

<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;">05/19/15</p>
<p style="text-align: center;">REPORTS & RECOMMENDATIONS</p>	<p style="text-align: center;">STANDARDS, FINDINGS AND DECISION OF THE CITY OF FRANKLIN COMMON COUNCIL UPON THE APPLICATION OF THE CITY OF FRANKLIN FOR A SPECIAL EXCEPTION TO CERTAIN NATURAL RESOURCE PROVISIONS OF THE CITY OF FRANKLIN UNIFIED DEVELOPMENT ORDINANCE</p>	<p style="text-align: center;">ITEM NUMBER</p> <p style="text-align: center;"><i>G.5.</i></p>

At their meeting on April 22, 2015, the Environmental Commission recommended approval of a Natural Resource Features Special Exception requested by the City of Franklin. The request is for the proposed Kayla's Playground at Franklin Woods Nature Center Special Park located at 3723 West Puetz Road, and is for the purpose of allowing for the filling, grading and paving within approximately 11,700 square feet of shore buffer, approximately 7,500 square feet of wetland buffer, and approximately 5,500 square feet of wetland setback. The recommendation of approval includes a condition that delineations by the Department of Natural Resources, Southeastern Wisconsin Regional Planning Commission, and U.S. Army Corps of Engineers (if required) reflect no increase to the wetland buffer and/or wetland setback impacts as depicted.

The Plan Commission at its regular meeting of May 7, 2015, following a properly noticed public hearing, and the receipt of more detailed and up-to-date field verified natural resource delineations, recommended approval of the City of Franklin Kayla's Playground at Franklin Woods Nature Center Special Park Natural Resource Features Special Exception. The updated and revised request is for the purpose of allowing for the filling, grading, and paving within approximately 9,532 square feet of shore buffer, approximately 2,137 square feet of wetland buffer, and approximately 4,450 square feet of wetland setback. This recommendation of approval is pursuant to the Standards, Findings and Decision recommended by the Plan Commission, including a motion by the Plan Commission that the proposed native landscaping be maintained for at least five years, and Common Council consideration of the Environmental Commission's recommendation.

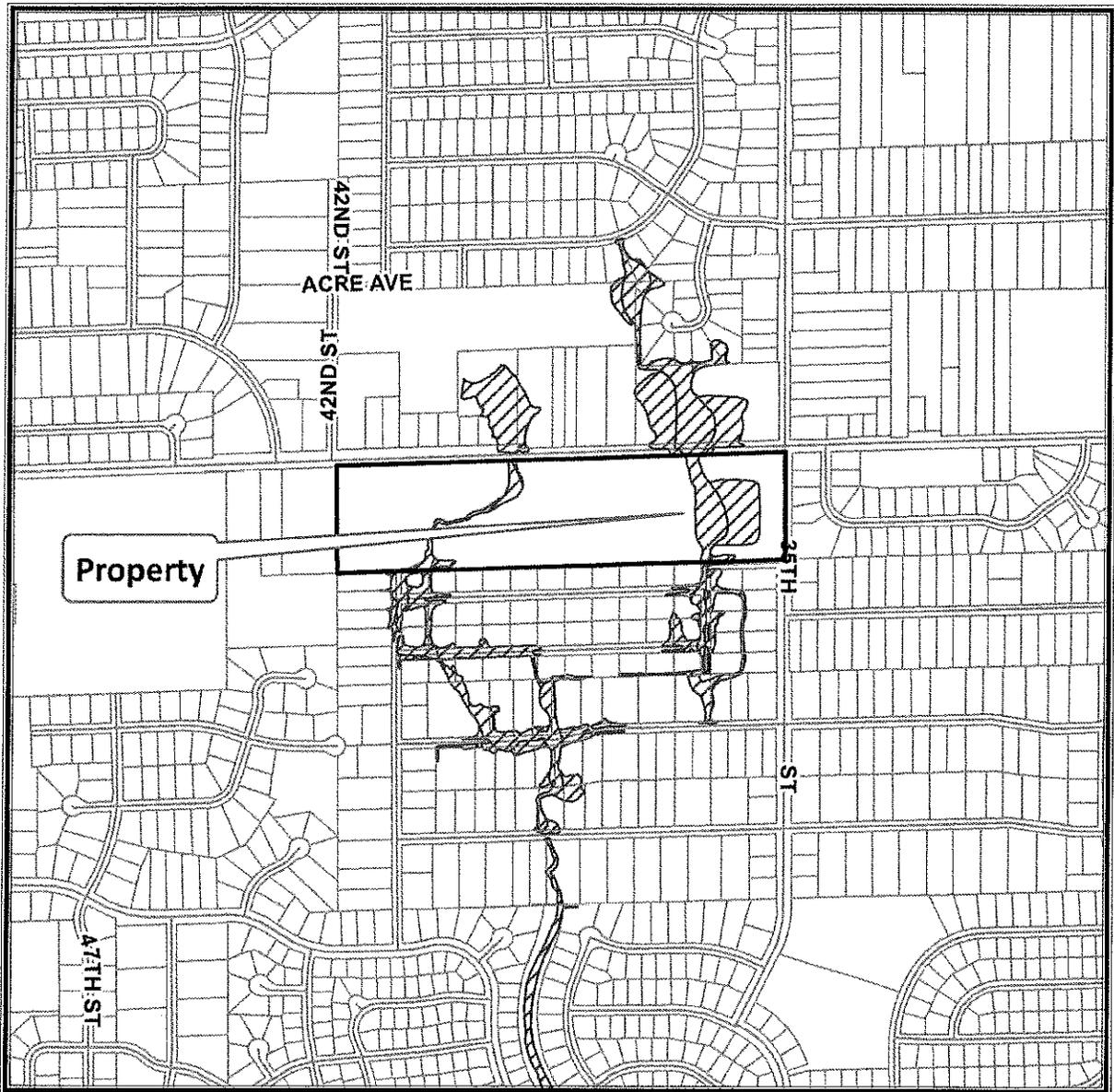
On a separate but related matter, the Parks Commission at its regular meeting of April 13, 2015, had recommended approval of the Site Plan for the Kayla's Playground at Franklin Woods with a condition that the project include paving of the existing gravel trail which extends through the woods located west of the proposed playground. However, due to the lack of time to obtain field verified natural resource delineations and to prepare a Natural Resource Protection Plan for that area, the Plan Commission's approval of the Site Plan for the subject playground did not include the proposed paving of trails. It is envisioned that that project will be brought forward at a future date unless directed otherwise by the Common Council.

COUNCIL ACTION REQUESTED

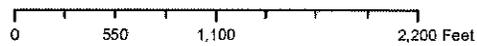
Adopt the standards, findings and decision of the City of Franklin Common Council upon the application of the City of Franklin Kayla's Playground at Franklin Woods for a Special Exception to Certain Natural Resource Provisions of the City of Franklin Unified Development Ordinance.



Franklin Woods/Kaylas Playground 3723 W. Puetz Road



Planning Department
(414) 425-4024



2013 Aerial Photo

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

Draft 4/30/15

Standards, Findings and Decision
of the City of Franklin Common Council upon the Application of the City of Franklin
for a Special Exception to Certain Natural Resource Provisions of the City of Franklin
Unified Development Ordinance

Whereas, the City of Franklin having filed an application dated April 14, 2015, for a Special Exception pursuant to Section 15-9.0110 of the City of Franklin Unified Development Ordinance pertaining to the granting of Special Exceptions to Stream, Shore Buffer, Navigable Water-related, Wetland, Wetland Buffer and Wetland Setback Provisions, and Improvements or Enhancements to a Natural Resource Feature; a copy of said application being annexed hereto and incorporated herein as Exhibit A; and

Whereas, the application having been reviewed by the City of Franklin Environmental Commission and the Commission having made its recommendation upon the application, a copy of said recommendation dated May 7, 2015 being annexed hereto and incorporated herein as Exhibit B; and

Whereas, following a public hearing before the City of Franklin Plan Commission, the Plan Commission having reviewed the application and having made its recommendation thereon as set forth upon the report of the City of Franklin Planning Department, a copy of said report dated May 7, 2015 being annexed hereto and incorporated herein as Exhibit C; and

Whereas, the property which is the subject of the application for a Special Exception is located at approximately 3723 West Puetz Road, zoned P-1 Park District, and such property is more particularly described upon Exhibit D annexed hereto and incorporated herein; and

Whereas, Section 15-10.0208B. of the City of Franklin Unified Development Ordinance, as amended by Ordinance No. 2003-1747, pertaining to the granting of Special Exceptions to Stream, Shore Buffer, Navigable Water-related, Wetland, Wetland Buffer and Wetland Setback Provisions, and Improvements or Enhancements to a Natural Resource Feature, provides in part: "The decision of the Common Council upon any decision under this Section shall be in writing, state the grounds of such determination, be filed in the office of the City Planning Manager and be mailed to the applicant."

Now, Therefore, the Common Council makes the following findings pursuant to Section 15-10.0208B.2.a., b. and c. of the Unified Development Ordinance upon the application for a Special Exception dated April 14, 2015, by the City of Franklin, pursuant to the City of Franklin Unified Development Ordinance, the proceedings

heretofore had and the recitals and matters incorporated as set forth above, recognizing the applicant as having the burden of proof to present evidence sufficient to support the following findings and that such findings be made by not less than four members of the Common Council in order to grant such Special Exception.

1. That the condition(s) giving rise to the request for a Special Exception were not self-imposed by the applicant (this subsection a. does not apply to an application to improve or enhance a natural resource feature); *but rather, are the result of the specific site criteria and size requirements of the all-accessible and all-inclusive playground design, which prevent the re-arranging of equipment re-design of the layout in the same manner as a typical playground.*

2. That compliance with the stream, shore buffer, navigable water-related, wetland, wetland buffer, and wetland setback requirement will:

a. be unreasonably burdensome to the applicant and that there are no reasonable practicable alternatives: *or*

b. unreasonably and negatively impact upon the applicant's use of the property and that there are no reasonable practicable alternatives: *The manicured lawn area of Franklin Woods Nature Center Special Park provides a sufficient level surface for the playground development. As this area of the park has previously been disturbed for recreational and residential uses as far back as 1956, it would negatively impact the City's use of the property if strict adherence to the natural resource protection standards were followed. The proposed playground layout addresses neighborhood concerns regarding: the preservation of open space on the south side of the existing pavilion; maintaining a line of sight from the pavilion to the street/parking lot for security purposes; and minimizing impacts to natural resource features. Therefore, there are no reasonable practicable alternatives for the layout of the playground.*

3. The Special Exception, including any conditions imposed under this Section will:

a. be consistent with the existing character of the neighborhood: *The proposed development with the grant of a Special Exception as requested will be consistent with the existing character of the neighborhood; and*

b. not effectively undermine the ability to apply or enforce the requirement with respect to other properties: *The proposed Special Exception will not undermine the ability to apply or enforce natural resource protection requirements with respect to other properties; and*

c. be in harmony with the general purpose and intent of the provisions of this Ordinance proscribing the requirement: *The proposed Special Exception will be in harmony with the general purpose and intent of the provision of this Ordinance proscribing the requirement; and*

d. preserve or enhance the functional values of the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback in co-existence with the development: *(this finding only applying to an application to improve or enhance a natural resource feature). NA*

The Common Council considered the following factors in making its determinations pursuant to Section 15-10.0208B.2.d. of the Unified Development Ordinance.

1. Characteristics of the real property, including, but not limited to, relative placement of improvements thereon with respect to property boundaries or otherwise applicable setbacks: *The proposed improvements will comply with the setback requirements of the P-1 Park District.*

2. Any exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district: *Franklin Woods Nature Center Special Park is a specialized recreational area or "special park". Special parks generally contain high quality natural resource features and are limited in active recreational value. The active recreational opportunities at Franklin Woods have been limited to an existing playground and a mowed turf grass field used as a playfield. These facilities are sandwiched between Franklin Woods (a SEWRPC identified natural area encompassing the majority of the property) and an intermittent stream (Oak Creek) and its associated wetlands and floodplain. Passive recreational opportunities include a walking path through the woods and around the wetland on the east side of the property, a pavilion with picnic benches, and pet waste stations for dog walkers.*

3. Existing and future uses of property; useful life of improvements at issue; disability of an occupant: *The proposed playground, restrooms and parking lot are consistent with and complement the existing uses of the property. Furthermore, the proposed improvements will be accessible to people of all abilities, fulfilling a documented need within the community.*

4. Aesthetics: *The overall aesthetics of the site will not be impacted negatively by the proposed special exception.*

5. Degree of noncompliance with the requirement allowed by the Special Exception: *The proposed Kayla's Playground development will disturb approximately 9,532 square feet of shore buffer, approximately 2,137 square feet of wetland buffer and approximately 4,450 square feet of wetland setback.*

6. Proximity to and character of surrounding property: *Franklin Woods Nature Center Special Park is surrounded by single-family residences to the north, south, east and west.*

7. Zoning of the area in which property is located and neighboring area: *The subject property is zoned P-1 Park District and all of the adjacent properties are zoned residential.*

8. Any negative effect upon adjoining property: *No negative effect upon adjoining property is perceived.*

9. Natural features of the property: *The Franklin Woods Nature Center Special Park property has mature woodlands, an intermittent stream, shore buffer, floodplain, wetlands, wetland buffers and wetland setbacks.*

10. Environmental impacts: *The proposed Kayla's Playground development will disturb approximately 9,532 square feet of shore buffer, approximately 2,137 square feet of wetland buffer and approximately 4,450 square feet of wetland setback.*

11. A recommendation from the Environmental Commission as well as a review and recommendation prepared by an Environmental Commission-selected person knowledgeable in natural systems: *The Environmental Commission recommendation and its reference to the report of May 7, 2015 is incorporated herein.*

12. The practicable alternatives analysis required by Section 15-9.0110C.4. of the Unified Development Ordinance and the overall impact of the entire proposed use or structure, performance standards and analysis with regard to the impacts of the proposal, proposed design solutions for any concerns under the Ordinance, executory actions which would maintain the general intent of the Ordinance in question, and other factors relating to the purpose and intent of the Ordinance section imposing the requirement: *The City of Franklin and Kayla's Krew conducted an exhaustive review of approximately 20 sites throughout the City for a possible location of an all-accessible and all-inclusive playground. This included looking beyond City owned properties to opportunities to partner with Milwaukee County or the Franklin School District. Following a detailed review of pros and cons for a narrowed list of selected sites, the Common Council determined Franklin Woods Special Park was the best location for Kayla's Playground. The project has been reduced in size since the original proposal to minimize impacts to natural resource features and address the concerns of neighboring residents. The original playground design occupied an area of approximately 16,000 square feet. The current proposed design occupies approximately 12,256 square feet and is not able to be reduced further without significantly diminishing the use, safety and service goals of the project, thus not meeting the project's needs. In addition, The Plan Commission recommendation and the Environmental Commission recommendation address these factors and are incorporated herein.*

Decision

Upon the above findings and all of the files and proceedings heretofore had upon the subject application, the Common Council hereby grants a Special Exception for such relief as is described within Exhibit C, upon the conditions: 1) that the natural resource features upon the property to be developed be protected by a perpetual conservation easement to be approved by the Common Council prior to any development within the areas for which the Special Exception is granted; 2) that the applicant obtain all other necessary approval(s) from all other applicable governmental agencies prior to any development within the areas for which the Special Exception is granted; 3) that all development within the areas for which the Special Exception is granted shall proceed pursuant to and be governed by the approved Natural Resource Protection Plan and all other applicable plans for the City of Franklin and all other applicable provisions of the Unified Development Ordinance. The duration of this grant of Special Exception is permanent.

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

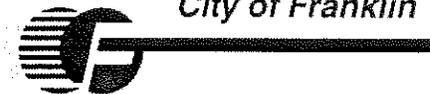
ATTEST:

Sandra L. Wesolowski, City Clerk

AYES _____ NOES _____ ABSENT _____

Exhibit A

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



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

Date of Application: April 14, 2015

NATURAL RESOURCE SPECIAL EXCEPTION APPLICATION

Complete, accurate and specific information must be entered. Please Print.

Applicant (Full Legal Name[s]): Name: _____ Company: <u>City of Franklin</u> Mailing Address: <u>9229 W. Loomis Road</u> City / State: <u>Franklin, WI</u> Zip: <u>53132</u> Phone: <u>414-425-7500</u> Email Address: <u>clerksdepartment@franklinwi.gov</u>	Applicant is Represented by (contact person) (Full Legal Name[s]): Name: <u>Department of City Development</u> Company: <u>City of Franklin</u> Mailing Address: <u>9229 W. Loomis Road</u> City / State: <u>Franklin, WI</u> Zip: <u>53132</u> Phone: <u>414-425-4024</u> Email Address: <u>generalplanning@franklinwi.gov</u>
Project Property Information: Property Address: <u>3723 W. Puetz Road</u> Property Owner(s): <u>City of Franklin</u> Mailing Address: <u>9229 W. Loomis Road</u> City / State: <u>Franklin, WI</u> Zip: <u>53132</u> Email Address: <u>clerksdepartment@franklinwi.gov</u>	Tax Key Nos: <u>854-9936-000</u> Existing Zoning: <u>P-1 Park District</u> Existing Use: <u>Park</u> Proposed Use: <u>Park</u> Future Land Use Identification: <u>Recreational & Areas of Natural Resource Features</u>

*The 2025 Comprehensive Master Plan Future Land Use Map is available at: <http://www.franklinwi.gov/Home/ResourcesDocuments/Maps.htm>

Natural Resource Special Exception Application submittals for review must include and be accompanied by the following:
(See Section 15-10.0208 of the Unified Development Ordinance for review and approval procedures.)
<http://www.franklinwi.gov/Home/Planning/UnifiedDevelopmentOrdinanceUDO.htm>

This Application form accurately completed with original signature(s). Facsimiles and copies will not be accepted.

Application Filing Fee, payable to City of Franklin: \$500

Legal Description for the subject property (WORD.doc or compatible format).

Seven (7) complete **collated** sets of Application materials to include:

- One (1) original and six (6) copies of a written Project Narrative.
- Three (3) **folded** full size, drawn to scale copies (at least 24" x 36") of the Plat of Survey (as required by Section 15-9.0110(B) of the Unified Development Ordinance).
- Three (3) **folded** full size, drawn to scale copies (at least 24" x 36") of the Natural Resource Protection Plan (See Sections 15-4.0102 and 15-7.0201 for information that must be denoted on or included with the NRPP).
- Four (4) **folded** reduced size (11"x17") copies of the Plat of Survey and Natural Resource Protection Plan.

Three copies of the Natural Resource Protection report, if applicable. (see Section 15-7.0103Q of the UDO).

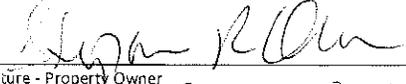
One copy of all necessary governmental agency permits for the project or a written statement as to the status of any application for each such permit.

Email (or CD ROM) with all plans/submittal materials. Plans must be submitted in both Adobe PDF and AutoCAD compatible format (where applicable).

- Upon receipt of a complete submittal, staff review will be conducted within ten business days.
- Natural Resource Special Exception requests require review by the Environmental Commission, public hearing at and review by the Plan Commission, and Common Council approval prior to recording with Milwaukee County Register of Deeds.

The applicant and property owner(s) hereby certify that: (1) all statements and other information submitted as part of this application are true and correct to the best of applicant's and property owner(s)' knowledge; (2) the applicant and property owner(s) has/have read and understand all information in this application; and (3) the applicant and property owner(s) agree that any approvals based on representations made by them in this Application and its submittal, and any subsequently issued building permits or other type of permits, may be revoked without notice if there is a breach of such representation(s) or any condition(s) of approval. By execution of this application, the property owner(s) authorize the City of Franklin and/or its agents to enter upon the subject property(ies) between the hours of 7:00 a.m. and 7:00 p.m. daily for the purpose of inspection while the application is under review. The property owner(s) grant this authorization even if the property has been posted against trespassing pursuant to Wis. Stat. §943.13.

(The applicant's signature must be from a Managing Member if the business is an LLC, or from the President or Vice President if the business is a corporation. A signed applicant's authorization letter may be provided in lieu of the applicant's signature below, and a signed property owner's authorization letter may be provided in lieu of the property owner's signature[s] below. If more than one, all of the owners of the property must sign this Application).



Signature - Property Owner
Name & Title (PRINT) Stephen R. Olson, Mayor
Date: 4/17/15

Signature - Property Owner
Name & Title (PRINT)
Date:

Signature - Applicant
Name & Title (PRINT)
Date:

Signature - Applicant's Representative
Name & Title (PRINT)
Date:

Natural Resource Special Exception Question and Answer Form.

1. Questions to be answered by the Applicant. Items on this application to be provided in writing by the Applicant shall include the following, as set forth by Section 15-9.0110C. of the UDO:

a. Indication of the section(s) of the UDO for which a Special Exception is requested.

A Special Exception is requested from Table 15-4.0100 of the UDO for encroachments into wetland buffers, wetland setbacks and shore buffers for installation of new playground equipment, a poured in place playground surface and a parking lot expansion for Kayla's Playground at Franklin Woods Nature Center Special Park.

b. Statement regarding the Special Exception requested, giving distances and dimensions where appropriate.

The proposed playground and associated improvements will disturb approximately 7,500 square feet of wetland buffer, 5,500 square feet of wetland setback and 11,700 square feet of shore buffer.

c. Statement of the reason(s) for the request.

