE FAMILY
RESIDENCE DISTRICT
(AGRICULTURAL USE)

NORTH LINE OF THE SOUTHEAST 1/4 OF SECTION 19

N89°26'37"W 658.55'

B-3
COMMUNITY
BUSINESS
DISTRICT
(COMMERCIAL
BUSINESS)

R-3 SUBURBAN/ESTATE
SINGLE FAMILY
RESIDENCE DISTRICT
(AGRICULTURAL USE)

PROPOSED ZONING I-1
(INSTITUTIONAL)
PROPERTY AREA = 14.9 ACRES

N0°35'21"W 599.27'

S0°35'58"E 1370.64'

N40°20'02"E 967.20'

W. LOOMIS RD.

REZONING EXHIBIT

BEING A PART OF THE NORTHEAST
1/4 AND SOUTHEAST 1/4 OF THE
SOUTHEAST 1/4 OF SECTION 19,
TOWNSHIP 5 NORTH, RANGE 21
EAST, CITY OF FRANKLIN,
MILWAUKEE COUNTY, WISCONSIN

R-3 SUBURBAN/ESTATE
SINGLE FAMILY
RESIDENCE DISTRICT
(AGRICULTURAL USE)

R-3 SUBURBAN/ESTATE
SINGLE FAMILY
RESIDENCE DISTRICT
(AGRICULTURAL USE)

R-3 SUBURBAN/ESTATE
SINGLE FAMILY
RESIDENCE DISTRICT
(AGRICULTURAL USE)



SCALE: 1" = 200'



LANDSCAPE ARCHITECTURE
PLANNING
201 MARLE AVENUE
CHLAFFELD, WISCONSIN 53002
TEL: 264-4812
FAX: 264-4814
EMAIL: INFO@YAGGY.COM

PROJECT #15927

SECTION 15-3.0505

CALCULATION OF SITE INTENSITY AND CAPACITY FOR
NONRESIDENTIAL USES

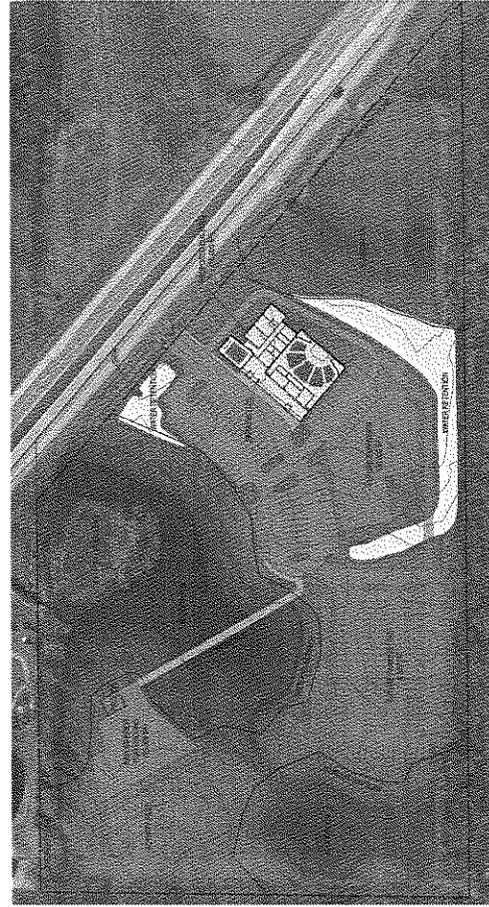
In order to determine the maximum floor area which may be permitted on a parcel of land zoned in a nonresidential zoning district, the site intensity and capacity calculations set forth in Table 15-3.0505 shall be performed.

Table 15-3.0505

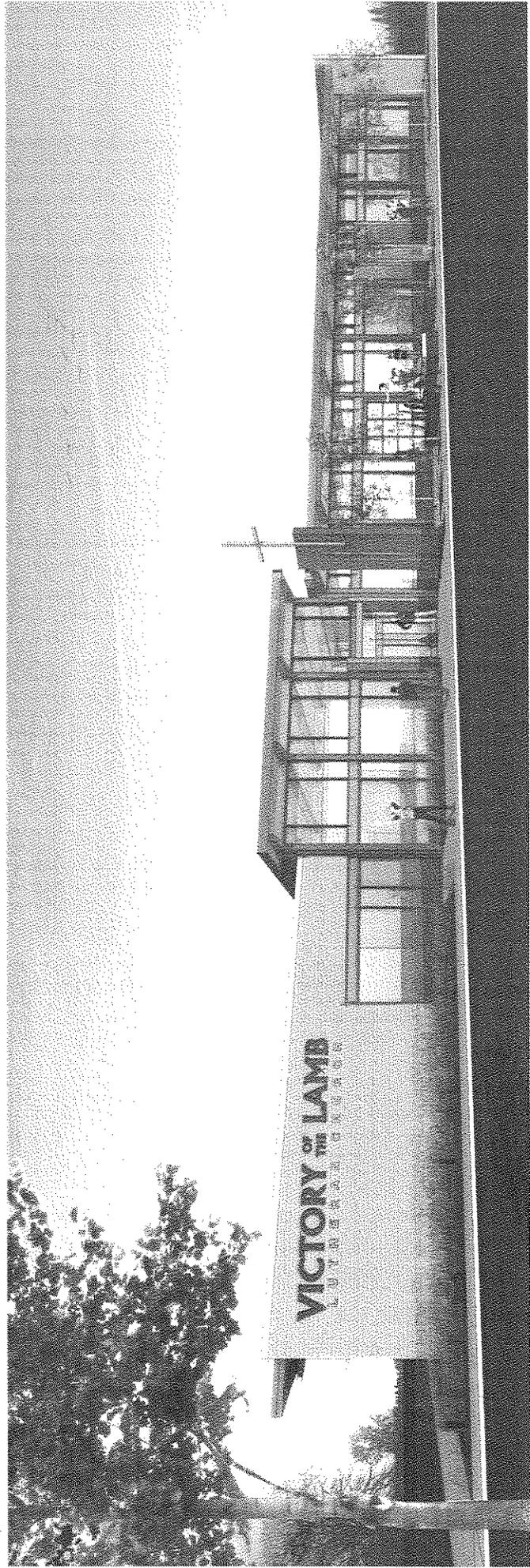
WORKSHEET FOR THE CALCULATION OF SITE INTENSITY AND
CAPACITY FOR NONRESIDENTIAL DEVELOPMENT

<p>STEP 1:</p>	<p>CALCULATE MINIMUM REQUIRED LANDSCAPE SURFACE: Take <i>Base Site Area</i> (from Step 5 in Table 15-3.0502): <u>14.9</u> Multiply by Minimum <i>Landscape Surface Ratio (LSR)</i> (see specific zoning district LSR standard): X <u>0.40</u> Equals MINIMUM REQUIRED ON-SITE LANDSCAPE SURFACE = <u>5.96</u> acres</p>	
<p>STEP 2:</p>	<p>CALCULATE NET BUILDABLE SITE AREA: Take <i>Base Site Area</i> (from Step 5 in Table 15-3.0502): <u>14.9</u> Subtract <i>Total Resource Protection Land</i> from Table 15-3.0503 or <i>Minimum Required Landscape Surface</i> (from Step 1 above), whichever is greater: <u>- 7.73</u> Equals NET BUILDABLE SITE AREA = <u>7.17</u> acres</p>	
<p>STEP 3:</p>	<p>CALCULATE MAXIMUM NET FLOOR AREA YIELD OF SITE: Take <i>Net Buildable Site Area</i> (from Step 2 above): <u>7.17</u> Multiply by Maximum <i>Net Floor Area Ratio (NFAR)</i> (see specific nonresidential zoning district NFAR standard): X <u>.63</u> Equals MAXIMUM NET FLOOR AREA YIELD OF SITE = <u>4.51</u> acres</p>	
<p>STEP 4:</p>	<p>CALCULATE MAXIMUM GROSS FLOOR AREA YIELD OF SITE: Take <i>Base Site Area</i> (from Step 5 of Table 15-3.0502): <u>14.9</u> Multiply by Maximum <i>Gross Floor Area Ratio (GFAR)</i> (see specific nonresidential zoning district GFAR standard): X <u>.38</u> Equals MAXIMUM GROSS FLOOR AREA YIELD OF SITE = <u>5.66</u> acres</p>	
<p>STEP 5:</p>	<p>DETERMINE MAXIMUM PERMITTED FLOOR AREA OF SITE: Take the <i>lowest</i> of Maximum Net Floor Area Yield of Site (from Step 3 above) or Maximum Gross Floor Area Yield of Site (from Step 4 above): (Multiple results by 43,560 for maximum floor area in square feet):</p>	<p>acres <u>(196,455 s.f.)</u></p>

VICTORY OF THE LAMB, July 23, 2013
 REVISED NOVEMBER 25, 2013



N SITE PLAN - SCALE = 1:50

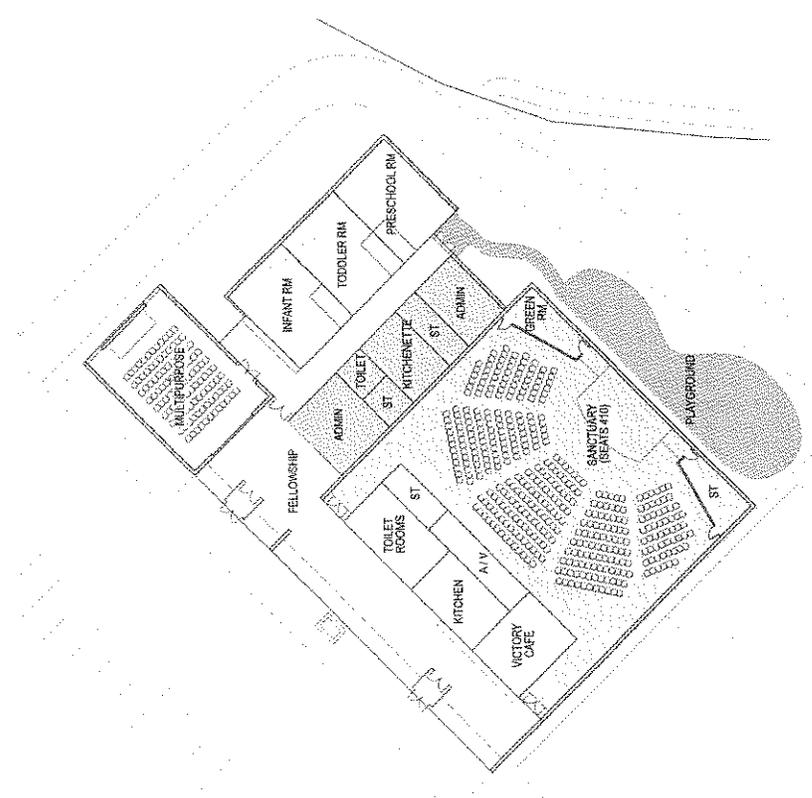


1992
VICTORY OF THE LAMB
25 NOVEMBER 2013

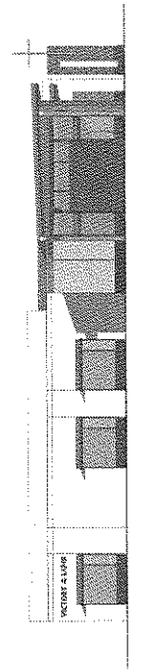
Copyright © 2013, Lamb Architects, Inc.



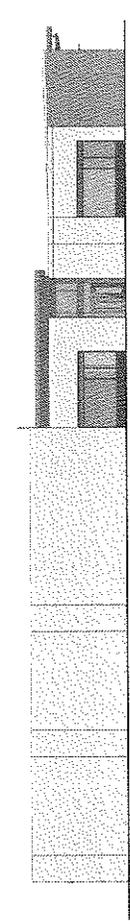
KORB T REDO
ARCHITECTS



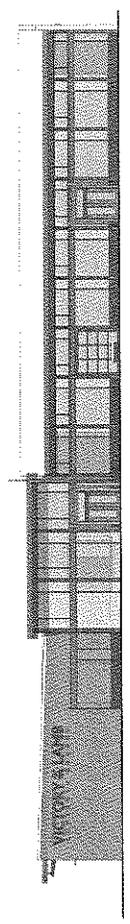
FLOOR PLAN - SCALE: 1/8" = 1'-0"



