

CITY OF FRANKLIN
COMMON COUNCIL MEETING
FRANKLIN CITY HALL – COMMON COUNCIL CHAMBERS
9229 WEST LOOMIS ROAD, FRANKLIN, WISCONSIN
AGENDA*
TUESDAY, DECEMBER 18, 2018 AT 6:30 P.M.

- A. Call to Order and Roll Call.
- B.
 - 1. Citizen Comment Period.
 - 2. Mayoral Announcements:
 - (a) Committee of the Whole Meeting Scheduled for January 14, 2018 at 6:30 p.m.
 - (b) Certificate of Achievement for Excellence in Financial Reporting to the City of Franklin from the Government Finance Officers Association.
- C. Approval of Minutes:
 - Regular Common Council Meeting of December 4, 2018.
- D. Hearings.
- E. Organizational Business: Appointment of Karen Sparapani, Executive Director of Milwaukee Area Domestic Animal Control Commission (MADAC), as Humane Officer.
- F. Letters and Petitions.
- G. Reports and Recommendations:
 - 1. An Ordinance to Amend Article XVIII "Tobacco Products" and §183-71. "Restricting the Use of Cigarettes and Tobacco Products" of the Municipal Code, to Include the Regulation of Electronic Smoking Devices and Products in Addition to and Other Than Tobacco Products Intended for Inhalation Uses.
 - 2. A Motion to Authorize Staff to Proceed with the Firearms Range Capital Improvement Fund Project Process and to Adopt a Resolution Authorizing Certain Officials to Execute an Agreement [Including any Changes Thereto Approved by the Chief of Police and the City Attorney] for Architectural and/or Engineering, Design, Bidding and Construction Administration Services for the Police Department Indoor Firearms Range Renovation Project Between the City of Franklin and Angus-Young Associates, Inc.
 - 3. A Resolution Authorizing Certain Officials to Accept a Conservation Easement for and as Part of the Review and Approval of a Certified Survey Map for Property Located at 11911 West Ryan Road (Mills Hotel Wyoming, LLC, Applicant).
 - 4. A Resolution to Amend Professional Services Contract with Lakeside Engineers for Phase 2 of Design of S. 68th Street from W. Loomis Road to W. Puetz Road for \$48,597.80.
 - 5. A Resolution to Authorize a Professional Services Contract Not to Exceed \$20,000 with Jacobs Engineering for the Redesign of Wisconsin Department of Transportation Improvements of W. Elm Road from I-94 to S. 27th Street.
 - 6. Direction on Contract with Quorum Architects for the Design of the City Hall Roof, HVAC, and Fascia Wood Replacement Project.

7. An Ordinance to Amend the Municipal Code Section 245-5.F. Extending Parking Restrictions on Both Sides of S. 35th Street from 25 Feet to 100 Feet South of W. Hilltop Lane Right of Way and Extending from 25 Feet to 50 Feet on the West Side of S. 35th Street North of W. Hilltop Lane Right of Way.
8. A Resolution Authorizing Approval of the Revisions to the City of Franklin Design Standards and Construction Specifications, July 2017.
9. An Ordinance to Amend Ordinance 2017-2301, an Ordinance Adopting the 2018 Annual Budgets for the Capital Outlay Fund for the City of Franklin for Fiscal Year 2018 to Reclassify \$4,635 of Computer Equipment Purchase Appropriations to Police Computer Purchases from Savings in Other Department Computer Equipment Purchases.
10. An Ordinance to Amend Ordinance 2017-2301, An Ordinance Adopting the 2018 Annual Budgets for the Capital Outlay Fund for the City of Franklin for Fiscal Year 2018 to Reclassify \$8,000 of Appropriations for a Tire Replacement Machine from Contingency to Highway Equipment.
11. October 2018 Monthly Financial Report.
12. A Resolution to Amend Professional Services Contract with Greeley and Hansen for the Design of Industrial Park Lift Station Abandonment and Sewer Extension for an Additional \$95,510.
13. Purchase and Installation/Setup of New Server for VMWare Upgrade Project for Water & Sewer Department (2018 Budgeted Project).
14. Contract with Northwoods Software to Update the City's Website Software and for an Initial Migration of Website Content.
15. Proposed Pension Plan Modifications to the City of Franklin Defined Contribution Retirement Plan and the City of Franklin Defined Benefit Retirement Plan.
16. Renaming of Building Inspection Department to Inspection Services and Renaming the Department's Job Description Titles.
17. Approval of a Contract Between the City of Franklin and Southeast Inspection Management Services, LLC for Building Inspector Services. The Common Council May Enter Closed Session Pursuant to Wis. Stats. §19.85(1)(e), to Deliberate or Negotiate the Purchase of Public Properties, the Investing of Public Funds, or Conducting Other Specified Public Business, Whenever Competitive or Bargaining Reasons Require a Closed Session, and May Reenter Open Session at the Same Place Thereafter to Act on Such Matters Discussed Therein as it Deems Appropriate.
18. An Ordinance to Amend Ordinance 2018-2345, an Ordinance Adopting the 2019 Annual Budgets for the General Fund for the City of Franklin for Fiscal Year 2019, to Reclassify \$104,498 of Building Inspection Personnel Services and Less Than \$4,000 of General Fund Contingency to Building Inspection Other Services, Supplies, Etc. for the Contractual Services of Scott Satula with Southeast Inspection Management Services, LLC for Building Inspector Services.

H. Licenses and Permits.

Miscellaneous Licenses from License Committee Meeting of December 18, 2018.

I. Bills.

Request for Approval of Vouchers and Payroll.

Common Council Meeting Agenda
December 18, 2018
Page 3

J. Adjournment.

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

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

REMINDERS:

December 24 & 25	City Hall Closed	
December 31 & January 1	City Hall Closed	
January 8	Common Council Meeting	6:30 p.m.
January 10	Plan Commission Meeting	7:00 p.m.
January 14	Committee of the Whole	6:30 p.m.
January 22	Common Council Meeting	6:30 p.m.
January 24	Plan Commission Meeting	7:00 p.m.

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Government Finance Officers Association

**Certificate of
Achievement
for Excellence
in Financial
Reporting**

Presented to

**City of Franklin
Wisconsin**

For its Comprehensive Annual
Financial Report
for the Fiscal Year Ended

December 31, 2017

Christopher P. Morrill

Executive Director/CEO

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CITY OF FRANKLIN
COMMON COUNCIL MEETING
DECEMBER 4, 2018
MINUTES

- | | | |
|--|---------|--|
| ROLL CALL | A. | The regular meeting of the Common Council was held on December 4, 2018 and called to order at 6:30 p.m. by Mayor Steve Olson in the Franklin City Hall Council Chambers, 9229 W. Loomis Road, Franklin, Wisconsin. On roll call, the following were in attendance: Alderman Mark Dandrea, Alderman Dan Mayer, Alderwoman Kristen Wilhelm, Alderman Steve F. Taylor, Alderman Mike Barber and Alderman John R. Nelson. Also present were City Engineer Glen Morrow, Dir. of Administration Mark Luberd, City Attorney Jesse A. Wesolowski and City Clerk Sandra Wesolowski. |
| | | Alderman Taylor requested a Moment of Silence in Honor of George H.W. Bush. |
| CITIZEN COMMENT | B.1. | Citizen comment period was opened at 6:31 p.m. and closed at 7:20 pm. |
| ARCHITECTURAL
BOARD RESIGNATION | B.2. | Mayor Olson noted a resignation letter from Vance Werner, Jr. from the Architectural Review Board after 21 years of service. |
| MINUTES
NOVEMBER 13, 2018 | C.1. | Alderman Dandrea moved to approve the minutes of the regular Common Council meeting of November 13, 2018, as presented. Seconded by Alderman Mayer. All voted Aye; motion carried. |
| MINUTES
NOVEMBER 19, 2018 | C.2. | Alderman Taylor moved to approve the minutes of the special Common Council meeting of November 19, 2018, as presented. Seconded by Alderman Barber. All voted Aye; motion carried. |
| MINUTES
NOVEMBER 28, 2018 | C.3. | Alderman Mayer moved to approve the minutes of the special Common Council meeting of November 28, 2018, as presented. Seconded by Alderman Barber. All voted Aye; motion carried. |
| DONATIONS TO
POLICE AND FIRE
DEPARTMENTS | G.1. | Alderman Mayer moved to approve the following consent agenda items: |
| | G.1.(a) | Accept a donation from Walmart Store #1551 to the Police Department in the amount of \$1,500; and a donation from Daniel and Sandra Hay in the amount of \$3,000 to be deposited into the Police Donation Account; and |

- G.1.(b) Accept a donation from Daniel and Sandra Hay to the Fire Department in the amount of \$3,000 to be used for educational supplies and safety equipment.
Seconded by Alderwoman Wilhelm. All voted Aye; motion carried.
- 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 WOODWORKS, INC., LOCATED AT 2791 WEST SOUTHLAND DRIVE TO ALLOW FOR CONSTRUCTINO OF AN APPROXIMATELY 1,100 SQUARE FOOT DETACHED STORAGE BUILDING/GARAGE AND REMOVAL OF APPROXIMATELY 300 SQUARE FEET OF THE EXISTING PARKING LOT WHICH WILL BE REPLACED WITH GREENSPACE (JOHN L. HOPPE, PRESIDENT OF HOPPE WOODWORKS, INC., APPLICANT). Seconded by Alderwoman Wilhelm. All voted Aye; motion carried.

RES. 2018-7445
RYANWOOD MANOR
SUBD. DEVELOPMENT
AGREEMENT

G.8. Alderman Taylor moved to suspend the regular order of business and allow Steve DeClene to speak. Seconded by Alderman Nelson. All voted Aye; motion carried.

Alderman Taylor moved to return to the regular order of business. Seconded by Alderman Nelson. All voted Aye; motion carried.

Alderman Nelson moved to adopt Resolution No. 2018-7445, A RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO EXECUTE A SUBDIVISION DEVELOPMENT AGREEMENT WITH THE DEVELOPER OF RYANWOOD MANOR SUBDIVISION PHASE I, with the content of the agreement to include the work in process draft agreement content provided to the Common Council at this meeting, subject to changes thereto approved by the City Engineer, the Planning Manager and the City Attorney, with such staff approval authority to include changes to the resolution content, and the Subdivision Development Agreement approval also being subject to the approval of a Final Plat for Ryanwood Manor Subdivision. Seconded by Alderman Mayer. All voted Aye; motion carried.

RES 2018-7446
ADDITIONAL
FINANCIAL ANALYSIS
WITH EHLERS, INC.
BALLPARK COMMONS

G.9. Alderman Taylor moved to authorize staff to contract Ehlers, Inc. for up to \$17,000 to conduct additional financial analysis of potential changes to Tax Increment District No. 5, a district associated with the Ballpark Commons development proposal. Seconded by Alderman Dandrea. All voted Aye; motion carried.

FRANKLIN
CORPORATE PARK
DOCUMENT

- G.10. Alderman Taylor moved to authorize the Mayor to prepare a final document based on the draft for use in attracting developers and businesses to the future Franklin Corporate Park. Seconded by Alderman Nelson. All voted Aye; motion carried.

Alderman Mayer vacated his seat at 9:05 p.m.

UNCONTROLLED
INTERSECTIONS ON
PRIVATE ROADS

- G.11. Alderman Dandrea moved to table the subject of uncontrolled intersection liability on private roads. Seconded by Alderman Taylor. All voted Aye; motion carried. (Alderman Mayer Absent)

LED STREET LIGHT
PROJECT

- G.12. Alderman Taylor moved to authorize staff to prepare a light emitting diodes (LED) Street Light project and bid said project, returning to the Common Council to award the bid. Seconded by Alderman Barber. All voted Aye; motion carried. (Alderman Mayer Absent)

RES. 2018-7447
MMSD AGREEMENT
FOR LOAD
INITIATIVES

- G.13. Alderman Dandrea moved to adopt Resolution No. 2018-7447, A RESOLUTION TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH MILWAUKEE METROPOLITAN SEWERAGE DISTRICT TO RECOGNIZE JOINT TOTAL MAXIMUM DAILY LOADS IMPLEMENTATION INITIATIVES. Seconded by Alderman Taylor. All voted Aye; motion carried. (Alderman Mayer Absent)

2019 AUDIT
AGREEMENT WITH
BAKER TILLY LLP

- G.14. Alderman Dandrea moved to direct the Mayor, City Clerk and Director of Finance & Treasurer to execute the Audit Agreement between Baker Tilly LLP and the City of Franklin for an audit of the 2018 annual financial statements subject to technical corrections by the City Attorney. Seconded by Alderman Barber. All voted Aye; motion carried. (Alderman Mayer Absent)

Alderman Mayer returned to his seat at 9:08 p.m.

LIFT STATION
ABANDONMENT
AGREEMENT WITH
GREELEY AND
HANSEN LLC

- G.15. Alderman Taylor moved to table at the call of the City Engineer, a Resolution to Amend Professional Services Contract with Greeley and Hansen LLC for the Design of Industrial Park Lift Station Abandonment and Sewer Extension for an Additional \$95,510. Seconded by Alderman Nelson. All voted Aye; motion carried.

OFFICE 2019 LICENSES

- G.16. Alderman Taylor moved to authorize the Information Technology Director to order Office 2019 licenses for approximately \$42,857.15, using existing Information Services Capital Outlay

appropriations as described in the Council Action Sheet, and to direct the Director of Finance and Treasurer to prepare a budget modification at his convenience in 2019 to re-appropriate the \$19,373 of the Email Backbone Upgrade project within the 2019 budget. Seconded by Alderman Dandrea. All voted Aye; motion carried.