The City of Franklin is partnering with Kayla's Krew and sharing in the costs to develop an all-accessible and all-inclusive playground within the City. Following an exhaustive review of sites, analyzing the pros and cons of each, it was determined that the Franklin Woods Special Park was the best fit for development of the playground. However, due to the existing site features, configuration of the park and Kayla's Playground, the design at the park requires unavoidable disturbance of wetland buffers, wetland setbacks and shore buffers.

d. Statement of the reasons why the particular request is an appropriate case for a Special Exception, together with any proposed conditions or safeguards, and the reasons why the proposed Special Exception is in harmony with the general purpose and intent of the Ordinance. In addition, the statement shall address any exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district, including a practicable alternative analysis as follows:

1) Background and Purpose of the Project.

- (a) Describe the project and its purpose in detail. Include any pertinent construction plans. *The project consists of a new playground occupying approximately 12,256 square feet of space, a pavilion and a 10,380 square foot parking lot addition. The project also includes a 6,880 square foot area with paver block and new landscape features.*
- (b) State whether the project is an expansion of an existing work or new construction. *The project consists of new construction adjacent to existing facilities.*
- (c) State why the project must be located in or adjacent to the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback to achieve its purpose. *The playground has specific site criteria and size requirements as it is to be an all-accessible, all-inclusive, and wheelchair accessible playground. As such, it cannot be re-designed in the same manner as a typical playground. The selected location for the proposed playground, the manicured lawn area of the park, provides a sufficient level area for the playground development and has previously been disturbed for recreational and residential uses as far back as 1956.*

2) Possible Alternatives.

- (a) State all of the possible ways the project may proceed without affecting the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback as proposed. *Relocation of the playground on this site, or reconfiguration of the playground layout, could result in unacceptable safety concerns for the users of this type of recreational facility. The unique design and use of the playground require specific criteria and standards to be met for the safe design, layout and development of the playground. As noted in section 1.c. of this document, an exhaustive review of sites for this playground has previously been undertaken, and the Common Council has chosen this site.*
- (b) State how the project may be redesigned for the site without affecting the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback. *Per the above answer (a), there are strict limits to re-designing and reconfiguring the playground.*

- (c) State how the project may be made smaller while still meeting the project's needs. *The project has been reduced in size already to minimize impacts. The original playground design occupied an area of approximately 16,000 square feet. The current proposed design occupies approximately 12,256 square feet and is not able to be reduced further without significantly diminishing the use, safety and goals of the project, thus not meeting the project's needs.*
- (d) State what geographic areas were searched for alternative sites. *The City of Franklin and Kayla's Krew reviewed approximately 20 sites in detail for the location of the proposed playground. Following the review of pros and cons for selected sites, it was determined that Franklin Woods Special Park provided the best location for the playground.*
- (e) State whether there are other, non-stream, or other non-navigable water, non-shore buffer, non-wetland, non-wetland buffer, and/or non-wetland setback sites available for development in the area. *As stated above in (d), there are no other reasonable sites. The City and Kayla's Krew considered several factors and needs of the playground in determining the best available site, including, but not limited to safety, traffic, noise, site size, costs and natural resource feature impacts.*
- (f) State what will occur if the project does not proceed. *If the project does not proceed, an opportunity will be lost to provide a playground for people of all abilities. This need and demand would, therefore, not be fulfilled.*

3) Comparison of Alternatives.

- (a) State the specific costs of each of the possible alternatives set forth under sub.2., above as compared to the original proposal and consider and document the cost of the resource loss to the community.

A cost comparison of alternative sites was completed. The City has chosen the Franklin Woods location, not based upon being the lowest cost, but rather being the best site after careful consideration of a number of factors as noted above.

- (b) State any logistical reasons limiting any of the possible alternatives set forth under sub. 2., above.

Based upon the site selection criteria, there are no other reasonable sites that would meet the needs of the proposed playground as well as Franklin Woods Special Park.

- (c) State any technological reasons limiting any of the possible alternatives set forth under sub. 2., above.

There are no technological reasons. The lack of alternative sites is due to the unique needs of the all inclusive playground.

- (d) State any other reasons limiting any of the possible alternatives set forth under sub. 2., above.

As indicated, the alternative sites are limited due to the unique use and needs of the playground.

- 4) Choice of Project Plan. State why the project should proceed instead of any of the possible alternatives listed under sub.2., above, which would avoid stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback impacts.

The project should proceed as proposed since there are no reasonable alternatives to accomplish and meet the goals of the project. The City and Kayla's Krew have completed a thorough investigation of other sites and designs. The Franklin Woods Special Park site and current design herein proposed best reduce the impacts to natural resource features while still providing a location for a successful project.

- 5) Stream or Other Navigable Water, Shore Buffer, Wetland, Wetland Buffer, and Wetland Setback Description. Describe in detail the stream or other navigable water shore buffer, wetland, wetland buffer, and/or wetland setback at the site which will be affected, including the topography, plants, wildlife, hydrology, soils and any other salient information pertaining to the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback.

The Wisconsin Department of Natural Resources determined the navigability of the adjacent stream and flagged the ordinary high water mark onsite. The Southeastern Wisconsin Regional Planning Commission field delineated the wetlands. The disturbance is limited to only the buffers of those resources. The impacted area is comprised of a manicured lawn area and an existing playground. Appropriate measures will be taken to ensure the protection of nearby native plants, wildlife and hydrology.

6) Stream or Other Navigable Water, Shore Buffer, Wetland, Wetland Buffer, and Wetland Setback Impacts. Describe in detail any impacts to the following functional values of the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback:

a) Diversity of flora including State and/or Federal designated threatened and/or endangered species.

The proposed impacts are limited to an area consisting of a manicured lawn and existing playground and will not significantly disturb native plant communities. A Natural Area of Local Significance (NA-3), comprised of mature dry-mesic hardwoods, lowland hardwoods, and stands of younger growth is located west of the subject area and will not be impacted by the proposed project.

b) Storm and flood water storage.

There will be no significant impacts to storm and flood water storage as a result of the proposed playground and associated site improvements.

c) Hydrologic functions.

Impacts to wetland buffers, wetland setbacks and shore buffers will have minimal impacts on the overall hydrologic functions of the stream and wetland as a whole.

d) Water quality protection including filtration and storage of sediments, nutrients or toxic substances.

The wetlands and stream will be fully protected by the City of Franklin.

e) Shoreline protection against erosion.

The shoreline will not be impacted.

f) Habitat for aquatic organisms.

Habitat for aquatic organisms will not be disturbed as the area of the site being disturbed is mowed lawn.

g) Habitat for wildlife.

Habitat for wildlife will not be disturbed as the area of the site being disturbed is mowed lawn.

h) Human use functional value.

No known impact

i) Groundwater recharge/discharge protection.

The proposed project is located outside but adjacent to the Oak Creek and associated wetlands and floodlands. As such, impacts upon groundwater are unlikely. Furthermore, the playground and adjacent patio are proposed to be constructed with pervious surfaces overlaying a substantial amount of gravel. It is envisioned that this will result in more infiltration than currently exists onsite.

- j) Aesthetic appeal, recreation, education, and science value.

The proposed playground improvements will not degrade the aesthetic appeal, recreation, education, or scientific value of the stream and wetlands. On the contrary, the proposed playground will attract more people to the site to enjoy and appreciate the natural resources features protected within the Franklin Woods Special Park.

- k) Specify any State or Federal designated threatened or endangered species or species of special concern.

Black hawk (viburnum prunifolium), a State-designated Special Concern Species, has been recorded in Franklin (Puetz Road) Woods Natural Area. However, the project will not impact the Natural Area as delineated by SEWRPC.

- l) Existence within a Shoreland.

Yes, the project is partially located within a shoreland area. A condition of approval of this project would be to obtain all necessary WDNR approvals prior to the commencement of work.

- m) Existence within a Primary or Secondary Environmental Corridor or within an Isolated Natural Area, as those areas are defined and currently mapped by the Southeastern Wisconsin Regional Planning Commission from time to time.

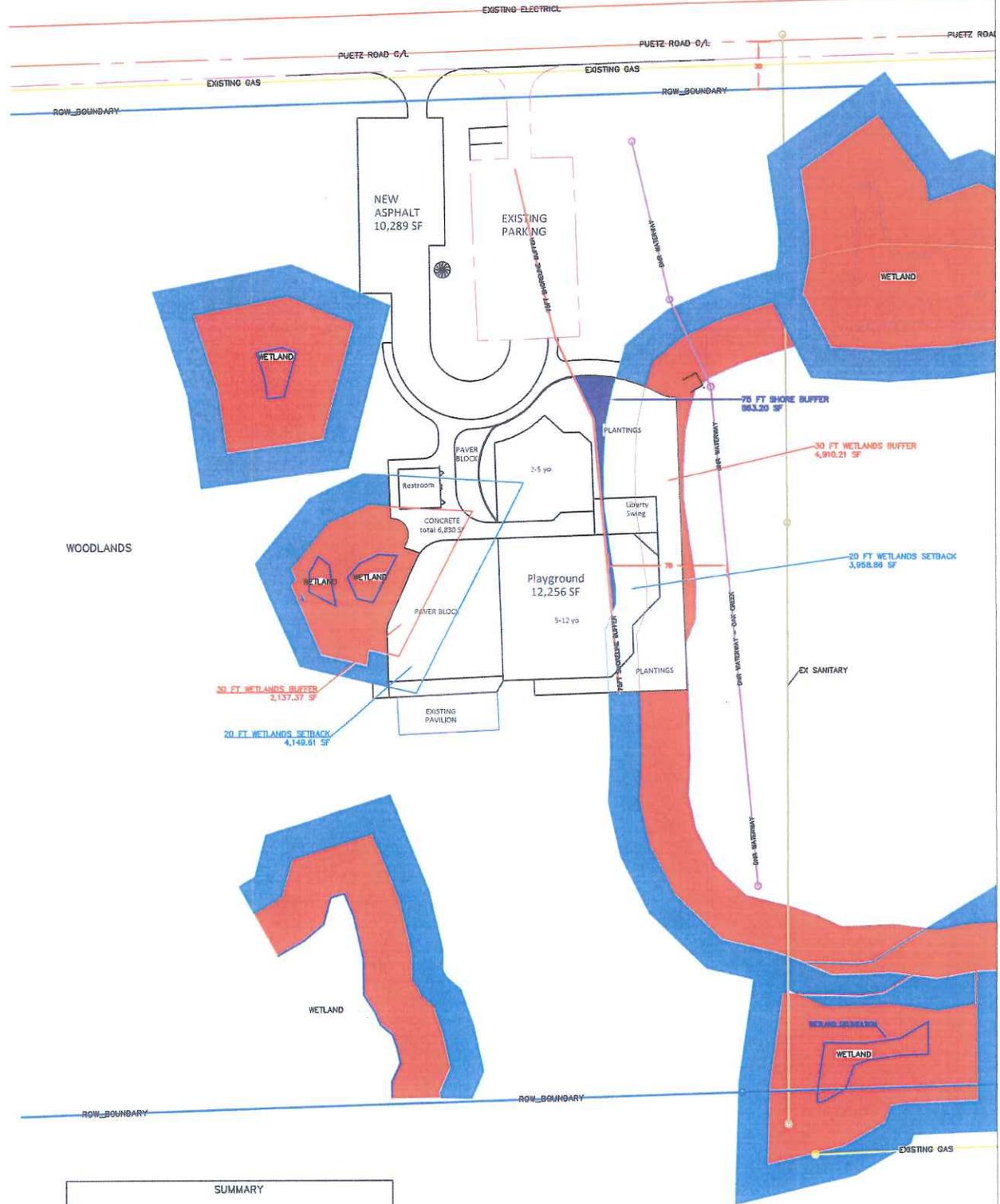
The project area contains a SEWRPC delineated Secondary Environmental Corridor; however, the improvements are within an existing manicured lawn area and recreational uses are permitted within such environmental corridors.

- 7) Water Quality Protection. Describe how the project protects the public interest in the waters of the State of Wisconsin.

The proposed playground and improvements will be developed in accordance with an erosion and sedimentation control plan that generally follows the guidelines and standards set forth in Division 15-8.0300 of the City of Franklin Unified Development Ordinance, the U.S.D.A. Conservation Technical Guide, prepared by the U.S. Department of Agriculture, and the Wisconsin Construction Site

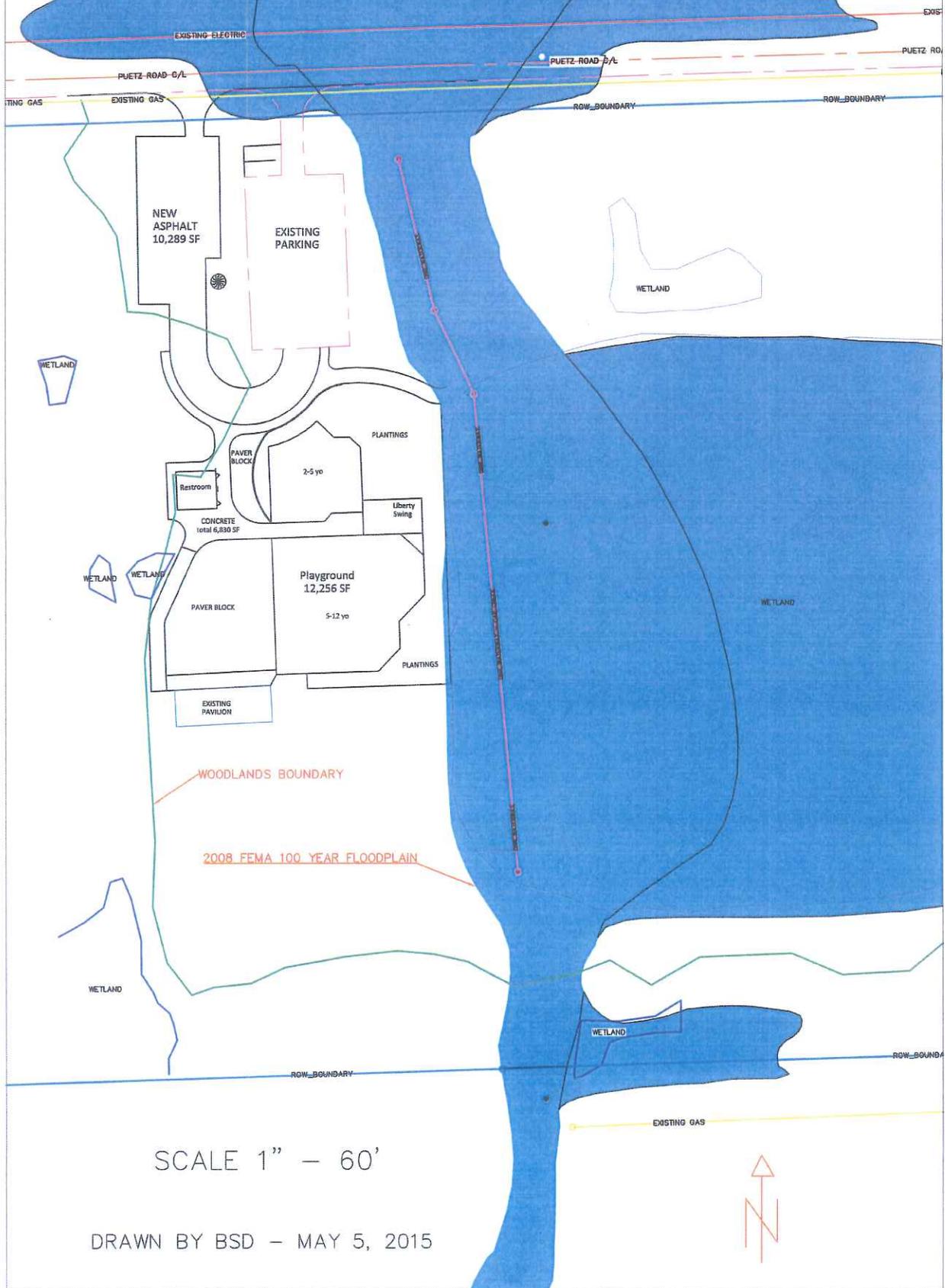
Best Management Practices Handbook prepared by the Wisconsin Department of Natural Resources, as amended. The implementation of a sedimentation control plan will prevent construction site erosion thereby preventing siltation and sedimentation of the nearby stream and wetlands, which protects the public interest in the waters of the State of Wisconsin.

KAYLA'S PLAYGROUND AT FRANKLIN WOODS NATURAL RESOURCE PROTECTION PLAN



SUMMARY		
	30 FT WETLANDS BUFFER	TOTAL = 7,047.58 SF
	20 FT WETLANDS SETBACK	TOTAL = 8,108.47 SF
	75 FT SHORE BUFFER	TOTAL = 863.20 SF

KAYLA'S PLAYGROUND AT FRANKLIN WOODS WOODLANDS BOUNDARY - FEMA 100 YEAR FLOODPLAIN



W PUETZ RD



Franklin Woods
Kayla Park Site
4/23/2015



State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
Waukesha Service Center
141 NW Barstow, Room 180
Waukesha, WI 53188

Scott Walker, Governor
Cathy Stepp, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711



May 8, 2015

INF-SE-2015-41-01677, 01678

City of Franklin
Orrin Sumwalt
9229 W. Loomis Road
Franklin, WI 53132

Subject: Navigability and OHWM determination for Oak Creek near 3723 W. Puetz Road in the City of Franklin

Dear Mr. Sumwalt:

Thank you for your Navigability Determination and Ordinary High Water Mark (OHWM) requests for Oak Creek located east of the Franklin Woods Park parking lot in Franklin, WI (see attached map). This property is located in Section 24, Township 5 North, Range 21 East in Milwaukee County.

I visited this site with Travis Schroeder (WDNR) on April 29, 2015 and conducted a field investigation using standard Department protocol regarding the assessment of the watercourse's physical and biological characteristics. Our assessment also included reviewing previous applications and permits, U.S. Geological Survey topographic maps, and aerial photographs. Based on the investigation, the watercourse on this property **does** meet the State's definition of a "navigable waterway". The watercourse has defined bed and banks and the capability to float a small watercraft on a recurring basis.

We flagged several locations along the bank of Oak Creek indicating the OHWM elevation. Two locations were flagged south of Puetz Road and one location was flagged directly downstream of the wetland. If you have not done so already, these marked areas need to be surveyed in as elevations and mapped by a certified professional surveyor. Once this has been done, please send a copy of the survey to the Department so that we may add this information into our records.

If you have any questions, please call me at (262) 574-2132 or email April.Marcangeli@wisconsin.gov.

Sincerely,

April Marcangeli
Water Management Specialist

cc: Anthony Jernigan, U.S. Army Corps of Engineer
Joel Dietl, City of Franklin
Nick Fuchs, City of Franklin

Quality Customer Service is Important to Us. Tell Us How We Are Doing.

Water Division Customer Service Survey
<https://www.surveymonkey.com/s/WDNRWater>

Exhibit 1. Topographic Map

Franklin Woods Nature Center
Proposed Kayla's Krew Playground
NW Quarter, Section 24, T5N-R21E
City of Franklin, Milwaukee County



- Legend**
- Wetland Staked on 4/29/15
 - Wetland Staked in 2001 Still Valid
 - Wetland outside Project Area
 - Ditch line Staked on 4/29/15
 - Woodland Staked on 4/29/15
 - Natural Area
 - Secondary Environmental Corridor

Source: SEWRPC
Date of Photography: 2010
CA#405-302

Exhibit B

City of Franklin Environmental Commission

TO: Common Council
DATE: May 7, 2015
RE: Special Exception application review and recommendation
APPLICATION: The City of Franklin, Applicant, dated: April 14, 2015
(Kayla's Playground; Franklin Woods Nature Center Special Park)

I. §15-9.0110 of the Unified Development Ordinance Special Exception to Natural Resource Feature Provisions Application information:

1. Unified Development Ordinance Section(s) from which Special Exception is requested:
Section 15-4.0102, Table 15-4.0100.
2. Nature of the Special Exception requested (description of resources, encroachment, distances and dimensions):
For the purpose of allowing filling, grading and paving associated with construction of a playground and associated improvements within approximately 7,500 square feet of wetland buffer, approximately 5,500 square feet of wetland setback, and approximately 11,700 square feet of shore buffer.
3. Applicant's reason for request:
The City of Franklin is partnering with Kayla's Krew and sharing in the costs to develop an all-accessible and all-inclusive playground within the City. Following an exhaustive review of sites, analyzing the pros and cons of each, the Common Council chose the Franklin Woods Special Park for development of the playground. However, due to the existing site features and configuration of the park and Kayla's Playground, the design at the park requires unavoidable disturbance of wetland buffers, wetland setbacks and shore buffers.
4. Applicant's reason why request appropriate for Special Exception:

Due to the nature of the facility (an all-accessible and all-inclusive playground), and the unique challenges faced by many of the anticipated users of this facility (children with physical handicaps), the design and lay-out of the playground is critical so as to ensure a safe and enjoyable experience for all users. These considerations place severe limits on the amount of flexibility available in the shape, size and layout of the playground. This includes but is not limited to considerations that the playground be located immediately adjacent to handicapped accessible parking and restrooms, on a flat and obstruction free area of land, and in a location with good access for both those visiting the park in general as well as the playground in particular. Although this use is not wetland or natural resource dependent, the presence of such features nearby, along with the adjacent paved trail, will make the playground a more successful facility. Lastly, only buffers and setbacks will be impacted, and these areas have already been impacted by the existing recreational uses, and by historic residential uses (going back at least to 1956).

