

<p style="text-align: center;">APPROVAL</p> <p style="text-align: center;"><i>slw</i></p>	<p style="text-align: center;">REQUEST FOR COUNCIL ACTION</p>	<p style="text-align: center;">MEETING DATE</p> <p style="text-align: center;">12/03/19</p>
<p>REPORTS & RECOMMENDATIONS</p>	<p style="text-align: center;">A RESOLUTION IMPOSING CONDITIONS AND RESTRICTIONS FOR THE APPROVAL OF A SPECIAL USE FOR REPLACEMENT OF AN EXISTING FAILED BRIDGE AND ASSOCIATED CULVERT WITHIN A SHORELAND, FLOODWAY AND WETLANDS AREA ASSOCIATED WITH THE EAST BRANCH OF THE ROOT RIVER LOCATED ON A PRIVATE ROAD REFERRED TO AS WEST WESTMOOR AVENUE, IN THE FRANKLIN MOBILE HOME PARK, PROPERTY LOCATED AT 6361 SOUTH 27TH STREET</p> <p style="text-align: center;">(DAVID STEINBERGER, PRESIDENT OF FRANKLIN MOBILE, LLC, APPLICANT)</p>	<p>ITEM NUMBER</p> <p style="text-align: center;"><i>G.6.</i></p>

At the regular meeting of the Plan Commission on November 21, 2019, following a properly noticed public hearing, the following action was approved: motion to recommend approval of a Resolution imposing conditions and restrictions for the approval of a Special Use for replacement of an existing failed bridge and associated culvert within a shoreland, floodway and wetlands area associated with the east branch of the Root River located on a private road referred to as West Westmoor Avenue, in the Franklin Mobile Home Park, property located at 6361 South 27th Street, in the form and content as presented to the commission at this meeting, excepting that condition Nos. 4, 5 and 9 be deleted.

The Plan Commission's recommendation has been reflected in the attached draft Resolution.

While no motion was made, the Plan Commission did discuss the issue of removal of existing mobile homes from the floodway, and that this issue could be addressed at a future date. It can also be noted that Wisconsin Department of Natural Resources staff have indicated that the mobile homes (and associated wells and septic systems) could be removed from the floodway as Wisconsin's floodplain regulations are based in part upon federal requirements, which differ in regard to legal non-conforming regulations. Staff anticipates conducting further research into this matter, and as appropriate, bringing this matter back to the Common Council for further action.

COUNCIL ACTION REQUESTED

A motion to approve Resolution 2019-_____, imposing conditions and restrictions for the approval of a Special Use for replacement of an existing failed bridge and associate culvert within a shoreland, floodway, and wetlands area associated with the East Branch of the Root River located on a private road referred to as West Westmoor Avenue, in the Franklin Mobile Home Park, Property Located at 6361 South 27th Street (David Steinberger, President for Franklin Mobile, LLC, Applicant)

RESOLUTION NO. 2019-_____

A RESOLUTION IMPOSING CONDITIONS AND RESTRICTIONS FOR
THE APPROVAL OF A SPECIAL USE FOR REPLACEMENT OF AN
EXISTING FAILED BRIDGE AND ASSOCIATED CULVERT WITHIN A
SHORELAND, FLOODWAY AND WETLANDS AREA ASSOCIATED WITH
THE EAST BRANCH OF THE ROOT RIVER LOCATED ON A PRIVATE ROAD
REFERRED TO AS WEST WESTMOOR AVENUE, IN THE FRANKLIN MOBILE
HOME PARK, PROPERTY LOCATED AT 6361 SOUTH 27TH STREET
(DAVID STEINBERGER, PRESIDENT OF
FRANKLIN MOBILE, LLC, APPLICANT)

WHEREAS, David Steinberger, President of Franklin Mobile, LLC, having petitioned the City of Franklin for the approval of a Special Use within an R-8 Multiple-Family Residence District, FW Floodway District and B-2 General Business District to allow for replacement of an existing failed bridge (approximately 18 feet long by 16 feet wide) with an approximately 25 foot long by 20 foot wide bridge and associated culvert over the East Branch of the Root River in the Franklin Mobile Home Park (the bridge is located within the shoreland, floodway and wetlands associated with the East Branch of the Root River), located on a private road referred to as West Westmoor Avenue, property located at 6361 South 27th Street, bearing Tax Key No. 714-9993-004, more particularly described as follows:

Parcel 2 of Certified Survey Map No. 5747, being a part of the Northeast 1/4 of Section 1, Township 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin, excepting those parts conveyed in Document No. 10351086 for street purposes; and

WHEREAS, such petition having been duly referred to the Plan Commission of the City of Franklin for a public hearing, pursuant to the requirements of §15-9.0103D. of the Unified Development Ordinance, and a public hearing having been held before the Plan Commission on the 21st day of November, 2019, and the Plan Commission thereafter having determined to recommend that the proposed Special Use be approved, subject to certain conditions, and the Plan Commission further finding that the proposed Special Use upon such conditions, pursuant to §15-3.0701 of the Unified Development Ordinance, will be in harmony with the purposes of the Unified Development Ordinance and the Comprehensive Master Plan; that it will not have an undue adverse impact upon adjoining property; that it will not interfere with the development of neighboring property; that it will be served adequately by essential public facilities and services; that it will not cause undue traffic congestion; and that it will not result in damage to property of significant importance to nature, history or the like; and

WHEREAS, the Common Council having received such Plan Commission recommendation and also having found that the proposed Special Use, subject to conditions, meets the standards set forth under §15-3.0701 of the Unified Development Ordinance.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that the petition of David Steinberger, President of Franklin Mobile, LLC, for the approval of a Special Use for the property particularly described in the preamble to this Resolution, be and the same is hereby approved, subject to the following conditions and restrictions:

1. That this Special Use is approved only for the use of the subject property by David Steinberger, President of Franklin Mobile, LLC, successors and assigns, as a bridge replacement use, which shall be developed in substantial compliance with, and operated and maintained by David Steinberger, President of Franklin Mobile, LLC, pursuant to those plans City file-stamped September 20, 2019 and annexed hereto and incorporated herein as Exhibit A.
2. David Steinberger, President of Franklin Mobile, LLC, successors and assigns, shall pay to the City of Franklin the amount of all development compliance, inspection and review fees incurred by the City of Franklin, including fees of consults to the City of Franklin, for the David Steinberger, President of Franklin Mobile, LLC bridge replacement, within 30 days of invoice for same. Any violation of this provision shall be a violation of the Unified Development Ordinance, and subject to §15-9.0502 thereof and §1-19. of the Municipal Code, the general penalties and remedies provisions, as amended from time to time.
3. The approval granted hereunder is conditional upon David Steinberger, President of Franklin Mobile, LLC and the bridge replacement use upon the Franklin Mobile, LLC (Franklin Mobile Home Park) property located at 6361 South 27th Street: (i) being in compliance with all applicable governmental laws, statutes, rules, codes, orders and ordinances; and (ii) obtaining all other governmental approvals, permits, licenses and the like, required for and applicable to the project to be developed and as presented for this approval.
4. The applicant shall revise the site plan to include the addition of railings and paved and striped shoulders along the road over the culvert prior to the issuance of any building permits, and shall install such improvements concurrently with construction of the culvert and road.
5. The applicant shall revise the Natural Resource Protection Plan (NRPP) Map to depict all natural resource features adjacent to the stream extending to both the north and south property lines for City staff review and approval prior to the issuance of any building permits.

DAVID STEINBERGER, PRESIDENT OF FRANKLIN MOBILE, LLC – SPECIAL USE
RESOLUTION NO. 2019-_____

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6. The applicant shall provide a revised project narrative including a brief opinion on why the structure does not impede drainage or cause ponding, for review and approval of the City Engineering Department, prior to the issuance of any building permits.

BE IT FURTHER RESOLVED, that in the event David Steinberger, President of Franklin Mobile, LLC, successors or assigns, or any owner of the subject property, does not comply with one or any of the conditions and restrictions of this Special Use Resolution, following a ten (10) day notice to cure, and failure to comply within such time period, the Common Council, upon notice and hearing, may revoke the Special Use permission granted under this Resolution.

BE IT FURTHER RESOLVED, that any violation of any term, condition or restriction of this Resolution is hereby deemed to be, and therefore shall be, a violation of the Unified Development Ordinance, and pursuant to §15-9.0502 thereof and §1-19. of the Municipal Code, the penalty for such violation shall be a forfeiture of no more than \$2,500.00, or such other maximum amount and together with such other costs and terms as may be specified therein from time to time. Each day that such violation continues shall be a separate violation. Failure of the City to enforce any such violation shall not be a waiver of that or any other violation.

BE IT FURTHER RESOLVED, that this Resolution shall be construed to be such Special Use Permit as is contemplated by §15-9.0103 of the Unified Development Ordinance.

BE IT FURTHER RESOLVED, pursuant to §15-9.0103G. of the Unified Development Ordinance, that the Special Use permission granted under this Resolution shall be null and void upon the expiration of one year from the date of adoption of this Resolution, unless the Special Use has been established by way of completion of the Franklin Mobile Home Park bridge replacement.

BE IT FINALLY RESOLVED, that the City Clerk be and is hereby directed to obtain the recording of a certified copy of this Resolution in the Office of the Register of Deeds for Milwaukee County, Wisconsin.

Introduced at a regular meeting of the Common Council of the City of Franklin this 3rd day of December, 2019.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2019.

DAVID STEINBERGER, PRESIDENT OF FRANKLIN MOBILE, LLC – SPECIAL USE
RESOLUTION NO. 2019-_____

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APPROVED:

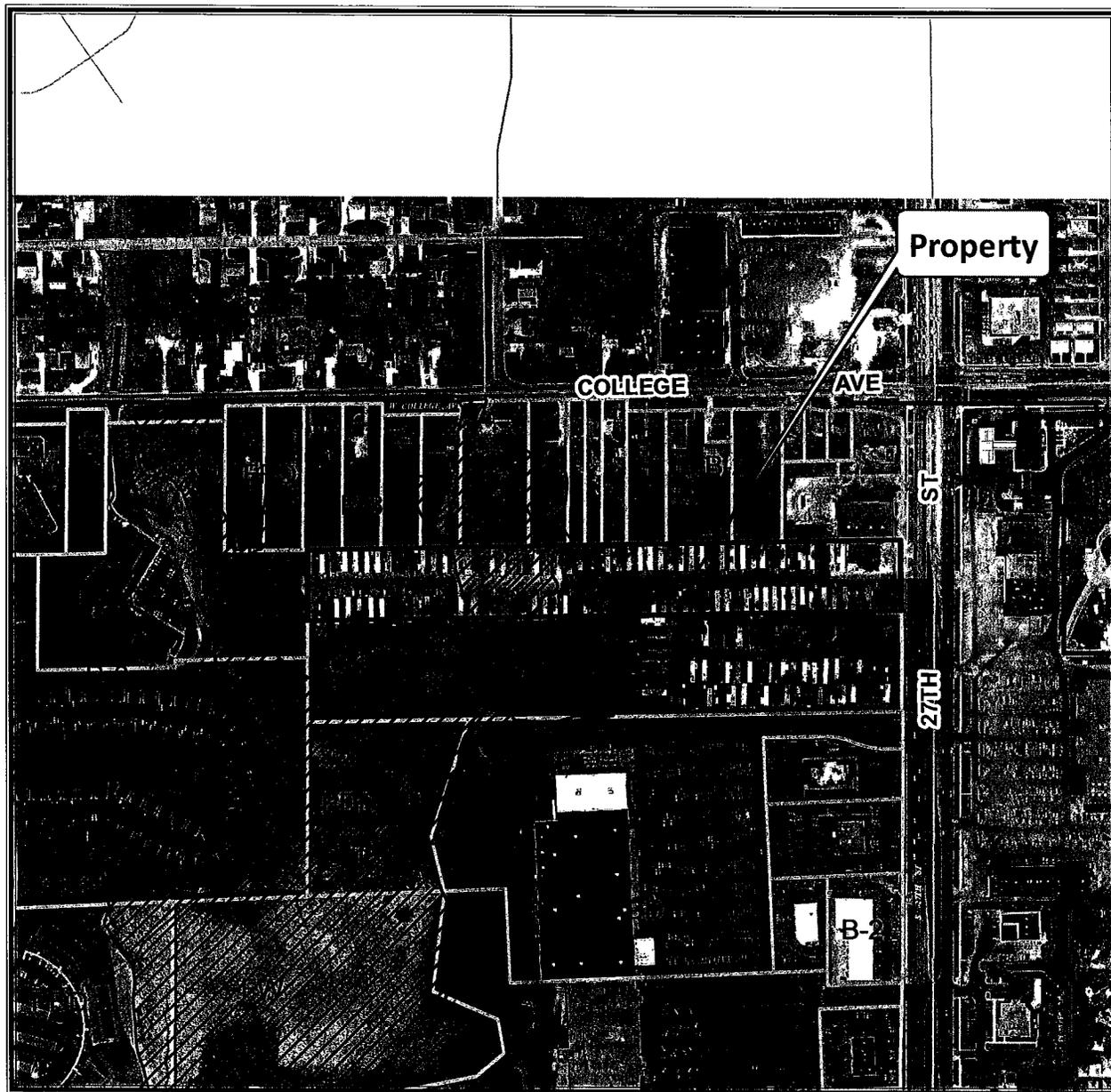
Stephen R. Olson, Mayor

ATTEST:

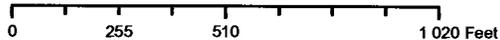
Sandra L. Wesolowski, City Clerk

AYES _____ NOES _____ ABSENT _____

6361 S. 27th Street
TKN: 714 9993 004



Planning Department
(414) 425-4024

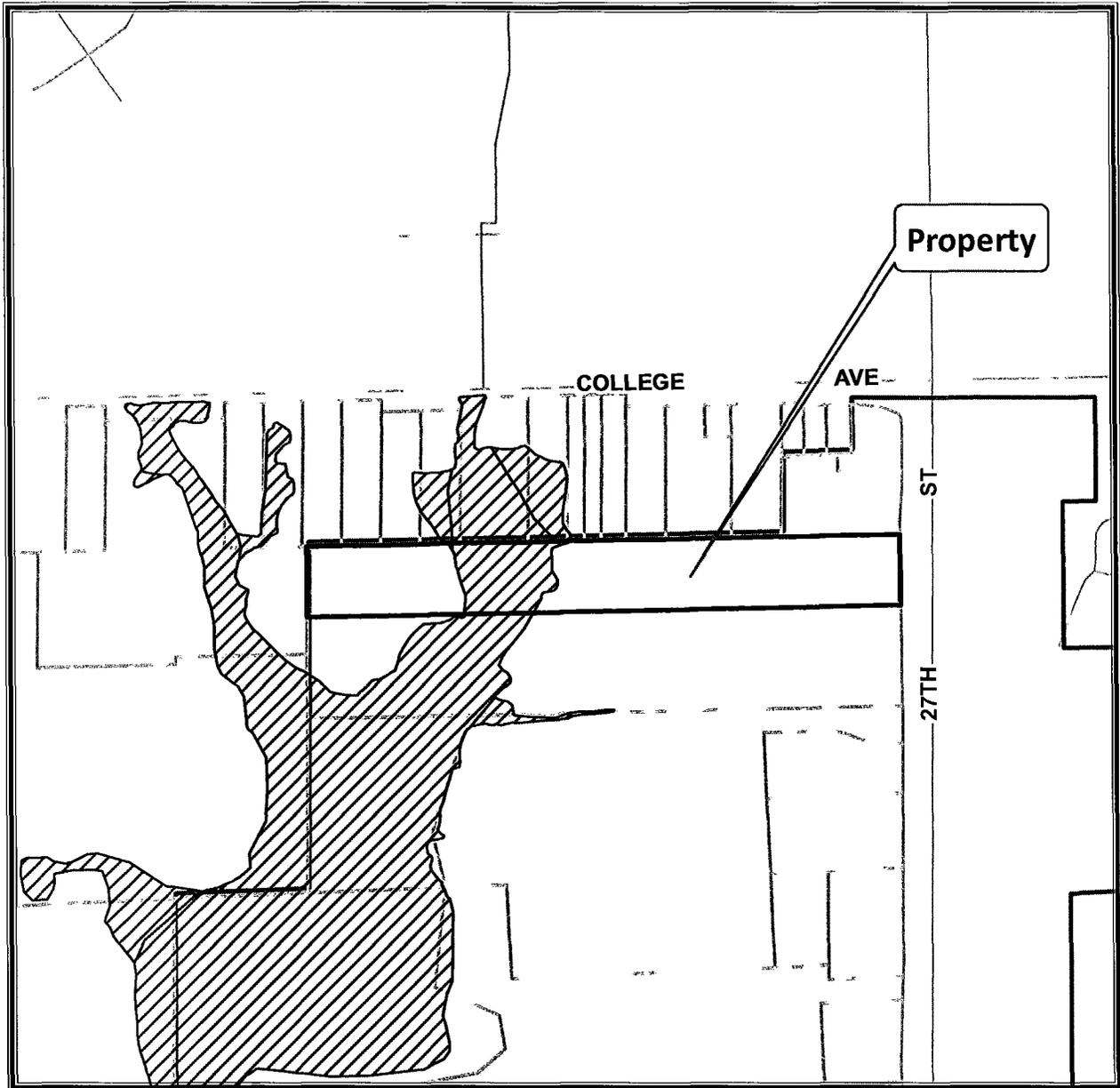


2017 Aerial Photo

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



6361 S. 27th Street
TKN: 714 9993 004



Planning Department
(414) 425-4024



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



2017 Aerial Photo



CITY OF FRANKLIN

REPORT TO THE PLAN COMMISSION

Meeting of November 21, 2019

Special Use

RECOMMENDATION: City Development staff recommends approval of the proposed Special Use for The Franklin Mobile Estates culvert and flood plain impacts upon property located at 6361 S 27th St. subject to the conditions set forth in the draft Resolution.

Project Name:	Franklin Mobile Estates Special Use and Land Use Permit
Project Address:	6361 S 27 th St.
Applicant:	David Steinberger, Franklin Mobile Home Park
Property Owner:	Franklin Mobile LLC
Current Zoning:	R-8 Multiple-Family Residence District and FW Floodway District
2025 Comprehensive Plan:	Commercial
Use of Surrounding Properties:	R-8 Mobile Home park to the southeast on 27 th St. and to the northwest on College Ave.; B-2 General Business District to the northeast on 27 th and College; FW Floodway District to the north and south of the swathe of FW on the subject property, and C-1 Conservancy District to the west.
Applicant Action Requested:	Recommendation of approval for the proposed Special Use and associated Land Use Permit for floodway impacts for the construction of a culvert bridge for Franklin Mobile Estates.

INTRODUCTION

On September 12, 2019, the applicant submitted completed applications for a Special Use and a Land Use Permit (Misc. Application), including a Natural Resource Protection Plan, to allow construction of a replacement bridge within the floodway associated with the East Branch of the Root River, which is located within the central portion of the subject property. Bridges and approaches are a Special Use in the FW Floodway District under § 15-3.0604.B.1.c. Changes to floodplain elevations require a Land Use Permit, subject to review and approval of the Zoning Administrator.

PROJECT DESCRIPTION AND ANALYSIS

The subject property contains an existing mobile home park, located on the west side of 27th St. A bridge was installed along the private road "West Westmoor Ave." serving the mobile homes, sometime between 1955 and 1958 according to the applicant. Aerial photographs from 1956

show the portion of the parcel east of the stream to be occupied by mobile homes; by 1963 these had expanded to the western portion of the lot.

The proposed culvert is intended to replace a temporary bridge (that is in disrepair and is failing) which in turn was recently constructed to replace the original bridge which had also been in disrepair. Neither the original nor the replacement bridge construction projects had obtained the required permits and approvals from the City of Franklin and the Wisconsin Department of Natural Resources for impacts to the floodway.

0.011 acres of stream bank and 0.004 acres of wetland will be permanently impacted by the proposed bridge replacement. No mitigation is proposed, however, all areas disturbed as part of the bridge replacement are proposed to be restored with native vegetation that will enhance the existing streambank.

The applicant is requesting that the Plan Commission and Common Council grant the proposed special use. Staff recommendations are contained in the attached draft Resolution.

Special Use

However, staff would note that twelve (12) mobile homes are currently located within the mapped floodway associated with the East Branch of the Root River. Although mobile homes have been present in this area since the 1950's, the City's Floodplain Zoning regulations which were first established by Ordinance No. 221 and adopted by the City of Franklin on February 6, 1968, do not allow such structures within the floodplain/floodway. Furthermore, based upon preliminary research of the City's historic records, since February 6, 1968, the 12 mobile homes appear to have not received any Building Permit approvals to be allowed within the floodway. In addition, should structures be allowed within a floodway, certain Building Code provisions and Floodplain Zoning regulations would apply.

In addition, the City's Zoning Ordinance No. 22(A), adopted in October 29, 1957, states in Section 22.03.E.1. "No principal building shall be erected, structurally altered, or placed on land which is not adequately drained at all times nor which is subject to periodic flooding." Lastly, § 15-3.0319.E of the City's current Unified Development Ordinance states that no mobile home, mobile home park, or trailer camp shall be placed or moved onto lands lying in the FW District.

Therefore, pursuant to Sections 15-3.0701D., staff recommends that all mobile homes which were placed within the floodway after February 6, 1968 without all proper permits and approvals be removed as soon as possible, but no later than from one year of the date of the subject replacement culvert Special Use approval. Staff suggests for resident safety purposes, that all mobile homes located within the floodway be removed within one year.

Land Use Permit (Misc. Application):

In regard to the Land Use Permit, it can be noted that the City of Franklin Zoning Administrator approved the proposed culvert/bridge replacement project subject to a number of conditions as noted below:

1. That the subject culvert/bridge replacement shall proceed as presented in the Miscellaneous and Special Use application materials date stamped by the City on September 20, 2019, and as may be revised by the City of Franklin, the Wisconsin Department of Natural Resources (DNR), and the Federal Emergency Management Agency (FEMA).
2. That the applicant shall verify if any private wells or private septic systems area located within the floodway. If so, the applicant shall properly abandon/remove such private wells and/or septic systems, or shall obtain all required permits and approvals for such private wells and/or septic systems, within six months of this conditional Land Use Permit approval.
3. That the subject culvert/bridge replacement does not increase the floodway/floodplain Base Flood Elevation at any location.
4. That the subject culvert/bridge replacement decreases the floodway/floodplain Base Flood Elevation by no more than the same 0.1' rounded as in the effective Base Flood Elevation.
5. That the applicant shall submit a copy of the updated Floodplain Study model (latest revision date) to the City of Franklin for transmittal to FEMA as the model of record within 6 months of project completion.
6. That the applicant shall be responsible for any fees or charges as may be required by FEMA or the DNR as part of the submittal of the Floodplain Study model.

It can also be noted that FEMA has determined that a Letter of Map Revision (LOMR) will not be required for this project subject to conditions #3, #4, and #5 noted above. In addition, FEMA and the DNR will jointly determine the submittal process for the Floodplain Study model as the model of record so that future floodplain projects/models will already have this new data in it.

Other permits or approvals:

By letter dated January 4, 2019, the applicant received pre-construction approval from the Army Corps of Engineers in regard to discharge of fill in wetlands and in the East Branch of the Root River for the proposed failed bridge replacement.

By letters dated March 18, 2019, the applicant obtained conditional approval from the DNR to construct the proposed culvert in the east branch of the Root River, and to fill certain wetlands.

By letter dated September 27, 2019, the applicant has received DNR approval of the floodplain analysis for the culvert project based upon a revised study dated September 25, 2019.

STAFF RECOMMENDATION

Staff has no objection to the proposed special use, subject to the conditions stipulated in the draft Resolution. Please note that the subject special use request, for which staff is recommending conditional approval, pertains solely to the proposed replacement culvert.

Staff suggests creation of a conservation easement to protect the stream and related natural resources in perpetuity, pursuant to § 15-7.0103.X. of the UDO.

