

<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;">05/05/15</p>
<p style="text-align: center;">REPORTS & RECOMMENDATIONS</p>	<p style="text-align: center;">FRANKLIN COMPLETE STREETS AND CONNECTIVITY COMMITTEE RECOMMENDED TRAIL-RELATED PROJECTS FOR CONSIDERATION OF POTENTIAL IMPACT FEE EXPENDITURES (CITY OF FRANKLIN COMPLETE STREETS AND CONNECTIVITY COMMITTEE)</p>	<p style="text-align: center;">ITEM NUMBER</p> <p style="text-align: center;"><i>G.10.</i></p>

At their April 7, 2015 meeting, the Common Council directed the Franklin Complete Streets and Connectivity Committee to make recommendations of trail-related projects for consideration of potential impact fee expenditures.

At their April 23, 2015 meeting, the Franklin Complete Streets and Connectivity Committee approved a motion recommending the four projects outlined below for Common Council and Parks Commission consideration. Maps are also attached that illustrate the potential and approximate location of these projects.

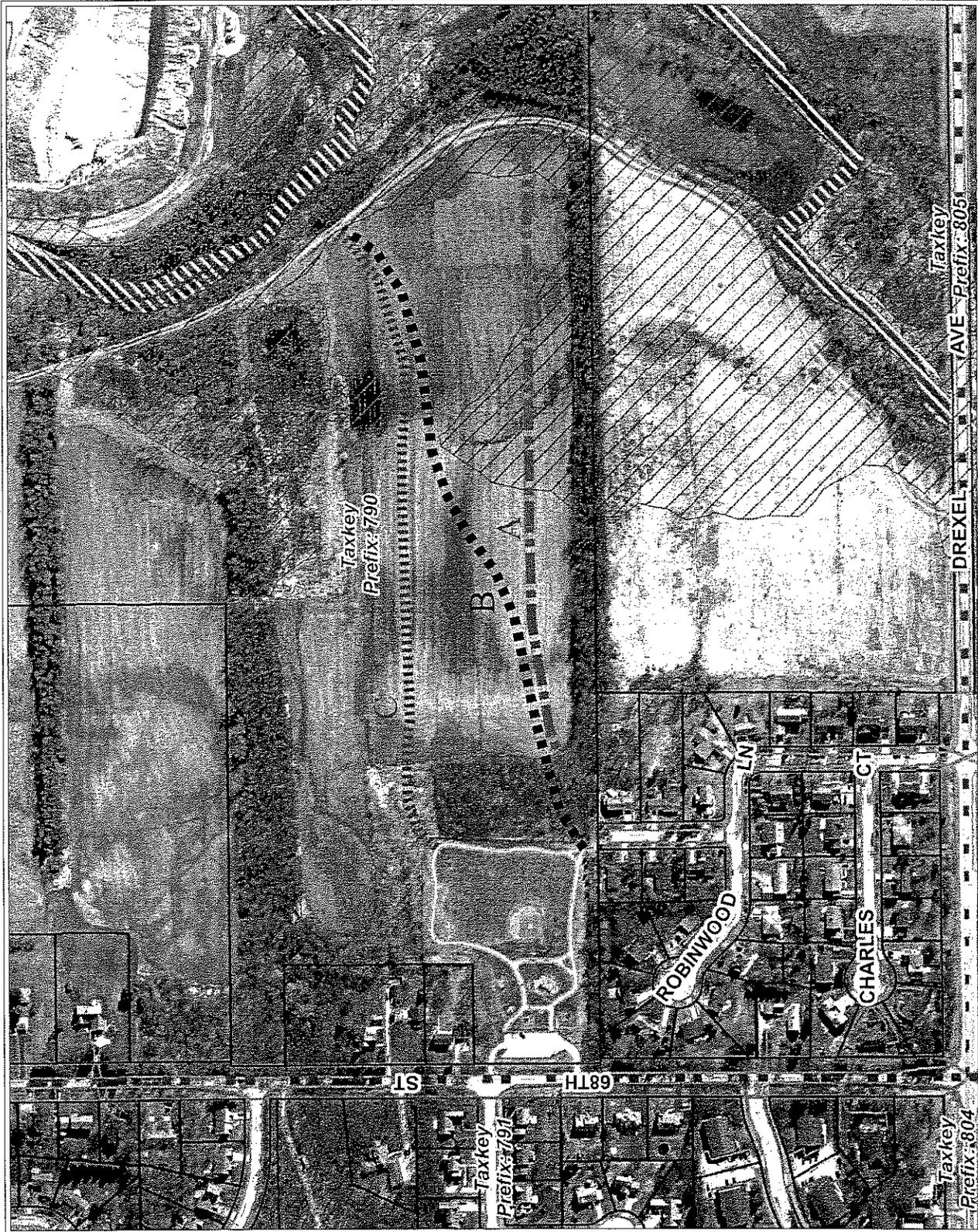
1. Christine Rathke Memorial Park trail extension east to the Milwaukee County Oak Leaf Trail (approximately 1,700 feet)
2. Franklin Hike-Bike Path (approximately 8,000 feet)
3. W. Puetz Road and S. 35th Street/Franklin Woods (approximately 3,200 feet)
4. Southbrook Church Trail - West St. Martins Road to West Allwood Drive (approximately 1,500 feet)

Upon recommendation of the Common Council, Department of City Development and Engineering staff will continue to pursue design and cost estimates for any selected trail project to bring back at a future date for further Common Council review and consideration.

COUNCIL ACTION REQUESTED

A motion to take action on the above item as the Common Council deems appropriate.

1. Christ Rathke Memorial Park Trail Extension



Possible Trail Locations

Legend

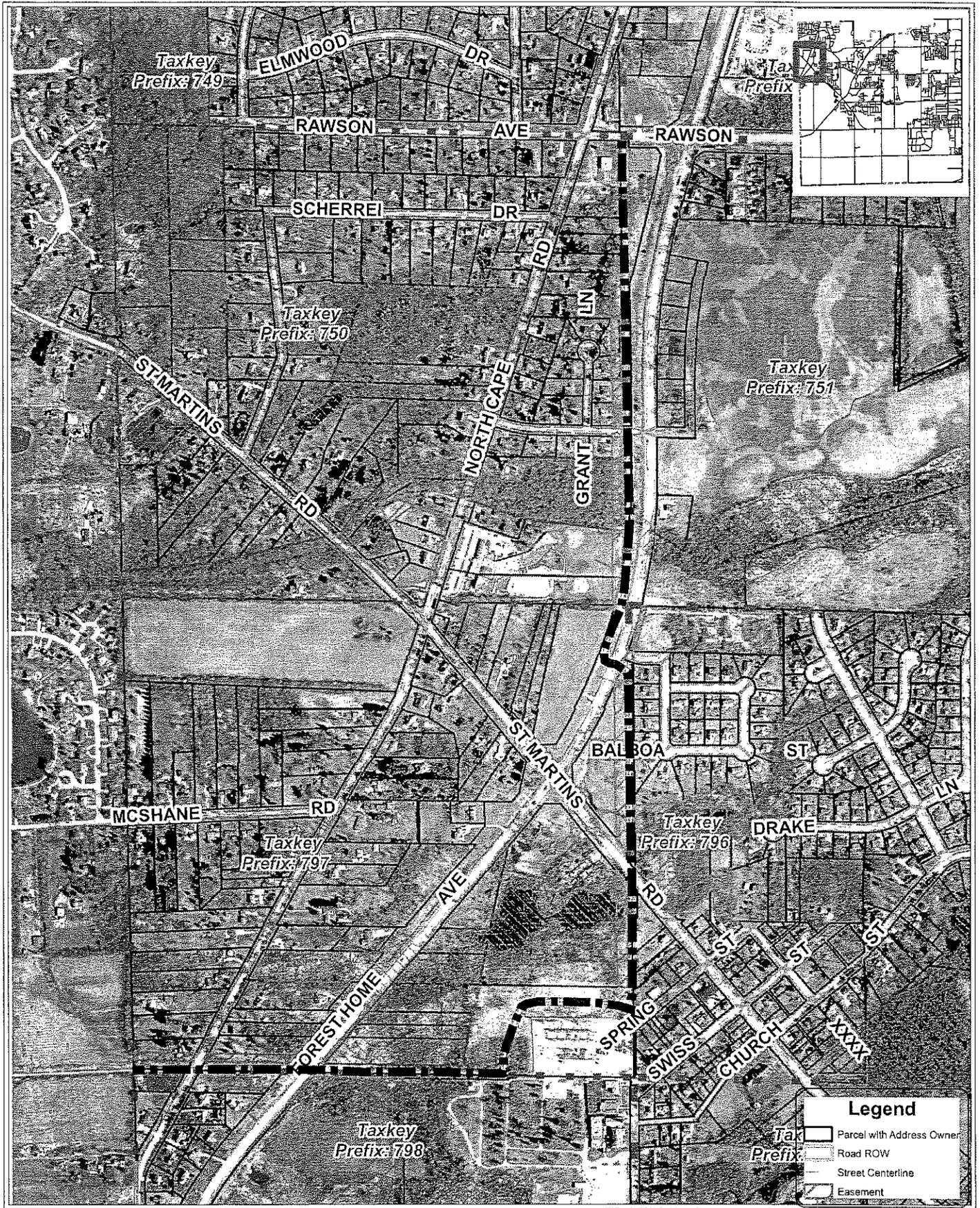
- Parcel with Address Owner
- Road ROW
- Street Centerline
- Road Edge
- Easement



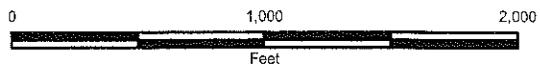
This map shows the approximate relative location of property boundaries but was not prepared by a professional land surveyor. This map is provided for informational purposes only and may not be sufficient or appropriate for legal, engineering, or surveying purposes.

City of Franklin
 GIS Department
 9229 W. Loomis Rd.
 Franklin, WI 53132
 www.franklinwi.gov

2. Franklin Hike-Bike Trail ■■■■■

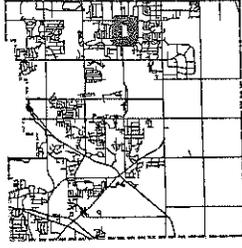


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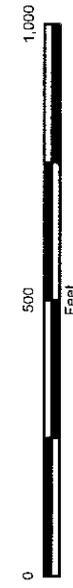
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3. W. Pu. Road and S. 35th Street/Franklin Woods



Legend

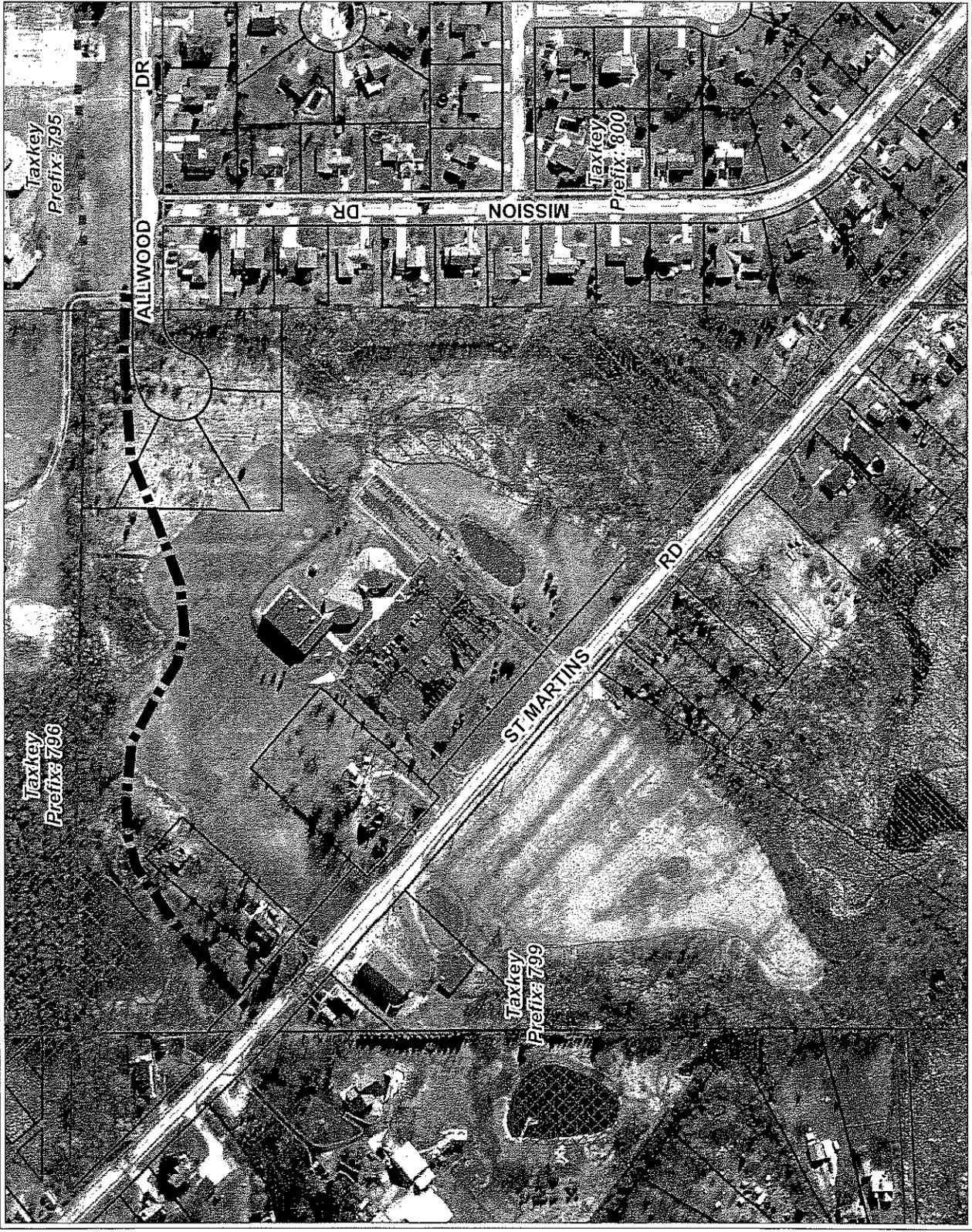
- Parcel with Address Owner
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4. South Fork Church Property Trail - W. St. Martins Road to W. Allwood Ave



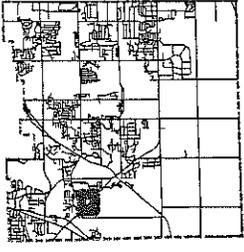
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Legend

- Parcel with Address Owner
- Road ROW
- Street Centerline
- Road Edge
- Easement



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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;">05/05/15</p>
<p style="text-align: center;">REPORTS & RECOMMENDATIONS</p>	<p style="text-align: center;">REQUEST TO ALLOW THE FRANKLIN COMPLETE STREETS AND CONNECTIVITY COMMITTEE AND CITY STAFF TO UTILIZE THE GUIDE TO COMPLETE STREETS AND CONNECTIVITY NETWORK MAP AS A TOOL TO FURTHER PROMOTE COMPLETE STREETS PRINCIPLES AND FOR THE REVIEW OF PUBLIC AND PRIVATE DEVELOPMENT PROJECTS, WITH PLACEMENT ON THE CITY'S WEBSITE (CITY OF FRANKLIN COMPLETE STREETS AND CONNECTIVITY COMMITTEE)</p>	<p style="text-align: center;">ITEM NUMBER</p> <p style="text-align: center;"><i>G.11.</i></p>

At their December 5, 2013 meeting, the Franklin Complete Streets and Connectivity Committee approved the following motion: Motion by Member Haley to forward the Guide to Complete Streets to the Board of Public Works and Parks Commission for review and comment, to the Plan Commission for review and recommendation to the Common Council and to the Common Council for adoption, with corrections as discussed by the Complete Streets and Connectivity Committee. Seconded by Member Kowalski. All voted 'aye', motion carried.

Following the above motion, the Guide to Complete Streets was forwarded to several committees; however, moving the document was delayed due to quorum issues and changes to the chairmanship and membership of the Complete Streets and Connectivity Committee. The Committee has discussed the Guide to Complete Streets at recent meetings and is in agreement to move forward.

The attached Guide to Complete Streets and Connectivity Network Map is proposed to be used as a promotional and educational tool for developers, businesses and residents, and will further bolster Resolution No. 2013-6873, a resolution setting forth the City of Franklin's support of a Complete Streets policy. Moreover, City Staff will consider the Guide and Connectivity Network Map in its review of projects to determine possible needs for Complete Streets facilities and connections to adjacent amenities and land uses.

As part of the Guide to Complete Streets, the Committee is also requesting approval to utilize the Connectivity Network Map and placement of the map on the City's website. The Committee's intent is to have the map as a working document that will be modified, as necessary, to reflect current and future City plans and sidewalk and trail additions. Also, the Connectivity Network Map will be utilized to identify needs and deficiencies related to connecting residents to businesses and recreational

opportunities. Furthermore, the Committee is recommending that public input be solicited for further suggestions related to the Connectivity Network Map. Staff suggests providing an email address on the website for Franklin residents to send comments for review by the Complete Streets and Connectivity Committee.

The Guide to Complete Streets and Connectivity Network Map was reviewed by the Board of Public Works at their December 10, 2013 meeting and the Parks Commission at their January 13, 2014 meeting. The Board of Public Works did not recommend any changes. The Parks Commission recommended changes to the Connectivity Network Map to better reflect the City's Comprehensive Outdoor Recreation Plan. The Connectivity Network Map is currently under review by Engineering and Department of City Development staff to make these revisions and to ensure the map is consistent with City of Franklin plans.

At their January 9, 2014 meeting, the Plan Commission passed a motion to "recommend approval, to the Common Council, of the "Guide to Complete Streets" and "Connectivity Map," following review by the Forward Franklin Economic Development Commission and to integrate Common Council and Forward Franklin EDC comments."

The Economic Development Commission (formerly Forward Franklin EDC), reviewed the Guide to Complete Streets at their March 30, 2015 meeting and recommended that it be considered by the Common Council as an advisory document for pedestrian transportation and connectivity during the development process.

COUNCIL ACTION REQUESTED

A motion to allow the Franklin Complete Streets and Connectivity Committee and City Staff to utilize the Guide to Complete Streets and the Connectivity Network Map as a tool to further promote Complete Streets principles and for the review of public and private development projects, with placement on the City's website (City of Franklin Complete Streets and Connectivity Committee).

Or

A motion to take action on the above item as the Common Council deems appropriate.



City of Franklin Resources

- 2025 Comprehensive Master Plan
- Comprehensive Outdoor Recreation Plan
- Safe Routes to School Plan
- Complete Streets Policy Resolution

Complete Streets Resources

- National Complete Streets Coalition (Smart Growth America)
 - Complete Streets local policy workbook
- State of Wisconsin Department of Transportation
 - Facilities Development Manual, Chapter 11, Section 46
 - Chapter Trans 75
- National Policy & Legal Analysis Network
 - Model Local Ordinance on Complete Streets and
 - Model Local Resolutions on Complete Streets
 - Findings for Complete Streets Laws and Resolutions
- American Planning Association
- Complete Streets: Best Policy and Implementation Practices

City of Franklin Guide to Complete Streets

Introduction

This Complete Streets Guide incorporates the simple and basic concept that whenever possible and where appropriate, streets and roadways should be designed and operated to be safe and accessible for all transportation users including pedestrians, bicyclists, children, people with disabilities, the elderly, public transportation riders, freight providers, emergency responders, adjacent landowners, and motor vehicle drivers of all ages and abilities.

Purpose

Complete Streets can create transportation corridors that provide enhanced economic development, are safe, functional, aesthetically attractive and universally accessible for all users.

Principles

The following Transportation Principles stated in the City's 2025 Comprehensive Master Plan describe the overall guiding elements of the implementation of Complete Streets fundamentals in the City of Franklin.

1. create a safe and efficient transportation network that is integrated into the regional transportation system;
2. provide viable options for travel through multiple modes including driving, transit, walking, and bicycling; and
3. serve the needs of City residents with limited access to transportation, including the young, elderly, and disabled.