SOUTH ELEVATION



WEST ELEVATION



EAST ELEVATION



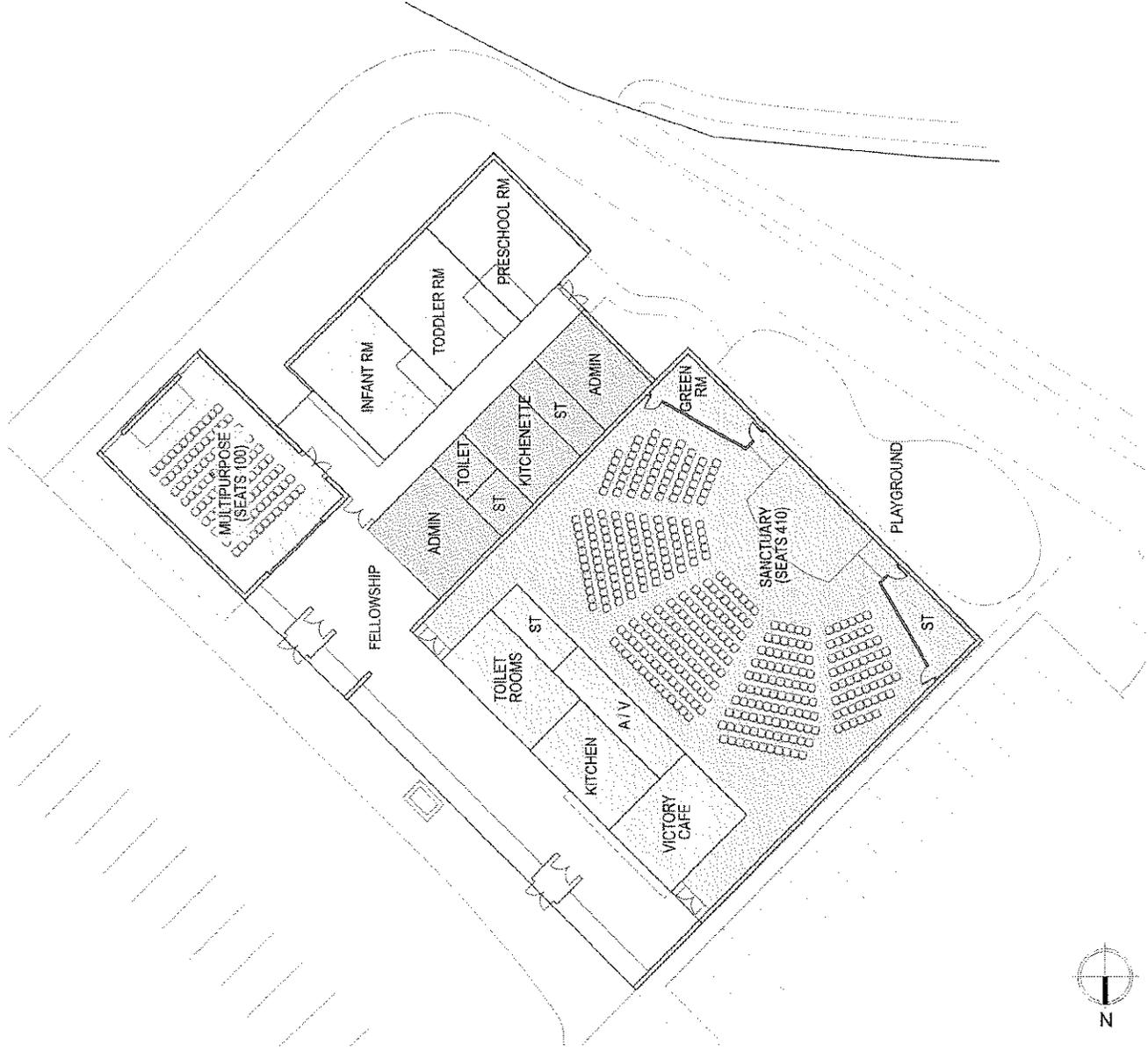


MI13032
VICTORY OF THE LAMB LUTHERAN CHURCH
 25 NOVEMBER 2013

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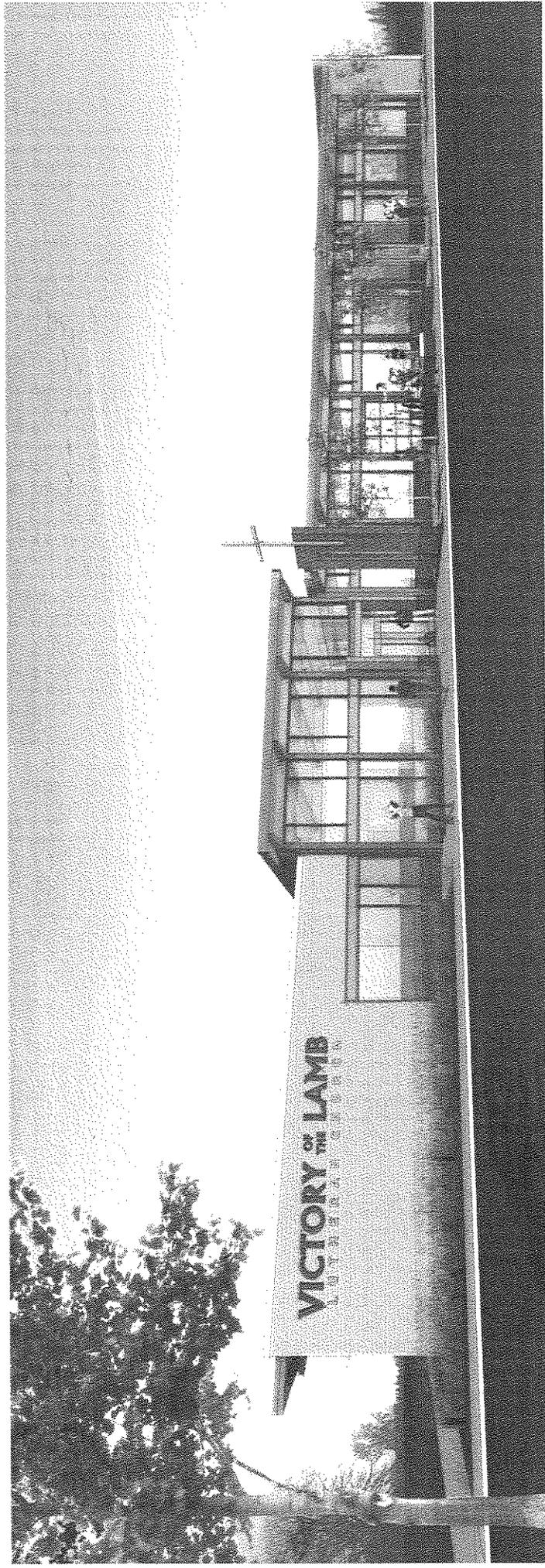


KORB TREDE
ARCHITECTS



**KORB TRESDO
ARCHITECTS**

M13032
VICTORY OF THE LAMB LUTHERAN CHURCH
25 NOVEMBER 2013
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25 NOVEMBER 2013

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25 NOVEMBER 2013

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VICTORY OF THE LAMB LUTHERAN CHURCH

25 NOVEMBER 2013

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KORB TREDO ARCHITECTS



CITY OF FRANKLIN
REPORT TO THE PLAN COMMISSION

Meeting of December 5, 2013

Rezoning and Comprehensive Master Plan Amendment

RECOMMENDATION: City Development Staff recommends approval of the Rezoning and Comprehensive Master Plan Amendment applications for Victory of the Lamb church.

Project Name:	Victory of the Lamb Rezoning and Comprehensive Master Plan Amendment.
Project Location:	Approximately 11120 West Loomis Road
Property Owner:	Rosemarie Hribar Trust
Applicant:	Victory of the Lamb Lutheran Church
Agent:	Chris Eger, Korb Tredo Architects
Current Zoning:	R-3 Suburban/Estate Single-Family Resident District
2025 Comprehensive Plan:	Residential and Areas of Natural resource Features
Use of Surrounding Properties:	Agricultural use to the north, south and west and the Animal Campus Vet Clinic to the east
Applicant's Action Requested:	Recommendation to the Common Council for approval of the Rezoning and Comprehensive Master Plan Amendment

Introduction and Background:

On November 1, 2013, Mr. Chris Eger of Korb Tredo Architects, submitted applications for a Comprehensive Master Plan Amendment and Rezoning for property located at approximately 11120 West Loomis Road. The subject property is currently vacant and is actively used for agricultural purposes. These applications have been submitted in anticipation of a future 15,000 square foot church. Preliminary plans, including future phases have been submitted for reference.

The applicant is requesting to change the zoning from R-3 Suburban/Estate Single-Family Residence to I-1 Institutional District and to change the 2025 Future Land Use map designation from Residential and Areas of Natural Resource Features to Institutional and Areas of Natural Resource Features. The primary use of worship space and worship education (provided by a religious organization) as described in the applicant's project narrative is permitted in the I-1 Institutional District under SIC Code No. 8661 Religious Organizations.

Other uses may include children's worship space, offices, meeting rooms, a café and kitchen and multipurpose space. The applicant has indicated that the café will be used for church functions and is not a separate business use. The site plan also identifies a future soccer field and a possible Kayla's Krew playground, which is a playground that is ADA accessible and includes equipment for all abilities. These auxiliary uses are allowed as accessory uses as they are not the primary use of the property.

If approved, staff would consider the children's worship space, offices, meeting rooms, café and kitchen, multipurpose space, any outdoor worship space, the playground and the soccer field as accessory uses and would only require additional approvals if site modifications occur. It is possible some of these uses would require use approval if intensified, such as additional soccer fields or hosting soccer tournaments.

The applicant has indicated they would first like to receive approval for the rezoning and Comprehensive Master Plan amendment before moving forward with detailed plans. The applicant is aware that if the subject applications are approved, a Site Plan application is required prior to development of the site. At that time, detailed plans will be provided to the Plan Commission for Site Plan review.

The applicant went before the Development Review Team on July 25, 2013, and received preliminary staff comments. As stated at that time, and again during staff's formal review and comments, approval of the Rezoning and Comprehensive Master Plan Amendment does not constitute Site Plan approval. The Site Plan provided is preliminary and further review will be required upon submittal of a Site Plan Application.

Project Description:

Preliminary Plans:

The Concept Development Plan identifies an initial 15,000 square foot church building and 120 parking spaces. The proposed building includes worship and gathering space as well as classrooms and a café. The worship area includes 300 seats, with room to expand to 400 seats. The applicant also indicated a possible 15,000 square foot Kayla's Krew playground and pavilion area, as well as a possible future soccer field. The future building expansion shown would extend the church to the northwest (the parking lot in that area would be relocated) to provide for additional worship space, offices, and Sunday School service and could potentially add 200 seats for a total capacity of 600. Future parking will be added as needed to meet demand. The site plan currently shows a potential for 280 parking spaces.

The Unified Development Ordinance (UDO) requires 0.4 parking spaces per seat, plus 6 queuing spaces; therefore, the initial phase with 300 seats requires 120 parking spaces. The potential expansion to 400 seats would require an additional 40 spaces for a total of 160 parking spaces. The future phase with seating for 600 will require a total of 240 parking spaces. The UDO also requires one parking space per 4,000 square feet of outdoor playfield. Please note that the UDO does allow for parking reductions (see Section 15-5.0203).

Landscaping and lighting are not shown. Additional details will be provided at time of Site Plan review. The preliminary plans meet all I-1 Institutional District standards, including the 0.40 minimum Landscape Surface Ratio (LSR). The initial phase of the project will include a private septic system. Per the Engineering Department, public water is available on the lot to the north.

The applicant has indicated that they have discussed access to West Loomis Road with the Wisconsin Department of Transportation and will be allowed one private drive ingress/egress to West Loomis Road with a deceleration lane. Staff is advising the applicant that a traffic impact analysis will be required at the time of site plan submittal.

The applicant indicates that the proposed development will utilize a private septic system as public sanitary sewer service is not available, but does not indicate whether a private well or public water will be provided. Staff is advising the applicant that connection to the public water supply system may be required as a condition of site plan approval (it can be noted that a public water main is located along Loomis Road immediately north of the subject property).

The applicant has provided a Natural Resource Protection Plan (NRPP). The wetlands located on the property were delineated by Wetland and Waterway Consulting, LLC on June 20, 2013. The Southeastern Wisconsin Regional Planning Commission delineated the wetlands and Isolated Natural Resource Area on October 10, 2013. The NRPP notes that no woodlands, steep slopes, floodplain, or environmental corridors are located onsite. Approximately 7.73 acres of the site consist of protected natural resource features. A conservation easement will be required at the time of site plan review.

Rezoning:

The applicant is proposing to develop a church and accessory uses on the subject property. The zoning will be changed from R-3 Suburban/Estate Single-Family Residence District to I-1 Institutional District. Natural resource protection is required. A preliminary Natural Resource Protection Plan has been completed. At the time of Site Plan review, the natural resource features required for protection will be placed within a Conservation Easement. The land proposed to be rezoned has an area of approximately 14.9 acres and is described in the Rezoning Exhibit and Rezoning Ordinance (attached).

Comprehensive Master Plan Amendment:

The applicant is proposing to amend the 2025 Comprehensive Master Plan specifically to revise the Future Land Use map, in order to ensure that the rezoning request described in this report is consistent with the Future Land Use map. The applicant's narrative provides statements to demonstrate that the amendment to change the subject area from Residential and Areas of Natural Resource Features to Institutional and Areas of Natural Resource Features is consistent with the goals of the 2025 Comprehensive Master Plan. In summary, the applicant has stated the development is sensitive to natural resource features and the site will be developed in an eco-friendly and sustainable manner. The applicant also indicated that site amenities are provided for Franklin's residents.

Comprehensive Master Plan Consistency

- *Consistent with, as defined by Wisconsin State Statute, means "furthers or does not contradict the objectives, goals, and policies contained in the comprehensive plan."*

The City of Franklin 2025 Comprehensive Master Plan (CMP) identifies the subject property as Residential and Areas of Natural Resource Features. The surrounding land uses include Commercial and Areas of Natural Resource Features to the east (Vet Clinic), Recreational and Areas of Natural Resource Features to the west and Residential and Areas of Natural Resource Features to the north and south.

The subject property is also located within the proposed Southwest Overlay District area, which identified those lands that could be served by the Ryan Creek Interceptor Sewer, and as such, proposed only limited development and land division within that area until such time as public sanitary sewer service became available. However, as this portion of the Southwest Overlay District area was located at the extreme limits of the interceptor sewer's service area, and as the Plan Commission did not envision any significant development within this area in the near future, the Comprehensive Master Plan did not propose any future land use changes within this area.

Furthermore, it is important to note that the City's public sanitary sewer service policy also generally requires that development connect to the public sanitary sewer system when such service becomes available.

Based upon the preceding information, staff believes that subject to the proposed development connecting to the public sanitary sewer system when such service becomes available (unless otherwise determined by the Common Council), that the subject future land use map change from residential to institutional is consistent with a preponderance of the principles, goals, and objectives set forth within the Comprehensive Master Plan.

Staff Recommendation:

Based upon the preceding information, City Development Staff recommends approval of the Rezoning and Comprehensive Master Plan Amendment applications for Victory of the Lamb church.

Hribar Trust Property
(Proposed Victory of the Lamb Lutheran Church)
SE Quarter, Section 19, T5N-R21E
City of Franklin, Milwaukee County

PROJECT
AREA

W Loomis Rd
36
S 7th St

Legend

- Project Area
- Wetland
- Isolated Natural Resource Area

Field Inspection by SEWRPC 10/10/13

Source: SEWRPC
Date of Photography: 2010
CA#495-373

0 100 200
Feet

N

<p>APPROVAL</p> <p><i>slw</i></p>	<p>REQUEST FOR COUNCIL ACTION</p>	<p>MEETING DATE</p> <p>December 17, 2013</p>
<p>REPORTS AND RECOMMENDATIONS</p>	<p>A Resolution Authorizing Certain Officials to Execute an Agreement for Maintenance of the Security and Paging System in the Franklin Law Enforcement Center Services with SimplexGrinnell LP</p>	<p>ITEM NUMBER</p> <p><i>G.4.</i></p>

The Law Enforcement Center security and paging system has been and is currently serviced and maintained by SimplexGrinnell LP, the contract with which expires on December 31. The Police Department reports satisfactory service for the past number of years and recommends renewal. Attached is a copy of the proposed contract, as well as two in a series of email communications between the City and the LP. Current status is essentially that SimplexGrinnell has agreed to all of the changes proposed by the City, though a final response from the provider is pending. Due to contract and budget year expiration timing, despite final word from the provider, the subject matter is presented to the Common Council for action with the condition as set forth below.

COUNCIL ACTION REQUESTED

A motion to adopt A Resolution Authorizing Certain Officials to Execute an Agreement for Maintenance of the Security and Paging System in the Franklin Law Enforcement Center Services with SimplexGrinnell LP, subject to any terms changes as may be approved by the City Attorney.



Service Solution

Customer:
City Of Franklin Pd
Date: 25-JUN-13
Proposal #: 273639
Term: 01-JAN-14 to 31-DEC-18

Billing Customer:
City Of Franklin Pd
9455 W Loomis Rd
Attn Maureen
FRANKLIN, WI 53132-9630

Service Location:
City Of Franklin Pd
9455 W Loomis Rd
Attn Maureen
FRANKLIN, WI 53132-9630

SimplexGrinnell
Sales Representative:
Tyler Jay Augustin
N58W14782 Shawn Cir
MENOMONEE FALLS, WI 53051
TAugustin@simplexgrinnell.com

INVESTMENT SUMMARY

(Excludes applicable Sales Tax ■ Service Solution Valid for 45 Days)

SERVICE/PRODUCT DESCRIPTION	INVESTMENT
Recurring Annual Investment	
Access Control Test & Inspect - Parts and Labor Only (Non-Peripherals) C CURE SYSTEM	
CCTV Test & Inspect - Parts and Labor CCTV SYSTEM	
Intrusion Test & Inspect - Panel Parts and Labor Only INTRUSION SYSTEM	
Sound & Communications Test & Inspect - Parts and Labor Only (Non-Peripherals) SOUND AND COMM SYSTEM	
Total Recurring Annual Investment:	\$9,000.00

SUMMARY OF SERVICES

CCTV Test & Inspect - Parts and Labor - CCTV SYSTEM

PANEL AND PERIPHERAL COMPONENT REPLACEMENT FOR LISTED INTEGRATED SECURITY SYSTEMS:
The Platinum Plan covers component replacement on the central processing unit, including reprogramming of system due to failure, replacement of circuit boards, and components in the control panels, annunciator panels, transponders, printers, keyboards monitors, and peripheral devices (Motion sensors, access control readers, closed circuit television cameras, monitors, audible/ visible units, door contacts.) associated with system. Replacement of faulty wiring, batteries, and/or ground faults are not covered.

TEST AND INSPECTION OVERVIEW:

SimplexGrinnell trained technicians will perform inspections and diagnostic tests for the accessible peripheral devices listed and currently connected to the facility life safety system. Tests will be scheduled in advance. (See "List of Equipment" page for equipment to be tested.)

DOCUMENTATION:

Accessible components and devices shall be logged for:

- Location of each device tested, including system address or zone location
- Test results and applicable voltage readings
- Any discrepancies found noted (individually and on a separate summary page)

Inspection documentation provided to Customer. NOTE: Certain additional services may be required by the Authority Having Jurisdiction (AHJ). AHJ or internal organizational requirements may be more restrictive than state/provincial requirements. Building owners and managers should make themselves aware of applicable codes and references in order to ensure that contracted Services fulfill requirements.