November 14, 2019

VIA EMAIL (solson@franklinwi.gov)

Mayor Steve Olson, Chair
Franklin Plan Commission
Franklin City Hall
9229 W. Loomis Road
Franklin, WI 53132

RE: Franklin Mobile Home Park 6361 S. 27th Street

Dear Mayor Olson,

Our office represents the owner of the referenced property who intends to replace a bridge over the East Branch of the Root River to access a portion of the property where a number of mobile home pads are located. The City advised that a Special Use¹ must be issued in order to build the replacement bridge. We are in receipt of the planning department's November 8, 2019 and October 31, 2019 report and recommendations on this application. We object to any "conditions" related to anything beyond the bridge itself, in particular any condition relating to the mobile home park itself and its infrastructure.

The required special use is only for the replacement bridge. No other changes are being made to the mobile home park. The existing mobile home park was purchased by the current owner's family in 1969 and has been operated continuously since.

¹ The City is also evidently requiring a land use permit

Unlawful Recommendations/Conditions Regarding Homes

On October 31, 2019, months after this process began, planning staff issued a report and recommendations requesting at least 12 of the existing units be removed and other units be monitored for ultimate amortization. The 20th planning condition relating to the special use is as follows:

20. Please note that 12 mobile homes are currently located within the mapped floodway associated with the East Branch of the Root River . . . staff recommends that all 12 mobile homes . . . be removed as soon as possible, but not later than . . . one year of the date of the subject Special Use Approval. Staff suggests . . . that all mobile homes located within the floodway be removed within one year.

The 3rd planning condition relating to the special use is as follows:

3. Pursuant to § 15-13.0100.6.1(2) which provides that existing legal nonconforming structures such as mobile homes may continue on condition that they are not modified beyond ordinary maintenance or stand unused for more than twelve (12) months, and cannot be replaced if more than 50% of the structure is destroyed, please contact the Inspection Services Department to arrange a process to provide them such data on an annual basis.

The 13th planning condition is as follows:

13. Staff recommends creation of registry of nonconforming buildings in the floodway as required by § 15-13.0100.6.1(2)(c) that includes evaluation of their current individual assessed value and tracks the cost of modifications until the 50% threshold is reached, at which time they must relocate.

These “conditions” and “recommendations” regarding the mobile home park are invalid and cannot be lawfully imposed. State law specifically protects nonconforming uses, and in particular protects mobile home communities.

The mobile home park at the referenced location is a nonconforming use which by state statute is allowed to continue to remain. Wis. Stat. § 62.23 (7)(h) provides:

(h) Nonconforming uses. The continued lawful use of a building, premises, structure, or fixture existing at the time of the adoption or amendment of a zoning ordinance may not be prohibited although the use does not conform with the provisions of the ordinance. . . .²

It is well established that “a nonconforming use existing at the time a zoning ordinance goes into effect cannot be prohibited or restricted by statute or ordinance, where it is a lawful business or use of property.” *Des Jardin v. Town of Greenfield*, 262 Wis. 43, 47, 53 N.W.2d 784 (1952). See also *Columbia County v. Bylewski*, 94 Wis. 2d 153, 169-170, 288 N.W.2d 129 (1980) (“It should be pointed out that the County did not have the authority to order the appellant to remove the old mobile home situated on the property when he purchased it because it was located on the property prior to the municipality's enactment of sec. 11.07 and thus was exempt from the ordinance restriction as a non-conforming use.”). The Supreme Court has concluded that even though no permits were issued, “[the owner’s] use of the property was a permissible use before the adoption of the zoning ordinance, and such use may be continued although it does not conform with the present provisions of the city ordinance.” *City of Franklin v. Gerovac*, 55 Wis. 2d 51, 55, 197 N.W.2d 772 (1972).

Should there be any doubt that the actual mobile home park is allowed to remain, state statutes provide additional protections for manufactured home communities. Wis. Stat. § 62.23(7)(ham) reads as follows:

Manufactured home communities. Notwithstanding par. (h), a manufactured home community licensed under s. 101.935 that is a legal nonconforming use continues to be a legal nonconforming use notwithstanding the occurrence of any of the following activities within the community:

1. Repair or replacement of homes.
2. Repair or replacement of infrastructure.³

² See Franklin Code § 15-3.1001, § 15-3.1004A

³ Wis. Stat. §101.91(2) defines “manufactured home” as follows: “Manufactured home” means any of the following:

Thus, the actual mobile home park use is protected by statute which specifically allows it to continue to be used, and to even be repaired and replaced. Accordingly, the 20th, 3rd and 13th conditions sought to be imposed are all unlawful and void. By statute, Franklin is precluded from imposing anything but reasonable conditions on this special use. see Wis. Stat. § 62.23(7)(de)2.b. These conditions and recommendations do not meet this threshold.

Unlawful Recommendations/Conditions Regarding Wells and Septic Systems

On the October 31, 2019 planning document, the 10th condition relating to the Land Use Permit requires wells and septic systems to be removed, and reads as follows:

10. [P]lease verify if any private wells or private septic systems are located within the floodway. If present, they must be removed or the requirements of Wisconsin Administrative Code NR 811 and NR 812 must be fully addressed.

Similarly, the 2nd condition on November 8, 2019 report concerning Land Use Permit reads as follows:

2 That the applicant shall verify if any private wells or private septic systems are located within the floodway. If so, the applicant shall properly abandon/remove such private wells and/or septic systems, or shall obtain all required permits and approvals for such private wells and /or septic systems, within six months of this conditional Land Use Permit approval.

This condition is also illegal. Wis. Stat. § 62.23(7)(ham), which protects the nonconforming use of a mobile home park also protects its infrastructure, such as wells and septic systems. The statute protects a legal nonconforming use manufactured home community notwithstanding the repair or replacement of infrastructure. This is to say that repairing wells and septic systems in a nonconforming mobile home park is absolutely allowed.

(am) A structure that is designed to be used as a dwelling with or without a permanent foundation and that is certified by the federal department of housing and urban development as complying with the standards established under 42 USC 5401 to 5425.

(c) A mobile home, unless a mobile home is specifically excluded under the applicable statute

This position is clear in Franklin's own Code which restricts only the installation of a new well or septic in a floodway, but does not prohibit existing systems. See Code §§ 15-3.1011 B 6 and 7:

6. No *new* private onsite wastewater treatment system (POWTS), or addition to an existing POWTS except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in the floodway. Any replacement, repair, or maintenance of a POWTS in the floodway shall meet all applicable City ordinances and Chapter Comm 83 of the Wisconsin Administrative Code. (Emphasis added).

7. No *new* well or modification to an existing well used to obtain water for ultimate human consumption shall be allowed in the floodway. Any replacement, repair, or maintenance of an existing well in the floodway shall meet all applicable requirements of City ordinances and Chapters NR 811 and 812 of the Wisconsin Administrative Code. (Emphasis added).

The Planning condition attempting to require elimination of existing wells or septic systems is unreasonable and void.

Finally, item 14 regarding the site plan calls for "creation of a conservation easement to protect the stream and related natural resources in perpetuity. . . ." Following the reasoning above, this condition goes well beyond the replacement bridge itself, the only matter at issue, and is therefore unlawful and void.

Very truly yours,

von BRIESEN & ROPER, s.c.



Alan H. Marcuvitz

cc: Jesse A. Wesolowski

AHM:ahr
33964401_1 DOCX



247 W Freshwater Way, Suite 410
Milwaukee, WI 53204
Tel 414 810 1245

August 30, 2019

Mr. Joel Dietl, AICP
Planning Manager
Department of City Development
City of Franklin
9229 W. Loomis Road
Franklin, Wisconsin 53132

sent via e-mail (jdietsl@franklinwi.gov)

Ms. Michelle Hase, P.E.
Department of Water Management
Wisconsin Department of Natural Resources
141 NW Barstow St., Suite 180
Waukesha, WI 53188

sent via e-mail (michelle.hase@wi.gov)

RE: City of Franklin Special Use Permit Application Report for the Franklin Estates Mobile Home Park Bridge Replacement
WDNR Permit No. GP-SE-2019-41-00734
Army Corps Regulatory File No. 2018-03670-AIS

Dear Mr. Dietl and Ms. Hase,

This letter report accompanies a Special Use Permit Application for Franklin Estates, LLC's replacement of an existing bridge that carries West Westmoor Avenue over the East Branch of the Root River. The properties along West Westmoor Avenue at the project location are zoned R-8 Multiple Family Residence District and FW Floodway District. The City of Franklin allows bridges and approaches to be constructed in a Floodway District as a Special Use.

The results of a hydraulic analysis documented in this report found that the proposed culvert that replaces the existing failed bridge does not result in any increase in the base flood elevation either upstream or downstream of West Westmoor Avenue.

The Wisconsin Department of Natural Resources (WDNR) and U.S. Army Corps of Engineers have previously reviewed the proposed project and issued permits or letters of approval. A copy of this letter report is being provided to Michelle Hase at the WDNR per the request by the City of Franklin that she be kept up to date on the project progress.



247 W Freshwater Way, Suite 410
Milwaukee, WI 53204
Tel 414 810 1245

Please do not hesitate to reach out to Sarah Pasquesi at 414.810.1245 if you have any questions regarding this report.

Sincerely,

A handwritten signature in cursive script that reads "Carrie Bristoll-Groll".

Carrie Bristoll-Groll, P.E., CFM
Principal Civil Engineer

A handwritten signature in cursive script that reads "Sarah Pasquesi".

Sarah Pasquesi, P.E., CFM
Senior Project Engineer

Attachments:

- Attachment A – WDNR and Army Corps Permit Approval Letters
- Attachment B – Flood Insurance Rate Map FIRMette
- Attachment C – Proposed Culvert Replacement Plans
- Attachment D – Natural Resource Protection Plan
- Attachment E – HEC RAS Model Output
- Attachment F – Wetland Delineation Report

1 INTRODUCTION AND BACKGROUND

1.1 Introduction and Purpose

Stormwater Solutions Engineering, LLC (SSE) has been contracted by Franklin Mobile, LLC to submit the City of Franklin application for Special Use Permit for a proposed bridge replacement at the Franklin Estates Mobile Home property. This permit submittal includes our hydraulic analysis of the proposed bridge designed by Himalayan Consultants, LLC.

The existing bridge is in a progressive state of failure. As shown in the below photograph, a temporary timber mat access way has been installed to allow access to the residential homes on the west end of West Moorland Avenue. The proposed bridge would replace both the existing failed bridge and temporary timber mat and will not adversely affect the existing drainage way.

The properties along West Westmoor Avenue at the project location are zoned R-8 Multiple Family Residence District and FW Floodway District. A bridge or accessway installed in a FW Floodway District requires a Special Use permit in the City of Franklin.

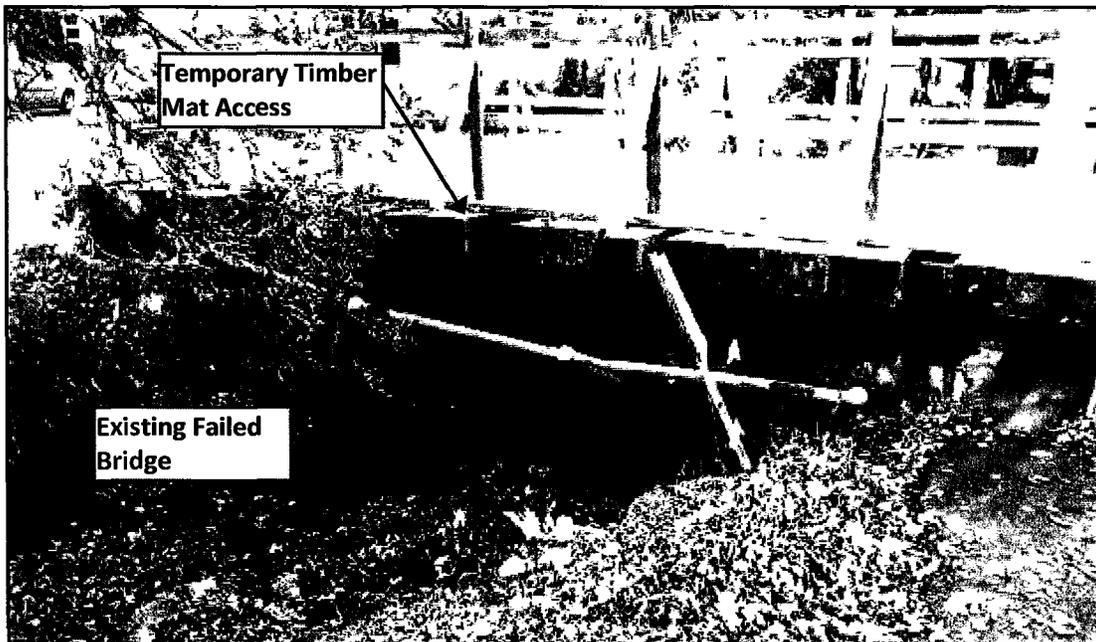


Figure 1: Existing Conditions

1.2 Location

The proposed project is located in the City of Franklin, Milwaukee County, Wisconsin and found on the Greendale, WI quadrangle map at the northeast quarter of Section 01, Township 05 North, Range 21 East. The tax key number for the property is 714-9993-004 and the legal description of the property is as follows:

Parcel 2 of Certified Survey Map No. 5747, being a part of the Northeast 1/4 of Section 1, Township 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin, excepting those parts conveyed in Document No. 10351086 for street purposes.

A location map for the project is provided in **Figure 2** below.

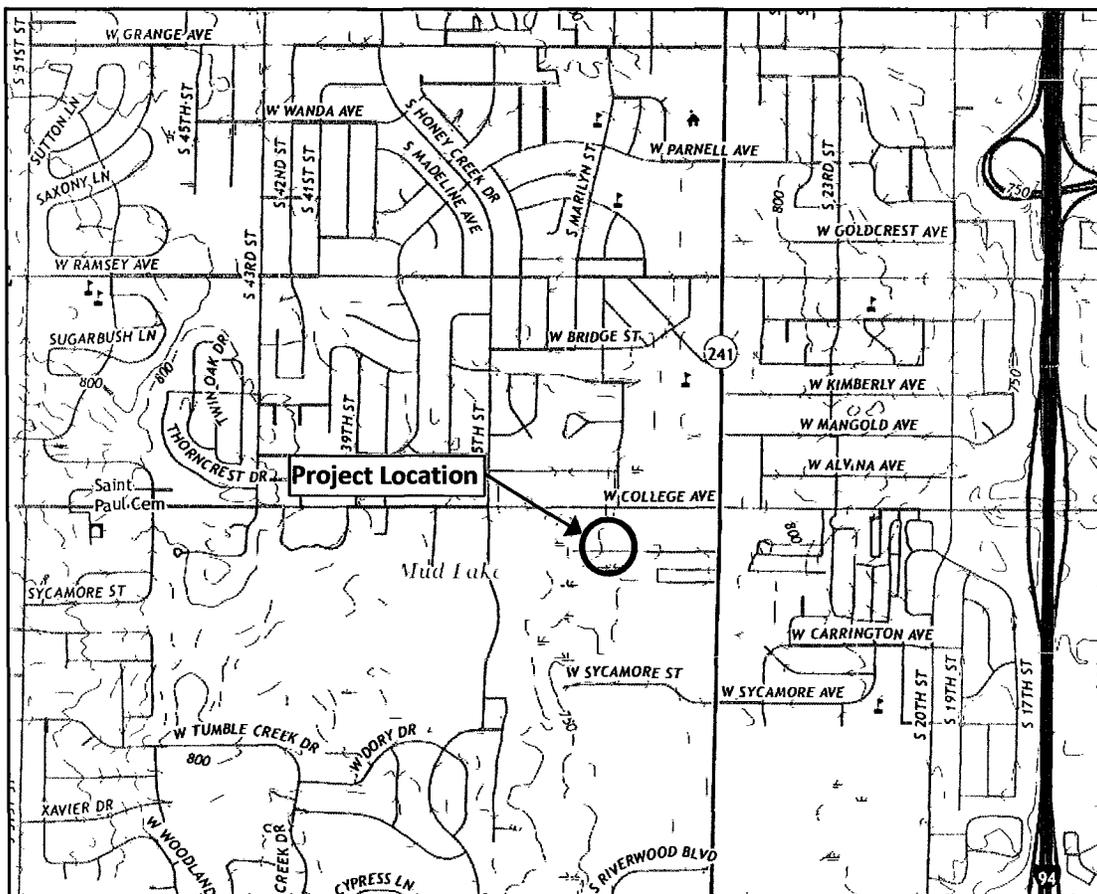


Figure 2: Project Location Map

1.3 Existing Drainage Setting

An aerial photograph investigation shows that the mobile homes on the east end of West Westmoor Avenue have been in place since before 1955. Between 1955 and 1958, the bridge over the East Branch of the Root River was installed and mobile homes were constructed to the west end of West Westmoor Avenue. In 1958, the vast majority of the watershed both upstream and downstream of the West Westmoor Avenue bridge was farmland.

Today the watershed upstream of the proposed bridge replacement is approximately 2.5 square miles and consists primarily of quarter acre residential lots.

The existing bridge crosses the East Branch of the Root River in a studied floodplain Zone AE. A copy of the Flood Insurance Rate Map FIRMap at the location of the Franklin Estates Mobile Home Park is provided with this report as **Attachment B**.

1.4 Proposed Drainage System Overview

The proposed project replaces the existing bridge with a 48" x 76" horizontal elliptical reinforced concrete culvert with tapered end walls. The culvert invert is proposed to be partially buried below the bed elevation per DNR requirements. The road over the culvert will be crowned with a centerline elevation of 756.0.

The proposed bridge replacement will involve fill below the mean and ordinary high water mark (OHWM). Approval from the Army Corps of Engineers for this fill was obtained in a letter dated January 4, 2019 under the Transportation Regional General Permit (RGP) with a regulatory file number of 2018-03670-AIS. A Transportation RGP may be applied to the replacement of a previously authorized structure as long as there are only minor deviations to the configuration or filled area and any culvert extension does not include any slope or shoulder widening.

Permit approval has been previously obtained from WDNR on March 18, 2019. This permit is filed under number GP-SE-2019-41-00734 and expires in March of 2022. The proposed wetland impacts of 1,590 square feet are covered under a separate wetland docket number 00736.

Copies of all permit approval letters obtained for this project are included as **Attachment A** to this report.

2 SPECIAL USE STANDARDS AND REGULATIONS

The applicant for a special use permit must show compliance with the following general standards in order to be issued a permit. Below is a list of each standard from Part 3, Division 15-3.0700 of the City of Franklin Unified Development Ordinance followed by a response that addresses how the bridge replacement at Franklin Estates Mobile Park has addressed each of these standards.

1. Ordinance and Comprehensive Master Plan Purposes and Intent.

The proposed bridge replacement is designed in accordance with zoning regulations and meets the intent of the City of Franklin Comprehensive Master Plan.

The proposed bridge replacement in Franklin Estates meets the intent of the City of Franklin 2025 Master Plan by maintaining a safe and efficient transportation system within the City. This bridge is the only entrance and exit for more than two dozen homes on the west end of West Westmoor Avenue. These residents count on the proposed bridge to provide safe and efficient access in and out of their homes.

The 2025 Mater Plan also has a commitment to the protection of natural resources. The existing bridge is collapsing into the river. This not only causes a serious safety concern for residents, but if the bridge completely fails it becomes a potential restriction to the river flows. The proposed bridge will provide a similar flow capacity to the original bridge before it's failed state and preserves the base flow capacity of the east branch of the Root River.

2. No Undue Adverse Impact.

The proposed bridge will have a similar flow capacity to the existing bridge and does not result in any increase in base flood elevation upstream or downstream. The proposed bridge will improve access for pedestrians and vehicles by including shoulders and gently sloped terraced areas.

3. No Interference with Surrounding Development.

The project, as designed, will be constructed, arranged, and operated as to not dominate the immediate vicinity or to interfere with the use and development of neighboring property. The Contractor, by means and methods, is required to provide pedestrian access to the west half of the parcel throughout construction. The Contractor will only be allowed to close vehicular access to the west half of the parcel for a maximum of three (3) days to facilitate the cross-culvert installation.

4. Adequate Public Facilities.

The proposed bridge replacement will be served adequately by essential public facilities. If the existing bridge is not replaced, there will be no access to the west end of West Westmoor Avenue for public facilities or residents.

5. No Traffic Congestion.

The proposed bridge will preserve the existing traffic flows along West Westmoor Avenue and will not result in any kind of increase in vehicular traffic or traffic congestion. The proposed use and population density is to remain consistent with existing conditions.

6. No Destruction of Significant Features.

A wetland delineation completed as part of this project shows wetland vegetation within the banks of the East Branch of the Root River. These wetlands will be disturbed only as necessary to complete the replacement of the existing bridge. Due to the proposed culvert being partially buried, over time sediment will be allowed to accumulate in the culvert and riprap areas, thus restoring the creek bed to a natural state.

7. Compliance with Standards.

The existing mobile homes at Franklin Estates have been in place since 1958 and pre-date the City's delineation of the FW Floodway District. The installation of a culvert within a waterway lying in a Floodway District (FW) is a permitted special use per §15-3.0604B.1.c. as long as it does not cause a rise in flood elevations by more than 0.01 feet either upstream or downstream. The proposed bridge will not cause an increase in flood elevations per the hydraulic analysis discussed in Section 3 of this report.

The Plan Commission and Common Council also consider the following in their review of a Special Use Permit: Public Benefit, Alternative Locations, Mitigation of Adverse Impacts, and Establishment of Precedent. Below are responses that address how the bridge replacement at Franklin Estates Mobile Park has addressed each of these four considerations.

1. **Public Benefit:** From the Unified Development Ordinance Public Benefit considers "Whether and to what extent the proposed use and development at the particular location requested is necessary or desirable to provide a service or a facility that is in the interest of the public convenience or that will contribute to the general welfare of the neighborhood or community."

Response: The failed bridge replacement is necessary to provide permanent access for the residents west of the East Branch of Root River to public facilities.

2. **Alternative Locations:** From the Unified Development Ordinance Alternative Locations considers "Whether and to what extent such public goals can be met by the location of the proposed use and development at some other site or in some other area that may be more appropriate than the proposed site."

Response: A list of alternatives investigated for this project in addition to the proposed plans are included below with a description of why they are not feasible.

- 1) Relocation of the bridge along West Westmoor Avenue: Relocating this bridge would require re-routing the East Branch of the Root River. Altering the river in this way would result in additional river bends. These river bends would need to be protected with hard armor as

erosion is frequently accelerated at the bend in a river. Even with armoring, it is possible that once moved, the river would attempt to erode back to its original configuration.

2) **Removing the Bridge:** Eliminating the bridge entirely would result in loss of access to the homes on the West end of West Westmoor Avenue.

3) **Removing the Bridge and constructing a new road to provide access to the west end of West Westmoor Ave:** A new north-south road could connect West College Avenue to the west end of West Westmoor Avenue thus eliminating the need for a bridge, but a road in this location would impact the floodplain for the Unnamed Tributary No. 1 to the East Branch Root River and likewise require a special use permit from the City of Franklin.

4) **Increasing the height of West Westmoor Ave to bring it out of the FW Floodway District:** Increasing the height of the road to bring the bridge out of the Floodway District would create a restriction in the floodway which in turn would form a pool upstream of the bridge. This pool has the potential to increase the flood risk for the single family homes upstream of Franklin Estates. To prevent a restriction, the bridge needs to increase in width which will require relocating the homes adjacent to the bridge, or the bridge needs to overtop as it currently does. It is unknown if there are empty R-8 Multiple Family Residence District zones in the vicinity of Franklin Estates to accommodate the relocation of the 10-12 homes currently within the FW Floodway District.

3. **Mitigation of Adverse Impacts:** From the Unified Development Ordinance Mitigation of Adverse Impacts considers “Whether and to what extent all steps possible have been taken to minimize any adverse effects of the proposed use and development on the immediate vicinity through building design, site design, landscaping, and screening.”

The proposed project will impact existing wetlands only as necessary to complete the installation of the proposed culvert. The proposed culvert does not increase the base flood elevations upstream or downstream. During construction the Contractor will be required to provide pedestrian access to the west half of West Westmoor Avenue. The Contractor will only be allowed to close vehicular access to the west for a maximum of three (3) days to facilitate the cross-culvert installation. The proposed culvert will improve the access from the existing bridge by providing shoulders and gently sloped terraced areas.