II. Environmental Commission review of the §15-9.0110C.4.f. Natural Resource Feature impacts to functional values:

1. Diversity of flora including State and/or Federal designated threatened and/or endangered species:
No impact to State and/or Federal designated threatened and/or endangered species are anticipated. The project is located outside, but adjacent to, a SEWRPC identified Natural Area. No significant impact to diversity of flora, other than removal of approximately 5,000 square feet of woodlands. It is anticipated that diversity of flora will improve through the replacement of turf lawn with native landscaping along the perimeter of the proposed playground.
2. Storm and flood water storage:
No significant impact is anticipated. The project is located outside but adjacent to floodplains and wetlands.
3. Hydrologic functions:
No significant impact is anticipated. The project is located outside but adjacent to floodplains and wetlands.
4. Water quality protection including filtration and storage of sediments, nutrients or toxic substances:
No significant impact is anticipated. A stormwater management plan is not required, as less than 5 percent of the site will be composed of impervious surface. Although approximately 10,500 square feet of new impervious surface is being added to the site for the parking lot expansion and the restroom, the approximately 19,000 square foot playground and visitor's

area's surface will be constructed of a pervious material that will allow rain and snow melt to infiltrate into the ground.

5. Shoreline protection against erosion:
No impact is anticipated, proper erosion control measures will be employed.
6. Habitat for aquatic organisms:
No impact is anticipated.
7. Habitat for wildlife:
No impact is anticipated.
8. Human use functional value:
No impact is anticipated.
9. Groundwater recharge/discharge protection:
No significant impact is anticipated. The project is located outside but adjacent to wetlands and floodplains. While hydric soils will be impacted, these soils have previously been impacted, and the approximately 19,000 square foot playground and visitor's area's surface will be constructed of a pervious material that will allow rain and snow melt to infiltrate into the ground.
10. Aesthetic appeal, recreation, education, and science value:
Positive impacts are anticipated. Some of the existing turf lawn to be removed will be replaced with attractive native landscaping. The existing playground, already located adjacent to wetlands and floodplains, will be replaced with a larger playground which will remain outside the wetlands and floodplains. This will provide a greater opportunity for recreational opportunities adjacent to those resources.
11. State or Federal designated threatened or endangered species or species of special concern:
No impact is anticipated. The project is located outside, but adjacent to, a SEWRPC identified Natural Area.
12. Existence within a Shoreland:
No significant impact is anticipated. The project is located outside of shoreland wetlands, although approximately 11,700 square feet of shore buffer will be impacted. However, approximately 4,500 square feet of this buffer is presently turf lawn which will be replaced with native landscaping.
13. Existence within a Primary or Secondary Environmental Corridor or within an Isolated Natural Area, as those areas are defined and currently mapped by the Southeastern Wisconsin Regional Planning Commission from time to time:

No significant impact. The entire park, including the existing parking lot and existing playground, is located within a Secondary Environmental Corridor. SEWRPC standards indicate that recreational facilities and associated parking are permitted uses within such Environmental Corridors.

III. Environmental Commission review of the §15-10.0208B.2.d. factors and recommendations as to findings thereon:

1. That the condition(s) giving rise to the request for a Special Exception were not self-imposed by the applicant (this subsection a. does not apply to an application to improve or enhance a natural resource feature):

The playground has specific site criteria and size requirements as it is to be an all-accessible and all-inclusive playground. As such, it cannot be re-located or re-designed on this site in the same manner as a typical playground.

2. That compliance with the stream, shore buffer, navigable water-related, wetland, wetland buffer, and wetland setback requirement will:

- a. be unreasonably burdensome to the applicants and that there are no reasonable practicable alternatives:

Relocation of the playground on this site, or reconfiguration of the playground layout, could result in unacceptable safety concerns for the users of this type of recreational facility. The unique design and use of the playground require specific criteria and standards to be met for the safe design, layout and development of the playground. An exhaustive review of sites for this playground has previously been undertaken, and the Common Council has chosen this site. ; or

- b. unreasonably and negatively impact upon the applicants' use of the property and that there are no reasonable practicable alternatives:

3. The Special Exception, including any conditions imposed under this Section will:

- a. be consistent with the existing character of the neighborhood:

The subject area is already developed for parking and playground uses, and would not extend such uses any closer to existing homes in any substantial manner. The proposed expansion of those uses would still be consistent with the park and the neighborhood, particularly as the playground is designed to serve an under-represented and under-served portion of the community and neighborhood (children with physical handicaps); and

- b. not effectively undermine the ability to apply or enforce the requirement with respect to other properties:
This project is unique, of widespread community benefit, and will not adversely impact adjacent properties; and
- c. be in harmony with the general purpose and intent of the provisions of this Ordinance proscribing the requirement:
Only previously disturbed buffers and setbacks will be impacted by this project, and on-site mitigation is proposed; and
- d. preserve or enhance the functional values of the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback in co-existence with the development (*this finding only applying to an application to improve or enhance a natural resource feature*):

IV. Environmental Commission review of the §15-10.0208B.2.a., b. and c. factors and recommendations as to findings thereon:

- 1. Characteristics of the real property, including, but not limited to, relative placement of improvements thereon with respect to property boundaries or otherwise applicable setbacks:
This project will meet all other zoning and site planning requirements.
- 2. Any exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district:
Yes. The subject buffers and wetlands have previously been impacted by existing recreational and historic residential uses. The playground has specific site criteria and size requirements as it is to be an all-accessible and all-inclusive playground, as such, it cannot be re-located or re-designed on this site in the same manner as a typical playground.
- 3. Existing and future uses of property; useful life of improvements at issue; disability of an occupant:
The existing use is recreational and is envisioned to remain so, the existing playground apparatus is envisioned to be relocated to another City park, and the proposed playground is designed primarily for children with physical handicaps.
- 4. Aesthetics:
Aesthetics will be enhanced through the replacement of turf lawn with a professionally designed all-accessible and all-inclusive playground, with native landscaping along its perimeter.

5. Degree of noncompliance with the requirement allowed by the Special Exception:

None. Although various buffers and setbacks will be impacted by this project, only about 8,000 square feet of such areas will be permanently removed due to construction of the playground and parking lot addition. Removal of nearby invasive species for three years, and additional native landscaping, is proposed to mitigate this impact.

6. Proximity to and character of surrounding property:

Residential lands and areas of natural resources are located to the north, areas of natural resources are located to the east and west, and residential lands are located to the south. The proposed project limits are located approximately 200 feet from the nearest residential home to the northwest, and about 250 feet from the residential homes to the south.

7. Zoning of the area in which property is located and neighboring area:

The subject property is zoned P-1 Park District. The lands to the north are zoned R-6 Suburban Single-Family Residence District, and the lands to the east, south, and west are zoned R-3 Suburban/Estate Single-Family Residence District.

8. Any negative affect upon adjoining property:

No significant negative affects are anticipated. The subject property is zoned P-1, is a public park, and will remain so. The subject project area is currently used for active and passive recreational uses, and will remain so. While additional traffic and park visitors for the proposed facility are anticipated, such increases are not envisioned to be significant, particularly in the long-run.

9. Natural features of the property:

The property contains approximately 36 acres of protected natural resource features including: navigable streams and associated floodplains and shore buffers; wetlands and associated buffers and setbacks; and mature woodlands.

10. Environmental impacts:

The requested Special Exception to Natural Resource Feature Provisions is for the purpose of allowing for the filling, grading, and paving within approximately 7,500 square feet of wetland buffer, approximately 5,500 square feet of wetland setback, and approximately 11,700 square feet of shore buffer.

V. Environmental Commission Recommendation:

The Environmental Commission has reviewed the subject Application pursuant to §15-10.0208B. of the Unified Development Ordinance and makes the following recommendation:

1. The recommendations set forth in Sections III. and IV. Above are incorporated herein.
2. The Environmental Commission recommends approval of the Application upon the aforesaid recommendations for the reasons set forth therein.
3. The Environmental Commissions recommends that should the Common Council approve the Application, that such approval be subject to the following conditions:
 - a. Staff recommends approval subject to mitigation for the loss of wetland setback and wetland buffer to include a three-year effort to remove buckthorn and other invasive species within and adjacent to the subject wetlands and woodlands.
 - b. Staff proposes that the final mitigation amounts be based upon the final wetland and shore buffer delineations, but would in no event be less than 1.5 times the amount of protected natural resource features that are permanently impacted by the proposed development.
 - c. That delineations by the Department of Natural Resources, Southeastern Wisconsin Regional Planning Commission, and U.S. Army Corps of Engineers (if required) reflect no increase to the wetland buffer and/or wetland setback impacts as depicted.

The above review and recommendation was passed and adopted at a regular meeting of the Environmental Commission of the City of Franklin on the 7th day of May, 2015.

Dated this 7th day of MAY, 2015.



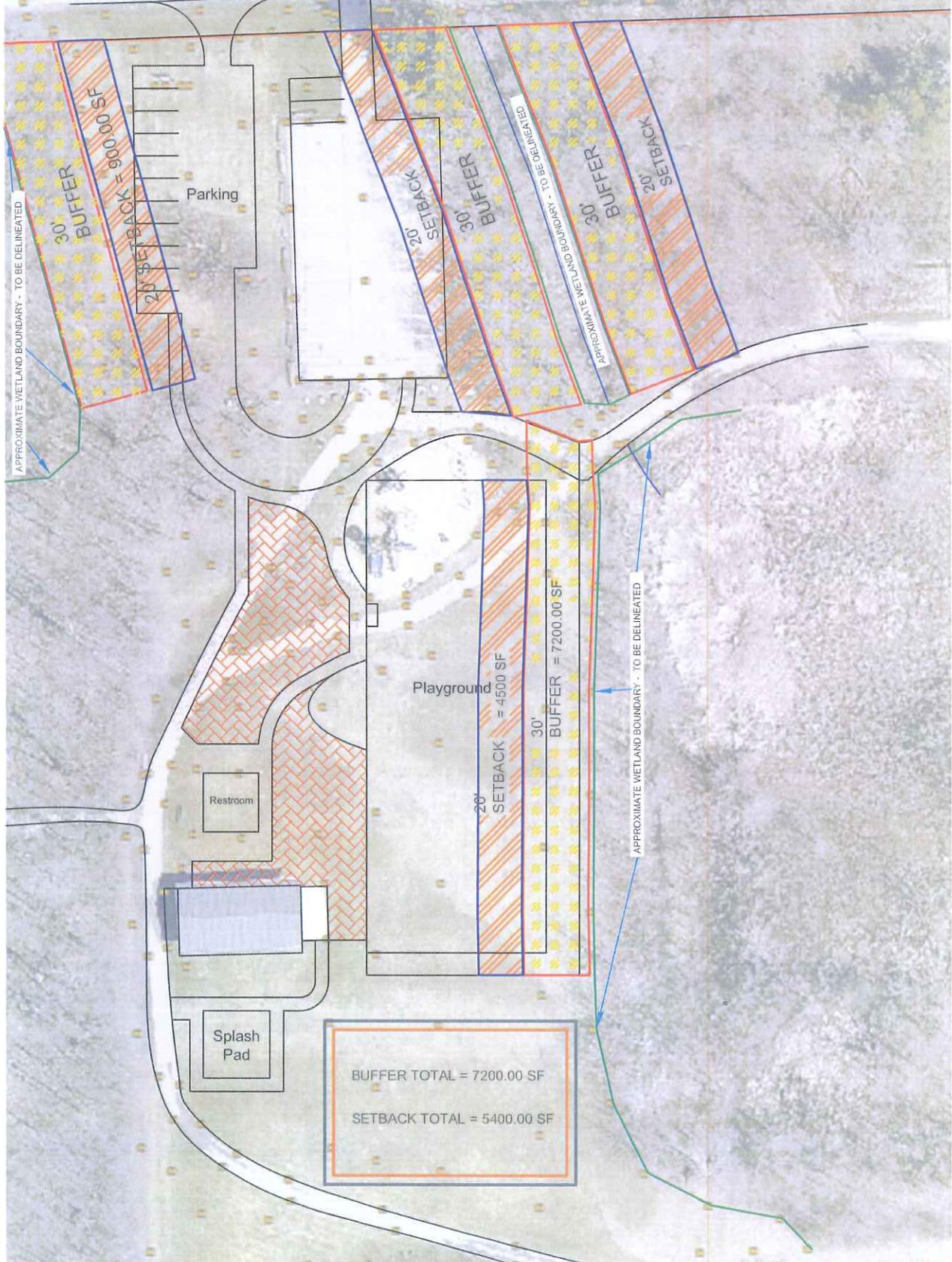
Wesley Cannon, Chairman

Attest:

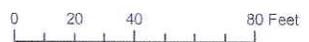


Curtis Bolton, Vice-Chairman

W PUETZ RD



Franklin Woods
Kayla Park Site



Scale=1:40

Exhibit C

Item C.1.

 **CITY OF FRANKLIN** 
REPORT TO THE PLAN COMMISSION

Meeting of May 7, 2015

Site Plan and Natural Resource Special Exception

Project Name:	Kayla's Playground at Franklin Woods
Project Location:	3723 West Puetz Road
Applicant:	The City of Franklin
Property Owner:	The City of Franklin
Current Zoning:	P-1 Park District
2025 Comprehensive Plan:	Recreational and Areas of Natural Resource Features
Use of Surrounding Properties:	Single-family residential to the south, areas of natural resources and public park land to the east and west, and areas of natural resources and single-family residential to the north
Applicant's Action Requested:	Approval of the Site Plan by the Plan Commission, recommendation of approval of the Natural Resource Special Exception (NRSE) by the Plan Commission, and approval of the NRSE by the Common Council

INTRODUCTION:

Please note:

- Staff recommendations are *underlined, in italics*, and are included in the draft resolution.
- **An updated and revised Natural Resource Protection Plan map is currently under preparation. It will be provided under separate cover as soon as it is completed. As such, revisions of the amount of natural resource feature impacts may occur. Any such changes will also be provided as soon as it becomes available.**
- **The Environmental Commission's Recommendation Form will also be provided under separate cover.**

At its meeting on March 26, 2015, the Common Council took the following action, "move to proceed with the development of Kayla's Playground at the Franklin Woods site". On March 27, 2015, Mayor Olson signed the Site Plan Application for Kayla's Playground at Franklin Woods, allowing staff to complete the Site Plan process requirements. On April 17, 2015, Mayor Olson signed the NRSE Application for Kayla's Playground at Franklin Woods, allowing staff to complete the NRSE process requirements.

With significant cooperation and assistance from Kayla's Krew (the organization which first proposed the idea of an all-accessible and all-inclusive playground in the City of Franklin), the City is proposing to construct an all-accessible and all-inclusive playground, restrooms, and a parking lot expansion, immediately south and west of the existing parking lot at Franklin Woods Nature Center Special Park. The project schedule proposes construction starting in early June with completion by late September. The City of Franklin is requesting approval of the Site Plan for this project, as well

as approval of a Special Exception to Natural Resource Feature Provisions to allow development of this project within wetland buffers, wetland setbacks, shore buffer, and mature woodlands.

On April 13, 2015 Alderman Schmidt and Alderwoman Evans hosted a neighborhood meeting at the Franklin Woods Nature Center to gather public input from residents living within the immediate vicinity of the park. Staff collected comment sheets from residents, which were presented to the Common Council at their meeting on April 21, 2015. These comments were subsequently considered by staff in its design of the Site Plan for the subject playground

At their April 13, 2015 meeting, the Parks Commission recommended approval of the initial Site Plan for Kayla's Playground at Franklin Woods Nature Center Special Park (see attached information) with the following changes: move the playground to allow for more contiguous greenspace east and south of the pavilion; move the restroom north of the sidewalk; remove the splash pad; and include paving the trail through the woods.

At their April 22, 2015 meeting, the Environmental Commission recommended approval of a Special Exception to Natural Resource Features for the City of Franklin for property located at 3723 West Puetz Road (see attached information), to allow for the proposed installation of new playground equipment, a poured in place playground surface and a parking lot expansion for Kayla's Playground in Franklin Woods Nature Center Special Park with the condition that delineations by the Department of Natural Resources, Southeastern Wisconsin Regional Planning Commission and U.S. Army Corps of Engineers (if required) reflect no increase to the wetland buffer and/or wetland setback impacts as depicted.

PROJECT DESCRIPTION:

As depicted on the attached Site Plan (dated 4/23/2015), the proposed Kayla's Playground development includes:

- Removal of the existing playground equipment.
- Removal of an approximately 200 foot portion of the existing trail located south of the existing playground.
- Construction of an approximately 12,256 square foot all-accessible and all-inclusive playground comprised of various play equipment as well as a specially designed poured in place surface (which is permeable).
- Construction of a pervious paved area for those family members, guests, and others watching the playground activities, extending from the western edge of the proposed playground to the existing trail to the west, and extending from the proposed parking lot drive on the north to the existing pavilion on the south.
- Construction of restroom facilities north of the existing trail north of the existing pavilion.
- Construction of an expanded parking lot and connecting drive lane, to be located immediately west of the existing parking lot.
- Associated landscaping, primarily adjacent to the north and east sides of the proposed playground.

It can be noted that due to the limited amount of impervious surface proposed (less than 5 percent of the subject parcel), stormwater management will not be required by the Milwaukee Metropolitan Sewerage District.

It can also be noted that the landscaping proposed around the playground will be designed to provide butterfly habitat (the butterfly image is part of the Kayla's Krew logo) as well as to be compatible with the adjacent wetland. These plantings will also serve as enhancement plantings to the wetland buffer and wetland setback.

Staff recommends that additional native landscaping be provided along the southern boundary of the park, in part to replace the Green Ash trees that were previously removed, and partly to provide an additional buffer between the proposed playground and the existing homes immediately south of the park.

Attached are materials prepared by Planning staff, the Engineering Department and the Southeastern Wisconsin Regional Planning Commission (SEWRPC), which identify and describe the natural resource features proposed to be impacted and the amount of impacts. SEWRPC conducted a field assessment on April 29, 2015 to delineate wetlands within the project area of the proposed park improvements. SEWRPC will follow up by sending the City a letter, including a final map from the field assessment, and an accompanying vegetation survey. The Wisconsin Department of Natural Resources (WDNR) visited the site on April 23, 2015 and April 29, 2015 to conduct a navigability determination and Ordinary High Water Mark (OHWM) delineation on Oak Creek, an intermittent stream flowing through the property. The shore buffer calculations included within the Natural Resource Protection Plan (NRPP) prepared by City Staff are based on the WDNR's findings. Similar to other Natural Resource Special Exception requests, Staff recommends that the City obtain all required approvals and permits from the Wisconsin Department of Natural Resources and Army Corps of Engineers prior to the commencement of work.

NATURAL RESOURCE IMPACTS:

Based upon the information presented in this report, the impacts resulting from the grading and paving for the installation of new playground equipment, a poured in place playground surface and a parking lot expansion include:

- Approximately 11,700 square feet (0.27 acre) of shore buffer impacts.
- Approximately 7,500 square feet (0.17 acre) of wetland buffer impacts.
- Approximately 5,500 square feet (0.13 acre) of wetland setback impacts.
- Approximately 5,000 square feet (0.11 acre) of mature woodland impacts.

Please note that an updated Natural Resource Protection Plan map is under preparation, and as such, these amounts of impact may change. Any such changes will be provided under separate cover.

Floodplains

The FEMA 2008 100-year Floodplain delineation is included on the Natural Resource Protection Plan (NRPP). The floodplain adjacent to this proposed project is associated with the intermittent stream (determined to be navigable by the WDNR) located east of the existing parking lot. The proposed improvements do not impact the 100-year floodplain.

Shore Buffers

The NRPP depicts the 75-foot shore buffer associated with the navigable stream flowing north/south through the property east of the existing parking lot and existing playground. On April 23rd and

April 29th, 2015 the WDNR completed navigability determination and Ordinary High Water Mark (OHWM) delineation within the proposed project area at Franklin Woods Nature Center Special Park. The shore buffer is based on the WDNR's findings.

The proposed playground encroaches into approximately 11,700 square feet of shore buffer.

Wetlands

SEWRPC delineated wetlands within the proposed project area on April 29th, 2015. The proposed improvements do not impact any delineated wetlands.

Wetland Buffers

The NRPP indicates Kayla's Playground and the associated facilities would impact approximately 7,500 square feet of wetland buffer. More specifically:

- About 2,500 square feet of wetland buffer would be permanently removed due to construction of the playground.
- An additional approximately 5,000 square feet of wetland buffer would be temporarily disturbed during construction. Of this amount, about 4,500 square feet would be converted from lawn to landscaping designed for butterfly habitat.

Wetland Setbacks

The NRPP indicates Kayla's Playground and the associated facilities would impact approximately 5,500 square feet of wetland setback. More specifically:

- About 4,500 square feet of wetland setback would be permanently removed due to construction of the playground.
- About 1,000 square feet of wetland setback would be permanently removed due to construction of the expanded parking lot.

Mature Woodlands

Approximately 5,000 square feet of mature woodlands, primarily comprised of Black Locust trees, located partly inside and partly outside the wetland setback, are proposed to be temporarily disturbed or permanently removed. Such disturbance/loss would be due to construction of the proposed parking lot expansion and connecting drive lane.