Emergency Service (Normal Working Hours)

Emergency Service (Provided during normal working hours, Monday-Friday excluding SimplexGrinnell holidays). This service includes labor, travel, and mileage charges for repairs associated with normal wear and tear. Standard service will be provided within 24 hours of notification Monday through Friday, excluding SimplexGrinnell holidays, unless outlined in the agreement.

NOTE: Customers with Platinum, Gold Parts/Labor or Gold Labor will be invoiced at standard (normal working hours) labor rate for billable after hours service calls.

SERVICE COVERAGE:

Silver Service Plan - Labor charged at standard service rates up to and including overtime

Gold Parts Service Plan - Panel Parts included. Labor charged at standard service rates up to and including overtime

Gold Labor Service Plan - Panel Labor included. Parts not included

Gold Parts/Labor Service Plan - Parts and Labor included on Panel only

Platinum Service Plan - Parts and Labor Included on covered system



Service Solution

SPECIAL PROVISIONS

This Agreement Provides Coverage on the Following Systems:

3600 Prologic
CCTV System
Paging System
Court Room Sound System
Access System (CCure 9000)
Interview Room Recording System

Battery Replacement Is Included.

This Service Solution (the "Agreement") sets forth the Terms and Conditions for the provision of equipment and services to be provided by SimplexGrinnell LP ("Company") to **City Of Franklin Pd** and is effective **01-JAN-14** to **31-DEC-18** (the "Initial Term").

PAYMENT TERM: *Annual In Advance*

PAYMENT AMOUNT: **\$9,000.00** - **Proposal # : 273639**

CUSTOMER ACCEPTANCE: In accepting this Agreement, Customer agrees to the Terms and Conditions on the following pages and any attachments or riders attached hereto that contain additional terms and conditions. It is understood that these terms and conditions shall prevail over any variation in terms and conditions on any purchase order or other document that the Customer may issue. Any changes in the system requested by the Customer after the execution of Agreement shall be paid for by the Customer and such changes shall be authorized in writing.

ATTENTION IS DIRECTED TO THE LIMITATION OF LIABILITY, WARRANTY, INDEMNITY AND OTHER CONDITIONS CONTAINED IN THIS AGREEMENT.

City Of Franklin Pd

SimplexGrinnell

Signature: _____

Tyler Jay Augustin

Print Name: _____

Phone #: 262-385-6111

Title: _____

Fax #: 262-781-3573

Phone#: _____

License #: _____
(If Applicable)

Fax #: _____

Authorized
Signature: _____

Email: _____

Print Name: _____

PO#: _____

Title: _____

Date: _____

Date: _____

TERMS AND CONDITIONS

1. Term. The Initial Term of this Agreement shall commence on the date of this Agreement and continue for the period indicated in this Agreement. At the conclusion of the Initial Term, this Agreement shall automatically extend for successive terms equal to the Initial Term, each and together a "Term" of this Agreement, unless either party gives written notice to the other party at least thirty (30) days prior to the end of the then-current term.

2. Payment. Payments shall be invoiced and due in accordance with the terms and conditions set forth in this Agreement. Work performed on a time and material basis shall be at the then-prevailing Company rate for material, labor, and related items, in effect at the time supplied under this Agreement.

3. Pricing. The pricing set forth in this Agreement is based on the number of devices and services to be performed as set forth in this Agreement. If the actual number of devices installed or services to be performed is greater than that set forth in this Agreement, the price will be increased accordingly. Company may increase prices upon notice to the Customer or annually to reflect increases in material and labor costs. Customer agrees to pay all taxes, permits, and other charges, including but not limited to state and local sales and excise taxes, installation or alarm permits, false alarm assessments, or any charges imposed by any government body, however designated, levied or based on the service charges pursuant to this Agreement. The Customer's failure to make payment when due is a material breach of this Agreement.

4. Code Compliance. Company does not undertake an obligation to inspect for compliance with laws or regulations unless specifically stated in this Agreement. Customer acknowledges that the Authority Having Jurisdiction (e.g. Fire Marshal) may establish additional requirements for compliance with local codes. Any additional services or equipment required will be provided at an additional cost to Customer.

5. Limitation of Liability; Limitations of Remedy. Customer understands that Company offers several levels of protection services and that the level described has been chosen by Customer after considering and balancing various levels of protection afforded and their related costs. It is understood and agreed by the Customer that Company is not an insurer and that insurance coverage, if any, shall be obtained by the Customer and that amounts payable to Company hereunder are based upon the value of the services and the scope of liability set forth in this Agreement and are unrelated to the value of the Customer's property and the property of others located on the premises. Customer agrees to look exclusively to the Customer's insurer to recover for injuries or damage in the event of any loss or injury and that Customer releases and waives all right of recovery against Company arising by way of subrogation. Company makes no guaranty or Warranty, including any implied warranty of merchantability or fitness for a particular purpose that equipment or services supplied by Company will detect or avert occurrences or the consequences therefrom that the equipment or service was designed to detect or avert. It is impractical and extremely difficult to fix the actual damages, if any, which may proximately result from failure on the part of Company to perform any of its obligations under this Agreement. Accordingly, Customer agrees that, Company shall be exempt from liability for any loss, damage or injury arising directly or indirectly from occurrences, or the consequences therefrom, which the equipment or service was designed to detect or avert. Should Company be found liable for any loss, damage or injury arising from a failure of the equipment or service in any respect, Company's liability for Services performed on site at Customer's premises shall be limited to an amount equal to the Agreement price (as increased by the price for any additional work) or, where the time and material payment term is selected, Customer's time and material payments to Company. Where this Agreement covers multiple sites, liability shall be limited to the amount of the payments allocable to the site where the incident occurred. Company's liability with respect to Monitoring Services is set forth in Section 17 of this Agreement. Such sum shall be complete and exclusive. If Customer desires Company to assume greater liability, the parties shall amend this Agreement by attaching a rider setting forth the amount of additional liability and the additional amount payable by the Customer for the assumption by Company of such greater liability, provided however that such rider shall in no way be interpreted to hold Company as an insurer. **IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY DAMAGE, LOSS, INJURY, OR ANY OTHER CLAIM ARISING FROM ANY SERVICING, ALTERATIONS, MODIFICATIONS, CHANGES, OR MOVEMENTS OF THE COVERED SYSTEM(S), AS HEREINAFTER DEFINED, OR ANY OF ITS COMPONENT PARTS BY THE CUSTOMER OR ANY THIRD PARTY. COMPANY SHALL NOT BE LIABLE FOR INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO DAMAGES ARISING FROM THE USE, LOSS OF THE USE, PERFORMANCE, OR FAILURE OF THE COVERED SYSTEM(S) TO PERFORM.** The limitations of liability set forth in this Agreement shall inure to the benefit of all parents, subsidiaries and affiliates of Company, whether direct or indirect, Company's employees, agents, officers and directors.

6. Reciprocal Waiver of Claims (SAFETY Act). Certain of Company's systems and services have received Certification and/or Designation as Qualified Anti-Terrorism Technologies ("QATT") under the Support Anti-terrorism by Fostering Effective Technologies Act of 2002, 6 U.S.C. §§

441-444 (the "SAFETY Act"). As required under 6 C.F.R. 25.5 (e), to the maximum extent permitted by law, Company and Customer hereby agree to waive their right to make any claims against the other for any losses, including business interruption losses, sustained by either party or their respective employees, resulting from an activity resulting from an "Act of Terrorism" as defined in 6 C.F.R. 25.2, when QATT have been deployed in defense against, response to, or recovery from such Act of Terrorism.

7. Indemnity. Customer agrees to indemnify, hold harmless and defend Company against any and all losses, damages, costs, including expert fees and costs, and expenses including reasonable defense costs, arising from any and all third party claims for personal injury, death, property damage or economic loss, arising in any way from any act or omission of Customer or Company relating in any way to this Agreement, including but not limited to the Services under this Agreement, whether such claims are based upon contract, warranty, tort (including but not limited to active or passive negligence), strict liability or otherwise. Customer reserves the right to select counsel to represent it in any such action. Customer's responsibility with respect to indemnification and defense of Company with respect to Monitoring Services is set forth in Section 17 of this Agreement.

8. General Provisions. Customer has selected the service level desired after considering and balancing various levels of protection afforded, and their related costs. Customer acknowledges and agrees that by this Agreement, Company, unless specifically stated, does not undertake any obligation to maintain or render Customer's system or equipment as Year 2000 compliant, which shall mean, capable of correctly handling the processing of calendar dates before or after December 31, 1999. All work to be performed by Company will be performed during normal working hours of normal working days (8:00 a.m. - 5:00 p.m.), Monday through Friday, excluding Company holidays), as defined by Company, unless additional times are specifically described in this Agreement. All work performed unscheduled unless otherwise specified in this Agreement. Appointments scheduled for four-hour window. Additional charges may apply for special scheduling requests, e.g. working around equipment shutdowns, after hours work.

Company will perform the services described in the Service Solution ("Services") for one or more system(s) or equipment as described in the Service Solution or the listed attachments ("Covered System(s)"). UNLESS OTHERWISE SPECIFIED IN THIS AGREEMENT, ANY INSPECTION (AND, IF SPECIFIED, TESTING) PROVIDED UNDER THIS AGREEMENT DOES NOT INCLUDE ANY MAINTENANCE, REPAIRS, ALTERATIONS, REPLACEMENT OF PARTS, OR ANY FIELD ADJUSTMENTS WHATSOEVER, NOR DOES IT INCLUDE THE CORRECTION OF ANY DEFICIENCIES IDENTIFIED BY COMPANY TO CUSTOMER. COMPANY SHALL NOT BE RESPONSIBLE FOR EQUIPMENT FAILURE OCCURRING WHILE COMPANY IS IN THE PROCESS OF FOLLOWING ITS INSPECTION TECHNIQUES, WHERE THE FAILURE ALSO RESULTS FROM THE AGE OR OBSOLESCENCE OF THE ITEM OR DUE TO NORMAL WEAR AND TEAR. THIS AGREEMENT DOES NOT COVER SYSTEMS, EQUIPMENT, COMPONENTS OR PARTS THAT ARE BELOW GRADE, BEHIND WALLS OR OTHER OBSTRUCTIONS OR EXTERIOR TO THE BUILDING, ELECTRICAL WIRING, AND PIPING.

9. Customer Responsibilities. Customer shall regularly test the System(s) in accordance with applicable law and manufacturers' and Company's recommendations. Customer shall promptly notify Company of any malfunction in the Covered System(s) which comes to Customer's attention. This Agreement assumes any existing system(s) are in operational and maintainable condition as of the Agreement date. If, upon inspection, Company determines that repairs are recommended, repair charges will be submitted for approval by Customer's on-site representative prior to work. Should such repair work be declined, Company shall be relieved from any and all liability arising therefrom.

Customer further agrees to:

- Provide Company clear access to Covered System(s) to be serviced including, if applicable, lift trucks or other equipment needed to reach inaccessible equipment;
- Supply suitable electrical service, heat, heat tracing adequate water supply, and required system schematics and/or drawings;
- Notify all required persons, including but not limited to authorities having jurisdiction, employees, and monitoring services, of scheduled testing and/or repair of systems;
- Provide a safe work environment;
- In the event of an emergency or Covered System(s) failure, take reasonable precautions to protect against personal injury, death, and/or property damage and continue such measures until the Covered System(s) are operational; and
- Comply with all laws, codes, and regulations pertaining to the equipment and/or services provided under this agreement.

Customer represents and warrants that it has the right to authorize the Services to be performed as set forth in this Agreement.

10. Repair Services. Where Customer expressly includes repair, replacement, and emergency response services in the Service Solution section of this Agreement, such services apply only to the components or equipment of the

Covered System(s). Customer agrees to promptly request repair services in the event the System becomes inoperable or otherwise requires repair. The Agreement price does not include repairs to the Covered System(s) recommended by Company as a result of an inspection, for which Company will submit independent pricing to customer and as to which Company will not proceed until Customer authorizes such work and approves the pricing. Repair or replacement of non-maintainable parts of the Covered System(s) including, but not limited to, unit cabinets, insulating material, electrical wiring, structural supports, and all other non-moving parts, is not included under this Agreement.

11. System Equipment. The purchase of equipment or peripheral devices, (including but not limited to smoke detectors, passive infrared detectors, card readers, sprinkler system components, extinguishers and hoses) from Company shall be subject to the terms and conditions of this Agreement. If, in Company's sole judgment, any peripheral device or other system equipment, which is attached to the Covered System(s), whether provided by Company, Customer or a third party, interferes with the proper operation of the Covered System(s), Customer shall remove or replace such device or equipment promptly upon notice from Company. Failure of Customer to remove or replace the device shall constitute a material breach of this Agreement. If Customer adds any third party device or equipment to the Covered System(s), Company shall not be responsible for any damage to or failure of the Covered System(s) caused in whole or in part by such device or equipment.

12. Reports. Where inspection and/or test services are selected, such inspection and/or test shall be completed on Company's then current Report form, which shall be given to Customer, and, where applicable, Company may submit a copy thereof to the local authority having jurisdiction. The Report and recommendations by Company are only advisory in nature and are intended to assist Customer in reducing the risk of loss to property by indicating obvious defects or impairments noted to the system and equipment inspected and/or tested. They are not intended to imply that no other defects or hazards exist or that all aspects of the Covered System(s), equipment, and components are under control at the time of inspection. Final responsibility for the condition and operation of the Covered System(s) and equipment and components lies with Customer.

13. Availability and Cost of Steel, Plastics & Other Commodities. Company shall not be responsible for failure to provide services, deliver products, or otherwise perform work required by this Agreement due to lack of available steel products or products made from plastics or other commodities. (i) In the event Company is unable, after reasonable commercial efforts, to acquire and provide steel products, or products made from plastics or other commodities, if required to perform work required by this Agreement, Customer hereby agrees that Company may terminate the Agreement, or the relevant portion of the Agreement, at no additional cost and without penalty. Customer agrees to pay Company in full for all work performed up to the time of any such termination. (ii) If Company is able to obtain the steel products or products made from plastics or other commodities, but the price of any of the products has risen by more than 10% from the date of the bid, proposal or date Company executed this Agreement, whichever occurred first, then Company may pass through that increase through a reasonable price increase to reflect increased cost of materials.

14. Confined Space. If access to confined space by Company is required for the performance of Services, Services shall be scheduled and performed in accordance with Company's then-current hourly rate.

15. Hazardous Materials. Customer represents that, except to the extent that Company has been given written notice of the following hazards prior to the execution of this Agreement, to the best of Customer's knowledge there is no:

- "Permit confined space," as defined by OSHA,
- Risk of infectious disease,
- Need for air monitoring, respiratory protection, or other medical risk,
- Asbestos, asbestos-containing material, formaldehyde or other potentially toxic or otherwise hazardous material contained in or on the surface of the floors, walls, ceilings, insulation or other structural components of the area of any building where work is required to be performed under this Agreement.

All of the above are hereinafter referred to as "Hazardous Conditions". Company shall have the right to rely on the representations listed above. If hazardous conditions are encountered by Company during the course of Company's work, the discovery of such materials shall constitute an event beyond Company's control and Company shall have no obligation to further perform in the area where the hazardous conditions exist until the area has been made safe by Customer as certified in writing by an independent testing agency, and Customer shall pay disruption expenses and re-mobilization expenses as determined by Company. This Agreement does not provide for the cost of capture, containment or disposal of any hazardous waste materials, or hazardous materials, encountered in any of the Covered System(s) and/or during performance of the Services. Said materials shall at all times remain the responsibility and property of Customer. Company shall not be responsible for the testing, removal or disposal of such hazardous materials.

16. Remote Service. If Customer selects Remote Service, Customer understands and agrees that, while Remote Service provides for communication regarding Customer's fire alarm system to Company via the internet, Remote Service does not constitute monitoring of the system and Customer understands that Remote Service does not provide for Company to

contact the fire department or other authorities in the event of a fire alarm. The Customer understands that if it wishes to receive monitoring of its fire alarm system and notification of the fire department or other authorities in the event of a fire alarm, it must select monitoring services as a separate service under this Agreement. CUSTOMER FURTHER UNDERSTANDS AND AGREES THAT THE TERMS OF SECTION 17.F OF THIS AGREEMENT APPLY TO REMOTE SERVICE.