Goals and Objectives

1. Strive to enhance the safety, access, convenience and comfort of all users through the design, operation and maintenance of the transportation network so as to create a connection of facilities and services accommodating each mode of travel that is consistent with and supportive of the local community.
 - The City of Franklin will maintain a comprehensive inventory of its pedestrian and bicycling facility infrastructure and will carry out projects to eliminate gaps in the sidewalk and trail networks.
 - Complete Streets may be achieved through single projects or incrementally through a series of smaller improvements or maintenance activities over time.
2. Recognize that all streets are different and that the needs of various users will need to be balanced in a flexible manner, primarily through best management practices and context sensitive designs.
 - The City of Franklin will generally follow accepted or adopted design standards when implementing improvements intended to meet Complete Streets goals, but will consider innovative or non-traditional design options where a comparable level of safety for users is present.

Benefits of Complete Streets (from the National Complete Streets Coalition)

- | | |
|---|---|
| 1. Complete Streets make economic sense. | 5. Complete Streets help children. |
| 2. Complete Streets improve safety by reducing crashes through safety improvements. | 6. Complete Streets are good for air quality. |
| 3. Complete Streets encourage more walking and bicycling. | 7. Complete Streets make fiscal sense. |
| 4. Complete Streets can help ease transportation woes. | |

For additional details regarding these benefits go to: www.smartgrowthamerica.org

- The City of Franklin will consider implementation strategies that may include evaluating and revising manuals and practices, developing and adopting network plans, identifying goals and targets, and tracking measures such as safety and modal shifts to gauge success.

3. Transportation improvements should consider facilities and amenities that are recognized as contributing to Complete Streets.

- The design of new or reconstructed facilities will anticipate likely future demand for bicycling and walking and should not preclude the provision of future improvements. [For example, under most circumstances bridges (which last for 30 years or more) should be built with sufficient width for safe bicycle and pedestrian use in anticipation of a future need for such facilities].

4. Early consideration of all modes for all users is important to the success of Complete Streets.

- Those planning and designing street projects should give due consideration to pedestrians and bicyclists, from the very start of planning and design work. This applies to all roadway projects, including those involving new construction or reconstruction, or changes in the allocation of pavement space on an existing roadway (such as the reduction in the number of travel lanes or removal of on-street parking).
- The City of Franklin will work with governmental agencies to encourage incorporation of the Complete Streets goals into street and road projects under their jurisdiction.

5. Complete Streets asks that every road project and development process include consideration of the land use and transportation context of the project, identification of gaps or deficiencies in the network for various user groups that could be addressed by the project and an assessment of the tradeoffs to balance the needs of all users.

- Factors that should be given high priority include:
 - i. Whether the corridor provides a primary access to a significant destination such as community or regional park or recreational area, a school, a shopping/commercial area, or an employment center;
 - ii. Whether the corridor provides a primary access across a natural or manmade barrier such as a river or freeway;
 - iii. Whether the corridor is in an area where a relatively high number of users of non-motorized transportation are present or can be anticipated;
 - iv. Where a road corridor provides important continuity or connectivity links for an existing trail, path or complete street network; or
 - v. Whether nearby routes that provide a similar level of convenience and connectivity already exist.

Guidelines for potential exemptions:

Pedestrian and bicyclist transportation users shall be included in street construction, re-construction, re-paving, and re-habilitation projects, except under one or more of the following conditions:

- The project is for the resurfacing, repairs or ordinary maintenance of an existing street as developed in the annual Local Street Improvement Program;
- The project involves a roadway on which non-motorized use is prohibited by law. In this case, accommodation of pedestrian and bicyclists elsewhere will be considered;
- There is documentation that there is an absence of use by all except motorized users now and would be in the future even if the street were a complete street;
- Because freight is important to the basic economy of the City and has unique right-of-way and street design needs to support that role, freight shall be the major priority on streets classified as truck routes by the Common Council. Complete Street improvements that are consistent with freight mobility but also support other modes will be considered when feasible and appropriate on these streets.
- The City Engineer and City Planners determine there is insufficient space to safely accommodate new facilities.
- The City Engineer and City Planners determine there are relatively high safety risks.
- The Common Council exempts a project due to the excessive and disproportionate cost of establishing a bikeway, walkway or transit enhancement as part of a project.
- The City Engineer and City Planners jointly determine that the construction is not practically feasible or cost effective because of significant or adverse environmental impacts to streams, flood plains, remnants of native vegetation, wetlands, steep slopes or other critical areas, or due to impacts on neighboring land uses, including impact from right of way acquisition.

Complete Streets Checklist/Questionnaire

or consideration with road projects and developments. Please check each box whether the item is addressed, not addressed or not applicable. Please provide a brief description.

Existing Conditions - Consideration	Yes	No	N/A	Description
Are there accommodations for bicyclists, pedestrians (including ADA compliance) and transit users included on or crossing the current facility? Examples include (but not limited to): Sidewalks, public seating, bike racks, and transit shelters				
If there are no existing pedestrian or bicycle facilities, how far from the proposed project are the closest parallel bikeways and walkways?				
Has the existing bicycle and pedestrian suitability or level of service on the current transportation facility been identified?				
Have the bicycle and pedestrian conditions within the project area, including pedestrian and/or bicycle treatments, volumes, important connections and lighting been identified?				
Please describe any particular pedestrian or bicycle uses or needs along the project corridor which you have observed or of which you have been informed.				
Are there physical or perceived impediments to bicyclists or pedestrian use of the transportation facility?				
Is there a higher than normal incidence of bicyclist or pedestrian use of the transportation facility?				
Are there existing or proposed bicycle racks, shelters, or parking available at these lots or transit stations? Are there bike racks on buses that travel along the facility?				
Are there existing concerns within the study area, regarding motor vehicle safety, traffic volumes/congestion or access?				
Are there existing concerns within the study area, regarding truck/freight safety, volume, or access?				
Are there any existing access or mobility considerations, including ADA compliance?				
Are there any schools, hospitals, senior care facilities, educational buildings, community centers, residences or businesses of persons with disabilities within or proximate to the project area?				
Have you identified major sites, destinations, and trip generators within or proximate to the project area, including prominent landmarks, employment centers, recreation, commercial, cultural and civic institutions, and public spaces?				
Are there any comprehensive planning documents that address bicyclist, pedestrian or transit user conditions within or proximate to the project area? Examples include (but are not limited to): 2025 Comprehensive Master Plan, Comprehensive Outdoor Recreation Plan, Safe Routes to School.				

Plans, Policies and Process - Consideration	Yes	No	N/A	Description
Do any adopted plans call for the development of bicycle or pedestrian facilities on, crossing or adjacent to the proposed facility/project? If yes, list the applicable plan(s).				
Is the proposed project consistent with these plans?				
Are there any local, statewide or federal policies that call for incorporating bicycle and/or pedestrian facilities into this project? If so, have these policies been followed?				
If this project includes a bicycle and/or pedestrian facility, have all applicable design standards or guidelines been followed?				
The Project - Consideration	Yes	No	N/A	Description
What accommodations, if any, are included for bicyclists and pedestrians in the proposed project design?				
Will the proposed project remove an existing bicycle or pedestrian facility or block or hinder bicycle or pedestrian movement? If yes, please describe situation in detail.				
If the proposed project does not incorporate both bicycle and pedestrian facilities, or if the proposed project would hinder bicycle or pedestrian travel, list reasons why the project is being proposed as designed. <ul style="list-style-type: none"> • Cost (What would be the cost of the bicycle and/or pedestrian facility and the proportion of the total project cost?) • Right-of-way (Did an analysis lead to this conclusion?) • Other (Please explain.) 				
What agency will be responsible for ongoing maintenance of the facility and how will this be budgeted?				
Does the proposed project design include accommodations for bicyclists? See examples of bicycle facilities and amenities above.				
Does the proposed project design address accommodations for pedestrians? See examples of pedestrian facilities and amenities above.				
Can the proposed design support the major sites, destinations, and trip generators within or proximate to the project area, including prominent landmarks, <i>commercial</i> , cultural and civic institutions, and public spaces?				
Does the proposed design include landscaping, street trees, planters, buffer strips, or other environmental enhancements such as drainage swales?				
Does the proposed design follow all applicable design standards or guidelines appropriate for bicycle and/or pedestrian facilities? See examples of applicable design standards or guidelines above.				

*Complete Streets are
Safe Streets*

Contact the Department of City Development with questions.

414-425-4024

Generalplanning@franklinwi.gov

City of Franklin
 Engineering Department
 Proposed Connectivity
 Network Map

LEGEND

- US POSTAL SERVICE
- Highlighted_Businesses
- Hotels

RECREATION

- THE ROCK SPORTS COMPLEX
- MILWAUKEE COUNTY SPORTS COMPLEX
- ST. MARTIN'S FAIR (SUMMER EVENT)
- TIMBERWOLF PRESERVATION SOCIETY
- WEHR NATURE CENTER

POINT OF INTEREST

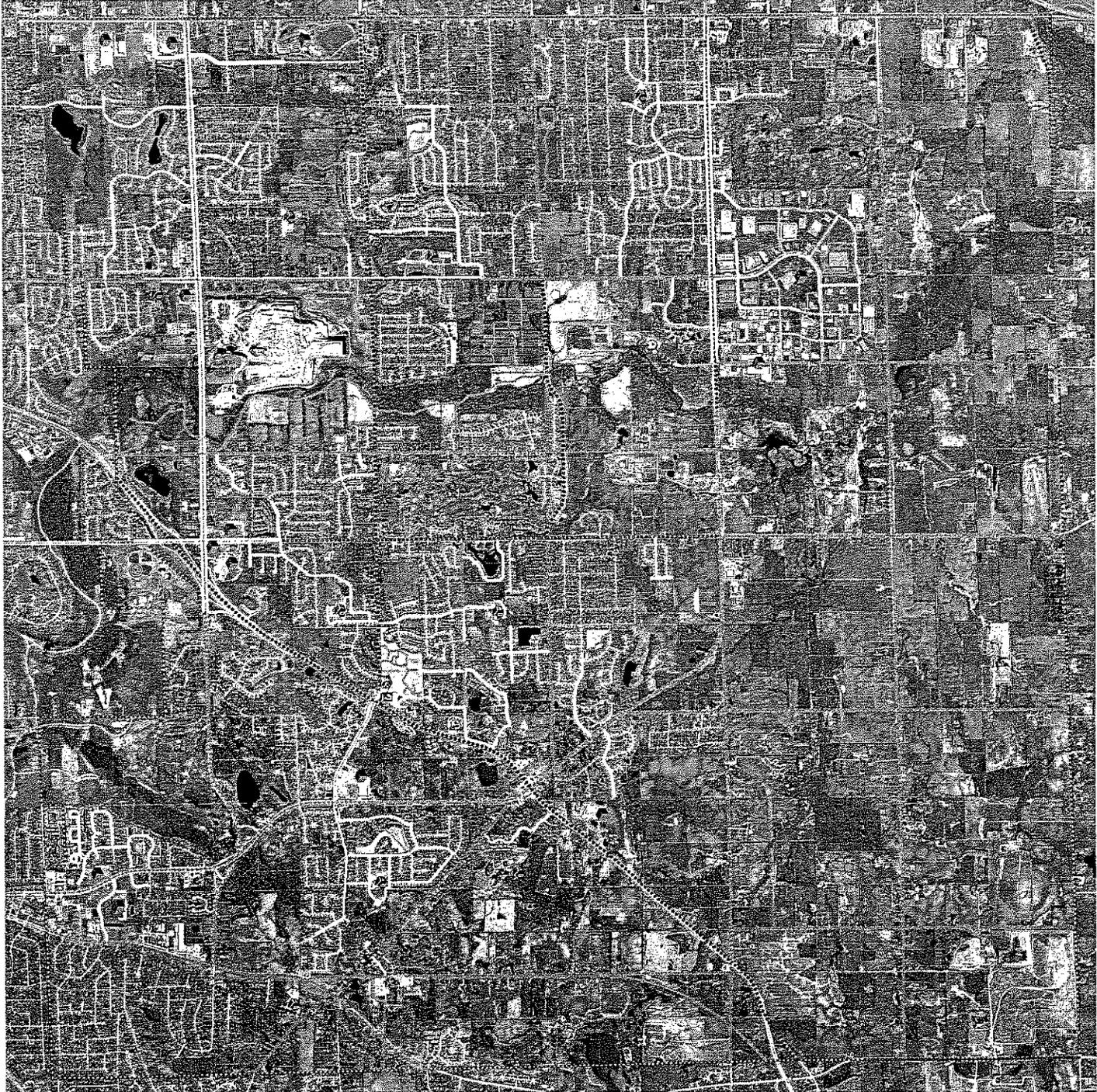
- CHURCH
- CITY HALL
- FIRE STATION
- GOLF COURSE
- LIBRARY
- POLICE
- SCHOOL

PLANNED PUBLIC PARK SITES

- PLANNED COMMUNITY PARK
- PLANNED REGIONAL PARK

BICYCLE AND PEDESTRIAN

- EXIST ON STREET (Undesignated Roadside)
- FUTURE OFF STREET
- FUTURE ON STREET
- EXISTING OFF-ROAD TRAIL
- SIDE WALK
- PARKS



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<p>APPROVAL <i>Stw</i></p>	<p>REQUEST FOR COUNCIL ACTION</p>	<p>MEETING DATE May 5, 2015</p>
<p>REPORTS & RECOMMENDATIONS</p>	<p>AUTHORIZATION FOR CERTAIN OFFICIALS TO EXECUTE AN AMENDMENT TO THE AGREEMENT WITH RUEKERT & MIELKE, INC. AND HITCHCOCK DESIGN GROUP, INC. FOR POTENTIAL BUSINESS PARK DEVELOPMENT ENGINEERING AND PLANNING SERVICES</p>	<p>ITEM NUMBER <i>G.12.</i></p>

At the November 4, 2014 meeting, the Common Council approved a motion to adopt a resolution authorizing certain officials to execute an agreement with Ruckert & Mielke, Inc. and Hitchcock Design Group, Inc. for potential business park development engineering and planning services with costs thereof to be funded by Tax Incremental District No. 4. The amount to be paid per the agreement was \$87,250.

Ruckert & Mielke, Inc. has completed the scope of work under that agreement; however, additional services were required including revisions to the initial development layout, revisions to utility layouts and corresponding infrastructure cost estimates as well as meetings with City staff and the City's financial consultant to review the revised layouts and costs.

The services noted above require an additional payment to Ruckert & Mielke, Inc. of \$5,256.

In addition, City Staff is recommending that the concept plan for the proposed Corporate Park be updated to accurately reflect the most current layout and phasing plan. Hitchcock Design Group, Inc. has provided a proposal to revise the map for an additional fee of \$2,500, with an additional \$500 to Ruckert & Mielke, Inc. for their work and coordination with Hitchcock Design Group and the City.

Fiscal Impact

The costs noted above of \$8,256 are proposed to be funded by Tax Incremental District No. 4, account number 49.0000.5216 Engineering services.

COUNCIL ACTION REQUESTED

Motion to authorize certain officials to execute an amendment to the agreement with Ruckert & Mielke, Inc. and Hitchcock Design Group, Inc. for Potential Business Park development engineering and planning services to prepare an updated concept plan for the proposed Franklin Corporate Park to be funded by Tax Incremental District No. 4.

APR 10 2015

Ruekert & Mielke, Inc.
W233 N2080 Ridgeview Parkway
Waukesha, WI 53188

Franklin, City of
Mr. Paul Rotzenberg
9229 West Loomis Road
Franklin, WI 53132-0160

Invoice number 110828
Date 04/09/2015

Project 58-10013 Franklin - Corporate Park

For Professional Services From January 24, 2015 through March 20, 2015

100 - Business Planning

Extra services to make revisions to initial development layout, revise utility layouts and corresponding infrastructure cost estimates, meet with City staff, Developer and City's financial consultant to review revised layouts and costs. Note: There will be additional costs to redo exhibits, lot diagrams and conceptual entry images based upon revised layouts.

Description	Contract Amount	Percent Complete	Total Billed	Prior Billed	Current Billed
100 Preliminary Planning	114,508.00	80.79	92,506.00	87,250.00	5,256.00
Total	114,508.00	80.79	92,506.00	87,250.00	5,256.00

Invoice total **5,256.00**

Aging Summary

Invoice Number	Invoice Date	Outstanding	Current	Over 30	Over 60	Over 90	Over 120
110828	04/09/2015	5,256.00	5,256.00				
Total		5,256.00	5,256.00	0.00	0.00	0.00	0.00

Please remit the invoice amount contained in the "bolded box".

Franklin, City of
Project 58-10013 Franklin - Corporate Park

Invoice number 110828
Date 04/09/2015

Invoice Supporting Detail

58-10013 Franklin - Corporate Park
100 Preliminary Planning

Phase Status: Active

Contract		Previously Billed			To Bill		
Units	Amount	Units	%	Amount	Units	%	Amount
	58,058.00		62	36,056.00		9	5,256.00
Subtotal	58,058.00	0.00	62	36,056.00	0.00	9	5,256.00

Billing Cutoff: 03/20/2015

Date	Units	Rate	Amount
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Labor

WIP Status: Billable

Engineer 7

Daniel R. Butler

1-Project Work	02/23/2015	0.50	170.00	85.00
<i>Project water consumption and needed fire flows.</i>				
	Subtotal	0.50		85.00

Joseph W. Eberle

1-Project Work	01/26/2015	2.00	165.00	330.00
<i>Project administration.</i>				
1-Project Work	01/30/2015	4.00	165.00	660.00
<i>Project administration; budget.</i>				
1-Project Work	02/04/2015	1.00	170.00	170.00
<i>Project administration.</i>				
1-Project Work	02/10/2015	0.50	170.00	85.00
<i>Conference with City Attorney.</i>				
1-Project Work	02/19/2015	4.00	170.00	680.00
<i>Status updates with staff and Mayor.</i>				
1-Project Work	02/24/2015	1.00	170.00	170.00
<i>Financial pro forma.</i>				
1-Project Work	02/25/2015	1.00	170.00	170.00
<i>Discuss financial aspects of Park with City Attorney and Ehlers.</i>				
1-Project Work	02/27/2015	3.00	170.00	510.00
<i>Review financial pro forma.</i>				
1-Project Work	03/04/2015	10.00	170.00	1,700.00
<i>Prepare for and meet with MLG and City staff to discuss changes in initial park layout; start revisions; meet with MLG in late afternoon to go over assumptions.</i>				
1-Project Work	03/05/2015	8.00	170.00	1,360.00
<i>Update infrastructure costs based upon revised layout.</i>				
1-Project Work	03/06/2015	5.00	170.00	850.00
<i>Review update costs with Glen Morrow, Ron Romeis and MLG, send revisions to Ehlers.</i>				
1-Project Work	03/09/2015	4.00	170.00	680.00
<i>Preliminary street layout.</i>				
1-Project Work	03/10/2015	3.00	170.00	510.00
<i>Preliminary layout.</i>				
1-Project Work	03/11/2015	0.50	170.00	85.00

Franklin, City of
Project 58-10013 Franklin - Corporate Park

Invoice number 110828
Date 04/09/2015

Invoice Supporting Detail

58-10013 Franklin - Corporate Park
100 Preliminary Planning

Phase Status: Active

Billing Cutoff: 03/20/2015

Date	Units	Rate	Amount
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Labor

WIP Status: Billable

Engineer 7

Joseph W. Eberle

Discuss project status with Nick Fuchs.

1-Project Work 03/12/2015 4.00 170.00 680.00

Discuss project with DNR and set up meeting regarding navigability.

1-Project Work 03/13/2015 2.00 170.00 340.00

Site visit.

1-Project Work 03/17/2015 2.00 170.00 340.00

Discuss project status with Nick Fuchs; send topo information to Interstate Partners for thier site; discuss pump station/sanitary sewer with Mike Simmons of Oak Creek.

1-Project Work 03/19/2015 1.50 170.00 255.00

Discuss environmental issues with SEWRPC, City, Jan Tesch; discuss Project status with Mike Mooney

Subtotal 56.50 9,575.00

Engineer 6

Anthony D. Petersen

1-Project Work 02/19/2015 0.50 154.00 77.00

Flow coefficient data.

1-Project Work 03/05/2015 1.00 154.00 154.00

Sanitary sewer design updates.