However, as this area of disturbance/loss is about 0.5 percent of the estimated amount of all of the mature woodlands within the Franklin Woods Nature Center Special Park (approximately 26.5 acres), the Unified Development Ordinance's woodland protection standard will be met.

Steep Slopes

Review of the NRPP and the City's topographic mapping indicates that steep slopes are not adjacent to the proposed project, and as such, would not be impacted.

Secondary Environmental Corridor/Natural Area

Review of the information provided by SEWRPC indicates that the entire Franklin Woods Nature Center Special Park, including the active recreational areas, are part of a Secondary Environmental Corridor. SEWRPC recommends that development associated with the provision of public sanitary sewer service within the wetland, shoreland, floodland, and steep slope portions of a Secondary

Environmental Corridor not be allowed. However, SEWRPC also recommends that limited development (up to 20 percent) of the Secondary Environmental Corridors for recreational facilities (and associated parking) be permitted.

It can be noted that the active recreational portions of the Franklin Woods park encompass about 2.9 acres, or about 7.6 percent, of the 38 acre park. As previously noted, about 11,700 square feet of the shoreland buffer will be impacted by the proposed playground, of which about 4,500 square feet, is comprised the actual pervious surfaced playground, and of which about 7,200 square feet is associated with the proposed native landscaping.

SEWRPC has also identified the majority of the woodlands west of the existing parking lot/playground/pavilion as part of the Franklin (Puetz Road) Woods Natural Area. This Natural Area has been identified by SEWRPC as a natural area of local significance (NA-3), comprising about 28 acres of mature dry-mesic hardwoods, lowland hardwoods, and stands of younger growth (pursuant to SEWRPC Planning Report No. 42). However, the proposed project is located outside the subject Natural Area.

MITIGATION:

Staff recommends that mitigation for the loss of protected natural resource features (wetland setback, wetland buffer, shore buffer, and woodlands) include: a three-year effort to remove buckthorn and other invasive species within and adjacent to the subject wetlands and woodlands; that some of the proposed buckthorn removal be incorporated into the community build proposed for this playground this September; and that the native landscaping adjacent to the playground be designed by an appropriate professional to be compatible with, and to the greatest extent reasonable, an enhancement to, the adjacent wetlands.

COMPREHENSIVE MASTER PLAN CONSISTENCY:

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

The Comprehensive Master Plan's Future Land Use Map identifies the subject area as Recreational and Areas of Natural Resource Features. Development of an all-accessible and all-inclusive playground would be consistent with the Comprehensive Master Plan.

It can also be noted that an all-accessible and all-inclusive playground has been established as a need within the Public Sites and Facilities Needs Assessment found in Chapter 5 of the City of Franklin Comprehensive Outdoor Recreation Plan Update: 2030.

CONCLUSION:

Staff recommends approval of the subject Site Plan with the conditions noted in this staff report, which conditions have also been included within the associated Resolution.

In regard to the Natural Resource Special Exception, per Section 15-10.0208 of the Unified Development Ordinance (UDO), the applicant shall have the burden of proof to present evidence sufficient to support a Natural Resource Special Exception (NRSE) request. The applicant has presented evidence for the request by answering the questions and addressing the statements that are

part of the Natural Resource Special Exception (NRSE) application. The applicant's responses to the application's questions and statements are attached for your review. *Also attached is a document titled, "City of Franklin Environmental Commission" that the Environmental Commission must complete and forward to the Common Council.* The questions and statements on this document correspond with the Natural Resource Special Exception (NRSE) application questions and statements that the applicant has answered and addressed.

Staff recommends approval of the subject Natural Resource Special Exception subject to the conditions noted in this staff report, which conditions will also be included within the associated Standards, Findings and Decision document.

APPROVAL 	REQUEST FOR COUNCIL ACTION	MEETING DATE 05/19/2015
REPORTS & RECOMMENDATIONS	Park Development Projects and Park, Playgrounds, and Lands for Athletic Fields Expenditures	ITEM NUMBER <i>G.6.</i>

Departments have submitted multiple items related to the above referenced general topic. It is anticipated that there may be significant correlation between the items such that the overall discussion moves between items. As such, the items have all been included as one overall item, with the expectation that discussion and motions can occur in the manner as the topics warrant.

The following items are included under this broad heading:

- A. Kayla's Playground Status
- B. Franklin Complete Streets & Connectivity Committee Recommended Trail-Related Project for Consideration of Potential Impact Fee Expenditures
- C. Park Development & Park Impact Fee Expenditure Options
- D. Authorization to Purchase Playground Equipment
- E. An Ordinance to Amend Ordinance 2014-2152, An Ordinance Adopting the 2015 Annual Budgets for the Capital Improvement and Development Funds for the City of Franklin for Fiscal Year 2015 to Amend the Intent of the Capital Improvement Fund Appropriations for Certain Park Development Projects and to Amend the Development Fund Appropriation for Transfers to the Capital Improvement Fund for Park Projects
- F. A Resolution to Design, Permit and Solicit Bids for Restroom at Market Square Park (11230 W. Church Street)

COUNCIL ACTION REQUESTED

As addressed within each item as presented.

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APPROVAL <i>Slw</i>	REQUEST FOR COUNCIL ACTION	MEETING DATE 05/19/2015
REPORTS & RECOMMENDATIONS	Kayla's Playground Status 05/19/2105	ITEM NUMBER <i>G.B.A.</i>

STATUS

Since 05/05/2015 Common Council Meeting, design at Franklin Woods has progressed. Engineering Staff is progressing on design. Graef is progressing on the electrical, structural, and architectural work. Johnson Nursery is working on the landscape design. Attached is the current plan view.

05/07, Plan Commission Approved the site plan and recommended approval of the Natural Resources Special Exception.

Specifications for the restroom facility have been sent to two venders (Huffcutt Concrete- Chippewa Falls, WI and Wieser Concrete- Portage, WI). The advertisement will appear in the newspaper May 21 & 28. Bid opening is June 13 @ 11:00 am. June 16 Common Council can award bid and a check to pay for the materials can be written on June 30.

Wachtel looked at the Catalpa Tree to access the health with a resistometer. Report with a graph is expected Tuesday.

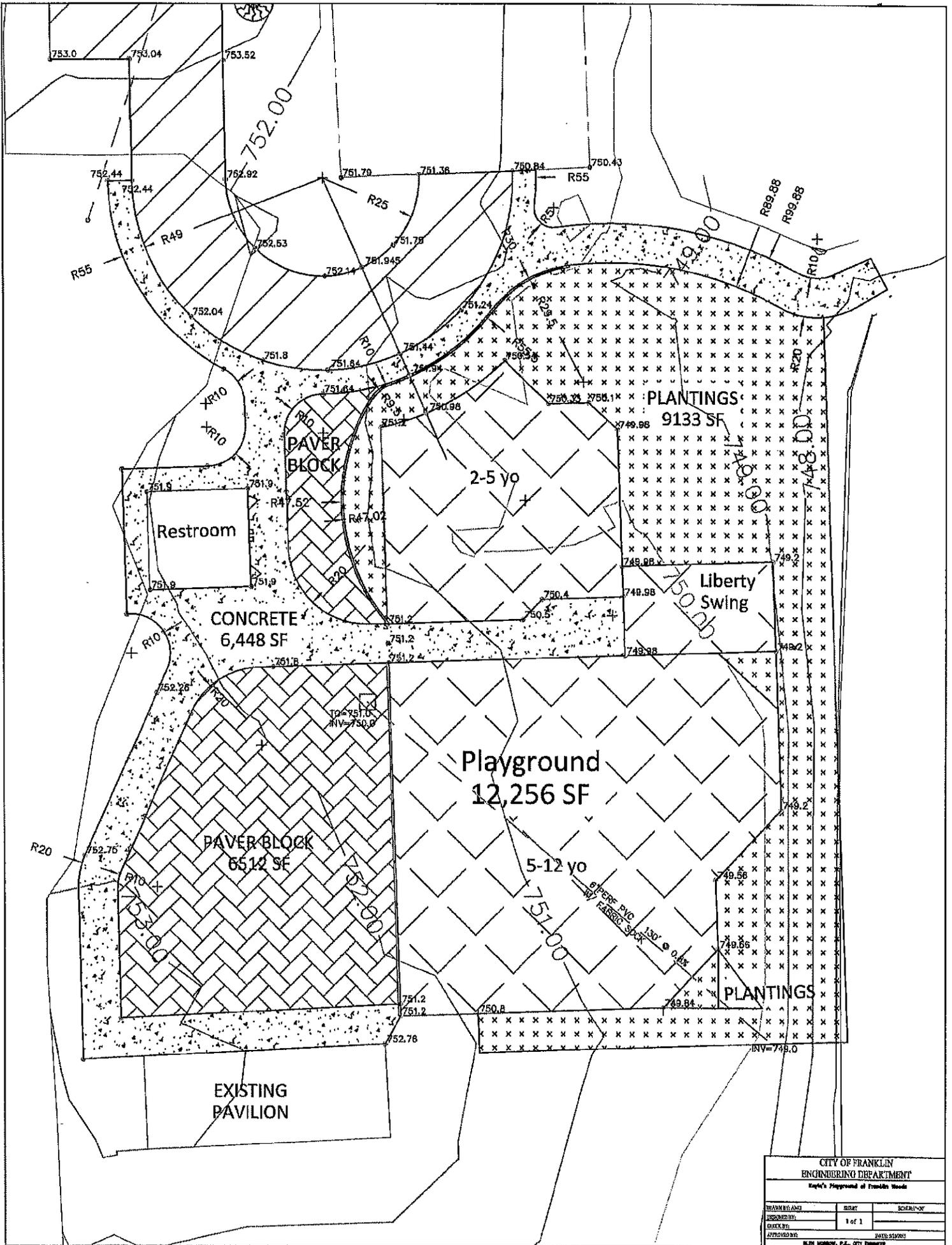
Current (05/15/2015) budget estimate is as follows:

\$ 68,000	Water
\$ 23,000	Sewer
\$ 43,000	Drive/Parking
\$ 52,000	Walkways
\$ 95,000	Patio, and Stone Storage
\$ 5,000	Erosion Sediment Control
\$ 20,000	Landscaping
\$201,000	Restrooms
\$ 7,000	Electric
\$107,000	Playground Equipment Purchase Direct
\$140,000	Playground materials
\$153,000	Playground Area
\$ 2,000	Remove Existing Equipment
\$ 3,000	Utility Charges
\$ 3,000	Construction Related Expenses
\$ 2,000	Sign
\$ 55,000	GRAEF Design
\$ 60,000	<u>Staff Design</u>
\$1,039,000	subtotal
\$ 103,900	10% contingency
\$1,142,900	Total Budget Estimate (05/15/2015)

We have compiled a list of materials and tools that can be pre-purchased. These items include structural lumber, hardware, small equipment, small tools, and misc materials. The total bid is approximately \$140,000-\$150,000.

REMMENDATIONS

Direct Staff to solicit vendors for supplying miscellaneous materials and tools needed for construction of playground in September.



CITY OF FRANKLIN ENGINEERING DEPARTMENT King's Playground of Franklin Woods		
DESIGNED BY	DATE	SCALE
DRAWN BY	1 of 1	
CHECKED BY		
APPROVED BY	DATE 05/20/01	
BLISS HORNBY, P.E., CITY ENGINEER		

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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;">05/19/15</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.6.b.</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. Please note that trail location and cost estimates are preliminary and subject to changes. Cost estimates are based upon an 8-foot wide bituminous path.

1. Christine Rathke Memorial Park trail extension east to the Milwaukee County Oak Leaf Trail – Estimated cost = \$67,500 (approximately 1,550 linear feet)
2. Franklin Hike-Bike Path - Estimated cost = \$86,000 (approximately linear 4,155 feet)
3. W. Puetz Road and S. 35th Street/Franklin Woods – Estimated cost = \$125,000 (approximately 3,000 linear feet)
4. Southbrook Church Trail - West St. Martins Road to West Allwood Drive – Estimated cost = \$69,100 (approximately 1,450 linear feet)

The Parks Commission, at their May 11, 2015 meeting, approved a motion related to item No. 3 above recommending to remove and replace the proposed sidewalk on and along West Puetz Road at South 35th Street and to use the paved path through the woods instead as a means of conveyance.

The Parks Commission also approved a motion to support other trail related projects as recommended by the Complete Streets and Connectivity Committee including the use of Impact Fees as available.

Upon recommendation of the Common Council, Department of City Development and Engineering staff will continue to pursue and refine the 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.



RATHKE PARK TRAIL
 1550 LF
 \$67,500

RATHKE PARK TRAIL
 1"= 200'

<p>APPROVAL</p> 	<p>REQUEST FOR COUNCIL ACTION</p>	<p>MEETING DATE</p> <p>05/19/2015</p>
<p>REPORTS & RECOMMENDATIONS</p>	<p>Park Development and Park Impact Fee Expenditure Options</p>	<p>ITEM NUMBER</p> <p>G.6.c.</p>
<p><u>Prior Documentation</u></p> <p>At the meeting of May 5, 2015, this item was carried over to this current meeting. Attached is the packet from that meeting. I have also attached a financial summary that was prepared for distribution at that meeting.</p> <p>That summary shows that approximately \$46,749 needs to be spent for park purposes prior to the end of May to ensure qualifying expenditures use up \$16,829 of additional park impact fees that are at risk of becoming unavailable for park purposes and subject to refund. The acquisition of park equipment for a planned mini-park (or neighborhood park) will be sufficient to address those needs.</p> <p>The City attorney has committed to concluding the land transfer documents necessary for the City to receive land donations from MMSD in June. The City can then convert the land to Special Park parkland in June. Depending upon the fair market value of the land asset converted, our immediate needs could be resolved, because that will provide sufficient parkland expenditures. Additionally, significant Kayla's Krew project expenditures will be well underway by the end of the summer. If that happens, the City need not address other potential park expenditures in a hurried manner.</p> <p><u>Kayla's Krew All-Inclusive Park</u></p> <p>Because a second party is involved in the land transfers and they could negatively impact the timeline, I recommend continuing to follow a secondary, safety-net strategy previously discussed. At the last meeting it was noted that Engineering would bid out the bathrooms for the all-inclusive park for award and partial pre-payment in June. As will be discussed in a separate item on your agenda, that process is moving forward, which would result in only about an additional \$73,000 that would need to be spent in June to conclude that month without needing to refund park impact fees. The City Engineer has identified other project supplies and lumber, etc. that could also be bid out at this time. Again, this expenditure occurring in July only helps to provide a second level of security for the retention and use of impact fees. Overall, if in early June it looks as though the land donations will not occur before July, staff will provide reevaluation and recommendation of strategies that will get the City through June and/or July. We will continue to monitor the demands, options, and alternatives.</p> <p><u>Trails per the Franklin Complete Streets and Connectivity Committee:</u></p> <p>Elsewhere on your agenda is an item from the Complete Streets and Connectivity Committee that addresses some trail options. I do not believe the costs identified includes the approximately \$10,000 to \$15,000 per project that would be needed for outside engineering costs. Providing for outside engineering services, if these projects were to be pursued at this time, would enable them to occur more promptly. This would be helpful given the significant workload currently given to Engineering. Beginning to move on these projects could provide some expenditures yet this year if the land transfers do not occur prior to the end of July and additional expenditures are needed to avoid lapsing of funds.</p>		

Parkland Acquisition:

Parkland acquisition is generally a slow process depending upon the extent to which community and neighborhood participation is in the process. Since the CORP identifies 6 parkland areas to be acquired, with three of them specifically provided appropriations in 2015, staff can assume it is the intent of the Common Council that these items are to be investigated. I have requested the Planning Department to put together, for discussion in June, an outline of suggested steps to be taken in the consideration of siting and acquisition of land for mini-parks and neighborhood parks. This document will be for discussion and consideration by the Parks Commission and Common Council, and Plan Commission if so directed. Once, or if, approved by the Common Council, staff can move forward to implement the strategy as directed. Either as part of the strategy or following its approval, Planning will provide a recommendation on the order or priority for pursuing each of the parks identified for acquisition. Again, should the land donation not occur, establishing an approach to land acquisition would be a valuable initial step in pursuing some expenditures that are anticipated in the budget and CORP.

Restroom at Market Square Park:

A separate item on your agenda is a request from the City Engineer to proceed with designing and soliciting bids for a restroom at Market Square Park. Market Square is identified in Table 16 of the current Public Facilities Needs Assessment as a Special Use Park. The Public Facilities Needs Assessment and, therefore, the revised impact fee ordinance incorporated the potential need to add restroom facilities at other park locations. As such, if the revised impact fee ordinance is approved, costs associated with this project would qualify for 36% funding from park impact fees in the Development Fund. Such a project offers another reasonable back-up option should the land donation not occur in a timely manner. The rough estimate of project costs at the applicable impact fee percentage would address approximately one additional month's amount of impact fee collections per the schedule provided. Bidding timelines, however, does require advanced planning of as much as 2 months before any expenditure could then occur.

Engineering Services Costs:

The Common Council has authorized and the City has entered into and proposed a number of contracts with Graef for Engineering Services. Payments are made under these contracts as the City Engineer reviews invoices and reconciles the invoices against the contract and the work performed. Authorizing the Finance Department to release payments on these contracts upon the request of the City Engineer would only assist in ensuring the recording of project costs and park impact fee usage in a timely manner. I have asked the Finance Director to include this request on the Council Action Sheet for bill payments elsewhere on this agenda.

COUNCIL ACTION REQUESTED

No specific additional action is required. The requested actions are included on other Council Action Sheets. Unless otherwise directed by the Common Council, staff will continue to monitor park development expenditures and park impact fee usage and provide updates and recommendations as appropriate.

<p style="text-align: center;">APPROVAL</p> <p><i>Slw</i> </p>	<p>REQUEST FOR COUNCIL ACTION</p>	<p>MEETING DATE</p> <p>05/05/2015</p>
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<p>REPORTS & RECOMMENDATIONS</p>	<p>Park Development and Park Impact Fee Expenditure Options</p>	<p>ITEM NUMBER</p> <p><i>G. 8.</i></p>
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(This item was tabled from the 4/7/2015 Common Council Meeting.)

At the July 1, 2014, Common Council meeting, the Council received a report addressing the issue of advancing park projects for the purpose of ensuring park impact fees were spent in a timely manner. The first projects identified, small projects at Ernie Lake Special Park and Lions Legend Community Park, were ultimately completed in 2014. As the scope of the Kayla's Krew project grew and the timing seemed advantageous, other park development ideas were not advanced as it was expected that the Kayla's Krew project would at least postpone certain immediate needs. Expenditures, however, still have not occurred and land transfers that may accelerate application of impact fees have not yet occurred. As such, this report, the result of a review of the budget and staff brainstorming, is submitted to suggest additional projects that could be pursued promptly and that would qualify for a park impact fee component.

Following are recommended projects that could be further investigated or initiated.

1. Restroom in Market Square near St. Martins Gazebo: Although not previously incorporated into plans for the square, a single-stall, family-style, unisex bathroom could serve a community purpose, both for the regular fairs and for enhancing the gazebos functionality for weddings, for example. It would also eliminate some regular bathroom rental costs. The idea comes as an extension of Engineering's consideration of pre-fab bathrooms as part of the Kayla's Krew investigation. An order could be made with pre-payment while separate site work is addressed. The initial order might be in the \$40,000 to \$60,000 range. **RECOMMENDATION:** If the Council supports the idea of adding a bathroom structure to Market Square, direct staff to prepare a rough site plan and cost estimate and bring it back as soon as practicable.

2. Mini Park Land Acquisition: The budget anticipates land acquisition for Mini Parks 3, 4, & 5 at \$45,168 each for a 1 to 3 acre parcel. Land acquisition does not happen quickly, but additional park projects may be needed in 2016. As such, it would be appropriate to commence the acquisition steps at this time. As the projects are listed in the "pending approval" portion of the capital budget, staff needs authorization to proceed. Staff would work with the Park Commission and hold a neighborhood meeting to gather further input on the project. **RECOMMENDATION:** Authorize the Planning Department to commence the planning and public information aspects of the budgeted mini park land acquisition.

3. Purchase of Park Playground Equipment as Commodities for Future Installation. A set of toddler and youth playground equipment costs approximately \$26,000 and \$30,000, respectively. If three mini-parks are planned and direction is to begin their pursuit, then equipment could be ordered and stored pending the land acquisition. Properly stored there should be no loss in useful life of the equipment. At \$56,000 per park, the potential purchase is \$168,000 to \$224,000. Note: Some additional small equipment pieces (benches, grilles, basketball poles) could be acquired for

various locations but the totals would not be great for the current need. RECOMMENDATION: If the Common Council supports this concept, direct staff to prepare a detailed proposal, cost estimate, and budget modification to address the amended intent for existing appropriations.

4. Pleasant View Shelter. Pleasant View Park was designed with the intent that it provide the amenity of a shelter. In fact, the 2015 budget provides \$232,800 as a project pending approval for this purpose. Multiple individuals noted during a recent Common Council meeting that the City was lacking adequate shelter space. At the same time, recent discussions have led to staff contemplating the use and functionality of various shelters. Lions Legend II Vernon Barg Pavilion was recently built and has proven to be a very effective and aesthetic design. Conveniently, bid documents could be issued very quickly as prior documents would only require very slight modifications. The contract could even incorporate an advance payment component to address cash flow issues. Engineering costs were \$35,362 and construction costs were \$373,735 for a total cost of \$409,097. Although this exceeds the anticipated budget, the design results in a shelter with which the City can be exceptionally proud. This project is the single most significant project that could be completed quickly. Although it is already budgeted, a budget modification, shifting available appropriations, would be needed to address the cost difference. RECOMMENDATION: Direct staff to take the necessary steps to bid out the park shelter project for Pleasant View Park generally meeting the specifications of the Vernon Barg Pavilion.