COUNCIL CHAMBER
SOUND SYSTEM AND
PROJECTOR
PROPOSAL WITH
HEARTLAND
BUSINESS SYSTEMS

- G.17. Alderman Barber moved to authorize the Director of Administration to execute the proposal with Heartland Business Systems (HBS) for a Flexible Services Block of hours to design and prepare plans and specifications to replace the Common Council Chamber sound system and projector, and to direct the Director of Finance and Treasurer to incorporate in early 2019 the remaining 2018 appropriations into a budget modification for re-appropriation, or carryover, into the 2019 budget. Seconded by Alderman Nelson. On roll call, Alderman Dandrea, Alderwoman Wilhelm, Alderman Taylor, Alderman Barber, and Alderman Nelson voted Aye; Alderman Mayer voted No. Motion carried.

MOU WITH
GREENFIELD FOR
HEALTH OFFICER
SERVICES

- G.18. Alderman Taylor moved to authorize the Director of Administration to prepare and for the Mayor to execute an addendum to the Memorandum of Understanding with the City of Greenfield Health Department that extends the duration of the agreement to act as Interim Health Officer for the City of Franklin through the hiring process period for a new Health Officer and until such time that the City of Franklin appoints a new Health Officer. Seconded by Alderman Nelson. All voted Aye; motion carried.

SOIL TESTER
AGREEMENT WITH
RACINE COUNTY

- G.19. Alderman Taylor moved to approve the 2019 Professional Services Agreement between the City of Franklin and Racine County for services to verify a certified soil tester's soil and site evaluation at designated properties when needed and to authorize the Director of Administration to execute such agreement. Seconded by Alderman Barber. All voted Aye; motion carried.

2019 CASUALTY
INSURANCE

- G.20. Alderman Taylor moved to authorize the Director of Administration to renew and execute the City's casualty insurance plans with R&R Insurance/League of Wisconsin Municipalities Mutual Insurance (LWMMI), Chubb, Hanover, and ACE American Insurance Company for the upcoming 2019 year, as noted on the Council Action Sheet and with increasing the liability limit to \$10m; not renewing the Umbrella policy with American Alternative; and to further authorize release of premium payments

in accordance with or as required by said policy documents. Seconded by Alderman Nelson. All voted Aye; motion carried.

HEALTH BENEFIT
PROGRAM STOP-LOSS
COVERAGE

- G.21. Alderman Taylor moved to approve Sun Life and Sun Life's "Renewal Option 1" for stop-loss coverage for 2019's health benefits program, which increases the City's individual specific deductible to \$70,000; and to authorize the Director of Administration to execute renewal documentation as necessary, as recommended by the Personnel Committee. Seconded by Alderman Barber. All voted Aye; motion carried.

WAGE ADJUSTMENT
FOR WRS AFFECTED
EMPLOYEES

- G.22. Alderman Barber moved to authorize implementation of a 1.55% preliminary wage adjustment for non-represented employees who join WRS effective 1/01/2019 and would suffer a commensurate reduction in take-home pay in accordance with the implementation guidelines set forth in the Council Action Sheet. Seconded by Alderman Mayer. All voted Aye; motion carried.

CONTRIBUTION TO
EMPLOYEES FOR
HIGH-DEDUCTIBLE
HEALTH PLAN

- G.23. Alderman Mayer moved to authorize payment of the \$750/\$1,500 (single/family) employer contribution to the eligible employee High-Deductible Health Plan (HDHP) Health Savings Accounts (HAS) prior to the end of January of 2019 provided the HAS is initially available and at the convenience of the Finance Department thereafter, and, for new employees in 2019 who remain employed for more than 30 calendar days who select the HDHP with an HAS or an existing employee with a qualifying event who switches health plans during the year, to authorize payment of an employer contribution prorated based upon the number of months the employee will be covered by the HDHP, and to authorize the Director of Administration to make such related changes to the Employee Handbook as he determines is necessary. Seconded by Alderman Nelson. All voted Aye; motion carried.

RETIREE HIGH-
DEDUCTIBLE HEALTH
PLAN

- G.24. Alderman Mayer moved to direct the Director of Administration to incorporate the recommended language that clarifies the impact on the City and retiree shares in the event of a change in plan type, either from single to family or from HDHP to PPO, etc. to the end of the Retiree Health Insurance portion of the Employee Handbook as recommended by the Personnel Committee. Seconded by Alderman Dandrea. All voted Aye; motion carried.

PENSION PLAN
MODIFICATIONS

- G.25. No action was taken on the proposed Pension Plan modifications to the City of Franklin Defined Contribution Retirement Plan and the City of Franklin Defined Benefit Retirement Plan scheduled for approval at the December 18, 2018, Common Council meeting.

COMPUTERS FOR
DETECTIVES

- G.26. Alderman Dandrea moved to authorize the Information Technology Director to order 6 additional more aggressive HP desktop computers from PDS for the Police Department Detectives at a total cost of \$4,914 using the remaining balance of the 2018 Capital Outlay funds for the Windows 10 Desktop Replacement Project. Seconded by Alderman Barber. All voted Aye; motion carried.

LICENSES AND
PERMITS

- H. Alderman Taylor moved to grant the following licenses:
Hold for Appearance the Operator's License application for Nicole M. Schilcher, 10509 W South County Line Rd., Franksville; and
Approve the following PUBLIC (People Uniting for the Betterment of Life and Investment in the Community Grants:
(1) Franklin Health Dept. Bike Safety Event, Family Movie Night for Fee Park Permits for June 8, 2019 (Bike Safety Event), June 14, 2019 (Movie Night), at Lions Legend Park 1; and
(2) Franklin Lions Club – Meetings & Fund Raisers, St Martins Fair Permit, Park Permits, Temporary Class B Beer, and Operator's License for 04/20/19, 7/9/19, 7/23/19, 8/13/19 9/1-9/2/19 at St. Martins Fair and Lions Legend Park 1; and
(3) Franklin Police Department National Night Out, Temporary Entertainment & Amusement, Food License on 8/5/19 at Franklin Public Library, 9151 W. Loomis Rd.; and
(4) St. Martin Of Tours Church Fundraisers & Fair, Labor Day Fair Permit, Temporary Class B Beer & Wine, Temporary Entertainment & Amusement, and Operators' Licenses on 02/03/19, 02/16/19 or 04/16/19, 04/27/19, 09/01/19, 09/02/19 and 09/19 or 10/19 at St. Martins Fair and St. Martin of Tours Church or School, 7963 S. 116th St.; and
(5) VFW Post 10394 (Franklin/Hales Corners), St Martins Fair, Temporary Entertainment & Amusement, Temporary Class B Beer, St. Martin's Fair Permit on St. Martins Fair Mondays and September 1 & 2, 2019 at Post Property, 11300 W. Church St.; and
(6) Xaverian Missionaries Annual Mission Festival, Extraordinary Event License, Temporary Class B Beer and Wine License, Operator Licenses, Temporary Food Licenses, and Sign Permits on 6/22-6/23/19 at Xaverian Missionaries, 4500 Xavier Dr.
Seconded by Alderman Nelson. All voted Aye; motion carried.

VOUCHERS AND
PAYROLL

- I. Alderman Dandrea moved to approve City vouchers with an ending date of December 3, 2018 in the amount of \$4,094,831.94; and payroll dated November 23, 2018 in the amount of \$402,937.43 and payments of the various payroll deductions in the amount of \$392,609.45 plus City matching payments; and estimated payroll dated December 7, 2018 in the amount of \$414,000.00 and payments of the various payroll deductions in the amount of \$214,000.00 plus City matching payments. Seconded by Alderman Mayer. On roll call, all voted Aye. Motion carried.

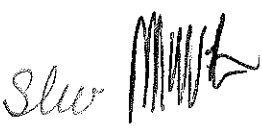
CLOSED SESSION
MENARD, INC. v. CITY
OF FRANKLIN

- G.27. Alderman Taylor moved to enter closed session at 9:17 p.m. pursuant to Wis. Stat. 19.85(1)(g), to confer with legal counsel for the Common Council who is rendering advice concerning strategy to be adopted by the body with respect to Menard, Inc. v. City of Franklin, Milwaukee County Circuit Court, Case Nos. 16-CV-8734 and 17-CV-12923 (Consolidated) and Case No. 18-CV-008640: Claims of Excessive Property Assessment for 2016, 2017, and 2018, and to reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate. Seconded by Alderman Nelson. On roll call, all voted Aye. Motion carried.

The Common Council reentered open session at 9:37 p.m.

ADJOURNMENT

- J. Alderman Nelson moved to adjourn the regular meeting of the Common Council at 9:37 p.m. Seconded by Alderman Dandrea. All voted Aye; motion carried.

APPROVAL 	REQUEST FOR COUNCIL ACTION	MEETING DATE 12/18/2018
REPORTS & RECOMMENDATIONS	Humane Officer Appointment Authorization for the City of Franklin	ITEM NUMBER <i>E.</i>

Since 1999, Milwaukee Area Domestic Animal Control Commission (MADACC) has been responsible for and has been carrying out the animal control duties in the cities and villages in Milwaukee County. Some of the duties performed by the Animal Control Officers at MADACC include assisting the communities in animal mistreatment investigations and the handling of rabies suspect animals. As part of their continuing education and training, MADACC's Animal Control Officers have earned State certification as Humane Officers through the Wisconsin Department of Agriculture, Trade, and Consumer Protection's (DATCP) "Humane Officers Program". Humane Officers, if appointed by a local government, have the authority to investigate complaints of animal abuse and neglect. Their job is to gather evidence to see whether neglect or abuse are occurring and put together a case that the district attorney can prosecute, or, if charges are not warranted, they may also work with animal owners to educate them and improve their animal care.

In 2002, at the full MADACC Board of Director's meeting, agreement was made appointing MADACC Animal Control Officers as agents for the 19 municipalities of Milwaukee County. Attached is a "Humane Officer Appointment Authorization" letter that would establish Karen Sparapani, Executive Director at MADACC, as the official "Humane Officer" for the City of Franklin. Per the October 16, 2018 MADACC Operations Committee Meeting minutes, Ms. Sparapani reported having attended the Humane Officer training class and noted that once appointed by the municipalities, she can function as an expert witness in animal related court cases and provide dangerous dog training to the police academy. It should be noted that this appointment only lends official sanction to the duties already being performed, so no additional cost is involved pertaining to this appointment.

The DATCP requires an appointment letter from each municipality for the appointment of Ms. Sparapani as the Humane Officer and also requires each municipality to also discharge Mr. John McDowell from his appointment due to his retirement. The attached letter serves both purposes.

The Director of Administration recommends the appointment of Ms. Karen Sparapani as the official Humane Officer for the City of Franklin and the discharge appointment of Mr. John McDowell, effective immediately.

COUNCIL ACTION REQUESTED

Motion to authorize the Director of Administration to execute the attached "Humane Officer Appointment Authorization" appointing Ms. Karen Sparapani as the Humane Officer for the City of Franklin and discharging Mr. John McDowell from the appointment effective immediately.

(Please print on your municipal letterhead)

Humane Officer Appointment Authorization

On behalf of the City/Village of _____, I hereby
authorize and appoint:

Karen Sparapani - Certification Number: 503

employed at Milwaukee Area Domestic Animal Control Commission as an official Humane
Officer for the City/Village of _____ on _____.

In addition, we would like to discharge the appointment of Humane Officer John McDowell due
to his retirement effective immediately.

By:

Authorized Signature

Date

Witness Signature

Date

Please return the completed form to:

Cindy Fredericksen, Community Relations Director
Milwaukee Area Domestic
Animal Control Commission
3839 West Burnham St.
West Milwaukee, WI 53215

4. Executive Director's Report

a. Statistical Update – September 2018

Ms. Sparapani reported Admissions were up slightly for both cats and dogs for the month of September compared to last year.

Ms. Sparapani reported Adoptions down 1%, Reclaims up 1%, Transfers up 9% and Euthanasia down 1% for the month of September.

Ms. Sparapani reported Adoptions up 1%, Reclaims up 1%, Transfers up 2% and Euthanasia down 2% year to date.


Ms. Sparapani reported WHS pulled 189 animals, Shelter from the Storm pulled 18 animals and Bichon & Little Buddies Rescue pulled 13 animals in September.

After discussion, a motion was made by Ms. Grill and seconded by Mr. Pearson to approve the statistical report for the month of September 2018. The motion passed unanimously.

b. Operational Update

Ms. Sparapani announced that Hildie Hirsch, a MADACC staff member since 1999, passed away last month.

Ms. Sparapani reported Anne Bucio, the Shelter Outcome Manager, left earlier this month and has been replaced by Kate Hartlund from Fulton County Animal Services out of Atlanta, Georgia. Ms. Sparapani reported it has been a smooth transition.

 Ms. Sparapani reported having attended the Humane Officer training class. Ms. Sparapani noted once appointed by the municipalities, she can function as an expert witness in animal related court cases and provide dangerous dog training to the police academy.

c. Supervisor's Report

Dr. Gutting reported the veterinary department is fully staffed but she is seeking one more part time position for the animal care department.

Ms. Shillinglaw reported on a new volunteer position, Cat Socializer. Volunteers will attend a cat behavior seminar for training purposes.

Ms. Proeber had nothing to report.

d. Friends of MADACC Update

Ms. Shillinglaw reported FOM will be holding their strategy meeting on October 17th, with a focus on adoptions.

APPROVAL <i>Slw</i>	REQUEST FOR COUNCIL ACTION	MEETING DATE <i>12/18/18</i>
Reports and Recommendations	AN ORDINANCE TO AMEND ARTICLE XVIII "TOBACCO PRODUCTS" AND §183-71. "RESTRICTING THE USE OF CIGARETTES AND TOBACCO PRODUCTS" OF THE MUNICIPAL CODE, TO INCLUDE THE REGULATION OF ELECTRONIC SMOKING DEVICES AND PRODUCTS IN ADDITION TO AND OTHER THAN TOBACCO PRODUCTS INTENDED FOR INHALATION USES	ITEM NUMBER <i>G.1.</i>

Background: Electronic cigarette use, also called vapes, vape pens, e-hookas, juul, phix, or drop, is a trending concern for teens. Nationwide vaping has increased 900% in high schoolers from 2011-2016 according to the surgeon general. That's about 1 in every 7 high school students. Vaping is easy to hide because the devices are small, sleek, and look like other necessary school supplies. Juuls, in particular, look like a USB drive and recharge in your computer. Vapes come in hundreds of flavors like gummy bear, slushie, coffee, fruit, and any candy or dessert one can imagine, which make them appealing to youth. Vaping has a large social media presence and nearly 2 in 5 middle and high school youth have been exposed to e-cigarette ads.