17. Monitoring Services. If Customer has selected Monitoring services, the following shall apply to such services:

A. Alarm Monitoring Service. Customer agrees and acknowledges that Company's sole and only obligation under this Agreement shall be to provide alarm monitoring, notification, and/or Runner services as set forth in this Agreement and to endeavor to notify the party(ies) identified by Customer on the Contact/Call List ("Contacts") and/or Local Emergency Dispatch Numbers for responding authorities. Upon receipt of an alarm signal, Company may, at our sole discretion, attempt to notify the Contacts to verify the signal is not false. If we fail to notify the Contacts or question the response we receive, we will attempt to notify the responding authority. In the event Company receives a supervisory signal or trouble signal, Company shall endeavor to promptly notify one of the Contacts. Company shall not be responsible for a Contact's or responding authority's refusal to acknowledge/respond to Company's notifications of receipt of an alarm signal, nor shall Company be required to make additional notifications because of such refusal. The Contacts are authorized to act on Customer's behalf and, if so designated on the Contact/Call List, are authorized to cancel an alarm prior to the notification of authorities. Customer understands that local laws, ordinances or policies may restrict Company's ability to provide the alarm monitoring and notification services described in this Agreement and/or necessitate modified or additional services and related charges to Customer. Customer understands that Company may employ a number of industry-recognized measures to help reduce occurrences of false alarm activations. These measures may include, but are not limited to, implementation of industry-recognized default settings; implementation of "partial clear time bypass" procedures at our alarm monitoring center and other similar measures at our sole discretion from time to time. THESE MEASURES CAN RESULT IN NO ALARM SIGNAL BEING SENT FROM AN ALARM ZONE IN CUSTOMER'S PREMISES AFTER THE INITIAL ALARM ACTIVATION UNTIL THE ALARM SYSTEM IS MANUALLY RESET. Upon receiving notification from Company that a fire or gas detection (e.g. carbon monoxide) signal has been received, the responding authority may forcibly enter the premises. Cellular radio unit test supervision, if provided under this Agreement, provides only the status of the cellular radio unit's current signaling ability at the time of the test communication based on certain programmed intervals and does not serve to detect the potential loss of radio service at the time of an actual emergency event. Company shall not be responsible to provide monitoring services under this Agreement unless and until the communication link between Customer's premises and Company's Monitoring Center has been tested. **SUCH SERVICES ARE PROVIDED WITHOUT WARRANTY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

B. Limitation of Liability; Limitations of Remedy. Customer understands that Company offers several levels of Monitoring Services and that the level described has been chosen by Customer after considering and balancing various levels of protection afforded and their related costs. It is understood and agreed by the Customer that Company is not an insurer and that insurance coverage, if any, shall be obtained by the Customer and that amounts payable to Company hereunder are based upon the value of the Monitoring Services and the scope of liability set forth in this Agreement and are unrelated to the value of the Customer's property and the property of others located on the premises. Customer agrees to look exclusively to the Customer's insurer to recover for injuries or damage in the event of any loss or injury and that Customer releases and waives all right of recovery against Company arising by way of subrogation. Company makes no guaranty or Warranty, including any implied warranty of merchantability or fitness for a particular purpose that equipment or services supplied by Company will detect or avert occurrences or the consequences there from that the equipment or service was designed to detect or avert. It is impractical and extremely difficult to fix the actual damages, if any, which may proximately result from failure on the part of Company to perform any of its monitoring obligations under this Agreement. Accordingly, Customer agrees that, Company shall be exempt from liability for any loss, damage or injury arising directly or indirectly from occurrences, or the consequences there from, which the equipment or service was designed to detect or avert. Should Company be found liable for any loss, damage or injury arising from a failure of the equipment or service in any respect, Company's liability with respect to Monitoring Services shall be the lesser of the annual fee for Monitoring Services allocable to the site where the incident occurred or two thousand five hundred (\$2,500) dollars. Such sum shall be complete and exclusive. If Customer desires Company to assume greater liability, the parties shall amend this Agreement by attaching a rider setting forth the amount of additional liability and the additional amount payable by the Customer for the assumption by Company of such greater liability, provided however that such rider shall in no way be interpreted to hold Company as an insurer.

IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY DAMAGE, LOSS, INJURY, OR ANY OTHER CLAIM ARISING FROM ANY SERVICING, ALTERATIONS, MODIFICATIONS, CHANGES, OR MOVEMENTS OF THE COVERED SYSTEM(S), AS HEREINAFTER DEFINED, OR ANY OF ITS COMPONENT PARTS BY THE CUSTOMER OR ANY THIRD PARTY. COMPANY SHALL NOT BE LIABLE FOR INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO DAMAGES ARISING FROM THE USE, LOSS OF THE USE, PERFORMANCE, OR FAILURE OF THE COVERED SYSTEM(S) TO PERFORM. The limitations of liability set forth in this Agreement shall inure to the benefit of all parents, subsidiaries and affiliates of Company, whether direct or indirect, Company's employees, agents, officers and directors.

C. Indemnity, Insurance. Customer agrees to indemnify, hold harmless and defend Company against any and all losses, damages, costs, including expert fees and costs, and expenses including reasonable defense costs, arising from any and all third party claims for personal injury, death, property damage or economic loss, arising in any way from any act or omission of Customer or Company relating in any way to the Monitoring Services provided under this Agreement, whether such claims are based upon contract, warranty, tort (including but not limited to active or passive negligence), strict liability or otherwise. Company reserves the right to select counsel to represent it in any such action. Customer shall name Company, its officers, employees, agents, subcontractors, suppliers, and representatives as additional insureds on Customer's general liability and auto liability policies.

D. No modification. Modification to Sections 17 B or C may only be made by a written amendment to this Agreement signed by both parties specifically referencing Section 17 B and/or C, and no such amendment shall be effective unless approved by the manager of Company's Central Monitoring Center.

E. Customer's Duties. In addition to Customer's duty to indemnify, defend, and hold Company harmless pursuant to this Section 17:

i. Customer agrees to furnish the names and telephone numbers of all persons authorized to enter or remain on Customer's premises and/or that should be notified in the event of an alarm (the Contact/Call List) and Local Emergency Dispatch Numbers and provide all changes, revision and modifications to the above to Company in writing in a timely manner. Customer must ensure that all such persons are authorized and able to respond to such notification.

ii. Customer shall carefully and properly test and set the system immediately prior to the securing of the premises and carefully test the system in a manner prescribed by Company during the term of this Agreement. Customer agrees that it is responsible for any losses or damages due to malfunction, miscommunication or failure of Customer's system to accurately handle, process or communicate date data. If any defect in operation of the System develops, or in the event of a power failure, interruption of telephone service, or other interruption at Customer's premises of signal or data transmission through any media, Customer shall notify Company immediately. If space/interior protection (i.e. ultrasonic, microwave, infrared, etc.) is part of the System, Customer shall walk test the system in the manner recommended by Company.

iii. When any device or protection is used, including, but not limited to, space protection, which may be affected by turbulence of air, occupied airspace change or other disturbance, forced air heaters, air conditioners, horns, bells, animals and any other sources of air turbulence or movement which may interfere with the effectiveness of the System during closed periods while the alarm system is on, Customer shall notify Company

iv. Customer shall promptly reset the System after any activation.

v. Customer shall notify Company regarding any remodeling or other changes to the protected premises that may affect operation of the system.

vi. Customer shall cooperate with Company in the installation, operation and/or maintenance of the system and agrees to follow all instructions and procedures which may be prescribed for the operation of the system, the rendering of services and the provision of security for the premises.

vii. Customer shall pay all charges made by any telephone or communications provider company or other utility for installation, leasing, and service charges of telephone lines connecting Customer's premises to Company. Customer acknowledges that alarm signals from Customer's premises to Company are transmitted over Customer's telephone or other transmission service and that in the event the telephone or other transmission service is out of order, disconnected, placed on "vacation", or otherwise interrupted, signals from Customer's alarm system will not be received by Company, during any such interruption in telephone or other transmission service and the interruption will not be known to Company. Customer agrees that in the event the equipment or system continuously transmits signals reasonably determined by Company to be false and/or excessive in number, Customer shall be subject to the additional costs and fees incurred by Company in the receiving and/or responding to the excessive signals and/or Company may at its sole discretion terminate this Agreement with respect to Monitoring services upon notice to Customer.

F. Communication Facilities.

i. Authorization. Customer authorizes Company, on Customer's behalf, to request services, orders or equipment from a telephone company, wireless carrier or other company providing communication facilities, signal transmission services or facilities under this Agreement (referred to as "Communication Company"). Should any third party service, equipment or facility be required to perform the Monitoring services set forth in this

Agreement, and should the same be terminated or become otherwise unavailable or impracticable to provide, Company may terminate Monitoring services upon notice to Customer.

ii. Digital Communicator. Customer understands that a digital communicator (DACT), if installed under this Agreement, uses traditional telephone lines for sending signals which eliminate the need for a dedicated telephone line and the costs associated with such dedicated lines.

iii. Derived Local Channel. The Communication Company's services provided to Customer in connection with the Services may include Derived Local Channel service. Such service may be provided under the Communication Company's service marks or service names. These services include providing lines, signal paths, scanning and transmission. Customer agrees that the Communication Company's liability is limited to the same extent Company's liability is limited pursuant to this Section 17.

iv. CUSTOMER UNDERSTANDS THAT COMPANY WILL NOT RECEIVE ALARM SIGNALS WHEN THE TELEPHONE LINE OR OTHER TRANSMISSION MODE IS NOT OPERATING OR HAS BEEN CUT, INTERFERED WITH OR IS OTHERWISE DAMAGED OR IF THE ALARM SYSTEM IS UNABLE TO ACQUIRE, TRANSMIT OR MAINTAIN AN ALARM SIGNAL OVER CUSTOMER'S TELEPHONE SERVICE FOR ANY REASON INCLUDING NETWORK OUTAGE OR OTHER NETWORK PROBLEMS SUCH AS CONGESTION OR DOWNTIME, ROUTING PROBLEMS, OR INSTABILITY OF SIGNAL QUALITY. CUSTOMER UNDERSTANDS THAT OTHER POTENTIAL CAUSES OF SUCH A FAILURE OVER CERTAIN TELEPHONE SERVICES (INCLUDING BUT NOT LIMITED TO SOME TYPES OF DSL, ADSL, VOIP, DIGITAL PHONE, INTERNET PROTOCOL BASED PHONE OR OTHER INTERNET INTERFACE-TYPE SERVICE OR RADIO SERVICE, INCLUDING CELLULAR OR PRIVATE RADIO, ETC. ("NON-TRADITIONAL TELEPHONE SERVICE")) INCLUDE BUT ARE NOT LIMITED TO: (1) LOSS OF NORMAL ELECTRIC POWER TO CUSTOMER'S PREMISES (THE BATTERY BACK-UP FOR THE ALARM PANEL DOES NOT POWER TELEPHONE SERVICE); AND (2) ELECTRONICS FAILURES SUCH AS A MODEM MALFUNCTION. CUSTOMER UNDERSTANDS THAT COMPANY WILL ONLY REVIEW THE INITIAL COMPATIBILITY OF CUSTOMER'S ALARM SYSTEM WITH NON-TRADITIONAL TELEPHONE SERVICE AT THE TIME OF INITIAL CONNECTION TO COMPANY'S MONITORING CENTER AND THAT CHANGES IN CUSTOMER'S TELEPHONE SERVICE'S DATA FORMAT AFTER THE INITIAL REVIEW OF COMPATIBILITY COULD MAKE CUSTOMER'S TELEPHONE SERVICE UNABLE TO TRANSMIT ALARM SIGNALS TO COMPANY'S MONITORING CENTERS. IF COMPANY DETERMINES IN ITS SOLE DISCRETION THAT IT IS COMPATIBLE, COMPANY WILL PERMIT CUSTOMER TO USE NON-TRADITIONAL TELEPHONE SERVICE AS THE SOLE METHOD OF TRANSMITTING ALARM SIGNALS, ALTHOUGH CUSTOMER UNDERSTANDS THAT COMPANY RECOMMENDS THE USE OF AN ADDITIONAL BACK-UP METHOD OF COMMUNICATION TO CONNECT CUSTOMER'S ALARM SYSTEM TO THE MONITORING CENTER REGARDLESS OF THE TYPE OF TELEPHONE SERVICE USED. CUSTOMER ALSO UNDERSTANDS THAT IF COMPANY DETERMINES IN ITS SOLE DISCRETION THAT CUSTOMER'S NON-TRADITIONAL TELEPHONE SERVICE IS OR LATER BECOMES NON-COMPATIBLE, OR IF CUSTOMER CHANGES TO ANOTHER NON-TRADITIONAL TELEPHONE SERVICE THAT IS NOT COMPATIBLE, THEN COMPANY REQUIRES THAT CUSTOMER USE AN ALTERNATE METHOD OF COMMUNICATION ACCEPTABLE TO COMPANY AS THE PRIMARY METHOD TO CONNECT CUSTOMER'S ALARM SYSTEM TO THE MONITORING CENTER. CUSTOMER UNDERSTANDS THAT TRANSMISSION OF FIRE ALARM SIGNALS BY MEANS OTHER THAN A TRADITIONAL TELEPHONE LINE MAY NOT BE IN COMPLIANCE WITH FIRE ALARM STANDARDS OR SOME LOCAL FIRE CODES, AND THAT IT IS CUSTOMER'S OBLIGATION TO COMPLY WITH SUCH STANDARDS AND CODES. CUSTOMER ALSO UNDERSTANDS THAT IF THE ALARM SYSTEM HAS A LINE CUT FEATURE, IT MAY NOT BE ABLE TO DETECT IF A NON-TRADITIONAL TELEPHONE SERVICE LINE IS CUT OR INTERRUPTED, AND THAT COMPANY MAY NOT BE ABLE TO PROVIDE CERTAIN AUXILIARY MONITORING SERVICES THROUGH A NON-TRADITIONAL TELEPHONE LINE OR SERVICE. CUSTOMER FURTHER UNDERSTANDS THAT THE ALARM PANEL MAY BE UNABLE TO SEIZE THE PHONE LINE TO TRANSMIT AN ALARM SIGNAL IF ANOTHER CONNECTION IS OFF THE HOOK DUE TO IMPROPER CONNECTION OR OTHERWISE.

G. Verification; Runner Service. Some jurisdictions may require alarm verification by telephone or on-site verification (Runner Service) before dispatching emergency services. In the event that a requirement of alarm verification becomes effective after the date of this Agreement, such services may be available at an additional charge. Company shall not be held liable for any delay or failure of dispatch of emergency services arising from such verification. Where Runner Service is indicated, such services may be provided by a third party. COMPANY WILL NOT ARREST OR DETAIN ANY PERSON.

H. Personal Emergency Response Service. If Customer has selected Personal Emergency Response Services, Customer agrees that the very nature of Personal Emergency Response Services, irrespective of any delays, involves uncertainty, risk and possible serious injury, disability or death, for

which Company should not under any circumstances be held responsible or liable; that the equipment furnished for Personal Emergency Response Services is not foolproof and may experience signal transmission failures or delays for any number of reasons, whether or not our fault or under Company's control; that the actual time required for medical emergency providers to arrive at the premises and/or to transport any person requiring medical attention is unpredictable and that many contributing factors, including but not limited to such things as telephone network operation, distance, weather, road and traffic conditions, alarm equipment function and human factors, both with responding authorities and with Company, may affect response

18. Limited Warranty. COMPANY WARRANTS THAT ITS WORKMANSHIP AND MATERIAL, EXCLUDING MONITORING SERVICES, FURNISHED UNDER THIS AGREEMENT WILL BE FREE FROM DEFECTS FOR A PERIOD OF NINETY (90) DAYS FROM THE DATE OF FURNISHING. Where Company provides product or equipment of others, Company will warrant the product or equipment only to the extent warranted by such third party. EXCEPT AS EXPRESSLY SET FORTH HEREIN, COMPANY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE SERVICES PERFORMED OR THE PRODUCTS, SYSTEMS OR EQUIPMENT, IF ANY, SUPPORTED HEREUNDER. COMPANY MAKES NO WARRANTY OR REPRESENTATION, AND UNDERTAKES NO OBLIGATION TO ENSURE BY THE SERVICES PERFORMED UNDER THIS AGREEMENT, THAT COMPANY'S PRODUCTS OR THE SYSTEMS OR EQUIPMENT OF THE CUSTOMER WILL CORRECTLY HANDLE THE PROCESSING OF CALENDAR DATES BEFORE OR AFTER DECEMBER 31, 1999.