The following alternatives were discussed but deemed to be less likely to meet the immediate needs.

1. Neighborhood Park Land Acquisition: Two neighborhood parks, Woodview and Hillcrest, are in the Comprehensive Outdoor Recreation Plan. The larger size of a neighborhood park makes it a little harder to site and acquire. Therefore, the mini parks were proposed for acquisition first.
2. North Cape Trail: Although still in the budget, an acceptable location or strategy has not moved forward. The prior reticence for this project makes it not a good strategic option for fast action.
3. Pleasant View Park Development: Basketball, volleyball, and athletic fields are still called for in the park. There is still a stated concern about fully developing the park prior to addressing all traffic issues. Additionally, these items were not viewed as easy or quick to bid as the shelter, which was already in the 2015 budget.
4. Tennis Court Complex: Although gaining interest as a concept, it is currently called for at the Southwest Park, which doesn't yet exist. As such, acquisition or siting issues make this not a quick solution.
5. Southwest Park Land Acquisition: Similar to Neighborhood Park land acquisition, the timeliness of the project would be in question.

Note: It is the intent of this action item, that discussion is open to any item reasonably considered under the title as noticed. Discussion is not intended to only be limited to the examples provided in the above discussion from staff.

COUNCIL ACTION REQUESTED

Based upon the need to move forward with parks projects that qualify for use of park impact fees, staff recommends consideration of the actions indicated above for each of the four potential projects or expenditures.

City of Franklin Impact Fees Collected/Spent by Month & Analysis

	Impact Fees Collected	Impact Fees Spent 2014	Impact Fees Spent 2015	Total Spent	Impact Fees Unspent	Total Expenditure Needed @ 36% applicability	Estimated Kayla's Krew Potential Expenditures	Total Expenditure Shortage	Running Total For Additional Projects Needed, which could include a land transfer for a Special Park
Jan-05	53,116	53,116.00		53,116.00	-	-			
Feb	95,532	95,532.00		95,532.00	-	-			
Mar	58,688	58,688.00		58,688.00	-	-			
Apr	87,380	87,380.00		87,380.00	-	-			
May	162,788	162,788.00		162,788.00	-	-			
Jun	76,254	53,507.30	5,917.22	59,424.52	16,829.48	46,749		46,749	46,749
Jul	81,394				81,394.00	226,094	153,000	73,094	119,843
Aug	101,956				101,956.00	283,211	221,250	283,211	403,054
Sep	90,818				90,818.00	252,272	103,060	31,022	434,076
Oct	60,834				60,834.00	168,983	543,587	65,923	500,000
Nov	48,830				48,830.00	247,517			500,000
Dec	89,106				89,106.00	277,397		116,966	616,965
Jan-06	99,863				99,863.00	197,442		197,442	814,407
Feb	71,079				71,079.00	127,453		127,453	941,860
Mar	45,883				45,883.00	63,319		63,319	1,005,178
Apr	68,384				68,384.00				assumes 1/3 pre 4/11
May	57,584				57,584.00				
Jun	63,879				63,879.00				
Jul	44,986				44,986.00				
Aug	37,786				37,786.00				
Sep	29,689				29,689.00				
Oct	32,388				32,388.00				
Nov	35,992				35,992.00				
Dec	59,394				59,394.00				
Jan-07	25,497				25,497.00				
Feb	8,499				8,499.00				
Mar	22,664				22,664.00				
Apr	14,165				14,165.00				
May	11,332				11,332.00				
Jun	45,328				45,328.00				
Jul	22,396				22,396.00				
Aug	14,165				14,165.00				
Sep	16,998				16,998.00				
Oct	22,664				22,664.00				
Nov	11,332				11,332.00				
Dec	5,666				5,666.00				
Total	1,874,309	511,011	5,917	516,929	1,351,714				

Spend the month ahead of the month collected

As an example, transferring land worth \$500,000 for a special park and Completing Kayla's Krew, would carry through to Decemeber, where further expenditures or land transfers are needed.

Impact fees unspent through April 11, 2006, total approximately \$729,387.

Total Estimated Project Expenditures before 4/1/2016 is \$2,026,075 (includes land transfers to Special Parks)

"Impact Fees Unspent" collected prior to 4/1/06 must be spent prior to the 120th month starting after the month collected, so money collected June of 2005 must be spent by June 1, 2015.

Kayla's Krew Estimated Potential Expenditures	Mid June*
\$153,000 Bathroom	
\$90,000 DPW Site Work	Prior to 9/1
\$90,000 Sewer & Water Line	Prior to 9/1
\$41,250 Great Contract**	Prior to 9/1
<u>\$221,250</u>	
646,647 Remainder split between Sept & Oct.	
<u>\$1,020,897</u> Total Kaylas Krew from prior meeting	

*(90% prepay of \$170,000 after 6/2/15 award of contract)
**(75% of \$55,000)

Impact Fee Percentages Applicable by Project Type	Current	Anticipated
Neighborhood Parks	44%	47%
Mini Parks	41%	43%
Community Park/Special Park	39%	36%
Connecting Trails	59%	62%

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APPROVAL 	REQUEST FOR COUNCIL ACTION	MEETING DATE 05/19/2015
REPORTS & RECOMMENDATIONS	Authorization to Purchase Playground Equipment	ITEM NUMBER <i>G.b.d.</i>

As part of the strategy to ensure Parks, Playgrounds, and Other Recreational Facilities impact fees are spent in a timely manner while adhering to planned and intended expenditures, staff has recommended authorization to purchase and issue payment for park equipment that would eventually be installed by City staff in one of the mini-parks scheduled for land acquisition. As a City-installed project, the purchase is a commodity acquisition.

Jerry Schaefer has obtained quotes from Miller & Associates who sell BCI Burke Company equipment. This is the vendor that has provided the equipment most recently recommended by the Parks Commission. Jerry also intends to receive quotes from Minnesota/Wisconsin Playground who sells GameTime playground equipment and also has participated in previous City acquisitions.

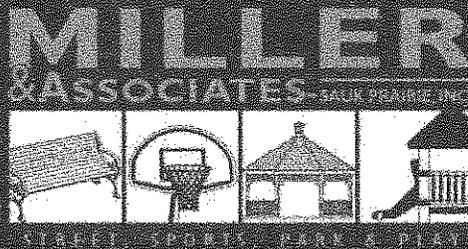
No two sets or designs of playground equipment are exactly alike; therefore, pricing is not the only consideration in selection. The Chairman of the Parks Commission has set a special meeting of the Parks Commission for 5/18/2015 to evaluate the proposals and make a recommendation to the Common Council at its 5/19/2015 meeting. Of the two quotes received so far, Jerry intends to recommend to the Parks Commission the "Alternate" design (Design #30-86423-1) which is quoted at \$44,565.

A prepaid order of this size, executed and paid prior to June 1, would resolve the necessary expenditures and impact fee distribution needed for May 2015.

Attached is the packet submitted by Miller & Associates. Again, the recommendation of the Parks Commission will be provided at the meeting.

COUNCIL ACTION REQUESTED

In accordance with the quote received and as anticipated in the Comprehensive Outdoor Recreation Plan and the 2015 Annual Budget, motion to authorize staff to order and issue payment for the following playground equipment for a future mini-park: [equipment as recommended by the Parks Commission or enter the design number], with said authorization constituting an "Approved Project" expenditure from the Park Development appropriation.



Phone 608.643.8105 800.953.8700

www.millersaukprairie.com

Fax 608.643.7932

QUOTATION

Date: May 13, 2015
To: City of Franklin
Attn: Jerry Schaefer

Project: City of Franklin Parks

MODEL/DESCRIPTION	AMOUNT
Design #30-86422-1 BCI Burke Basics, Intensity, Nucleus Play System, Delivered	\$43,469.00

Featuring: Viper Slide, Up-Down Tunnel, Rock Climber, Rain Drops Activity Panel, Gear Panel, T-Swing Add-On
Age Appropriate: 2-5 years, 5-12 years
User Capacity: 130
Use Zone Size: 75' x 66'

ALTERNATE:

Design #30-86423-1 BCI Burke Basics, Intensity, Nucleus Play System, Delivered	\$44,565.00
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Featuring: Viper Slide, Rain Drops Activity Panel, T-Swing Add-On, KidForce Spinner
Age Appropriate: 2-5 years, 5-12 years
User Capacity: 127
Use Zone Size: 63' x 92'

Does Not Include:

- Receiving of materials
- On site assembly of play system
- Resilient material under and around play equipment

Terms: Net 15 From Invoice Date
Est. Ship: 4-6 Weeks ARO

FOB: Franklin
Quote Valid: 30 days

*******NOTE*******

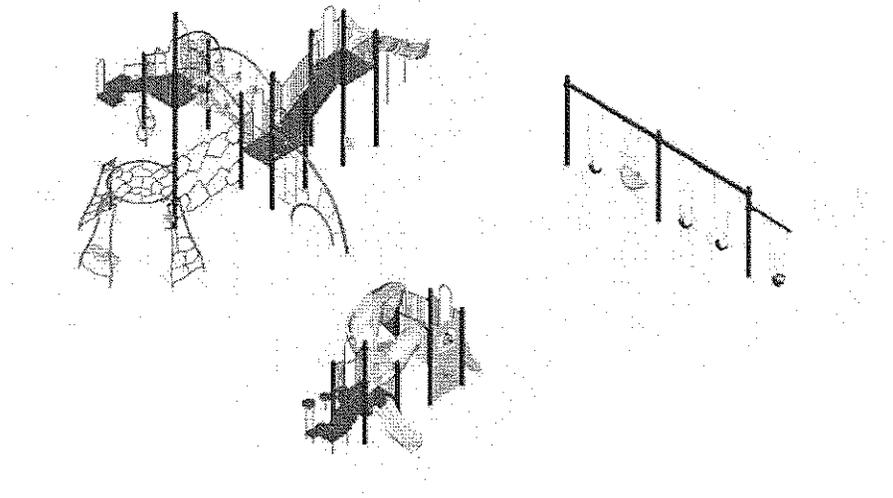
- Materials will be shipped via common carrier. The purchaser is responsible for receiving (off loading) and storage of all materials. This may require the use of a fork lift, skid steer with forks, or several men to break down the freight and off load the freight by "hand".
- Any damages or shortages must be noted on the bill of lading at the time of receiving the materials.

Steve Barritt
President

cc: Suanne Moesch, Sales Representative

City of Franklin City of Franklin Parks

Proposal # 30-86422-1
May 12, 2015



Presented by
Miller & Associates – Sauk Prairie, Inc
and



Design Summary

Miller & Associates is pleased to present this Proposal for consideration for the City of Franklin Parks located in Franklin. BCI Burke Company, LLC has been providing recreational playground equipment for over 90 years and has developed the right mix of world-class capabilities to meet the initial and continuing needs of City of Franklin. We believe our proposal will meet or exceed your project's requirements and will deliver the greatest value to you.

The following is a summary of some of the key elements of our Proposal:

- Project Name: City of Franklin Parks
- Project Number: 30-86422-1
- User Capacity: 130
- Age Groups: Ages 2-5 years, 5-12 years
- Dimensions: 75' 1" x 65' 10"
- Designer Name: Kari Champeau

Miller & Associates has developed a custom playground configuration based on the requirements as they have been presented for the City of Franklin Parks playground project. Our custom design will provide a safe and affordable playground environment that is aesthetically pleasing, full of fun for all users and uniquely satisfies your specific requirements. In addition, proposal # 30-86422-1 has been designed with a focus on safety, and is fully compliant with ASTM F1487 and CPSC playground safety standards.

We invite you to review this proposal for the City of Franklin Parks playground project and to contact us with any questions that you may have.

Thank you in advance for giving us the opportunity to make this project a success.

INFORMATION
MINIMUM FALL ZONE
SURFACED WITH
RESILIENT MATERIAL
AREA
3022 SQ.FT.
PERIMETER
405 FT.

STRUCTURE SIZE
75' 1" x 65' 10"

STRUCTURE IS DESIGNED
FOR CHILDREN AGES:

6-23 MONTH OLDS
 2-5 YEAR OLDS
 5-12 YEAR OLDS
 13 + YEAR OLDS

CERTIFIED MANAGEMENT SYSTEM
IPEMA
ASTM F1487

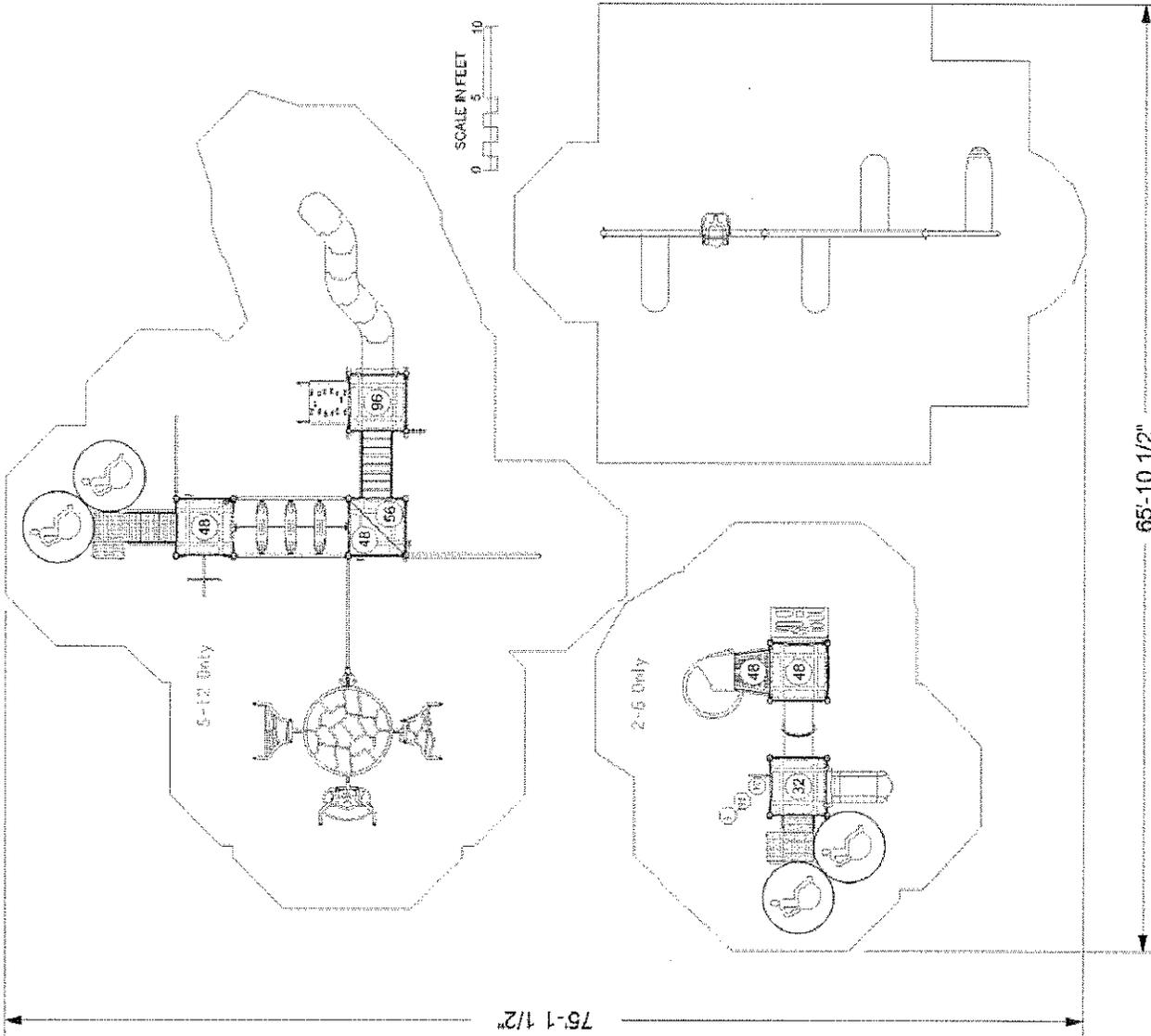
IPEMA
CERTIFIED
ASTM
F1487

To verify product certification, visit www.ipema.org

The play components identified in this plan are IPEMA certified. The use and layout of these components conform to the requirements of ASTM F1487. To verify product certification, visit www.ipema.org

The space requirements shown here are to ASTM standards. Requirements for other standards may be different.

The use and layout of play components identified in this plan conform to the CPSC guidelines.



WARNING!

ACCESSIBLE SAFETY SURFACING MATERIAL IS REQUIRED BENEATH AND AROUND THIS EQUIPMENT.
FOR SLIDE FALL ZONE SURFACING AREA SEE CPSC's Handbook for Public Playground Safety.
PLATFORM HEIGHTS ARE IN INCHES ABOVE RESILIENT MATERIAL.

ADA ACCESSIBILITY GUIDELINE (ADAAG CONFORMANCE)

NUMBER OF PLAY EVENTS	27	REQD. 6
NUMBER OF ELEVATED PLAY EVENTS	13	REQD. 7
NUMBER OF ELEVATED PLAY EVENTS ACCESSIBLE BY RAMP	PROVIDED: 0	REQD. 4
NUMBER OF ELEVATED PLAY EVENTS ACCESSIBLE BY TRANSFER SYSTEM	PROVIDED: 9	REQD. 3
NUMBER OF ELEVATED PLAY EVENTS ACCESSIBLE BY RAMP OR TRANSFER SYSTEM	PROVIDED: 14	
NUMBER OF TYPES OF GROUND LEVEL PLAY EVENTS	PROVIDED: 6	

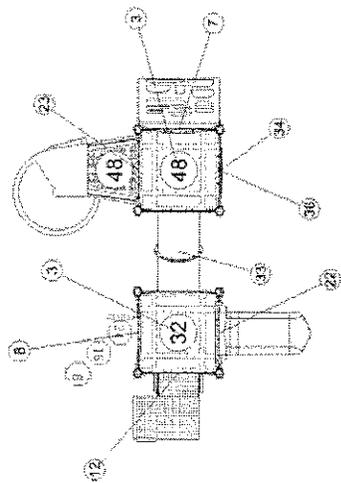
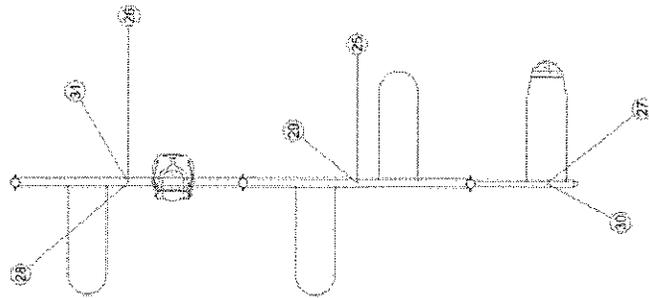
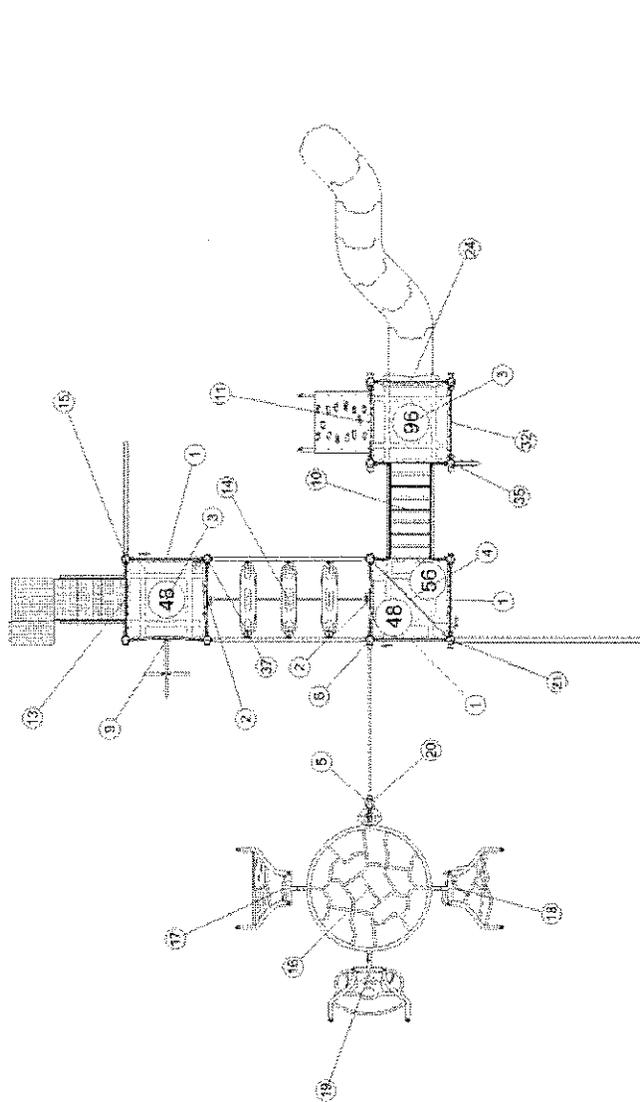