Subtotal 1.50 231.00

Terrence R. Tavera

1-Project Work 01/27/2015 1.25 150.00 187.50

Project meeting with Joe Eberle, Interstate Partners and DNR to discuss Interstate building planning.

Subtotal 1.25 187.50

Engineer Technician 1

David J. Klemm

4-CADD 02/16/2015 2.00 79.00 158.00

Download Continental Mapping data from FTP site, discussions with Joe Eberle, prepare and plot topo and planimetrics.

4-CADD 02/17/2015 0.75 79.00 59.25

Prepare details for ditch restoration alternatives. Discussion with Joe Eberle.

4-CADD 02/19/2015 1.25 79.00 98.75

Download aerial photography from Continental Mapping. Set up exhibit, plot, discussions with Joe Eberle.

4-CADD 03/02/2015 1.00 79.00 79.00

Copies of maps for Joe Eberle. Project discussion with Tim Anderson.

4-CADD 03/04/2015 0.50 79.00 39.50

Copy Buildout Map for Joe Eberle, copy Sanitary Map.

Franklin, City of
Project **58-10013 Franklin - Corporate Park**

Invoice number 110828
Date 04/09/2015

Invoice Supporting Detail

58-10013 Franklin - Corporate Park
100 Preliminary Planning

Phase Status: Active

Billing Cutoff: 03/20/2015

Date	Units	Rate	Amount
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Labor WIP Status: Billable

Engineer Technician 1

David J. Klemm

4-CADD 03/05/2015 1.00 79.00 79.00

Copies and plots for Joe showing phases, additional scans for showing developable lands.

Subtotal **6.50** **513.50**

IT/GIS Analyst 2

Debbie L. Anderson

1-Project Work 01/27/2015 2.50 113.00 282.50

Add business development parks to map. Review, edits, create PDFs and prints.

1-Project Work 02/26/2015 0.50 116.00 58.00

Create map document to add 2014 photo, print and create PDF.

1-Project Work 02/27/2015 0.50 116.00 58.00

Add title and logos to 2014 photo and print for Joe Eberle.

Subtotal **3.50** **398.50**

Senior Construction Review Technician

Robin J. Semanko

1-Project Work 03/05/2015 5.00 87.00 435.00

Draw exhibits and measure quantities for streets, sanitary sewer, water main, and properties for J. Eberle.

Subtotal **5.00** **435.00**

Administrative Assistant

Susan J. Shird

1-Project Work 01/30/2015 0.25 60.00 15.00

(JWE) Create Phase 101 for Interstate Partners-Oakwood Road site.

Subtotal **0.25** **15.00**

Labor total **75.00** **11,440.50**

Expense WIP Status: Billable

Blue Prints Inc

Outside Printing 02/05/2015 75.67

Bond printing & mounting.

Subtotal **75.67**

In-house Expense

B&W Copies 02/20/2015 1.00 0.10 0.10

DLA

B&W Copies 03/20/2015 2.00 0.10 0.20

ADP

Color Copies 02/20/2015 24.00 0.30 7.20

DLA

Franklin, City of
Project **58-10013 Franklin - Corporate Park**

Invoice number 110828
Date 04/09/2015

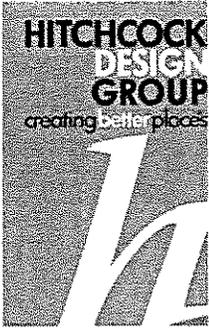
Invoice Supporting Detail

58-10013 Franklin - Corporate Park
100 Preliminary Planning

Phase Status: Active

Billing Cutoff: 03/20/2015

		Date	Units	Rate	Amount
Expense		WIP Status: Billable			
In-house Expense					
Color Plots		02/20/2015	41.00	2.50	102.50
	<i>DJK/PJR</i>				
Color Plots		03/20/2015	117.00	2.50	292.50
	<i>DJK/DLA</i>				
Reproduction		02/20/2015	18.00	0.30	5.40
	<i>DJK</i>				
Reproduction		03/20/2015	46.00	0.30	13.80
	<i>DJK</i>				
	Subtotal		249.00		421.70
Joseph W. Eberle					
Expense Report					
Mileage		03/04/2015	40.00	0.58	23.20
	<i>Meeting at City Hall regarding changes.</i>				
Mileage		03/13/2015	15.00	0.58	8.70
	<i>Site visit.</i>				
	Subtotal		55.00		31.90
	Expense total		304.00		529.27
Consultant		WIP Status: Billable			
Continental Mapping Consultants Inc					
Consultants		02/20/2015			9,933.00
	<i>Consulting</i>				
	Subtotal				9,933.00
Hitchcock Design Group					
Consultants		02/01/2015			3,300.00
	<i>Consulting</i>				
	Subtotal				3,300.00
	Consultant total				13,233.00



April 24, 2015

Mr. Joseph Eberle
Principal / Senior Project Manager
Ruekert & Mielke, Inc.
W233 N2080 Ridgeview Parkway
Waukesha, Wisconsin 53188

RE: Franklin Corporate Park – Revised Site Plan

Dear Joe,

Thank you again for the opportunity to continue working on the Franklin Corporate Park and advance our relationship with you and your colleagues at Ruekert Mielke. As requested, here is our proposal to revise the Franklin Corporate Park Concept Plan.

Project Understanding / Scope

Based on the attached plan, we understand that you, MLG Development, and the City met on March 4th to discuss Concept Plan revisions to help bring it more in line with budget and current development activity. Attached is your cleaned up concept plan based on MLG's plan with comments from our March 5th discussion for reference. Based this plan and our discussion, the following revisions are to be incorporated into the Concept Plan:

- Eliminate the north and south east/west connections to 27th Street.
- Re-align County Line Road so South Entrance to the Corporate Park.
- Reconfigure and renumber lots based on road adjustments, so there are fewer lots and the 27th Street lots are larger, single lots.
- Add a cul-de-sac at the limits for Phase 1. A fire lane may be required.
- Depict green space and trails as previously shown.
- Show gateways at the intersection of W Oakwood Road and 27th Street and County Line Road and 27th Street and at the entrance to the park where the pump station will be turned into a gateway icon.
- Down play the future I-94 Interchange Gateway.

225 W. Jefferson Avenue
Naperville, Illinois 60540
630.961.1787

hitchcockdesigngroup.com

Professional Fees

Based on the revisions listed above, and the additional coordination time that has already taken place, we propose to complete the revise concept plan for the additional fee of \$2,500.

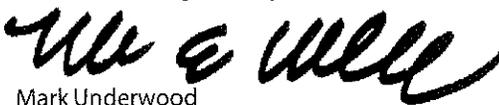
Schedule

We understand the presentation to the City is on May 14th and you need plans by the end of this week. Due to the tight time frame we will begin this assignment in good faith.

If this proposal is acceptable, we will revise our standard Professional Services Agreement for your review and authorization to proceed.

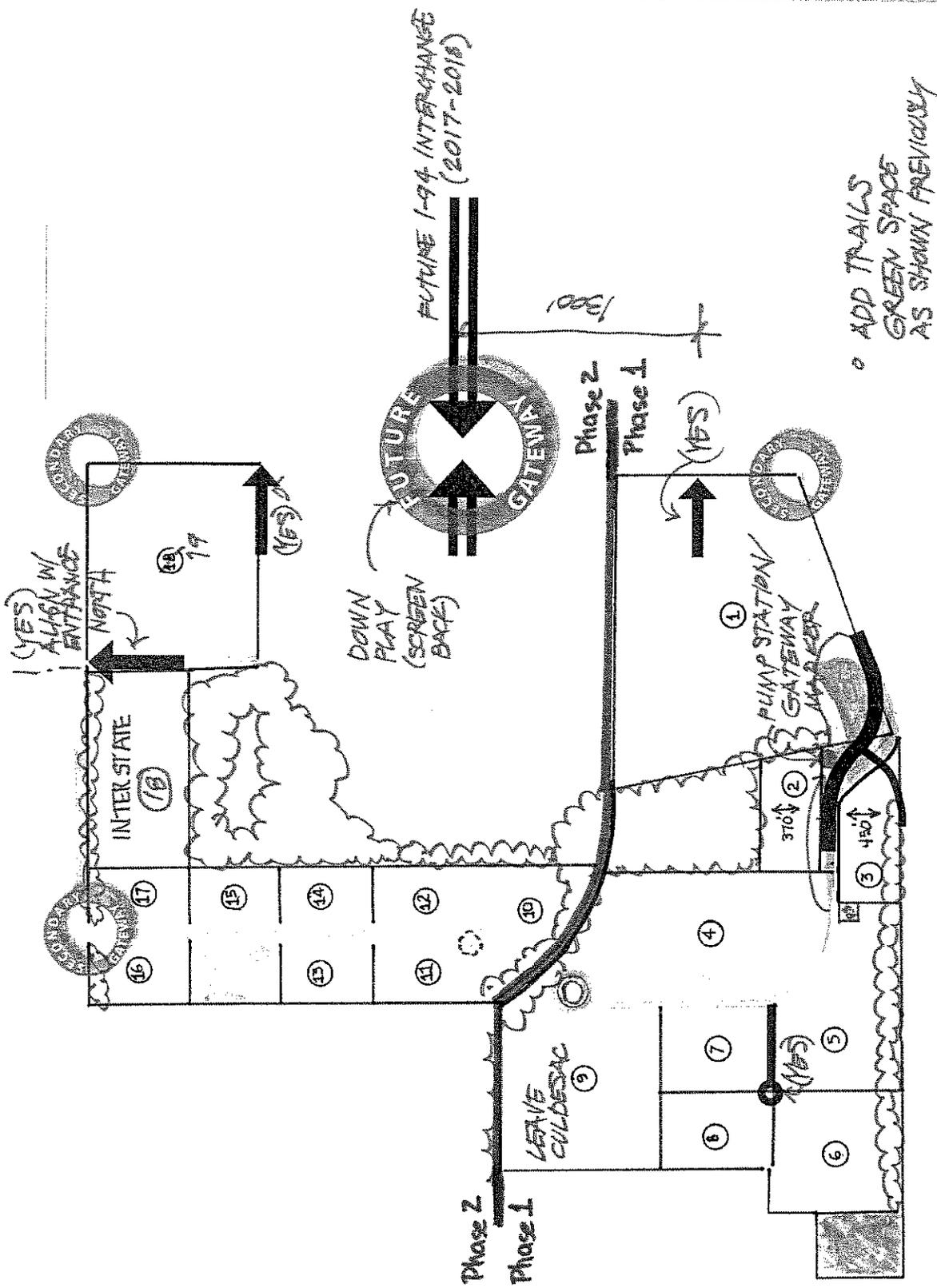
Thanks, again, for the opportunity to participate on this important project.

Sincerely,
Hitchcock Design Group



Mark Underwood
Principal

Encl: Concept Plan Graphic



<p>APPROVAL</p> <p><i>Slw</i></p>	<p>REQUEST FOR COUNCIL ACTION</p>	<p>MEETING DATE</p> <p>5/05/15</p>
<p>REPORTS AND RECOMMENDATIONS</p>	<p>Authorization for Mayor and Economic Development Commission to Present the Three Development Areas At A Commercial Association of Realtors ("CARW") and Biz Times Development Showcase on May 20, 2015 at No Cost to the City</p>	<p>ITEM NUMBER</p> <p><i>G.13.</i></p>

Mayor Olson is requesting authorization for the Mayor and Economic Development Commission to present the three development areas at a Commercial Association of Realtors ("CARW") and Biz Times Development Showcase on May 20, 2015 at no cost to the City.

COUNCIL ACTION REQUESTED

Motion to authorize the Mayor and Economic Development Commission to present the three development areas at a Commercial Association of Realtors ("CARW") and Biz Times Development Showcase on May 20, 2015 at no cost to the City



SHOWCASE OPPORTUNITY!

CARW is partnering with BizTimes Media on the
2015 Development Showcase:

Wednesday, May 20
Potawatomi Casino from 3:45-4:30 p.m.

Join dozens of key representatives from municipalities, business improvement districts and development-related organizations as they showcase their latest development opportunities. This showcase follows a program on the redevelopment of Downtown Milwaukee led by Gary Grunau, Bob Monnat and Ian Abston.

We are seeking organizations to showcase their plans, maps and renderings - space is limited to 20 projects. Please call Tracy at 414.271-2021 x1 or email at tracy@carw.com. There is no fee for this opportunity.

Register for the expo today at www.biztimes.com/bizexpo

More information is here: [Development Showcase - BizExpo](#)

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APPROVAL <i>Stu Paul</i>	REQUEST FOR COMMON COUNCIL ACTION	MEETING DATE May 4, 2015
REPORTS & RECOMMENDATIONS	An Ordinance to Amend Ordinance 2014-2152, an Ordinance Adopting the 2015 Annual Budget for the General Fund, Debt Service, Capital Outlay, and Sewer Fund for the City of Franklin for Fiscal Year 2015 to Approve Budget Amendments to the 2015 Budgets for Debt Service on the December 2014 Debt Offering, Weights & Measures services, the Water & Wastewater Building appropriation	ITEM NUMBER <i>6.14</i>

Background

Several issues surfaced which generate the need for 2015 budget amendments. They are:

1. The Wisconsin Dept of Agriculture for Sealer of Weights & Measures inspection services fee rose for the first time in several years to \$7,600 from \$6,800. The 2015 budget did not anticipate this increase. The services the City provides are then charged back to the local businesses which use it. An increase in Weights & Measure charge revenue and expenditures for \$800 is warranted. There would be no change to Fund Balance as a result.
2. In 2014 two appropriations for the Water & Wastewater building existed in the amount of \$1.5 million in the Water & Sewer funds. In the fourth quarter of 2014 a construction contract for \$2,702,308.20 awarded which encumbered a portion of the \$3 million appropriation. The balance of the appropriation expired on Dec 31, 2014, however, it will be needed to support the project. Staff recommends carrying over the balance of the unused 2014 appropriation in the amount of \$297,691.80 (split evenly between the Sewer & Water funds). The un-used funds flowed back to fund balance, so there impact on fund balance would be un-changed as a result of this amendment.
3. The 2015 Debt Service fund appropriations were established prior to the December 2014 debt offering. The total Debt service on the new issue is \$107,272 (\$75,000 in principal and \$32,272 in interest), while the budget was established as \$138,875 (\$50,000 in principal and \$88,875 of interest). The total debt service appropriation for the new issue will accommodate the required debt service, however the principal amount should be increased by \$25,000 and the interest amount can be reduced by a similar amount. That will provide the appropriation needed for the 2015 principal debt service.

The finance Committee reviewed this amendment at the April 28, 2015 meeting and recommends its approval.

Fiscal Impact

There is no change in fund balance for the recommended changes

COUNCIL ACTION REQUESTED

Motion to adopt An Ordinance to Amend Ordinance 2014-2152, an Ordinance Adopting the 2015 Annual Budget for the General Fund, Debt Service, Capital Outlay, and Sewer Fund for the City of Franklin for Fiscal Year 2015 to Approve Budget Amendments to the 2015 Budgets for Debt Service on the December 2014 Debt Offering, Weights & Measures services, the Water & Wastewater Building appropriation.

STATE OF WISCONSIN : CITY OF FRANKLIN : MILWAUKEE COUNTY

ORDINANCE NO. 2015 _____

AN ORDINANCE TO AMEND ORDINANCE 2014-2152, AN ORDINANCE ADOPTING THE 2015 ANNUAL BUDGETS FOR THE GENERAL FUND, DEBT SERVICE FUND, CAPITAL OUTLAY FUND AND THE SEWER FUND FOR THE CITY OF FRANKLIN FOR FISCAL YEAR 2015 TO APPROVE BUDGET AMENDMENTS TO THE 2015 BUDGET FOR DEBT SERVICE ON THE DECEMBER 2014 DEBT OFFERING, POLICE SUPPLIES, WEIGHTS & MEASURE SERVICES AND THE WATER & WASTEWATER BUILDING APPROPRIATION

WHEREAS, the December 2014 Debt Offering did not increase the total debt service due in 2015 but did change the mix of principal & interest debt service due in 2015, and

WHEREAS, the Wisconsin Dept of Agriculture raised the fees for Weights & Measures inspection fees for 2015-2016, and

WHEREAS, a portion of the 2014 appropriation for the Water & Wastewater building project expired at December 31, 2014, and

WHEREAS, the Water & Wastewater building project is proceeding making it necessary to carryover the unused appropriation.

NOW, THEREFORE, the Common Council of the City of Franklin does hereby ordain as follows:

Section 1 That certain appropriations in the 2015 Annual Budget for the City of Franklin be adjusted as follows:

General Fund

	Revenues	Increase	800
Sealer Weights	Non-Personnel	Increase	800

Debt Service

	Principal	Increase	25,000
	Interest	Decrease	25,000

Sewer Fund

	Capital Outlay	Increase	148,845.90
	Fund Balance	Decrease	148,845.90

Section 2 Pursuant to §65.90(5)(a), Wis. Stats., the City Clerk is directed to publish a Class 1 notice of this budget amendment within ten days of adoption of this ordinance.

Introduced at a regular meeting of the Common Council of the City of Franklin this ____ day of May, 2015.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this ____ day of May, 2015 .

APPROVED:

ATTEST:

Stephen R Olson, Mayor

Sandra L. Wesolowski, City Clerk
AYES ____ NOES ____ ABSENT ____

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<p align="center">APPROVAL</p> <p align="center"><i>Slw</i></p>	<p align="center">REQUEST FOR COUNCIL ACTION</p>	<p align="center">MEETING DATE</p> <p align="center">May 5, 2015</p>
<p>REPORTS AND RECOMMENDATIONS</p>	<p align="center">An Ordinance Adopting an Ordinance to Repeal and Recreate Chapter 176 of the Municipal Code Pertaining to Nonmetallic Mining Reclamation and to Editorially Note the Provisions of Unified Development Ordinance Section 15-3.0428, Ordinance No. 97-1456 (PDD No. 23) §13.27s.6. and Unified Development Ordinance Section 15-3.0429, Ordinance No. 97-1457 (PDD No. 24) §13.27t.6. to State the Nonmetallic Mining Reclamation Regulatory Authority of Chapter 176 by Reference; A Resolution Approving a City of Franklin Nonmetallic Mining Reclamation Fees Schedule Pursuant to Chapter 176 of the Municipal Code Nonmetallic Mining Reclamation Ordinance Section 27</p>	<p>ITEM NUMBER</p> <p align="center"><i>G.15.</i></p>

The above subject matter was put over from the April 21, 2015 Common Council meeting, upon question as to whether there are any terms or provisions in the existing PDD No. 23 or PDD No. 24 which are more restrictive with regard to nonmetallic mining reclamation than the proposed new ordinance based upon the Wisconsin Department of Natural Resources long-form model ordinance. Attached is a brief memo from Assistant City Attorney Joshi, which following her review confirms that the subject terms of PDD No. 23 and PDD No. 24 are not more restrictive.

Attached hereto are copies of the Council Action Sheet from the April 21, 2015 meeting, the above and the referenced ordinance, An Ordinance to Repeal and Recreate Chapter 176 of the Municipal Code Pertaining to Nonmetallic Mining Reclamation. The WIDNR accepted the final changes in the attached by correspondence on April 20, 2015.

COUNCIL ACTION REQUESTED

A motion to adopt An Ordinance Adopting an Ordinance to Repeal and Recreate Chapter 176 of the Municipal Code Pertaining to Non-Metallic Mining Reclamation and to Editorially Note the Provisions of Unified Development Ordinance Section 15-3.0428, Ordinance No. 97-1456 (PDD No. 23) §13.27s.6. and Unified Development Ordinance Section 15-3.0429, Ordinance No. 97-1457 (PDD No. 24) §13.27t.6. to State the Non-Metallic Mining Reclamation Regulatory Authority of Chapter 176 by Reference;

and

A motion to adopt A Resolution Approving a City of Franklin Nonmetallic Mining Reclamation Fees Schedule Pursuant to Chapter 176 of the Municipal Code Nonmetallic Mining Reclamation Ordinance Section 27.