19. Taxes, Fees, Fines, Licenses, and Permits. Customer agrees to pay all sales tax, use tax, property tax, utility tax and other taxes required in connection with the equipment and services listed, including telephone company line charges, if any. Customer shall comply with all laws and regulations relating to the equipment and its use and shall promptly pay when due all sales, use, property, excise and other taxes and all permit, license and registration fees now or hereafter imposed by any government body or agency upon the equipment or its use. Company may, without notice, obtain any required permit, license or registration for Customer at Customer's expense and charge a fee for this service. If Customer fails to maintain any required licenses or permits, Company shall not be responsible for performing the services and may terminate the services without notice to Customer.

20. Outside Charges. Customer understands and accepts that Company specifically denies any responsibility for charges associated with the notification or dispatching of anyone, including but not limited to fire department, police department, paramedics, doctors, or any other emergency personnel, and if there are any charges incurred as a result of said notification or dispatch, said charges shall be the responsibility of Customer.

21. Insurance. Customer shall name Company, its officers, employees, agents, subcontractors, suppliers, and representatives as additional insureds on Customer's general liability and auto liability policies.

22. Waiver of Subrogation. Customer does hereby for itself and all other parties claiming under it release and discharge Company from and against all hazards covered by Customer's insurance, it being expressly agreed and understood that no insurance company or insurer will have any right of subrogation against Company.

23. Force Majeure, Exclusions. Company shall not be responsible for delays, interruption or failure to render services due to causes beyond its control, including but not limited to material shortages, work stoppages, fires, civil disobedience or unrest, severe weather, fire or any other cause beyond the control of Company. This Agreement expressly excludes, without limitation, provision of fire watches; reloading of, upgrading, and maintaining computer software; making repairs or replacements necessitated by reason of negligence or misuse of components or equipment or changes to Customer's premises; vandalism; power failure; current fluctuation; failure due to non-Company installation; lightning, electrical storm, or other severe weather; water; accident; fire; acts of God; testing inspection and repair of duct detectors, beam detectors, and UV/IR equipment; provision of fire watches; clearing of ice blockage; draining of improperly pitched piping; batteries; recharging of chemical suppression systems; reloading of, upgrading, and maintaining computer software; corrosion (including but not limited to micro-bacterially induced corrosion ("MIC")); cartridges greater than 16 grams; gas valve installation; or any other cause external to the Covered System(s) and Company shall not be required to provide Service while interruption of service due to such causes shall continue. This Agreement does not cover and specifically excludes system upgrades and the replacement of obsolete systems, equipment, components or parts. All such services may be provided by Company at Company's sole discretion at an additional charge. If Emergency Services are expressly included in the Service Solution, the Agreement price does not include travel expenses.

24. Delays. Company shall have no responsibility or liability to Customer or any other person for delays in the installation or repair of the System or the performance of our Services regardless of the reason, or for any resulting consequences.

25. Termination. Company may terminate this Agreement immediately at its sole discretion upon the occurrence of any Event of Default as hereinafter defined. Company may also terminate this Agreement at its sole discretion

upon notice to Customer if Company's performance of its obligations under this Agreement becomes impracticable due to obsolescence of equipment at Customer's premises or unavailability of parts.

26. No Option to Solicit. Customer shall not, directly or indirectly, on its own behalf or on behalf of any other person, business, corporation or entity, solicit or employ any Company employee, or induce any Company employee to leave his or her employment with Company, for a period of two years after the termination of this Agreement.

27. Default. An Event of Default shall include 1) any full or partial termination of this Agreement by Customer before the expiration of the then-current Term, 2) failure of the Customer to pay any amount within ten (10) days after the amount is due and payable, 3) abuse of the System or the Equipment, 4) failure by Customer to observe, keep or perform any term of this Agreement; 5) dissolution, termination, discontinuance, insolvency or business failure of Customer. Upon the occurrence of an Event of Default, Company may pursue one or more of the following remedies, 1) discontinue furnishing Services, 2) by written notice to Customer declare the balance of unpaid amounts due and to become due under the this Agreement to be immediately due and payable, provided that all past due amounts shall bear interest at the rate of 1 1/2% per month (18% per year) or the highest amount permitted by law, 3) receive immediate possession of any equipment for which Customer has not paid, 4) proceed at law or equity to enforce performance by Customer or recover damages for breach of this Agreement, and 5) recover all costs and expenses, including without limitation reasonable attorneys' fees, in connection with enforcing or attempting to enforce this Agreement.

28. One-Year Limitation on Actions; Choice of Law. It is agreed that no suit, or cause of action or other proceeding shall be brought against either party more than one (1) year after the accrual of the cause of action or one (1) year after the claim arises, whichever is shorter, whether known or unknown when the claim arises or whether based on tort, Agreement, or any other legal theory. The laws of Massachusetts shall govern the validity, enforceability, and interpretation of this Agreement.

29. Assignment. Customer may not assign this Agreement without Company's prior written consent. Company may assign this Agreement without obtaining Customer's consent.

30. Entire Agreement. The parties intend this Agreement, together with any attachments or Riders (collectively the "Agreement") to be the final, complete and exclusive expression of their Agreement and the terms and conditions thereof. This Agreement supersedes all prior representations, understandings or agreements between the parties, written or oral, and shall constitute the sole terms and conditions relating to the Services. No waiver, change, or modification of any terms or conditions of this Agreement shall be binding on Company unless made in writing and signed by an Authorized Representative of Company.

31. Headings. The headings in this Agreement are for convenience only.

32. Severability. If any provision of this Agreement is held by any court or other competent authority to be void or unenforceable in whole or in part, this Agreement will continue to be valid as to the other provisions and the remainder of the affected provision.

33. Electronic Media. Customer agrees that Company may scan, image or otherwise convert this Agreement into an electronic format of any nature. Customer agrees that a copy of this Agreement produced from such electronic format is legally equivalent to the original for any and all purposes, including litigation. Customer agrees that Company's receipt by fax of the Agreement signed by Customer legally binds Customer and such fax copy is legally equivalent to the original for any and all purposes, including litigation.

34. Legal Fees. Company shall be entitled to recover from the Customer all reasonable legal fees incurred in connection with Company enforcing the terms and conditions of this Agreement.

35. License Information (Security System Customers): AL Alabama Electronic Security Board of Licensure 7956 Vaughn Road, PMB 392, Montgomery, Alabama 36116 (334) 264-9388; AR Regulated by: Arkansas Board of Private Investigators and Private Security Agencies, #1 State Police Plaza Drive, Little Rock 72209 (501)618-8600; CA Alarm company operators are licensed and regulated by the Bureau of Security and Investigative Services, Department of Consumer Affairs, Sacramento, CA, 95814. Upon completion of the installation of the alarm system, the alarm company shall thoroughly instruct the purchaser in the proper use of the alarm system. Failure by the licensee, without legal excuse, to substantially commence work within 20 days from the approximate date specified in the agreement when the work will begin is a violation of the Alarm Company Act: NY Licensed by the N.Y.S. Department of the State: TX Texas Commission on Private Security, 5805 N. Lamar Blvd., Austin, TX 78752-4422, 512-424-7710. License numbers available at www.simplexgrinnell.com or contact your local SimplexGrinnell office.

Sandi Wesolowski

From: Jesse Wesolowski [jweslaw@aol.com]
Sent: Thursday, December 12, 2013 5:56 PM
To: Sandi Wesolowski; Jodi Vandenboom; Shirley Roberts
Subject: Fwd: SimplexGrinnell Security and Paging System Agreement Renewal
Attachments: City of Franklin PD.pdf

Begin forwarded message:

From: "Augustin, Tyler" <TAugustin@simplexgrinnell.com>
Date: November 12, 2013 2:37:23 PM CST
To: Jesse Wesolowski <jweslaw@aol.com>, Rick Oliva <ROliva@franklinwi.gov>
Cc: Joseph Noel <JNoel@franklinwi.gov>, Paul Rotzenberg <PRotzenberg@franklinwi.gov>
Subject: RE: SimplexGrinnell Security and Paging System Agreement Renewal

Jesse,

Thank you for your response on this matter, in regards to the terms and conditions changes I have submitted this through to our legal team to review, I expect I should get a response back soon and I will share with everyone. I have attached the original version of the agreement that includes all 8 pages for your reference. Also there is maintenance coverage included in this agreement which is detailed on page 2 of 8. With that being said the coverage that is included in this proposal is the same coverage as the previous agreement. Please feel free to reach out if you have any questions and maybe I can clarify some more.

Tyler Augustin | Customer Care Representative
SimplexGrinnell, A Tyco International Company
N58 W14782 Shawn Circle, Menomonee Falls, WI 53051 United States
Tel: 262-385-6111 | Fax: 262-781-3573
TAugustin@SimplexGrinnell.com
www.simplexgrinnell.com

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From: Jesse Wesolowski [mailto:jweslaw@aol.com]
Sent: Tuesday, November 12, 2013 1:37 PM
To: Rick Oliva
Cc: Augustin, Tyler; Joseph Noel; Paul Rotzenberg
Subject: SimplexGrinnell Security and Paging System Agreement Renewal

I reviewed the above as attached. Please note that the pdf copy I received did not include a page 7 of 8. Per our telephone discussion this afternoon, it appears that the renewal does not specifically include any maintenance costs as part of the specified contract price, as did the prior/continuing contract. Further, upon a detailed review of the terms and conditions, many are the converse of the standard City contract terms, i.e., instead of the

provider of services or materials providing insurance and indemnity to the City, the City is to provide insurance and indemnify to provider, even if there is damage due to the provider's sole error, etc., etc. Contract is a 5 year contract. Looks like any emergency service or maintenance work is an extra cost. In a perfect City world, I would just delete the terms and conditions and incorporate the first 4 pages of the attached (deleting the limitation of liability last line on page 4) into a standard form City contract. In any event, hoping to move this along, I am copying the Simplex Sales Representative with the request that he provide a brief summary of any differences in the services to be performed under the proposal compared to the prior/current contract and for his review and response to the following proposed changes to the contract form:

add at the foot of the terms and conditions, the following:

"Notwithstanding anything to the contrary set forth above, the following terms, provisions and conditions shall control under this Agreement, and in the event of any conflict with the foregoing terms and conditions, the following terms, provisions and conditions shall prevail.

Professionalism.

The same degree of care, skill and diligence shall be exercised in the performance of the Company's services as is possessed and exercised by a member of the same profession, currently practicing, under similar circumstances, and all persons providing such services under this Agreement shall have such active certifications, licenses and permissions as may be required by law.

Pursuant to Law.

Notwithstanding anything to the contrary anywhere else set forth within this Agreement, all services and any and all materials and/or products provided by Company under this Agreement shall be in compliance with all applicable governmental laws, statutes, decisions, codes, rules, orders, and ordinances, be they Federal, State, County or Local.

Insurance.

Company shall, during the term of the Agreement, maintain insurance coverage with an authorized insurance carrier acceptable to the Customer in amounts at least equal to the minimum limits set forth below:

A. Limit of General/Commercial Liability	\$2,000,000
B. Automobile Liability; Bodily Injury/Property Damage	\$1,000,000
C. Excess Liability for General Commercial or Automobile Liability	\$2,000,000
D. Worker's Compensation and Employers' Liability	per statute
E. Professional Liability	\$1,000,000

Certificates of insurance evidencing the above shall be delivered to the Customer upon execution of this Agreement and shall provide that such coverages may not be cancelled or amended without 30 days prior written notice to the Customer and naming Customer as an additional insured for General Liability.

Indemnification.

To the fullest extent permitted by law, Company shall defend, indemnify and hold harmless Customer, Customer's officers, employees, agents, boards, commissions and agencies from and against costs, losses, and damages (including but not limited to reasonable fees and charges of Company's, architects, attorneys, and other professionals, and reasonable court and/or alternative dispute resolution costs) caused by the negligent or intentional and wrongful acts of Company, its officers, directors, employees, agents and consultants with respect to this Agreement.

Conflict of Interest.

Company warrants that neither it nor any of its affiliates has any financial or other personal interest that would conflict in any manner with the performance of the services under this Agreement and that neither it nor any of its affiliates will acquire directly or indirectly any such interest. Company warrants that it will immediately notify the Customer if any actual or potential conflict of interest arises or becomes known to the Company. Upon receipt of such notification, a Customer review and written approval is required for the Company to continue to perform work under this Agreement.

Governing Law and Disputes.

This Agreement shall be construed pursuant to the laws of the State of Wisconsin. The venue for any disputes arising under this Agreement shall be the Circuit Court for Milwaukee County. The prevailing party shall be entitled to its costs, including its reasonable attorneys' fees, incurred in any litigation.

Records.

Company shall maintain all of its records pertaining to this Agreement for not less than three years following the completion of this Agreement and shall provide for the inspection and copying of such records by the Customer upon request.

Assignment.

Company shall not assign any of its rights, title, interest or obligations under this Agreement without the written permission of the Customer, which permission shall not be unreasonably withheld.

Termination.

This Agreement may be terminated upon written notice at Customer's convenience or by either party in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement. Company shall terminate performance of services on a schedule acceptable to Customer, and Customer shall pay Company for all services performed prior to such termination."

To further simply the understanding, consistent with the above, though with other detail, I would delete the second last sentence of section. 2. (City doesn't pay taxes); and delete sections 4., 5., 7., 19., 21., 22., 24., 27., 28. and 34. I would add to the last line of section 13.: ", upon Customer's consent, which shall not be unreasonably withheld."

Thanks.

Jesse A. Wesolowski

Jesse A. Wesolowski
Wesolowski, Reidenbach & Sajdak, S.C.
11402 West Church Street
Franklin, Wisconsin 53132
Phone: (414) 529-8900
Facsimile: (414) 529-2121
Email: JWesLaw@aol.com

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Sandi Wesolowski

From: Jesse Wesolowski [jweslaw@aol.com]
Sent: Thursday, December 12, 2013 5:57 PM
To: Sandi Wesolowski; Jodi Vandenboom; Shirley Roberts
Subject: Fwd: Franklin PD South Door quote

Begin forwarded message:

From: "Augustin, Tyler" <TAugustin@simplexgrinnell.com>
Date: December 10, 2013 4:32:07 PM CST
To: Jesse Wesolowski <jweslaw@aol.com>
Cc: Rick Oliva <ROliva@franklinwi.gov>, Joseph Noel <JNoel@franklinwi.gov>, Paul Rotzenberg <PRotzenberg@franklinwi.gov>
Subject: RE: Franklin PD South Door quote

Thanks Jesse,

I was informed that we can use those terms for this agreement also, however I was also informed that some changes need to be made to the agreement as to what is covered that will actually reduce the price but will not change the terms. I will get in touch with Captain Noel and discuss and hopefully we can get it resolved by Thursday.

Tyler Augustin | Customer Care Representative
SimplexGrinnell, A Tyco International Company
N58 W14782 Shawn Circle, Menomonee Falls, WI 53051 United States
Tel: 262-385-6111 | Fax: 262-781-3573
Taugustin@SimplexGrinnell.com
www.simplexgrinnell.com

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From: Jesse Wesolowski [mailto:jweslaw@aol.com]
Sent: Tuesday, December 10, 2013 2:46 PM
To: Augustin, Tyler
Cc: Rick Oliva; Joseph Noel; Paul Rotzenberg
Subject: Re: Franklin PD South Door quote

Thanks. FYI, the Franklin Common Council is the approving authority and as of now, its last regular meeting for this year is scheduled for next Tuesday, December 17, 2013; meeting agenda packets go out on Friday. If we can get this done, I need the final form of the contract to include it in the Council agenda packet. Tomorrow or Thursday would be good. Thanks.