4. **Establishment of Precedent:** From the Unified Development Ordinance Establishment of Precedent of Incompatible Uses in the Surrounding Area considers “Whether the use will establish a precedent of, or encourage, more intensive or incompatible uses in the surrounding area.”

The installation of a culvert within a waterway lying in a FW Floodway District is a permissible special use per §15-3.0604B.1.c. An incompatible use standard is not being set.

3 HYDRAULIC ANALYSIS

An existing hydraulic model (FAD ID 11106) is available for the project area approved by WDNR and FEMA in July of 1981. The HEC-2 input for this effective model was obtained from the WDNR library and imported into the U.S. Army Corps of Engineer's Hydrologic Engineering Center's River Analysis System (HEC-RAS) software version 5.0.7.

The model consists of the entire East Branch of the Root River. The downstream ends at the confluence with the Root River and the upstream limit of the model ends approximately 520 feet upstream of the proposed bridge replacement at a location just upstream of the bridge at W College Ave.

3.1 Corrected Effective Model

Updates to the imported effective model needed to be made before analyzing the impact of the proposed reconstructed bridge. These updates included adjustments to the HEC-2 imported bridges, additional cross sections added upstream and downstream of the bridge over West Westmoor Avenue, and adjustments to the cross sections near West Westmoor Avenue to reflect recent survey data collected in the project area.

It is not uncommon for HEC-2 input to need post processing once it has been imported into HEC-RAS. Some additional functionality available to HEC-RAS requires the user to carefully review all bridge data to confirm if information needs to be modified or added. Six bridges are included in the East Branch of the Root River model. Three of the six bridges needed the geometry of the bottom chord of the bridge adjusted to properly reflect the opening area and bridge width defined in HEC-2. These bridges included South 51st Street bridge over the East Branch of the Root River, West Rawson Avenue bridge over the East Branch of the Root River, and West Westmoor Avenue over the East Branch of the Root River.

Because the existing bridge is in a failed state, and the temporary bridge had already been installed at the time of the survey, the geometry of the existing bridge from the effective model has been preserved with only minor post-processing to the low chord necessary due to the HEC-2 to HEC-RAS conversation. The elevations of the channel bottom for the cross sections at the upstream and downstream face of the bridge have been updated to reflect recent survey data.

An approach cross section 20 feet upstream of the bridge face and a cross section 20 feet downstream of the bridge face have been added to the model with elevations that reflect the survey data collected for the bridge replacement. The HEC-RAS stations for these new cross sections are 67.5 and 65.5.

It was found that all of the cross sections imported from the HEC-2 model contained contraction and expansion coefficients of 0.3 and 0.5. These values are typically only used for cross sections near a bridge. Cross section with gradual transitions were corrected to have contraction and expansion coefficients of 0.1 and 0.3 respectively.

The model flows remain unchanged from the flows imported from the HEC-2 model. From the Flood Insurance Study (FIS) Report for Milwaukee County:

Table 1: Summary of Discharges (cfs)

Location	10-Percent Annual Chance	2-Percent Annual Chance	1-Percent Annual Chance	0.2-Percent Annual Chance
About 630 Feet Upstream of the Root River East Branch Root River	490	800	940	1350
About 300 Feet Upstream of W. Rawson Ave Fish Creek	440	720	850	1200

The HEC-RAS output table for the Corrected Effective Model is provided in **Attachment E** to this report. The results of the Corrected Effective model for the 100-year storm event are compared to the values documented in the FIS for the area in the vicinity of the bridge over West Westmoor Ave. in **Table 2**.

3.2 Proposed Drainage System

The existing bridge is proposed to be replaced by a 48" x 76" elliptical culvert buried 1.7 feet below the natural stream bed. The road over the culvert will be crowned with a top elevation 756.0. This top elevation is consistent with the existing elevations provided in the HEC-RAS model which indicates a top of the bridge elevation between 755.66 and 756.01. The details for the proposed bridge replacement are available in the proposed plan set provided in **Attachment C** to this report.

The previous section discussed the addition of an approach section located 20 feet upstream of the face of the existing bridge and another new section added 20 feet downstream of the downstream face of the existing bridge. For the proposed model, these two cross section channel geometries were edited to reflect the proposed contours as shown in the proposed plan set.

The bridge opening under West Westmoor Avenue was removed from the model and replaced by an elliptical culvert 48" x 76". An entrance loss of 0.2 was applied for parallel wingwalls with tapered inlet. A manning's roughness of 0.013 represented the concrete culvert. A manning's roughness of 0.035 was applied to the bottom of the culvert to represent the natural streambed due to the culvert being buried. This roughness matches the manning's number used for the cross sections upstream and downstream of the bridge which also indicate a roughness of 0.035 for the channel bottom

The corrected effective model included cross sections at the upstream and downstream face of the existing bridge. Because the proposed culvert is 31.8 feet long while the existing bridge is approximately 16 feet wide, the proposed culvert will extend into these two cross sections. For the proposed model, these cross sections were deleted and the proposed culvert section is left to cover these stations. Cross section 67.5 and 65.5 added to be 20 feet upstream and downstream of the existing bridge are outside of the limits of the proposed culvert and thus describe the change in water surface immediately upstream and downstream.

The City of Franklin's Unified Development Ordinance (UDO) Floodplain Zoning Ordinance requires that a proposed project in the FW Floodway District not increase flood elevations upstream or downstream by 0.01 foot or more. **Table 2** provides a comparison of peak water surface elevations for the 1% annual chance flood and illustrates that the proposed bridge replacement does not result in any increase in flood elevations for cross sections upstream or downstream therefore meeting the City of Franklin's requirement.

Table 2: Peak Water Surface Elevation Summary for the 1% Annual Chance Flood

TABLE VOID

FIS Cross Section Designation	Distance* (ft)	Distance* (mi)	HEC-RAS River Station	Effective W.S. Elev ¹ (ft)	Corrected Effective W.S. Elev ² (ft)	Δ^{2-1} (ft)	Proposed W.S. Elev ³ (ft)	Δ^{3-2} (ft)
	25951	4.92	71		761.69		761.69	0.00
Bridge over W College Ave			70.5					
BJ	25925	4.91	70	760.60	760.51	-0.09	760.51	0.00
BI	25714	4.87	69	760.40	760.16	-0.24	760.16	0.00
BH	25608	4.85	68	758.30	759.51	1.21	759.49	-0.02
	25370	4.81	67.5		757.89		757.85	-0.04
	25370	4.81	67		757.74			
Bridge over W Westmoor Ave			66.5					
BG	25344	4.80	66	757.50	757.73	0.23		
	25344	4.80	65.5		757.24		757.25	0.01
BF	25238	4.78	65	757.00	757.11	0.11	757.11	0.00
BE	24763	4.69	64	753.90	753.86	-0.04	753.86	0.00
BD	24235	4.59	63	751.70	751.75	0.05	751.75	0.00
BC	23654	4.48	62	751.60	751.63	0.03	751.63	0.00
BB	23179	4.39	61	751.30	751.36	0.06	751.36	0.00
BA	22757	4.31	60	751.50	750.55	-0.95	750.55	0.00
AZ	22334	4.23	59	749.90	749.99	0.09	749.99	0.00
AY	22018	4.17	58	749.40	749.46	0.06	749.46	0.00
AX	21490	4.07	57	748.30	748.37	0.07	748.37	0.00
AW	20962	3.97	56	747.20	747.25	0.05	747.25	0.00
AV	20592	3.90	55	746.50	746.42	-0.08	746.42	0.00
AU	20222	3.83	54	746.30	746.21	-0.09	746.21	0.00
AT	19694	3.73	53	746.20	746.05	-0.15	746.05	0.00
AS	19615	3.72	52	745.90	745.97	0.07	745.97	0.00
Bridge over W Rawson Ave			51.5					

* Distance is measured in feet or miles upstream of the confluence with the Root River

11/12/2019 HEC RAS model was revised based on input from the WDNR and the revised output is available in the Attachment to this letter and supercedes the above table.

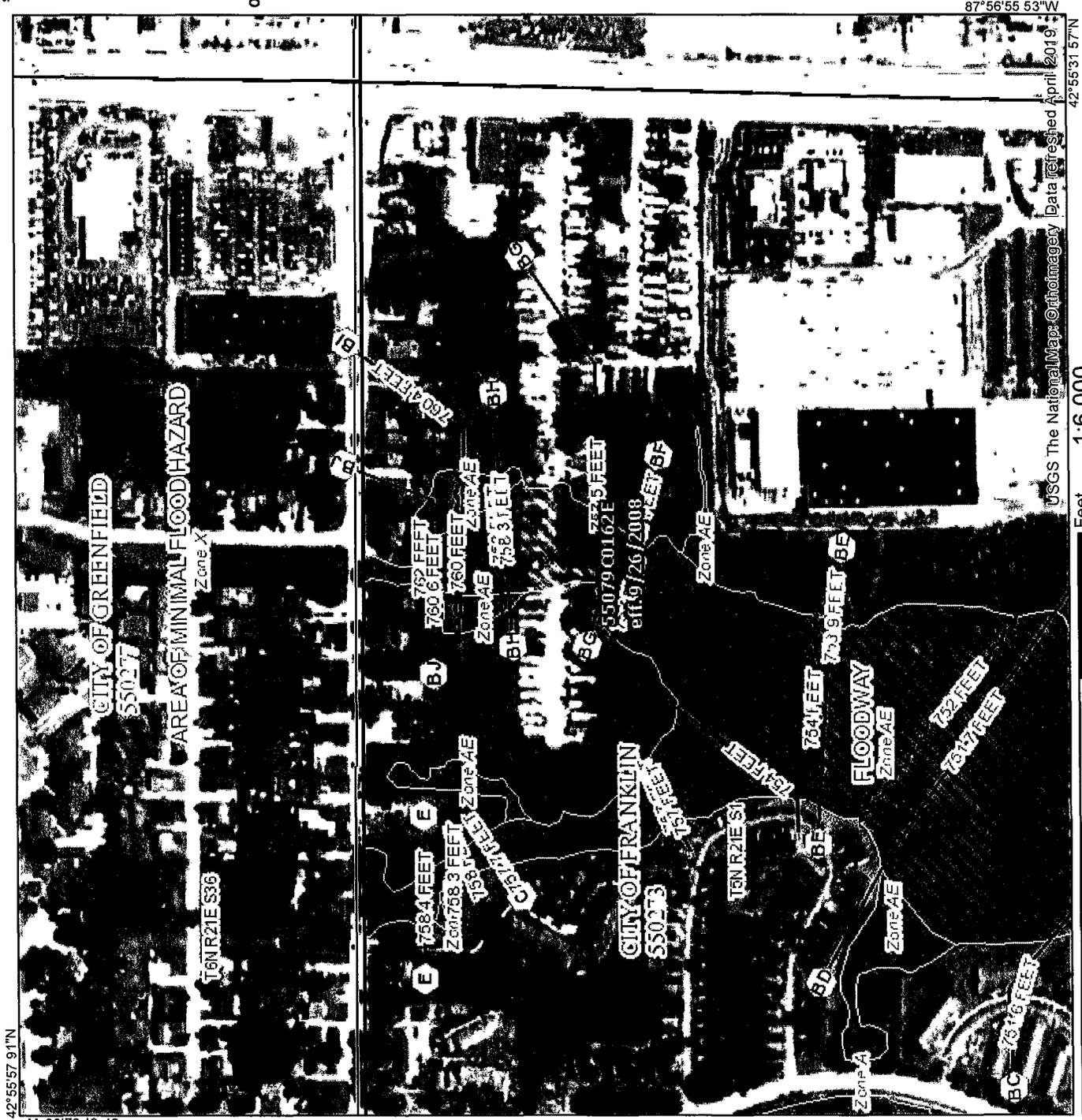
4 CONCLUSIONS

Franklin Estates, LLC proposes to replace an existing failed bridge over the East Branch of the Root River with a 40"x76" elliptical culvert under West Westmoor Avenue. The existing bridge is the only entrance and exit for residents who live on the west end of West Westmoor Avenue and the proposed culvert will allow for safe access for residents and any essential public utilities. The proposed bridge replacement does not cause any increase in the base flood elevation either upstream or downstream of the bridge and complies with the City of Franklin standards for Special Use permit.

ATTACHMENT B

Flood Insurance Rate Map FIRMette

National Flood Hazard Layer FIRMette



Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

SPECIAL FLOOD HAZARD AREAS

Without Base Flood Elevation (BFE)
Zone A, V, A99
With BFE or Depth Zone AE, AO, AH, VE, AR
Regulatory Floodway

OTHER AREAS OF FLOOD HAZARD

0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X
Future Conditions 1% Annual Chance Flood Hazard Zone X
Area with Reduced Flood Risk due to Levee. See Notes, Zone X
Area with Flood Risk due to Levee Zone D

OTHER AREAS

Area of Minimal Flood Hazard Zone X
Effective LOMRs
Area of Undetermined Flood Hazard Zone D

GENERAL STRUCTURES

Channel, Culvert, or Storm Sewer
Levee, Dike, or Floodwall

OTHER FEATURES

Cross Sections with 1% Annual Chance Water Surface Elevation
Coastal Transect
Base Flood Elevation Line (BFE)
Limit of Study
Jurisdiction Boundary
Coastal Transect Baseline
Profile Baseline
Hydrographic Feature

MAP PANELS

Digital Data Available
No Digital Data Available
Unmapped

The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards.

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 8/28/2019 at 2:13:04 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.



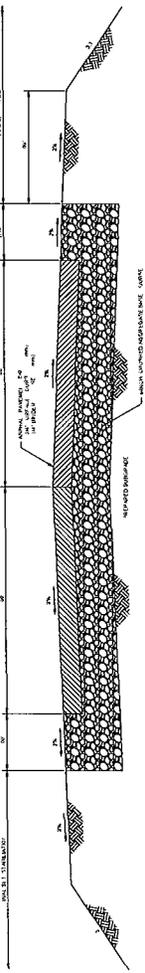
ATTACHMENT C

Proposed Culvert Replacement Plans

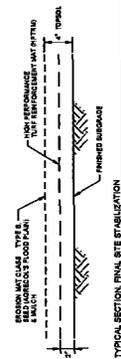


Himalayan Consultants, LLC
Engineers and Planners, Inc.

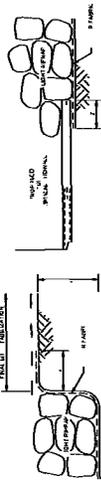
Malas Engineering, LLC
Civil Engineers, Surveyors & Planners



TYPICAL ROADWAY SECTION OVER CREEK



TYPICAL SECTION PINWALL SITE STABILIZATION



ENDWALL OUTLET PROTECTION

Category	Item	Quantity	UNIT
Miscellaneous	Installation / Demolition	1	LS
	Clearing & Grubbing	1	LS
	Structure Removal	1	LS
Earthwork	Rough Grading	1	LS
	Finish Grading	1	LS
Retaining	Adapt Permanent EOL3		
	Boxed Culvert (125 mm)	14	CY
	Boxed Culvert (125 mm)	18	CY
	Concrete Aggregate Area Closure	62	CY
	Sheet Piling	4	LF
Stream Structure	48" x 72" BOXING	40	LF
	48" x 72" Concrete Boxed Endwall of Bridgehead	2	EA
	Concrete Abutment Wall	1	EA
Electric Control	Collection & Bypass Pump	1	LS
	Best Management Practices (i.e. BMP Pavers, Trapping Pail, etc.)		
	Light Repair	12	CY
	Type R Pavers	44	ST
	Final Site Stabilization	134	ST

THE MISCELLANEOUS QUANTITIES SHOWN IN THE TABLE ABOVE ARE FOR REFERENCE ONLY AND NOT FOR BIDDING. CONTRACTOR SHALL VERIFY ALL QUANTITIES.

MISCELLANEOUS QUANTITIES

EXISTING CONDITIONS				PROPOSED CONDITIONS			
River Station (RS)	Stem Event	Flow (cfs)	Water Surface Elevation (ft)	Change in Water Surface Elevation (ft)	Flow (cfs)	Water Surface Elevation (ft)	Change in Velocity (ft/s)
85	10-year (PF 1)	445	756.40	3.01	445	756.43	3.01
	50-year (PF 2)	720	758.83	3.29	720	759.13	3.29
	100-year (PF 3)	850	757.13	3.35	850	757.48	3.35
	500-year (PF 4)	1200	757.97	3.51	1200	758.48	3.51
88	10-year (PF 1)	445	768.80	3.78	445	769.58	3.78
	50-year (PF 2)	720	767.14	4.23	720	768.37	4.23
	100-year (PF 3)	850	767.54	4.45	850	768.99	4.45
	500-year (PF 4)	1200	767.75	4.65	1200	769.40	4.65
88.5	Bridge						
87	10-year (PF 1)	445	756.80	3.13	445	756.93	3.13
	50-year (PF 2)	720	757.20	4.2	720	757.60	4.2
	100-year (PF 3)	850	757.58	4.32	850	757.90	4.32
	500-year (PF 4)	1200	757.82	4.75	1200	758.57	4.75
88	10-year (PF 1)	445	767.75	3.78	445	767.75	3.78
	50-year (PF 2)	720	768.25	3.70	720	768.25	3.70
	100-year (PF 3)	850	768.48	3.68	850	768.48	3.68
	500-year (PF 4)	1200	768.86	3.35	1200	768.86	3.35

HYDRAULIC SUMMARY

FRANKLIN MOBILE ESTATES
6361 S 27TH STREET
FANKLIN WA

CULVERT PLAN DETAILS

DATE: 10/15/2018
JOB NO.: 18056.002
DESIGNED BY: MAB
CHECKED BY: DMB
SHEET NUMBER: C1.1

ATTACHMENT D

Natural Resource Protection Plan

City of Franklin

Department of City Development

Date: October 31, 2019
To: David Steinberger, Franklin Mobile LLC / Franklin Mobile Home Park
From: Department of City Development
RE: Franklin Mobile Estates Special Use and Land Use Permit – Staff Comments

Please be advised that City Staff has reviewed the above application for property located at 6361 S. 27th St. Department comments are as follows for the Special Use and Land Use Permit date-stamped by the City of Franklin on September 20, 2019.

Unified Development Ordinance (UDO) Requirements

Special Use

Bridges and approaches in the § 15-3.0319: FW Floodway District, are a Special Use under § 15-3.0604.B.1. (See also § 15-13.0100: Floodplain Zoning Ordinance and § 15-9.0103 Applications for Special Use Permit.)

1. Please note that § 15-3.0319.E prohibits mobile homes in FW zoning.
Response: Noted. No mobile homes are being proposed as part of this project. The existing mobile homes adjacent to the proposed project have been in place since before the ratification of the City's Floodplain Zoning regulations in 1968.
2. Pursuant to § 15-3.0604.B.1, please verify that the proposed culvert and bridge will not cause ponding.
Response: A hydraulic analysis for the East Branch of the Root River was completed by SSE to show that the proposed culvert does not cause ponding and does not result in an increase in the flood stage from the existing bridge at this location. The results of this analysis were provided in the permit application submitted to the City of Franklin dated August 30, 2019 and discussed in detail in Section 3 of the permit application report. The model was reviewed for compliance with NR116 by Michelle Hase at the WDNR who subsequently approved it in a letter sent via e-mail to Joel Dietl on September 27, 2019
3. Pursuant to § 15-13.0100.6.1(2) which provides that existing legal nonconforming structures such as mobile homes may continue on condition that they are not modified beyond ordinary maintenance or stand unused for more than twelve (12) months, and cannot be replaced if more than 50% of the structure is destroyed, please contact the Inspection Services Department to arrange a process to provide them such data on an annual basis.
Response: Property owner's legal counsel to address.

Special Use Standards and Regulations Questionnaire Comments, per 15-3.0701.C:

4. § 15-3.0701.A.6 Please clarify that the proposed use will also impact wetland, floodway, shoreland, and stream. List the features being impacted by work.

Response: As defined in the City of Franklin UDO, the proposed bridge replacement at Franklin Estates will impact Streams, Floodplains/Floodways, Shore Buffer, Wetlands, and Wetland Buffer. The proposed bridge replacement at Franklin Estates will not impact steep slopes, woodlands, forests, lakes, or ponds

5. § 15-3.0701.C.3 Please clarify that mitigation for the impacts associated with construction of the proposed culvert is not being proposed.

Response: 0.011 acres of stream bank and 0.004 acres of wetland will be permanently impacted by the proposed bridge replacement. No mitigation is being proposed, however, all areas disturbed as part of the bridge replacement are proposed to be restored with deep-rooted native vegetation that will enhance the existing streambank conditions.

Site Plan

Site Plans are reviewed pursuant to Division 15-7.0100.

6. § 15-7.0102.E and F require safe facilities for pedestrian traffic. Staff recommends the addition of railings, and suggests paved and striped shoulders.

Response: Two-foot gravel shoulders will improve pedestrian access across the bridge from the existing conditions. The bridge serves approximately 25 residential homes where pedestrian and vehicular traffic across the bridge will be minimal and paved or striped shoulders is not required. There is a 4-foot wide vegetated buffer between the gravel shoulder and the culvert apron that will provide for pedestrian safety without requiring the installation of a railing.

7. Pursuant to § 15-7.0102.G, and § 15-7.0103.Q, Site plans must meet the requirements of § 15-4.0100: Natural Resource Protection Standards, and § 15-7.0201: Natural Resource Protection Plan (NRPP) Requirements.

- a. Clearly illustrate and enumerate all natural resource features per § 15-4.0102: Natural Resource Features Determination

- i. Pursuant to § 15-4.0102.D and § 15-7.0201.I, please provide complete written narrative, and illustrated information about the stream according to the standards laid out in § 15-4.0102.D.1 through D.3.

Response: Section 15-4.0102 D. 1-3 defines three methods used to define the “channel” and “stream”. The first method, topographic survey, is the preferred method. The surveyed topography of the stream is shown on both the proposed plans and on the Natural Resources Protection Plan provided with our original application. The survey is illustrated at a one-foot contour interval exceeding the minimum two-foot interval requirement. This survey is used to define the location of the stream for the purposes of this project.

Section 15-7-0201 lists Natural Resource Protection Plan Requirements. We have provided a NRPP with our original permit submittal and a revised plan with our current submittal. If the Zoning Administrator finds any issues with the NRPP as provided, please indicate what we should revise and resubmit.

- ii. Pursuant to § 15-4.0102.F and § 15-7.0201.I, please provide written narrative, and illustrated information about the floodplain and floodway boundary.

Response: *Section 15-4.0102 F defines floodplains and floodways. While we do not have a copy of the City of Franklin's "Official Zoning Map", per the FEMA FIRM of this location it is clear that the entirety of the proposed project is within the regulatory floodway. The FEMA FIRM at this location is provided as an attachment to the report included with the original permit application.*

Section 15-7-0201 lists Natural Resource Protection Plan Requirements. We have provided a NRPP with our original permit submittal and a revised plan with our current submittal. If the Zoning Administrator finds any issues with the NRPP as provided, please indicate what we should revise and resubmit.

- iii. Pursuant to § 15-7.0201.I, illustrate and enumerate the wetland, wetland setback, and areas of disturbance,

Response: *Section 15-7-0201 lists Natural Resource Protection Plan Requirements. We have provided a NRPP with our original permit submittal that illustrated and enumerated the wetland, wetland setback, and areas of disturbance. A revised NRPP is provided with this response that includes the total impact to each natural resource in a table format at the request of the City Zoning Department.*

- iv. Pursuant to § 15-4.0102.K and § 15-7.0201.J, provide written narrative, and illustrated information about natural resources to be disturbed. If a category of natural resource is not present, please note that.