WESOLOWSKI, REIDENBACH & SAJDAK, S.C.
ATTORNEYS AT LAW
11402 WEST CHURCH STREET
FRANKLIN, WISCONSIN 53132

JESSE A. WESOLOWSKI
FREDERICK E. REIDENBACH 1919-2002
BRIAN C. SAJDAK
SIELY N. JOSHI

TELEPHONE (414) 529-8900
FACSIMILE (414) 529-2121

JANE C. KASSIS,
LEGAL SECRETARY

MEMORANDUM

TO: Jesse Wesolowski
FROM: Siely Joshi
DATE: April 24, 2014
RE: City of Franklin nonmetallic mining reclamation ordinance

Question Presented: Are there any provisions set forth under City Ordinance Nos. 97-1456 and 97-1457 that are more restrictive than the proposed nonmetallic mining reclamation ordinance?

Brief Answer: After reviewing City Ordinance Nos. 97-1456 and 97-1457 it can be reasonably concluded that these ordinances do not contain any provisions that are more restrictive than the proposed nonmetallic mining reclamation ordinance. As a result, omitting the references to City Ordinance Nos. 97-1456 and 97-1457 from section 5 of the proposed nonmetallic mining reclamation ordinance will not affect the interpretation or application of these ordinances.

<p>APPROVAL</p> <p><i>Slw</i></p>	<p>REQUEST FOR COUNCIL ACTION</p>	<p>MEETING DATE</p> <p>April 21, 2015</p>
<p>REPORTS AND RECOMMENDATIONS</p>	<p>An Ordinance Adopting an Ordinance to Repeal and Recreate Chapter 176 of the Municipal Code Pertaining to Non-Metallic Mining Reclamation and to Editorially Note the Provisions of Unified Development Ordinance Section 15-3.0428, Ordinance No. 97-1456 (PDD No. 23) §13.27s.6. and Unified Development Ordinance Section 15-3.0429, Ordinance No. 97-1457 (PDD No. 24) §13.27t.6. to State the Non-Metallic Mining Reclamation Regulatory Authority of Chapter 176 by Reference; A Resolution Approving a City of Franklin Nonmetallic Mining Reclamation Fees Schedule Pursuant to Chapter 176 of the Municipal Code Nonmetallic Mining Reclamation Ordinance Section 27</p>	<p>ITEM NUMBER</p> <p><i>G. 6.</i></p>

Attached hereto are copies of the above and the referenced ordinance, An Ordinance to Repeal and Recreate Chapter 176 of the Municipal Code Pertaining to Nonmetallic Mining Reclamation. All were reviewed by the Quarry Monitoring Committee and the WIDNR (excepting at the time of this writing, WIDNR has not responded to the last few changes to the draft, but were advised that the subject matter would be on the agenda for this meeting and the subject changes were consistent with and in part as a result of the WIDNR prior comments).

COUNCIL ACTION REQUESTED

A motion to adopt An Ordinance Adopting an Ordinance to Repeal and Recreate Chapter 176 of the Municipal Code Pertaining to Non-Metallic Mining Reclamation and to Editorially Note the Provisions of Unified Development Ordinance Section 15-3.0428, Ordinance No. 97-1456 (PDD No. 23) §13.27s.6. and Unified Development Ordinance Section 15-3.0429, Ordinance No. 97-1457 (PDD No. 24) §13.27t.6. to State the Non-Metallic Mining Reclamation Regulatory Authority of Chapter 176 by Reference;

and

A motion to adopt A Resolution Approving a City of Franklin Nonmetallic Mining Reclamation Fees Schedule Pursuant to Chapter 176 of the Municipal Code Nonmetallic Mining Reclamation Ordinance Section 27.

ORDINANCE NO. 2015-_____

AN ORDINANCE ADOPTING AN ORDINANCE TO REPEAL AND RECREATE
CHAPTER 176 OF THE MUNICIPAL CODE PERTAINING TO NON-METALLIC
MINING RECLAMATION AND TO EDITORIALY NOTE THE PROVISIONS OF
UNIFIED DEVELOPMENT ORDINANCE SECTION 15-3.0428, ORDINANCE NO. 97-
1456 (PDD NO. 23) §13.27S.6. AND UNIFIED DEVELOPMENT ORDINANCE
SECTION 15-3.0429, ORDINANCE NO. 97-1457 (PDD NO. 24) §13.27T.6. TO
STATE THE NON-METALLIC MINING RECLAMATION
REGULATORY AUTHORITY OF CHAPTER 176
BY REFERENCE

WHEREAS, the Common Council has directed that the Municipal Code be updated to ensure the effective reclamation of nonmetallic mining sites on which nonmetallic mining takes place in the City, in compliance with Chapter NR 135 of the Wisconsin Administrative Code and Subchapter I of Chapter 295 of the Wisconsin Statutes; and

WHEREAS, the Quarry Monitoring Committee and City staff have prepared and recommended the necessary Municipal Code amendments to accomplish same, following communications with the Wisconsin Department of Natural Resources and reviews and exchanges of draft ordinances with the Department based upon the Department model non-metallic mining reclamation ordinance; and

WHEREAS, a copy of the proposed legislation in draft ordinance form was available and open to inspection by the public, together with a copy of this ordinance in draft form, in the Office of the City Clerk for not less than two weeks prior to _____, 2015, pursuant to Wis. Stat. § 66.0103(1), providing in part that some or all of a City's general ordinances in code form may be enacted by an ordinance that incorporates the code by reference, and the Common Council having considered such proposed amendments and having found same to be reasonable and necessary to promote and protect the public 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: Chapter 176 of the Municipal Code of Franklin, Wisconsin, be and the same is hereby repealed and recreated to read as that "Chapter 176 Pertaining to Non-Metallic Mining Reclamation" as presented to and approved by the Common Council on _____, 2015, which is incorporated herein by reference pursuant to §66.0103(1) of the Wisconsin Statutes, and as previously proposed had been on file for public inspection in the office of the City Clerk for more than 2 weeks

prior to such date and which as approved by the Common Council shall so remain, also pursuant to §66.0103(1) of the Wisconsin Statutes.

SECTION 2: The City Clerk is hereby directed to obtain the inclusion of an Editor's Note by the codifier or otherwise, immediately following Unified Development Ordinance Section 15-3.0428, citing "Ordinance No. 97-1456 (PDD No. 23) §13.27S.6." and Unified Development Ordinance Section 15-3.0429, citing "Ordinance No. 97-1457 (PDD No. 24) §13.27T.6.", stating: "See Ch. 176 of the City of Franklin Municipal Code, as recreated pursuant to Ordinance No. 2015-_____, An Ordinance to Repeal and Recreate Chapter 176 of the Municipal Code Pertaining to Non-Metallic Mining Reclamation."

SECTION 3: 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 4: All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION 5: 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 _____, 2015, by Alderman _____.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2015.

APPROVED:

Stephen R. Olson, Mayor

ATTEST:

Sandra L. Wesolowski, City Clerk

AYES _____ NOES _____ ABSENT _____

CITY OF FRANKLIN
Ordinance No. 2015-____, An Ordinance to Repeal and Recreate Chapter 176 of the Municipal Code
Pertaining to Non-Metallic Mining Reclamation

ORDINANCE FOR NON-METALLIC MINING RECLAMATION

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PART I - GENERAL

- SECTION 1 **1.00 Title.** Nonmetallic mining reclamation ordinance for the City of Franklin.
- SECTION 2 **2.00 Purpose.** The purpose of this chapter is to establish a local program to ensure the effective reclamation of nonmetallic mining sites on which nonmetallic mining takes place in the City of Franklin after the effective date of this chapter, in compliance with Chapter NR 135, Wisconsin Administrative Code and Subchapter I of Chapter 295, Wisconsin Statutes.
- SECTION 3 **3.00 Statutory Authority.** This chapter is adopted under authority of Section 295.14(1), Wisconsin Statutes, Section NR 135.32, Wisconsin Administrative Code, and Section 62.11(3), Wisconsin Statutes and as contemplated by City Ordinance Nos. 97-1456 and 97-1457.
- SECTION 4 **4.00 Restrictions Adopted Under other Authority.** The purpose of this chapter is to adopt and implement the uniform statewide standards for nonmetallic mining required by Section 295.12(1) (a), Stats. and contained in Chapter NR 135, Wisconsin Administrative Code. It is not intended that this chapter repeal, abrogate, annul, impair or interfere with any existing rules, regulation, ordinances or permits not concerning nonmetallic mining reclamation previously adopted pursuant to other Wisconsin law, excepting City Ordinance Nos. 97-1456 and 97-1457.
- SECTION 5 **5.00 Interpretation.** In their interpretation and application, the provisions of this chapter shall be held to be the applicable requirements for nonmetallic mining reclamation and shall not be deemed a limitation or repeal of any more restrictive provision set forth under City Ordinance Nos. 97-1456 and 97-1457 or of any other power granted by the Wisconsin Statutes outside the reclamation requirements for nonmetallic mining sites required by subchapter I of Chapter 295, Wisconsin Statutes and Chapter NR 135, Wisconsin Administrative Code. Where any terms or requirements of this chapter may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this chapter is required by Wisconsin Statutes or by a standard in Chapter NR 135, Wisconsin Administrative Code, and where the provision is unclear, the provision shall be interpreted to be consistent with the Wisconsin Statutes and the provisions of Chapter NR 135, Wisconsin Administrative Code.
- SECTION 6 **6.00 Severability.** Should any portion of this chapter be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected.
- SECTION 7 **7.00 Applicability.**
- 7.10 Overall Applicability.** The requirements of this chapter apply to all operators of nonmetallic mining sites within the City of Franklin operating on or commencing to operate after August 1st, 2001 except as exempted in sub. 7.20. This chapter does not apply to nonmetallic mining sites where nonmetallic mining permanently ceases before August 1, 2001. This chapter applies to nonmetallic mining conducted by or on behalf of the State of Wisconsin, by or on behalf of a municipality or for the benefit or use of the state or any state agency, board, commission or department, except for the waiver of financial assurance in sub. 14.30.
- 7.20 Exemptions.** This chapter does not apply to the following activities:
- (1) Nonmetallic mining at a site or that portion of a site that is subject to permit and reclamation requirements of the Wisconsin Department of Natural Resources under secs. 30.19, 30.195 or 30.20, Stats. and complies with Chapter NR 340, Wisconsin Administrative Code.
- (2) Excavations subject to the permit and reclamation requirements of secs. 30.30 or 30.31, Stats.

(3) Excavations or grading by a person solely for domestic or farm use at that person's residence or farm.

(4) Excavations or grading conducted for the construction, reconstruction, maintenance or repair of a highway, railroad, airport facility, or any other transportation facility where the excavation or grading is entirely within the property boundaries of the transportation facility.

(5) Grading conducted for preparing a construction site or restoring land following a flood or natural disaster.

(6) Excavations for building construction purposed conducted on the building site.

(7) Nonmetallic mining at nonmetallic mining sites that affect less than one acre of total area over the life of the mine.

(8) Any mining operation, the reclamation of which is required in a permit obtained under ch. 293, Stats.

(9) Any activities required to prepare, operate or close a solid waste disposal facility under ch. 289, Stats., or a hazardous waste disposal facility under ch. 291, Stats., that are conducted on the property where the facility is located, but an applicable nonmetallic mining reclamation ordinance and the standards established in this chapter apply to activities related to solid waste or hazardous waste disposal that are conducted at a nonmetallic mining site that is not on the property where the solid waste or hazardous waste disposal facility is located, such as activities to obtain nonmetallic minerals to be used for lining, capping, covering or constructing berms, dikes or roads.

(10) (a) Nonmetallic mining conducted to obtain stone, soil, sand or gravel for construction, reconstruction, maintenance or repair of a highway, railroad, airport, or any other transportation facility or part thereof, if the nonmetallic mining is subject to the requirements of the Wisconsin Department of Transportation concerning the restoration of the nonmetallic mining site.

(b) This exemption only applies to a nonmetallic mining operation with limited purpose and duration where the Wisconsin Department of Transportation actively imposes reclamation requirements and the operator reclaims the nonmetallic mining site in accordance with these requirements. The duration of the exemption shall be specific to the length of the Wisconsin Department of Transportation contract for construction of a specific transportation project.

(c) If a nonmetallic mining site covered under pars. (a) and (b) is used to concurrently supply materials for projects unrelated to the Wisconsin Department of Transportation project, the exemption in this paragraph still applies, provided that the site is fully reclaimed under Wisconsin Department of Transportation contract and supervision.

(11) Dredging for navigational purposes, to construct or maintain farm drainage ditches and for the remediation of environmental contamination and the disposal of spoils from these activities.

(12) Removal of material from the bed of Lake Michigan or Lake Superior by a public utility pursuant to a permit under s. 30.21, Stats.

SECTION 8 **8.00 Administration.** The provisions of this chapter shall be administered by the City of Franklin.

SECTION 9 **9.00 Effective Date.** The provisions of this chapter shall take effect on _____, 2015.

SECTION 10 **10.00 Definitions.** In this chapter:

- (1) "Alternative requirement" means an alternative to the reclamation standards of this chapter provided through a written authorization granted by the City of Franklin pursuant to s.18.
- (2) "Applicable reclamation ordinance" means a nonmetallic mining reclamation ordinance, including this chapter, that applies to a particular nonmetallic mining site and complies with the requirements of this Chapter NR 135, Wisconsin Administrative Code and subchapter I of ch. 295, Stats., unless the Wisconsin Department of Natural Resources is the regulatory authority as defined in sub. (20) (c). If the Wisconsin Department of Natural Resources is the regulatory authority, "applicable reclamation ordinance" means the relevant and applicable provisions of Chapter NR 135, Wisconsin Administrative Code.
- (2m) "Borrow site" means an area outside of a transportation project site from which stone, soil, sand or gravel is excavated for use at the project site, except the term does not include commercial sources.
- (3) "Contemporaneous reclamation" means the sequential or progressive reclamation of portions of the nonmetallic mining site affected by mining operations that is performed in advance of final site reclamation, but which may or may not be final reclamation, performed to minimize the area exposed to erosion, at any one time, by nonmetallic mining activities.
- (4) "Department" means the Wisconsin Department of Natural Resources.
- (6) "Environmental pollution" has the meaning in s. 295.11(2), Stats.
- (7) "Existing mine" means a nonmetallic mine where nonmetallic mining takes place before August 1, 2001.
- (8) "Financial assurance" means a commitment of funds or resources by an operator to a regulatory authority that satisfies the requirements in s. 14 and is sufficient to pay for reclamation activities required by this chapter.
- (8m) "Highwall" means a vertical or nearly vertical face in solid rock or a slope of consolidated or unconsolidated material that exceeds 3:1.
- (9) "Landowner" means the person who has title to land in fee simple or who holds a land contract for the land. A landowner is not a person who owns nonmetallic mineral rights to land, if a different person possesses title to that land in fee simple or holds a land contract for that land.
- (9m) "Licensed professional geologist" means a person who is licensed as a professional geologist pursuant to ch. 470, Stats.
- (10) "Municipality" means any city, town or village and where anywhere applicable within this Chapter, the City of Franklin.
- (11) "Nonmetallic mineral" means a product, commodity or material consisting principally of naturally occurring, organic or inorganic, nonmetallic, nonrenewable material. Nonmetallic minerals include, but are not limited to, stone, sand, gravel, asbestos, beryl, diamond, clay, coal, feldspar, peat, talc and topsoil.
- (13) "Nonmetallic mining" or "mining" means all of following:

(a) Operations or activities at a nonmetallic mining site for the extraction from the earth of mineral aggregates or nonmetallic minerals for sale or use by the operator. Nonmetallic mining includes use of mining equipment or techniques to remove materials from the in-place nonmetallic mineral deposit, including drilling and blasting, as well as associated activities such as excavation, grading and dredging. Nonmetallic mining does not include removal from the earth of products or commodities that contain only minor or incidental amounts of nonmetallic minerals, such as commercial sod, agricultural crops, ornamental or garden plants, forest products, Christmas trees or plant nursery stock.

(b) Processes carried out at a nonmetallic mining site that is related to the preparation or processing of the mineral aggregates or nonmetallic minerals obtained from the nonmetallic mining site. These processes include, but are not limited to stockpiling of materials, blending mineral aggregates or nonmetallic minerals with other mineral aggregates or nonmetallic minerals, blasting, grading, crushing, screening, scalping and dewatering.

(14) "Nonmetallic mining reclamation" or "reclamation" means the rehabilitation of a nonmetallic mining site to achieve a land use specified in a nonmetallic mining reclamation plan approved under this chapter, including removal or reuse of nonmetallic mining refuse, grading of the nonmetallic mining site, removal, storage and replacement of topsoil, stabilization of soil conditions, reestablishment of vegetative cover, control of surface water and groundwater, prevention of environmental pollution and if practicable the restoration of plant, fish and wildlife habitat.

(15) "Nonmetallic mining refuse" means waste soil, rock and mineral, as well as other natural site material resulting from nonmetallic mining. Nonmetallic mining refuse does not include marketable by-products resulting directly from or displaced by the nonmetallic mining that are scheduled to be removed from the nonmetallic mining site within a reasonable period of time after extraction.

(16) "Nonmetallic mining site" or "site" means all contiguous areas of present or proposed mining described in par. (a), subject to the qualifications in par. (b).

(a) Nonmetallic mining site means the following:

1. The location where nonmetallic mining is proposed or conducted.
2. Storage and processing areas that are in or contiguous to areas excavated for nonmetallic mining.
3. Areas where nonmetallic mining refuse is deposited.
4. Areas affected by activities such as the construction or improvement of private roads or haulage ways for nonmetallic mining.
5. Areas where grading or regrading is necessary.
6. Areas where nonmetallic mining reclamation activities are carried out or structures needed for nonmetallic mining reclamation, such as topsoil stockpile areas, revegetation test plots, or channels for surface water diversion, are located.

(b) "Nonmetallic mine site" does not include any of the following areas:

1. Those portions of sites listed in par. (a) not used for nonmetallic mining or purposes related to nonmetallic mining after August 1, 2001.

2. Separate, previously mined areas that are not used for nonmetallic mineral extraction after August 1, 2001 and are not contiguous to mine sites, including separate areas that are connected to active mine sites by public or private roads.

3. Areas previously mined but used after August 1, 2001 for a non-mining activity, such as stockpiles or materials used for an industrial process unrelated to nonmetallic mining.

(17) "Operator" means any person who is engaged in, or who has applied for a permit to engage in, nonmetallic mining, whether individually, jointly or through subsidiaries, agents, employees, contractors or subcontractors.

(17m) "Person" means an individual, owner, operator, corporation, limited liability company, partnership, association, county, municipality, interstate agency, state agency or federal agency.

(19) "Registered professional engineer" means a person who is registered as a professional engineer pursuant to s. 443.04, Stats.

(20) "Regulatory authority" means the following:

(a) City of Franklin for nonmetallic mine sites located within its jurisdiction, or

(b) 1. A municipality in which the nonmetallic mining site is located and which has adopted an applicable reclamation ordinance,

2. The county in which the nonmetallic mining site is located, if no reclamation municipal ordinance exists pursuant to subd. 1., provided the county has an applicable reclamation ordinance, or

3. The Wisconsin Department of Natural Resources, but only if there is no applicable reclamation ordinance enacted by the municipality or the county in which the nonmetallic mining site is located.

(21) "Replacement of topsoil" means the replacement or redistribution of topsoil or topsoil substitute material to all areas where topsoil was actually removed or affected by nonmetallic for the purposes of providing adequate vegetative cover and stabilization of soil conditions needed to achieve the approved post-mining land use and as required by the reclamation plan approved pursuant to this chapter.

(22) "Solid waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded or salvageable materials, including solid, liquid, semisolid or contained gaseous materials resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solids or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under ch. 283, Stats., or source material, special nuclear material or by-product material, as defined in s. 254.31 (1), Stats.

(23) "Topsoil" means the surface layer of soil which is generally more fertile than the underlying soil layers, which is the natural medium for plant growth and which can provide the plant growth, soil stability and other attributes necessary to meet the success standards approved in the reclamation plan.

(24) "Topsoil substitute material" means soil or other unconsolidated material either used alone

or mixed with other beneficial materials and which can provide the plant growth, site stability and other attributes necessary to meet the success standards approved in the reclamation plan.

(25) (a) "Unreclaimed acre" or "unreclaimed acres" means those unreclaimed areas in which nonmetallic mining has occurred after August 1, 2001 and areas where nonmetallic mining reclamation has been completed but is not yet certified as reclaimed under sub. 29.30. However the term does not include any areas described in par. (b).