SERIES: Basics, Intensity, Nucleus
SITE PLAN
DRAWN BY: Kari Champeau

City of Franklin Parks
7979 W. Ryan Road
Franklin, WI 53132

May 12, 2015
Miller & Associates
30-86422-1

ITEM	COMP	DESCRIPTION
1	270-0001	OFFSET ENCLOSURE
2	270-0112	UNITARY ENCLOSURE
3	270-0130	SQUARE PLATFORM
4	270-0136	SPLIT SQUARE PLATFORM
5	370-0027	LAUNCH PAD
6	370-0033	ODYSSEY POST LINK DOUBLE
7	370-0202	ROCK CLIMBER 48"
8	370-0270	POD WALK 32"
9	370-0446	LINKING RING CLIMBER 32"-48"
10	370-0469	40" TRANSITION STAIR W/BARR
11	370-0484	STONE SLOPE CLIMBER 8"
12	370-0718	TRANSFER STATION, HANDRAIL
13	370-0720	TRANSFER STATION, HANDRAIL
14	370-0901	TRIGON ARCH, 8'-48" D2D
15	370-0810	POWER PEAK W/ PANELS
16	370-0829	PLEXUS OVERHEAD
17	370-0830	PLEXUS HOLE CLIMBER
18	370-0832	PLEXUS TANGLE CLIMBER
19	370-0833	PLEXUS STEP CLIMBER
20	370-0834	OVERHEAD POST ATTACHMENT
21	370-1583	APEX ROPE CLIMBER
22	470-0514	ROCK'N ROLL SLIDE, 24" x 32"
23	470-0531	270 DEG. SPIRAL SLIDE, 48"
24	470-0552	VIPER S 90
25	550-0093	SINGLE POST SWING ASSEMBLY
26	550-0094	SINGLE POST SWING ADD-ON 5'
27	550-0099	TOT SEAT, 7' & 8' SINGLE, STD C
28	550-0111	BELT SEAT, 8' SINGLE, STD CHA
29	550-0112	BELT SEAT, 8' PAIR, STD CHAIN
30	550-0140	101 BAY, ADD-ON
31	550-0171	ADA SWING SEAT, 8' BEAM, STD
32	570-0384	PIPE WALL
33	570-0560	UP-DOWN TUNNEL, 16" OFFSET
34	570-0619	WHEEL OF FUN PANEL, BELOW
35	570-0717	RAINDROPS ACTIVITY PANEL
36	570-1562	GEAR PANEL
37	670-0156	POST MOUNTED BELL

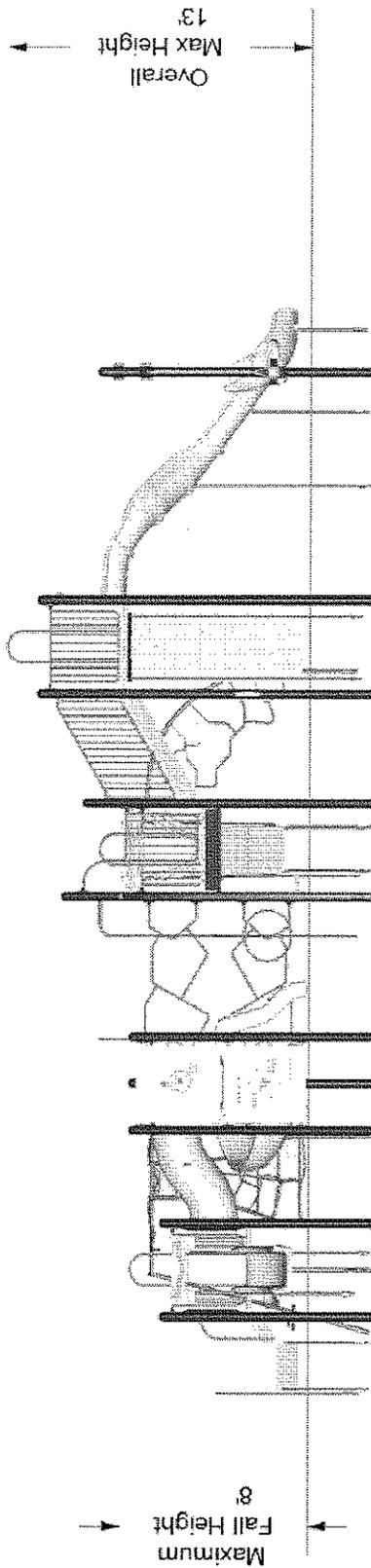


May 12, 2015

SERIES: Basics, Intensity, Nucleus
 COMPONENT PLAN
 DRAWN BY: Kari Champeau

City of Franklin Parks
 7979 W. Ryan Road
 Franklin, WI 53132

Miller & Associates
 30-86422-1



The protective surfacing for this design must accommodate the critical fall height.

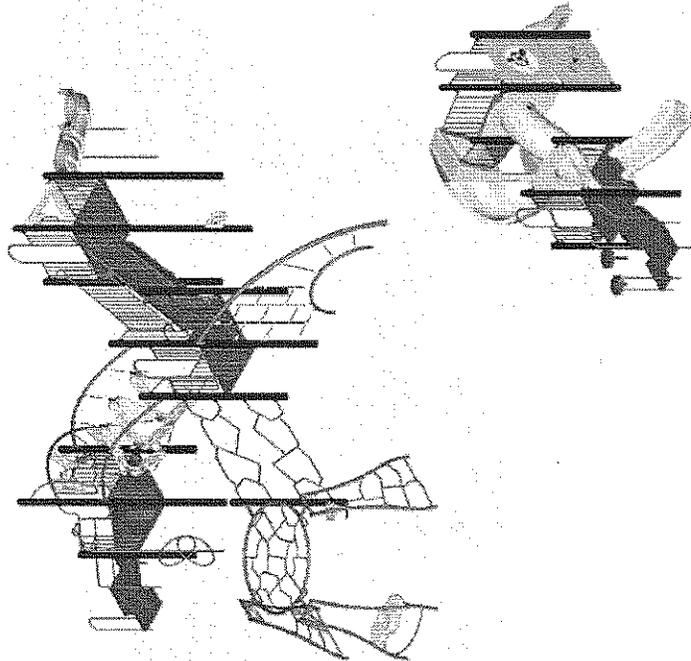
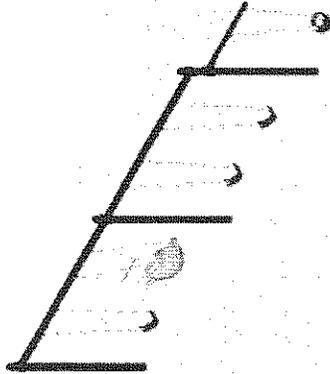


May 12, 2015

SERIES: Basics, Intensity, Nucleus
 ELEVATION PLAN
 DRAWN BY: Kari Champeau

City of Franklin Parks
 7979 W. Ryan Road
 Franklin, WI 53132

Miller & Associates
 30-86422-1



May 12, 2015

SERIES: Basics, Intensity, Nucleus

ISOMETRIC PLAN

DRAWN BY: Kari Champeau

City of Franklin Parks

7979 W. Ryan Road

Franklin, WI 53132

Miller & Associates

30-86422-1

Proposal Prepared for:

Jerry Schaefer
 City of Franklin
 7979 W. Ryan Road
 Franklin, WI 53132

Project Location:

City of Franklin Parks
 7979 W. Ryan Road
 Franklin, WI 53132

Proposal Prepared by:

Miller & Associates
 P.O. Box 154
 Prairie du Sac, WI 53578
 Phone: 608-643-8105
 Fax: 608-643-7932
 contact@millersaukprairie.com

Suanne Moesch

Phone: 414-331-9680
 suannem@millersaukprairie.com

Component No.	Description	Qty.	User Cap.	Ext. User Cap.	Weight	Ext. Weight
Burke Basics						
550-0093	SINGLE POST SWING ASSEMBLY 5"...	1	2	2	220	220
550-0094	SINGLE POST SWING ADD-ON 5" OD	1	2	2	145	145
550-0099	TOT SEAT, 7' & 8' SINGLE, STD...	1	0	0	12	12
550-0111	BELT SEAT, 8' SINGLE, STD CHA...	1	0	0	10	10
550-0112	BELT SEAT, 8' PAIR, STD CHAIN	1	0	0	20	20
550-0140	TOT BAY, ADD-ON	1	1	1	39	39
550-0171	ADA SWING SEAT, 8' BEAM, STD ...	1	1	1	38	38
Intensity						
370-0027	LAUNCH PAD	1	1	1	9	9
370-0033	ODYSSEY POST LINK DOUBLE	1	4	4	78	78
370-0829	PLEXUS OVERHEAD	1	14	14	96	96
370-0830	PLEXUS HOLE CLIMBER	1	2	2	97	97
370-0832	PLEXUS TANGLE CLIMBER	1	2	2	89	89
370-0833	PLEXUS STEP CLIMBER	1	2	2	121	121
370-0834	OVERHEAD POST ATTACHMENT	1	0	0	3	3
370-1583	APEX ROPE CLIMBER	1	8	8	150	150
670-0097	INTENSITY CURRICULUM KIT	1	0	0	2	2
Nucleus						
270-0001	OFFSET ENCLOSURE	3	1	3	30	90
270-0112	UNITARY ENCLOSURE	2	0	0	34	68
270-0130	SQUARE PLATFORM	4	6	24	106	424
270-0136	SPLIT SQUARE PLATFORM	1	4	4	103	103
370-0202	ROCK CLIMBER 48"	1	2	2	158	158
370-0270	POD WALK 32"	1	3	3	124	124
370-0446	LINKING RING CLIMBER 32"-48"	1	2	2	80	80
370-0469	40" TRANSITION STAIR W/BARRIE...	1	4	4	279	279
370-0494	STONE SLOPE CLIMBER 96"	1	2	2	177	177
370-0718	TRANSFER STATION, HANDRAIL 32"	1	4	4	162	162
370-0720	TRANSFER STATION, HANDRAIL 48"	1	6	6	236	236
370-0801	TRIGON ARCH, 8"-48" D2D	1	9	9	167	167
370-0810	POWER PEAK W/ PANELS	1	8	8	87	87
470-0514	ROCK'N ROLL SLIDE, 24" - 32"	1	1	1	85	85
470-0531	270 DEG. SPIRAL SLIDE 48"	1	2	2	412	412
470-0552	VIPER S 96	1	4	4	248	248
570-0394	PIPE WALL	1	0	0	36	36
570-0560	UP-DOWN TUNNEL, 16" OFFSET	1	4	4	119	119
570-0619	WHEEL OF FUN PANEL, BELOW PLA...	1	2	2	53	53
570-0717	RAINDROPS ACTIVITY PANEL	1	2	2	8	8
570-1562	GEAR PANEL	1	4	4	52	52
600-0104	NPPS SUPERVISION SAFETY KIT	1	0	0	3	3

670-0002	POST ASSEMBLY 5" OD X 107"	4	0	0	58	232
670-0098	MODULAR HARDWARE, NUCLEUS	1	0	0	5	5
670-0099	INSTALLATION KIT, INTENSITY	1	0	0	2	2
670-0103	MAINTENANCE KIT, INTENSITY	1	0	0	0	0
670-0156	POST MOUNTED BELL	1	1	1	5	5
670-0165	POST ASSEMBLY 5" OD X 123"	6	0	0	66	396
670-0166	POST ASSEMBLY 5" OD X 139"	2	0	0	74	148
670-0167	POST ASSEMBLY 5" OD X 147"	4	0	0	78	312
670-0168	POST ASSEMBLY 5" OD X 158"	1	0	0	84	84
670-0169	POST ASSEMBLY 5" OD X 171"	4	0	0	91	364

Total User Capacity: 130
Total Weight: 5,848 lbs.

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CITY OF FRANKLIN PARKS

PROPOSAL: 30-86422-1

BCIBURKE.COM | 800.266.1250

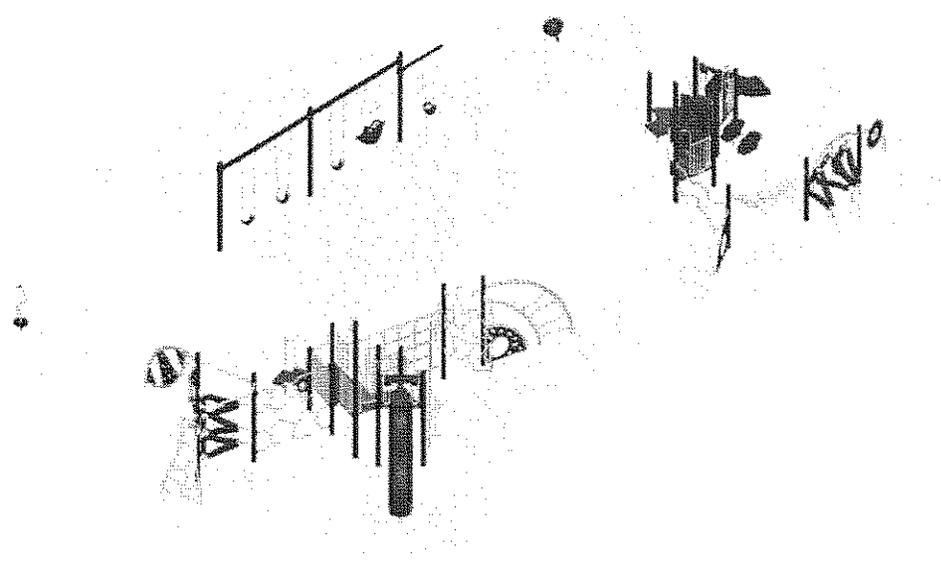


CITY OF FRANKLIN PARKS

PROPOSAL: 30-86422-1

City of Franklin City of Franklin Parks

Proposal # 30-86423-1
May 12, 2015



Presented by
Miller & Associates – Sauk Prairie, Inc
and



Design Summary

Miller & Associates is pleased to present this Proposal for consideration for the City of Franklin Parks located in Franklin. BCI Burke Company, LLC has been providing recreational playground equipment for over 90 years and has developed the right mix of world-class capabilities to meet the initial and continuing needs of City of Franklin. We believe our proposal will meet or exceed your project's requirements and will deliver the greatest value to you.

The following is a summary of some of the key elements of our Proposal:

- Project Name: City of Franklin Parks
- Project Number: 30-86423-1
- User Capacity: 127
- Age Groups: Ages 2-5 years, 5-12 years
- Dimensions: 63' 0" x 92' 1"
- Designer Name: Kari Champeau

Miller & Associates has developed a custom playground configuration based on the requirements as they have been presented for the City of Franklin Parks playground project. Our custom design will provide a safe and affordable playground environment that is aesthetically pleasing, full of fun for all users and uniquely satisfies your specific requirements. In addition, proposal # 30-86423-1 has been designed with a focus on safety, and is fully compliant with ASTM F1487 and CPSC playground safety standards.

We invite you to review this proposal for the City of Franklin Parks playground project and to contact us with any questions that you may have.

Thank you in advance for giving us the opportunity to make this project a success.

INFORMATION
MINIMUM FALL ZONE
SURFACED WITH
RESILIENT MATERIAL
AREA

3405 SQ.FT.

PERIMETER
517 FT.

STRUCTURE SIZE

63' 0" x 92' 1"

STRUCTURE IS DESIGNED
FOR CHILDREN AGES:

- 6-23 MONTH OLDS
- 2-5 YEAR OLDS
- 5-12 YEAR OLDS
- 13 + YEAR OLDS

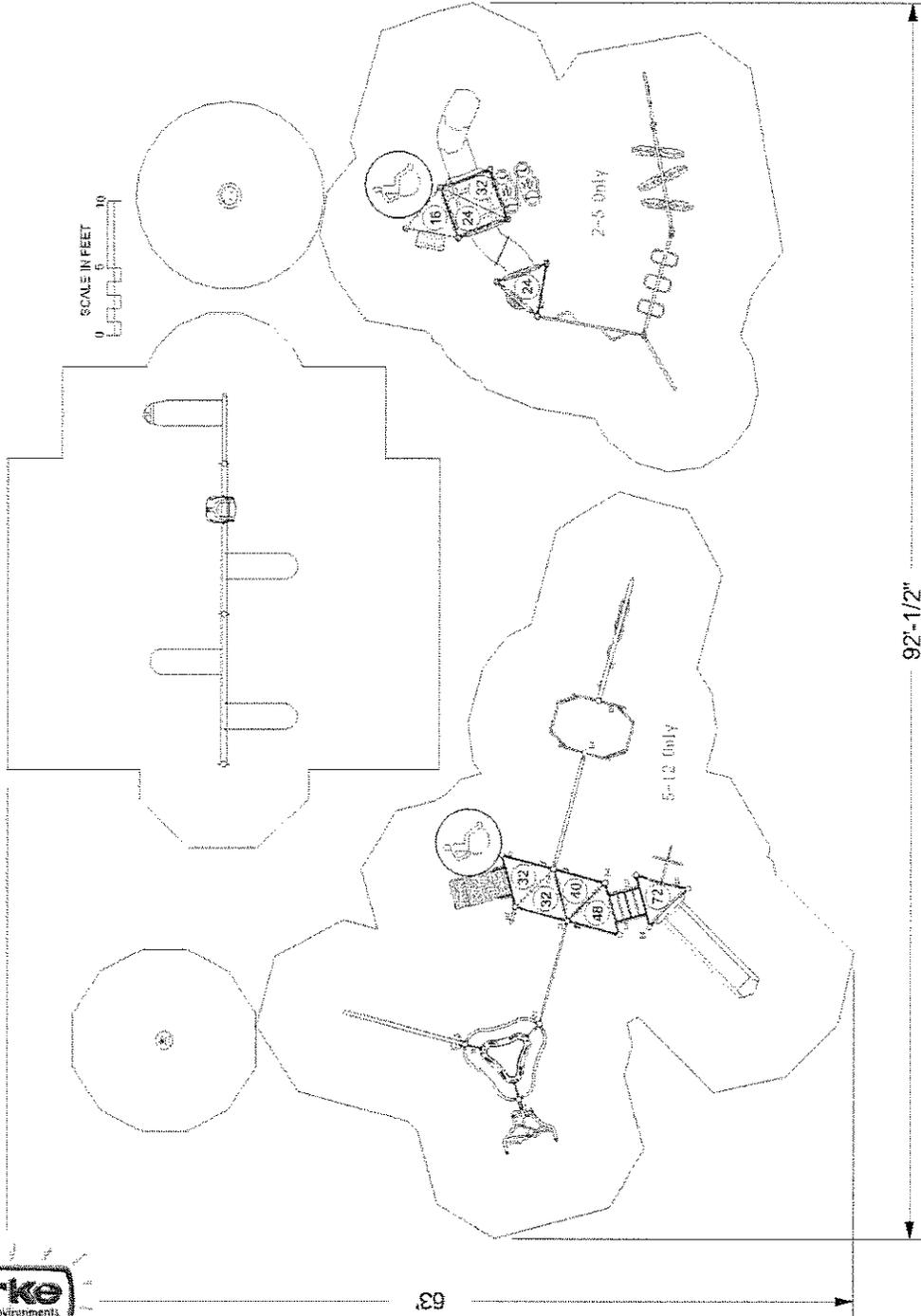


To verify product certification,
visit www.ipema.org

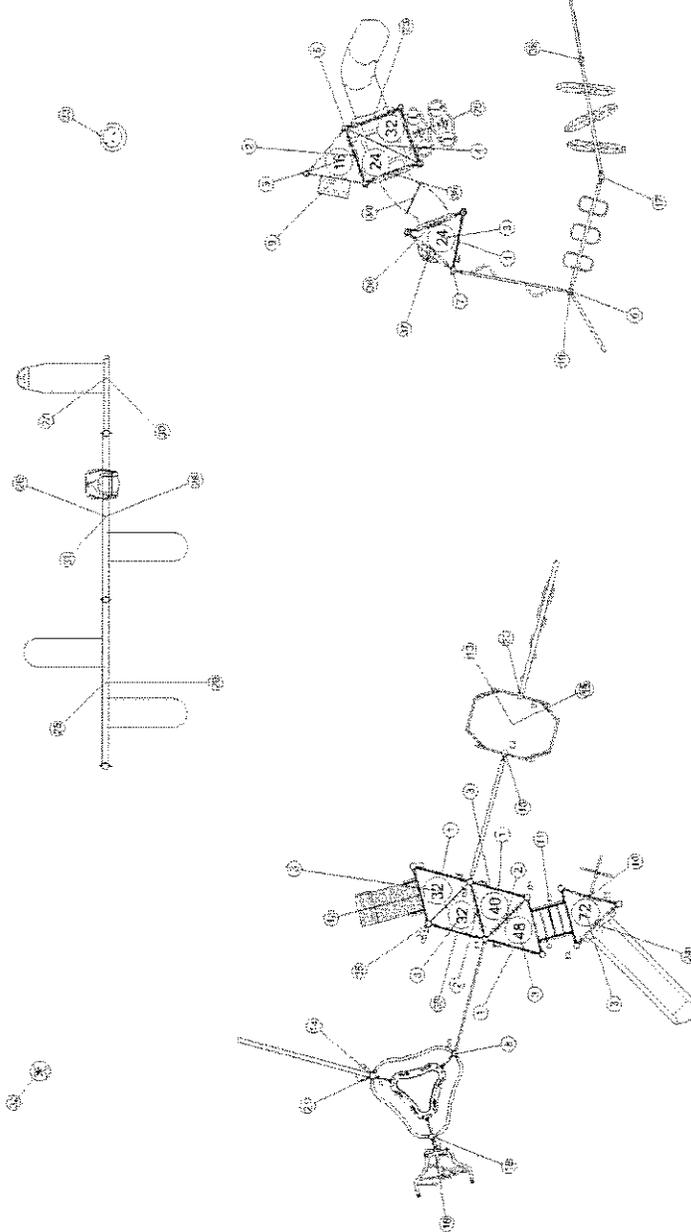
The play components identified
in this plan are IPEMA
certified. The use and layout of
these components conform to the
requirements of ASTM F1487.
To verify product certification,
visit www.ipema.org

The space requirements shown
here are to ASTM standards.
Requirements for other standards
may be different.