E-juice (liquid that is heated and inhaled from an e-cigarette) contains a multitude of chemicals, carcinogens, and nicotine, just like traditional cigarettes. One juul pod has the same amount of nicotine as an entire pack of cigarettes. The chemicals and nicotine inhaled from e-cigarettes is addictive and harms brain development. It causes mood swings, a decreased ability to learn and think, and an increased risk for addiction to other substances. The aerosol from the device also causes lung damage, adversely activates the sympathetic nervous system, and causes an increase in acid reflux.

Analysis: Currently, law enforcement has a problem citing and withstanding court depositions of youth abusing electronic cigarettes because there is no test for nicotine. Including a broader definition will aid officers, help dissuade youth from using, and align school and community policy.

Currently the following municipalities have include electronic cigarettes in their ordinances: Oak Creek, Milwaukee, Greenfield, West Allis, and South Milwaukee. The following municipalities are activity working towards the inclusion of electronic cigarettes in their ordinances: Greendale, Wauwatosa

Options: (1) Include the definitions of "smoking" and "electronic smoking device" in Chapter 183-71 in Franklin Municipal Code. (2) Do not add proposed definitions to municipal code.

Recommendation: Include the definitions of "smoking" and "electronic smoking device" in Chapter 183-71 in Franklin Municipal Code.

Fiscal Note: none

COUNCIL ACTION REQUESTED

Include the definitions of "smoking" and "electronic smoking device" in Chapter 183-71 in Franklin Municipal Code as per the draft ordinance, attached.

Attachments:

- 1) Proposed Ordinance to amend Article XVIII "Tobacco Products" and §183-71
- 2) Letter of support: Franklin Public Schools Board of Education
- 3) Letter of support: Franklin Public School Nurses
- 4) Letter of support: City of Franklin Police Department
- 5) Letter of support: City of Franklin Board of Health
- 6) Research: Bulletin of the World health Organization
- 7) Research: U.S. Department of Health and Human Services

Health Department: JM

ORDINANCE NO. 2018-____

AN ORDINANCE TO AMEND ARTICLE XVIII "TOBACCO PRODUCTS" AND §183-71. "RESTRICTING THE USE OF CIGARETTES AND TOBACCO PRODUCTS" OF THE MUNICIPAL CODE, TO INCLUDE THE REGULATION OF ELECTRONIC SMOKING DEVICES AND PRODUCTS IN ADDITION TO AND OTHER THAN TOBACCO PRODUCTS INTENDED FOR INHALATION USES

WHEREAS, the Franklin Health Department having reviewed Article XVIII "Tobacco Products" and §183-71. "Restricting the use of cigarettes and tobacco products" of the Municipal Code, as part of its research and study with regard to public health concerns which have arisen with regard to e-cigarettes, vaping, and the use of products other than tobacco for smoking purposes; and

WHEREAS, the Health Department having recommended to include the regulation of electronic smoking devices and products in addition to and other than tobacco products intended for inhalation uses within the aforesaid Municipal Code provisions, allowing for the City regulation thereof in conjunction with Wis. Stat. § 101.123. Smoking prohibited, as adopted by reference under §183-71.G. "Wisconsin Clean Indoor Air Act" of the Municipal Code; and

WHEREAS, the Common Council having considered the Health Department recommendation and having determined such amendments to be in the interests of furthering the public health, safety and welfare.

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

- SECTION 1: Article XVIII "Tobacco Products" of the Municipal Code of the City of Franklin, Wisconsin, the title only, is hereby amended to read as follows: "Tobacco and Smoking Products and Uses".
- SECTION 2: §183-71. "Restricting the use of cigarettes and tobacco products" of the Municipal Code of the City of Franklin, Wisconsin, the title only, is hereby amended to read as follows: "Restricting the use of cigarettes, electronic smoking and vaping devices and tobacco and other products intended for inhalation uses".
- SECTION 3. §183-71.A. Definitions, of the Municipal Code of the City of Franklin, Wisconsin, is hereby amended to add two terms and their respective definitions immediately following the existing terms and their respective definitions, and in the order as follows:

SMOKING

“Smoking” means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic, in any manner or in any form. “Smoking” also includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this Article.

ELECTRONIC SMOKING DEVICE

“Electronic Smoking Device” means any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person in any manner for the purpose of inhaling vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor.

SECTION 4: The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION 5: All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION 6: This ordinance shall take effect and be in force from and after its passage and publication.

Introduced at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2018, by Alderman _____.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2018.

APPROVED:

Stephen R. Olson, Mayor

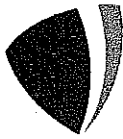
ORDINANCE NO. 2018-_____

Page 3

ATTEST:

Sandra L. Wesolowski, City Clerk

AYES _____ NOES _____ ABSENT _____



FRANKLIN

PUBLIC SCHOOLS

December 12, 2018

Hon. Steve Olson, Mayor &
Franklin Common Council Members
9229 W. Loomis Road
Franklin, WI 53132

Dear Mayor Olson and Council Members,

On November 12, 2014, Board of Education of Franklin Public Schools was one of the first Wisconsin school districts to adopt a policy prohibiting e-cigarettes and similar electronic smoking devices while on the school premises, in school owned or contracted vehicles, or while involved in any school-sponsored activity.

E-cigarettes have become the most commonly used tobacco products among students, and use is becoming epidemic. While the American Lung Association has yet to determine all of the lasting health consequences of e-cigarettes, there's evolving evidence about the health risks of e-cigarettes on the lungs, including irreversible lung damage and lung disease. Despite this, e-cigarette vendors have used marketing to persuaded students to start using and continue using e-cigarettes. Often in a very deceptive manner.

Franklin Public Schools has seen a steady rise in the use of e-cigarettes at both the middle school and the high school. We are concerned about this trend and the wellbeing of our students and therefore support the proposed Franklin Ordinance Chapter 183-71, which reinforces School Board Policy #5351: Enforcement Procedures for Alcohol, Tobacco, E-cigarettes or Similar Electronic Smoking Devices, and Other Drug Use or Possession of Drug Paraphernalia, by limiting and/or prohibiting the use of tobacco products by children and adults in school buildings, on school grounds, at school functions and at any time inside a building owned, leased or used by a public school in the City.

Sincerely,

Dr. Judy Mueller, District Administrator & Franklin Public Schools Board of Education



Date: 12/11/18

To: The Honorable Common Council
City of Franklin

From: Molly Kaul, School Nurse
Lori O'Neil, School Nurse
Franklin Public Schools

Subject: Proposed revisions to Tobacco Products ordinance

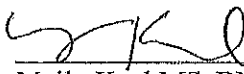
We are writing today in support of the proposed revisions to the city of Franklin ordinance restricting the use of cigarettes and tobacco products.

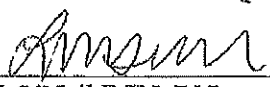
We know that scientists and researchers with the Centers for Disease Control and Prevention (CDC), the American Academy of Pediatrics, and U.S. Food and Drug Administration have found the use of electronic cigarettes to be a significant public health concern. Additionally, there is extensive evidence to support the statement that electronic cigarettes are particularly unsafe for use in children and young adults.

As health care professionals working exclusively with school-aged children in the city of Franklin, we do provide care to children who are exhibiting signs and symptoms of individuals who may be addicted to a substance, likely nicotine, and who are demonstrating side effects associated with the acute use of Electronic Nicotine Delivery Systems or electronic cigarettes. We are currently collaborating with our Franklin Public School colleagues to assess trends related to electronic cigarette use in our population and to support students at risk for substance abuse and addiction. Possibly more importantly, we are working to prevent children from consuming harmful substances from electronic smoking devices, and these prevention efforts require constant reevaluation of our current plans and antismoking actions in addition to strong partnerships with students, their families, and our community partners.

The changes proposed to the aforementioned ordinance have the potential to provide structure and support to our team efforts at Franklin Public Schools to eliminate poor health outcomes related to the use of tobacco products and electronic cigarettes among our children. We truly appreciate your consideration.

Sincerely,


Molly Kaul MS, RN, PCNS-BC
Franklin Public Schools
School Nurse


Lori O'Neil BSN, RN
Franklin Public Schools
School Nurse



City of Franklin Police Department

Chief of Police Richard P. Oliva

November 27, 2018

To: Mayor Steve Olson and members of the Common Council

From: Chief Rick Oliva

RE: Revising the Tobacco Ordinance to include electronic smoking devices

I support the recommendation to amend city ordinance 183-71 to include the possession and use of electronic smoking devices by children.

The police department has experienced a significant increase in the use of these devices among the youth in our community. A common use of these devices is to inhale illegal substances.

The prohibition of electronic smoking devices will enhance public safety in the community.

**CITY OF FRANKLIN
BOARD OF HEALTH MEETING
MINUTES
DECEMBER 10, 2018**

I. Call To Order

Dr. Wengelewski called the Board of Health meeting to order at 7:02 p.m. on Monday, December 10, 2018 at the in the Health Wing of Franklin City Hall, 9229 West Loomis Road, Franklin, Wisconsin.

II. Roll Call –

Present: Dr. Henry Wengelewski DDS, David Gustitus, Patricia Nissen, RN, Wayne Hustad, and Interim Health Officer Darren Rausch

Excused: Renee Fuller, Lori O'Neil, RN

Absent: Dr. Golden

III. Approval of October 8, 2018 minutes

Dr. Gustitus made a motion to approve the minutes of the October 8, 2018 Board of Health meeting. Seconded by Wayne Hustad. Motion carried unanimously.

IV. Citizen Comment Period

There were no citizens for comment.

V. Unfinished Business

A. Assurance

1. Evaluation of the City of Franklin Retail Food Establishment Program

The Board was updated on the evaluation and standardization of staff by the Retail Food Establishment Program. A work plan was created as noted by the evaluation. The municipal code will need to be updated to be consistent with DATCP language.

2. Update Related to Health Officer Recruitment

The Health Officer position was posted internally and externally on December 3, 2018, and will close on December 21st. The Board of Health Chairman, HR Director, Lori O'Neil and Darren will serve on the interview panel. Interviews are anticipated to occur the first week of January.

VI. New Business

A. Assurance

1. Drug-Free Community Annual Update

Lauren Gottlieb, Drug-Free Community Coalition Coordinator presented the yearly update of the Drug-Free Community Grant. A motion was made by David Gustitus, to present the update at the Common Council meeting in January (2019). Seconded by Ald. Barber. Motion carried unanimously.

2. WI WINS Tobacco Compliance Checks

Julianna Manske reported that during the two tobacco compliance checks conducted this year there were no violations.

B. Policy Development

1. Proposed additions to Chapter 183-71 in Franklin's Municipal Code to include electronic cigarettes

David Gustitus made a motion to revise Chapter 183-71 in the Franklin Municipal Code updated the definition section to include smoking and electronic cigarettes. Seconded by Ald. Barber. Motion carried unanimously.

2. 2019 Health Department Budget Request	Darren stated that there were no changes to the Health Department budget as presented.
3. Contract to Administer the Retail Food and Recreational Programs for the Wisconsin Department of Agriculture, Trade and Consumer Protection	A motion was made by Pat Nissen to extend the contract with DATCP for the next three years. Seconded by Ald. Barber. Motion unanimously carried.
C. Assessment	
1. Milw. Co. (SurvNet) and FHD Communicable Disease Reports	The Board reviewed the quarterly case counts for Milwaukee County SurvNet reports thru September of this year. The Franklin Health Department communicable disease reports were also reviewed for October and November. There were eight non-public health referrals – 4 animal bites, 3 social service and one lead level referral(s).
2. Public Health Respiratory Virus (Surveillance) Disease Report	The Public Health Respiratory Virus (Surveillance) Disease Report was reviewed. It's early in the influenza season to make any assumptions on this year's strains vs. vaccines.
3. Community Health Survey Results for Southwest Milwaukee County	Darren relayed to the Board that the community health survey data has been shared with Health Officers in November, but the press release has been delayed until sometime in January. The Board will get a data presentation at the January meeting.
VII. Program/Speaker	None
VIII. Announcements/Correspondence/Articles	
A. Announcements	
1. In Roads Student – Summary of the Semester	Franklin High School student, Olivia Banach relayed her experiences at the Franklin Health Department as an intern during the first semester of school (September 2018 – January 2019)
B. Correspondence	None.
C. Articles	
1. 'Polio-like illness now confirmed in six Wisconsin residents, health official say.' MJS, 11/13/2018	The Board reviewed and discussed the article regarding the polio-like illnesses occurring in Wisconsin.

2. 'Milwaukee's grades for restaurants might be eliminated.' MJS, 11/16/2018

The Board reviewed the article about the elimination of grading Milwaukee restaurants.

3. 'State panel wants to forbid Milwaukee from issuing restaurant safety grades.' MJS, 11/16/2018

The Board reviewed the article regarding the issuance of safety grades to Milwaukee restaurants.

4. 'It's OK to eat some romaine lettuce, but CDC is still recommending extreme caution.' MJS, 11/27/2018

The Board discussed and reviewed the article concerning the consumption of romaine lettuce issue.

5. 'Widespread public health education urged to fight opiod epidemic.' MJS, 12/01/2018

The Board reviewed and discussed the article related to the opiod epidemic.

IX. Adjournment

Pat Nissen moved to adjourn the BOH meeting until Monday, January 14, 2019, seconded by Ald. Barber. Motion carried unanimously. The meeting was adjourned at 8:10 p.m.

Darren Rausch, Interim Health Officer
Board of Health Secretary

Should e-cigarette use be included in indoor smoking bans?