Response: *Section 15-4.0102 lists the following natural resource features.*

- *Steep Slopes*
- *Woodlands & Forests: Mature, Young*
- *Lakes & Ponds*
- *Streams*
- *Shore Buffers*
- *Floodplains/Food-ways*
- *Wetlands & Shoreland Wetlands*
- *Wetland Buffers*

The total area disturbed as part of the proposed construction is 0.09 acres. The proposed bridge replacement at Franklin Estates Mobile Home Park impacts the following resources:

- *Streams* The bridge replacement will impact 0.01 acres of stream which will be restored with a natural stream bottom per the proposed project plans.
- *Floodplains/Floodways* 0.09 acres of regulatory floodway will be disturbed as shown on the Natural Resources Protection Plan for this project
- *Shore Buffers*. 0.09 acres will be disturbed as shown on the Natural Resources Protection Plan for this project
- *Wetlands*: 0.02 acres will be disturbed as shown on the Natural Resources Protection Plan for this project
- *Wetland Buffer*. 0.06 acres will be disturbed as shown on the Natural Resources Protection Plan for this project
- *Wetland Setback*. 0.01 acres will be disturbed as shown on the Natural Resources Protection Plan for this project

The following natural resources do not exist within the project area:

- *Steep slopes,*
- *woodlands & Forests,*
- *Lakes & Ponds*

Section 15-7-0201 lists Natural Resource Protection Plan Requirements. We have provided a NRPP with our original permit submittal and a revised plan with our current submittal that includes the area of impact to each natural resource feature in a table format as requested.

Pursuant to § 15-4.0102. K and § 15-7.0201.J, provide written narrative, and illustrated information about natural resources to be permanently removed. If a category of natural resource is not present, please note that.

Response: *0.01 acres of stream bank will be permanently removed as part of this project due to the replacement of the bridge with a culvert. 0.004 acres of wetland equal to 187 square feet will be permanently disturbed due to the proposed culvert extending beyond the limits of the existing bridge in order to accommodate wingwalls which are recommended for improved hydraulic conditions and the sloping buffer between the edge of the pedestrian path and the beginning of the headwall.*

The following natural resources within the project area are not being permanently removed:

- *0.09 acres Floodplain/Floodway*
- *0.09 acres Shore Buffer*
- *0.06 acres Wetland Buffer*
- *0.01 acres Wetland Setback*
- *0.015 acres Wetland*
- *0.02 acres Stream*

The following natural resources are not present within the project area:

- *Steep slopes,*
- *woodlands & Forests,*

- *Lakes & Ponds*

- v Pursuant to § 15-4.0102. K and § 15-7.0201.J, provide written narrative, and illustrated information about natural resources to be preserved. If a category of natural resource is not present, please note that.

The following natural resources within the project area will be restored:

- *0.09 acres Floodplain/Floodway*
- *0.09 acres Shore Buffer*
- *0.06 acres Wetland Buffer*
- *0.01 acres Wetland Setback*
- *0.015 acres Wetland*
- *0 02 acres Stream*

The following natural resources are not present within the project area:

- *Steep slopes,*
- *woodlands & Forests,*
- *Lakes & Ponds*

8. Show the location of any pedestrian sidewalks and walkways, as required by § 15-7.0103.T.
Response: The location of pavement is shown on the project plans which encompasses any pedestrian walkways. The location of the pedestrian walkways associated with the proposed bridge reconstruction are shown on the plans.

Land Use Permit

9. Pursuant to Sections 15-13.0100.2.3 and 3.2(c) of the Floodplain Ordinance, and at the request of the Wisconsin Department of Natural Resources, the Department of City Development has contacted the Federal Emergency Management Agency (FEMA) to determine if any other permits or approvals (i.e. a Letter of Map Revision) are required for the subject project.

Response: Noted.

10. Pursuant to Sections 15-13.01003.4 and 7.1(2)(b) of the Floodplain Ordinance, please verify if any private wells or private septic systems are located within the floodway. If present, they must be removed, or the requirements of Wisconsin Administrative Code NR 811 and NR 812 must be fully addressed.

Response: Property owner's legal counsel to address

11. Pursuant to Section 15-13-01007.1(2)(b) of the Floodplain Ordinance, please provide the location of the floodplain and floodway limits on the site plan.

Response: The floodplain and floodway limits are shown on the Natural Resources Protection Plan provided with this document.

Additional Planning Department Comments

Special Use

12. Staff recommends restoration of all natural plantings in and around the disturbed area with appropriate native plants to prevent erosion and invasive species.

Response: The updated construction plans indicate that all areas disturbed as part of the bridge replacement will be seeded with a floodplain seed mix from Agracol Native Plant and Seed Nursery. The Agracol Floodplain mix provides for natural flood and erosion control while supporting fish and wildlife habitat.

13. Staff recommends creation of registry of nonconforming buildings in the floodway as required by § 15-13.0100.6.1(2)(c) that includes evaluation of their current individual assessed value and tracks the cost of modifications until the 50% threshold is reached, at which time they must relocate.

Response: Property owner's legal counsel to address.

Site Plan

14. Staff suggests creation of a conservation easement to protect the stream and related natural resources in perpetuity, pursuant to § 15-7.0103.X.

Response: Property owner's legal counsel to address.

15. Pursuant to Sections 15-7.0102E., and F., staff recommends that a sidewalk (or striped crosswalk) with a railing be placed along the bridge to provide a safe and convenient crossing for pedestrians. Staff further recommends that the railing be an open railing so as not to impede floodwaters.

Response: Two-foot gravel shoulders will improve pedestrian access across the bridge from the existing conditions. The bridge serves approximately 25 residential homes where pedestrian and vehicular traffic across the bridge will be minimal and paved or striped shoulders is not required. There is a 4-foot wide vegetated buffer between the gravel shoulder and the culvert apron that will provide for pedestrian safety without requiring the installation of a railing.

Natural Resource Protection Plan

16. Staff recommends that the NRPP Map should extend to the north and south property lines.

Response: The proposed project is for a bridge reconstruction and proposes to impact 0.9 acres. The complete parcel is approximately 7 acres. A map equal zoomed out to the extents of the entire parcel would not be capable of showing the nuance in areas of impact that is required to be illustrated on the NRPP Map as required by the City of Franklin.

17. Staff recommends the NRPP Map include a table of natural resource features and their area.

Response: A table of natural resources features and the area impacted by the proposed bridge reconstruction is included on the updated Natural Resources Protection Plan provided with this document.

18. Pursuant to § 15-4.0103.B.4, § 15-4.0103.B.5, and § 15-4.0103.B.6, staff suggests mitigation of disturbed and destroyed natural features. Please describe the proposed mitigation, including a maintenance plan.

Response: The proposed bridge reconstruction project is not proposing mitigation for the 0.004 acres of wetlands that will be permanently impacted due to the increased width of the bridge crossing. The project will enhance the existing stream bank by seeding all disturbed areas with a deep-rooted native seed mix.

19. Please correct the collation error in Attachment A.

Response: Titles have been added to the pages in Attachment A to clarify which pages belong with which permit.

20. Please note that 12 mobile homes are currently located within the mapped floodway associated with the East Branch of the Root River. Although mobile homes have been present in this area since the 1950's, the City's Floodplain Zoning regulations which were first established by Ordinance No. 221 and adopted by the City of Franklin on February 6, 1968, do not allow such structures within the floodplain/floodway. Furthermore, since February 6, 1968, 12 mobile homes have/have not received any Building Permit approvals to be allowed within the floodway. In addition, should structures be allowed within a floodway, certain Building Code provisions and Floodplain Zoning regulations would apply.

- a. Therefore, pursuant to Sections 15-3.0701D., staff recommends that all 12 mobile homes which were placed within the floodway after February 6, 1968 without all proper permits and approvals be removed as soon as possible, but no later than from one year of the date of the subject Special Use approval. Staff suggests for resident safety purposes, that all mobile homes located within the floodway be removed within one year.

Response: Property owner's legal counsel to address.

Engineering Department Comments

Engineering investigated the structural stability of the proposed culvert and determined that it was sound.

Engineering requests that the applicant provide a brief opinion on why the structure does not impede drainage, ponding etc.

Response: A hydraulic analysis for the East Branch of the Root River was completed by SSE to show that the proposed culvert does not cause ponding and does not result in an increase in the

flood stage from the existing bridge at this location. The results of this analysis were provided in the permit application submitted to the City of Franklin dated August 30, 2019 and discussed in detail in Section 3 of the permit application report. The model was reviewed for compliance with NR116 by Michelle Hase at the WDNR who subsequently approved it in a letter sent via e-mail to Joel Dietl on September 27, 2019.

Inspection Services Department Comments

Since we have little knowledge of how the actual foundations and anchoring systems were constructed for the Franklin Mobile Home Park mobile homes, it is difficult to comment on actual conditions. However, due to the age of the buildings and knowing that codes and standards change all the time, I would have concerns for the buildings located in the floodway. Current code would require that the structural system of these dwellings are designed, connected and anchored to resist flotation, collapse or permanent lateral movement due to structural loads and stresses at the base flood elevation. There are other provisions in the code designed to protect the electrical and mechanical systems serving the dwellings. Without a thorough engineering analysis of each dwellings in the floodway, it would be difficult to make any assumptions at this point.

Fire Department Comments

The fire department recommends expeditious approval. Regardless of the permitting and property history, the bridge is now vital to the more than 25 mobile homes to the west of the bridge. Relocating those structures does not appear to be a viable option, and the bridge is provides critical fire and EMS access to those residents.

Health Department Comments

I spoke with some of our more veteran staff and none of them could remember any flooding scenarios in the Franklin Mobile Estates area in the last 10+ years. However from a Health concern, any flooding in that area could pose a potential problem to any private wells with a number of different contaminants that could pose a health risk. Water from flooded wells cannot be considered safe for drinking or food preparation until the well and plumbing system have been flushed and disinfected. Flood water itself can cause a health threat as well because it can contain anything from downed power lines to human waste, to animals, or other hazardous chemical or waste. Homes in or near a floodway are in danger of both of these situations if a flood were to occur.

From an injury prevention standpoint, the current state of the bridge in question looks very questionable and we would recommend as little travel as possible over it until it can be deemed structurally sound.

Flood Plain

Flood plains provide natural flood and erosion control on our waterways while supporting fish and wildlife habitat. This seed mix is perfect for establishing native vegetation in low-lying areas that are adjacent to rivers and streams. These sites are prone to seasonal flooding but are typically dry throughout most of the year. This mix does best in sites with full sun to partial shade.

#FLPL Wet Mesic to Mesic Full Sun to Part Sun 8.00 PLS/BS/Acre 82.00 Seeds/Sq. Ft

Wildflowers		Oz/Acre
<i>Alisma subcordatum</i>	Mud Plantain	1.00
<i>Asclepias incarnata</i>	Marsh (Red) Milkweed	3.00
<i>Aster novae-angliae</i>	New England Aster	1.00
<i>Aster puniceus</i>	Swamp Aster	1.00
<i>Eupatorium maculatum</i>	Spotted Joe Pye Weed	1.00
<i>Eupatorium perfoliatum</i>	Boneset	0.50
<i>Helenium autumnale</i>	Sneezeweed	0.30
<i>Helianthus grosseserratus</i>	Sawtooth Sunflower	0.50
<i>Liatris spicata</i>	Marsh Blazing Star	3.00
<i>Lobelia cardinalis</i>	Cardinal Flower	0.30
<i>Lobelia siphilitica</i>	Great Blue Lobelia	0.35
<i>Pycnanthemum virginianum</i>	Mountain Mint	0.50
<i>Rudbeckia laciniata</i>	Wild Golden Glow	3.00
<i>Silphium perfoliatum</i>	Cup Plant	4.00
<i>Solidago riddellii</i>	Riddell's Goldenrod	4.00
<i>Verbena hastata</i>	Blue Vervain	2.00
<i>Vernonia fasciculata</i>	Ironweed	4.00
<i>Zizia aurea</i>	Golden Alexanders	4.00
Grasses, Sedges, & Rushes		Oz/Acre
<i>Bromus ciliatus</i>	Fringed Brome	24.00
<i>Carex vulpinoidea</i>	Brown Fox Sedge	4.00
<i>Elymus riparius</i>	River Bank Wild Rye	30.00
<i>Elymus virginicus</i>	Virginia Wild Rye	24.00
<i>Glyceria grandis</i>	Reed Manna Grass	2.00
<i>Leersia oryzoides</i>	Rice Cut Grass	2.00
<i>Scirpus atrovirens</i>	Dark-Green Bulrush	1.00
<i>Scirpus cyperinus</i>	Wool Grass	0.25
<i>Scirpus fluviatilis</i>	River Bulrush	3.00
<i>Scirpus validus</i>	Great Bulrush	0.30
<i>Spartina pectinata</i>	Prairie Cordgrass	4.00

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<p>APPROVAL</p> <p><i>slw</i> </p>	<p>REQUEST FOR COUNCIL ACTION</p>	<p>MEETING DATE</p> <p>12/3/2019</p>
<p>REPORTS & RECOMMENDATIONS</p>	<p>Amendment to the Service Contract Between the City of Franklin and Southeast Inspection Management Services, LLC to Set the Contract Amount for 2020</p>	<p>ITEM NUMBER</p> <p><i>G.7.</i></p>

Beginning January 1, 2019, the Inspection Services Department has been managed by Southeast Inspection Management Services, LLC, with Scott Satula as the manager of the LLC. The contract is ongoing, but it provides that "the City and LLC will meet periodically to consider any price adjustment as may be appropriate, with any such adjustment subject to an executed amendment to this agreement." Although the contract provides for automatic nominal annual increases "in an amount and following a timeline that is at least equal to any Market Rate Adjustment made to the City's pay plan structure for (non-sworn) supervisory personnel," an amendment to the contract is the step that is prescribed to be used if any adjustment beyond that is recommended.

As a contracted service, the City has no cost of employee benefits, including health insurance. It does not, however, mean that the LLC has no such obligations. Upon review of the first year of operations, the LLC has requested an adjustment in accordance with the allowances of the current contract. The LLC has requested an adjustment equal to approximately 7.75% for 2020. This adjustment would be in place of, not in addition to, the automatic increase provided for. As such, the marginal increase is more in the neighborhood of 5%. Given no added benefit costs and the exceptional performance of the LLC, meaning Scott, during 2019, the Mayor and Director of Administration recommend approval.

There are sufficient appropriations in the approved 2020 operating budget to cover the full cost of the contract amendment. The contract amendment is attached in a "marked-up" format, with the executed contract to be in a clean form. The full current contract is attached for your convenience.

COUNCIL ACTION REQUESTED

Motion to approve and authorize execution of Amendment No. 1 to the Service Contract Between the City of Franklin and Southeast Inspection Management Services, LLC.

**AMENDMENT #1 (December 3, 2019) To the SERVICE CONTRACT Between
The City of Franklin And Southeast Inspection Management Services, LLC**

WHEREAS, the City of Franklin (the City) and Southeast Inspection Management Services, LLC (the LLC) previously entered into a Service Contract, executed December 2018, which agreement provides, in relevant part, that “the City and LLC will meet periodically to consider any price adjustment as may be appropriate, with any such adjustment subject to an executed amendment to this agreement,” which adjustment is distinct from the provision for a periodic adjustment(s), effective January 1, 2020, “at least equal to any Market Rate Adjustment made to the City’s pay plan structure for (non-sworn) supervisory personnel”

WHEREAS, the City and the LLC have met and determined such an amendment-based adjustment is warranted based upon the exceptional performance of the LLC and based upon other such considerations as each party may determine is relevant to the mutual approval of this amendment.

Now, therefore, the City and the LLC agrees as follows:

1. The City responsibility identified as 1. a. shall be amended as follows:
 - a. The City will pay Southeast Inspection Management Services LLC ~~\$4,272 \$3,964~~/ every 2 weeks commencing January ~~13, 2020 15, 2019~~ (covering the period ~~December 31, January 1, 2019, through January 13, 2020 14, 2019~~) for its services or a base payment of ~~\$111,072 \$103,064~~ per year, except as otherwise provided for herein.

2. The City responsibility identified as 1. b. shall be amended as follows:
 - b. Effective January 1, 2021 2020, and related to any such described adjustment first implemented thereafter (meaning a June 2020 pay plan adjustment would not affect this contract), the City will increase its payment in an amount and following a method (for example, percentage or flat rate) and timeline that is at least equal to any Market Rate Adjustment made to the City’s pay plan structure for (non-sworn) supervisory personnel or, absent such change to the pay plan structure, any across-the-board increase provided to (non-sworn) supervisory personnel.

IN WITNESS WHEREOF, the Parties have set their hands and seals as specified.

CITY OF FRANKLIN

**SOUTHEAST INSPECTION
MANAGEMENT SERVICES, LLC**

By: _____
Stephen R. Olson, Mayor Date

By: _____
Signature

Sandra L. Wesolowski, City Clerk Date

Print Name

Paul Rotzenberg, Date
Director of Finance & Treasurer

Date

Jesse A. Wesolowski, City Attorney, Date

Witness

SERVICE CONTRACT

Between

The City of Franklin

And

Southeast Inspection Management Services, LLC

The City of Franklin (the City) and Southeast Inspection Management Services LLC (the LLC) do hereby agree and enter into the following contract between one another.

Southeast Inspection Management Services LLC agrees as follows:

1. To provide management and oversight of the City of Franklin Building Inspection Department (or as it may otherwise be named at the discretion of the City) by directing or performing the following:
 - a. Fulfill the duties of Building Inspector as set forth in Wisconsin Statutes, relevant Administrative code, and the City's job description, which is attached and incorporated herein by reference.
 - b. Supervise the issuance of all City of Franklin Building Inspection Department (Building Inspection) permits, including the collection of related fees and fines.
 - c. See to the filing and retention of Building Inspection records on the City premises and in conformity with the City's requirements for such records.
 - d. Supervise and manage the employees of Building Inspection by directing or performing the following:
 - i. Assign duties to all Building Inspection employees.
 - ii. Oversee and administer all vacation, time off, and training approvals.
 - iii. Review and approve time cards.
 - iv. Review, evaluate, recognize, and discipline Building Inspection employees in conformity with all City standards.
 - e. Perform and supervise the enforcement of all Building Inspection actions and other Municipal Code violations assigned to Building Inspection, both with the aid and direction of the City of Franklin Attorney's Office.
 - f. See to the preparation and delivery of annual operating and capital budgets for Building Inspection.
 - g. Perform such other legally permissible and proper duties and functions consistent with the scope of the attached job description and the statutory duties of a Building Inspector as the Mayor, Common Council or Director of Administration shall from time to time assign.
2. To perform at a professional level of competence the functions, responsibilities, and duties set forth and incorporated herein, including, but not limited to, applying the LLC's best efforts at all times to coordinate, streamline, and make efficient Building Inspection operations. To which end, it shall be the LLC's responsibility to take the initiative in investigating areas where the operations may be coordinated, streamlined, or made more efficient and to make such recommendations to the Director of Administration.

3. To devote the time necessary to complete the duties and responsibilities normally expected of a position of Building Inspector. To that end, the LLC acknowledges the following:
 - a. that the duties and responsibilities incorporated herein will routinely require it devote time outside of normal office hours in the performance of such duties and responsibilities; however, hours remain flexible and are not fixed.
 - b. that the nature of the duties and responsibilities requires a regular presence at the Building Inspection offices or on City business-related travel on an approximate average number of 215-220 business days per year (days during which the City Hall is open for business).
 - c. that efficient coordination of services will require that the LLC notify the Director of Administration of any intended full-day absence from the Building Inspection offices to obtain a concurrence that the absence does not create a conflict for the City, in which limited instance the LLC shall make reasonable efforts to rearrange its plans to eliminate the conflict.
4. To provide periodic statements for services, in accordance with the payment provision below.
5. To comply with any City requirements regarding the evaluation of the LLC and to maintain a cell phone that provides regular and reasonable access to the Manager of the LLC, Wayne Scott Satula.
6. To terminate this agreement, without penalty, with no less than 30 days written notice delivered to the City (Mayor or Director of Administration).

The City agrees as follows:

1. To contractually engage (herein) the LLC to provide its services for the management and oversight of Building Inspection and related duties, as further described above and in accordance with the following:
 - a. The City will pay Southeast Inspection Management Services LLC \$3,964/ every 2 weeks commencing January 15, 2019 (covering the period January 1, 2019, through January 14, 2019) for its services or a base payment of \$103,064 per year, except as otherwise provided for herein.
 - b. Effective January 1, 2020, the City will increase its payment in an amount and following a timeline that is at least equal to any Market Rate Adjustment made to the City's pay plan structure for (non-sworn) supervisory personnel or, absent such change to the pay plan structure, any across-the-board increase provided to (non-sworn) supervisory personnel.
 - c. Within 30 days of execution the City agrees to a one-time payment to the LLC of an amount not to exceed \$1,130, which represents start-up costs associated with this agreement, which amount may be deducted in full from amounts otherwise owed to the LLC, at the sole discretion of the City, should this agreement and the services provided for herein not continue for at least two years.

2. To the fullest extent permitted by law, the City shall fully indemnify and hold harmless the LLC and the Manager of the LLC 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) for all acts or omissions of the LLC and/or its Manager in the performance of the duties, services, and responsibilities performed for the City as provided for in this agreement. The intent of this language is to provide indemnity to the LLC, serving as an independent contractor, to the same extent as would be provided an employee of the City serving in this same capacity. The City shall, upon request, provide proof of primary liability insurance and primary business and auto liability insurance to Southeast Inspection Management Services LLC and its employees.
3. To provide the LLC with a 30 calendar day notice of termination of this Agreement, during which period the City may, in its sole discretion, opt not to use all or some of the LLC's services but shall remain liable to pay the LLC for that 30-day period, unless the termination of the Agreement is for cause.
4. To provide a vehicle for use by the LLC Manager during the performance of the duties and responsibilities of the LLC, which vehicle may also be used for de minimis personal use concurrent with work-related travel.
5. To pay (either directly or by means of reimbursement) for all memberships, training, travel, meals (excluding alcohol) and lodging and licensing that the LLC Manager, Wayne Scott Satula, requires to comply with and maintain his professional licensing and his reasonable and appropriate continuing education subject to submission of appropriate documentation and to authorization by the City, which authorization shall not unreasonably be withheld. Payment of amounts in excess of \$3,200 per year are solely at the discretion of the City.
6. In the event the LLC is unable to provide the services described herein for any period of time greater than three, continuous weeks (21 consecutive days), the payments required herein shall be suspended effective with the start of the third week, including any proration as necessary.

In addition to the above terms, the parties mutually agree to the following:

1. Except as provided for in City stipulation 1, above, which can be implemented by means of a notice and without an approved amendment to this agreement, the City and LLC will meet periodically to consider any price adjustment as may be appropriate, with any such adjustment subject to an executed amendment to this agreement.
2. It is the expectation and intent of the parties that the Manager of the LLC shall fulfill and shall have the full authority of the City to fulfill all of the duties and municipal responsibilities for a Building Inspector and for the department head of the City's Building Inspection Department as provided for by State Statute, the Administrative Code of the State of Wisconsin Department of Safety and Professional Services, and the City of Franklin Municipal Ordinances, including the Unified Development Ordinance. As such,

without limitation due to enumeration, the individual may issue tickets and notices, take any necessary corrective or enforcement actions, and represent the City in a court of law on such matters intended to be under that individual's authority per this Agreement.

- The parties acknowledge that the City is considering changing the name of the Building Inspection Department and the position titles in the department, including that of Building Inspector. Any such name change shall not affect the terms or implementation of this contract, which shall remain enforced under either such naming format.

IN WITNESS WHEREOF, the Parties have set their hands and seals as specified.