(b) "Unreclaimed acre" or "unreclaimed acres" does not include:

1. Those areas where reclamation has been completed and certified as reclaimed under sub. 29-30.
2. Those areas previously affected by nonmetallic mining but which are not used for nonmetallic mining after August 1, 2001.
3. Those portions of nonmetallic mining sites which are included in a nonmetallic mining reclamation plan approved pursuant to this chapter but are not yet affected by nonmetallic mining.
4. Areas previously mined but used after August 1, 2001 for a non-mining activity, such as stockpiling of materials used for an industrial activity such as an asphalt plant, concrete batch plant, block and tile operation or other industry that uses products produced from nonmetallic mining.
5. For purposes of fees under s. 27, those areas within a nonmetallic mining site which the City of Franklin has determined to have been successfully reclaimed on an interim basis in accordance with sub. 29.30.

PART II - STANDARDS

SECTION 11

11.00 Standards. All nonmetallic mining sites subject to this chapter shall be reclaimed in conformance with the standards contained below.

11.10 General Standards. (1) **REFUSE AND OTHER SOLID WASTES.** Nonmetallic mining refuse shall be reused in accordance with a reclamation plan. Other solid wastes shall be disposed of in accordance with applicable rules of the Wisconsin Department of Natural Resources adopted pursuant to chs. 289 and 291, Stats.

(2) **AREA DISTURBED AND CONTEMPORANEOUS RECLAMATION.** Nonmetallic mining reclamation shall be conducted, to the extent practicable, to minimize the area disturbed by nonmetallic mining and to provide for nonmetallic mining reclamation of portions of the nonmetallic mining site while nonmetallic mining continues on other portions of the nonmetallic mining site.

(3) **PUBLIC HEALTH, SAFETY AND WELFARE.** All nonmetallic mining sites shall be reclaimed in a manner so as to comply with federal, state and local regulations governing public health, safety and welfare.

(4) **HABITAT RESTORATION.** When the land use required by the reclamation plan approved pursuant to this chapter requires plant, fish or wildlife habitat, it shall be restored, to the extent practicable, to a condition at least as suitable as that which existed before the lands were affected by nonmetallic mining operations.

(5) **COMPLIANCE WITH ENVIRONMENTAL REGULATIONS.** Reclamation of nonmetallic mining sites shall comply with any other applicable federal, state and local laws including those related to environmental protection, zoning and land use control.

11.20 Surface Water and Wetlands Protection. Nonmetallic mining reclamation shall be conducted and completed in a manner that assures compliance with the Wisconsin Department of Natural Resources' water quality standards for surface waters and wetlands contained in Chapters NR 102 to NR 105, Wisconsin Administrative Code. Before disturbing the surface of a nonmetallic mining site and removing topsoil, all necessary measures for diversion and drainage of runoff from the site to prevent pollution of waters of the state shall be installed in accordance with the reclamation plans approved pursuant to this chapter. Diverted or channelized runoff resulting from reclamation may not adversely affect neighboring properties.

11.30 Groundwater Protection. (1) **GROUNDWATER QUANTITY.** A nonmetallic mining site shall be reclaimed in a manner that does not cause a permanent lowering of the water table that results in adverse effects on surface waters or a significant reduction in the quantity of groundwater reasonably available for future users of groundwater.

(2) **GROUNDWATER QUALITY.** Nonmetallic mining reclamation shall be conducted in a manner which does not cause groundwater quality standards in Chapter NR 140, Wisconsin Administrative Code to be exceeded at a point of standards application defined in that chapter.

11.40 Topsoil Management. (1) **REMOVAL.** Topsoil and topsoil substitute material shall be provided as specified in the reclamation plan approved pursuant to this chapter in order to achieve reclamation to the approved post-mining land use. Removal of on-site topsoil and topsoil substitute material removal, when specified in the reclamation plan, shall be performed, as prior to any mining activity associated with any specific phase of the mining operation.

(2) **VOLUME.** The operator shall obtain the volume of soil required to perform final reclamation by removal of on-site topsoil or topsoil substitute material or by obtaining topsoil or substitute material as needed to make up the volume of topsoil as specified in the reclamation plan approved pursuant to this chapter.

(3) **STORAGE.** Once removed, topsoil or topsoil substitute material shall, as required by the reclamation plan approved pursuant to this chapter, either be used in contemporaneous reclamation or stored in an environmentally acceptable manner. The location of stockpiled topsoil or topsoil substitute material shall be chosen to protect the material from erosion or further disturbance or contamination. Runoff water shall be diverted around all locations in which topsoil or topsoil substitute material is stockpiled.

11.50 Final grading and slopes. (1) All areas affected by mining shall be addressed in the approved reclamation plan, pursuant to s. 13 to provide that a stable and safe condition consistent with the post-mining land use is achieved. The reclamation plan may designate highwalls or other unmined and undisturbed natural solid bedrock as stable and safe and not in need of reclamation or designate other areas affected by mining including slopes comprised of unconsolidated materials that exceed a 3:1 slope, whether or not graded, as stable and safe. For slopes designated as stable under this subsection, the regulatory authority may require that either: a site-specific engineering analysis be performed by a registered professional engineer to demonstrate that an acceptable slope stability factor is attainable at a steeper slope, or the operator perform a field test plot demonstration to demonstrate that a stable and safe condition will be achieved and that the post-mining land use specified in the reclamation plan will not be adversely affected.

(2) *[note: the last two sentences are repeated and relocated to (3) below. This note to be deleted following an accept all changes.]* Final reclaimed slopes covered by topsoil or topsoil substitute material may not be steeper than a 3:1 horizontal to vertical incline, unless found

acceptable through one or more of the following: alternative requirements are approved under s. 18; steeper slopes are shown to be stable through a field plot demonstration approved as part of an approved reclamation plan; or stable slopes can be demonstrated based on site-specific engineering analysis performed by a registered professional engineer. All areas in the nonmetallic mine site where topsoil or topsoil substitute material is to be reapplied shall be graded or otherwise prepared prior to topsoil or topsoil substitute material redistribution to provide the optimum adherence between the topsoil or topsoil substitute material and the underlying material.

(3) When the approved post-mining land use includes a body of water, the approved final grade at the edge of a body of water shall extend vertically 6 feet below the lowest seasonal water level. A slope no steeper than 3:1 shall be created at a designated location or locations, depending on the size of the water body to allow for a safe exit.

11.60 Topsoil Redistribution for Reclamation. Topsoil or topsoil substitute material shall be redistributed in accordance with the reclamation plan approved pursuant to this chapter in a manner which minimizes compaction and prevents erosion. Topsoil or topsoil substitute material shall be uniformly redistributed except where uniform redistribution is undesirable or impractical. Topsoil or topsoil substitute material redistribution may not be performed during or immediately after a precipitation event until the soils have sufficiently dried.

11.70 Revegetation and Site Stabilization. Except for permanent roads or similar surfaces identified in the reclamation plan approved pursuant to this chapter, all surfaces affected by nonmetallic mining shall be reclaimed and stabilized by revegetation or other means. Revegetation and site stabilization shall be in accordance with the approved reclamation plan and shall be performed as soon as practicable after mining activity has permanently ceased in any part of the mine site.

11.80 Assessing Completion of Successful Reclamation. (1) The criteria for assessing when reclamation is complete and, therefore, when the financial assurance may be released shall be specified in the reclamation plan approved pursuant to this chapter. Criteria to evaluate reclamation success shall be quantifiable.

(2) Compliance with the revegetation success standards in the approved reclamation plan shall be determined by:

(a) On-site inspections by the City of Franklin or its agent;

(b) Reports presenting results obtained during reclamation evaluations including summarized data on revegetation, photo-documentation or other evidence that the criteria approved in the reclamation plan to ascertain success have been met; or

(c) A combination of inspections and reports.

(3) In those cases where the post mining land use specified in the reclamation plan requires a return of the mining site to a pre-mining condition, the operator shall obtain baseline data on the existing plant community for use in the evaluation of reclamation success pursuant to this section.

(4) Revegetation success may be determined by:

(a) Comparison to an appropriate reference area;

(b) comparison to baseline data acquired at the mining site prior to its being affected by mining; or

(c) Comparison to an approved alternate technical standard.

(5) Revegetation using a variety of plants indigenous to the area is favored.

11.90 Intermittent Mining. Intermittent mining may be conducted provided that the possibility of intermittent cessation of operations is addressed in an operator's reclamation permit, no environmental pollution or erosion of sediments is occurring, and financial assurance for reclamation pursuant to s. 14 is maintained covering all remaining portions of the site that have been affected by nonmetallic mining and that have not been reclaimed.

11.100 Maintenance. During the period of the site reclamation, after the operator has stated that reclamation is complete but prior to release of financial assurance, the operator shall perform any maintenance necessary to prevent erosion, sedimentation or environmental pollution, comply with the standards of this subchapter, or to meet the goals specified in the reclamation plan approved pursuant to this chapter.

PART III - PERMITTING

SECTION 12

12.00 Nonmetallic Mining Reclamation Permit Application Required. No person may engage in nonmetallic mining or in nonmetallic mining reclamation without possessing a nonmetallic mining reclamation permit issued pursuant to the applicable reclamation ordinance unless the activity is specifically exempted in subs. 7.10, 7.20 or 10(16)(b).

12.10 Required Submittal. All operators of nonmetallic mining sites shall apply for a reclamation permit from the City of Franklin. All applications for reclamation permits under this section shall be accompanied by the following information:

- (1) A brief description of the general location and nature of the nonmetallic mine.
- (2) A legal description of the property on which the nonmetallic mine is located or proposed, including the parcel identification number.
- (3) The names, addresses and telephone numbers of all persons or organizations who are owners or lessors of the property on which the nonmetallic mining site is located.
- (4) The name, address and telephone number of the person or organization who is the operator.
- (5) A certification by the operator of his or her intent to comply with the statewide nonmetallic mining reclamation standards established by PART II.

12.20 Reclamation Permit Application Contents. . The operator of any nonmetallic mine site shall submit an application that meets the requirements specified below to the City of Franklin.

- (1) The information required by sub. 12.10.
- (2) The plan review and annual fees required by secs. 26 and 27 .
- (3) A reclamation plan conforming to s. 13.
- (4) A certification that the operator will provide, as a condition of the reclamation permit, provide financial assurance as required by s. 14 upon granting of the reclamation permit and

before mining begins.

(5) To avoid duplication, the permit application and submittals required under this subsection may, by reference, incorporate existing plans or materials that meet the requirements of this chapter.

SECTION 13

13.00 Reclamation Plan.

13.10 Reclamation Plan Required. All operators of nonmetallic mining sites subject to this chapter shall prepare and submit a reclamation plan that meets the following requirements. All operators who conduct or plan to conduct nonmetallic mining shall submit to the City of Franklin a reclamation plan that meets all of the following requirements and complies with the reclamation standards of Part II.

13.20 Post-Mining Land Use. The reclamation plan shall include information sufficient to describe the existing natural and physical conditions of the site, including, but not limited to:

(1) Maps of the nonmetallic mining site including the general location, property boundaries, the aerial extent, geologic composition and depth of the nonmetallic mineral deposit, the distribution, thickness and type of topsoil, the location of surface waters and the existing drainage patterns, the approximate elevation of ground water, as determined by existing hydrogeologic information. In specific instances where the existing hydrogeologic information is insufficient for purposes of the reclamation plan, the applicant may supplement the information with the opinion of a licensed professional geologist or hydrologist.

(2) Topsoil or topsoil substitute material, if required to support revegetation needed for reclaiming the site to approved post-mining land use, can be identified using county soil surveys or other available information, including that obtained from a soil scientist or the University of Wisconsin soil science extension agent or other available information resources.

(3) Information available to the mine operator on biological resources, plant communities, and wildlife use at and adjacent to the proposed or operating mine sites.

(4) Existing topography as shown on contour maps of the site at 2 foot contour intervals to be specified by the regulatory authority.

(5) Location of manmade features on or near the site.

(6) For proposed nonmetallic mining sites that include previously mined areas, a plan view drawing showing the location and extent of land previously affected by nonmetallic mining, including the location of stockpiles, wash ponds and sediment basins.

13.30 Post-Mining Land Use. (1) The reclamation plan shall specify a proposed post-mining land use for the nonmetallic mine site. The proposed post-mining land use shall be consistent with local land use plans and local zoning at the time the plan is submitted, unless a change to the land use plan or zoning is proposed. The proposed post-mining land use shall also be consistent with all applicable local, state, or federal laws in effect at the time the plan is submitted.

(2) Land used for nonmetallic mineral extraction in areas zoned under an exclusive agricultural use ordinance pursuant to s. 91.75, Stats., shall be restored to agricultural use.

13.40 Reclamation Measures. The reclamation plan shall include a description of the proposed reclamation, including methods and procedures to be used and a proposed schedule

and sequence for the completion of reclamation activities for various stages of reclamation of the nonmetallic mining site. The following shall be included:

(1) A description of the proposed earthwork and reclamation, including final slope angles, high wall reduction, benching, terracing and other structural slope stabilization measures and if necessary a site-specific engineering analysis performed by a registered professional engineer as provided by subs. 11.50 (1) or (2).

(2) The methods of topsoil or topsoil substitute material removal, storage, stabilization and conservation that will be used during reclamation.

(3) A plan or map which shows anticipated topography of the reclaimed site and any water impoundments or artificial lakes needed to support the anticipated future land use of the site.

(4) A plan or map which shows surface structures, roads and related facilities after the cessation of mining.

(5) The estimated cost of reclamation for each stage of the project or the entire site if reclamation staging is not planned.

(6) A revegetation plan which shall include timing and methods of seed bed preparation, rates and kinds of soil amendments, seed application timing, methods and rates, mulching, netting and any other techniques needed to accomplish soil and slope stabilization.

(7) Quantifiable standards for revegetation adequate to show that a sustainable stand of vegetation has been established which will support the approved post-mining land use. Standards for revegetation may be based on the percent vegetative cover, productivity, plant density, diversity or other applicable measures.

(8) A plan and, if necessary, a narrative showing erosion control measures to be employed during reclamation activities. These shall address how reclamation activities will be conducted to minimize erosion and pollution of surface and groundwater.

(9) A description of any areas which will be reclaimed on an interim basis sufficient to qualify for the waiver of fees pursuant to subs. 29.20 and 29.40 optional, if the regulatory authority decides to release financial assurance for such areas pursuant to sub. 29.40(3) as authorized by s. NR 135.41(4), Wisconsin Administrative Code and release of financial assurance pursuant to sub. 29.30(3), end optional part and which will be subsequently disturbed prior to final reclamation. Descriptions shall include an identification of the proposed areas involved, methods of reclamation to comply with the standards in Part II and timing of interim and final reclamation.

(10) A description of how the reclamation plan addresses the long-term safety of the reclaimed mining site. The description shall include a discussion of site-specific safety measures to be implemented at the site and include measures that address public safety with regard to adjacent land uses.

13.50 Criteria for Successful Reclamation. The reclamation plan shall contain criteria for assuring successful reclamation in accordance sub. 11.80.

13.60 Certification of Reclamation Plan. The operator shall provide a signed certification that reclamation will be carried out in accordance with the reclamation plan. If the operator does not own the land, the landowner or lessor, if different from the operator, shall also provide signed certification that they concur with the reclamation plan and will allow its

implementation.

13.70 Existing Plans and Approvals. To avoid duplication of effort, the reclamation plan required by this section may, by reference, incorporate existing plans or materials that meet the requirements of this chapter.

13.80 Approval of Reclamation Plan. City of Franklin shall approve, conditionally approve or deny the reclamation plan submitted under this section in writing in accordance with sub. 16.20 for mines that apply for a reclamation permit in conformance with s. 12. Conditional approvals of reclamation plans shall be made according to sub. 16.50 and denials of reclamation plans shall be made pursuant to s. 17. The operator shall keep a copy of the reclamation plan approved under this subsection at the mine site or, if not practicable, at the operator's nearest place of business.

SECTION 14

14.00 Financial Assurance.

14.10 Financial Assurance Requirements. All operators of nonmetallic mining sites in the City of Franklin shall prepare and submit a proof of financial assurance that meets the following requirements:

(1) **NOTIFICATION.** The regulatory authority shall provide written notification to the operator of the amount of financial assurance required under sub. (3).

(2) **FILING.** Following approval of the nonmetallic mining reclamation permit, and as a condition of the permit, the operator shall file a financial assurance with the City of Franklin. The financial assurance shall provide that the operator shall faithfully perform all requirements in this chapter, and applicable reclamation ordinance and the reclamation plan. Financial assurance shall be payable exclusively to the City of Franklin. In cases where one or more other regulatory authorities regulate a nonmetallic mining site, all financial assurance shall be made payable to the City of Franklin only if it currently has primary regulatory responsibility.

(3) **AMOUNT AND DURATION OF FINANCIAL ASSURANCE.** The amount of financial assurance shall equal as closely as possible the cost to the City of Franklin of hiring a contractor to complete either final reclamation or progressive reclamation according to the approved reclamation plan. The amount of financial assurance shall be reviewed periodically by the City of Franklin to assure it equals outstanding reclamation costs. Any financial assurance files with the City of Franklin shall be in an amount equal to the estimated cost for reclaiming all sites the operator has under project permits. City of Franklin may accept a lesser initial amount of financial assurance provided that the permittee initiates a process to continuously increase the amount of financial assurance until it is adequate to affect reclamation. An escrow account may be established that is based on production gross sales and serves to provide regular payments to an account that is designed to grow to the amount necessary to guarantee performance of reclamation by the expected time of final reclamation. The period of the financial assurance is dictated by the period of time required to establish the post mining land use declared and approved of in the reclamation plan. This may extend beyond the permit if required to accomplish successful and complete implementation of the reclamation plan.

(4) **FORM AND MANAGEMENT.** Financial assurance shall be provided by the operator and shall be by a bond or an alternate financial assurance. Financial assurance shall be payable to the City of Franklin and released upon successful completion of the reclamation measures specified in the reclamation plan. Alternate financial assurances may include, but are not limited to cash, certificates of deposits, irrevocable letters of credit, irrevocable trusts, established escrow accounts, demonstration of financial responsibility by meeting net worth requirements, or government securities. Any interest from the financial assurance shall be paid to the operator. Certificates of deposit shall be automatically renewable or other assurances shall be provided before the maturity date. Financial assurance arrangements may include, at the discretion of the City of Franklin, a blend of different options for financial assurance

including a lien on the property on which the nonmetallic mining site occurs or a combination of financial assurance methods.

(5) MULTIPLE PROJECTS. Any operator who obtains a permit from the City of Franklin for 2 or more nonmetallic mining sites may elect, at the time the second or subsequent site is approved, to post a single financial assurance in lieu of separate financial assurance instruments for each nonmetallic mining site. When an operator elects to post a single financial assurance in lieu of separate financial assurances for each mining site, no financial assurances previously posted on individual mining sites shall be released until the new financial assurance has been accepted by the City of Franklin.

(6) MULTIPLE JURISDICTIONS. In cases where more than one regulatory authority has jurisdiction, a cooperative financial security arrangement may be developed and implemented by the regulatory authorities to avoid requiring the permittee to prove financial assurance with more than one regulator authority for the same nonmetallic mining site. Financial assurance is required for each site and two or more sites of less than one acre by the same operator, except that governmental units are not required to obtain financial assurance.

(7) CERTIFICATION OF COMPLETION AND RELEASE. (a) The operator shall notify the regulatory authority, by filing a notice of completion, at the time that he or she determines that reclamation of any portion of the mining site or the entire site is complete. City of Franklin shall inspect the mine site or portion thereof that was the subject of the notice of completion to determine if reclamation has been carried out in accordance with the approved reclamation plan. City of Franklin may partially release the financial assurance if it determines that compliance with a portion of the reclamation plan has been achieved and requires no waiting period. After determining that reclamation is complete the City of Franklin shall issue a certificate of completion and shall release the financial assurance or appropriately reduce the financial assurance in the case of reclamation of a portion of the mining site.

(b) City of Franklin shall make a determination of whether or not the certification in par. (a) can be made within 60 days that the request is received.