On Dec 10, 2013, at 2:17 PM, Augustin, Tyler wrote:

I am seeking approval from my legal now, if there were to be an issue it would be due to the different natures of the work, however I am hoping it goes through no issues.

Tyler Augustin | Customer Care Representative
SimplexGrinnell, A Tyco International Company
N58 W14782 Shawn Circle, Menomonee Falls, WI 53051 United States
Tel: 262-385-6111 | Fax: 262-781-3573
Taugustin@SimplexGrinnell.com
www.simplexgrinnell.com

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From: Jesse Wesolowski [<mailto:jweslaw@aol.com>]
Sent: Monday, December 09, 2013 3:45 PM
To: Augustin, Tyler
Cc: Rick Oliva; Joseph Noel; Paul Rotzenberg
Subject: Fwd: Franklin PD South Door quote

Begin forwarded message:

From: "Andrewski, Douglas" <DAndrewski@simplexgrinnell.com>
Date: November 14, 2013 1:11:25 PM CST
To: Jesse Wesolowski <jweslaw@aol.com>
Subject: RE: Franklin PD South Door quote

Jesse:

Thanks for the expedient response. The project should be good to go. I will hold last year's prices to streamline the process and allow procurement to do their job.

Thanks again:

Doug Andrewski

From: Jesse Wesolowski [<mailto:jweslaw@aol.com>]
Sent: Thursday, November 14, 2013 11:02 AM
To: Andrewski, Douglas
Subject: Re: Franklin PD South Door quote

No problem; Simplex responsible for what it does and City responsible for whatever it does. Thanks.

On Nov 13, 2013, at 2:29 PM, Andrewski, Douglas wrote:

Jesse:

With an amendment to modify the Indemnity clause such that it limits Simplex Grinnell's liability to the extent of our negligence, we can move forward.

Feel free to contact me for questions or processing.

Regards;

Doug

**Douglas Andrewski / Electronic Systems Sales Representative
SimplexGrinnell**

Main Office: ☎262-781-1710 x110 / **Direct:** 262 825-1026 **Office**

Cell Phone: 📱:262-758-2828 / **Fax:** 📠:262 781-3573

N58 W 14782 Shawn Circle Menomonee Falls, WI 53051

* **Email:** ✉: Dandrewski@simplexgrinnell.com

🌐: www.simplexgrinnell.com

<image001.jpg>

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From: Norton, Max
Sent: Wednesday, November 13, 2013 2:03 PM
To: Andrewski, Douglas
Subject: RE: Franklin PD South Door quote

Doug,

If the city will agree to modify their Indemnity clause such that it limits our liability to the extent of our negligence I will approve the terms (see below).

Max Norton | District General Manager
SimplexGrinnell, A Tyco International Company
N58 W14782 Shawn Circle, Menomonee Falls, WI 53051 United States
Tel: +1-262-825-1010 | Mobile: +1-262-408-3000 | Fax: +1-262-781-3573
mnorton@simplexgrinnell.com | www.simplexgrinnell.com

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From: Andrewski, Douglas [<mailto:DAndrewski@simplexgrinnell.com>]
Sent: Wednesday, November 13, 2013 12:20 PM
To: Norton, Max
Subject: FW: Franklin PD South Door quote

Max:

The enclosed comments are from Franklin Police Department's Attorney, adding comments to our terms and conditions for acceptance and issuance of a PO.

Please read and forward to the appropriate Legal contact for edit and/or acceptance.

Thanks:

Doug

Douglas Andrewski / Electronic Systems Sales Representative

SimplexGrinnell

Main Office: ☎262-781-1710 x110 / **Direct:** 262 825-1026 **Office**

Cell Phone: ☎262-758-2828 / **Fax:** ☎262 781-3573

N58 W 14782 Shawn Circle Menomonee Falls, WI 53051

* **Email:** ✉: Dandrewski@simplexgrinnell.com

🌐: www.simplexgrinnell.com

<image004.jpg>

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From: Jesse Wesolowski [<mailto:jweslaw@aol.com>]

Sent: Tuesday, November 12, 2013 1:37 PM

To: Rick Oliva

Cc: Andrewski, Douglas; Joseph Noel

Subject: Franklin PD South Door quote

Per our earlier conversation, I am attaching the above quote. Upon review, I have the same comments as with the other Simplex proposed contract, with regard to its terms and conditions, though the attached are somewhat different. Just to move the matter along, I am copying the Simplex Sales Representative on this quote and asking for a response as I did on the security and paging system proposed agreement, as to whether the below changes might be made (the inconsistent sections of the proposed terms and conditions would then be deleted):

add at the foot of the terms and conditions, the following:

"Notwithstanding anything to the contrary set forth above, the following terms, provisions and conditions shall control under this Agreement, and in the event of any conflict with the foregoing terms and conditions, the following terms, provisions and conditions shall prevail.

Professionalism.

The same degree of care, skill and diligence shall be exercised in the performance of the Company's services as is possessed and exercised by a member of the same profession, currently practicing, under similar circumstances, and all persons providing such services under this Agreement shall have such active certifications, licenses and permissions as may be required by law.

Pursuant to Law.

Notwithstanding anything to the contrary anywhere else set forth within this Agreement, all services and any and all materials and/or products provided by Company under this Agreement shall be in compliance with all

applicable governmental laws, statutes, decisions, codes, rules, orders, and ordinances, be they Federal, State, County or Local.

Insurance.

Company shall, during the term of the Agreement, maintain insurance coverage with an authorized insurance carrier acceptable to the Customer in amounts at least equal to the minimum limits set forth below:

A. Limit of General/Commercial Liability	\$2,000,000
B. Automobile Liability; Bodily Injury/Property Damage	\$1,000,000
C. Excess Liability for General Commercial or Automobile Liability	\$2,000,000
D. Worker's Compensation and Employers' Liability	per statute
E. Professional Liability	\$1,000,000

Certificates of insurance evidencing the above shall be delivered to the Customer upon execution of this Agreement and shall provide that such coverages may not be cancelled or amended without 30 days prior written notice to the Customer and naming Customer as an additional insured for General Liability.

Indemnification.

To the fullest extent permitted by law, Company shall defend, indemnify and hold harmless Customer, Customer's officers, employees, agents, boards, commissions and agencies from and against costs, losses, and damages (including but not limited to reasonable fees and charges of Company's, architects, attorneys, and other professionals, and reasonable court and/or alternative dispute resolution costs) caused by the negligent or intentional and wrongful acts of Company, its officers, directors, employees, agents and consultants with respect to this Agreement, *but only to the extent caused by the negligent acts or omissions of the Company.*

Conflict of Interest.

Company warrants that neither it nor any of its affiliates has any financial or other personal interest that would conflict in any manner with the performance of the services under this Agreement and that neither it nor any of its affiliates will acquire directly or indirectly any such interest. Company warrants that it will immediately notify the Customer if any actual or potential conflict of interest arises or becomes known to the Company. Upon receipt of such notification, a Customer review and written approval is required for the Company to continue to perform work under this Agreement.

Governing Law and Disputes.

This Agreement shall be construed pursuant to the laws of the State of Wisconsin. The venue for any disputes arising under this Agreement shall be the Circuit Court for Milwaukee County. The prevailing party shall be entitled to its costs, including its reasonable attorneys' fees, incurred in any litigation.

Records.

Company shall maintain all of its records pertaining to this Agreement for not less than three years following the completion of this Agreement and shall provide for the inspection and copying of such records by the Customer upon request.

Assignment.

Company shall not assign any of its rights, title, interest or obligations under this Agreement without the written permission of the Customer, which permission shall not be unreasonably withheld.

Termination.

This Agreement may be terminated upon written notice at Customer's convenience or by either party in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement. Company shall terminate performance of services on a schedule acceptable to Customer, and Customer shall pay Company for all services performed prior to such termination."

Thanks.

Jesse A. Wesolowski

Jesse A. Wesolowski
Wesolowski, Reidenbach & Sajdak, S.C.
11402 West Church Street
Franklin, Wisconsin 53132
Phone: (414) 529-8900
Facsimile: (414) 529-2121
Email: JWesLaw@aol.com

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STATE OF WISCONSIN

CITY OF FRANKLIN

MILWAUKEE COUNTY

RESOLUTION NO. 2013-_____

A RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO EXECUTE AN
AGREEMENT FOR MAINTENANCE OF THE SECURITY AND PAGING SYSTEM IN
THE FRANKLIN LAW ENFORCEMENT CENTER SERVICES WITH
SIMPLEXGRINNELL LP

WHEREAS, SimplexGrinnell LP has provided maintenance services for the security and paging system in the Franklin Law Enforcement Center for the past some three years and the Police Chief having recommended approval of a continuing agreement with the service provider for such services upon the expiration of the current agreement on December 31, 2013, and the service provider having proposed to do so accordingly; and

WHEREAS, the Common Council having considered such proposal and the resources currently available to obtain such maintenance 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 maintenance of the security and paging system in the Franklin Law Enforcement Center Services with SimplexGrinnell LP, in such form and content as presented to the Common Council at its meeting on December 17, 2013, subject to such terms changes as may be approved by the City Attorney, 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 _____, 2013.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2013.

APPROVED:

ATTEST:

Thomas M. Taylor, Mayor

Sandra L. Wesolowski, City Clerk

AYES _____ NOES _____ ABSENT _____

<p>APPROVAL</p> <p><i>Slw</i></p>	<p>REQUEST FOR COUNCIL ACTION</p>	<p>MEETING DATE</p> <p>December 17, 2013</p>
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<p>REPORTS AND RECOMMENDATIONS</p>	<p>A Resolution Authorizing Certain Officials to Execute an Agreement for South Door Entry Security Equipment for the Franklin Law Enforcement Center with SimplexGrinnell LP</p>	<p>ITEM NUMBER</p> <p><i>G.5.</i></p>
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Attached is a copy of the proposed contract, as well as one in a series of email communications between the City and the LP. Current status is essentially that SimplexGrinnell has agreed to all of the changes proposed by the City, though a final contract form from the provider is pending. Due to contract and budget year expiration timing, despite final form receipt pending from the provider, the subject matter is presented to the Common Council for action with the condition as set forth below.

COUNCIL ACTION REQUESTED

A motion to adopt A Resolution Authorizing Certain Officials to Execute an Agreement for South Door Entry Security Equipment for the Franklin Law Enforcement Center with SimplexGrinnell LP, subject to any terms changes as may be approved by the City Attorney.



N58W14782 Shawn Cir
MENOMONEE FALLS, WI 53051
(262) 781 1710
FAX: (262) 781 3573
www.simplexgrinnell.com

SimplexGrinnell Quotation

TO:
City Of Franklin Pd
9455 W Loomis Rd
Attn Maureen
FRANKLIN, WI 53132-9630
Attn: Cpt. Joseph Noel
Phone: (414) 858-2648 EXT(____) Fax: (414) 425-0391

Project: Franklin PD South Door
Customer Reference:
SimplexGrinnell Reference: 336418730
Date: 07/30/2013
Page 1 of 4

SimplexGrinnell is pleased to offer for your consideration this quotation for the above project.

QUANTITY	MODEL NUMBER	DESCRIPTION
	Franklin PD South Door	
	Franklin PD South Door	
2	SWH-4100	MULTI TECH FLEX SINGLE GANG
2	T.REX-LT	T-REX NO PIEZO
2	1078-G-SS	REC STEEL DOOR CONT W/WIRE LEA

Total net selling price, FOB shipping point, \$6,393.37

Comments

QUOTE INCLUDES: LISTED EQUIPMENT ONLY, TECHNICAL INSTALLATION SUPPORT, PROGRAMMING AND SUPERVISION OF ONE COMPLETE FUNCTIONAL TEST WITH THE INSTALLING CONTRACTOR.

RACEWAY, EQUIPMENT MOUNTING AND TERMINATIONS COMPLETED BY EC SUBCONTRACTOR.

QUOTE DOES NOT INCLUDE: ADDITIONAL RACEWAY, TAXES, PERMITS, STATE REVIEW COST, AND FEES IF APPLICABLE.

ALL WIRING ACCORDING TO SPECIFICATION.



Project: Franklin PD South Door
Customer Reference:
SimplexGrinnell Reference: 336418730
Date: 07/30/2013
Page 2 of 4

TERMS AND CONDITIONS

1. Payment. Payments shall be invoiced and due in accordance with the terms and conditions set forth above. Work performed on a time and material basis shall be at the then-prevailing Company rate for material, labor, and related items, in effect at the time supplied under this Agreement. Company shall invoice Customer for progress payments to one hundred (100%) percent based upon equipment delivered or stored, and services performed. Customers without established satisfactory credit shall make payments of cash in advance, upon delivery or as otherwise specified by Company. Where Customer establishes and maintains satisfactory credit, payments shall be due and payable thirty (30) days from date of invoice. Company reserves the right to revoke or modify Customer's credit at its sole discretion. The Customer's failure to make payment when due is a material breach of this Agreement.

If Customer fails to make any payment when due, in addition to any other rights and remedies available, Company shall have the right, at Company's sole discretion, to stop performing any Services and/or withhold further deliveries of materials, until the account is current. In the event payment is not received when due, Company may, at its discretion, assess late fees at the rate of 1.5% per month or the maximum rate allowed by law. Customer agrees to pay all costs of collection, including without limitation costs, fees, and attorneys' fees. Customer's failure to make payment when due is a material breach of this Agreement until the account is current.

2. Pricing. The pricing set forth in this Agreement is based on the number of devices to be installed and services to be performed as set forth in the Scope of Work ("Equipment" and "Services"). If the actual number of devices installed or services to be performed is greater than that set forth in the Scope of Work, the price will be increased accordingly. If this Agreement extends beyond one year, SimplexGrinnell may increase prices upon notice to the Customer. Customer agrees to pay all taxes, permits, and other charges, including but not limited to state and local sales and excise taxes, however designated, levied or based on the service charges pursuant to this Agreement.

3. Alarm Monitoring Services. Any reference to alarm monitoring services in this Agreement is included for pricing purposes only. Alarm monitoring services are performed pursuant to the terms and conditions of Company's standard alarm monitoring services agreement.

4. Code Compliance. Company does not undertake an obligation to inspect for compliance with laws or regulations unless specifically stated in the Scope of Work. Customer acknowledges that the Authority Having Jurisdiction (e.g. Fire Marshal) may establish additional requirements for compliance with local codes. Any additional services or equipment required will be provided at an additional cost to Customer.