CITY OF FRANKLIN

**SOUTHEAST INSPECTION
MANAGEMENT SERVICES, LLC**

By: *Stephen R. Olson* 12/19/18
Stephen R. Olson, Mayor Date

By: *[Signature]*
Signature

Sandra L. Wesolowski 12/26/2018
Sandra L. Wesolowski, City Clerk Date

cc: SCOTT SATCHEL
Print Name

Paul Rotzenberg 12-19-2018
Paul Rotzenberg, Date
Director of Finance & Treasurer

12-19-18
Date

Jesse A. Wesolowski 12/20/18
Jesse A. Wesolowski, City Attorney, Date

Lisa C. Heering
Witness



<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;">December 3, 2019</p>
<p style="text-align: center;">REPORTS AND RECOMMENDATIONS</p>	<p style="text-align: center;">RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO AMEND SITE PLAN RESOLUTION NO. 2018-001 A RESOLUTION APPROVING A SITE PLAN FOR CONSTRUCTION OF BUILDING C1, A 3-STORY RETAIL/OFFICE BUILDING; TO AMEND STANDARDS, FINDINGS AND DECISION OF THE CITY OF FRANKLIN COMMON COUNCIL FOR A SPECIAL EXCEPTION TO CERTAIN NATURAL RESOURCE PROVISIONS DATED JANUARY 9, 2018; AND TO AMEND THE TERMS OF PLANNED DEVELOPMENT DISTRICT NO. 37; AS THEY PERTAIN TO ISSUANCE OF A FINAL OCCUPANCY PERMIT FOR BUILDING C1 (OFFICE/RETAIL) WITHIN PLANNED DEVELOPMENT DISTRICT NO. 37 (THE ROCK SPORTS COMPLEX/BALLPARK COMMONS)</p>	<p style="text-align: center;">ITEM NUMBER</p> <p style="text-align: center;"><i>6, 8.</i></p>

See attached draft Resolution with regard to issuance of a Final Occupancy Permit for Building C1 (a 3-Story Retail/Office Building) within Planned Development District No. 37 (The Rock Sports Complex/Ballpark Commons).

COUNCIL ACTION REQUESTED

A motion to approve Resolution No. 2019-____, A Resolution Authorizing Certain Officials to Amend Site Plan Resolution No. 2018-001 A Resolution Approving a Site Plan for Construction of Building C1, A 3-Story Retail/Office Building; to Amend Standards, Findings and Decision of the City of Franklin Common Council for a Special Exception to Certain Natural Resource Provisions Dated January 9, 2018; and to Amend the Terms of Planned Development District No. 37; as they Pertain to Issuance of a Final Occupancy Permit for Building C1 (Office/Retail) within Planned Development District No. 37 (The Rock Sports Complex/Ballpark Commons).

RESOLUTION NO. 2019-_____

A RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO AMEND SITE PLAN RESOLUTION NO. 2018-001 A RESOLUTION APPROVING A SITE PLAN FOR CONSTRUCTION OF BUILDING C1, A 3-STORY RETAIL/OFFICE BUILDING; TO AMEND STANDARDS, FINDINGS AND DECISION OF THE CITY OF FRANKLIN COMMON COUNCIL FOR A SPECIAL EXCEPTION TO CERTAIN NATURAL RESOURCE PROVISIONS DATED JANUARY 9, 2018; AND TO AMEND THE TERMS OF PLANNED DEVELOPMENT DISTRICT NO. 37; AS THEY PERTAIN TO ISSUANCE OF A FINAL OCCUPANCY PERMIT FOR BUILDING C1 (OFFICE/RETAIL) WITHIN PLANNED DEVELOPMENT DISTRICT NO. 37 (THE ROCK SPORTS COMPLEX/BALLPARK COMMONS)

WHEREAS, condition number 7 of Site Plan Resolution No. 2018-001 approved by the City of Franklin Plan Commission on April 5, 2018 states in part “The applicant shall revise the Landscape Plan to comply with all Unified Development Ordinance standards...for Department of City Development review and approval prior to issuance of a Building Permit.”; and

WHEREAS, Ordinance No. 2018-2333, An Ordinance to Amend the Unified Development Ordinance Planned Development District No. 37 (The Rock Sports Complex/Ballpark Commons) approved by the City of Franklin Common Council on June 19, 2018 amended Section 15-3.0442B.14. of the Ordinance to state “Furthermore, the revised Landscape Plans for Buildings C1, C2, C3, C4, S1, S2, S3, B1, B2, B3, B4, and A1/P17 shall be submitted for Plan Commission review and approval prior to issuance of Occupancy Permits for those buildings.”; and

WHEREAS, condition numbers 1, 8, 10, 11, 12, 14, and 17 of the Standards, Findings and Decision of the City of Franklin Common Council for a Special Exception to Certain Natural Resource Provisions Dated January 9, 2018, pertain to completion and approval of certain Landscape Bufferyard and Conservation Easements, and certain Berm Planting, Natural Resource Protection, and Mitigation Plan revisions prior to issuance of building permits; and

WHEREAS, at its May 21, 2019 regularly scheduled meeting, pursuant to agenda item G.7., the Common Council was provided a Guaranty of Completion of Landscaping and Natural Resource Mitigation, and was informed by the City Director of Inspection Services that the issuance of temporary occupancy permits is a long-standing administrative decision by staff process singularly based upon health and safety determinations, which Occupancy Permit for Building C1 was subsequently issued; and

WHEREAS, City staff review of the subject Landscaping, Natural Resource Protection, and Natural Resource Mitigation Plans, and of the subject Landscape Bufferyard and Conservation Easements are nearing completion, and that installation of such required plantings are not appropriate during cold weather months; and

WHEREAS, City staff have been informed that certain financing, loans, and payments are on hold until such time as a Final Occupancy Permit has been issued; and

WHEREAS, under the aforesaid circumstances, in acknowledgement of those more specific grants recorded between the City and Owner, it is reasonable now to release the Final Occupancy Permit for Building C1 subject to the owner obtaining final City approval of all Landscaping, Natural Resource Protection, and Natural Resource Mitigation Plans, and of the subject Landscape Bufferyard and Conservation Easements, and installing all said required plantings within 6 months of approval of this Resolution by the City of Franklin Common Council.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that the release of the Final Occupancy Permit, in such form and content as stated herein, be and the same is hereby approved.

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

Introduced at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2019.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2019.

APPROVED:

Stephen R. Olson, Mayor

ATTEST:

Sandra L. Wesolowski, City Clerk

AYES _____ NOES _____ ABSENT _____

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<p style="text-align: center;">APPROVAL</p> 	<p style="text-align: center;">REQUEST FOR COUNCIL ACTION</p>	<p style="text-align: center;">MEETING DATE 12/3/2019</p>
<p style="text-align: center;">REPORTS & RECOMMENDATIONS</p>	<p style="text-align: center;">Re-Authorize funding for Quarry Survey Services with Lynch & Associates</p>	<p style="text-align: center;">ITEM NUMBER 6, 9,</p>

At their meeting of March 19, 2019, the Common Council approved \$6,000 from General Fund Contingency for completion of a survey and authorized an amendment to the Quarry Monitoring Professional Services Agreement for 2019 with Stantec. That amendment was executed in June of 2019. Council reviewed that amendment at their meeting of July 16, 2019, where the Council concluded that an independent party was best to perform the work and authorized Alderwoman Wilhelm to "work with staff to come up with a solution." That process resulted in bidding out the services with the Common Council at the last meeting authorizing awarding the contract to Lynch and Associates for \$6,400.

The purpose of this action sheet is to request a re-authorization of appropriations to fund the recently approved contract. Alderwoman Wilhelm confirms that Stantec is fully aware that they are not performing the survey work previously discussed and will not present any billings against that \$6,000 change order. However, from a technical, legal standpoint, the initial authorization is tied up by the executed change order with Stantec, even though we have no expectation that charges will be forthcoming. The quickest solution is to simply re-authorize an additional appropriation from the General Fund Contingency.

With the understanding that Stantec will not be performing the work on the change order, staff recommends the following motion be approved so that a contract with Lynch, as previously approved, may be executed.

The General Fund Contingency has sufficient funds to cover the \$6,400. The unused Stantec appropriation will simply be evaporated when their 2019 contract is closed out. After the contract is executed, an encumbrance will be booked so the requested 2019 appropriation will carry forward to 2020 should the work not be completed in December.

COUNCIL ACTION REQUESTED

Motion to authorize that \$6,400 of General Fund Contingency appropriations be used to fund the Quarry Survey Services contract with Lynch & Associates, which contract was previously approved at the November 19, 2019 meeting.

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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;"><i>12/3/2019</i></p>
<p style="text-align: center;">REPORTS AND RECOMMENDATIONS</p>	<p style="text-align: center;">Recommendation to the Common Council from the Quarry Monitoring Committee to direct Staff to provide the Common Council with a status update on previous Council actions.</p>	<p style="text-align: center;">ITEM NUMBER</p> <p style="text-align: center;"><i>G.10.</i></p>

At the September 26 and November 14, 2019 Quarry Monitoring Committee (QMC) meetings, the QMC discussed the outstanding Council actions related to citizen concerns and the QMC's recommendations.

At the November 14, 2019 QMC meeting Ald. Barber moved to send a recommendation to the Common Council from the Quarry Monitoring Committee to direct Staff to provide the Common Council with a status update on previous Council actions. The status update shall include: actions taken, outstanding items and the date when the actions will be taken.

At the September QMC, Aldw Wilhelm read the status of the items into the record based on research of citizen requests addressed on the following Council meeting dates with corresponding motions (see attached motions)

December 4, 2018, January 22, 2019, March 19, 2019, June 18, 2019 and July 16, 2019

The January and March Council action sheets and motions are of particular importance. While Staff could be directed again and provide their own research, a basic breakdown of the outstanding issues citizens want the Council to address with comment are provided for consideration.

Quarry information on the website to be updated

- o Mayor/Council/ or Director of Administration could appoint someone else if the DOA is busy

Review QMC appointments in consideration of adding interested citizens

- o This item can be addressed with a mayoral appointment. No new appointment has been brought forward since the opposition of a previous appointment.
- o Review QMC ordinance QMC has completed its review and the item is ready for Council

Reclamation Plan Status

- o QMC completed their input a very long time ago and provided its recommendation to Council.
- o Mayor/staff would have to add it to the Plan Commission agenda before a public hearing prior to Council adoption.
- o For this pending item, Council could again direct staff to address this or direct placement on the agenda

Quarry PDD blasting distance is not monitored

- o Request a survey of blasting areas for distance limits as set within the PDD – In process

Staff to send letter to Quarry operators on concerns and funding for PDD compliance survey

- o The Council has allocated funds given the letter (directed in March) letter is pending.

Blasting levels within PDD 23 & 24 were set when blasting was in the northern section but blasting has gained proximity to homes. Residents note home foundation impacts believed to be caused by blasting.

- o Review and seek methods to tighten the allowable blasting levels set within PDD. The City Attorney provided input but the item was delayed by State action and has not returned to Council.
- o Seek consultant assistance to assess blasting impacts to home foundations and/or study blasting operations as a nuisance and take appropriate action.

ACTION REQUESTED – Timely proceed with carrying out previous Council motions

- QUARRY MONITORING G 2 Alderman Taylor moved to direct staff to review and address all of the suggested potential review recommendations from the Quarry Monitoring Committee and return to the Common Council when appropriate upon sufficient fact finding, with an update no later than February 1, 2019. Seconded by Alderman Dandrea All voted Aye; motion carried.
- POLICE POSITIONS G 3 Alderman Nelson moved to approve the elimination of one patrol officer position and add one detective position to the Police Department and direct staff to find the necessary \$8,400 difference. Seconded by Alderman Mayer All voted Aye, motion carried
- RES 2018-7442 SMART AGREEMENT G.4. Alderman Taylor moved to adopt Resolution No 2018-7442, A RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO EXECUTE A SUBURBAN MUTUAL ASSISTANCE RESPONSE TEAMS AGREEMENT TO PROVIDE FOR GOVERNMENTAL LAW ENFORCEMENT AGENCIES' MUTUAL AID AMONG SOUTHEASTERN WISCONSIN COUNTIES, CITIES, VILLAGES AND TOWNS. Seconded by Alderman Mayer All voted Aye, motion carried
- S 68TH ST. ROAD IMPROVEMENTS G.5 Alderman Barber moved to adopt the Scoping Phase report for S. 68th Street improvements, select the recommendation for a absolute minimum alternative cross-section; select two vertical curves just south of W Drexel Avenue and just north of Terrace Drive for lowering; and direct staff to finalize professional services contract for Phase 2 of detail design of S 68th Street from W Loomis Road to W. Puetz Road with Lakeside Engineering and return to Common Council for execution. Seconded by Alderman Dandrea. On roll call, Alderman Dandrea, Alderwoman Wilhelm, Alderman Barber, and Alderman Nelson voted Aye; Alderman Mayer and Alderman Taylor voted No Motion carried
- RES. 2018-7443 LANDFILL MONITORING AGREEMENT WITH JSA ENVIRONMENTAL G.6 Alderman Taylor moved to adopt Resolution No 2018-7443, A RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO EXECUTE AN AGREEMENT TO CONTINUE PROFESSIONAL ENVIRONMENTAL ENGINEERING SERVICES TO MONITOR COMPLIANCE AT THE METRO RECYCLING & DISPOSAL FACILITY TO DECEMBER 31, 2019, WITH JSA ENVIRONMENTAL, INC. Seconded by Alderwoman Wilhelm. All voted Aye, motion carried.
- RES 2018-7444 AMEND SPECIAL USE FOR HOPPE WOODWORKS, INC G 7 Alderman Taylor moved to adopt Resolution No 2018-7444, A SPECIAL USE AMENDMENT TO AMEND RESOLUTION NO 97-4563 IMPOSING CONDITIONS AND RESTRICTIONS FOR THE APPROVAL OF A SPECIAL USE FOR HOPPE

<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;">January 22, 2019</p>
<p style="text-align: center;">REPORTS AND RECOMMENDATIONS</p>	<p style="text-align: center;">Update from the Quarry Monitoring Committee on the suggested potential recommendations to address citizen questions and concerns, as directed the by Common Council.</p>	<p style="text-align: center;">ITEM NUMBER</p> <p style="text-align: center;"><i>G.H.</i></p>

At the December 4, 2018 meeting of the Common Council, Alderman Taylor moved to direct staff to review and address all of the suggested potential recommendations from the Quarry Monitoring Committee (QMC) and return to the Common Council when appropriate upon sufficient fact finding, with an update no later than February 1, 2019. Seconded by Alderman Dandrea. All voted Aye: motion carried.

The below potential recommendations are a direct result of citizen comments and questions. Given the QMC is a recommending body to the Council, any direction or action on the listed items would fall under the jurisdiction of the Common Council.

Citizen requests that can be addressed by staff direction:

1. Add Quarry packets to the online system (Mark L.)
2. Quarry information on the website to be updated (Mark L.)
3. QMC meetings held in the Council chambers for better sound and recording (Joel D.)
4. Previous QMC article to be distributed to residents (1-pg. newsletter of website information and associated cost)
5. Allow citizen access to online blasting information (in progress – Joel/Stantec)
6. Continue to work on citizen questions to bring back before the Council (as previously directed)
 - Note: Many of the questions pertaining to item 6 have been answered but need to be collated and summarized. This is to be placed on the February agenda.

Citizen requests that involve additional Council attention:

1. Renew the monitoring contract (see Stantec contract on agenda)
 2. Provide additional monitoring when blasting is not halted over the winter season (see Stantec contract)
 3. Approval a different monitoring system as suggested by Stantec (see Stantec contract)
 4. Review of the Stantec survey related to the blasting distance from the S. 51st St. centerline (as set within the PDD)
 5. Review proximity to homes and current blasting levels allowed (as set within the PDD)
 6. Review QMC appointments in consideration of adding interested citizens (some terms are ending in 2019)
 7. Update the Council on the content and status of the *Quarry Reclamation Plan* (QMC completed its review)
- * Note: 1-3 Could be addressed within the renewed Stantec monitoring contract on the agenda.

COUNCIL ACTION REQUESTED

1. Motion to direct staff to act upon the citizen requests as enumerated within items 1-6 (state which or all items to be acted upon) with an update by (set date).
and
2. Motion to bring forth for Council action items 1-7 (or state which items) with an update by (date).

Monitoring meetings to be held in the Council Chambers for better sound and recording; Allow citizen access to online blasting information, Continue to work on citizen questions to be brought before the Common Council, and further that the previous Quarry Monitoring Committee newsletter article be addressed as a short write-up with a link to the website. Seconded by Alderman Barber. All voted Aye; motion carried.

Alderman Wilhelm further moved to bring forth the following Council action items, with an update by the second meeting in March, 2019. Review of the Stantec survey related to the blasting distance from the S. 51st Street centerline (as set within the Planned Development District); Review the proximity to homes and current blasting levels allowed (as set within the PDD), Update the Common Council on the content and status of the Quarry Reclamation Plan; and Review the Quarry Monitoring Committee appointments in consideration of adding interested citizens, with this item to be addressed in the Mayor's appointments. Seconded by Alderman Barber. All voted Aye; motion carried.

CONTRACT FOR 2019 QUARRY MONITORING G 5

Alderman Barber moved to approve the 2019 Quarry Monitoring Professional Services Agreement with Attachment A containing service details and costs as provided by Stantec Consulting Services, Inc., contingent upon review by the Quarry Monitoring Committee and if no objections, with the Mayor's signature to be held until the Quarry Monitoring Committee makes its final recommendation, and to authorize staff to enter into said agreement not to exceed \$46,000 subject to technical corrections by staff and the City Attorney. Seconded by Alderman Nelson. All voted Aye; motion carried.

HOFFER CLAIM FOR EXCESSIVE ASSESSMENT G 6.

Alderman Wilhelm moved to table to the next meeting the Claim for Excessive Assessment submitted by Lawrence Hoffer for Parcel 740-0122-000. Seconded by Alderman Mayer. Alderman Wilhelm withdrew her motion and Alderman Mayer then withdrew his second.

Alderman Taylor moved to deny the Claim on Excessive Assessment, Parcel 740-0122-000 by Lawrence Hoffer in accordance with Wis Stats §74.37 for the reasons submitted by City Assessor Mark Link in his memorandum dated January 14, 2019. Seconded by Alderman Dandrea. On roll call, Alderman Dandrea, Alderman Taylor, Alderman Barber voted Aye; Alderman Mayer, Alderman Wilhelm, and Alderman Nelson voted No. Mayor Olson broke the tie by voting in the affirmative. Motion carried.

<p>APPROVAL <i>Slw</i></p>	<p>REQUEST FOR COUNCIL ACTION</p>	<p>MEETING DATE 03/19/19</p>
<p>REPORTS & RECOMMENDATIONS</p>	<p>STATUS UPDATE FROM THE QUARRY MONITORING COMMITTEE (QMC) AS DIRECTED BY THE COMMON COUNCIL</p>	<p>ITEM NUMBER <i>3, 3,</i></p>

At the December 4, 2019 Council meeting, Alderman Taylor moved to direct staff to review and address all of the suggested potential recommendations from the Quarry Monitoring Committee (QMC) and return to the Common Council when appropriate upon sufficient fact finding, with an update no later than February 1, 2019.

As a follow up to the February 1st deadline above, at the January 22, 2019 meeting, the Council approved to direct staff to act upon the below citizen requests, with an update by the second meeting in March, 2019:

1. Add Quarry Monitoring meeting packets to the online system **Status:** Complete
2. Update Quarry website information. **Status:** Ongoing, with map recently updated.
3. QMC meetings held in the Council Chambers **Status:** Acceptable, as room is available.
4. Citizens may request blasting information via Aldermen. **Status:** Available by request.
5. Citizen questions to come before the Council. **Status:** List needs staff information.
6. QMC newsletter article will be a short write-up with web link. **Status:** A version went to print.

The Council, on January 22, 2019 further approved a second motion to bring forth the following Council action items, with an update by the second meeting in March, 2019:

7. Review of the Stantec survey related to the blasting distance from the S. 51st Street.
8. Review the proximity to homes and current blasting levels allowed per the PDD.
9. Update the Common Council on the content and status of the Reclamation Plan.
10. Review the QMC appointments in consideration of adding interested citizens, with this item to be addressed in the Mayor's appointments

STATUS FOR ITEMS # 7 & 8

It should be noted that residents have requested items 7 & 8 be given the *highest priority*. Due to the amount of information needed and request to address items 7 & 8 as a higher priority, the QMC recommends items 9 & 10 be addressed at a future Council meeting.

7. **Stantec survey related to the blasting distance from S. 51st St.** - Stantec Consulting Services Inc. (Stantec) was retained by Franklin to complete survey services related to the 650 ft. blasting setback from 51st St. Stantec provided Field Survey Reports to the QMC dated July 15, 2016 and June 12, 2017. Survey data was requested to help identify the Extraction Limit set within PDD 23 & 24.

The City Attorney provided a memo dated January 11, 2017 in regard to the "centerline" and "extraction area". The memo advises that the Extraction Area Boundary is from the then centerline of 51st Street out 650 feet and that no limestone shall be extracted from within that 650 feet. It further advises that where the centerline is now or was is an engineering matter.

It is clear that nothing is to be extracted from 650 feet west of the 51st Street centerline. Therefore, Stantec measured pavement to pavement to determine the centerline of the street. However, some individuals believe the centerline moved because the centerline was surveyed 1.4 to 2.6 feet from the section line.

Because of this difference, Stantec provided both the distance 650 feet from the section line and 650 feet from the centerline.

The 2016 survey indicates when using the centerline, the northern area B (not yet blasted) had *material* at its maximum of 9.61 feet over into the setback. For the southern area A (quarried) the *top of wall* at its maximum is 8.39 feet over into the setback. It is important to note, however, that a portion of the safety shelf in the northern portion of Area A has eroded thus causing the top of the wall measurement to be farther east than the actual vertical wall. Using the section line, the setbacks were 7.09 feet and for 6.66 feet over, respectively. (See survey attached).

The 2017 surveys are labeled Area B, the northern section, which had not previously been quarried. Both centerline and survey line for Area B indicate the excavation at its minimum is 4.16 feet clear of the setback. Therefore, one could conclude Area B surface *material* over into the setback in 2016 was not a factor in 2017 after a defined wall was blasted. (See survey attached).

8. **Review the proximity to homes and current blasting levels allowed per the PDD.** - Residents have compellingly requested if the blasting levels set forth within the Quarry operations guiding documents (known as PDD 23 & 24) can be reviewed to better protect the health, safety and welfare of the community. It has been pointed out to the QMC and the Council that the PDD's were approved in 1997 (22-years previously) and at that time, the blasting activity was much further from residential homes. The pertaining sections of the PDD are attached and the City attorney is asked to opine on the ability to revisit the standards.

Recommendation: Item 7: Due to the length of time from the last survey and also the need for defining the southern blasting area adjacent Drexel Avenue, where blasting is occurring more often, the QMC recommends a new survey of both the North/South boundary along 51st St and the East/West Drexel boundary and that a defined location of the centerline be set, and that surveying funds comes from the General Fund, or as appropriate. The costs is estimated to be \$ 3,000 per survey/measurement (\$6,000 total) based on the previously funded survey.

Further, due to the question of the centerline being an engineering matter, it would save survey costs if there could be a determination on the proper survey point, thereby allowing survey data from one central point.

Recommendation: Item 8: Based on citizen request and concerns, the City attorney is asked to opine on the ability to revisit the PDD blasting standards.

COUNCIL ACTIONS REQUESTED

Motion to approve an amendment to the Quarry Monitoring Professional Services Agreement for 2019 to include the addition of a new survey of both the North/South boundary along 51st Street and the East/West boundary along Drexel Avenue and that the surveying funds come from the General Fund, or as appropriate, at a cost not to exceed \$6,000 and to direct engineering to determine the survey point of reference prior to survey commencement.

Motion to direct the City Attorney to provide an opinion on the ability of the City to revisit the Planned Development District (PDD) No. 23 and 24 standards pertaining to blasting levels allowed by the two PDD's.

STATUS UPDATE FROM
QUARRY MONITORING
COMMITTEE AND
PDD NO. 23 AND 24
STANDARDS

G 3 Alderwoman Wilhelm moved to approve an amendment to the Quarry Monitoring Professional Services Agreement for 2019 to include the addition of a new survey of both north/south boundary along S. 51st Street and the east/west boundary along W. Drexel Avenue and that the surveying funds come from the General Fund (Contingency), or as appropriate, at a cost not to exceed \$6,000 and further that the survey point would be from the current centerline of S 51st Street. Seconded by Alderman Barber All voted Aye; motion carried.

Alderwoman Wilhelm moved to have staff address the existing complaint regarding the setback as it relates to the field of loose material beyond the blasting area, and the survey needs to address blasting areas and that a letter be sent to Payne and Dolan notifying them of the City's concerns and the request to fund an additional survey in the Stantec contract for this year, and to address any fine language within the letter. Seconded by Alderman Barber All voted Aye; motion carried.