(c) City of Franklin may make a determination under this subsection that:

1. Reclamation is not yet complete;
2. It is not possible to assess whether reclamation is complete due to weather conditions, snow cover or other relevant factors;
3. Reclamation is complete in a part of the mine; or
4. Reclamation is fully complete.

(8) FORFEITURE. Financial assurance shall be forfeited if any of the following occur;

(a) A permit is revoked under s. 24 and the appeals process has been completed.

(b) An operator ceases mining operations and fails to reclaim the site in accordance with the reclamation plan.

(9) CANCELLATION. Financial assurance shall provide that it may not be cancelled by the surety or other holder or issuer except after not less than a 90 day notice to the City of Franklin in writing by registered or certified mail. Not less than 30 days prior to the expiration of the 90-day notice of cancellation, the operator shall deliver to the City of Franklin a replacement proof

of financial assurance. In the absence of this replacement financial assurance, all mining shall cease until the time it is delivered and in effect.

(10) **CHANGING METHODS OF FINANCIAL ASSURANCE.** The operator of a nonmetallic mining site may change from one method of financial assurance to another. This may not be done more than once a year unless required by an adjustment imposed pursuant to sub. (12). The operator shall give the City of Franklin at least 60 days notice prior to changing methods of financial assurance and may not actually change methods without the written approval of the City of Franklin.

(11) **BANKRUPTCY NOTIFICATION.** the operator of a non metallic mining site shall notify the regulatory authority by certified mail of the commencement of voluntary or involuntary proceeding under bankruptcy code, 11 USC, et seq., naming the operator as debtor, within 10 days of commencement of the proceeding.

(12) **ADJUSTMENT OF FINANCIAL ASSURANCE.** Financial assurance may be adjusted when required by the City of Franklin. City of Franklin may notify the operator in writing that adjustment is necessary and the reasons for it. City of Franklin may adjust financial assurance based upon prevailing or projected interest or inflation rates, or the latest cost estimates for reclamation.

(13) **NET WORTH TEST.** (a) Only an operator that meets the definition of "company" in s. 289.41 (1) (b), Stats., may use the net worth method of providing financial assurance.

(b) The operator shall submit information to the regulatory authority in satisfaction of the net worth test requirements of s. 289.41 (4), Stats. The criteria in secs. 289.41 (6) (b), (d), (e), (f), (g), (h) and (i), Stats., shall apply.

(c) An operator using the net worth test to provide financial assurance for more than one mine shall use the total cost of compliance for all mines in determining the net worth to reclamation cost ratio in accordance with s. 289.41 (6), Stats.

(d) Determination under the net worth test shall be done in accordance with s. 289.41 (5), Stats.

(e) In addition, the operator shall submit a legally binding commitment to faithfully perform all compliance and reclamation work at the mine site that is required under this chapter.

14.20 Private Nonmetallic Mines. The operator of any nonmetallic mining site that applies for a reclamation permit in conformance with s. 12 shall submit the proof of financial assurance required by sub. 14.10 as specified in the reclamation permit issued to it under this chapter.

14.30 Public Nonmetallic Mining. The financial assurance requirements of this section do not apply to nonmetallic mining conducted by the State of Wisconsin, a state agency, board, commission or department, or a municipality.

SECTION 15

15.00 Public Notice and Right of Hearing.

15.10 Reclamation Plan Hearing . City of Franklin shall provide public notice and the opportunity for a public informational hearing as set forth below:

(1) **PUBLIC NOTICE.** (a) When the City of Franklin receives an application to issue a reclamation permit, it shall publish a public notice of the application no later than 30 days after receipt of a complete application that satisfies s. 12.

(b) The notice shall briefly describe the mining and reclamation planned at the nonmetallic mining site. The notice shall be published as a class 1 notice pursuant to s. 985.07(1), Stats., in the official newspaper of the City of Franklin. The notice shall mention the opportunity for public hearing pursuant to this section and shall give the locations at which the public may review the application and all supporting materials including the reclamation plan.

(c) Copies of the notice shall be forwarded by the City of Franklin to the county or applicable municipal zoning board, the county and applicable local planning organization, the county land conservation officer, and owners of land within 300 feet of the boundaries of the parcel or parcels of land on which the site is located.

(2) HEARING. The City of Franklin shall provide for an opportunity for a public informational hearing on an application or request to issue a nonmetallic mining reclamation permit as follows:

(a) If it conducts a zoning-related hearing on the nonmetallic mine site, the City of Franklin shall provide the opportunity at this hearing to present testimony on reclamation-related matters. This opportunity shall fulfill the requirement for public hearing for a nonmetallic mining reclamation permit required by this section. The City of Franklin shall consider the reclamation-related testimony in the zoning-related hearing in deciding on a permit application pursuant to this chapter.

(b) 1. If there is no opportunity for a zoning-related hearing on the nonmetallic mine site as described in par. (a), opportunity for public hearing required by this section shall be provided as follows. Any person residing within, owning property within, or whose principal place of business is within 300 feet of the boundary of the parcel or parcels of land in which the nonmetallic mining site is located or proposed may request a public informational hearing. The City of Franklin shall hold a public hearing if requested by any of these persons within 30 days of the actual date of public notice under sub. (1). This public informational hearing shall be held no sooner than 30 days nor later than 60 days after being requested. The hearing shall be conducted as an informational hearing for the purpose of explaining and receiving comment from affected persons on the nature, feasibility and effects of the proposed reclamation. The procedures specified for citizen comment periods under Chapter 19 of this Code, excepting the 15 minute limitation, shall apply to such hearing. An Informational Hearing shall be held by the Plan Commission unless otherwise directed by the Common Council.

2. The subject matter and testimony at this informational hearing shall be limited to reclamation of the nonmetallic mine site.

15.20 Local Transportation-Related Mines. No public notice or informational hearing is required for a nonmetallic mining reclamation permit issued to a local transportation-related mine pursuant to sub. 16.30.

SECTION 16

16.00 Issuance of a Nonmetallic Mining Reclamation Permit.

16.10 Permit Required. No person may engage in nonmetallic mining or nonmetallic mining reclamation in the City of Franklin without first obtaining a reclamation permit issued under this section, except for nonmetallic mining sites that are exempt from this chapter under subs. 7.10, 7.20 or 10(16)(b).

16.20 Permit Issuance. Applications for reclamation permits for nonmetallic mining sites that satisfy s. 12 shall be issued a reclamation permit or otherwise acted on as provided below.

(1) Unless denied pursuant to s. 17, the City of Franklin shall approve in writing a request that satisfies the requirements of s. 12 to issue a nonmetallic mining reclamation permit for the proposed nonmetallic mine.

(2) City of Franklin may not issue an approval without prior or concurrent approval of the reclamation plan that meets the requirements of s. 13. The regulatory authority may issue a reclamation permit subject to condition in sub. 16.50 if appropriate. The permit decision shall be made no sooner than 30 days nor later than 90 days following receipt of the complete reclamation permit application that meets the requirements in s. 13, unless a public hearing is held pursuant to s. 15. If a public hearing is held, the regulatory authority shall issue the reclamation permit, subject to conditions pursuant to sub. 16.50 if appropriate, or shall deny the permit as provided in s. 17, no later than 60 days after completing the public hearing.

(3) Permits issued pursuant to this subsection shall require compliance with a reclamation plan that has been approved and satisfies the requirements of s. 13 and provision by the applicant of financial assurance required under s. 14 and payable to the City of Franklin prior to beginning mining.

16.30 Automatic Permit for Local Transportation-Related Mines.

(1) The City of Franklin shall automatically issue an expedited permit under this subsection to any borrow site that:

(a) Will be opened and reclaimed under contract with a municipality within a period not exceeding 36 months;

(b) Is a nonmetallic mine which is intended to provide stone, soil, sand or gravel for the construction, reconstruction, maintenance or repair of a highway, railroad, airport facility or other transportation facility under contract with the municipality;

(c) Is regulated and will be reclaimed under contract with the municipality in accordance with the requirements of the Wisconsin Department of Transportation concerning the restoration of nonmetallic mining sites;

(d) Is not a commercial source;

(e) Will be constructed, operated and reclaimed in accordance with applicable zoning requirements, if any and;

(f) Is not otherwise exempt from the requirements of this chapter under sub. 7.20(10).

(2) In this subsection, "municipality" has the meaning defined in s. 299.01(8), Stats.

(3) Automatic permits shall be issued under this subsection in accordance with the following provisions:

(a) The applicant shall notify the City of Franklin of the terms and conditions of the contract with respect to reclamation of the proposed borrow site.

(b) The applicant shall provide evidence to the City of Franklin to show that the borrow site and its reclamation will comply with applicable zoning requirements, if any.

(c) The City of Franklin shall accept the contractual provisions incorporating requirements of

the Wisconsin Department of Transportation in lieu of a reclamation plan under s. 13.

(d) The City of Franklin shall accept the contractual provisions in lieu of the financial assurance requirements in s. 14.

(e) The public notice and hearing provisions of s. 15 do not apply to nonmetallic mining sites that are issued automatic permits under this subsection.

(f) Mines permitted under this subsection shall pay an annual fee to the City of Franklin as provided in s. 27, but shall not be subject to the plan review fee provided in s. 26. The total annual fee, including the share of the Department of Natural Resources, shall not exceed the amount in Table 2 of s. 27.

(g) The City of Franklin shall issue the automatic permit within 7 days of the receipt of a complete application.

(h) If the borrow site is used to concurrently supply materials for other than the local transportation project, the automatic permitting in this subsection still applies provided the site will be reclaimed under a contractual obligation with the municipality in accordance with the Wisconsin Department of Transportation requirements.

(i) Notwithstanding s. 25, the operator of a borrow site under this subsection is required to submit only the information in an annual report necessary to identify the borrow site and to determine the applicable annual fee.

16.40 Expedited Review. Any operator of a nonmetallic mining site may request expedited review of a reclamation permit application under sub. (1) or sub. (2) as follows:

(1) The operator may submit a request for expedited permit review with payment of the expedited review fee specified in s. 26.20. This request shall state the need for such expedited review and the date by which such expedited review is requested.

(2) The operator may submit a request for expedited review under this subsection if the applicant requires a reclamation permit to perform services under contract with a municipality. This request for expedited review shall state the need for expedited review and shall include a copy of the applicable sections of the contract and the date by which the expedited review is requested.

(3) Following receipt of a request under this subsection, the City of Franklin shall inform the applicant of the estimated date for decision on issuance of the permit. If the applicant then elects not to proceed with the expedited review, the fee paid under sub. (1) shall be returned.

(4) Expedited review under this subsection shall not waive, shorten or otherwise affect the public notice and right of hearing pursuant to s. 15. This subsection does not impose an obligation upon the regulatory authority to act upon a permit application under this subsection by a specific date.

16.50 Permit Conditions. Any decision under this section may include conditions as provided below:

(1) The City of Franklin may issue a reclamation permit or approve a reclamation plan subject to general or site-specific conditions if needed to assure compliance with the nonmetallic mining reclamation requirements of this chapter. The approvals may not include conditions that are not related to reclamation.

(2) One required condition of the issued permit shall be that the new mine obtain financial assurance pursuant to s. 14 prior to beginning mining.

SECTION 17

17.00 Permit Denial. An application for a nonmetallic mining reclamation permit shall be denied as set forth below:

(1) An application to issue a nonmetallic mining reclamation permit shall be denied, within the time frame for permit issuance specified in s. 16, if the City of Franklin finds any of the following:

(a) The applicant has, after being given an opportunity to make corrections, failed to provide to the City of Franklin an adequate permit application, reclamation plan, financial assurance or any other submittal required by Chapter NR 135, Wisconsin Administrative Code or this chapter.

(b) The proposed nonmetallic mining site cannot be reclaimed in compliance with the reclamation standards contained in Chapter NR 135, Wisconsin Administrative Code or subch. I. of ch. 295, Stats.

(c) 1. The applicant, or its agent, principal or predecessor has, during the course of nonmetallic mining in Wisconsin within 10 years of the permit application or modification request being considered shown a pattern of serious violations of this chapter or of federal, state or local environmental laws related to nonmetallic mining reclamation.

2. The following may be considered in making this determination of a pattern of serious violations:

a. Results of judicial or administrative proceedings involving the operator or its agent, principal or predecessor.

b. Suspensions or revocations of nonmetallic mining reclamation permits pursuant to this chapter, other reclamation ordinances or Chapter NR 135, Wisconsin Administrative Code.

c. Forfeitures of financial assurance.

(d) A denial under this subsection shall be in writing and shall contain documentation of reasons for denial.

(2) A decision to deny an application to issue a reclamation permit may be reviewed under s. 22.

SECTION 18

18.00 Alternative Requirements.

18.10 Scope of Alternative Requirements Approvable. An operator of a nonmetallic mining site may request an alternative requirement to the reclamation standard established in s. 11.00. City of Franklin may approve an alternative requirement to the reclamation standards established in this chapter if the operator demonstrates and the City of Franklin finds that all of the following criteria are met:

(1) The nonmetallic mining site, the surrounding property or the mining plan or reclamation plan has a unique characteristic which requires an alternative requirement.

(2) Unnecessary hardship which is peculiar to the nonmetallic mining site or plan will result

unless the alternative requirement is approved.

(3) Reclamation in accordance with the proposed alternative requirement will achieve the planned post-mining land use and long term site stability in a manner that will not cause environmental pollution or threaten public health, safety or welfare.

18.20 Procedures. (1) The operator of a nonmetallic mining site requesting an alternate requirement in sub. 18.10 shall demonstrate all the criteria in sub. 18.10. This shall be submitted in writing to the City for approval.

(2) The City Common Council, after the review and recommendation of the Quarry Monitoring Committee, and a public informational hearing before and the review and recommendation of the Plan Commission, may approve an alternative requirement if makes the findings required by sub. 18.10. If the Quarry Monitoring Committee does not deliver its recommendation to the Common Council within forty-five days of the date of the filing of operator's complete written request, the Common Council may make its determination without receiving such recommendation. If the Plan Commission does not hold the public hearing and deliver its recommendation to the Common Council within forty-five days of the date of the filing of operator's complete written request, the Common Council may hold the public hearing and make its determination without receiving such recommendation. The public hearing shall be preceded by a class 1 notice under Ch. 985, Stats. The Common Council shall make its determination no later than 90 days after the receipt by the City of the operator's complete written request for an alternate requirement. The Common Council shall consider the request pursuant to its rules of procedure as are set forth under §19-6., *et seq.*

(3) A request for an alternative requirement may be incorporated as part of an application to issue or modify a nonmetallic mining reclamation permit.

18.30 Transmittal of Decision on Request for Alternative Requirement. The decision on a request for alternate reclamation requirements shall be in writing to the applicant and shall include documentation of why the alternate requirement was or was not approved.

18.40 Notice to Wisconsin Department of Natural Resources. City of Franklin shall provide notice to the Wisconsin Department of Natural Resources as set forth in this subsection. Written notice shall be given to the Wisconsin Department of Natural Resources at least 10 days prior to any public hearing held under sub. 18.20 on a request for an alternate requirement under this section. A copy of any written decision on alternative requirements shall be submitted to the Wisconsin Department of Natural Resources within 10 days of issuance.

SECTION 19

19.00 Permit Duration. (1) A nonmetallic mining reclamation permit issued under this chapter shall last through operation and reclamation of the nonmetallic mining site, unless suspended or revoked pursuant to sub. 31.20.

(2) If the mine operator is not the landowner, the reclamation permit duration shall not exceed the duration of the mine lease unless the lease is renewed or the permit is transferred to a subsequent lessee pursuant to s. 20.

SECTION 20

20.00 Permit Transfer. A nonmetallic mining reclamation permit issued under this chapter shall be transferred to a new owner or operator upon satisfaction of the following conditions:

(1) A nonmetallic mining reclamation permit may be transferred to a new operator upon submittal to the City of Franklin of proof of financial assurance and a certification in writing by the new permit holder that all conditions of the permit will be complied with.

(2) The transfer is not valid until financial assurance has been submitted by the new operator and accepted by the City of Franklin and the City of Franklin makes a written finding that all conditions of the permit will be complied with. The previous operator shall maintain financial assurance until the new operator has received approval and provided the financial assurance under this section.

SECTION 21

21.00 Previously Permitted Sites. For any nonmetallic mining site which had a reclamation permit previously issued by the City pursuant to Chapter NR 135, Wisconsin Administrative Code that becomes subject to reclamation permitting authority of any other regulatory authority Milwaukee County, the terms and conditions of the previously-issued municipal reclamation permit shall remain in force until modified by that regulatory authority Milwaukee County pursuant to sub. 23.10.

SECTION 22

22.00 Review. Any permitting decision or action made by the City of Franklin under this chapter may be reviewed as set forth in this section. Notwithstanding ss. 68.001, 68.03 (8) and (9), 68.06 and 68.10 (1) (b), Stats., any person who meets the requirements of s. 227.42(1), Stats., may obtain a contested case hearing under s. 68.11, Stats., on the City of Franklin's decision to issue, deny or modify a nonmetallic mining reclamation permit.

PART IV - ADMINISTRATION

SECTION 23

23.00 Permit Modification.

23.10 By City of Franklin. A nonmetallic mining reclamation permit issued under this chapter may be modified by the City of Franklin if it finds that, due to changing conditions, the nonmetallic mining site is no longer in compliance with Chapter NR 135, Wisconsin Administrative Code or this chapter. Such modification shall be by an order modifying the permit in accordance with s. 32. This modifying order may require the operator to amend or submit new application information, reclamation plan, proof of financial assurance or other information needed to ensure compliance with Chapter NR 135, Wisconsin Administrative Code or this chapter.

23.20 At the Operator's Option. If operator of any nonmetallic mine that holds a reclamation permit issued under this chapter desires to modify such permit or reclamation plan approved under this chapter, it may request such modification by submitting a written application for such modification to the City of Franklin. The application for permit or plan modification shall be acted on using the standards and procedures of this chapter.

23.30 Required by the Operator. The operator of any nonmetallic mine that holds a reclamation permit issued under this chapter shall request a modification of such permit if changes occur to the area to be mined, the nature of the planned reclamation, or other aspects of mining required by the reclamation plan approved pursuant to this chapter. Such application for permit modification shall be acted on using the standards and procedures of this chapter.

23.40 Review. All actions by the City of Franklin on permit modifications requested or initiated under this section are subject to review under s. 22.

SECTION 24

24.00 Permit Suspension and Revocation

24.10 Grounds. City of Franklin may suspend or revoke a nonmetallic mining reclamation permit issued pursuant to this chapter if it finds the operator has done any of the following:

(1) Failed to submit a satisfactory reclamation plan within the time frames specified in this

chapter.

- (2) Failed to submit or maintain financial assurance as required by this chapter.
- (3) Failed on a repetitive and significant basis to follow the approved reclamation plan.

24.20 Procedures. If the City of Franklin finds grounds for suspending or revoking a nonmetallic mining reclamation permit set forth in sub. 24.10, it may issue a special order suspending or revoking such permit as set forth in sub. 32.20.

24.30 Consequences. (1) If the City of Franklin makes any of the findings in sub. 24.10, it may suspend a nonmetallic mining reclamation permit for up to 30 days. During the time of suspension, the operator may not conduct nonmetallic mining at the site, except for reclamation or measures to protect human health and the environment as ordered by the regulatory authority pursuant to s. 32.

(2) If the City of Franklin makes any of the findings in sub. 24.10, it may revoke a nonmetallic mining reclamation permit. Upon permit revocation, the operator shall forfeit the financial assurance it has provided pursuant to this chapter to the City of Franklin. City of Franklin may use forfeited financial assurance to reclaim the site to the extent needed to comply with this chapter and the applicable reclamation ordinance.

SECTION 25

25.00 Annual Operator Reporting.

25.10 Contents and Deadline. Annual reports that satisfy the requirements of this section shall be submitted by the operators of nonmetallic mining sites.

- (1) CONTENTS. The annual report required by this section shall include all of the following:
 - (a) The name and mailing address of the operator.
 - (b) The location of the nonmetallic mining site, including legal description, tax key number or parcel identification number if available.
 - (c) The identification number of the applicable nonmetallic mining permit, if assigned by the City of Franklin.
 - (d) The acreage currently affected by nonmetallic mining extraction and not yet reclaimed.
 - (e) The amount of acreage that has been reclaimed to date, on a permanent basis and the amount reclaimed on an interim basis.
 - (f) A plan, map or diagram accurately showing the acreage described in pars. (d) and (e).
 - (g) The following certification, signed by the operator:

"I certify that this information is true and accurate, and that the nonmetallic mining site described herein complies with all conditions of the applicable nonmetallic mining reclamation permit and Chapter NR 135, Wisconsin Administrative Code."