The use and layout of play
components identified in this plan
conform to the CPSC guidelines.



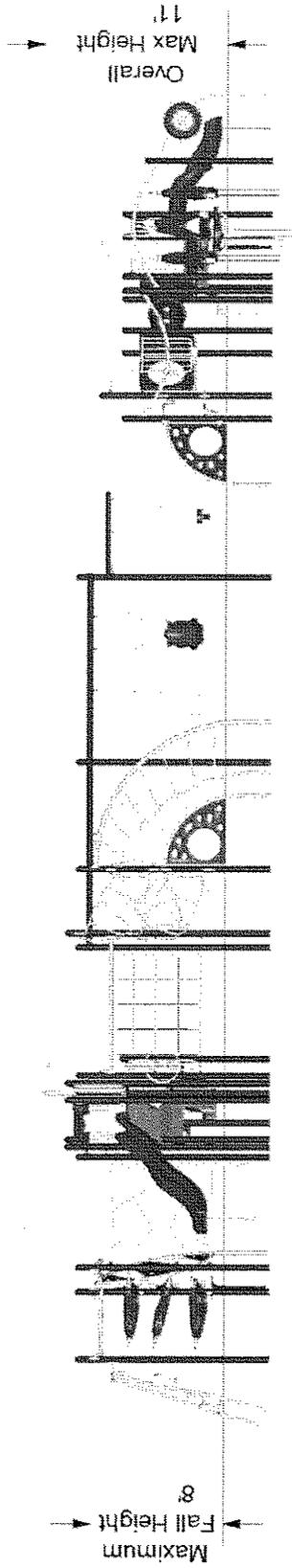
ITEM	COMP.	DESCRIPTION
1	270-0001	OFFSET ENCLOSURE
2	270-0060	6" CLOSURE PLATE
3	270-0129	TRIANGLE PLATFORM
4	270-0136	SPLIT SQUARE PLATFORM
5	370-0076	GRAB BAR ASSEMBLY
6	370-0030	ATHLETIC ARCH 2-5
7	370-0031	POWER PIPES CLIMBER 2-5
8	370-0033	ODYSSEY POST LINK DOUBLE
9	370-0313	SINGLE STEP
10	370-0417	LINKING RING CLIMBER 56"-72"
11	370-0467	24" TRANSITION STAIR W/BARRI
12	370-0718	TRANSFER STATION, HANDRAIL
13	370-0763	ODYSSEY DECK LINK
14	370-0806	TRIGON TOWER
15	370-0807	SPIDER, 96" DECK TO DECK
16	370-0832	PLEXUS TANGLE CLIMBER
17	370-0835	TRIGON ARCH, GL
18	370-0837	CLIMBER POST ATTACHMENT
19	370-0842	APEX HOLE CLIMBER 2-5
20	370-0860	DYNAMIC PAD CLIMBER 32"
21	370-1582	APEX ELLIPSE CLIMBER
22	370-1584	APEX WAVE CLIMBER
23	470-0563	VIPER R.32
24	470-0622	ROCK'N ROLL SLIDE, 64" - 72"
25	550-0093	SINGLE POST SWING ASSEMBLY
26	550-0094	SINGLE POST SWING ADD-ON 5'
27	550-0099	TOT SEAT, 7' & 8' SINGLE, STD C
28	550-0111	BELT SEAT, 8' SINGLE, STD CHA
29	550-0112	BELT SEAT, 8' PAIR, STD CHAIN
30	550-0140	TOT BAY, ADD-ON
31	550-0171	ADA SWING SEAT, 8' BEAM, STD
32	560-0457	SWIFT TWIST SPINNER
33	560-2573	KIDFORGE SPINNER
34	570-0088	S TUNNEL W/ PORT'S ASSEMBLY
35	570-0717	RAINDROPS ACTIVITY PANEL
36	570-0785	TUNNEL PANEL ASSEMBLY
37	570-0794	PADDLE BALL PANEL
38	570-0811	BRaille PANEL
39	570-0815	WAVER RING PANEL



SERIES: Basics, Intensity, Nucleus
 COMPONENT PLAN
 DRAWN BY: Kari Champeau

City of Franklin Parks
 7979 W. Ryan Road
 Franklin, WI 53132

May 12, 2015
 Miller & Associates
 30-86423-1



The protective surfacing for this design must accommodate the critical fall height.

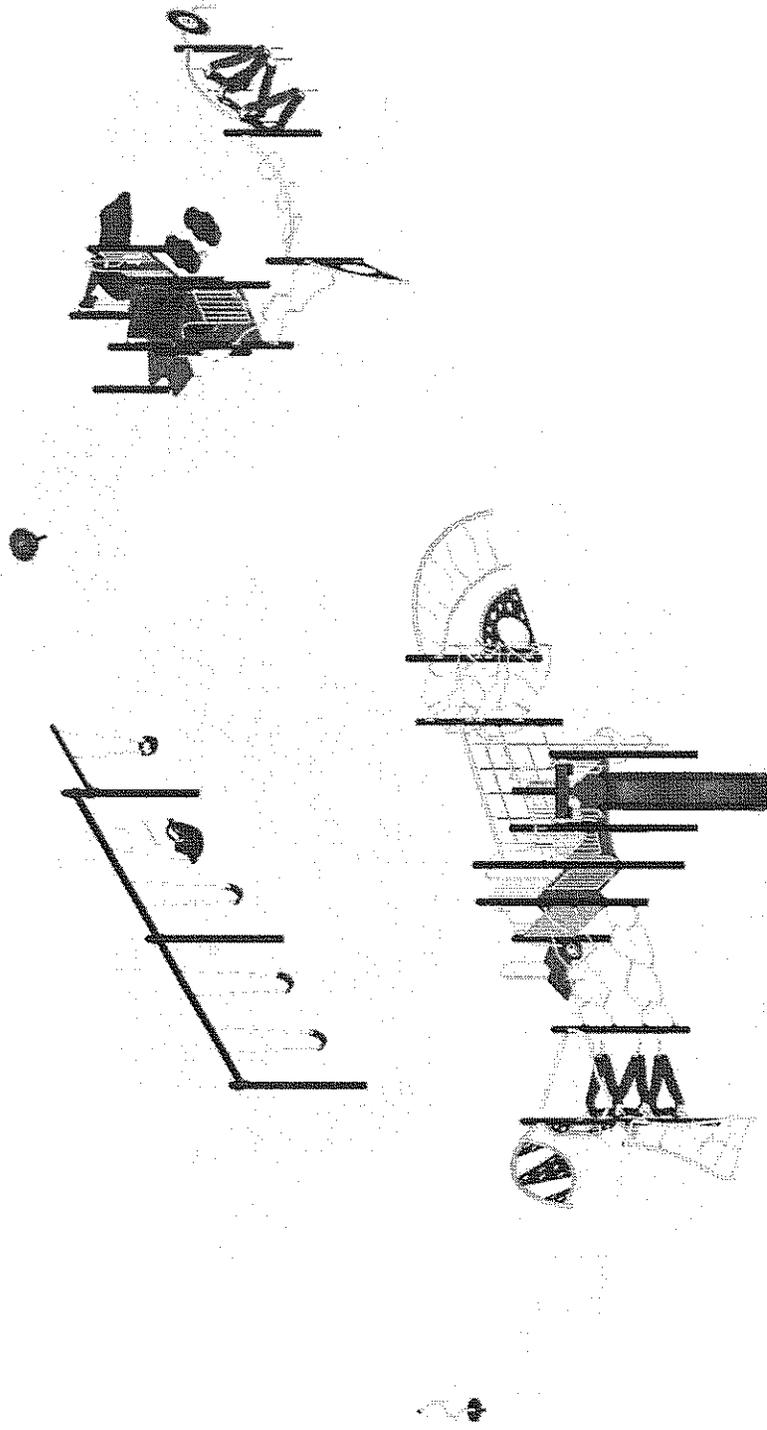


SERIES: Basics, Intensity, Nucleus
 ELEVATION PLAN
 DRAWN BY: Kari Champeau

City of Franklin Parks
 7979 W. Ryan Road
 Franklin, WI 53132

Miller & Associates
 30-86423-1

May 12, 2015



May 12, 2015

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ISOMETRIC PLAN
DRAWN BY: Kari Champeau

City of Franklin Parks
7979 W. Ryan Road
Franklin, WI 53132

Miller & Associates
30-86423-1

Proposal Prepared for:

Jerry Schaefer
 City of Franklin
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Project Location:

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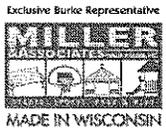
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Component No.	Description	Qty.	User Cap.	Ext. User Cap.	Weight	Ext. Weight
<u>Burke Basics</u>						
550-0093	SINGLE POST SWING ASSEMBLY 5"...	1	2	2	220	220
550-0094	SINGLE POST SWING ADD-ON 5" OD	1	2	2	145	145
550-0099	TOT SEAT, 7' & 8' SINGLE, STD...	1	0	0	12	12
550-0111	BELT SEAT, 8' SINGLE, STD CHA...	1	0	0	10	10
550-0112	BELT SEAT, 8' PAIR, STD CHAIN	1	0	0	20	20
550-0140	TOT BAY, ADD-ON	1	1	1	39	39
550-0171	ADA SWING SEAT, 8' BEAM, STD ...	1	1	1	38	38
560-0457	SWIFT TWIST SPINNER	1	1	1	52	52
560-2573	KIDFORCE SPINNER	1	1	1	43	43
<u>Intensity</u>						
370-0030	ATHLETIC ARCH 2-5	1	3	3	46	46
370-0031	POWER PIPES CLIMBER 2-5	1	6	6	33	33
370-0033	ODYSSEY POST LINK DOUBLE	1	4	4	78	78
370-0832	PLEXUS TANGLE CLIMBER	1	2	2	89	89
370-0835	TRIGON ARCH, GL	1	9	9	151	151
370-0837	CLIMBER POST ATTACHMENT	1	0	0	3	3
370-0842	APEX HOLE CLIMBER 2-5	1	2	2	55	55
370-1582	APEX ELLIPSE CLIMBER	1	8	8	191	191
370-1584	APEX WAVE CLIMBER	1	8	8	185	185
570-0815	WAVER RING PANEL	1	2	2	62	62
670-0097	INTENSITY CURRICULUM KIT	1	0	0	2	2
<u>Nucleus</u>						
270-0001	OFFSET ENCLOSURE	4	1	4	30	120
270-0050	8" CLOSURE PLATE	3	0	0	10	30
270-0129	TRIANGLE PLATFORM	7	2	14	48	336
270-0136	SPLIT SQUARE PLATFORM	1	4	4	103	103
370-0016	GRAB BAR ASSEMBLY	1	0	0	6	6
370-0313	SINGLE STEP	1	1	1	42	42
370-0447	LINKING RING CLIMBER 56"-72"	1	4	4	93	93
370-0467	24" TRANSITION STAIR W/BARRIE...	1	2	2	164	164
370-0718	TRANSFER STATION, HANDRAIL 32"	1	4	4	162	162
370-0763	ODYSSEY DECK LINK	3	4	12	40	120
370-0806	TRIGON TOWER	1	9	9	172	172
370-0807	SPIDER, 96", DECK TO DECK	1	4	4	62	62
370-0850	DYNAMIC PAD CLIMBER 32"	1	2	2	149	149
470-0563	VIPER R 32	1	2	2	121	121
470-0622	ROCK'N ROLL SLIDE, 64" - 72"	1	2	2	147	147
570-0068	S TUNNEL W/ PORTS ASSEMBLY	1	2	2	48	48
570-0717	RAINDROPS ACTIVITY PANEL	1	2	2	8	8
570-0785	TUNNEL PANEL ASSEMBLY	2	1	2	36	72

570-0794	PADDLE BALL PANEL	1	1	1	47	47
570-0811	BRILLE PANEL	1	4	4	55	55
600-0104	NPPS SUPERVISION SAFETY KIT	1	0	0	3	3
670-0001	POST ASSEMBLY 5" OD X 91"	2	0	0	49	98
670-0002	POST ASSEMBLY 5" OD X 107"	10	0	0	58	580
670-0098	MODULAR HARDWARE, NUCLEUS	1	0	0	5	5
670-0099	INSTALLATION KIT, INTENSITY	1	0	0	2	2
670-0103	MAINTENANCE KIT, INTENSITY	1	0	0	0	0
670-0165	POST ASSEMBLY 5" OD X 123"	1	0	0	66	66
670-0166	POST ASSEMBLY 5" OD X 139"	7	0	0	74	518
670-0167	POST ASSEMBLY 5" OD X 147"	5	0	0	78	390

Total User Capacity: 127
Total Weight: 5,193 lbs.

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CITY OF FRANKLIN PARKS

PROPOSAL: 30-86423-1

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CITY OF FRANKLIN PLACE

PROPOSAL: 30-86423-1

<p>APPROVAL</p> <p><i>Slw</i> <i>mmg</i></p>	<p>REQUEST FOR COUNCIL ACTION</p>	<p>MEETING DATE</p> <p>05/19/2015</p>
<p>REPORTS & RECOMMENDATIONS</p>	<p>An Ordinance to Amend Ordinance 2014-2152, An Ordinance Adopting the 2015 Annual Budgets for the Capital Improvement and Development Funds for the City of Franklin for Fiscal Year 2015, to Amend the Intent of the Capital Improvement Fund Appropriations for Certain Park Development Projects and to Amend the Development Fund Appropriation for Transfers to the Capital Improvement Fund for Park Projects</p>	<p>ITEM NUMBER</p> <p><i>G.l.e.</i></p>

The 2015 adopted budget anticipated, in part, the following park development projects:

Kayla's Krew All-Inclusive Playground	\$600,000
North Cape Trail	\$754,000
Park Development	\$500,000

The first two projects are established as "Approved Projects," with the third listed as a "Project Pending Approval." No matter into which category the projects fall, the Common Council retains control of the purse strings, and expenditures do not occur without prior Common Council authorization, such as approval of a contract. In short, the "Projects Pending Approval" designation is used to effectively emphasize that a project required additional verification, information, or design, for example, before the Common Council would authorize significant expense under the project. By designating an item or category as "Approved Projects" the Common Council can approve a contract under the appropriation. [Note that this distinction is a City practice, not a State statutory practice.]

The North Cape Trail project was retained in the document to provide for what is now being referred to as the Hike-Bike Path over the gravel path that runs generally parallel to North Cape Avenue. The Park Development Project was set as a broad category to address any park development project that Common Council determined was appropriate to pursue.

As has been discussed, a budget modification is recommended to ensure the City has sufficient appropriations in place to address the following:

- the Kayla's Krew playground, including some additional appropriations to cover staff cost allocations or changes as may occur in the final approval,
- any future, 2015 park development expenditures the Common Council determines is appropriate, such as paths as presented in another item in the agenda or other priority expenditures that may be authorized to ensure park impact fees are expended in a timely manner (if needed),

- paving of the north/south portion of the Hike-Bike path if such project is approved for 2015, and
- Development Fund (impact fee) transfers (expenditures) that could be related to these projects and to the potential transfer of future City-owned land for special park purposes.

Importantly, approving the budget modification as proposed does not, in and of itself, approve any project to proceed, award any contract, or authorize any direct payments. Approving the budget modification as proposed does position the City such that it can likely address each of the park development options that comes along without concern for whether or not sufficient appropriations are in the correct line items or without the need for last-minute budget modifications.

Within the Capital Improvement Fund, the budget modifications merely reallocate existing appropriations. Within the Development Fund it merely appropriates existing and available fund balance.

To best address the current discussions related to park development and to assist the Common Council in timely approvals that they may wish to pursue, the Director of Administration and the Director of Finance and Treasurer recommend approval.

COUNCIL ACTION REQUESTED

Motion to adopt Ordinance No. 2015-____, "An Ordinance to Amend Ordinance 2014-2152, An Ordinance Adopting the 2015 Annual Budgets for the Capital Improvement and Development Funds for the City of Franklin for Fiscal Year 2015, to Amend the Intent of the Capital Improvement Fund Appropriations for Certain Park Development Projects and to Amend the Development Fund Appropriation for Transfers to the Capital Improvement Fund for Park Projects".

Motion to authorize the full appropriation for Park Development as an "Approved Project" as structured in the 2015 Annual Budget document.

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 CAPITAL IMPROVEMENT AND DEVELOPMENT FUNDS FOR THE CITY OF FRANKLIN FOR FISCAL YEAR 2015, TO AMEND THE INTENT OF THE CAPITAL IMPROVEMENT FUND APPROPRIATIONS FOR CERTAIN PARK DEVELOPMENT PROJECTS AND TO AMEND THE DEVELOPMENT FUND APPROPRIATION FOR TRANSFERS TO THE CAPITAL IMPROVEMENT FUND FOR PARK PROJECTS

WHEREAS, the Common Council has investigated and continues to pursue a Capital Improvement Fund project for an “all-inclusive park developed in partnership with Kayla’s Krew” for which potential project costs have been more closely identified, and

WHEREAS, the Common Council continues to address other potential park projects as contemplated in the 2015 Annual Budget and desires to more closely align appropriations for the North Cape Trail project and the general Park Development project with potential costs, which action will also provide the Common Council with more flexibility identifying and pursuing preferred park development projects, and

WHEREAS, park project changes may result in additional Park Impact Fees to become eligible to support park projects resulting in the need for additional appropriations for transfers from the Development Fund to the Capital Improvement fund from Park Impact fees previously collected, with the intent of increasing total appropriated Park Impact Fee transfers to \$1,609,625, and

WHEREAS, expenditures on Park projects are eligible for Park Impact Fee support by transfer from the Development Fund, and

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:

Capital Improvement Fund

Approved Projects	Kayla’s Krew All-Inclusive Park	Increase	500,000
	Park Development	Increase	150,000
	North Cape Trail	Decrease	650,000

Development Fund

	Park Impact Fees transfer to CIP	Increase	275,000
	Fund Balance	Decrease	275,000

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.

Ordinance No. 2015-_____
Page 2

Introduced at a regular meeting of the Common Council of the City of Franklin this 19th day of May, 2015.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this 19th day of May, 2015.

APPROVED:

ATTEST:

Stephen R. Olson, Mayor

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

<p style="text-align: center;">APPROVAL</p> <p style="text-align: center;"><i>Slw</i></p>	<p style="text-align: center;">REQUEST FOR COUNCIL ACTION</p>	<p style="text-align: center;">MEETING DATE</p> <p style="text-align: center;">05/19/2015</p>
<p style="text-align: center;">REPORTS & RECOMMENDATIONS</p>	<p style="text-align: center;">A RESOLUTION TO DESIGN, PERMIT AND SOLICIT BIDS FOR RESTROOM AT MARKET SQUARE PARK (11230 W CHURCH STREET)</p>	<p style="text-align: center;">ITEM NUMBER</p> <p style="text-align: center;"><i>G. 6. f.</i></p>

BACKGROUND

On May 5, 2015 Common Council considered options for expending Park Development and Park Impact Fees. One of the options was “Restroom in Market Square near St. Martins Gazebo”.

1. Restroom in Market Square near St. Martins Gazebo [11230 W. Church Street]: Although not previously incorporated into plans for the square, a single-stall, family-style, unisex bathroom could serve a community purpose, both for the regular fairs and for enhancing the gazebos functionality for weddings, for example. It would also eliminate some regular bathroom rental costs. The idea comes as an extension of Engineering’s consideration of pre-fab bathrooms as part of the Kayla’s Krew investigation. An order could be made with pre-payment while separate site work is addressed. The initial order might be in the \$40,000 to \$60,000 range. RECOMMENDATION: If the Council supports the idea of adding a bathroom structure to Market Square, direct staff to prepare a rough site plan and cost estimate and bring it back as soon as practicable.

ANALYSIS

Restroom facilities at this location are needed. Portable toilet facilities are rented on a frequent basis. This facility will not negate the need to rent approximately 90 units during the St. Martins Fair each year; however it will eliminate the need for all of the typical weekend rentals.

Location of the facility will require variances or amending the zoning code since the zoning P-1 does not allow structures within 50-feet of any lot line. Although input will be solicited, it appears that the most desirable location is on the northeastern corner of W Swiss Street and S Franklin Street.

The restroom is proposed to be a modular precast concrete construction and have the same footprint as the all-inclusive restroom facility proposed for Franklin Woods. The proposed Franklin Woods floor plan and profile view are attached. To more closely blend into the surroundings, this facility will have a façade to include brick and/or wood siding- yet still be constructed of durable precast concrete.

The restroom will need water service. The City can coordinate the installation of a water well. Not only can this well provide water for the inside of the restrooms, but can be used for drinking fountains. As proposed in Franklin Woods, drinking fountains will be provided for humans as well as canines.

Like Franklin Woods, this site is proposed to include electric service to an existing pavilion/gazebo. The design will include some GFI outlets and motion-activated lighting for the Gazebo and the restroom. Other utility connections will include sanitary sewer and potentially gas.