5. Limitation of Liability; Limitations of Remedy. It is understood and agreed by the Customer that Company is not an insurer and that insurance coverage, if any, shall be obtained by the Customer and that amounts payable to company hereunder are based upon the value of the services and the scope of liability set forth in this Agreement and are unrelated to the value of the Customer's property and the property of others located on the premises. Customer agrees to look exclusively to the Customer's insurer to recover for injuries or damage in the event of any loss or injury and that Customer releases and waives all right of recovery against Company arising by way of subrogation. Company makes no guaranty or Warranty, including any implied warranty of merchantability or fitness for a particular purpose that equipment or services supplied by Company will detect or avert occurrences or the consequences therefrom that the equipment or service was designed to detect or avert. It is impractical and extremely difficult to fix the actual

damages, if any, which may proximately result from failure on the part of Company to perform any of its obligations under this Agreement. Accordingly, Customer agrees that, Company shall be exempt from liability for any loss, damage or injury arising directly or indirectly from occurrences, or the consequences therefrom, which the equipment or service was designed to detect or avert. Should Company be found liable for any loss, damage or injury arising from a failure of the equipment or service in any respect, Company's liability shall be limited to an amount equal to the Agreement price (as increased by the price for any additional work) or where the time and material payment term is selected, Customer's time and material payments to Company. Where this Agreement covers multiple sites, liability shall be limited to the amount of the payments allocable to the site where the incident occurred. Such sum shall be complete and exclusive. If Customer desires Company to assume greater liability, the parties shall amend this Agreement by attaching a rider setting forth the amount of additional liability and the additional amount payable by the Customer for the assumption by Company of such greater liability, provided however that such rider shall in no way be interpreted to hold Company as an insurer. IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY DAMAGE, LOSS, INJURY, OR ANY OTHER CLAIM ARISING FROM ANY SERVICING, ALTERATIONS, MODIFICATIONS, CHANGES, OR MOVEMENTS OF THE COVERED SYSTEM(S) OR ANY OF ITS COMPONENT PARTS BY THE CUSTOMER OR ANY THIRD PARTY. COMPANY SHALL NOT BE LIABLE FOR INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO DAMAGES ARISING FROM THE USE, LOSS OF THE USE, PERFORMANCE, OR FAILURE OF THE COVERED SYSTEM(S) TO PERFORM. The limitations of liability set forth in this Agreement shall inure to the benefit of all parents, subsidiaries and affiliates of company, whether direct or indirect, company's employees, agents, officers and directors.

6. Reciprocal Waiver of Claims (SAFETY Act). Certain of SimplexGrinnell's systems and services have received Certification and/or Designation as Qualified Anti-Terrorism Technologies ("QATT") under the Support Anti-terrorism by Fostering Effective Technologies Act of 2002, 6 U.S.C. §§ 441-444 (the "SAFETY Act"). As required under 6 C.F.R. 25.5 (e), to the maximum extent permitted by law, SimplexGrinnell and Customer hereby agree to waive their right to make any claims against the other for any losses, including business interruption losses, sustained by either party or their respective employees, resulting from an activity resulting from an "Act of Terrorism" as defined in 6 C.F.R. 25.2, when QATT have been deployed in defense against, response to, or recovery from such Act of Terrorism.

7. General Provisions. Customer has selected the service level desired after considering and balancing various levels of protection afforded, and their related costs. Customer acknowledges and agrees that by this Agreement, Company, unless specifically stated, does not undertake any obligation to maintain or render Customer's system or equipment as Year 2000 compliant, which shall mean, capable of correctly handling the processing of calendar dates before or after December 31, 1999. All work to be performed by Company will be performed during normal working hours of normal working days (8:00 a.m. - 5:00 p.m., Monday through Friday, excluding Company holidays), as defined by Company, unless additional times are specifically described in this Agreement.

Company will perform the services described in the Scope of Work section ("Services") for one or more system(s) or

equipment as described in the Scope of Work section or the listed attachments ("Covered System(s)").

The Customer shall promptly notify Company of any malfunction in the Covered System(s) which comes to Customer's attention. This Agreement assumes the Covered System(s) are in operational and maintainable condition as of the Agreement date. If, upon initial inspection, Company determines that repairs are recommended, repair charges will be submitted for approval prior to any work. Should such repair work be declined Company shall be relieved from any and all liability arising therefrom. UNLESS OTHERWISE SPECIFIED IN THIS AGREEMENT, ANY INSPECTION (AND, IF SPECIFIED, TESTING) PROVIDED UNDER THIS AGREEMENT DOES NOT INCLUDE ANY MAINTENANCE, REPAIRS, ALTERATIONS, REPLACEMENT OF PARTS, OR ANY FIELD ADJUSTMENTS WHATSOEVER, NOR DOES IT INCLUDE THE CORRECTION OF ANY DEFICIENCIES IDENTIFIED BY COMPANY TO CUSTOMER. COMPANY SHALL NOT BE RESPONSIBLE FOR EQUIPMENT FAILURE OCCURRING WHILE COMPANY IS IN THE PROCESS OF FOLLOWING ITS INSPECTION TECHNIQUES, WHERE THE FAILURE ALSO RESULTS FROM THE AGE OR OBSOLESCENCE OF THE ITEM OR DUE TO NORMAL WEAR AND TEAR. THIS AGREEMENT DOES NOT COVER SYSTEMS, EQUIPMENT, COMPONENTS OR PARTS THAT ARE BELOW GRADE, BEHIND WALLS OR OTHER OBSTRUCTIONS OR EXTERIOR TO THE BUILDING, ELECTRICAL WIRING, AND PIPING.

8. Customer Responsibilities. Customer shall furnish all necessary facilities for performance of its work by Company, adequate space for storage and handling of materials, light, water, heat, heat tracing, electrical service, local telephone, watchman, and crane and elevator service and necessary permits. Where wet pipe system is installed, Customer shall supply and maintain sufficient heat to prevent freezing of the system. Customer shall promptly notify Company of any malfunction in the Covered System(s) which comes to Customer's attention. This Agreement assumes any existing system(s) are in operational and maintainable condition as of the Agreement date. If, upon initial inspection, Company determines that repairs are recommended, repair charges will be submitted for approval prior to any work. Should such repair work be declined Company shall be relieved from any and all liability arising therefrom.

Customer shall further:

- supply required schematics and drawings unless they are to be supplied by Company in accordance with this Agreement;
- Provide a safe work environment, in the event of an emergency or Covered System(s) failure, take reasonable safety precautions to protect against personal injury, death, and property damage, continue such measures until the Covered System(s) are operational, and notify Company as soon as possible under the circumstances.
- Provide Company access to any system(s) to be serviced,
- Comply with all laws, codes, and regulations pertaining to the equipment and/or services provided under this agreement.

9. Excavation. In the event the Work includes excavation, Customer shall pay, as an extra to the contract price, the cost of any additional work performed by Company due to water, quicksand, rock or other unforeseen condition or obstruction encountered or shoring required.

10. Structure and Site Conditions. While employees of Company will exercise reasonable care in this respect, Company shall be under not responsibility for loss or damage due to the character, condition or use of foundations, walls, or other structures not erected by it or resulting from the excavation in proximity thereto, or for damage resulting from concealed piping, wiring, fixtures, or other equipment or condition of water pressure. All shoring or protection of

SALE AND INSTALLATION AGREEMENT (continued)

foundation, walls or other structures subject to being disturbed by any excavation required hereunder shall be the responsibility of Customer. Customer shall have all things in readiness for installation including, without limitation, structure to support the sprinkler system and related equipment (including tanks), other materials, floor or suitable working base, connections and facilities for erection at the time the materials are delivered. In the event Customer fails to have all things in readiness at the time scheduled for receipt of materials, Customer shall reimburse Company for all expenses caused by such failure. Failure to make areas available to Company during performance in accordance with schedules that are the basis for Company's proposal shall be considered a failure to have things in readiness in accordance with the terms of this Agreement.

11. Confined Space. If access to confined space by Company is required for the performance of Services, Services shall be scheduled and performed in accordance with Company's then-current hourly rate.

12. Hazardous Materials. Customer represents that, except to the extent that Company has been given written notice of the following hazards prior to the execution of this Agreement, to the best of Customer's knowledge there is no:

- "permit confined space," as defined by OSHA,
- risk of infectious disease,
- need for air monitoring, respiratory protection, or other medical risk,
- asbestos, asbestos-containing material, formaldehyde or other potentially toxic or otherwise hazardous material contained in or on the surface of the floors, walls, ceilings, insulation or other structural components of the area of any building where work is required to be performed under this Agreement.

All of the above are hereinafter referred to as "Hazardous Conditions".

Company shall have the right to rely on the representations listed above. If hazardous conditions are encountered by Company during the course of Company's work, the discovery of such materials shall constitute an event beyond Company's control and Company shall have no obligation to further perform in the area where the hazardous conditions exist until the area has been made safe by Customer as certified in writing by an independent testing agency, and Customer shall pay disruption expenses and re-mobilization expenses as determined by Company.

This Agreement does not provide for the cost of capture, containment or disposal of any hazardous waste materials, or hazardous materials, encountered in any of the Covered System(s) and/or during performance of the Services. Said materials shall at all times remain the responsibility and property of Customer. Company shall not be responsible for the testing, removal or disposal of such hazardous materials.

13. OSHA Compliance. Customer shall indemnify and hold Company harmless from and against any and all claims, demands and/or damages arising in whole or in part from the enforcement of the Occupational Safety Health Act (and any amendments or changes thereto) unless said claims, demands or damages are a direct result of causes within the exclusive control of Company.

14. Interferences. Customer shall be responsible to coordinate the work of other trades (including but not limited to ducting, piping, and electrical) and for and additional costs incurred by Company arising out of interferences to Company's work caused by other trades.

15. Modifications and Substitutions. Company reserves the right to modify materials, including substituting materials of later design, providing that such modifications or substitutions will not materially affect the performance of the Covered System(s).

16. Changes, Alterations, Additions. Changes, alterations and additions to the Scope of Work, plans, specifications or construction schedule shall be invalid unless approved in writing by Company. Should changes be approved by Company, that increase or decrease the cost of the work to Company, the parties shall agree, in writing, to the change in price prior to

performance of any work. However, if no agreement is reached prior to the time for performance of said work, and Company elects to perform said work so as to avoid delays, then Company's estimate as to the value of said work shall be deemed accepted by Customer. In addition, Customer shall pay for all extra work requested by Customer or made necessary because of incompleteness or inaccuracy of plans or other information submitted by Customer with respect to the location, type of occupancy, or other details of the work to be performed. In the event the layout of Customer's facilities has been altered, or is altered by Customer prior to the completion of the Work, Customer shall advise Company, and prices, delivery and completion dates shall be changed by Company as may be required.

17. Commodities Availability. Company shall not be responsible for failure to provide services, deliver products, or otherwise perform work required by this Agreement due to lack of available steel products or products made from plastics or other commodities. 1) In the event Company is unable, after reasonable commercial efforts, to acquire and provide steel products, or products made from plastics or other commodities, if required to perform work required by this Agreement, Customer hereby agrees that Company may terminate the Agreement, or the relevant portion of the Agreement, at no additional cost and without penalty. Customer agrees to pay Company in full for all work performed up to the time of any such termination. 2) If Company is able to obtain the steel products or products made from plastics or other commodities, but the price of any of the products has risen by more than 10% from the date of the bid, proposal or date Company executed this Agreement, whichever occurred first, then Company may pass through that increase through a reasonable price increase to reflect increased cost of materials.

18. Project Claims. Any claim of failure to perform against Company arising hereunder shall be deemed waived unless received by Company, in writing specifically setting forth the basis for such claim, within ten (10) days after such claims arises.

19. Backcharges. No charges shall be levied against the Seller unless seventy-two (72) hours prior written notice is given to Company to correct any alleged deficiencies which are alleged to necessitate such charges and unless such alleged deficiencies are solely and directly caused by Company.

20. System Equipment. The purchase of equipment or peripheral devices (including but not limited to smoke detectors, passive infrared detectors, card readers, sprinkler system components, extinguishers and hoses) from Company shall be subject to the terms and conditions of this Agreement. If, in Company's sole judgment, any peripheral device or other system equipment, which is attached to the Covered System(s), whether provided by Company or a third party, interferes with the proper operation of the Covered System(s), Customer shall remove or replace such device or equipment promptly upon notice from Company. Failure of Customer to remove or replace the device shall constitute a material breach of this Agreement. If Customer adds any third party device or equipment to the Covered System(s), Company shall not be responsible for any damage to or failure of the Covered System(s) caused in whole or in part by such device or equipment.

21. Reports. Where inspection and/or test services are selected, such inspection and/or test shall be completed on Company's then current Report form, which shall be given to Customer, and, where applicable, Company may submit a copy thereof to the local authority having jurisdiction. The Report and recommendations by Company are only advisory in nature and are intended to assist Customer in reducing the risk of loss to property by indicating obvious defects or impairments noted to the system and equipment inspected and/or tested. They are not intended to imply that no other defects or hazards exist or that all aspects of the Covered System(s), equipment, and components are under control at the time of inspection. Final responsibility for the condition and operation of the Covered System(s) and equipment and components lies with Customer.

22. Limited Warranty. Subject to the limitations below, Company warrants any equipment (as distinguished from the Software) installed pursuant to this Agreement to be free from defects in material and workmanship under normal use for a period of one (1) year from the date of first beneficial use or all or any part of the Covered System(s) or 18 months after Equipment shipments, whichever is earlier, provided however, that Company's sole liability, and Customer's sole remedy, under this limited warranty shall be limited to the repair or replacement of the Equipment or any part thereof, which Company determines is defective, at Company's sole option and subject to the availability of service personnel and parts, as determined by Company. Company warrants expendable items, including, but not limited to, video and print heads, television camera tubes, video monitor displays tubes, batteries and certain other products in accordance with the applicable manufacturer's warranty. Company does not warrant devices designed to fail in protecting the System, such as, but not limited to, fuses and circuit breakers.

Company warrants that any Company software described in this Agreement, as well as software contained in or sold as part of any Equipment described in this Agreement, will reasonably conform to its published specifications in effect at the time of delivery and for ninety (90) days after delivery. However, Customer agrees and acknowledges that the software may have inherent defects because of its complexity. Company's sole obligation with respect to software, and Customer's sole remedy, shall be to make available published modifications, designed to correct inherent defects, which become available during the warranty period.

If Repair Services are included in this Agreement, Company warrants that its workmanship and material for repairs made pursuant to this Agreement will be free from defects for a period of ninety (90) days from the date of furnishing.

EXCEPT AS EXPRESSLY SET FORTH HEREIN, COMPANY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE SERVICES PERFORMED OR THE PRODUCTS, SYSTEMS OR EQUIPMENT, IF ANY, SUPPORTED HEREUNDER. COMPANY MAKES NO WARRANTY OR REPRESENTATION, AND UNDERTAKES NO OBLIGATION TO ENSURE BY THE SERVICES PERFORMED UNDER THIS AGREEMENT, THAT COMPANY'S PRODUCTS OR THE SYSTEMS OR EQUIPMENT OF THE CUSTOMER WILL CORRECTLY HANDLE THE PROCESSING OF CALENDAR DATES BEFORE OR AFTER DECEMBER 31, 1999.

Warranty service will be performed during Company's normal working hours. If Customer requests warranty service at other than normal working hours, service will be performed at Company's then current rates for after hours services. All repairs or adjustments that are or may become necessary shall be performed by and authorized representative of Company. Any repairs, adjustments or interconnections performed by Customer or any third party shall void all warranties.

23. Indemnity. Customer agrees to indemnify, hold harmless and defend Company against any and all losses, damages, costs, including expert fees and costs, and expenses including reasonable defense costs, arising from any and all third party claims for personal injury, death, property damage or economic loss, including specifically any damages resulting from the exposure of workers to Hazardous Conditions whether or not Customer pre-notifies Company of the existence of said hazardous conditions, arising in any way from any act or omission of Customer or Company relating in any way to this Agreement, including but not limited to the Services under this Agreement, whether such claims are based upon contract, warranty, tort (including but not limited to active or passive negligence), strict liability or otherwise. Company reserves the right to select counsel to represent it in any such action.

24. Insurance. Customer shall name Company, its officers, employees, agents, subcontractors, suppliers, and



Project: Franklin PD South Door
 Customer Reference:
 SimplexGrinnell Reference: 336418730
 Date: 07/30/2013
 Page 4 of 4

SALE AND INSTALLATION AGREEMENT
 (continued)

representatives as additional insureds on Customer's general liability and auto liability policies.

25. Termination. Any termination under the terms of this Agreement shall be made in writing. In the event Customer terminates this Agreement prior to completion for any reason not arising solely from Company's performance or failure to perform, Customer understands and agrees that Company will incur costs of administration and preparation that are difficult to estimate or determine. Accordingly, should Customer terminate this Agreement as described above, Customer agrees to pay all charges incurred for products and equipment installed and services performed, and in addition pay an amount equal to twenty (20%) percent of the price of products and equipment not yet delivered and Services not yet performed, return all products and equipment delivered and pay a restocking fee of twenty (20%) percent of the price of products or equipment returned.