- (2) DEADLINE. The annual report shall cover activities on unreclaimed acreage for the previous calendar year and be submitted by January 31.

(3) WHEN REPORTING MAY END. Annual reports shall be submitted by an operator for all active and intermittent mining sites to the City of Franklin for each calendar year until nonmetallic mining reclamation at the site is certified as complete pursuant to sub. 29.30 or at the time of release of financial assurance pursuant to sub. 14.10(7).

25.20 Inspection in Lieu of Report. City of Franklin may, at its discretion, obtain the information required in sub. 25.10 for a calendar year by written documentation of an inspection it completes during a calendar year, as set forth in this subsection. If the City of Franklin obtains and documents the required information, the annual report need not be submitted by the operator. If the City of Franklin determines that the operator need not submit an annual report pursuant to this subsection, it shall advise the operator in writing at least 30 days before the end of the applicable calendar year. In that case, the City of Franklin shall require the operator to submit the certification required in sub. 25.10(1)(g).

25.30 Retention of Annual Reports. Annual reports submitted under sub. 25.10 or inspection records that replace them under sub. 25.20 shall be retained by the City of Franklin at Franklin City Hall, 9229 West Loomis Road, Franklin, Wisconsin 53132 for at least 10 years after the calendar year to which they apply. These records, or complete and accurate copies of them, shall be made available to the Wisconsin Department of Natural Resources upon written request or during its inspection or audit activities carried out pursuant to Chapter NR 135, Wisconsin Administrative Code.

SECTION 26

26.00 Plan Review Fee.

26.10 Amount and Applicability. A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under s. 12 shall submit a non-refundable plan review fee as follows. Concurrent with the filing of any application for any form of reclamation plan approval, the applicant shall pay a non-refundable plan review fee deposit to the City in the amount of \$100. In addition, the applicant shall be responsible for and pay to the City such additional amounts for plan review fees so that all costs of services provided by the City for the plan review are paid by the applicant. Such plan review fee shall not exceed the actual cost of providing the services. Such fee shall be paid to the City by the applicant within 10 days of the date of the itemized invoice for same prepared by the City subsequent to the completion of the plan review. Prior to any Common Council approval of any form of reclamation plan, the Director of Administration shall review the application and report to the Common Council the Director's findings as to the reasonable estimates of the costs of providing plan review services reasonably required by the application. The applicant shall provide the Director with all information necessary to determine the level of services required. After reviewing such report, upon which the applicant may be heard, the Common Council shall specify as a condition of any approval and further service that the applicant deposit with the City, security in the form of a bond, letter of credit or cash deposit, in form approved by the City Attorney in an amount determined to be sufficient to guarantee payment for the anticipated cost of providing such plan review services. Such security deposit shall be made by the applicant no later than 30 days after the date of written notice to do so mailed by the Director to the applicant. Such security deposit shall entitle the City to draw upon same forthwith upon any default in payment by the applicant after services invoice, with remaining balance of any cash deposit to be returned to the applicant. Any determined deficiency for such service fees beyond the security deposit shall be a debt of the applicant to the City, collectible by the City in an action at law, which shall also entitle the City to all costs of collection, including attorney fees, and further, shall also constitute a lien against the non-metallic mining site to be placed upon the tax roll for such premises. No plan review fee may be assessed under this section for any local transportation-related mining receiving an automatic permit under sub. 16.30. A separate plan review fee shall be paid under this section for any modification to an existing reclamation plan submitted pursuant to s. 23.

26.20 Expedited Plan Review Fee. A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under s. 12 may obtain expedited reclamation plan review by paying a fee as determined by the Director of Administration and pursuant to the procedures set forth under sub. 26.10. Such fee shall be in addition to that required in sub. 26.10.

26.30 Relation to Annual Fee. Any reclamation plan review fee or expedited reclamation plan review fee collected under this section shall be added to and collected as part of the first annual fee collected under s. 27.

SECTION 27

27.00 Annual Fees.

27.10 Areas Subject to Fees, Procedures and Deadline. (1) Operators of all nonmetallic mining sites subject to reclamation permits issued under this chapter shall pay annual fees to the City of Franklin.

(2) Fees paid under this section shall be calculated based on the unreclaimed acres of a nonmetallic mining site, as defined below:

(a) "Unreclaimed acre" or "unreclaimed acres" means those unreclaimed areas in which nonmetallic mining has occurred after August 1, 2001 and areas where nonmetallic mining reclamation has been completed but is not yet certified as reclaimed under sub. 14.10(7). However the term does not include any areas described in par. (b).

(b) "Unreclaimed acre" or "unreclaimed acres" does not include:

1. Those areas where reclamation has been completed and certified as reclaimed under sub. 14.10(7).
2. Those areas previously affected by nonmetallic mining but which are not used for nonmetallic mining after August 1, 2001.
3. Those portions of nonmetallic mining sites which are included in an approved nonmetallic mining reclamation plan but are not yet affected by nonmetallic mining.
4. Areas previously mined but used after August 1, 2001 for a non-mining activity, such as stockpiling of materials used for an industrial activity such as an asphalt plant, concrete batch plant, block and tile operation or other industry that uses products produced from nonmetallic mining.
5. Those areas within a nonmetallic mining site which the regulatory authority has determined to have been successfully reclaimed on an interim basis in accordance with subs. 29.20 and 29.30.

(c) Fees shall be assessed on active acres only and shall not be assessed on acreage where nonmetallic mining is proposed and approved but where no nonmetallic mining has yet taken place.

(3) Fees assessed pursuant to this section shall be based on unreclaimed acres at the end of the year. Such fees apply to a calendar year or any part of a year in which nonmetallic mining takes place, until final reclamation is certified as complete under s. 29. Fees shall be paid no later than January 31 for the previous year.

(4) If reclamation has already occurred on portions of a nonmetallic mining site, the fees for

such portions may be submitted with a request that they be held by the City of Franklin pending certification of completed reclamation pursuant to subs. 29.30 and 14.10 (7). Upon such certification the City of Franklin shall refund that portion of the annual fee that applies to the reclaimed areas. If the City of Franklin fails to make a determination under subs. 29.30 and 14.10 (7) within 60 days of the request, it shall refund that portion of the annual fee that applies to the reclaimed areas.

(5) The amount collected shall equal the Wisconsin Department of Natural Resource's share as described in sub. 27.20, the share of the City of Franklin described in sub. 27.30, and, if applicable, the reclamation plan review fee described in s. 26.

27.20 Wisconsin Department of Natural Resources Share of Fee. (1) Fees paid under this section shall, except where provided in sub. (2), include a share for the Wisconsin Department of Natural Resources equal to the amount specified in Table 1 the City of Franklin Nonmetallic Mining Reclamation Fees Schedule on file in the Office of the Franklin Department of City Development.

TABLE 1:
Wisconsin Department of Natural Resources' Share of Annual Fees
Collected by the City of Franklin

Mine Size in Unreclaimed Acres, Rounded to the Nearest Whole Acre	Annual Fee
1 to 5 acres {does not include mines < 1 acre}	\$35
6 to 10 acres	\$70
11 to 15 acres	\$105
16 to 25 acres	\$140
26 to 50 acres	\$160
51 acres or larger	\$175

(2) For nonmetallic mining sites at which no nonmetallic mining has taken place during a calendar year, the share for the Wisconsin Department of Natural Resources shall be \$15.

(23) The city of Franklin shall forward fees collected under this subsection to the Wisconsin Department of Natural Resources by March 31st.

27.30 City of Franklin's Share of Fee. (1) Fees paid under this section shall also include an annual fee due to the City of Franklin which shall be in the dollar amounts as set forth in the table immediately below City of Franklin Nonmetallic Mining Reclamation Fees Schedule on file in the Office of the Franklin Department of City Development.

Mine Size in Unreclaimed Acres, Rounded to the Nearest Whole Acre	Annual Fee
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1 to 5 acres {does not include mines < 1 acre}	\$150
6 to 10 acres	\$300
11 to 15 acres	\$450
16 to 25 acres	\$600
26 to 50 acres	\$700
51 acres or larger	\$750

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(2) The annual fee collected by the City under this subsection for local transportation related mines issued permits under sub. 16.30 may not exceed the amounts set forth in Table 2. The amount listed below shall be the total fee assessed on such nonmetallic mines, and shall include both a share for the Wisconsin Department of Natural Resources and the City.

**TABLE 2:
Limit on Total Annual Fees
for Automatically Permitted Local Transportation Project Related Mines.**

Mine Size in Unreclaimed Acres, Rounded to the Nearest Whole Acre	Annual Fee
1 to 5 acres, does not include mines < 1 acre	\$175
6 to 10 acres	\$350
11 to 15 acres	\$525
16 to 25 acres	\$700
26 to 50 acres	\$810
51 acres or larger	\$870

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[Note: 27.40 {Optional} Reduced Fee for Inactive Mines of the WIDNR NR 135 Model Ordinance is not adopted hereunder.]

27.50 Documentation of City of Franklin's Share of Fee. The City of Franklin shall document in writing its estimated program costs and the need for fee established in sub. 27.30 on or before June 1, 2001. This documentation shall be available for public inspection at the City Clerk's Office, 9229 West Loomis Road, Franklin, Wisconsin 53132. Annual fees due where the Department of Natural Resources is the Regulatory Authority shall be in the dollar amounts set forth in the City of Franklin Nonmetallic Mining Reclamation Fees Schedule on file in the Office of the Franklin Department of City Development.

TABLE 3:
Annual Fees Due
Where the Department of Natural Resources is the Regulatory Authority.

Mine Size in Unreclaimed Acres, Rounded to the Nearest Whole Acre	Annual Fee
1 to 5 acres <small>(does not include mines < 1 acre)</small>	\$175
6 to 10 acres	\$350
11 to 15 acres	\$525
16 to 25 acres	\$700
26 to 50 acres	\$810
51 acres or larger	\$870

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SECTION 28

28.00 Regulatory Reporting and Documentation.

28.10 Reporting. City of Franklin shall send an annual report to the Wisconsin Department of Natural Resources by March 31st for the previous calendar year. The reports shall include the following information for the previous year's nonmetallic mining reclamation program:

- (1) The total number of nonmetallic mining reclamation permits in effect.
- (2) The number of new permits issued within the jurisdiction of the City of Franklin.
- (3) The number of acres approved for nonmetallic mining and the number of acres newly approved in the previous year.
- (4) The number of acres being mined or unreclaimed.
- (5) The number of acres that have been reclaimed and have had financial assurance released pursuant to sub. 14.10(7).
- (6) The number of acres that are reclaimed and awaiting release from the financial assurance requirements of this subchapter pursuant to subs. 29.10 and 29.20.
- (7) The number and nature of alternative requirements granted, permit modifications, violations, public hearings, enforcement actions, penalties that have been assessed and bond or financial assurance forfeitures.

28.20 Documentation. The City of Franklin shall, to the best of its ability, maintain the information set forth below, and make it available to the Wisconsin Department of Natural Resources for that agency's audit of the City of Franklin's reclamation program pursuant to

Chapter NR 135, Wisconsin Administrative Code:

- (1) Documentation of compliance with Chapter NR 135, Wisconsin Administrative Code and this chapter.
- (2) The procedures employed by the City of Franklin regarding reclamation plan review, and the issuance and modification of permits.
- (3) The methods for review of annual reports received from operators.
- (4) The method and effectiveness of fee collection.
- (5) Procedures to accurately forward the Wisconsin Department of Natural Resources' portion of collected fees in a timely fashion.
- (6) Methods for conducting on-site compliance inspections and attendant reports, records and enforcement actions.
- (7) Responses to citizen complaints.
- (8) The method of and accuracy in determining the amount of the financial assurance obtained from the operator to guarantee reclamation performance.
- (9) The maintenance and availability of records.
- (10) The number and type of approvals for alternative requirements issued pursuant to s. 18.
- (11) The method of determining the success of reclamation in meeting the criteria contained in the reclamation plan and subsequently releasing the financial assurance pursuant to sub. 14.10(7).
- (12) Any changes in local regulations, ordinances, funding and staffing mechanisms or any other factor which might affect the ability of the City of Franklin to implement its nonmetallic mining reclamation program under this chapter.
- (13) the amount of fees collected in comparison to the amount of money actually expended for nonmetallic mining reclamation program administration.
- (14) Any other performance criterion necessary to ascertain compliance with Chapter NR 135, Wisconsin Administrative Code.

SECTION 29

29.00 Completed Reclamation - Reporting, Certification and Effect.

29.10 Reporting. The operator of a nonmetallic mining site may certify completion of reclamation for a portion or all of the nonmetallic mining site pursuant to a reclamation plan prepared and approved pursuant to the chapter and Chapter NR 135, Wisconsin Administrative Code.

29.20 Reporting of Interim Reclamation. The operator of a nonmetallic mining site may report completion of interim reclamation as specified in the reclamation plan for the site prepared and approved pursuant to this chapter and Chapter NR 135, Wisconsin Administrative Code. Reporting of interim reclamation shall be done according to the procedures in sub. 29.10.

29.30 Certification of Completed Reclamation. City of Franklin shall inspect a nonmetallic mining site for which reporting of reclamation or interim reclamation has been submitted pursuant to this subsection within 60 days of receipt, and make a determination in writing in accordance with sub. 14.10(7) (c). If it is determined that interim or final reclamation is complete, including revegetation as specified in a reclamation plan that conforms with s. 13, the City of Franklin shall issue the mine operator a written certificate of completion.

29.40 Effect of Completed Reclamation. If reclamation is certified by the City of Franklin as complete under sub. 29.30 for part or all of a nonmetallic mining site, then:

(1) No fee shall be assessed under s. 27 for the area so certified.

(2) The financial assurance required by s. 14 shall be released or appropriately reduced in the case of completion of reclamation for a portion of the mining site.

29.50 Effect of Inaction Following Report of Completed Reclamation. If no written response as required by sub. 29.30 for an area of the mine site reported as reclaimed or interim reclaimed is given within 60 days of receiving such request, any annual fee paid to the City of Franklin for it under s. 27 shall be refunded.

SECTION 30 **30.00 Permit Termination.** When all final reclamation required by a reclamation plan conforming to s. 13 and required by this chapter is certified as complete pursuant to subs. 14.10(7) and 29.30, the City of Franklin shall issue a written statement to the operator of the nonmetallic mining site, thereby terminating the reclamation permit.

PART V - ENFORCEMENT

SECTION 31 **31.00 Right of Entry and Inspection.** For the purpose of ascertaining compliance with the provisions of Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, of this chapter, any authorized officer, agent, employee or representative of the City of Franklin may inspect any nonmetallic mining site subject to this chapter as provided below:

(1) No person may refuse entry or access onto a nonmetallic mining site of a duly authorized officer, employee or agent of the City of Franklin or the Wisconsin Department of Natural Resources who present appropriate credentials to inspect the site for compliance with the nonmetallic mining reclamation permit, this chapter, Chapter NR 135, Wisconsin Administrative Code or subchapter I of ch. 295, Stats.

(2) Any person who enters the site under this right of inspection shall obtain training and provide their own safety equipment needed to comply with any federal, state or local laws or regulations controlling persons on the nonmetallic mining site.

SECTION 32 **32.00 Orders and Citations.**

32.10 Enforcement Orders. City of Franklin may issue orders as set forth in Section 295.19(1) (a), Stats., to enforce Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this chapter, a permit issued pursuant to this chapter or a reclamation plan required by s. 13 and a permit issued under this chapter. A violation of this chapter, an order or permit issued pursuant to this chapter or a reclamation plan required by s. 13 and a permit issued under this chapter shall be considered a violation of Subchapter I of Chapter 295, Wisconsin Statutes and Chapter NR 135, Wisconsin Administrative Code.

32.20 Special Orders. City of Franklin may issue a special order as set forth in Sections 295.19(1) (b) and (c), Wisconsin Statutes suspending or revoking a nonmetallic mining reclamation permit pursuant to s. 24, or directing an operator to immediately cease an activity regulated under Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code or this chapter until the necessary plan approval is obtained.

32.30 Review of Orders. A person holding a reclamation permit who is subject to an order pursuant to this section shall have the right to review the order in a contested case hearing under s. 68.11, Stats., notwithstanding the provisions of ss. 68.001, 68.03 (8) and (9), 68.06 and 68.10 (1)(b), Stats.

32.40 Citations. City of Franklin may issue a citation under s. 66.119, Stats., and general penalty provisions of Municipal Code and City Ordinance Nos. 97-1456 and 97-1457, as applicable, to collect forfeitures to enforce Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this chapter, a permit issued pursuant to this chapter or a reclamation plan required by s. 13 and a permit issued under this chapter. The issuance of a citation under this subsection shall not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this subsection.

32.50 Enforcement. City of Franklin may submit any order issued under s. 32 to abate violations of this chapter to a district attorney, corporation counsel, municipal attorney or the attorney general for enforcement. the district attorney, corporation council, municipal attorney or the attorney general may enforce those orders.

SECTION 33

33.00 Penalties. Any violation of Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this chapter, a permit issued pursuant to this chapter or a reclamation plan required by s. 13 and a permit issued under this chapter may result in forfeitures as provided in Section 295.19(3), Wisconsin Statutes, as follows:

(1) Any person who violates Chapter NR 135, Wisconsin Administrative Code, or an order issued under s. 32 may be required to forfeit not less than \$25 nor more than \$1,000 for each violation. Each day of continued violation is a separate offense. While an order issued under s. 32 is suspended, stayed or enjoined, this penalty does not accrue.

(2) Except for the violations referred to in sub. (1), any person who violates subchapter I of ch. 295, Stats., Chapter NR 135, Wisconsin Administrative Code, any reclamation plan approved pursuant to this chapter or an order issued pursuant to s. 32 shall forfeit not less than \$10 nor more than \$5,000 for each violation. Each day of violation is a separate offense. While an order issued under s. 32 is suspended, stayed or enjoined, this penalty does not accrue.

STATE OF WISCONSIN

CITY OF FRANKLIN

MILWAUKEE COUNTY

[Draft 4-2-15]

RESOLUTION NO. 2015-____

A RESOLUTION APPROVING A CITY OF FRANKLIN NONMETALLIC
MINING RECLAMATION FEES SCHEDULE PURSUANT TO CHAPTER 176
OF THE MUNICIPAL CODE NONMETALLIC MINING RECLAMATION
ORDINANCE SECTION 27

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WHEREAS, the Nonmetallic Mining Reclamation Ordinance for the City of Franklin, Chapter 176 of the Municipal Code, Section 27, provides for the payment of fees by the operators of nonmetallic mining sites and the sharing of those fees among the governmental regulatory authorities; and

WHEREAS, the Department of City Development having reviewed those fees and having determined that those fees as set forth on the attached City of Franklin Nonmetallic Mining Reclamation Fees Schedule are fair and reasonable and in the public interest.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that the City of Franklin Nonmetallic Mining Reclamation Fees Schedule, in the form and content as annexed hereto, be and the same is hereby approved.

BE IT FURTHER RESOLVED, that the City of Franklin Nonmetallic Mining Reclamation Fees Schedule shall be kept on file and available for public inspection in the Office of the Department of City Development.

Introduced at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2015.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2015.

APPROVED:

Stephen R. Olson, Mayor

ATTEST:

Sandra L. Wesolowski, City Clerk
YES _____ NOES _____ ABSENT _____

City of Franklin Nonmetallic Mining Reclamation Fees Schedule
 (Approved by Common Council Resolution No. 2015-____)
 Nonmetallic Mining Reclamation Ordinance for the City of Franklin
 Chapter 176 of the Municipal Code
 Section 27

27.20 Wisconsin Department of Natural Resources Share of Fee.

**TABLE 1:
 Wisconsin Department of Natural Resources' Share of Annual Fees
 Collected by the City of Franklin**

Mine Size in Unreclaimed Acres, Rounded to the Nearest Whole Acre	Annual Fee
1 to 5 acres [does not include mines < 1 acre]	\$35
6 to 10 acres	\$70
11 to 15 acres	\$105
16 to 25 acres	\$140
26 to 50 acres	\$160
51 acres or larger	\$175

For nonmetallic mining sites at which no nonmetallic mining has taken place during a calendar year, the share for the Wisconsin Department of Natural Resources shall be \$15.