Nick Wilson,^a Janet Hoek,^b George Thomson^a & Richard Edwards^a

Electronic nicotine delivery systems, also called e-cigarettes, are devices that vapourize liquid, typically comprising nicotine, propylene glycol, glycerine and flavourings. Switching from smoking tobacco cigarettes to using e-cigarettes – known as vaping – may reduce user harm, by supporting quitting or acting as a lower risk substitute. However, the degree of harm reduction is uncertain. Governments that are considering policies to restrict vaping should consider the optimal regulation of e-cigarette products, including defining where vaping may occur. Here, we explore some of the arguments for and against extending indoor smoke-free laws to also cover vaping.

Arguments for vaping

First, allowing vaping in indoor public places may encourage smokers to switch to vaping, by making it relatively more attractive as vaping would be allowed where tobacco smoking is not. Some e-cigarette users have voiced this potential benefit of normalization of vaping when arguing against any bans on public vaping.¹ Nevertheless, we are not aware of any clear evidence supporting this argument as an important driver for smokers switching to vaping. Other factors, such as health reasons or the lower cost of vaping, seem to be more important for switching from smoking to vaping. Furthermore, if vaping indoors does actually normalize vaping for smokers, then logic would suggest it might also normalize vaping for non-smokers.

Second, allowing vaping in indoor public places where smoking is not permitted could minimize any discomfort that e-cigarette users may experience from nicotine withdrawal when being in such settings. However, evidence suggests that this discomfort is fairly modest. For example, in a survey conducted among exclusive e-cigarette users in the United States of America, only 12% (124 of 1034) reported finding it difficult to

refrain from vaping in places where they were not supposed to.²

Arguments for prohibiting vaping

First, at a distance, smoking and vaping may look similar to some people, since both activities produce visible clouds exhaled from people's mouths after they have drawn on a cigarette or device. Some e-cigarette users admit to this similarity, e.g. some cite visual similarity as a reason why they do not vape around people who are eating.¹ Given such similarities, permitting indoor vaping might renormalize tobacco smoking in smoke-free indoor environments and may lead smokers to query: if vaping is permitted, why is smoking not allowed. Renormalization of tobacco smoking would be particularly problematic if it increases the risk that children become susceptible to or initiate smoking. Indeed, some research suggests that children may misperceive vaping as smoking.³ Nevertheless, the authors of this study speculated that "once these products are more common and the purpose of them is known, seeing people use them should normalize quitting behaviour."³

A second argument is that close exposure to vaping among people who have recently quit smoking or vaping might trigger them to relapse to smoking. For example, an experimental study among young-adult tobacco smokers reported that exposure to a video showing vaping significantly increased their urge to smoke as well as their desire for tobacco cigarettes and e-cigarettes.⁴ Similarly, another experimental study found that exposure to the e-cigarette cue but not the tobacco cigarette cue also significantly increased desire to smoke an e-cigarette.⁵

Evidence suggests that many smokers support smoke-free areas, because this helps encourage them to quit.⁶ It seems plausible that this reasoning would also apply to e-cigarette users,

who wish to either constrain the level of their vaping or to quit vaping and may therefore favour indoor areas being vape-free.

Third, passive exposure to e-cigarette vapour might lead to adverse health effects according to a systematic review of 16 studies.⁷ A 2016 report from the World Health Organization (WHO)⁸ also concluded that second-hand aerosols from e-cigarettes are a new air contamination source for hazardous particulate matter (PM). The levels of some metals, such as nickel and chromium, in second-hand aerosols are not only higher than background air, but also higher than second-hand smoke. Furthermore, compared to background air levels, PM_{1.0} and PM_{2.5} in second-hand aerosols are 14–40 times and 6–86 times higher, respectively. In addition, nicotine in second-hand aerosols has been found to be between 10–115 times higher than in background air levels, acetaldehyde between two and eight times higher, and formaldehyde about 20% higher.⁸ The report suggested that the increased concentration of toxicants from second-hand aerosols over background levels poses an increased risk for the health of all bystanders, especially those with pre-existing respiratory conditions.⁸

As a result of the report, WHO recommends to Parties of the Framework Convention on Tobacco Control (FCTC) that they consider prohibiting by law the use of e-cigarettes in indoor spaces or at least where smoking is not permitted.⁸ Furthermore, the International Agency for Research on Cancer⁹ now considers particulates such as PM_{2.5} to be carcinogenic. These data seem to support the case for fairly strong precautionary arguments for governments to protect the public from involuntary exposure to second-hand aerosols.

Fourth, regardless of the potential health risks, some people find second-hand aerosols from nearby vaping to be a nuisance, since the e-cigarettes

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^b Department of Marketing, University of Otago, Dunedin, New Zealand.

Correspondence to Nick Wilson (email: nick.wilson@otago.ac.nz).

(Submitted: 12 October 2016 – Revised version received: 26 December 2016 – Accepted: 6 January 2017 – Published online: 28 April 2017)

can include strong flavours and leave pungent odours. While such nuisance concerns do not appear to have been quantified in surveys, we note that the 2016 vaper-friendly Global Forum on Nicotine conference, actually banned participants from vaping in certain indoor areas due to the nuisance that aerosol clouds caused.¹⁰

Fifth, a law aiming to achieve high compliance needs to be readily understandable to people who vape and those around them, hence a law restricting smoking should support a smoke-free encompasses vape-free approach. Exemptions that permit vaping in some indoor smoke-free settings (e.g. certain workplaces, restaurants or pubs) but not others, may risk generating confusion. The problems with a lack of simplicity have been illustrated by jurisdictions that have adopted complex smoke-free laws (e.g. exemptions for some types of small pubs/bars, permitting smoking rooms and defining half an indoor area smoke-free). Simplicity might also favour citizen-led promotion and enforce-

ment of the law by reducing confusion between a cloud of vaped aerosol at a distance and a cloud of cigarette smoke.

Conclusion

Considering the above arguments collectively, we believe that, from a public health perspective, central and local governments should adopt regulations that effectively determine that all designated indoor smoke-free areas are also vape-free areas. We note that this approach is being implemented by many jurisdictions, with vaping being banned in enclosed public spaces, such as bars, restaurants and other workplaces, in 25 countries.¹¹ This approach is also recommended in the 2016 WHO report to the Parties of the FCTC.⁸

Nevertheless, further research on the risks of using e-cigarettes is still desirable.¹² Research is needed to determine whether smoke-free outdoor areas should also be vape-free or not, as the issues differ somewhat from indoor public spaces (e.g. greater

dilution of second-hand aerosols outdoors).

An important perspective is whether a society is considering vaping as a permanently acceptable activity or as a temporary way to provide nicotine for people giving up smoking and transitioning to be nicotine-free. If public health policies are based on the latter perspective, it may be unwise to adopt any policy permitting indoor vaping areas, since that could suggest vaping should be a permanently allowed activity. Furthermore, governments wanting to encourage smokers to shift to vaping might be better advised to evaluate the potential of other strategies, such as differential prices, that is, via high tobacco taxes and untaxed e-cigarettes. A potential advantage of price instruments over vape-free policies is that price instruments might be more easily and quickly adjusted via tax changes than changes to the legal designation of vape-free areas. ■

Competing Interests: None declared.

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E-Cigarette Use Among Youth and Young Adults

A Report of the Surgeon General

Fact Sheet

This Surgeon General's report comprehensively reviews the public health issue of e-cigarettes and their impact on U.S. youth and young adults. Studies highlighted in the report cover young adolescents (11–14 years of age); adolescents (15–17 years of age); and/or young adults (18–25 years of age). Scientific evidence contained in this report supports the following facts:

E-cigarettes are a rapidly emerging and diversified product class. These devices typically deliver nicotine, flavorings, and other additives to users via an inhaled aerosol. These devices are referred to by a variety of names, including “e-cigs,” “e-hookahs,” “mods,” “vape pens,” “vapes,” and “tank systems.”

- ❖ E-cigarettes are battery-powered devices that heat a liquid into an aerosol that the user inhales.
- ❖ The liquid usually has nicotine, which comes from tobacco; flavoring; and other additives.
- ❖ E-cigarette products can also be used as a delivery system for marijuana and other illicit drugs.

E-cigarettes are now the most commonly used tobacco product among youth, surpassing conventional cigarettes in 2014. E-cigarette use is strongly associated with the use of other tobacco products among youth and young adults, including cigarettes and other burned tobacco products.

- ❖ In 2015, more than 3 million youth in middle and high school, including about 1 of every 6 high school students, used e-cigarettes in the past month. More than a quarter of youth in middle and high school have tried e-cigarettes.
- ❖ Among high school students, e-cigarette use is higher among males, whites, and Hispanics than among females and African-Americans.
- ❖ There is a strong association between the use of e-cigarettes, cigarettes, and the use of other burned tobacco products by young people. In 2015, for example, nearly 6 of 10 high school cigarette smokers also used e-cigarettes.
- ❖ Research has found that youth who use a tobacco product, such as e-cigarettes, are more likely to go on to use other tobacco products like cigarettes.

E-cigarette use among youth and young adults has become a public health concern. In 2014, current use of e-cigarettes by young adults 18–24 years of age surpassed that of adults 25 years of age and older.

- ❖ Among young adults 18–24 years of age, e-cigarette use more than doubled from 2013 to 2014. As of 2014, more than one-third of young adults had tried e-cigarettes.
- ❖ The most recent data available show that the prevalence of past 30-day use of e-cigarettes was 13.6% among young adults (2014) and 16.0% among high school students (2015).
- ❖ The most recent data available show that the prevalence of past 30-day use of e-cigarettes is similar among middle school students (5.3%) and adults 25 years of age and older (5.7%).
- ❖ Among young adults, e-cigarette use is higher among males, whites and Hispanics, and those with less education.

The use of products containing nicotine poses dangers to youth, pregnant women, and fetuses. The use of products containing nicotine in any form among youth, including in e-cigarettes, is unsafe.

- ❖ Many e-cigarettes contain nicotine, which is highly addictive.
- ❖ The brain is the last organ in the human body to develop fully. Brain development continues until the early to mid-20s. Nicotine exposure during periods of significant brain development, such as adolescence, can disrupt the growth of brain circuits that control attention, learning, and susceptibility to addiction.
- ❖ The effects of nicotine exposure during youth and young adulthood can be long-lasting and can include lower impulse control and mood disorders.
- ❖ The nicotine in e-cigarettes and other tobacco products can prime young brains for addiction to other drugs, such as cocaine and methamphetamine.

- ❖ Nicotine can cross the placenta and affect fetal and postnatal development. Nicotine exposure during pregnancy can result in multiple adverse consequences, including sudden infant death syndrome (SIDS).
- ❖ Ingestion of e-cigarette liquids containing nicotine can cause acute toxicity and possible death if the contents of refill cartridges or bottles containing nicotine are consumed.

E-cigarette aerosol is not harmless. It can contain harmful and potentially harmful constituents including nicotine. Nicotine exposure during adolescence can cause addiction and can harm the developing adolescent brain.

- ❖ The constituents of e-cigarette liquids can include solvents, flavorants, and toxicants.
- ❖ The aerosol created by e-cigarettes can contain ingredients that are harmful and potentially harmful to the public's health, including: nicotine; ultrafine particles; flavorings such as diacetyl, a chemical linked to serious lung disease; volatile organic compounds such as benzene, which is found in car exhaust; and heavy metals, such as nickel, tin, and lead.

E-cigarettes are marketed by promoting flavors and using a wide variety of media channels and approaches that have been used in the past for marketing conventional tobacco products to youth and young adults.

- ❖ E-cigarettes are an estimated \$3.5 billion business in the United States. In 2014, e-cigarette manufacturers spent \$125 million advertising their products in the U.S.
- ❖ In 2014, more than 7 of 10 middle and high school students said they had seen e-cigarette advertising. Retail stores were the most frequent source of this advertising, followed by the internet, TV and movies, and magazines and newspapers.
- ❖ The 2012 Surgeon General's Report on tobacco use among youth and young adults found that tobacco product advertising causes young people to start using tobacco products. Much of today's e-cigarette advertising uses approaches and themes similar to those that were used to promote conventional tobacco products.
- ❖ E-cigarettes are available in a wide variety of flavors, including many that are especially appealing to youth. More than 85% of e-cigarette users ages 12-17 use flavored e-cigarettes, and flavors are the leading reason for youth use. More than 9 of 10 young adult e-cigarette users said they use e-cigarettes flavored to taste like menthol, alcohol, fruit, chocolate, or other sweets.

Action can be taken at the national, state, local, tribal and territorial levels to address e-cigarette use among youth and young adults. Actions could include incorporating e-cigarettes into smokefree policies, preventing access to e-cigarettes by youth, price and tax policies, retail licensure, regulation of e-cigarette marketing likely to attract youth, and educational initiatives targeting youth and young adults.

- ❖ The Food and Drug Administration (FDA) now regulates the manufacturing, importing, packaging, labeling, advertising, promotion, sale, and distribution of e-cigarettes.
 - In August 2016, FDA began enforcing a ban on vending machine sales unless in adult-only facilities and a ban on free samples and sales to minors.
- ❖ Parents, teachers, health care providers, and others who influence youth and young adults can advise and inform them of the dangers of nicotine; discourage youth tobacco use in any form, including e-cigarettes; and set a positive example by being tobacco-free themselves.

Citation: U.S. Department of Health and Human Services. *E-Cigarette Use Among Youth and Young Adults: A Report of the Surgeon General—Executive Summary*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2016.

Website: E-cigarettes.Surgeongeneral.gov

APPROVAL <i>slw</i>	REQUEST FOR COMMON COUNCIL ACTION	MEETING DATE 12-18-18
REPORTS AND RECOMMENDATIONS	Authorization to proceed with the Firearms Range Capital Improvement Fund Project process and to adopt A Resolution Authorizing Certain Officials to Execute an Agreement for Architectural and/or Engineering, Design, Bidding and Construction Administration Services for the Police Department Indoor Firearms Range Renovation Project Between the City of Franklin and Angus-Young Associates, Inc.	ITEM NUMBER G. 2.