Company may terminate this Agreement immediately at its sole discretion upon the occurrence of any Event of Default as hereinafter defined. Company may also terminate this Agreement at its sole discretion upon notice to Customer if Company's performance of its obligations under this Agreement becomes impracticable due to obsolescence of equipment at Customer's premises or unavailability of parts.

26. No Option to Solicit. Customer shall not, directly or indirectly, on its own behalf or on behalf of any other person, business, corporation or entity, solicit or employ any Company employee, or induce any Company employee to leave his or her employment with Company, for a period of two years after the termination of this Agreement.

27. Default. An Event of Default shall be 1) failure of the Customer to pay any amount within ten (10) days after the amount is due and payable, 2) abuse of the System or the Equipment, 3) dissolution, termination, discontinuance, insolvency or business failure of Customer. Upon the occurrence of an Event of Default, Company may pursue one or more of the following remedies, 1) discontinue furnishing Services, 2) by written notice to Customer declare the balance of unpaid amounts due and to become due under the this Agreement to be immediately due and payable, provided that all past due amounts shall bear interest at the rate of 1 1/2% per month (18% per year) or the highest amount permitted by law, 3) receive immediate possession of any equipment for which Customer has not paid. 4) proceed at law or equity to enforce performance by Customer or recover damages for breach of this Agreement, and 5) recover all costs and expenses, including without limitation reasonable attorneys' fees, in connection with enforcing or attempting to enforce this Agreement.

(Rev. 10/08)

28. Exclusions. Unless expressly included in the Scope of Work, this Agreement expressly excludes, without limitation, testing inspection and repair of duct detectors, beam detectors, and UV/IR equipment; provision of fire watches; clearing of ice blockage; draining of improperly pitched piping; replacement of batteries; recharging of chemical suppression systems; reloading of, upgrading, and maintaining computer software; system upgrades and the replacement of obsolete systems, equipment, components or parts; making repairs or replacements necessitated by reason of negligence or misuse of components or equipment or changes to Customer's premises, vandalism, corrosion (including but not limited to micro-bacterially induced corrosion ("MIC")), power failure, current fluctuation, failure due to non-Company installation, lightning, electrical storm, or other severe weather, water, accident, fire, acts of God or any other cause external to the Covered System(s). Repair Services provided pursuant to this Agreement do not cover and specifically excludes system upgrades and the replacement of obsolete systems, equipment, components or parts. All such services may be provided by Company at Company's sole discretion at an additional charge. If Emergency Services are expressly included in the scope of work section, the Agreement price does not include travel expenses.

29. Force Majeure; Delays. Company shall not be liable for any damage or penalty for delays or failure to perform work due to acts of God, acts or omissions of Customer, acts of civil or military authorities, Government regulations or priorities, fires, epidemics, quarantine, restrictions, war, riots, civil disobedience or unrest, strikes, delays in transportation, vehicle shortages, differences with workmen, inability to obtain necessary labor, material or manufacturing facilities, defaults of Company's subcontractors, failure or delay in furnishing complete information by Customer with respect to location or other details of work to be performed, impossibility or impracticability of performance or any other cause or causes beyond Company's control, whether or not similar to the foregoing. In the event of any delay caused as aforesaid, completion shall be extended for a period equal to any such delay, and this contract shall not be void or voidable as a result of the delay. In the event work is temporarily discontinued by any of the foregoing, all unpaid installments of the contract price, less an amount equal to the value of material and labor not furnished, shall be due and payable upon receipt of invoice by Customer.

30. One-Year Limitation on Actions; Choice of Law. It is agreed that no suit, or cause of action or other proceeding shall be brought against either party more than one (1) year after the accrual of the cause of action or one (1) year after the claim

arises, whichever is shorter, whether known or unknown when the claim arises or whether based on tort, contract, or any other legal theory. The laws of Massachusetts shall govern the validity, enforceability, and interpretation of this Agreement.

31. Assignment. Customer may not assign this Agreement without Company's prior written consent. Company may assign this Agreement to an affiliate without obtaining Customer's consent.

32. Entire Agreement. The parties intend this Agreement, together with any attachments or Riders (collectively the "Agreement") to be the final, complete and exclusive expression of their Agreement and the terms and conditions thereof. This Agreement supersedes all prior representations, understandings or agreements between the parties, written or oral, and shall constitute the sole terms and conditions of sale for all equipment and services. No waiver, change, or modification of any terms or conditions of this Agreement shall be binding on Company unless made in writing and signed by an Authorized Representative of Company.

33. Severability. If any provision of this Agreement is held by any court or other competent authority to be void or unenforceable in whole or in part, this Agreement will continue to be valid as to the other provisions and the remainder of the affected provision.

34. Legal Fees. Company shall be entitled to recover from the customer all reasonable legal fees incurred in connection with Company enforcing the terms and conditions of this Agreement.

35. License Information (Security System Customers): AL Alabama Electronic Security Board of Licensure 7956 Vaughn Road, Pmb 392, Montgomery, Alabama 36116 (334) 264-9388: AR Regulated by: Arkansas Board of Private Investigators And Private Security Agencies, #1 State Police Plaza Drive, Little Rock 72209 (501)618-8600: CA Alarm company operators are licensed and regulated by the Bureau of Security and Investigative Services, Department of Consumer Affairs, Sacramento, Ca, 95814. Upon completion of the installation of the alarm system, the alarm company shall thoroughly instruct the purchaser in the proper use of the alarm system. Failure by the licensee, without legal excuse, to substantially commence work within 20 days from the approximate date specified in the agreement when the work will begin is a violation of the Alarm Company Act: NY Licensed by N.Y.S. Department of the State: TX Texas Commission on Private Security, 5805 N. Lamar Blvd., Austin, 78752-4422, 512-424-7710. License numbers available at www.simplexgrinnell.com or contact your local SimplexGrinnell office.

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IMPORTANT NOTICE TO CUSTOMER

In accepting this Proposal, Customer agrees to the terms and conditions contained herein including those on the following pages of this Agreement and any attachments or riders attached hereto that contain additional terms and conditions. It is understood that these terms and conditions shall prevail over any variation in terms and conditions on any purchase order or other document that the Customer may issue. Any changes in the system requested by the Customer after the execution of this Agreement shall be paid for by the Customer and such changes shall be authorized in writing. **ATTENTION IS DIRECTED TO THE LIMITATION OF LIABILITY, WARRANTY, INDEMNITY AND OTHER CONDITIONS ON THE FOLLOWING PAGES. This Proposal shall be void if not accepted in writing within thirty (30) days from the date of the Proposal.**

Offered By: SimplexGrinnell LP License#: N58W14782 Shawn Cir MENOMONEE FALLS, WI 53051 Telephone: (262) 781 1710 Fax: 262-781-3573 Representative: <u>Douglas Andrewski</u> Email: <u>DAndrewski@simplexgrinnell.com</u>	Accepted By: (Customer) Company: _____ Address: _____ Signature: _____ Title: _____ P.O.#: _____ Date: _____
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Fire, Security, Communications, Sales & Service
 Offices & Representatives in Principal Cities throughout North America

Sandi Wesolowski

From: Jesse Wesolowski [jweslaw@aol.com]
Sent: Thursday, December 12, 2013 6:34 PM
To: Sandi Wesolowski; Jodi Vandenboom; Shirley Roberts
Subject: Fwd: Franklin PD South Door quote

Begin forwarded message:

From: Jesse Wesolowski <jweslaw@aol.com>
Date: December 10, 2013 2:47:55 PM CST
To: "Andrewski, Douglas" <DAndrewski@simplexgrinnell.com>
Cc: Rick Oliva <ROliva@franklinwi.gov>, Joseph Noel <JNoel@franklinwi.gov>, Paul Rotzenberg <PRotzenberg@franklinwi.gov>
Subject: Re: Franklin PD South Door quote

Haven't seen the final form contract. FYI, the Franklin Common Council is the approving authority and as of now, its last regular meeting for this year is scheduled for next Tuesday, December 17, 2013; meeting agenda packets go out on Friday. If we can get this done, I need the final form of the contract to include it in the Council agenda packet. Tomorrow or Thursday would be good. Thanks.

On Nov 14, 2013, at 1:11 PM, Andrewski, Douglas wrote:

Jesse:

Thanks for the expedient response. The project should be good to go. I will hold last year's prices to streamline the process and allow procurement to do their job.

Thanks again:

Doug Andrewski

From: Jesse Wesolowski [mailto:jweslaw@aol.com]
Sent: Thursday, November 14, 2013 11:02 AM
To: Andrewski, Douglas
Subject: Re: Franklin PD South Door quote

No problem; Simplex responsible for what it does and City responsible for whatever it does. Thanks.

On Nov 13, 2013, at 2:29 PM, Andrewski, Douglas wrote:

Jesse:

With an amendment to modify the Indemnity clause such that it limits Simplex Grinnell's liability to the extent of our negligence, we can move forward.

Feel free to contact me for questions or processing.

Regards;

Doug

Douglas Andrewski / Electronic Systems Sales Representative
SimplexGrinnell

Main Office: ☎262-781-1710 x110 / **Direct:** 262 825-1026 **Office**

Cell Phone: ☎262-758-2828 / **Fax:** ☎262 781-3573

N58 W 14782 Shawn Circle Menomonee Falls, WI 53051

* **Email:** ✉: DAndrewski@simplexgrinnell.com

🌐: www.simplexgrinnell.com

<image001.jpg>

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From: Norton, Max
Sent: Wednesday, November 13, 2013 2:03 PM
To: Andrewski, Douglas
Subject: RE: Franklin PD South Door quote

Doug,

If the city will agree to modify their Indemnity clause such that it limits our liability to the extent of our negligence I will approve the terms (see below).

Max Norton | District General Manager
SimplexGrinnell, A Tyco International Company
N58 W14782 Shawn Circle, Menomonee Falls, WI 53051 United States
Tel: +1-262-825-1010 | Mobile: +1-262-408-3000 | Fax: +1-262-781-3573
mnorton@simplexgrinnell.com | www.simplexgrinnell.com

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From: Andrewski, Douglas [<mailto:DAndrewski@simplexgrinnell.com>]
Sent: Wednesday, November 13, 2013 12:20 PM
To: Norton, Max
Subject: FW: Franklin PD South Door quote

Max:

The enclosed comments are from Franklin Police Department's Attorney, adding comments to our terms and conditions for acceptance and issuance of a PO.

Please read and forward to the appropriate Legal contact for edit and/or acceptance.

Thanks:

Doug

**Douglas Andrewski / Electronic Systems Sales Representative
SimplexGrinnell**

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N58 W 14782 Shawn Circle Menomonee Falls, WI 53051

* **Email:** ✉: Dandrewski@simplexgrinnell.com

☎: www.simplexgrinnell.com

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From: Jesse Wesolowski [<mailto:jweslaw@aol.com>]

Sent: Tuesday, November 12, 2013 1:37 PM

To: Rick Oliva

Cc: Andrewski, Douglas; Joseph Noel

Subject: Franklin PD South Door quote

Per our earlier conversation, I am attaching the above quote. Upon review, I have the same comments as with the other Simplex proposed contract, with regard to its terms and conditions, though the attached are somewhat different. Just to move the matter along, I am copying the Simplex Sales Representative on this quote and asking for a response as I did on the security and paging system proposed agreement, as to whether the below changes might be made (the inconsistent sections of the proposed terms and conditions would then be deleted):

add at the foot of the terms and conditions, the following:

"Notwithstanding anything to the contrary set forth above, the following terms, provisions and conditions shall control under this Agreement, and in the event of any conflict with the foregoing terms and conditions, the following terms, provisions and conditions shall prevail.

Professionalism.

The same degree of care, skill and diligence shall be exercised in the performance of the Company's services as is possessed and exercised by a member of the same profession, currently practicing, under similar circumstances, and all persons providing such services under this Agreement shall have such active certifications, licenses and permissions as may be required by law.

Pursuant to Law.

Notwithstanding anything to the contrary anywhere else set forth within this Agreement, all services and any and all materials and/or products provided by Company under this Agreement shall be in compliance with all applicable governmental laws, statutes, decisions, codes, rules, orders, and ordinances, be they Federal, State, County or Local.

Insurance.

Company shall, during the term of the Agreement, maintain insurance coverage with an authorized insurance carrier acceptable to the Customer in amounts at least equal to the minimum limits set forth below:

A. Limit of General/Commercial Liability	\$2,000,000
B. Automobile Liability; Bodily Injury/Property Damage	\$1,000,000
C. Excess Liability for General Commercial or Automobile Liability	\$2,000,000
D. Worker's Compensation and Employers' Liability	per statute
E. Professional Liability	\$1,000,000

Certificates of insurance evidencing the above shall be delivered to the Customer upon execution of this Agreement and shall provide that such coverages may not be cancelled or amended without 30 days prior written notice to the Customer and naming Customer as an additional insured for General Liability.

Indemnification.

To the fullest extent permitted by law, Company shall defend, indemnify and hold harmless Customer, Customer's officers, employees, agents, boards, commissions and agencies from and against costs, losses, and damages (including but not limited to reasonable fees and charges of Company's, architects, attorneys, and other professionals, and reasonable court and/or alternative dispute resolution costs) caused by the negligent or intentional and wrongful acts of Company, its officers, directors, employees, agents and consultants with respect to this Agreement, *but only to the extent caused by the negligent acts or omissions of the Company.*

Conflict of Interest.

Company warrants that neither it nor any of its affiliates has any financial or other personal interest that would conflict in any manner with the performance of the services under this Agreement and that neither it nor any of its affiliates will acquire directly or indirectly any such interest. Company warrants that it will immediately notify the Customer if any actual or potential conflict of interest arises or becomes known to the Company. Upon receipt of such notification, a Customer review and written approval is required for the Company to continue to perform work under this Agreement.

Governing Law and Disputes.

This Agreement shall be construed pursuant to the laws of the State of Wisconsin. The venue for any disputes arising under this Agreement shall be the Circuit Court for Milwaukee County. The prevailing party shall be entitled to its costs, including its reasonable attorneys' fees, incurred in any litigation.

Records.

Company shall maintain all of its records pertaining to this Agreement for not less than three years following the completion of this Agreement and shall provide for the inspection and copying of such records by the Customer upon request.

Assignment.

Company shall not assign any of its rights, title, interest or obligations under this Agreement without the written permission of the Customer, which permission shall not be unreasonably withheld.

Termination.

This Agreement may be terminated upon written notice at Customer's convenience or by either party in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement. Company shall terminate performance of services on a schedule acceptable to Customer, and Customer shall pay Company for all services performed prior to such termination."

Thanks.

Jesse A. Wesolowski

Jesse A. Wesolowski
Wesolowski, Reidenbach & Sajdak, S.C.
11402 West Church Street
Franklin, Wisconsin 53132
Phone: (414) 529-8900
Facsimile: (414) 529-2121
Email: JWesLaw@aol.com

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STATE OF WISCONSIN

CITY OF FRANKLIN

MILWAUKEE COUNTY

RESOLUTION NO. 2013-_____

A RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO EXECUTE AN
AGREEMENT FOR SOUTH DOOR ENTRY SECURITY EQUIPMENT FOR THE
FRANKLIN LAW ENFORCEMENT CENTER SERVICES WITH
SIMPLEXGRINNELL LP

WHEREAS, the Police Chief having recommended approval of an agreement proposed by SimplexGrinnell LP for necessary security equipment to be installed at the south door of the Franklin Law Enforcement Center; and

WHEREAS, the Common Council having considered such proposal and the resources currently available to obtain such needed maintenance improvement, and the benefit to the Community from the provision of same 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 south door entry security equipment for the Franklin Law Enforcement Center with SimplexGrinnell LP, in such form and content as presented to the Common Council at its meeting on December 17, 2013, subject to such terms changes as may be approved by the City Attorney, 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 _____, 2013.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2013.

APPROVED:

ATTEST:

Thomas M. Taylor, Mayor

Sandra L. Wesolowski, City Clerk

AYES _____ NOES _____ ABSENT _____

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