27.30 City of Franklin's Share of Fee.

Mine Size in Unreclaimed Acres, Rounded to the Nearest Whole Acre	Annual Fee
1 to 5 acres [does not include mines < 1 acre]	\$ <u>150175</u>
6 to 10 acres	\$ <u>300350</u>
11 to 15 acres	\$ <u>450525</u>
16 to 25 acres	\$ <u>600700</u>
26 to 50 acres	\$ <u>700810</u>
51 acres or larger	\$ <u>750870</u>

The annual fee collected by the City under this subsection for local transportation-related mines issued permits under sub. 16.30 may not exceed the amounts set forth in Table 2. The amount listed below shall

be the total fee assessed on such nonmetallic mines, and shall include both a share for the Wisconsin Department of Natural Resources and the City.

TABLE 2:
Limit on Total Annual Fees
for Automatically Permitted Local Transportation Project-Related Mines.

Mine Size in Unreclaimed Acres, Rounded to the Nearest Whole Acre	Annual Fee
1 to 5 acres, does not include mines < 1 acre	\$175
6 to 10 acres	\$350
11 to 15 acres	\$525
16 to 25 acres	\$700
26 to 50 acres	\$810
51 acres or larger	\$870

[Note: 27.40 [Optional] Reduced Fee for Inactive Mines of the WIDNR NR 135 Model Ordinance is not adopted hereunder.]

27.50 Documentation of City of Franklin's Share of Fee.

TABLE 3:
Annual Fees Due
Where the Department of Natural Resources is the Regulatory Authority.

Mine Size in Unreclaimed Acres, Rounded to the Nearest Whole Acre	Annual Fee
1 to 5 acres [does not include mines < 1 acre]	\$175
6 to 10 acres	\$350
11 to 15 acres	\$525
16 to 25 acres	\$700
26 to 50 acres	\$810
51 acres or larger	\$870

<p>APPROVAL</p> <p><i>Slw</i></p>	<p>REQUEST FOR COUNCIL ACTION</p>	<p>MEETING DATE</p> <p>5/05/15</p>
<p>REPORTS AND RECOMMENDATIONS</p>	<p>Request for Approval of Memorandum of Agreement for Weights and Measures Inspection with the Wisconsin Department of Agriculture, Trade and Consumer Protection for July 1, 2015 through June 30, 2016</p>	<p>ITEM NUMBER</p> <p><i>G.116.</i></p>

Attached is the (renewal) Memorandum of Agreement for Weights and Measures Inspection with the Wisconsin Department of Agriculture, Trade and Consumer Protection for July 1, 2015 through June 30, 2016. The Bureau of Weights and Measures has determined that there is a need to increase the number of days from 17 to 19 due to the changes in devices and businesses requiring weights and measures inspection services in Franklin. (Note: Pursuant to Municipal Code Section 26-8., the actual service cost is invoiced by the City to each licensee that receives the inspection service.)

COUNCIL ACTION REQUESTED

Motion to authorize proper City officials to execute the Memorandum of Agreement for Weights and Measures Inspection with the Wisconsin Department of Agriculture, Trade and Consumer Protection for July 1, 2015 through June 30, 2016 at a cost of \$400 per day for 19 days, subject to review by the City Attorney.



State of Wisconsin
Governor Scott Walker

Department of Agriculture, Trade and Consumer Protection
Ben Brancel, Secretary

March 31, 2015

SANDI WESOLOWSKI CLERK
CITY OF FRANKLIN
9229 W LOOMIS RD
FRANKLIN WI 53132-0160

Dear Ms. Wesolowski:

The City of Franklin has a contract with the Department of Agriculture, Trade and Consumer Protection for weights and measures inspection services. The contract is renewable each July 1st.

State law requires that our agency charges municipalities fees sufficient to cover the cost of services rendered. After reviewing the changes in devices and businesses in your city, we have determined that an increase in the number of contract days is warranted. You will be charged for 19 days, for FY16 (July 1, 2015 through June 30, 2016), at \$400 per day. Upon meeting your approval, please sign and return the enclosed contract by May 1, 2015 to:

Holly Wing
WDATCP
PO Box 8911
Madison, WI 53708-8911

A completed copy of the contract will be returned to you for your records, and you will be billed for this service in April 2016.

If you have questions or comments, please call Holly Wing at 608-224-4952.

Sincerely,

Rachelle J. Miller
Chief, Field Operations Section
Bureau of Weights and Measures

Enclosure

RJM:hw

Agriculture generates \$88 billion for Wisconsin

2811 Agriculture Drive • PO Box 8911 • Madison, WI 53708-8911 • Wisconsin.gov

An equal opportunity employer

MEMORANDUM OF AGREEMENT WEIGHTS AND MEASURES INSPECTION

THIS AGREEMENT entered into by and between the STATE OF WISCONSIN DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION, hereinafter referred to as the Department, and the MUNICIPALITY OF FRANKLIN, hereinafter referred to as the Municipality, WITNESSETH:

Pursuant to Sec. 98.04(2), Wis. Stats., the Department agrees to furnish the services and perform the duties of sealers of weights and measures as required in Sec. 98.04(1), Wis. Stats., in the Municipality. The Department further agrees to report to the Municipality at least annually on the extent and nature of the services performed. It is understood and agreed that the Municipality shall not be required to maintain a department of weights and measures or appoint sealers of weights and measures as long as this agreement is in effect.

Pursuant to Sections 66.0301 and 98.04(2), Wis. Stats., the Municipality agrees to pay to the Department for such services fees sufficient to cover the cost of such services annually on a fiscal year basis from July 1 to June 30, and to be paid not later than May 1 of the fiscal year of this agreement. Payment for services performed by the Department for less than any contract payment period shall be prorated accordingly.

This agreement shall be self-renewing for succeeding fiscal year periods except that the sum to be paid to the Department for services rendered shall be subject to renegotiations for each succeeding contract period on basis of cost. This agreement may be terminated at the end of any fiscal year by either party by giving notice in writing to the other party at least sixty days prior to July 1. Annual fees payable to the Department shall be in the amount of \$7,600.00, except as otherwise agreed upon for succeeding contract periods.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed the **1st day of July, 2015.**

WISCONSIN DEPARTMENT OF
AGRICULTURE, TRADE AND CONSUMER
PROTECTION

MUNICIPALITY OF _____

By _____
Signature Date

By _____
Signature Date

for Administrator
Division of Trade & Consumer Protection

Title Telephone Number

City of Franklin, WI
Friday, May 1, 2015

Chapter 26. Weights and Measures Regulations

[HISTORY: Adopted by the Common Council of the City of Franklin 12-3-2002 by Ord. No. 2002-1736. This ordinance also repealed former Ch. 26, Department of Weights and Measures, adopted 8-5-1997 by Ord. No. 97-1461 as Sec. 1.07 of the 1997 Code, as amended. Amendments noted where applicable.]

§ 26-1. Regulations adopted.

The statutory provisions of Ch. 98, Wis. Stats., and Wisconsin Administrative Code, ATCP 92, Weighing and Measuring Devices, are hereby adopted and by reference made a part of this chapter as if fully set forth herein. Any act required to be performed or prohibited by any statute or code incorporated herein by reference is required or prohibited by this chapter. Any further amendments, revisions or modifications of the statutes incorporated herein or Wisconsin Administrative Code provisions incorporated herein are intended to be made a part of this chapter. This chapter is adopted pursuant to the provisions of Chapter 98, Wis. Stats.

§ 26-2. Appointment of inspectors.

In order to assure compliance with this chapter, the City hereby grants the authority and duties of sealers and inspectors required by this chapter to the State of Wisconsin Department of Agriculture, Trade and Consumer Protection.

§ 26-3. Definitions.

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

COMMERCIAL WEIGHING OR MEASURING DEVICES

Devices used or employed in establishing the size, quantity, extent, area or measurement of quantities, items, produce or articles for sale, hire or award, or in computing any basic charge or payment for services rendered on the basis of weight or measure.

WEIGHTS AND MEASURES PROGRAM

The program that includes administration and enforcement of this chapter, Chapter 98, Wis. Stats., Wisconsin Administrative Code provisions and any related actions.

§ 26-4. Weights and measures license required.

- A. License requirements. Except as provided in Subsection **B**, no person shall operate or maintain any commercial weighing or measuring devices or any other weights and measures or systems and accessories related thereto which are used commercially within the City of Franklin for

determining the weight, measure or count unless each such device is licensed by an annual weights and measures license issued pursuant to the provisions of this chapter.

- B. Exemptions. Sales permitted at St. Martins Fair or sales permitted by direct seller, transient merchants and solicitors are exempt from licensing under this chapter.

§ 26-5. Application for license.

An application for a weights and measures license shall be made in writing on a form provided for such purpose by the City Clerk and shall be signed by the owner of the commercial business or by its authorized agent. Such applications shall state the type and number of weighing and measuring devices to be licensed, location of the devices, the applicant's full name and post office address, and whether such applicant is an individual, partnership, limited liability company, corporation or other entity. If the applicant is a partnership, the application shall state the names and addresses of each partner. If the applicant is a corporation or limited liability company, the application shall state the name and address of all officers and agents of the applicant, including the registered agent thereof.

§ 26-6. Weights and measures license fee.

Upon compliance of this chapter, the City Clerk shall issue a license to the applicant upon payment of the license fee as set forth in Ch. 169, Licenses and Permits. Each store or business location shall require a separate license. The license fee shall not be prorated for a partial year.

§ 26-7. License term.

A license issued under this chapter shall expire on June 30 of each year.

§ 26-8. Fees assessment.

Pursuant to § 98.04(2), Wis. Stats., the Department of Agriculture, Trade and Consumer Protection enforces this chapter within the City of Franklin and charges the costs thereof to the City of Franklin upon an itemized service fee assessment per licensee basis following the expiration of each license year on June 30; the City shall invoice such actual service costs to each licensee by regular mail, and each licensee shall pay such invoice within 30 days of the date of the City mailing thereof. Payment of the service fee assessment by a licensee shall be in addition to the payment of the annual license fee set forth under § 26-6 of this chapter. A licensee's failure to timely pay the fee assessment shall be grounds for the suspension or revocation of any municipal license held by such licensee, and the payment of such fee assessment shall be a precondition to the issuance of any renewal, subsequent or other municipal license to such licensee.

§ 26-9. Violations and penalties.

Any person or entity who shall violate any provision of this chapter shall be subject to the penalties and remedial actions as provided in Chapter 1, General Provisions, § 1-19 of this Code, and in addition thereto, the penalties and remedial actions available under § 98.26, Wis. Stats.

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<p>APPROVAL <i>Slw</i></p>	<p>REQUEST FOR COUNCIL ACTION</p>	<p>MEETING DATE 05/05/2015</p>
<p>REPORTS & RECOMMENDATIONS</p>	<p>Recommendations from the Committee of the Whole</p>	<p>ITEM NUMBER <i>G.17.</i></p>
<p>2014 Comprehensive Annual Financial Report of the City of Franklin and the Required Communications Letter from Clifton Larson Allen, LLP.</p>		

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APPROVAL <i>Slw</i>	REQUEST FOR COUNCIL ACTION	MEETING DATE May 5, 2015
REPORTS AND RECOMMENDATIONS	<p>Matt Talbot Recovery Services, Inc. 5 to 8 bedroom Community Based Residential Facility for the property located at 9132 South 92nd Street, Tax Key No. 886-9987-000; Letters and Petitions from Angeline Benning regarding Community Based Residential Facility at South 92nd Street and West St. Martins Road; Site Plan for a 5 To 8 Bedroom State Licensed Community Based Residential Facility Development (Matt Talbot Recovery Services, Inc., Applicant); Request from Matt Talbot Recovery Services, Inc. to extend water main along St. Martins Road, 90-degree bend to South 92nd Street, and past driveway to terminate water main at a possible future lot line. The Common Council may enter closed session pursuant to Wis. Stat. § 19.85(1)(g), to confer with legal counsel for the Common Council and City defense counsel who are rendering advice concerning strategy to be adopted by the body with respect to potential litigation with regard to the Matt Talbot Recovery Services, Inc. development, and to reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate.</p>	ITEM NUMBER <i>G, 18.</i>

Department of City Development staff and Engineering Department staff will be present at the meeting to provide information prepared and received to-date upon the Common Council directions to request Wisconsin Department of Natural Resources and Army Corps of Engineering for a wetland delineation confirmation and navigability determination, Department of Transportation STH 100 plans information, and potential alternate public water supply routes and cost comparisons. Representatives of the applicant will be in attendance at the meeting to present and provide information regarding the development and its project application and to respond to questions and concerns raised with regard to the development and its project application.

COUNCIL ACTION REQUESTED

A motion to enter closed session pursuant to Wis. Stat. § 19.85(1)(g), to confer with legal counsel for the Common Council and City defense counsel who are rendering advice concerning strategy to be adopted by the body with respect to potential litigation with regard to the Matt Talbot Recovery Services, Inc. development, and to reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate.

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APPROVAL <i>Slw</i>	REQUEST FOR COUNCIL ACTION	MEETING DATE 05/05/15
LICENSES AND PERMITS	MISCELLANEOUS LICENSES	ITEM NUMBER H.1.

See attached list from meeting of May 1st, 2015.

COUNCIL ACTION REQUESTED



City of Franklin

9229 W. Loomis Road
Franklin, WI 53132-9728

414-425-7500

**License Committee
Agenda*
Aldermen's Room
May 5, 2015 – 5:30 pm**

1.	Call to Order & Roll Call	Time:		
2.	Applicant Interviews & Decisions			
License Applications Reviewed		Recommendations		
Type/ Time	Applicant Information	Approve	Hold	Deny
Operator – New 2014-15	Katarina M Becker 8207 W Imperial Dr Franklin, WI 53132 Rock Sports Complex			
Operator – New 2014-15	Paola C Fernandez 2012 S 68 th St West Allis, WI 53219 Rock Sports Complex			
Operator – New 2014-15	Sean A Hurab 2729 N University Dr, Apt #101 Waukesha, WI 53188 Chili's Bar & Grill			
Operator – New 2014-15	Sarah J Kantorski 4950 Sumac Lane Greendale, WI 53129 Target Store			
Operator – New 2014-15	Kelly M Kastner 2176 S 95 th St, Apt 4 West Allis, WI 53227 Walgreen – Loomis Rd			
Operator – New 2014-15	Mary Jennifer G Loeffel 1842 Alta Vista Ave Wauwatosa, WI 53213 Franklin Public Library			
Operator – New 2014-15	Crystal L Meyer 3428 S 88 th St Milwaukee, WI 53227 Rock Sports Complex			
Operator – New 2014-15	Jacob W Nordstrum 8118 N 55 th St Brown Deer, WI 53223 Target Store			
Operator – New 2014-15	Katelyn M Saldutte 270 E Highland Ave, #244 Milwaukee, WI 53202 Rock Sports Complex			
Operator – New 2014-15	Molly J Saskowski S80W16536 Pellman Ln Muskego, WI 53150 Rock Sports Complex			
Operator – New 2014-15	Dakota A Slone 10650 S McGraw Dr Oak Creek, WI 53154 Rock Sports Complex			

Operator – New 2014-15	Brianna R Sommerfield 8030 W Tripoli Ave Milwaukee, WI 53220 7 Eleven			
Operator – New 2014-15	Jonathan J Wiemer 5345 W Midland Dr Milwaukee, WI 53220 Rock Sports Complex			
Operator – New 2015-16	Jenna M Calliari 7133 W Wind Lake Rd Wind Lake, WI 53185 Rock Sports Complex			
Operator – Renewal 2015-16	Michael D Falk 10440 W Scharles Ave Hales Corners, WI 53130 Cross Roads Pizza & Subs			
Operator – Renewal 2015-16	Kyle P Haley 8945 S 116 th St Franklin, WI 53132 Cross Roads Pizza & Subs			
Operator – Renewal 2015-16	Daniel P Hodach 4520 Empire Lane Waterford, WI 53185 Hodach Citgo			
Operator – Renewal 2015-16	Sarah J Kantorski 4950 Sumac Lane Greendale, WI 53129 Target Store			
Operator – Renewal 2015-16	Jacob A Koefler 11507 W Church St Franklin, WI 53132 Cross Roads Pizza & Subs			
Operator – Renewal 2015-16	Shelly L Marquardt 26011 75 th St Salem, WI 53168 Hodach Citgo			
Operator – Renewal 2015-16	Jacob W Nordstrum 8118 N 55 th St Brown Deer, WI 53223 Target Store			
Operator – Renewal 2015-16	Jenna K Rozek 1531 S 98 th St, Apt. 102 West Allis, WI 53214 Cross Roads Pizza & Subs			
Operator – Renewal 2015-16	Jessica L Rozek 3222 S 38 th St Milwaukee, WI 53215 Cross Roads Pizza & Subs			
Operator – Renewal 2015-16	Traci L Stoeger 15437 Mayflower Ct New Berlin, WI 53151 Cross Roads Pizza & Subs			
Operator – Renewal 2015-16	Keri A Udvare W130 S8574 Durham Dr Muskego, WI 53150 Cross Roads Pizza & Subs			

Temporary Class B Beer and Wine	Franklin Public Library – Murder Mystery Fundraiser Person in Charge: Jennifer Bremer Location: 9151 W Loomis Rd Date of the Event: 6/20/2015			
Daycare 2015-16	Academy of Preschool Learning 3501 W. Ryan Rd. Nadeen Balsis, Manager			
Daycare 2015-16	Ms Rikki's Structured Daycare 11224 W Forest Home Ave Rochelle Boyce, Manager			
Daycare 2015-16	Ultra Mart Foods LLC Pick N Save #6360 – 76 th St 7201 S 76 St Gordon Graf - Agent			
Entertainment & Amusement 2015-16	Showtime Cinema 8910 S. 102 nd St. Mark Gramz, Agent			
3.	Adjournment			
		Time		

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

APPROVAL <i>Stu Paul</i>	REQUEST FOR COUNCIL ACTION	MEETING DATE 5/5/15
Bills	Vouchers and Payroll Approval	ITEM NUMBER I. 1

Attached are vouchers dated April 17, 2015 through May 1, 2015 Nos. 156216 through Nos. 156367 in the amount of \$ 883,876.40. Included in this listing are EFT's Nos. 2854 through Nos. 2863 and Library vouchers totaling \$ 14,723.07. Voided checks in the amount of \$ (175.78) are separately listed.

Early release disbursements under Resolution 2013-6920 in the amount of \$ 504,555.28 are provided on a separate listing and are also included on the complete disbursement listing.

The net payroll dated May 1, 2015 is \$ 351,852.05, previously estimated at \$ 351,000.00. Payroll deductions for May 1, 2015 are \$198,674.69, previously estimated at \$ 196,000.00.

The estimated payroll for May 15, 2015 is \$ 366,000.00 with estimated deductions of \$ 220,000.00.

Attached is a list of property tax settlements and refunds dated April 17 , 2015 through April 30, 2015 Nos. 14856 through Nos. 14857 in the amount of \$ 217.49. These disbursements have been released as authorized under Resolution 2013-6920. Voided property tax checks in the amount of \$ (96.98) are separately listed.

COUNCIL ACTION REQUESTED

Motion approving net general checking account City vouchers in the range of Nos. 156216 through Nos. 156367 in the amount of \$ 883,876.40 dated April 17, 2015 through May 1, 2015.

Motion approving the net payroll dated May 1, 2015 in the amount of \$ 351,852.05 and payments of the various payroll deductions in the amount of \$ 198,674.69 plus any City matching payments, where required.

Motion approving the net payroll dated May 15, 2015 estimated at \$ 366,000.00 and payments of the various payroll deductions estimated at \$ 220,000.00, plus any City matching payments, where required.

Motion approving property tax settlements and refunds in the range of Nos. 14856 through Nos. 14857 in the amount of \$ 217.49 dated April 17, 2015 through April 30, 2015.