The police department firearms range is in need of a major renovation. Issues with the range include frequent target carrier system failures, loss of structural integrity of projectile trap, limited replacement parts, unreliable maintenance service, leaking ceiling and inadequate ventilation system.

The 2018 Budget of \$191,250 was the original cost estimate to replace the target carrier system, electronics and make renovations to increase the efficiency and effectiveness of the ventilation system.

Prior to proceeding with the project, staff was directed to put the project out for bids. The 2 bids received identified additional project costs to address the integrity of the building and installation of a new ventilation system as the current system is inadequate to mitigate exposure to lead. The new ventilation system is the largest individual portion of the revised project costs.

The 2 architectural firms that submitted bids specialize in firearms ranges that provide the design specifications and act as the general contractor for the project.

A complete renovation project is now expected to cost approximately 1.2 million dollars. The initial expenditures would be for the design phase. The department is recommending the services of Angus Young who has provided a quote of \$54,899 for that phase of the project.

It should be noted that even if the range renovation project does not go forward, there will be costs associated with properly fixing the leaks in the range which are estimated to be approximately \$48,600 and to decommission the range and do lead abatement for an approximate cost of \$63,375 for a total of \$111,975.

An inquiry to other police departments in Milwaukee County showed that the majority have their own in house ranges. Several small agencies in the North Shore area share a range in Brown Deer. No department in this area indicated interest in cost sharing the re-construction of our range.

OPTIONS

- 1.) Complete a full renovation of the range and address the issues now for a long term solution.
- 2.) Accept the original quote to replace the range target system and make renovations to increase the efficiency and effectiveness of the ventilation system as an interim fix.
- 3.) Close down the range and send personnel to outside ranges for training (estimated associated costs attached).

COUNCIL ACTION REQUESTED

A motion to authorize staff to proceed with the Firearms Range Capital Improvement Fund Project process and to adopt A Resolution Authorizing Certain Officials to Execute an Agreement [including any changes thereto approved by the Chief of Police and the City Attorney] for Architectural and/or Engineering, Design, Bidding and Construction Administration Services for the Police Department Indoor Firearms Range Renovation Project Between the City of Franklin and Angus-Young Associates, Inc. If motion is approved using the 2018 appropriation of \$191,250 already approved for the range renovation project, the 2019 appropriation must be under spent by at least a like amount.

Friday, May 11, 2018

Mr. Kevin Magno, Captain
City of Franklin
9455 West Loomis Road
Franklin, WI 53132-9690

Page 1 of 4

Re: Indoor Shooting Range Renovations

Dear Kevin:

Thank you for having Angus Young Associates provide you with this proposal for architectural and/or engineering services for your project. We hope that this proposal format provides you with the needed information to select our firm. Please let us know if you have any questions or require changes.

This engagement letter is for professional services for the project scope, professional disciplines and services described below. Should the project scope, disciplines included or services being provided need adjustment or change during the development of the project, we will be happy to revise the scope or services with an adjustment in the fees corresponding to the revisions. The risk allocation amount shall be the limit of our professional liability as defined in the 'Risk Allocation' section of this engagement letter.

Project Scope:

The City of Franklin Police Department would like to renovate their existing indoor shooting range located at 9455 West Loomis Road. The existing (6) lane shooting range was constructed in 2001 in a fixed firing line configuration. SWAT teams currently utilize the range for tactical training purposes, which the range's ballistic protection system is not designed for. This leaves portions of the range structure, electrical, mechanical and fire suppression systems exposed to damage and potential uncontrolled bullet splatter.

The existing mechanical system has also been inadequate in properly ventilating the range space, leaving users exposed to firing byproducts. An existing precast concrete column located behind the shooting line and inadequate enclosure of the space above the shooting line contributes to the ventilation system not performing to minimum standards. In addition, the exhaust fan and make-up air units serving the shooting range are not easily accessible for maintenance, and replacement of these systems needs to be analyzed so that range ventilation operates efficiently and meets minimum standards for air turn over and laminar flow.

Angus Young will provide Architectural, Structural, Mechanical, and Electrical design services for the renovation of the range equipment, ventilation, and lighting. The existing roof structure will be analyzed for allowable capacity to support new ceiling mounted AR500 steel tactical range ceiling baffle system. Solutions will be explored for improving the range's layout and ventilation system to meet minimum guidelines while improving the accessibility of equipment for repair and maintenance. Design services will include competitive and open bidding, meeting state statute requirements for municipal bidding.

Construction administration services will also be provided, including construction progress meeting attendance and site visits to ensure compliance with the design documents is being met.

Site and plumbing related services are not included, as our understanding of the project scope does not include these services.

Design services will proceed with approval of this proposal and/or owner-architect contractual agreement. Design completion and bidding/construction period will be coordinated with the police department to limit disruption of range access by City staff.

Professional Disciplines Included:

Professional services included with the proposed fee include: architectural design services to define building layout, orientation, scope, finishes and color selection and construction; design of structural systems and components; HVAC system design including determining heating and cooling loads, determining system(s), components and operations; electrical power, lighting and communications systems design, equipment selection, layout and components.

Scope of Services Included:

Schematic Design: Working from the information you provide, we will develop the range floor plan and interior elevations. The plans will illustrate the spatial and functional relationships of the range. The interior elevations will illustrate the projected image and proposed materials. We shall also prepare a project schedule, construction cost estimate, and will discuss with you construction types, costs and alternatives you may want to consider.

Design Development: We will work with you to determine the next level of detail in the design of the project. Consideration for construction type, materials, finishes, features and final design considerations will be covered. If included: our engineers shall determine the structural, mechanical, electrical, and plumbing requirements of the building, mechanical system options and suggestions, then optimal locations and sizes for the systems. It is our goal, that by the conclusion of this phase, all aspects of the building design have been thoroughly reviewed with you and approved.

Detailed Bidding/Construction Documents: After systems have been selected and finishes approved, our team shall develop detailed drawings, specifications and project manual needed for bidding, approvals and construction. Project manual with specifications shall be developed for this project and shall include requirements for bidding, general conditions, and other general provisions as requested by the owner. Prepare documents shall provide a level of detail for competitive, comparable bidding of project.

Bidding/Contract Negotiation: During the bidding of the project, we shall answer questions, prepare addenda and assist in obtaining bids, award and preparation of the Standard AIA Owner-Contractor contracts. The conclusion of this phase will result in an award and contracts for construction with a single prime General Contractor.

Construction Phase Services: We shall provide construction services which will include: reviewing shop drawings and payment requests, attend bi-weekly job meetings, review construction on-site, prepare clarifications, bulletins, request for proposals and answer questions as called upon. At notification by the contractor of substantial completion, we shall closely review the project with you and prepare a list of all items that the contractor must complete, repair or provide prior to final completion and payment. As part of the final completion of the project, we shall assist in gathering as-built documents, warranties, instruction and operation manuals from the contractor, preparation of closing documents and paperwork required for reduction of retainage and final payment.

Services Not Included:

Professional disciplines not included in this proposal: plumbing; site design; landscape design; interior design (ffe); civil engineering/storm water management; site surveying; soil testing & geotechnical engineering; accounting; or, legal services. These may be available upon request with appropriate fee adjustments.

Available services not included: descriptive program; feasibility study; and, post-construction services. These services are available upon request but have not been included in this proposal.

Re: Indoor Shooting Range Renovations

Page 3 of 4

Terms: Contract form: B101 Owner-Architect Abbreviated Agreement, 2007

Angus Young Associates Risk Allocation: Amount of Fees Paid

Type of Billing: Fixed fee plus reimbursible expenses (see last page for description), billed monthly based on the progress of completed work.

Professional Fee: **\$42,550.00**

Estimated Expenses included in fee:

\$1,350.00

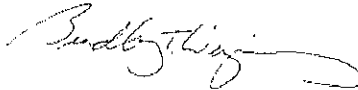
Hourly Rates:	Principal	\$120.00	Engineer	\$110.00
	Design Professional	\$100.00	Professional I	\$90.00
	Professional II	\$75.00	Professional III	\$65.00
	Designer	\$55.00	Technician I	\$45.00

Work will begin on the project after a signed copy of this engagement letter is received. If for any reason, work has begun without a signed engagement letter, contract or purchase order, we may terminate work on the project without notice. Receipt of a purchase order for this project will constitute agreement with the terms of this engagement letter. This agreement and the contract form defined under "Terms" above shall be the basis of our agreement. The contract form will be provided at your request.

We look forward to working with you on this project.

Sincerely,

Accepted By:



Bradley Werginz, Principal, Architect, AIA

Signature

Printed Name

Date

INFORMATION REQUIRED FROM OWNER

To provide the requested services, we may require information from you or others to provide the professional services requested. Depending on the scope of the project and services we will require you to provide: space needs or program statement; detailed site survey; soils engineering report; written design criteria and project requirements; and, existing building as-built drawings/construction documents. We will rely on the content, accuracy and completeness of all information provided by you or others on your behalf. Please confirm the accuracy of all information provided.

SCOPE OF BASIC SERVICES

Services that we may provide for your project include: architectural, structural, electrical, plumbing, and mechanical engineering. These services are implied unless omitted because of project scope or limitation of requested professional services. Unless otherwise stated, scope of professional services and form of agreement between the Angus Young Associates, Inc. and the owner shall be defined by the AIA contract form referenced previously. This contract form is available upon request.

REIMBURSABLE EXPENSES

Reimbursable expenses shall be billed in addition to professional fees at cost plus fifteen percent. Expenses may include but not limited to: submittal and approval fees; printing, reproduction of drawings and specifications; mailing; advertising fees; and travel expenses. Where proposal is provided to include expenses, these fees are included in the profession fees listed.

SERVICES NOT INCLUDED

Angus-Young Associates shall not provide, coordinate nor be responsible for: soils, concrete, material and performance testing; site surveying services; pre-engineered metal building components; other professional services such as real estate, accounting, or legal services. Angus Young, except for its own services, shall not specify construction procedures, manage or supervise construction, or impliment or be responsible for health and safety procedures, and shall not have control or charge of and shall not be responsible for construction means, methods, technics, sequences or procedures, or for safety precautions and programs.

EXISTING FACILITY LIMITATIONS

We are informing you of risk you assume associated with our work as it relates to the existing building construction. Since we are unfamiliar and unable to verify without damaging the facility we shall assume that the existing building construction is: as indicated on drawings provided; meets all code requirements; and is consistent with the construction that is visible. Construction that is buried, covered or not readily visible will not be verified by our staff prior to construction demolition. Should demolition expose structural, code or other conditions inconsistent with the information provided or available; additional costs to remedy will be born by the Owner. Costs for investigation, recommendations, and/or design efforts by our staff will also be charged in addition to the fees previously established at our standard hourly rates.

LIMITATION OF LIABILITY

In recognition of the relative risks and benefits of the Project to both the Client and the Consultant, the risks have been allocated such that the Client agrees, to the fullest extent permitted by law, to limit the liability of the Consultant to the Client for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, including attorney's fees and costs and expert-witness fees and costs, so that the total aggregate liability of the Consultant to the Client shall not exceed the Consultant's risk allocation amount indicated under 'Terms' in this proposal. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise permitted by law.

PAYMENT TERMS

Angus-Young Associates, Inc. (the Firm) shall bill monthly based on the progress of work completed. Payment shall be due within 20 days of receipt of invoice. Interest of 1% per month on outstanding balances over 60 days from date of invoice will be charged in addition to professional service fees. If invoice has not been paid within 90 days of date of invoice, the Firm may, without waiving any claim or right against the Client, and without liability whatsoever to the Client, terminate the performance of service. If the Client fails to make payments when due and the Firm incurs any costs in order to collect overdue sums from the Client, the Client agrees that all such collection costs, including actual reasonable attorneys fees and time by Angus Young Associates, Inc. professionals at standard hourly rates incurred in addition to any fixed fee arrangement, shall immediately become due and payable

INTENT TO LIEN

As required by Wisconsin Construction Lien Law, contractor hereby notifies owner that persons or companies furnishing labor or materials for the construction on Owner's land may have lien rights on Owner's land and buildings if not paid. Those entitled to lien rights, in addition to Angus Young Associates, Inc., or those who contract directly with the owner of who give the owner notice within 60 days after they first furnish labor or materials for the construction. Accordingly, owner will probably receive notices from those who furnish labor or materials for the construction, and should give a copy of each notice received to his mortgage lender, if any. Angus Young Associates, Inc. agrees to co-operate with the owner and his lender, if any, to see that all potential lien claimants are duly paid.

This is to notify the owner that if not paid for any or all services provided, Angus-Young Associates, Inc. may exercise it's right to place a lien on property.

Rick Oliva

From: Kevin Magno
Sent: Wednesday, December 05, 2018 12:21 PM
To: Rick Oliva
Subject: FW: Franklin Police Department Shooting Range

From: Bradley Werginz [mailto:BradleyW@ANGUSYOUNG.com]
Sent: Wednesday, December 5, 2018 9:53 AM
To: Kevin Magno
Subject: Franklin Police Department Shooting Range

Hi Kevin,

Here is the breakdown of design fee requested, per discipline and phase. This is adding the roof work that was not included in the original proposal.

Fee Breakdown

Discipline	Program	Study	Schematic Design	Design Development	Construction Documents	Bidding / Negotiation	Construction Observation	Totals
Architecture	0	0	3,384	4,512	10,153	677	3,835	22,561
Structural	0	0	564	752	1,692	113	639	3,760
Mechanical	0	0	1,692	2,256	5,076	338	1,918	11,281
Plumbing	0	0	790	1,053	2,369	158	895	5,264
Electrical	0	0	1,241	1,655	3,723	248	1,406	8,273
Landscape Design	0	0	0	0	0	0	0	0
Civil Engineering	0	0	0	0	0	0	0	0
Interior Design	0	0	0	0	0	0	0	0
IDFFE	0	0	0	0	0	0	0	0
Site	0	0	564	752	1,692	113	639	3,760
Totals	0	0	8,235	10,980	24,704	1,647	9,333	34,899

Here is the "rough" construction numbers on scope of work discussed thus far.