Since GRAEF has experience with the Franklin Woods project, we have asked them to provide similar services for this location. Their attached proposal for professional services includes survey, soil borings, foundation design, architectural, building permits, and other related issues. The proposal is an hourly, not to exceed contract...

OPTIONS

Approve or Table

FISCAL NOTES

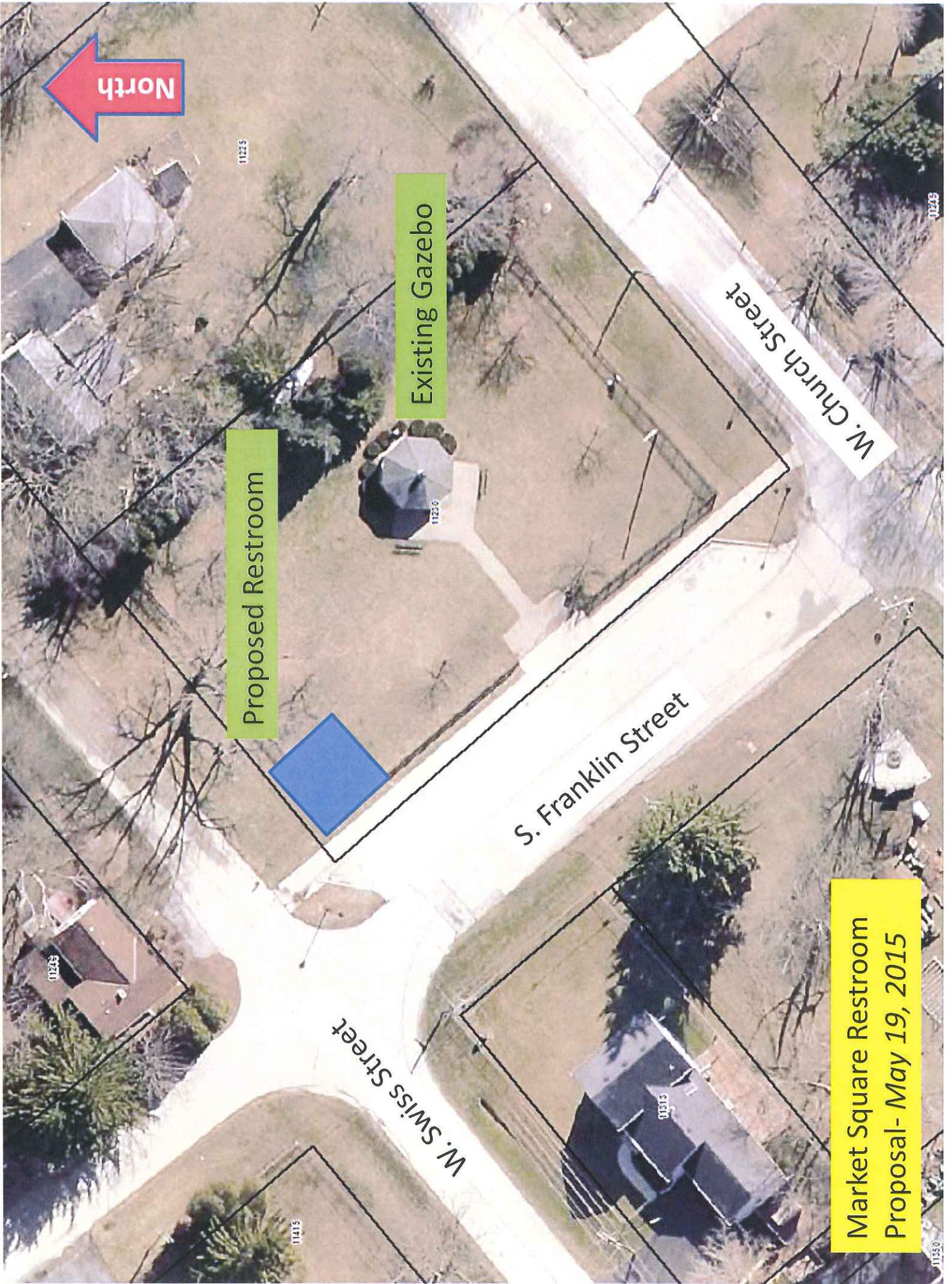
Cost Estimate

\$ 10,000	Allowance for water well installation
\$ 15,000	Allowance for utility connections
\$ 45,000	Engineering Design
\$ 5,000	Allowance for miscellaneous site work and landscaping by DPW
\$200,000	Restroom modules, site prep, delivery and installation
\$275,000	Project Total Budget Estimate

Market Square is identified in Table 16 of the current Public Facilities Needs Assessment as a Special Use Park. The Public Facilities Needs Assessment and, therefore, the revised impact fee ordinance incorporated the potential need to add restroom facilities at other park locations. As such, if the revised impact fee ordinance is approved, costs associated with this project would qualify for 36% funding from park impact fees in the Development Fund.

REMMENDATIONS

Motion to proceed with the design, permits, and bidding for restroom facility at Market Square Park (11230 W Church Street). Also, authorize Mayor to sign professional services with GRAEF for \$45,000.



Market Square Restroom
Proposal- May 19, 2015



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May 12, 2015

Mr. Glen E. Morrow, P.E.
City Engineer/Director of Public Works
City of Franklin
9229 West Loomis Road
Franklin, WI 53132

Subject: Market Square Park Improvements
Professional Services Agreement

Dear Mr. Morrow:

Per your request, Graef-USA Inc. (GRAEF) is pleased to provide this proposal for services to City of Franklin (Client). An executed copy of this proposal will become our Agreement.

This proposal is for professional services for Design Services for the site improvements at Market Square Park (S. Franklin Street and W. Church Street) in the City of Franklin. This proposal is subject to GRAEF's Standard Terms and Conditions, a copy of which is attached and incorporated by reference.

For this Project, GRAEF proposes to provide the following Basic Services:

- Partial Topographic Survey of Market Square Park (Approximately 120'x120')
Approximately \$2,200
- Preparation of plan and profile drawings for the extension sanitary lateral and permitting and permitting- Approximately \$600
- Soil Boring Coordination- Approximately \$2,000
- Prepare NOI-Approximately \$500
- Prepare Site/Grading Plan-Approximately \$2,000
- Foundation and slab design for future precast unit- Approximately \$4,000
- Electrical design stubbed out to the future restroom and existing pavilion areas only- Approximately \$4,000
- Prepare opinion of probable construction costs
- Prepare project manual including GRAEF technical sections and bidding and contract forms with City provided front-end documents- Approximately \$8,500
- Erosion control plan- Approximately \$700
- HVAC/Plumbing System Design- Approximately \$5,000
- Architectural Services for Precast Units- Approximately \$12,000
- Respond to contractor inquiries during bidding
- Apply for Wage Rate Determination
- Review bids received and make recommendation of award
- Participation in three total design meetings with City staff to obtain feedback



GRAEF will endeavor to perform the proposed Basic Services per the following schedule:

- Notice to Proceed May 20, 2015
- Final Plans July 3, 2015
- Advertise for Bids July 9, 16, 2015
- Bid Opening July 23, 2015
- Contract Award August 4, 2015
- Start Construction August 17, 2015
- Substantially Complete October 2, 2015
- Final Completion October 16, 2015

The above schedule assumes that no wetland permits are required. Any wetland permits required by the WDNR and the Army Corps of Engineers will require a minimum of 30 business days for review and approval from the regulatory agencies.

For this Project, it is our understanding Client will provide the following additional services, items and/or information:

- Provide mapping/as constructed drawings
- Park concept layout plan
- Place the advertisement of bids with local newspaper
- Review drawings
- Apply for environmental permitting
- Delineate Wetlands
- Supply property line information for Market Square Park
- Call Digger's Hotline to obtain field utility markings and utility drawings for Market Square Park
- Coordinate, prepare and pay for all utility applications to site including gas, electrical, etc.

At your written request, GRAEF will provide the following Additional Services on a Time & Materials basis for additional compensation:

- Landscaping Plan
- Wetland Delineation and Report
- Wetland Permitting
- Well design
- Public Hearing Attendance
- Assessment Report Preparation
- Additional Meeting Attendance



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- Bidding Services
- Alternate bids
- Additional grading plans or site plan revisions
- Prepare an endangered resource review
- Prepare tree survey
- Prepare tree mitigation/wetland mitigation plan
- Presentations to Committees/Council Meetings
- Additional design meetings
- Environmental permitting including wetland permitting (WDNR, Army Corps of Engineers, etc.)
- Park restroom/shelter design
- Playground equipment, fencing, surface material, layout and specifications
- Contract Administration
- Construction Staking
- Construction Inspection
- Preparation of as-built drawings
- Interior precast unit equipment and finishes design/specifications
- Plan Commission/Architectural Review Board attendance
- Prepare precast unit elevations for presentations
- Utility coordination including relocation
- Parking lot and/or roadway lighting
- Assist in applications for utility rebate programs
- Design of low voltage electrical system such as voice/data communications cabling, security systems, etc.
- Boundary Survey

For the Basic Services detailed above, the City of Franklin agrees to compensate GRAEF on an hourly basis of personal assigned to the project not to exceed \$41,500, plus reimbursable expenses. Reimbursable expenses include express mail and delivery charges, advertising costs, permit fees, plan reproduction, utility permits and applications for utility service (gas, electric, etc.) soil borings (Approximately \$4,000) and mileage.

To accept this proposal, please sign and date both enclosed copies and return one to us. Upon receipt of an executed copy, GRAEF will commence work on the Project. Graef-USA Inc. looks forward to providing services to the City of Franklin.



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Sincerely,

Graef-USA Inc.

Michael N. Paulos, P.E.
Principal

Patrick Kressin, ASLA, LEED AP
Principal

Accepted by: City of Franklin

(Signature)

(Name Printed)

(Title)

Date: _____



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GRAEF-USA Inc.'s TERMS AND CONDITIONS

These Terms and Conditions are material terms of the Professional Services Agreement proposed on May 12, 2015 (Agreement) by and between Graef-USA Inc. (GRAEF) and the City of Franklin (Client):

Standard of Care: GRAEF shall exercise ordinary professional care in performing all services under this Agreement, without warranty or guarantee, expressed or implied. Persons providing such services under this Agreement shall have such active certifications, licenses and permissions as may be required by law.

Client Responsibilities: Client shall at all times procure and maintain financing adequate to timely pay for all costs of the PROJECT as incurred; shall timely furnish and provide those services, items and/or information defined in Agreement, as amended, and shall reasonably communicate with and reasonably cooperate with GRAEF in its performance of this Agreement. GRAEF shall be entitled to rely on the accuracy and completeness of any services, items and/or information furnished by Client. GRAEF shall timely furnish and provide those services, items and/or information defined in Agreement, as amended, and shall reasonably communicate with and reasonably cooperate with Client in its performance of this Agreement. Client shall be entitled to rely on the accuracy and completeness of any services, items and/or information furnished by GRAEF. These terms are of the essence. To the fullest extent permitted by law, GRAEF shall indemnify and hold harmless Client, Client's officers, directors, partners, and employees from and against costs, losses, and damages (including but not limited to reasonable fees and charges of engineers, architects, attorneys, and other professionals, and reasonable court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of GRAEF or GRAEF'S officers, directors, partners, employees, and consultants in the performance of GRAEF'S services under this Agreement. To the fullest extent permitted by law, Client shall indemnify and hold harmless GRAEF, GRAEF'S officers, directors, partners, employees, and consultants from and against costs, losses, and damages (including but not limited to reasonable fees and charges of engineers, architects, attorneys, and other professionals, and reasonable court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of Client or Client's officers, directors, partners, employees, and consultants with respect to this Agreement. To the fullest extent permitted by law, GRAEF'S total liability to Client and anyone claiming by, through, or under Client for any injuries, losses, damages and expenses caused in part by the negligence of GRAEF and in part by the negligence of Client or any other negligent entity or individual, shall not exceed the percentage share that GRAEF'S negligence bears to the total negligence of Client, GRAEF, and all other negligent entities and individuals. In addition to the indemnity provided above, and to the fullest extent permitted by law, Client shall indemnify and hold harmless GRAEF and GRAEF'S officers, directors, partners, employees, and consultants from and against injuries, losses, damages and expenses (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other disputes resolution costs) caused by, arising out of, or resulting from an unexpected Hazardous Environmental Condition, provided that (i) any such injuries, losses, damages and expenses is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom, and (ii) nothing in this Paragraph shall obligate Client to indemnify any individual or entity from and against the consequences of that individual or entity's own negligence or willful misconduct.

Insurance: GRAEF shall, during the life of the Agreement, maintain insurance coverage with an authorized insurance carrier at least equal to the minimum limits set forth below:

A. Limit of General/Commercial Liability	\$2,000,000
B. Automobile Liability: Bodily Injury/Property Damage	\$1,000,000
C. Excess Liability for General Commercial or Automobile Liability	\$5,000,000
D. Worker's Compensation and Employers' Liability	\$500,000
E. Professional Liability	\$2,000,000

Upon the execution of this Agreement, GRAEF shall supply Client with a suitable statement certifying said protection and defining the terms of the policy issued, which shall specify that such protection shall not be cancelled without thirty (30) calendar days prior notice to Client, and naming Client as an additional insured for General Liability.



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GRAEF-USA, Inc.'s TERMS AND CONDITIONS (continued)

Additional Services: CLIENT may, in writing, request changes in the Basic Services required to be performed by GRAEF and require a specification of incremental or decremental costs prior to change order agreement under this AGREEMENT. Upon acceptance of the request of such changes, GRAEF shall submit a "Change Order Request Form" to Client for authorization and notice to proceed signature and return to GRAEF. Should any such actual changes be made, an equitable adjustment will be made to compensate GRAEF or reduce the fixed price, for any incremental or decremental labor or direct costs, respectively. Any claim by GRAEF for adjustments hereunder must be made to Client in writing no later than forty-five (45) days after receipt by GRAEF of notice of such changes from Client.

Invoicing & Payment: GRAEF may issue invoices for services rendered and expenses incurred at such times and with such frequency as GRAEF deems necessary or appropriate in GRAEF's discretion. All invoices are due and payable upon receipt and shall be considered past due if not paid within thirty (30) calendar days of the due date. **Prompt and full payment of all periodic invoices or other billings issued by GRAEF pursuant to this Agreement is of the essence of this Agreement.** In the event that Client fails to promptly and fully pay any invoice as and when due, then, and in addition to any other remedies allowed by law, GRAEF, may, in its sole discretion, suspend performance of all services under this Agreement upon seven (7) calendar days' written notice to Client, and immediately invoice Client for all unbilled work-in-progress rendered and other expenses incurred. Upon GRAEF's receipt of full payment, in good funds and without offset, of all sums invoiced in connection with any such declaration of suspension, GRAEF shall resume services, **provided that** the time schedule and compensation under this Agreement shall be equitably adjusted in a manner acceptable to GRAEF to compensate GRAEF for the period of suspension plus any other reasonable and necessary time and expenses GRAEF suffers or incurs to resume services. No failure by GRAEF to exercise its right to suspend work and accelerate sums due shall in any way waive or abridge Client's obligations to GRAEF or GRAEF's rights to later suspend work and accelerate terms. Client agrees GRAEF shall incur no liability whatsoever to Client, or to any other person, for any loss, cost or expense arising from any such suspension by GRAEF, either directly or indirectly. In addition, simple interest shall accrue at the lower of 1.5% per month (18% per annum), or the maximum interest rate allowable by law, on any invoiced amounts remaining unpaid for more than 60 days from the date of the invoice. Payments made shall be allocated as follows: (1) first to unpaid collection costs; (2) second to unpaid accrued interest; and (3) last to unpaid principal of the oldest invoice.

Latent Conditions: Client acknowledges that subsurface or latent physical conditions at the site that differ materially from those indicated in the project documents, or unknown or unusual conditions that materially differ from those ordinarily encountered may exist. If such latent conditions require a change in the design or the construction phase services, GRAEF shall be entitled to a reasonable extension of time to evaluate such change(s) and their impact on the project and to prepare such additional design documents as may be necessary to address or respond to such latent conditions. Client shall pay GRAEF for all services rendered and reimbursable expenses incurred by GRAEF and its subconsultant(s), if any, to address, respond to or repair such latent conditions. Such services by GRAEF or its subconsultant(s) shall constitute Additional Services pursuant to the terms set forth thereunder.

Instruments of Service: All original documents prepared for Client by GRAEF or GRAEF's independent professional associate(s) and subconsultant(s) pursuant to this Agreement (including calculations, computer files, drawings, specifications, or reports) are Instruments of Professional Service in respect of this Agreement. GRAEF shall retain an ownership and property interest therein whether or not the services that are the subject of this Agreement are completed. Unless otherwise confirmed by written Addenda to this Agreement, signed by duly authorized representatives of both Client and GRAEF, no Instrument of Professional Service in respect of this Agreement constitutes, or is intended to document or depict any "as-built" conditions of the completed Work. Client may make and retain copies for information and reference in connection with the use and occupancy of the completed project by Client and others; however, such documents are not intended or represented to be suitable for reuse by Client or others on extensions of the project, or otherwise. Any reuse without GRAEF's written consent shall be at Client's sole risk and responsibility, and without any liability to GRAEF, or to GRAEF's independent professional associate(s) and subconsultant(s). Further, Client shall indemnify, defend and hold GRAEF and GRAEF's independent professional associate(s) and subconsultant(s), fully harmless from all liability or loss, cost or expense (including attorney's fees and other claims expenses) in any way arising from or in connection with such unauthorized reuse.



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GRAEF-USA, Inc.'s TERMS AND CONDITIONS (continued)

Contractor Submittals: The scope of any review or other action taken by GRAEF or its subconsultant(s) in respect of any contractor submittal, such as shop drawings, shall be for the limited purpose of determining if the submission generally conforms with the overall intent of the design of the work that is the subject of this Agreement, but not for purposes of determining accuracy, completeness or other details such as dimensioning or quantities, or for substantiating instructions or performance of equipment or systems. GRAEF shall not be liable or responsible for any error, omission, defect or deficiency in any contractor submittal.

Pricing Estimates: Neither GRAEF nor Client has any control over the costs of labor, materials or equipment, over contractors' methods of determining bid prices, or over competitive bidding, market or negotiation conditions. Accordingly, GRAEF cannot and does not warrant or represent that bids or negotiated prices will not vary from any projected or established budgetary constraints.

Construction Observation: Unless expressly stated in this Agreement, GRAEF shall have no responsibility for Construction Observation. If Construction Observation services are performed, GRAEF's visits to the construction site shall be for the purpose of becoming generally familiar with the progress and quality of the construction, and to determine if the construction is being performed in general accordance with the plans and specifications. GRAEF shall have no obligation to "inspect" the work of any contractor or subcontractor and shall have no control or right of control over and shall not be responsible for any construction means, methods, techniques, sequences, equipment or procedures (including, but not limited to, any erection procedures, temporary bracing or temporary conditions), or for safety precautions and programs in connection with the construction. Also, GRAEF shall have no obligation for any defects or deficiencies or other acts or omissions of any contractor(s) or subcontractor(s) or material supplier(s), or for the failure of any of them to carry out the construction in accordance with the contract documents, including the plans and specifications. GRAEF is not authorized to stop the construction or to take any other action relating to jobsite safety, which are solely the contractor's rights and responsibilities.

Dispute Resolution and Governing Law: This Agreement shall be construed under and governed by the laws of the State of Wisconsin. The venue for any actions arising under this Agreement shall be the Circuit Court for Milwaukee County. The prevailing party shall be awarded its actual costs of any such litigation, including reasonable attorney fees.

No Assignment: This Agreement is not subject to assignment, transfer or hypothecation without the written consent of both parties expressly acknowledging such assignment, transfer or hypothecation.

Severance of Clauses: In the event that any term, provision or condition of this Agreement is void or otherwise unenforceable under the law governing this Agreement, then such terms shall be stricken and the balance of this Agreement shall be interpreted and enforced as if such stricken terms never existed.

Integrated Agreement: The parties' final and entire agreement is expressed in the attached proposal letter and these Terms and Conditions. All prior oral agreements or discussions, proposals and/or negotiations between the parties are merged into and superceded by this Agreement. No term of the parties' Agreement may be orally modified, amended or superceded.

Termination: This Agreement may be terminated by Client, for its convenience, for any or no reason, upon written notice to GRAEF. This Agreement may be terminated by GRAEF upon thirty (30) days written notice. Upon such termination by Client, GRAEF shall be entitled to payment of such amount as shall fairly compensate GRAEF for all work approved up to the date of termination, except that no amount shall be payable for any losses of revenue or profit from any source outside the scope of this Agreement, including but not limited to, other actual or potential agreements for services with other parties. In the event that this Agreement is terminated for any reason, GRAEF shall deliver to Client all data, reports, summaries, correspondence, and other written, printed, or tabulated material pertaining in any way to Basic Services that GRAEF may have accumulated. Such material is to be delivered to Client whether in completed form or in process. Client shall hold GRAEF harmless for any work that is incomplete due to early termination. The rights and remedies of Client and GRAEF under this section are not exclusive and are in addition to any other rights and remedies provided by law or appearing in any other article of this Agreement.

Records Retention: GRAEF shall maintain all records pertaining to this Agreement during the term of this Agreement and for a period of 3 years following its completion. Such records shall be made available by GRAEF to Client for inspection and copying upon request.