Alderwoman Wilhelm moved to direct the City Attorney to provide an opinion on the ability of the City to revisit the Planned Development District No 23 and 24 Standards pertaining to blasting levels allowed by the two PDDs with a date to return back to the Council no later than the last meeting in June 2019. Seconded by Alderman Barber All voted Aye; motion carried

REPLACEMENT OF FIRE
ENGINE

G.5 Alderman Taylor motion to authorize the Mayor and Director of Clerk Services, and other staff as required, to execute a purchase contract, funded through the Equipment Replacement Fund, with Seagrave Fire Apparatus, LLC, for replacement of Engine #206, a 1999 Fire Engine, with a 2019 Seagrave Model TB50CA, Marauder Pumper for \$633,395 Seconded by Alderman Dandrea All voted Aye, motion carried

RES 2019-7474
CONDITIONALLY
APPROVING A
CONDOMINIUM PLAT
FOR PARK CIRCLE
CONDOMINIUMS (9733
S. 76TH ST.) (NEUMANN
DEVELOPMENTS, INC.,
APPLICANT)

G.6 Alderman Nelson moved to adopt Resolution No. 2019-7474, A RESOLUTION TO AMEND RESOLUTION NO. 2017-7291, A RESOLUTION CONDITIONALLY APPROVING A CONDOMINIUM PLAT FOR PARK CIRCLE CONDOMINIUMS AT APPROXIMATELY 9733 SOUTH 76TH STREET (NEUMANN DEVELOPMENTS, INC., APPLICANT), TO INCLUDE AND DEPICT ALL PROPOSED 54 CONDOMINIUM UNITS UPON THE PLAT, INCLUDING IN THE WIS. STAT §703.26 EXPANDING CONDOMINIUM AREAS; TO RATIFY AND APPROVE NUNC PRO TUNC THE RECORDING OF THE PLAT ON FEBRUARY 21, 2019 AS DOCUMENT #10849951; TO WAIVE ANY PRIOR REGULATORY TIME LIMITS FOR THE RECORDING OF THE PLAT, TO AUTHORIZE DEPARTMENT

- UNMARKED SQUAD PURCHASE G.2 Alderman Taylor moved to approve the purchase of an unmarked squad for the Franklin Police Department. Seconded by Alderwoman Wilhelm All voted, Aye, motion carried.
- BALLPARK COMMONS UPDATE G.3 There was no project update on Ballpark Commons at this meeting Future updates will be placed on Common Council meeting agendas only when there is an update to present.
- PDD NO 23 AND 24 QUARRY G.4 Alderwoman Wilhelm moved to table an update, reference the Planned Development District No 23 and 24, by the City Attorney until a State decision limiting local control of quarries is made with a letter sent to the Governor, State Senators Craig and Larson, and State Representatives Rodriguez, Skowronski, and Wichgers Seconded by Alderman Taylor. All voted Aye; motion carried
- KAYLA'S PLAYGROUND AMBASSADOR PROGRAM MANUAL G.5 Alderwoman Wilhelm moved to approve changes to the Kayla's Playground Ambassador Program Manual that cash donations be accepted and received only by the City Finance Department Seconded by Alderman Nelson. All voted Aye; motion carried
- RES. 2019-7508 BOND TRUST SERVICES AS REPLACEMENT AGENT G.6. Alderman Taylor moved to adopt Resolution No. 2019-7508, A RESOLUTION APPOINTING BOND TRUST SERVICES CORPORATION TO SERVE AS FISCAL AGENT IN CONNECTION WITH THE GENERAL OBLIGATION REFUNDING BONDS, 2016A, DATED APRIL 20, 2016. Seconded by Alderman Barber All voted Aye; motion carried.
- RES 2019-7509 FIRST AMENDMENT TID 6 LOOMIS AND RYAN, INC. G 7 Alderman Nelson moved to adopt Resolution No. 2019-7509, A RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO EXECUTE A FIRST AMENDMENT TO TAX INCREMENTAL DISTRICT NO. 6 DEVELOPMENT AGREEMENT BETWEEN THE CITY OF FRANKLIN AND LOOMIS AND RYAN, INC. Seconded by Alderman Mayer All voted Aye; motion carried.
- ORD 2019-2381 BUDGET FOR TID 7 VELO VILLAGE G.8 Alderman Taylor moved to adopt Ordinance No. 2019-2381, AN ORDINANCE TO AMEND ORDINANCE NO 2018-2345, AN ORDINANCE ADOPTING THE 2019 ANNUAL BUDGETS FOR THE CITY OF FRANKLIN FOR FISCAL YEAR 2019 TO ESTABLISH A 2019 BUDGET FOR TID 7 VELO VILLAGE. Seconded by Alderman Barber On roll call, Alderman Nelson, Alderman Barber, Alderman Taylor, Alderwoman Wilhelm, and Alderman Dandrea voted Aye; Alderman Mayer voted No. Motion carried.

- RES 2019-7516
SUBDIVISION DEV
AGREEMENT FOR
ASPEN WOODS PHASE II
S. 47TH ST. AND W.
PUETZ RD
- G 3 Alderman Taylor moved to suspend the regular order of business to allow Matt Cudney to speak. Seconded by Alderman Barber. All voted Aye; motion carried. Alderman Taylor moved to return to the regular order of business. Seconded by Alderman Barber. All voted Aye, motion carried.
- Alderman Taylor moved to adopt Resolution No. 2019-7516, A RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO EXECUTE A SUBDIVISION DEVELOPMENT AGREEMENT WITH THE DEVELOPER OF ASPEN WOODS SUBDIVISION PHASE II LOCATED ON S. 47TH STREET AND W. PUETZ ROAD, as amended and upon review and acceptance by the City Attorney. Seconded by Alderman Barber. All voted, Aye; motion carried.
- QUARRY MONITORING
COMMITTEE
RECOMMENDATION
- G.4. Alderwoman Wilhelm will work with staff to come up with a solution to determine the Quarry north/south boundary along S. 51st Street and the east/west boundary along W. Drexel Avenue and stake them out. Seconded by Alderman Taylor. All voted Aye, motion carried.
- No action was taken at this time regarding the status update to provide for a citizen-appointed member to the Committee.
- PLEASANT VIEW PARK
SITE PLAN FOR
DEVELOPMENT
- G 5 Alderwoman Wilhelm moved to direct the Director of Administration, working with Alderwoman Wilhelm, to prepare a contract and scope of services for an update to the site plan for development of Pleasant View Park, including but not limited to landscape plan, lighting, and picnic tables. Seconded by Alderman Barber. All voted Aye, motion carried.
- FRANKLIN SR. CITIZENS
SEMI-ANNUAL UPDATE
- G 6. Alderman Taylor moved to receive and place on file a 2019 semi-annual update of the Franklin Senior Citizens, Inc. Seconded by Alderman Barber. All voted Aye, motion carried.
- CDBG PROJECTS
- G.7. Alderman Taylor moved to authorize the Director of Administration to submit Letters of Support for the Eras Senior Network Neighborhood Outreach Program for \$5,000 and the Oak Creek Salvation Army, Homelessness program for \$3,000; to submit a project application for Senior Health-Related Educational Programming for \$5,000; and to submit a project application for a Franklin Home Repair Grant Program, that would be administered directly through Milwaukee County, for the remaining portion of the City's annual allocation; and further, should the Eras Senior Network not apply for CDBG funding, that the Letter of Support for the Oak Creek Salvation Army, Homelessness Program to be increased to

City of Franklin
Quarry Monitoring Committee Meeting
September 26, 2019
Minutes

Approved
October 30, 2019

I. CALL TO ORDER

Alderwoman Wilhelm called the September, 2019 Quarry Monitoring Committee meeting to order at 6:17 p.m. in the Council Chambers at Franklin City Hall, 9229 West Loomis Road, Franklin, Wisconsin.

Present were Alderwoman Kristen Wilhelm, Alderman Mike Barber, Members Margie Shore and Fred Knueppel Associate Planner Régulo Martínez-Montilva arrived at 6:15 p.m.

II. WELCOME NEW STAFF MEMBER RÉGULO MARTÍNEZ-MONTILVA.

Associate Planner Régulo Martínez-Montilva introduced himself as the new staff member for the Quarry Monitoring Committee.

III. APPROVAL OF THE MINUTES

a Regular meeting of July 11, 2019

Member Fred Knueppel moved, and Alderman Barber seconded, a motion to approve the additional corrections to the minutes of the July 11, 2019, regular meeting All present voted 'aye'; motion carried.

b. Regular meeting of August 29, 2019

Alderman Barber moved, and Member Knueppel seconded, a motion to approve the minutes of the August 29, 2019, regular meeting All present voted 'aye', motion carried

IV. CITIZEN COMMENT PERIOD

Citizen comment period opened at 6 22 p.m. and closed at 6 55 p.m. Eight persons made comments about the following topics blast event occurred on September 23, 2019, event notification and suggestions regarding minutes taking.

V. HEARINGS

a None

No action needed None taken.

V. BUSINESS

a. Review and discussion on matters pertaining to citizen complaints, blasting data from Payne & Dolan, and on Stantec's (the City's consultant) quarry monitoring activities and information

Clint Wenninger of Payne & Dolan explained blast data, specifically air over pressure and ground vibration Alderwoman Wilhelm noted that available blast data from Payne & Dolan shows a maximum of 30 recorded events and asked about previous records. Alderman Barber suggested that historic data should be provided to City staff

Clint Wenninger noted that blast readings for September 23, 2019, are in compliance with the Planned Development District (PDD) blast limits and added that this blast event occurred in the south-central area of the quarry.

Member Shore noted that she received 6 calls pertaining the September 23 blast event

Associate Planner Régulo Martínez-Montilva presented a Complaints Report and asked for input Alderwoman Wilhelm suggested to add a footnote explaining the difference between an official and an unofficial complaint. Associate Planner Régulo Martínez-Montilva agreed and clarified that a complaint is deemed official when the complainant submits a Quarry Event Complaint form through the City's website or in person at City Hall.

Alderwoman Wilhelm suggested that Payne & Dolan and Stantec data should be presented in the same reporting period for comparison purposes.

- b Status Report on the QMC recommendations sent to Council on December 4, 2018, and review of recommendation progress of the Council follow up of January 22, 2019 and March 19, 2019

Alderwoman Wilhelm commented on Common Council meeting minutes of January 22, 2019 (item G4) and noted the following completed activities. Added Quarry Monitoring meeting packets to the online system, Quarry meetings to be held in the Council Chamber for better sound and recording Alderwoman Wilhelm also noted outstanding activities: Update Quarry information on the City's website and survey related to the blasting distance from the 51st St centerline.

Alderman Barber commented about the vacancy in the Committee and suggested to include the Quarry Monitoring Committee Ordinance into next meeting packet and agenda for discussion.

Alderwoman Wilhelm commented on Common Council meeting minutes of March 19, 2019 (item G3) and reiterated that the extraction area boundary survey is in process

- c Update on the July 16, 2019 Council motion pertaining to the Stantec survey change order resulting in the unanimous vote for Alderwoman Wilhelm to work with staff to come up with a solution to determine the Quarry north/south boundary along S 51st Street and the east/west boundary along W. Drexel Avenue and stake them out

Alderwoman Wilhelm noted that she is preparing a Request for Proposal (RFP) for the blast distance survey and requested staff assistance. Associate Planner Régulo Martínez-Montilva noted that he will consult with his supervisor on this matter.

VI. SCHEDULE NEXT MEETING

It was agreed that the next meeting of the Quarry Monitoring Committee would tentatively be on October 30, 2019, based on quorum

VII. ADJOURNMENT

Alderman Barber moved and Member Knueppel seconded to adjourn the September 26, 2019 Quarry Monitoring Committee meeting at 7:55 p m All present voted 'aye', motion carried

APPROVAL <i>slw</i>	REQUEST FOR COUNCIL ACTION	MEETING DATE December 3, 2019
REPORTS AND RECOMMENDATIONS	RESOLUTION AUTHORIZING CHANGE ORDER NO. 1 OF THE S. 51ST STREET AND W. DREXEL AVENUE INTERSECTION PROJECT TO ZIGNEGO COMPANY INC. IN THE AMOUNT OF \$173,859.73 SAVINGS AND AN ADDITIONAL 140 CALENDAR DAYS	ITEM NUMBER <i>G.11.</i>

BACKGROUND

On May 21, 2019, Common Council awarded a contract to Zignego Company Inc. - Waukesha, WI for the construction of the S. 51st Street and W. Drexel Avenue Intersection Project. This project is a unit price construction project totaling \$1,466,019.55 per the bid quantities. On August 20, 2019, Staff advised the Common Council on significant changes that were encountered and estimated the change order to be approximately \$175,000 in savings. Final costs are calculated based on measured quantities.

ANALYSIS

This is a unit price contract where the Contractor is paid per the actual quantity of each item installed. Although some items (lighting) are still awaiting delivery, there is not expected to be any more deviation in work items installed. A final accounting of the items indicates that there is a savings of \$173,859.73.

There was an issue with the lights in the plans and incompatibility with other City light poles and lamps. The project has essentially been complete since September, but the revised lights and poles have an extensive lead time and are not expected to be delivered and installed until mid-January 2020. Therefore, this change order allows the Contractor an additional 140 days (from September 13, 2019, to January 31, 2020).

OPTIONS

- A. Authorize the Final Change Order No. 1 in the amount of \$173,859.73 savings and an additional 140 calendar days.
- B. Direct other direction to Staff.

FISCAL NOTE

The current budget allocated to this project is \$1,650,000. The final construction costs with the \$173,859 savings is \$1,292,159.82.

COUNCIL ACTION REQUESTED

(Option A) Resolution 2019-_____ a resolution authorizing Change order No. 1 of the S. 51st Street and W. Drexel Avenue Intersection Project to Zignego Company Inc. in the amount of \$173,859.73 savings and an additional 140 calendar days.

Engineering: GEM

CHANGE ORDER
CITY OF FRANKLIN
DEPARTMENT OF ENGINEERING

Change Order No: 01/Final

Dated: 12/03/2019

PROJECT NAME South 51st Street and West Drexel Avenue Intersection

PROJECT LOCATION S. 51st Street / W. Drexel Avenue

CONTRACTOR: Zignego Co. Inc.

Contract For Construction of roundabout intersection

Nature of the Changes:
Final quantities as required and measured for project (see attached spreadsheet)

These changes result in the following adjustment of Contract Price and Contract Time: (CITY CONTRACT ONLY)

Original Contract Price \$ 1,466,019.55

Contract price prior to this Change Order \$ 1,466,019.55

Net Decrease resulting from this Change Order \$ (173,859.73)

Current contract price including this Change Order \$ 1,292,159.82

Net (Increase) in time resulting from this Change Order +140 (January 31, 2020)
(Days)

The above changes are Approved by:

Mayor

City Clerk

Contractor:

By: Stephen R. Olson

By: Sandra L. Wesolowski

By: _____

Date: _____

Date: _____

Date: _____

Director of Finance & Treasurer

City Attorney

By: Paul Rotzenberg

By: Jesse A. Wesolowski

Date: _____

Date: _____

STATE OF WISCONSIN: CITY OF FRANKLIN: MILWAUKEE COUNTY

RESOLUTION NO. 2019 - _____

A RESOLUTION AUTHORIZING CHANGE ORDER NO. 1
OF THE S. 51ST STREET AND W. DREXEL AVENUE INTERSECTION PROJECT TO
ZIGNEGO COMPANY INC. IN THE AMOUNT OF \$173,859.73 SAVINGS AND AN
ADDITIONAL 140 CALENDAR DAYS

WHEREAS, the City of Franklin awarded a contract to Zignego Company Inc. for the S. 51st Street and W. Drexel Avenue Intersection Project; and

WHEREAS, the project was a unit price contract totaling \$1,466,019.55 per the bid quantities; and

WHEREAS, the actual installed quantities resulted in a \$173,859.73 savings; and

WHEREAS, the City requested a deviation from plan materials related to the lighting system that requires an additional 140 calendar days to order, deliver, and install.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Common Council of the City of Franklin, that a contract Change Order No. 1 be approved to Zignego Company Inc. in the amount of \$173,859.73 savings and an additional 140 calendar days for the S. 51st Street and W. Drexel Avenue Intersection Project.

Introduced at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2019 by Alderman _____.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2019.

APPROVED:

Stephen R. Olson, Mayor

ATTEST:

Sandra L. Wesolowski, City Clerk

AYES _____ NOES _____ ABSENT _____

CHANGE ORDER NO. 1 (FINAL)
South 51st Street and West Drexel Avenue Intersection
Zigego Co. Inc.

Item Number	Item Description	Units	Unit Price	Plan Quantity	Actual Quantity	Price Adjustment
204 0100	Removing Pavement	SY	\$ 10 00	2480 00	2499.60	\$ 196 00
204 0150	Removing Curb & Gutter	LF	\$ 10 00	35 00	42 10	\$ 71.00
204 0155	Removing Concrete Sidewalk	SY	\$ 10.00	150 00	179 10	\$ 291.00
204 0245 01	Removing Storm Sewer 12-Inch	LF	\$ 53 82	364 00	238 00	\$ (6,781 32)
204.0245 02	Removing Storm Sewer 18-Inch	LF	\$ 55.29	45 00	8 00	\$ (2,045 73)
305 0110	Base Aggregate Dense 3/4-Inch	TON	\$ 30 00	230 00	87 05	\$ (4,288 50)
305 0120	Base Aggregate Dense 1 1/4-Inch	TON	\$ 20 00	6550 00	6226.63	\$ (6,467 40)
305 0130	Base Aggregate Dense 3-Inch	TON	\$ 20 00	5940 00	930 98	\$ (100,180 40)
310 0110	Base Aggregate Open Graded	TON	\$ 50 00	172 00	90 17	\$ (4,091 75)
405 0100	Coloring Concrete WisDOT Red	CY	\$ 119.00	150 00	147 00	\$ (357 00)
416 0170	Concrete Driveway 7-Inch	SY	\$ 68 15	98 00	106 80	\$ 599 72
416 0512	Concrete Truck Apron 12-Inch	SY	\$ 74 35	262 00	255.20	\$ (505.58)
460 6223	HMA Pavement 3 MT 58-28 S	TON	\$ 63 20	1480 00	1454 74	\$ (1,596.43)
460 6224	HMA Pavement 4 MT 58-28 S	TON	\$ 64.40	740 00	852.68	\$ 7,256.59
465 0120	Asphaltic Surface Driveways and Field Entrances	TON	\$ 120.00	40 00	42 94	\$ 352.80
521 1015	Apron Endwalls for Culvert Pipe Steel 15-Inch	EACH	\$ 391 66	3.00	2 00	\$ (391.66)
521 3115	Culvert Pipe Corrugated Steel 15-Inch	LF	\$ 88 65	38.00	38.50	\$ 44 33
522 1018	Apron Endwalls for Culvert Pipe Reinforced Concrete 18-Inch	EACH	\$ 988.40	2 00	1.00	\$ (988 40)
601 0405	Concrete Curb & Gutter 18-Inch Type A	LF	\$ 25.30	195 00	198 00	\$ 75 90
601 0407	Concrete Curb & Gutter 18-Inch Type D	LF	\$ 21.00	805 00	796 00	\$ (189 00)
601 0411	Concrete Curb & Gutter 30-Inch Type D	LF	\$ 16 15	1517.00	1520 00	\$ 48 45
601 0582	Concrete Curb & Gutter 4-Inch Sloped 36-Inch Type T	LF	\$ 22 60	271 00	272 00	\$ 22 60
601 0600	Concrete Curb Pedestrian	LF	\$ 31 00	144.00	147.00	\$ 93 00
602 0410	Concrete Sidewalk 5-Inch	SF	\$ 8.20	11475 00	11620 00	\$ 1,189 00
608.0412	Storm Sewer Pipe Reinforced Concrete Class IV 12-Inch	LF	\$ 89 40	258.00	262 60	\$ 411 24
608 0415	Storm Sewer Pipe Reinforced Concrete Class IV 15-Inch	LF	\$ 91.88	78.00	75 00	\$ (275 64)
608 0418	Storm Sewer Pipe Reinforced Concrete Class IV 18-Inch	LF	\$ 95.79	527 00	528 50	\$ 143 69
608 0524	Storm Sewer Pipe Reinforced Concrete Class V 24-Inch LF	LF	\$ 119 31	97 00	95 80	\$ (143 17)
612 0106	Pipe Underdrain 6-Inch	LF	\$ 6.50	3010.00	1792 00	\$ (7,917.00)
612 0206	Pipe Underdrain Unperforated 6-Inch	LF	\$ 10 00	19 00	18 00	\$ (10 00)
620 0100	Concrete Corrugated Median	SF	\$ 16 80	535 00	614 50	\$ 1,335 60
620 0300	Concrete Median Sloped Nose	SF	\$ 16 40	279 00	247 10	\$ (523 16)
624 0100	Water	MGAL	\$ 30 00	77 00	29 00	\$ (1,440 00)
625 0100	Topsoil	SY	\$ 6.00	5400.00	8021 72	\$ 15,730 32
627 0200	Mulching	SY	\$ 0 30	7000.00	4573 36	\$ (727 99)
628 1104	Erosion Bales	EACH	\$ 20 20	50 00	10 00	\$ (808 00)
628 1504	Silt Fence	LF	\$ 2.00	975 00	846.00	\$ (258 00)
628 1520	Silt Fence Maintenance	LF	\$ 0 20	2925.00	0.00	\$ (585.00)
628 1905	Mobilizations Erosion Control	EACH	\$ 358.60	5 00	3.00	\$ (717.20)
628 1910	Mobilizations Emergency Erosion Control	EACH	\$ 359.60	3.00	0.00	\$ (1,078 80)
628 2008	Erosion Mat Urban Class I Type B	SY	\$ 3 50	800 00	3448 36	\$ 9,269 26
628 2027	Erosion Mat Class II Type C	SY	\$ 5 60	290 00	0 00	\$ (1,624.00)
628 7005	Inlet Protection Type A	EACH	\$ 101 00	20 00	0 00	\$ (2,020 00)
628 7010	Inlet Protection Type B	EACH	\$ 70 70	5 00	12 00	\$ 494 90
628 7015	Inlet Protection Type C	EACH	\$ 75 80	15 00	9 00	\$ (454 80)
628 7504	Temporary Ditch Checks	LF	\$ 9.10	175 00	0 00	\$ (1,592 50)
628.7555	Culvert Pipe Checks	EACH	\$ 80.80	20.00	0.00	\$ (1,616.00)
628.7560	Tracking Pads	EACH	\$ 2,000.00	2 00	0 00	\$ (4,000 00)
628.7570	Rock Bags	EACH	\$ 20 20	20.00	9 00	\$ (222 20)
629 0210	Fertilizer Type B	CWT	\$ 65 70	7 00	5 06	\$ (127 46)
630.0140	Seeding Mixture No 40	LB	\$ 7 10	112 00	146 00	\$ 241 40
630 0200	Seeding Temporary	LB	\$ 3.60	57 00	37.00	\$ (72 00)
631 0300	Sod Water	MGAL	\$ 101 00	4.00	0 00	\$ (404 00)
631 1100	Sod Erosion Control	SY	\$ 7 10	110 00	0 00	\$ (781 00)
634 0808	Posts Tubular Steel 2x2-Inch x 8-FT	EACH	\$ 121.20	16 00	17 00	\$ 121 20
638 2602	Removing Signs Type II	EACH	\$ 15 20	21 00	0 00	\$ (319 20)

643 0300	Traffic Control Drums	DAYS	\$ 0 65	322 00	1350 00	\$ 668 20
643 0420	Traffic Control Barricades Type III	DAYS	\$ 0 95	2016.00	2761.00	\$ 707 75
643 0705	Traffic Control Warning Lights Type A	DAYS	\$ 0 10	4032 00	5522 00	\$ 149 00
643 0900	Traffic Control Signs	DAYS	\$ 0 60	10920.00	11043 00	\$ 73 80
643 1000	Traffic Control Signs Fixed Message	SF	\$ 10 00	399 00	398.50	\$ (5 00)
645 0111	Geotextile Type DF Schedule A	SY	\$ 4 00	1675 00	1521 00	\$ (616 00)
645 0220	Geogrid Type SR	SY	\$ 4 00	3300 00	813 33	\$ (9,946 68)
646 1005	Marking Line Paint 4-Inch	LF	\$ 1 05	5000.00	4843 00	\$ (164 85)
646.6320	Marking Dotted Extension Epoxy 18-Inch	LF	\$ 17 00	90 00	82 00	\$ (136 00)
646.7105	Marking Diagonal Paint 12-Inch	LF	\$ 9 15	170.00	169.00	\$ (9.15)
646 7420	Marking Crosswalk Epoxy Transverse Line 6-Inch	LF	\$ 15 50	300.00	292 00	\$ (124 80)
646 8005	Marking Corrugated Median Paint	SF	\$ 9 25	170 00	181 10	\$ 102 68
646.8105	Marking Curb Paint	LF	\$ 12 75	40 00	14 40	\$ (326.40)
690.0150	Sawing Asphalt	LF	\$ 2 00	170.00	199 00	\$ 58 00
690 0250	Sawing Concrete	LF	\$ 3.00	80 00	72 00	\$ (24 00)
SPV 0035 01	Excavation Below Subgrade	CY	\$ 22 00	2700.00	405 63	\$ (50,476 14)
SPV 0090 02	Marking Crosswalk Epoxy Ladder Pattern 12-Inch	LF	\$ 16 00	390 00	398 00	\$ 128 00
612.0902.S.01	Insulation Board Polystyrene 2-Inch	SY	\$ 40 09	20 00	0 00	\$ (801 80)
SPV.0090.01	Hydrant Lead C-900 PVC 6-Inch	LF	\$ 132 03	26 00	24 50	\$ (198 05)
652 0225	Conduit Rigid Nonmetallic Schedule 40 2-Inch	LF	\$ 4 92	1400 00	1268 00	\$ (649 44)
652 0235	Conduit Rigid Nonmetallic Schedule 40 3-Inch	LF	\$ 5 80	390 00	691.00	\$ 1,745 80
655 0615	Electrical Wire Lighting 10 AWG	LF	\$ 0 91	360.00	1650 00	\$ 1,173 90
655 0620	Electrical Wire Lighting 8 AWG	LF	\$ 0 94	3560 00	4125 00	\$ 531 10
655 0630	Electrical Wire Lighting 4 AWG	LF	\$ 1 32	1950 00	2223 00	\$ 360 36
SPV 0060.13	Quazite Pull Boxes 13"x24"	EACH	\$ 654 00	1 00	12.00	\$ 7,194 00
SPV 0060 14	Quazite Pull Boxes 12"x12"	EACH	\$ 414 00	7 00	0 00	\$ (2,898 00)
New Item	SS Pipe Reinf Conc CL IV 18-Inch	LF	\$ 110 00	110 00	106 50	\$ (385 00)
New Item	Corr Culvert Pipe Steel 18-Inch	LF	\$ 145 00	17 00	18 00	\$ 145 00
New Item	5" Sidewalk	SF	\$ 10 20	1265.00	1017 50	\$ (2,524 50)
TOTAL ALL CHANGES						\$ (173,859 73)

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APPROVAL <i>slw</i>	REQUEST FOR COUNCIL ACTION	MTG. DATE December 3, 2019
Reports & Recommendations	REQUEST TO BID 2020 LOCAL ROAD PROGRAM AND S. 68TH STREET VERTICAL SIGHT CURVE IMPROVEMENTS	ITEM NO. <i>G,12.</i>

BACKGROUND

Pursuant to Municipal Code section 19.11, Common Council must authorize the solicitation of bids for public construction that exceeds \$25,000.