Project Scope

Area Description	Type	Difficulty	Area	Cost / Unit	Total Cost
Shooting Range	Renovation	Moderate	4,225	\$150.00	\$633,750.00
Abatement/Decommissioning	Renovation	Simple	4,225	\$15.00	\$63,375.00
Equipment	New Construction	Simple	1	\$300,000.00	\$300,000.00
Roof Replacement	Renovation	Simple	3,240	\$15.00	\$48,600.00
Totals			11,691	\$89.45	\$1,045,725.00

Let me know if you need anything additional.

Thanks,

Bradley T. Werginz, AIA - Architect

Angus-Young Associates, Inc
Janesville | Madison

P: 608.756.2326 | C: 608.751.7296 | www.angusyoung.com

be part of our story.

janeyville | madison

**Angus
Young**
Architects | Engineers
Interior | Landscape
Believe in the possibilities



May 31, 2018

Captain Kevin Magno
City of Franklin
Police Department
9455 Loomis Road
Franklin, WI 53132

RE: *Proposal to Provide Architectural Services for Shooting Range Design*

Dear Captain Magno:

It is with great excitement that we offer our proposal to provide architectural and engineering design services for the Shooting Range Design, to the City of Franklin for consideration. We want to illustrate what we do best—design public safety facilities and more specifically for the City of Franklin, a state-of-the-art shooting range/training facility. We believe in fostering a highly collaborative and engaging process to provide the City with a shooting range that fulfills your vision.

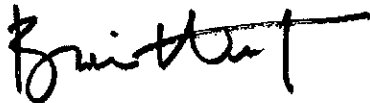
FGM knows shooting ranges. We have worked on more than 15 law enforcement shooting ranges designed for training. We understand how a range is utilized as part of a law enforcement officer's overall training regimen and keep abreast of the latest developments in firearms training.

FGM will design all components of the range. FGM believes in providing comprehensive services to design a shooting range. While many design firms delegate much of the design of the range and range mechanical and electrical systems to a "design-builder" or have manufacturers provide the design work, FGM's team has the knowledge and experience to design and specify every component of a range. Understanding that our design fees may be higher than our competitors, we strongly believe this methodology is more beneficial and cost effective for the county for the following reasons: 1) Mechanical systems will be fully designed so more bidders can competitively bid the project; 2) FGM is not affiliated with shooting range product manufacturers, so products will be specified fairly, allowing more manufacturers to competitively bid; and 3) Since the project will be completely designed, there will be fewer questions and thus fewer change orders. All of this will lead to lower project costs for the county due to open competition among contractors and suppliers for the project.

FGM has the experience. The FGM team is truly experienced in shooting range design and will be led by me, your Principal-in-Charge and Project Manager. Our team also includes Consolidated Consulting Engineers, who will design the range ventilation and lighting systems, McCluskey Engineering Corporation, who will verify the existing structure is adequate to support the very heavy ballistic armor plate bullet deflectors, and Midwest Environmental Consulting Services, Inc., who will make sure lead remediation is completed properly to ensure the safety of all involved with the construction. This is a proven team that has successfully completed over 15 shooting ranges.

The points listed above illustrate that FGM Architects is uniquely qualified to become your design partner for this shooting range. We sincerely look forward to the possibility of working with the City of Franklin on this exciting project. If you have any questions about our qualifications, please contact us. We look forward to hearing from you.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Wright", with a stylized, sweeping flourish extending from the end of the name.

Mr. Brian Wright, AIA, LEED AP
Principal, *Principal-in-Charge and Project Manager*
414.346.7283 phone
brianw@fgmarchitects.com



City of Franklin Police Department

Chief of Police Richard P. Oliva

December 10, 2018

RE: Costs to conduct firearms training at ranges outside the police department

TO: Mayor Olson and members of the Common Council

The department uses the firearms range an average of 60 times per year. The range is used for Department wide quarterly training, SWAT training, Remedial training, Off Duty weapon qualification, new hire training, Citizen Academy presentations, Auxiliary Officer training and On Duty practice. The cost to rent local ranges is as follows:

RANGE RENTAL COSTS

- Milwaukee Area Technical College- \$100/4HR, \$150/8HR Total approximately \$6,000/year
- Waukesha County Technical College- \$140/4HR, \$280/8HR Total approximately 9,100/year
- Milwaukee County Sheriff's Academy- \$200/Day plus Sheriff Deputy range master time.
Total approximately \$6,100/year (plus range master time)

The anticipated yearly cost (range rental cost and travel cost) to send department personnel to a range outside of the Franklin Police Department building is:

- MATC- \$20,000
- WCTC- \$37,000
- MCSO- \$30,000

Aside from the costs, a major consideration in going to an outside training facility is range availability. All three facilities have limited hours of availability. All three use their ranges on a regular basis for training which would take precedence to our needs. Availability at the Sheriff's Academy is the least reliable as they use their range extensively throughout the year. Having to adjust our training schedule to outside facilities would most likely increase costs and/or prohibits the department from providing necessary firearms training.

Possible revenue could be generated by renting out our range to outside agencies. If we are able to rent out the range for 60 days/year, revenue would be approximately \$12,000/year. Consequently, I recommend the range be reconstructed.

Sincerely,

Rick Oliva
Chief of Police



MEGGITT

February 14, 2018

Franklin Police Dept.
Attn: Patrick Scalise
9455 W. Loomis Road
Franklin, WI 53132
Tel: 414.858.2652
pscalise@franklinwi.gov

MTSI Offer No.: **MTS16USL1671 Rev 1**
Re: Shooting Range Upgrade
Offer Type: Open Market

Officer Patterson,

Meggitt Training Systems, Inc. (MTSI) is pleased to offer a fixed price of **\$204,732.62** (Two Hundred and Four Thousand, Seven Hundred and Thirty-Two US Dollars and Sixty-Two Cents) for the products and services listed herein, furnished, and delivered CPT jobsite (Franklin, WI) in accordance with Incoterms® 2010. In addition to the offer price, you will be responsible for all Federal, State, and Local Taxes, Licenses, Permits, Bonds and Fees applicable to the sale. This offer is valid for 45 days.

Payment Terms are 100% net 30 days. Any deviation must be mutually agreed upon in writing.

Delivery is typically 90-120 days after receipt and acceptance of order and upon return and approval of MTSI Submittal Drawings, whichever occurs last. This offer will be attached to and made part of any forthcoming purchase order. Indication of acceptance shall be by authorized signature in the space provided below. Please also enter the total purchase price, to include any purchased options, if applicable.

Should you have any questions or require additional information, please feel free to contact me. I am personally dedicated to this proposal effort.

Best Regards,

Tracy Newton
Sales Manager
Meggitt Training Systems, Inc.
Tel: 815.337.1376
tracy.newton@meggitt.com

Prepared by:
Angela Kronenberg
Sr. Proposal Manager
Meggitt Training Systems, Inc.

Accepted for:
(Company)

Authorized Signature:

Print Name:

Total Purchase Price:
(Include Options where applicable)

Title:

Date:

Meggitt Training Systems Inc.
296 Brogdon Road, Suwanee, Georgia 30024
MTSI Ref. Number: MTS16USL1671 Rev 1

Page 1 of 8

(Marketing License: Not Required)

Tel: +1 678 288 1090
Fax: +1 678 288 1515
www.meggitttrainingsystems.com

Use or Disclosure: Any and all information and data contained herein is the property of Meggitt Training Systems, Inc. (MTSI); and shall not for any reason, whether tangible or intangible, be disclosed, duplicated, or used, in whole or in part, for any reason other than to evaluate this proposal. If, however, a contract is awarded to MTSI as a result of, or in connection with, the submission of this proposal, the recipient (Buyer) shall have the right to duplicate, use, or disclose the information and data contained herein to the extent provided in the resulting contract. These restrictions do not limit Buyer's right to use information or if it is obtained from another, legitimate source without restriction.

Destination Control Statement: The enclosed document contains Technical Data that is subject to the Export Administration Regulations. Diversion contrary to U.S. Law is prohibited.

Base Offer

All products and services offered herein are GSA or Open Market (OPN-MKT) Items as specified.

GSA / OPN-MKT	Part No.	Description	Quantity	Unit
OPN-MKT	XWT-75	Next Generation Wireless 360° Turning, Target System. 75' of track.	6	EA
OPN-MKT	RMCS2	Range Master Control System with Enhanced ICUs and wireless Tablet.	1	SYS
OPN-MKT	XWT- Battery	XWT Spare Battery	2	EA
OPN-MKT	XWT- Battery Chg	XWT Spare Battery Charger	1	EA
OPN-MKT	JR5D	Redirective Guard - Rifle, 3/8" AR500 (2 Rows)	240	SF
OPN-MKT	JA4D	Containment Baffles - Rifle, 3/8" AR500 / Plywood face with FTW. (4 Rows)	480	SF
OPN-MKT	JG12D	Containment Ceiling - Rifle, 1/4" AR500 / Plywood face with FTW.	360	SF
OPN-MKT	UNISTRUT	Ceiling Panel Suspension Needs. Existing Unistrut is running up & down range on pistol rated panel 4' center. MTSI will run new Unistrut cross ways – attached to the existing Unistrut to hit our new rifle panel suspension needs. 18 locations x 30'.	540	LF
OPN-MKT	AAF	Acoustical Foam Panel, 2' x 4' x 2", Charcoal. (120 Panels). Coverage for new baffles, ceiling and matching distance on left sidewall. No right sidewall coverage (where range door is located).	960	SF
OPN-MKT	LUMBER	Fire Treated Plywood – 2" x 4" x 8" to Re-Frame Combat Walls. Will require fastening to the walls thru existing 10 ga steel plate that will remain after Demo team strips down the walls.	8	SHEETS
OPN-MKT	92877	½" Fire Treated Plywood to Rebuild Existing 8' Tall x 16' Long Combat Walls (qty 8 ea 4'x8' pieces)	20	EA

OPN-MKT	SRP	Shredded Rubber Plank, 1.5" x 24" x 24", Black. To Rebuild Combat Walls. (64 Panels)	256	SF
OPN-MKT	JR3C	Deflector - 1/4" AR500 - At front edge of downrange Combat Walls. 8' H at 20 Degrees - Qty 2 ea.	32	SF
OPN-MKT	DEMO	Demo and Clean Up of Existing Range Equipment and Debris Note: Please provide MTSI with your Federal EPA Identification/USEPA Number upon placement of order.	1	LOT
OPN-MKT	SPPT-Full	Complete Unload, Installation, and Training *Prevailing Wage Rates Included	1	LOT
OPN-MKT	MANUALS	Operations and Maintenance Manuals	1	LOT
OPN-MKT	WRTY	12-Month Warranty	1	LOT
OPN-MKT	FRT-CPT	Freight & Delivery shall be CPT Jobsite (Franklin, WI) in accordance with Incoterms® 2010.	1	LOT
Total Base Offer Price			\$204,732..62	

Complementary Inclusions

Also included at no additional charge is the MTSI Standard Eyes and Ears Package.

Package Includes:	Quantity
• Radians Revelation™ Shooting Glasses	6 Each
• Radians Competitor Hearing Protection (NRR 26 dB)	

Options

- All MTSI options include any additional Freight and Full Installation necessary.
- Option pricing is contingent upon being purchased at the same time as the base offer.

☐ **Option 1: DP65V Running Man Target System**
-Please check the Option box, if you wish to purchase this option.

GSA / OPN-MKT	Part No.	Description	Quantity	Unit
OPN-MKT	DP65V-CM	Running Man Target System (Single Target) with Individual Controller and ~ 27' of Track. Ceiling Mount. System will be located overhead and behind a ceiling panel. Shortening of the primary target system rails / achievable target distance is required.	1	SYS
Option 1 Total Price <i>In addition to the Total Base Offer Price</i>			\$10,811.00	



Important Notes & Assumptions

1. Full Install: Pricing assumes the MTSI Field Service Technician (FST) and labor crew will be onsite over one (1) continuous trip. All site preparation work must be done prior to the FST's arrival. If additional trips are required due to issues beyond MTSI's control, additional charges will be assessed in the form of a change order.
2. It is the Buyer's responsibility to verify the structural integrity of the ceiling's ability to support the range equipment and ascertain that the ceiling is capable of containing errant / secondary type bullet impacts. MTSI intends to reuse the existing Unistrut suspension channel structure for hanging the new ceiling panels, which weigh approximately 16lbs per SF.
3. MTSI has included rebuilding of the existing combat walls with new lumber and rubber facing finish. Note that the existing "Pistol Rated" steel backer panels are to remain.
4. Buyer to verify the ceiling structure within the range is capable of supporting the new range equipment and containing any errant type secondary bullet impacts.
5. MTSI will rework electrical Circuits only. Any / all other conduit, A.C. wiring, A.C. Electrical Connections, lighting, and any duct work is specifically excluded from this proposal and MTSI scope of work. If conflict with HVAC, Plumbing or Electrical equipment occurs, it will be the owner's/contractor's responsibility to resolve issues in a timely manner. Any delays from these will not extend Tech Assist time and may require a change order for additional Tech Time. Please remember that MTSI wants you to have a successful installation in a safe and timely manner.
6. MTSI FST will provide training on installed systems after installation is complete. FST will perform a QC walk and final acceptance with the owner/contractor.
7. Any / all trademarks mentioned herein are the properties of their respective owners.
8. Eyes and Ears Package provided will be the MTSI standard commercial off the shelf (COTS) package. Please check with your MTSI Sales Representative for specific details on features included.

Terms & Conditions

These Terms and Conditions will be part of any contract, purchase order or signed offer that Meggitt Training Systems, Inc. enters into with you, your department or company.

Meggitt Training Systems, Inc.'s Terms and Conditions are not limited to those provided herein. MTSI Terms and Conditions and the enclosed offer take precedence over all other project documents. Any earlier offer along with those terms and conditions are immediately null and void. Any subsequent purchase order will be subject to Meggitt's Standard Terms & Conditions which can be provided upon request. Please contact MTSContracts@Meggitt.com to request a copy.