The proposed 2020 Road Program was presented to the Board of Public Works on July 9, 2019, and forwarded to the City Finance Director. The Engineering Department requested approximately \$1,200,000. Depending on bids, portions of the following roads are included this year: W. Tumblecreek Drive; S. 50th Street; W. Hilltop Lane; S. Chapel Hill Drive; W. Beacon Hill Drive; S. 68th Street; W. Briarwood Drive; S. 41st Street; S. Scherrei Drive; W. Shields Drive; W. Franklin Drive; and W. Puetz Road. The prioritized list is attached. If the bids do not allow all roads to be included, roads will be eliminated from the bottom of the list moving up.

Another project budgeted for next year involves reconstruction of segments of S. 68th Street that abut the S. 68th Street Road Program segment. The City would like to bid them at the same time.

OPTIONS

- A. Direct Staff to proceed to advertise and bid both projects. Note that the bids will return to Common Council for awarding projects. Or,
- B. Refer back to Staff with further direction.

FISCAL NOTE

The approved appropriations are \$1,100,000 for the 2020 Local Road Improvement Plan and \$300,000 for the S. 68th Street Vertical Sight Curve Improvements.

RECOMMENDATION

(Option A) Direct Staff to solicit contractors per compliance with applicable public works bidding requirements for the 2020 Local Road Program and S. 68th Street Vertical Sight Curve Improvements.

Engineering Department: SAA

2020 LOCAL STREET IMPROVEMENT PROGRAM PRIORITIZED LISTING

<u>STREET</u>	<u>LIMITS</u>	<u>LENGTH(LF)</u>	<u>SECTION</u>	<u>PULVERIZE/MILL</u>
W. Tumblecreek Dr	S. 51 st St. to S. 46 th St.	1,640	Urban	Mill
S. 50 th St.	W. Tumblecreek Dr. to 160 ft. south of W. Tumblecreek Dr.	160	Urban	Mill
W. Hilltop Ln.	S. Sherwood Dr. to S. 35 th St.	1,000	Urban	Mill
S. Chapel Hill Dr.	W. Cascade Dr/S. Mission Dr. to W. Beacon Hill Dr.	1,175	Urban	Mill
W. Beacon Hill Dr.	S. Chapel Hill Dr. to S. Scepter Dr.	770	Urban	Mill
S. 68 th St.	W. Wild Flower Ct/W. River Terrace Dr. to W. Drexel Ave.	1,620**	Rural	Pulverize
S. 68 th St.	158 ft. north of Wildwood Creek Ct. to W. Lindner Dr.	1,960	Rural	Pulverize
W. Briarwood Dr.	S. 29 th St. to S. 27 th St.	610	Urban	Mill
S. 41 st St.	W. Southwood Dr. to Hilltop Ct.	1,030	Urban	Mill
S. Scherrei Dr.	W. St Martins Rd. to W. Scherrei Dr.	1,440	Rural	Pulverize
W. Beacon Hill Dr.	S. Forest Meadows Dr. to S. 79 th St.	1,235	Urban	Mill
W. Shields Dr.	S. 116 th St. to S. Carroll Cir.	1,040	Rural	Pulverize
W. Franklin Dr.	Ironwood Dr. to Basswood Dr.	860	Urban	Mill
W. Puetz Rd.	W. Yorkshire Cir. To S. 27 th St.	2,405	Rural	Pulverize
S. Chapel Hill Dr.	W. Beacon Hill Dr. to Chapel Hill Ct.	1,220	Urban	Mill
TOTAL		18,165		

**** Length is actually 2,420 feet but 800 feet will be reconstructed and repaved as a separate project.**

<p>APPROVAL <i>slw RA</i></p>	<p>REQUEST FOR COUNCIL ACTION</p>	<p>MEETING DATE Dec 3, 2019</p>
<p>REPORTS & RECOMMENDATIONS</p>	<p>Acceptance of Developer Guarantee as payment of Water Impact Fees upon issuing building permit in compliance with State Statute 66.0617 (6) g but in conflict with Franklin Ordinance 92-9 and the form thereof.</p>	<p>ITEM NUMBER <i>G,13.</i></p>

Background

Franklin Ordinance 92-9 requires Impact fees to be paid upon issuing a building permit. A recent State Statute 66.0617(6) g provides:

“the developer shall maintain in force a bond or irrevocable letter of credit in the amount of the unpaid fees executed in the name of the municipality”

For any total impact fee that exceeds \$75,000, the city must accept a bond or irrevocable letter of credit for a period of four years for any Impact fee that has not been spent by the municipality. The Common Council recently scheduled a Public Hearing regarding Proposed Amendments to the Impact Fee Ordinance addressing necessary changes related to Statutory requirements.

As a condition of City infrastructure grants included in the recently completed Amendment to the TID5 Developer’s Agreement, the Developer was to pull building permits for the MOSH and Luxe Golf projects.

Ballpark Commons Developer has request that the City accept the Developer’s Personal Guarantee for the \$500,486 of Water Impact fees on the MOSH and Luxe Golf building permits.

Analysis

The State Statute permits Impact fees that have not been spent by the municipality to be paid by a ‘bond’ or ‘irrevocable letter of credit’ for a period of four years or six months prior to expending the Impact fees. The City of Franklin currently holds \$2,550,000 of unspent Water Impact fees. The Water Utility is working on a new Elevated Water Storage Tank that is included in the 2002 Impact Fee Study that would expend all of those funds. The project is currently scheduled for 2021.

The City has accepted the Developer’s personal guarantee on TID5 Debt Service. The Developer has requested that the personal guarantee extend to the Water Impact Fees for the MOSH and Luxe Golf projects.

The subject matter has been presented to the Legal Services Department for review at the time of this writing.

Recommendation

A copy of the Continuing Guaranty on the TID5 Debt Service is attached. This document would need to be amended to include the Water Impact fees.

The Developer will provide the form of the guarantee at the December 3, 2019 meeting.

COUNCIL ACTION REQUESTED

Motion to Accept the Developer Guarantee, in a form as approved by the City Attorney, as payment of Water Impact Fees upon issuing building permit in compliance with State Statute 66.0617(6) g.

CONTINUING GUARANTY (UNLIMITED)

THIS CONTINUING GUARANTY (UNLIMITED) ("Guaranty") is made as of this ____ day of February 2018, by Michael E. Zimmerman, an individual resident of Wisconsin ("Guarantor"), in favor of the City of Franklin, a Wisconsin municipal corporation (the "City").

WITNESSETH:

WHEREAS, Guarantor is owner of BPC Master Developer, LLC, a Wisconsin limited liability company ("Developer"). Developer and the City are party to a Development Agreement dated February __, 2018 (the "Development Agreement");

WHEREAS, Developer and/or Developer's affiliates are the owners of that certain real property legally described in Exhibit A attached hereto (the "Property").

WHEREAS, the Property is located within the boundaries of Tax Incremental District No. 5, City of Franklin, Wisconsin (the "District"). Pursuant to Wis. Stat. § 66.1105, the City adopted a plan for redevelopment within the District

WHEREAS, the Developer plans on constructing a mixed-use development consisting of a stadium, sports village, restaurants, apartments, retail buildings, a hotel and offices on the Property, with an estimated development cost of approximately One Hundred Thirty Million and No/100 US Dollars (\$130,000,000) (the "Project").

WHEREAS, pursuant to the Development Agreement, the City has agreed to fund up to Twenty Two Million Five Hundred Twenty One Thousand Four Hundred Eighty Four and No/100 US Dollars (\$22,521,484) through the issuance of one or more general obligation bonds, promissory notes, or note anticipation notes, revenue bonds or combination thereof (the "GO Bonds").

WHEREAS, as a condition of issuing the GO Bonds and paying for all or some of the TIF Improvements, the City has required that Guarantor execute and deliver this Guaranty. Based on sound business judgment, Guarantor deems it in Guarantor's best interest to execute and deliver to the City the Guaranty because, among other considerations, Guarantor has an interest in or relationship with Developer, and Guarantor expects to derive valuable benefits as a result of the Project.

NOW, THEREFORE, in consideration of the above and other valuable consideration, receipt and sufficiency of which are acknowledged, Guarantor agrees as follows:

Section 1. Nature of Guaranty. This is an unlimited and continuing guaranty of payment. Developer has agreed to create at least (i) Twenty Million Dollars (\$20,000,000) of new assessed value as the result of the construction of the Project on or before January 1, 2019, (ii) Fifty Million Dollars (\$50,000,000.00) of new assessed value as a result of the construction of the Project on or before January 1, 2020, and (iii) Ninety-Four Million (\$94,000,000.00) of new assessed value as a result of construction of the Project on or before January 1, 2021, and to maintain such assessed values until the GO Bonds have been paid in full or defeased. In the event of a violation of this covenant, the City may demand in writing that Guarantor pay any shortfall on the regularly scheduled principal and interest payments on the GO Bonds caused by such violation (the "Obligations"). For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and to induce the City to issue the GO Bonds, the Guarantor guarantees the payment, on a continuing basis, of all the Obligations when due. Notwithstanding the foregoing, each of Guarantor's payments of the Obligations under this Agreement shall be (1) limited in

proportion to the actual amounts disbursed under the Disbursing Agreement (as defined in the Development Agreement), towards the TIF Improvements and the City expenses expressly permitted under the Development Agreement, plus interest thereon, and (2) based on the actual or assumed payment obligations under the GO Bonds which are amortized over the life of the District, regardless of whether the City funds the City Bond Payments using shorter term debt. This Guaranty shall automatically terminate on the date that the GO Bonds have been paid in full or defeased. In the event that any Tax Increment is not applied as set forth in the Development Agreement due to the City's non-appropriation of such funds, then the Obligations hereunder shall be reduced on a dollar for dollar basis so that such reduction in the Obligations is equal to the amount of Tax Increment that the City failed to appropriate in accordance with the Development Agreement.

Section 2. Notice to Guarantor. BY SIGNING BELOW, YOU ARE BEING ASKED TO GUARANTY PAYMENT OF THE PAST, PRESENT AND FUTURE OBLIGATIONS OF THE DEVELOPER. YOU MAY ALSO HAVE TO PAY THE COSTS OF COLLECTION. THE CITY CAN COLLECT THE OBLIGATIONS AND COSTS OF COLLECTION FROM YOU WITHOUT FIRST TRYING TO COLLECT FROM THE DEVELOPER OR ANOTHER GUARANTOR OR FROM ANY COLLATERAL FOR THE OBLIGATIONS.

Section 3. Guaranty of Payment. The City may, at its option, proceed directly without notice against Guarantor to collect and recover the full amount of the Obligations from Guarantor hereunder, without proceeding against Developer or any collateral securing the Obligations.

Section 4. Waiver by Guarantor. The Guarantor waives:

- (a) notice of acceptance of this Guaranty by the City;
- (b) notice of presentment, demand for payment, notice of default or nonpayment, protest and notice of dishonor of any of the Obligations;
- (c) notice of any payment to the City of any of the Obligations; and
- (d) all other demands and notices of every kind in connection with this Guaranty or any of the Obligations, except a notice of an "Event of Default" hereunder.

Section 5. Unconditional Payment. If any payment received by the City hereunder shall be deemed by a court of competent jurisdiction to have been a voidable preference under any bankruptcy, insolvency, or other debtor relief law, then the obligation to make such payment shall survive and shall not be discharged or satisfied with any prior payment thereof, but shall remain a valid and binding obligation enforceable in accordance with the terms and provisions hereof, and such payment shall be immediately due and payable. Guarantor agrees not to assert at any time against Developer or its successors or assigns any right or claim to indemnification, reimbursement, contribution or payment for or with respect to any and all amounts which Guarantor may pay to the City, and Guarantor waives and releases all such rights and claims to indemnification, reimbursement, contribution or payment from Developer, its successors or assigns.

Section 6. No Impairment. Guarantor further agrees that the validity of this Guaranty and the Obligations and liability of Guarantor hereunder shall not be affected or impaired by any act of the City, including, but not limited to, the City's:

- (a) extension, in whole or in part, by renewal or otherwise, of the time for the payment of any of the Obligations or the performance of any term or condition of any transaction in connection with any of the Obligations;
- (b) release, surrender, exchange, modification, impairment or extension of the period of duration, or the time for performance or payment, or any collateral securing any of the Obligations;
- (c) settlement, compromise, release, surrender, modification or impairment and enforcement and exercise, or failure to or refusal to enforce or exercise, any claims, rights, or remedies of any kind and nature against the Developer, or any other party presently or hereafter liable for the Obligations, or any collateral security held by the City for any of the Obligations; and
- (d) subordination of the Obligations, or any part, to any other indebtedness now or hereafter owing by the Developer to anyone.

Section 7. Guarantor's Representations Guarantor hereby represents, warrants and agrees as follows:

- (a) no event has occurred, nor will any event occur upon the making and execution of this Guaranty or the compliance with its terms, or upon the consummation of the transaction herein contemplated, which either by itself or with the lapse of time, or the giving of notice or both, would give any creditor of Guarantor the right to accelerate the maturity of any material indebtedness of the Guarantor;
- (b) Guarantor is not in default nor does Guarantor anticipate default by Guarantor under any loan, lease, agreement or instrument, or any law, rule, regulation, order, writ, injunction, decree, determination or award, noncompliance with which would materially adversely affect Guarantor's assets or financial condition;
- (c) Guarantor has no outstanding unpaid tax liabilities (except for taxes which are currently accruing, but are not delinquent), and no tax deficiencies have been proposed or assessed against the Guarantor which would materially adversely affect Guarantor's assets or financial condition;
- (d) Guarantor is not a party to any litigation or administrative proceeding, nor is Guarantor aware of any threatened litigation or administrative proceeding which in either case would, if adversely determined, cause any material adverse change in Guarantor's assets or financial condition;
- (e) The Obligations set forth in this Guaranty are incurred in the interest of the Guarantor's marriage or family; and
- (f) no information, exhibit or report furnished by the Guarantor to the City in connection with the negotiation or execution of the Development Agreement or this Guaranty contained any material misstatement of fact as of the date when made, or omitted to state a material fact or any fact necessary to make the statements contained therein not misleading as of the date when made.

Section 8. Acknowledgements by Guarantor. Guarantor acknowledges and agrees that the City has not made any representations or warranties with respect to the enforceability of the Development

Agreement against Developer or any collateral secured thereby, or as to Developer's financial condition. Guarantor hereby acknowledges having received and reviewed a true copy of the Development Agreement. Guarantor further acknowledges and agrees that Guarantor has independently determined the financial condition of Developer.

Section 9. Guarantor's Additional Covenants. Guarantor covenants that so long as the Obligations remain outstanding and unless otherwise waived or consented to in writing by the City, the Guarantor shall

- (a) promptly notify the City of the occurrence of any event which would create a material adverse change in the Guarantor's assets or financial condition; and
- (b) pay and discharge, when due, all of Guarantor's taxes, assessments and other liabilities prior to delinquency, except when the payment thereof is being contested in good faith by appropriate legal procedures which will avoid foreclosure of liens securing such items, and with adequate reserves provided therefor.

Section 10. Joint and Several Liability. Guarantor acknowledges that Guarantor's liability hereunder is joint and several. The City shall have no obligation to exercise any rights under this Guaranty against more than one person or entity liable for the Obligations, and may proceed against one or any number of persons or entities liable for the Obligations, including Guarantor, without proceeding against all or any others liable for the Obligations. The City, at its option, may proceed in the first instance against Guarantor on this Guaranty to collect any of the Obligations, without first proceeding against Developer, any other guarantors or other persons or entities who may be liable for any of the Obligations, or against any collateral security previously, contemporaneously or subsequently given to the City to secure any of the Obligations by Developer, Guarantor or any other person.

Section 11. Modification. No modification of any provision of this Guaranty will be binding upon the City except as expressly set forth in a writing duly signed by and delivered on behalf of the City.

Section 12. Time is of the Essence. Time is of the essence with respect to all payment provisions of this Guaranty.

Section 13. Binding Effect. This Guaranty benefits the City, its successors and assigns, and binds Guarantor, his heirs and personal representatives.

Section 14. Severability. In the event any provision of this Guaranty is determined by a court of competent jurisdiction to be prohibited or unenforceable in any jurisdiction, this Guaranty and such provision shall be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Guaranty, which shall remain in full force and effect.

Section 15. Governing Law. This Guaranty shall be interpreted, construed, and enforced according to the laws of the State of Wisconsin.

Section 16. Notices. All notices required or permitted by this Agreement shall be in writing and shall be deemed to have been given (i) upon delivery to an officer or designated representative of the person entitled to such notice, if hand delivered, or (ii) two business days following deposit in the United States mail, postage prepaid, or with a nationally recognized overnight commercial carrier that will certify as to the date and time of delivery, airbill prepaid,

or (iii) upon transmission if by facsimile, and each such communication or notice shall be addressed as follows, unless and until any of such parties notifies the other in accordance with this Section of a change of address:

If to the City: City of Franklin
9229 West Loomis Road
Franklin, WI 53132
Attention: Director of Economic Development
Facsimile No.: 414-427-7691

With a Copy to: City of Franklin
9229 West Loomis Road
Franklin, WI 53132
Attention: City Clerk
Facsimile No.: 414-425-6428

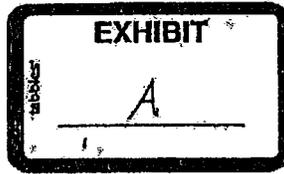
If to the Developer:
Michael E. Zimmerman
510 West Kilbourn Avenue, 2nd Floor
Milwaukee, WI 53202
Facsimile No.: 1-414-224-9290

With a copy to:
Matthew K. Impola
Foley & Lardner LLP
777 East Wisconsin Avenue
Milwaukee, WI 53202-5306
Facsimile No.: 1-414-297-4900

Section 17. Capitalized Terms. Capitalized terms not specifically defined herein shall have the same meaning as in the Development Agreement.

Section 18. Collection Expenses; Event of Default. If this Guaranty is placed in the hands of an attorney for collection following the occurrence of an Event of Default hereunder, Guarantor agrees to pay to the City upon demand all costs and expenses, including, all attorneys' fees and court costs incurred by the City in connection with the enforcement or collection of all sums due under this Guaranty (whether or not any action has been commenced by the City to enforce or collect such sums as are due under this Guaranty) or in successfully defending any counterclaim or other legal proceeding brought by Guarantor contesting the City's right to collect the sums due under this Guaranty. An "Event of Default" hereunder shall mean that Guarantor fails to perform or observe any agreement, covenant, term or provision contained in this Guaranty and such failure continues for a period of seven (7) business days after Guarantor's receipt of written notice from City.

Section 18. Entire Agreement. This Guaranty is intended by Guarantor and the City as a final expression of this Guaranty and as a complete and exclusive statement of its terms, there being no conditions to the full effectiveness of this Guaranty. This Guaranty may not be supplement or modified except in writing signed by both parties. This is a continuing guaranty and shall remain in full force and effect until Lender receives written notice of revocation due to the death of the Guarantor. Upon actual notice of death,



Parcel 1

That part of the Southwest $\frac{1}{4}$ of Section 4, in Township 5 North, Range 21 East, in the City of Franklin, County of Milwaukee, State of Wisconsin, bounded and described as follows: Commencing at a point on the East line of said Southwest $\frac{1}{4}$ of Section 4, which is 918.81 feet North of the Southeast corner of said $\frac{1}{4}$ Section; thence North on the East line 400.00 feet to a stone monument; thence West on the East and West $\frac{1}{8}$ line 544.50 feet to a point; thence South and parallel to the East line 400.00 feet to a point; thence East and parallel to the said $\frac{1}{4}$ line 544.50 feet to the place of beginning.

For Informational Purposes Only:

Tax Key No. 745-8998-000

Parcel 2:

Outlot 1, in Block 1 in Whitnall View Addition No. 1, being a subdivision of a part of the Southeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 4, in Township 5 North, Range 21 East, in the City of Franklin, County of Milwaukee, State of Wisconsin.

For Informational Purposes Only:

Tax Key No. 745-0029-000

Parcel 3:

Outlot 1 of Certified Survey Map No. 3107, recorded on July 11, 1977, in reel 1030, Image 1316, as Document No. 5119257, being a part of the Southwest $\frac{1}{4}$ of Section 4, in Township 5 North, Range 21 East, in the City of Franklin, County of Milwaukee, State of Wisconsin. Excepting therefrom the lands described in the Warranty Deed recorded November 6, 1998 as Document No. 7629111.

For Informational Purposes Only:

Tax Key No. 745-8999-004

Parcel 4:

Outlot 1 of Certified Survey Map No. 3931, recorded October 24, 1980 in Reel 1333, Image 129, as Document No. 5434959, being a part of the Southeast $\frac{1}{4}$ of Section 4, Township 5 North, Range 21 East, in the City of Franklin, County of Milwaukee, State of Wisconsin.

For Informational Purposes Only:

Property Address 8230 W. Rawson Avenue

Tax Key No. 744-8985-002

Parcel 5:

Parcel 1 of Certified Survey Map No. 3931, recorded October 24, 1980 in Reel 1333, Image 129, as Document No. 5434959, being a part of the Southeast $\frac{1}{4}$ of Section 4, Township 5 North, Range 21 East, in the City of Franklin, County of Milwaukee, State of Wisconsin. Excepting therefrom the lands described in the Warranty Deed recorded November 6, 1998 as Document No. 7629111.

For Informational Purposes Only:

Property Address: 8230 W. Rawson Avenue

Tax Key No. 744-8985-001

Parcel 6A:

That part of the Southeast ¼ of Section 4, in Township 5 North, Range 21 East, in the City of Franklin, County of Milwaukee, State of Wisconsin, bounded and described as follows: Commencing at the Northeast corner of said ¼ Section; thence South 89 °51'33" West along the North line of said ¼ Section, 1324.72 feet to the North and South 1/8 line of said ¼ Section; thence South 0°54'45" West along said 1/8 line, 905.13 feet to the place of beginning of land to be described; continuing thence South 0°54'45" West along the said 1/8 line, 1010.0 feet to a point; thence South 7 °08' West 174.78 feet to a point; thence South 0 °37' West 244.20 feet to a point in the center line of West Loomis Road, 406.47 feet to the point of intersection with the South line of said ¼ Section; thence West along the South line of said ¼ Section, 382.40 feet to a point; thence North 0 °56' East along the East line of the West ½ of the West ½ of said ¼ Section, 1731.87 feet to a point; thence North 89 °51'33" East and parallel to the North line of said ¼ Section 662.60 feet to the place of beginning, excepting therefrom the South 60.0 feet and the Southeasterly 33.0 feet for street purposes. Excepting therefrom those lands conveyed in Document No. 4382939.

Parcel 6B:

That part of the East ½ of Section 4, Township 5 North, Range 21 East, in the City of Franklin, County of Milwaukee, State of Wisconsin, bounded and described as follows: Beginning at the Southeast corner of the Northeast ¼ of said Section; thence North along the East line thereof, 519.25 feet to a point; thence West on a line parallel to the South line of said Northeast ¼ Section, 204.0 feet to a point in a 40 foot right-of-way; thence Southwesterly along said right-of-way to a point on the South line of said Northeast ¼ Section, said point being 948.5 feet West of the Southeast corner of said ¼ Section; thence West along the North line of the Southeast ¼ section to a point on the North and South 1/8 line of said Southeast ¼ section, said point being 1324.72 feet West of the Northeast corner of said Southeast ¼ Section; thence South along said 1/8 line, 303 feet to a point; thence West on a line parallel to the North line of said Southeast ¼ Section, 662.45 feet to a point; thence South 602.13 feet to a point, said point being 662.60 feet West of said 1/8 line; thence east on a line parallel to the North line of said Southeast ¼ Section; 662.60 feet to a point on said 1/8 line; thence continuing Easterly on a line 662.62 feet to a point, said point being 663.25 feet West of the Southeast corner and 1733.79 feet North of the South line of said ¼ Section; thence North on a line 906.73 feet to a point on the North line of said Southeast ¼ Section, said point being 662 feet West of the Northeast corner of said Southeast ¼ Section; thence East along said North line to a point of beginning. Excepting therefrom that part of the Northeast ¼ of Section 4, in Township 5 North, Range 21 East, in the City of Franklin, County of Milwaukee, State of Wisconsin, bounded and described as follows: Commencing at the Southeast corner of said ¼ Section; thence North along the East line thereof, 519.25 feet to a point; thence North 87 °16' West on a line parallel to the South line of said ¼ Section, 204.0 feet to a point in a 40 foot right-of-way; thence Southwesterly along said right-of-way, to a point in the South line of said ¼ Section, 948.5 feet West of the Southeast corner of said ¼ Section; thence East along the South line of said ¼ Section to the point of beginning, excepting therefrom the East 60 feet thereof.

Parcel 6C:

The North 303 feet of the East ½ of the Northwest ¼ of the Southeast ¼ of Section 4, Township 5 North, Range 21 East, in the City of Franklin, County of Milwaukee, State of Wisconsin.

Parcel 6D:

That part of the West ½ of the East ½ of the Southeast ¼ of Section 4, Township 5 North, Range 21 East, in the City of Franklin, County of Milwaukee, State of Wisconsin, bounded and described as follows, to-wit: Beginning at a point in the center line of the old Loomis Road (formerly State Trunk Highway 36) which point is South 89 °06' West 663.25 feet along the South line of said ¼ Section from the Southeast corner of

Section 4; thence North 1003.85 feet to the center of Loomis Road; thence South 50 °49' West along said center line 283.58 feet; thence South 42 °14' West along said center line 90.56 feet which is the place of beginning of the land herein to be described; thence continuing South 42 °14' West 135.01 feet; thence North 69 °29' West 311.87 feet; thence North 0 °02' East 957.79 feet; thence North 89 °07' West 279.90 feet; thence South 0 °02' West 414.02 feet to the place of beginning.

Parcel 6E:

That part of the Southeast ¼ of Section 4, Township 5 North, Range 21 East, in the City of Franklin, County of Milwaukee, State of Wisconsin, bounded and described as follows: Commencing at the Northeast corner of the above said ¼ Section; thence Westerly along the North line of said ¼ Section, 662.00 feet; thence South 0 °00'00" West on a line a distance of 1,200.00 feet to the point of beginning, said line if extended would intersect the South line of the ¼ Section, 663.25 feet West of the Southeast corner of said ¼ Section; thence continuing along said line, South 0 °00'00" West, 264.60 feet; thence South 89 °07'00" West, 279.90 feet; thence South 0 °02'00" West, 354.31 feet to a point in the highway right-of-way of "Old Loomis Road" as laid out and traveled on January 1, 1997; thence along said highway right-of-way North 40 °21'43" East, 1,009.10 feet to the point of beginning. Together with that part of the Southeast ¼ of Section 4, Township 5 North, Range 21 East, in the City of Franklin, County of Milwaukee, State of Wisconsin, bounded and described as follows: Commencing at the Northeast corner of said ¼ Section; thence South along the East line of said ¼ Section, 981.07 feet; thence West 60 feet to the point of beginning, said point being the intersection of the West right-of-way line of South 76th Street and the North right-of-way line of relocated Old Loomis Road as laid out and traveled on June 1, 1973; thence continuing West along the North right-of-way line of said Old Loomis Road, 49.07 feet to the point of beginning of a curve; thence Westerly along said North right-of-way line 95.18 feet along the arc of a curve concave to the Southeast, said curve having a radius of 234.04 feet and a long chord of 94.53 feet bearing South 78 °20'55" West; thence North 52 °57'46" East, 177.46 feet to a point on the West right-of-way line of South 76th Street; thence South along said West right-of-way line, 87.80 feet to the point of beginning.

Parcel 6F:

That part of the Southeast ¼ of Section 4, Township 5 North, Range 21 East, in the City of Franklin, County of Milwaukee, State of Wisconsin, bounded and described as follows: Beginning at the Northeast corner of said ¼ Section; thence continuing West along the North line of said ¼ Section 662 feet to a point; thence South on a line, which line runs 2421.40 feet to a point 215 feet North of the South line and 663.25 feet West of the East line of said ¼ Section (measured parallel respectively to the East and South line), 1200 feet to a point; thence East and parallel to the North line of said ¼ Section 185 feet to a point; thence Northeasterly on a line to a point on the East line of said ¼ Section, 848 feet South of the Northeast corner thereof; thence North along the East line of said ¼ Section to the point of beginning.

For Informational Purposes Only
Tax Key No. 744-8980-001

Parcel 7:

That part of the Southeast ¼ of Section 4, Township 5 North, Range 21 East, in the City of Franklin, County of Milwaukee, State of Wisconsin, bounded and described as follows: Commencing at a point on the West line of the East ½ of said ¼ Section, 326 feet North of the South line, said point being the center line of West Loomis Road; thence North along the West line of the East ½ of said ¼ Section, 450 feet to a point; thence South 69 °44' East, 311 feet to a point in the center line of West Loomis Road, 448.70 feet to the place of beginning. Excepting therefrom that part of the Southeast ¼ of Section 4, in Township 5 North, range 21 East, in the City of Franklin, County of Milwaukee, State of Wisconsin, bounded and described as follows:

Commencing at the Northeast corner of said ¼ Section; thence westerly along the North line of said ¼ Section, 1324.72 feet to the North and South 1/8 line; thence South 0°54'45" West along the 1/8 line, 1915.13 feet to the place of beginning of lands to be described; thence South 55°53'15" East 109.36 feet; thence South 57°44'15" East 43.87 feet, thence South 80°59'15" East 21.11 feet; thence South 68°32'15" East 28.90 feet; thence South 49°04'15" East 62.90 feet to a point in the center line of West Loomis Road; thence North 41°20'45" East along the center line of West Loomis Road 104.00 feet to a point; thence North 68°36'15" West 311.87 feet to a point in the said 1/8 line; thence South 0°54'45" West along said 1/8 line, 52.21 feet to the place of beginning.

For Informational Purposes Only:
Tax Key No. 744-8988-000

Parcel 8:

That part of the Southeast ¼ of Section 4, in Township 5 North, Range 21 East, in the City of Franklin, County of Milwaukee, State of Wisconsin, bounded and described as follows: Commencing at the Northeast corner of said ¼ Section; thence westerly along the North line of said ¼ Section, 1324.72 feet to the North and South 1/8 line; thence South 0°54'45" West along the 1/8 line, 1915.13 feet to the place of beginning of lands to be described; thence South 55°53'15" East 109.36 feet; thence South 57°44'15" East 43.87 feet; thence South 80°59'15" East 21.11 feet; thence South 68°32'15" East 28.90 feet; thence South 49°04'15" East 62.90 feet to a point in the center line of West Loomis Road; thence North 41°20'45" East along the center line of West Loomis Road 104.00 feet to a point, thence North 68°36'15" West 311.87 feet to a point in the said 1/8 line; thence South 0°54'45" West along said 1/8 line, 52.21 feet to the place of beginning.

For Informational Purposes Only.
Tax Key No. 744-8989-000

Parcel 9:

That part of the Southeast ¼ of Section 4, Township 5 North, Range 21 East, in the City of Franklin, County of Milwaukee, State of Wisconsin, described as follows: Commence at the Southeast corner of said Section 4, run thence North 00°00'00" West, on an assumed bearing, along the East line of said Section, 1594.42 feet; thence North 90°00'00" West 60.00 feet to the West right-of-way of 76th Street and the point of beginning of this description; run thence South 00°00'00" East 205.00 feet along said right-of-way; thence South 58°00'00" West, 300.00 feet; thence South 20°30'00" West 385.00 feet; thence South 37°33'55" West 201.65 feet; thence South 48°16'12" West 330.78 feet; thence South 61°02'50" West 578.18 feet to a point located 230 feet North of, as measured normal to, the South line of said Section; thence South 89°08'18" West 39.61 feet parallel with the South line of said Section; thence North 40°22'33" East 1740.48 feet; thence North 56°11'16" East 141.03 feet; thence North 90°00'00" East 49.07 feet to the point of beginning.

For Informational Purposes Only:
Tax Key No. 744-8981-000

Parcel 10:

That part of the East ½ of the Southwest ¼ of the Northeast ¼ of Section 4, Town 5 North, Range 21 East that lies within the City Limits of the City of Franklin, County of Milwaukee, State of Wisconsin. Together with that part of the Southeast ¼ of the Northeast ¼ of Section 4, Town 5 North, Range 21 East that lies within the City Limits of the City of Franklin, County of Milwaukee, State of Wisconsin. Excepting therefrom that part of the Northeast ¼ of Section 4, in Township 5 North, Range 21 East, in the City of Franklin, County of Milwaukee, State of Wisconsin, bounded and described as follows: Commencing at the

Southeast corner of said ¼ Section; thence North along the East line thereof, 519.25 feet to a point; thence North 87° 16' West on a line parallel to the South line of said ¼ Section, 204.0 feet to a point in a 40 foot right-of-way; thence Southwesterly along said right-of-way, to a point in the South line of said ¼ Section, 948.5 feet West of the Southeast corner of said ¼ Section; thence East along the South line of said ¼ Section to the point of beginning, excepting therefrom the East 60 feet thereof. Further Excepting therefrom all that part of the Northeast 1/4 of Section 4, town 5 North, Range 21 East, in the City of Franklin, County of Milwaukee, State of Wisconsin, bounded and described as follows: Commencing at the Southeast Corner of Said 1/4 Section; running thence North 03° 51' 30" East on the East Line of Said 1/4 Section, 519.25 feet to a point; thence North 87° 16' West, 582.23 feet to the place of beginning of the Land to be described; thence continuing North 87° 16' West, 148.77 feet to a point in the Easterly line of the park described in Document No. 2137727; Thence South 03° 51' 30" West and parallel to the East Line of Said 1/4 Section, 367.55 feet to a point; thence North 58° 12' 34" East, 255.43 Feet to a Point; Thence North 11° 00' 30" West, 229.27 feet to the place of beginning; together with a non-exclusive right-of-way 40 feet wide, extending from the Southeasterly corner of the above described premises to South 76TH street the center line of Said right-of-way being an Extension in a Northeasterly Direction of the Southerly line of the above-described premises. Further excepting therefrom all that part of the Northeast 1/4 of Section 4, town 5 North, Range 21 East, in the City of Franklin, County of Milwaukee, State of Wisconsin, bounded and described as follows. Commencing at the Southeast Corner of Said 1/4 Section running thence North 03° 51' 30" East on the East Line of Said 1/4 Section, 519.25 feet to a point; thence North 87° 16' West, 204.00 feet to the place of beginning; thence continuing North 87° 16' West, 378.23 feet to a point; thence South 11° 00' 30" East, 229.27 Feet to a Point; Thence North 58° 12' 34" East, 392.97 feet to the place of beginning, together with a non-exclusive right of way 40 feet wide, extending from the Southeasterly corner of the subject premises to South 76TH Street, the center line of said right of way being an Extension in the Northeasterly direction of the Southerly line of the subject premises.

For Informational Purposes Only:
Tax Key No. 708-8996-000

Parcel 11:

That part of the Northeast ¼ of Section 4, in Township 5 North, Range 21 East, in the City of Franklin, County of Milwaukee, State of Wisconsin, bounded and described as follows: Commencing at the Southeast corner of said ¼ Section; thence North along the East line thereof, 519.25 feet to a point; thence North 87° 16' West on a line parallel to the South line of said ¼ Section, 204.0 feet to a point in a 40 foot right-of-way; thence Southwesterly along said right-of-way, to a point in the South line of said ¼ Section, 948.5 feet West of the Southeast corner of said ¼ Section; thence East along the South line of said ¼ Section to the point of beginning, excepting therefrom the East 60 feet thereof.

For Informational Purposes Only:
Tax Key No. 708-8999-000

For Informational purposes only
Property Address: Situated on West Old Loomis Road, Franklin, WI
Tax Key No.:

Parcel 1:

A tract of land in the Northwest 1/4 of Section 9, Township 5 North, Range 21 East, in the City of Franklin, County of Milwaukee, State of Wisconsin, bounded and described as follows: commence at the North 1/4 of said Section; thence South 0 deg. 14'24" East, along the East line of said 1/4 Section, 75.00 feet to the point of beginning; thence South 88 deg. 31'36" West for a distance of 660.75 feet, along the South line of West Rawson Avenue to a point; thence South 0 deg. 16'24" East for a distance of 749.00 feet to a point; thence North 88 deg. 31'36" East for a distance of 660.20 feet to a point; thence North 0 deg. 13'52" West for a distance of 749.01 feet to the point of beginning.

Parcel 2:

A tract of land in the Northwest 1/4 of Section 9, Township 5 North, Range 21 East, in the City of Franklin, County of Milwaukee, State of Wisconsin, bounded and described as follows: commencing at the North 1/4 corner of said Section thence South 00 deg. 14'24" East, along the East line of said 1/4 Section, 823.83 feet to the point of beginning; thence South 88 deg. 31'36" West for a distance of 660.20 feet to a point; thence South 0 deg. 16'24" East for a distance of 1474.75 feet to the North line of relocated State Highway 36; thence North 30 deg. 15'50" East for a distance of 977.50 feet, along said North line to a point of curve; thence along a curve to the right having a radius of 3919.72 feet and an arc length of 295.77 feet, being subtended by a chord of North 33 deg. 12'0" East for a distance of 295.70 feet, along said North line to a point on a curve, thence North 0 deg. 13'52" West for a distance of 400.00 feet to the point of beginning.

Parcel 3: That part of the West 1/2 of the Northeast 1/4 of Section 9, Township 5 North, Range 21 East, in the City of Franklin, County of Milwaukee, State of Wisconsin, which is bounded and described as follows: Commencing at the Northwest corner of said 1/4 Section; thence South 00° 08' 17" West along the West line of said 1/4 Section, 75.01 feet to a point in the South line of West Rawson Avenue which is the Point of Beginning of the land to be described; thence North 89° 08' 18" East along the South line of said West Rawson Avenue, 458.24 feet to a point on the West line of West Loomis Road (State Trunk Highway 36); thence South 00° 51' 42" East along the West line of said Loomis Road, 437.54 feet to a point; thence North 87° 34' 40" West, 466.17 feet to a point in the West line of said 1/4 Section; thence North 00° 08' 17" East along the West line of said 1/4 Section, 410.90 feet to the point of beginning.

Parcel 4: That part of the West 1/2 of the North East 1/4 of Section 9, in Township 5 North, Range 21 East, in the City of Franklin, County of Milwaukee and State of Wisconsin, which is bounded and described as follows: Commencing at a point in the West line of said 1/4 Section, which is 485.91 feet South 00° 08' 17" West of the North West corner of said 1/4 Section; continuing thence South 00° 08' 17" West along the West line of said 1/4 Section, 213.45 feet to a point; thence South 53° 19' 45" East, 325.57 feet to a point in the Northwesterly line of Old Loomis Road; thence North 36° 40' 15" East along the Northwesterly line of said Old Loomis Road, 235.81 feet to a point of curve; thence Northeasterly 212.96 feet along the arc of a curve, whose center lies to the West, whose radius is 325.10 feet and whose chord bears North 17° 54' 17" East, 209.17 feet to a point; thence North 87° 34' 40" West, 466.17 feet to the point of commencement.

Parcel 5: That part of the Northeast 1/4 of Section 9, in Township 5 North, Range 21 East, in the Town of Franklin, Milwaukee County, Wisconsin, bounded and described as follows: Commencing at a point on the West line of the Northeast 1/4 of Section 9 aforesaid with the center line of West Loomis Road, thence Northeasterly along the center line of West Loomis Road, 490 feet to a point; thence Northwesterly at right angles to the center line of West Loomis Road 357.74 feet to a point in the West line of the Northeast 1/4 of Section 9 aforesaid; and thence South along the West line of the Northeast 1/4 of Section 9 aforesaid

606.69 feet to the place of commencement.

For informational purposes only

Property Address: Situated on West Old Loomis Road, Franklin, WI 53132

Tax Key No.: 754-9988-001 (Parcel 1), 754-9988-002 (Parcel 2), 755-9995-002 (Parcel 3), 755-9995-001 (Parcel 4), 755-9996-000 (Parcel 5)

PARCEL 1.

That part of the following described lands which lie Easterly and Southeasterly of of a public highway right of way line located 33 feet westerly and northwesterly of, as measured at right angles to or radially to, the centerline of "Relocated Old Loomis Road" as delineated further below.

That part of the Northeast 1/4 of Section 9, Township 5 North, Range 21 East, in the City of Franklin, County of Milwaukee, State of Wisconsin, bounded and described as follows: Commencing at a point on the West line of said 1/4 Section, 606.69 feet North of the Intersection of the centerline of Loomis Road (as laid out and traveled on April 17, 1951) with the West line of said 1/4 Section; thence Southeasterly on a line at right angles to said centerline, 357.74 feet to a point on said centerline, which is 490 feet Northeasterly of the intersection of said centerline with the West line of said 1/4 Section; thence Northeasterly along said centerline to a point which is 341 feet South 41°34' West (measured along said centerline) from the North line of said Section; thence North 58°26' West, 384.40 feet to a point on the North line of said Section, which point is 531.50 feet East of the Northwest corner of said 1/4 Section; thence West along the North line of said 1/4 Section, 531.50 feet to the Northwest corner of said 1/4 Section; thence South along the West line of said 1/4 Section, to the point of commencement; except the North 75 feet thereof; further excepting the West 66 feet thereof.

The Centerline of "Relocated Old Loomis Road" is described as follows: Commencing at the Northwest corner of the Northeast 1/4 of Section 9, Township 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin; thence South 00°08'17" West along the West line of said 1/4 Section 754.40 feet; thence South 53°19'45" East 325.84 feet to the point of beginning of the centerline of "Relocated Old Loomis Road," thence North 36°40'15" East 280.00 feet to a point of curve; thence along the arc of curve concave to the west, with a radius of 358.10 feet and a long chord of 230.41 feet bearing North 17°54'17" East, a distance of 234.58 feet to a point of tangency; thence North 00°51'42" West 512.54 feet to a point in the North line of said 1/4 Section and a point of ending of the centerline of "Relocated Old Loomis Road," said point being located 489.93 feet North 89°08'18" East of the Northwest corner of said 1/4 Section.

PARCEL 2.

That part of the West 1/2 of the Northeast 1/4 of Section 9, in Township 5 North, Range 21 East, in the City of Franklin, County of Milwaukee, State of Wisconsin, bounded and described as follows: Commencing at a point in the North line of said 1/4 Section 531.50 feet East of the Northwest corner; thence East along the North line of said 1/4 Section 514 feet to center line of Loomis Road; thence South 41°34' West along the center line of Loomis Road, 341 feet to a point; thence North 58°26' West, 384.40 feet to the point of commencement.

For informational purposes only

Property Address: Situated on West Rawson Avenue, Franklin, WI

Tax Key No.: NA

That Westerly 66 feet of that part of the following described lands which lie Easterly and Southeasterly of of a public highway right of way line located 33 feet westerly and northwesterly of, as measured at right angles to or radially to, the centerline of "Relocated Old Loomis Road" as delineated further below.

That part of the Northeast 1/4 of Section 9, Township 5 North, Range 21 East, in the City of Franklin, County of Milwaukee, State of Wisconsin, bounded and described as follows. Commencing at a point on the West line of said 1/4 Section, 606.69 feet North of the Intersection of the centerline of Loomis Road (as laid out and traveled on April 17, 1951) with the West line of said 1/4 Section; thence Southeasterly on a line at right angles to said centerline, 357.74 feet to a point on said centerline, which is 490 feet Northeasterly of the intersection of said centerline with the West line of said 1/4 Section; thence Northeasterly along said centerline to a point which is 341 feet South 41°34' West (measured along said centerline) from the North line of said Section; thence North 58°26' West, 384.40 feet to a point on the North line of said Section, which point is 531.50 feet East of the Northwest corner of said 1/4 Section; thence West along the North line of said 1/4 Section, 531.50 feet to the Northwest corner of said 1/4 Section; thence South along the West line of said 1/4 Section, to the point of commencement; except the North 75 feet thereof.

The Centerline of "Relocated Old Loomis Road" is described as follows. Commencing at the Northwest corner of the Northeast 1/4 of Section 9, Township 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin; thence South 00°08'17" West along the West line of said 1/4 Section 754.40 feet; thence South 53°19'45" East 325.84 feet to the point of beginning of the centerline of "Relocated Old Loomis Road," thence North 36°40'15" East 280.00 feet to a point of curve; thence along the arc of curve concave to the west, with a radius of 358.10 feet and a long chord of 230.41 feet bearing North 17°54'17" East, a distance of 234.58 feet to a point of tangency; thence North 00°51'42" West 512.54 feet to a point in the North line of said 1/4 Section and a point of ending of the centerline of "Relocated Old Loomis Road," said point being located 489.93 feet North 89°08'18" East of the Northwest corner of said 1/4 Section.

For informational purposes only

Property Address: Commonly Known As "Old Loomis Rd", Franklin, WI

Tax Key No : NA

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