Limitation of Liability:

Nothing in this contract shall exclude or limit the Supplier's liability for death or personal injury caused by the Supplier's negligence or for fraudulent misrepresentation or for any liability that cannot legally be excluded or limited.

EXCEPT AS STATED ABOVE, THE TOTAL AGGREGATE LIABILITY OF THE SUPPLIER ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF THE CONTRACT, WHETHER FOR NEGLIGENCE OR OTHERWISE, SHALL IN NO EVENT EXCEED 20% OF THE TOTAL CONTRACT VALUE

IN NO EVENT SHALL THE SUPPLIER BE LIABLE FOR LOSS OF PROFIT, LOSS OF USE, LOSS OF BUSINESS, LOSS OF REVENUE OR FOR ANY INCIDENTAL, SPECIAL, INDIRECT, CONSEQUENTIAL LOSS OR DAMAGES, OR PUNITIVE OR EXEMPLARY DAMAGES, HOWSOEVER CAUSED.

These clauses set out the entire liability of the Supplier (including any liability for the acts or omissions of its sub-contractors) in respect of any breach of this contract or orders placed under it and any representation, statement or tortuous act or omission including negligence arising under or in connection with the contract. All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the contract."

Force Majeure:

Neither party shall be in default of its obligations under this Agreement by reason of delay or failure to perform if such delay or failure arises out of causes beyond the reasonable control and without the fault or negligence of the party including, but not restricted to, acts of God, acts of governments, fires, floods, epidemics, quarantine restrictions, terrorism, war, labor unrest and unusually severe weather ("Excusable Delay").

The party experiencing the Excusable Delay shall give prompt written notice to the other party upon such party becoming aware of any circumstance or event which may reasonably be anticipated to cause or constitute an Excusable Delay as described herein. Such notice shall contain a description of the delay and of the affected portion of the Work. In the event that MTSI is the party experiencing the Excusable Delay, MTSI, in its discretion, may delay delivery, cancel delivery, make price adjustments and/or allocate delivery among customers as necessary due to such unexpected event and during the period of such Excusable Delay. If the Excusable Delay continues for a period of 30 days, the party not experiencing the Excusable Delay may terminate this Agreement with no cost or liabilities accruing to either party."

Meggitt Training Systems, Inc.'s pricing excludes the following items unless specifically included as a line item at the end of this paragraph.

- A. Line voltage electrical, connections, line or control conduits (empty or full), electrical boxes, receptacles, target or general lights and any other devices generally considered for high voltage.
- B. All temp utilities for construction (including adequate lighting and 115v power for hand-tools) are the responsibility of the owner/contractor.
- C. Bridging, structural supports or any other material that is required as support for MTSI's baffle, safety ceiling, or target systems. Load points to be verified by owner/contractor to support MTSI equipment.
- D. All coordination for baffle, safety ceiling, and bullet trap (and the associated hanging provisions) is the responsibility of the owner/contractor. Meggitt Training Systems, Inc. will provide accurate submittal drawings for this purpose.
- E. Unloading and/or moving/placement of MTSI's equipment into the range area.
- F. Removal / disposal of existing equipment.
- G. Removal / disposal of lead or other hazardous waste.
- H. Relocation of existing piping, ventilation ducts, electrical conduit, etc.
- I. Any customer requested special shipping or marking/labeling requirements and any related costs.
- J. Specialty anchors or seismic type hanging devices.
- K. Concrete pads, core cuts and/or masonry patching.

Items listed above that are specifically included with this offer: **A*, E, and F**

A*: MTSI will rework the target system electrical circuits

MTSI will not be responsible for payment of the following statutory items unless specifically included as a line item at the end of this paragraph:

- | | | |
|------------|----------|------------------|
| A. Taxes | C. Fees | E. Licenses |
| B. Permits | D. Bonds | F. Other Charges |

Statutory items listed above that are specifically included with this offer: **NONE**

IMPORTANT NOTE: MTSI is responsible for collecting sales tax in the following states: CA, CT, FL, MN, GA, IL, KY, VA, NJ, SD, and WA. If work is to be performed in any of these states under a Purchase order issued as a result of this proposal, any applicable sales tax will be added to the final invoice. If your organization is federal or state tax exempt, provide a copy of the tax exemption certificate. Otherwise, please include the sales tax value on any resulting purchase order.

MTSI does not claim, assert or guarantee in any way that purchased equipment is compliant with all federal, state, county, city or local "trade" or "building" codes. The owner is responsible for compliance with all local jurisdictions and codes.

Any forthcoming contract between General Contractor and Meggitt Training Systems, Inc. is preferred to be of a typical AIA subcontract format. Any deviation from a typical AIA format must be mutually agreed upon in writing.

MTSI is a non-union manufacturer. MTSI will provide prevailing wages (Davis-Bacon) or pay for union workers only if specifically included as a line item below:

Prevailing Wage Rates Included

Prevailing Wage Rates	
For the avoidance of doubt, MTSI asserts the following prevailing wage for work to be performed on site:	
Labor Category:	General Laborer
Rates:	\$50.23
Should the Prevailing Wage Rates required by the Buyer differ, MTSI reserves the right to revise the labor pricing accordingly and update the total base offer price.	

The payment amount included in the attached offer shall be payable to Meggitt Training Systems, Inc. as follows:

Payment Terms are 100% net 30 days. Any deviation must be mutually agreed upon in writing.

If MTSI is not authorized by the customer to commence work on the Project within 90 days from the date of the Contract and subject to the economic conditions of metals, MTSI shall be entitled to adjust its prices to account for increased costs to MTSI as a result of said delay.

This (Proposal/Submittal/Document) contains proprietary information and is submitted for evaluation purposes, and shall not be disclosed, duplicated or reproduced, in whole or in part, without prior written consent of an authorized representative of Meggitt Training Systems, Inc.

All drawings, specifications and other design documents prepared by Meggitt Training Systems, Inc. and its consultants in connection with the Project are the property of Meggitt Training Systems, Inc. Meggitt Training Systems, Inc. shall retain all common law, statutory and other rights, including all copyrights, related to said design documents. The General Contractor shall not use the design documents on other projects without the specific written consent of Meggitt Training Systems, Inc.

*Note 1: MTSI reserves the right to make modifications in the design of its products without prior notification.

*Note 2: The Terms & Conditions listed herein are not all inclusive. The Meggitt Training Systems, Inc. (MTSI) Standard Terms & Conditions [MTSI-dom-001rev4-9-11-2015] incorporated by reference herein shall apply. If the Seller is awarded the contract/purchase order by the Buyer, the Seller presumes that the buying agency has followed all required competition justification. MTSI shall provide the Terms & Conditions upon request.

Please submit signed proposal by email, fax, or mail to:		
Email: MTSContracts@Meggitt.com	Fax: 678.288.1515 Attn: Contracts Dept.	Mail: Meggitt Training Systems, Inc. Attn: Contracts Dept. 296 Brogdon Road Suwanee, GA 30024-8615

Record of Changes		
Revision No.	Date	Description
1	2/13/2018	Equipment Changes. Open Firing Line – No Booths and Rifle Rated Ceiling Panels.

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STATE OF WISCONSIN

CITY OF FRANKLIN

MILWAUKEE COUNTY

RESOLUTION NO. 2018-_____

A RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO EXECUTE AN AGREEMENT FOR ARCHITECTURAL AND/OR ENGINEERING, DESIGN, BIDDING AND CONSTRUCTION ADMINISTRATION SERVICES FOR THE POLICE DEPARTMENT INDOOR FIREARMS RANGE RENOVATION PROJECT BETWEEN THE CITY OF FRANKLIN AND ANGUS-YOUNG ASSOCIATES, INC.

WHEREAS, the Police Department indoor firearms range is in need of a major renovation; and

WHEREAS, the Chief of Police and the Police Department staff having reviewed and prepared the subject renovation project needs in detail, in the public interest, and having recommended that the project move forward and that an agreement for architectural and/or engineering services for the Police Department indoor firearms range renovation project be approved; and

WHEREAS, the Common Council having considered the subject project and having determined it will benefit the community and the interest of the public, as well as protect and assist City employees and staff and consultants, and that overall, it is necessary to protect and preserve the public health, safety and welfare.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that the Agreement Between the City of Franklin and Angus-Young Associates, Inc., in such form and content as annexed hereto, and including any changes thereto approved by the Chief of Police and the City Attorney, be and the same is hereby approved.

BE IT FURTHER RESOLVED, that the Mayor, the Director of Finance and Treasurer and the City Clerk be and the same are hereby authorized to execute and deliver the Agreement.

Introduced at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2018.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2018.

APPROVED:

Stephen R. Olson, Mayor

RESOLUTION NO. 2018-_____

Page 2

ATTEST:

Sandra L. Wesolowski, City Clerk

AYES _____ NOES _____ ABSENT _____

AGREEMENT

This AGREEMENT, made and entered into this ____ day of _____, between the City of Franklin, 9229 West Loomis Road, Franklin, Wisconsin 53132 (hereinafter "CLIENT") and _____ (hereinafter "CONTRACTOR"), whose principal place of business is _____.

WITNESSETH

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

WHEREAS, in the judgment of CLIENT, it is necessary and advisable to obtain the services of the CONTRACTOR to provide _____;

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

I. BASIC SERVICES AND AGREEMENT ADMINISTRATION

- A. CONTRACTOR shall provide services to CLIENT for _____, as described in CONTRACTOR's proposal to CLIENT dated _____, annexed hereto and incorporated herein as Attachment A.
- B. CONTRACTOR shall serve as CLIENT's professional representative in matters to which this AGREEMENT applies. CONTRACTOR may employ the services of outside consultants and subcontractors when deemed necessary by CONTRACTOR to complete work under this AGREEMENT following approval by CLIENT.
- C. CONTRACTOR is an independent contractor and all persons furnishing services hereunder are employees of, or independent subcontractors to, CONTRACTOR and not of CLIENT. All obligations under the Federal Insurance Contribution Act (FICA), the Federal Unemployment Tax Act (FUTA), and income tax withholding are the responsibility of CONTRACTOR as employer. CLIENT understands that express AGREEMENTS may exist between CONTRACTOR and its employees regarding extra work, competition, and nondisclosure.
- D. During the term of this AGREEMENT and throughout the period of performance of any resultant AGREEMENT, including extensions, modifications, or additions thereto, and for a period of one (1) year from the conclusion of such activity, the parties hereto agree that neither shall solicit for employment any technical or professional employees of the other without the prior written approval of the other party.

II. FEES AND PAYMENTS

CLIENT agrees to pay CONTRACTOR, for and in consideration of the performance of Basic Services further described in Attachment A, [at our standard billing rates] [with a not-to-exceed budget of \$ _____], subject to the terms detailed below:

- A. CONTRACTOR may bill CLIENT and be paid for all work satisfactorily completed hereunder on a monthly basis. CLIENT agrees to pay CONTRACTOR's invoice within 30 days of invoice date for all approved work.
- B. Total price will not exceed budget of \$ _____. For services rendered, monthly invoices will include a report that clearly states the hours and type of work completed and the fee earned during the month being invoiced.
- C. In consideration of the faithful performance of this AGREEMENT, the CONTRACTOR will not exceed the fee for Basic Services and expenses without written authorization from CLIENT to perform work over and above that described in the original AGREEMENT.
- D. Should CLIENT find deficiencies in work performed or reported, it will notify CONTRACTOR in writing within thirty (30) days of receipt of invoice and related report and the CONTRACTOR will remedy the deficiencies within thirty (30) days of receiving CLIENT's review. This subsection shall not be construed to be a limitation of any rights or remedies otherwise available to CLIENT.

III. MODIFICATION AND ADDITIONAL SERVICES

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

IV. ASSISTANCE AND CONTROL

- A. _____ will coordinate the work of the CONTRACTOR, and be solely responsible for communication within the CLIENT's organization as related to all issues originating under this AGREEMENT.
- B. CLIENT will timely provide CONTRACTOR with all available information concerning PROJECT as deemed necessary by CONTRACTOR.
- C. CONTRACTOR will appoint, subject to the approval of CLIENT, _____ CONTRACTOR's Project Manager and other key providers of the Basic Services. Substitution of other staff may occur only with the consent of CLIENT.

V. TERMINATION

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

VI. INSURANCE

The CONTRACTOR shall, during the life of the AGREEMENT, maintain insurance coverage with an authorized insurance carrier at least equal to the minimum limits set forth below:

A. Limit of General/Commercial Liability	\$3,000,000
B. Automobile Liability: Bodily Injury/Property Damage	\$1,000,000
C. Excess Liability for General Commercial or Automobile Liability	\$10,000,000
D. Worker's Compensation and Employers' Liability	\$500,000
E. Professional Liability	\$2,000,000

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

VII. INDEMNIFICATION AND ALLOCATION OF RISK

- A. To the fullest extent permitted by law, CONTRACTOR shall indemnify and hold harmless CLIENT, CLIENT'S officers, directors, partners, and employees from and against costs, losses, and damages (including but not limited to reasonable fees and charges of engineers, architects, attorneys, and other professionals, and reasonable court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of CONTRACTOR or CONTRACTOR'S officers, directors,

partners, employees, and consultants in the performance of CONTRACTOR'S services under this AGREEMENT.

- B. Nothing contained within this AGREEMENT is intended to be a waiver or estoppel of the contracting municipality CLIENT or its insurer to rely upon the limitations, defenses, and immunities contained within Wisconsin law, including those contained within Wisconsin Statutes §§ 893.80, 895.52, and 345.05. To the extent that indemnification is available and enforceable, the municipality CLIENT or its insurer shall not be liable in indemnity or contribution for an amount greater than the limits of liability for municipal claims established by Wisconsin Law.

VIII. TIME FOR COMPLETION

CONTRACTOR shall commence work immediately having received a Notice to Proceed as of _____.

IX. DISPUTES

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

X. RECORDS RETENTION

CONTRACTOR shall maintain all records pertaining to this AGREEMENT during the term of this AGREEMENT and for a period of 3 years following its completion. Such records shall be made available by the CONTRACTOR to CLIENT for inspection and copying upon request.

XI. MISCELLANEOUS PROVISIONS

- A. Professionalism. The same degree of care, skill and diligence shall be exercised in the performance of the services as is possessed and exercised by a member of the same profession, currently practicing, under similar circumstances, and all persons providing such services under this AGREEMENT shall have such active certifications, licenses and permissions as may be required by law.
- B. Pursuant to Law. Notwithstanding anything to the contrary anywhere else set forth within this AGREEMENT, all services and any and all materials and/or products provided by CONTRACTOR under this AGREEMENT shall be in compliance with all applicable governmental laws, statutes, decisions, codes, rules, orders, and ordinances, be they Federal, State, County or Local.
- C. Conflict of Interest. CONTRACTOR warrants that neither it nor any of its affiliates has any financial or other personal interest that would conflict in any manner with the performance of the services under this Agreement and that neither it nor any of its affiliates will acquire directly or indirectly any such interest. CONTRACTOR warrants that it will immediately notify the CLIENT if any actual or potential conflict of interest arises or becomes known to the CONTRACTOR. Upon receipt of such notification, a CLIENT review and written approval is required for the CLIENT to continue to perform work under this Agreement.

- D. This AGREEMENT may only be amended by written instrument signed by both CLIENT and CONTRACTOR.

XII. CONTROLLING TERMS AND PROVISIONS

The aforesaid terms and provisions shall control over any conflicting term or provision of any CONTRACTOR proposal, Attachment, Exhibit, and standard terms and provisions annexed hereto.

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

CITY OF FRANKLIN, WISCONSIN

BY: _____

PRINT NAME: Stephen R. Olson

TITLE: Mayor

DATE: _____

BY: _____

PRINT NAME: Paul Rotzenberg

TITLE: Director of Finance and Treasurer

DATE: _____

BY: _____

PRINT NAME: Sandra L. Wesolowski

TITLE: City Clerk

DATE: _____

Approved as to form:

Jesse A. Wesolowski, City Attorney

DATE: _____

BY: _____

PRINT NAME: _____

TITLE: _____

DATE: _____

APPROVAL <i>Slw</i>	REQUEST FOR COUNCIL ACTION	MEETING DATE 12/18/18
REPORTS & RECOMMENDATIONS	RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO ACCEPT A CONSERVATION EASEMENT FOR AND AS PART OF THE REVIEW AND APPROVAL OF A CERTIFIED SURVEY MAP FOR PROPERTY LOCATED AT 11911 WEST RYAN ROAD (MILLS HOTEL WYOMING, LLC, APPLICANT)	ITEM NUMBER G. 3,

City Development staff recommends approval of a resolution authorizing certain officials to accept a Conservation Easement for and as part of the review and approval of a Certified Survey Map for property located at 11911 West Ryan Road (Mills Hotel Wyoming, LLC, Applicant), subject to review and approval by the Department of City Development and technical corrections by the City Attorney.

The applicant has made changes to the wording of the conservation easement, departing from the City's standard template. Those changes are outlined below and highlighted in the attached Draft Conservation Easement document.

On page 1 of the conservation easement, the applicant added language under No. 1 of the Grantee's rights stating, "and to manage the property allowed under this Agreement." Staff recommends removing this language.

On page 2 of the conservation easement, the applicant added language under Covenant 3 to allow for:

- b) The desirable control of invasive species (esp. common buckthorn, Eurasian honeysuckle and garlic mustard) and nuisance species (esp. prickly ash and hawthorn) under the recommendation of a professional forester, arborist or botanist and approval by the City of Franklin designated forester.
- c) Silvicultural thinning upon the recommendation of a professional forester, arborist botanist or City Staff.

The applicant's report from Clean Cut Tree Service references the understory of the woodland being extremely dense and dominated with buckthorn, honeysuckle and other shrubs that dominate the forest understory. However, prickly ash and hawthorn aren't mentioned. Therefore, Staff recommends the removal of, "and nuisance species (esp. prickly ash and hawthorn) from Covenant 3 sub b).

On page 2 of the conservation easement, the applicant added language under Covenant 6 to allow for, “use of a lawn mower and all-terrain vehicle for maintaining and managing the natural acreage with the desire and intent to enhance its natural qualities”. Staff recommends removal of this language.

On Page 2 of the conservation easement, the applicant added Covenant 7. The language matches Condition No. 8 of Resolution No. 2018-7366, which approved the Mills Hotel Wyoming, LLC Certified Survey Map.

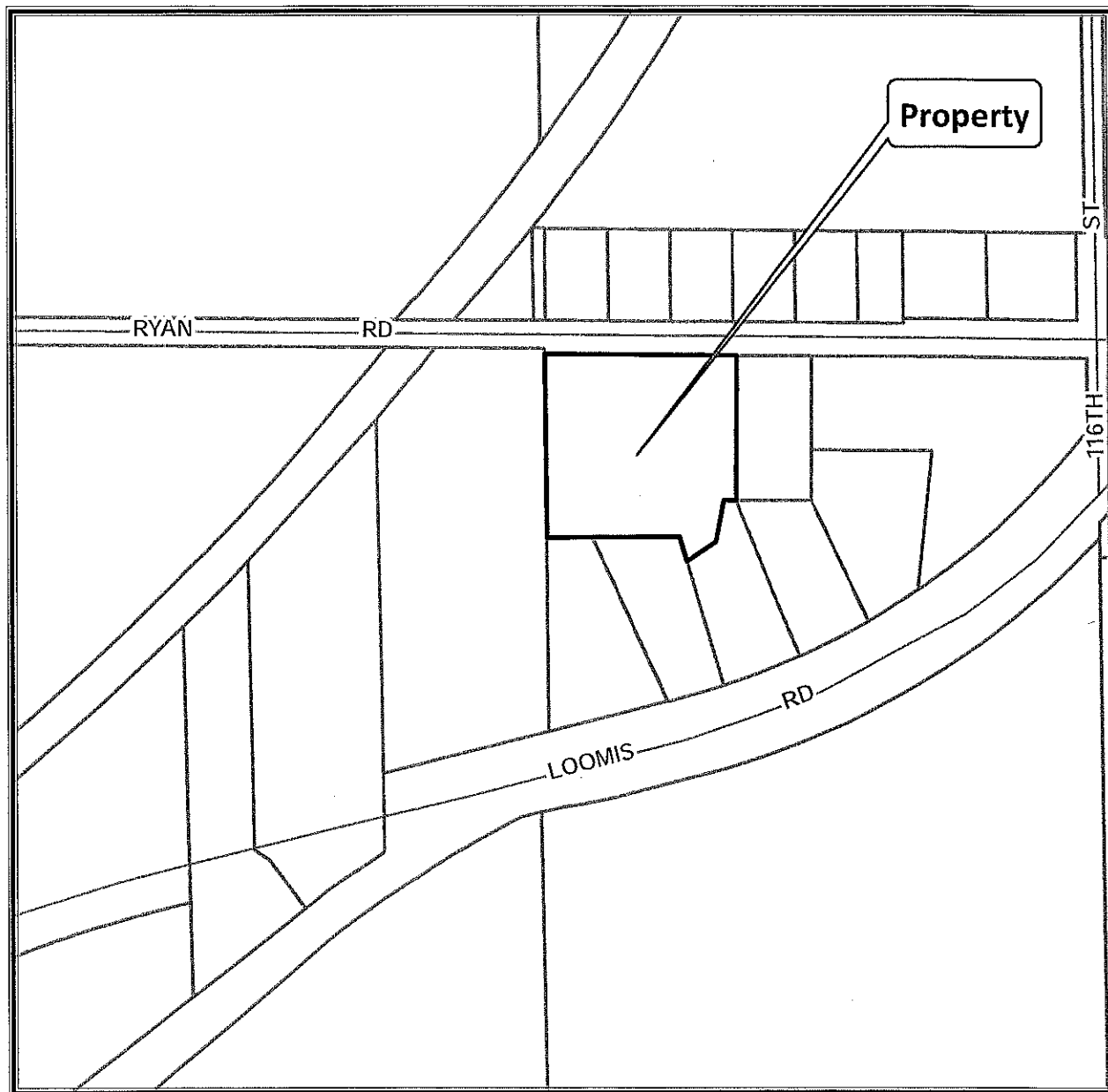
Finally, Staff finds the limits of the Conservation Easement area on the attached exhibits to be confusing. Therefore, Staff recommends the applicant replace the arrows depicting the Conservation Easement area on the exhibits with crosshatching.

COUNCIL ACTION REQUESTED

A motion to adopt Resolution No. 2018-_____, authorizing certain officials to accept a Conservation Easement for and as part of the review and approval of a Certified Survey Map for property located at 11911 West Ryan Road (Mills Hotel Wyoming, LLC, Applicant), subject to review and approval by the Department of City Development and technical corrections by the City Attorney.



11911 W. Ryan Road
TKN 891 9003 000



Planning Department
(414) 425-4024

0 230 460 920 Feet

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

STATE OF WISCONSIN

CITY OF FRANKLIN

MILWAUKEE COUNTY

RESOLUTION NO. 2018-_____

A RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO
ACCEPT A CONSERVATION EASEMENT FOR AND AS PART
OF THE REVIEW AND APPROVAL OF A CERTIFIED SURVEY MAP FOR
PROPERTY LOCATED AT 11911 WEST RYAN ROAS (MILLS HOTEL WYOMING,
LLC, APPLICANT)

WHEREAS, the Plan Commission having approved a 3 Lot Certified Survey Map upon the application of Mills Hotel Wyoming, LLC, on April 17, 2018, and the Plan Commission having conditioned approval thereof in part upon Common Council approval of a Conservation Easement to protect the mature woodlands, shore buffer, wetlands and wetland buffers on the site; and

WHEREAS, §15-7.0702Q. and §15-9.0309D. of the Unified Development Ordinance requires the submission of a Natural Resource Protection Plan in the Certified Survey Map review process and the Unified Development Ordinance requires conservation easements to be imposed for natural resource features identified within such Plan to protect such features, all as part of the approval process for a Certified Survey Map; and

WHEREAS, the City Engineering Department, Department of City Development and the Office of the City Attorney having reviewed the proposed Conservation Easement and having recommended approval thereof to the Common Council.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that the Conservation Easement submitted by Mills Hotel Wyoming, LLC, in the form and content as annexed hereto, be and the same is hereby approved; and the Mayor and City Clerk are hereby authorized to execute such Easement as evidence of the consent to and acceptance of such easement by the City of Franklin.

BE IT FURTHER RESOLVED, that the City Clerk be and the same is hereby directed to obtain the recording of the Conservation Easement 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 _____ day of _____, 2018.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2018.

A RESOLUTION AUTHORIZING CERTAIN OFFICIALS
TO ACCEPT A CONSERVATION EASEMENT
MILLS HOTEL WYOMING, LLC
RESOLUTION NO. 2018-_____

Page 2

APPROVED:

Stephen R. Olson, Mayor

ATTEST:

Sandra L. Wesolowski, City Clerk

AYES _____ NOES _____ ABSENT _____

Clean Cut **TREE SERVICE**

31064 Hwy 83 Grayslake, IL 60030 • P: 847.265.0000 • F: 847.265.0005

October 19, 2018
Orrin Sumwalt, AICP
Principal Planner
City of Franklin
9229 W. Loomis Rd.
Franklin, WI 53132

Re: Mills Hotel Wyoming Property, W. Ryan Road

Dear Mr. Sumwalt:

Clean Cut Tree Service has been engaged by Mills Hotel Wyoming, LLC to evaluate their property on W. Ryan Road and develop a forestry management plan for the removal and control of invasive, diseased and dead woody stemmed plants.

Subject Property

The subject property consists of approximately 5.00 acres of vacant, wooded property and has been divided into three (3) parcels. The intended use is single family residential home sites. The property, with the exception of the three (3) referenced building pads will be permanently protected by a Conservation Easement.

The property is wooded and has been previously surveyed and inventoried by Wachtel Tree Service. The existing forest includes a variety of native hardwoods of varying size and health. Please refer to the referenced Tree Inventory.

The understory is extremely dense and dominated with buckthorn, honeysuckle and other shrubs that dominate the forest understory. Much of the understory consists of woody stems less than 4" in diameter.

Project Goal

The project goal, as outlined by the landowner, is to clear and remove the dense understory layer of buckthorn, honeysuckle and other shrubs that are choking the existing forest. The purpose is three-fold:

- 1) To enhance the aesthetics and visibility of the homesites. At the present time, there is a thick wall of understory brush that prevents prospective buyers from viewing and accessing the property. The brush is so dense that lot lines and established building envelopes cannot be determined.



Clean Cut **TREE SERVICE**

31064 Hwy 83 Grayslake, IL 60030 • P: 847.265.0000 • F: 847.265.0005

- 2) To enhance the forest health. The existing trees are magnificent, but buckthorn and other non-desirable species are overtaking the forest floor and suppressing tree regeneration
- 3) To create a natural, native hardwood forest environment.

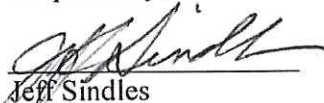
Project Scope & Sequencing

- 1) Refresh Boundary Survey and flag property corners
- 2) Establish Building Envelope Areas (outside of Conservation Easement). Mark with stakes.
- 3) Refresh Wetland Buffer Areas. Mark with Stakes.
- 4) Identify and mark significant trees to remain and be protected.
- 5) Walk the site with City Forester
- 6) Use combination of low ground pressure forestry mower and hand cutting to remove invasive, diseased or dead trees.
- 7) Treat cut stumps with appropriate herbicide.
- 8) Remove dead and downed material.
- 9) Review building envelopes to determine building footprints.
- 10) Remove trees within building envelopes per determination above.
- 11) Root prune and canopy prune trees as needed

We understand the sensitive nature of the proposed work and the strict regulations set forth by the City of Franklin and will be in compliance at all times. The proposed project will be an enhancement to the aesthetics and forest health of the property.

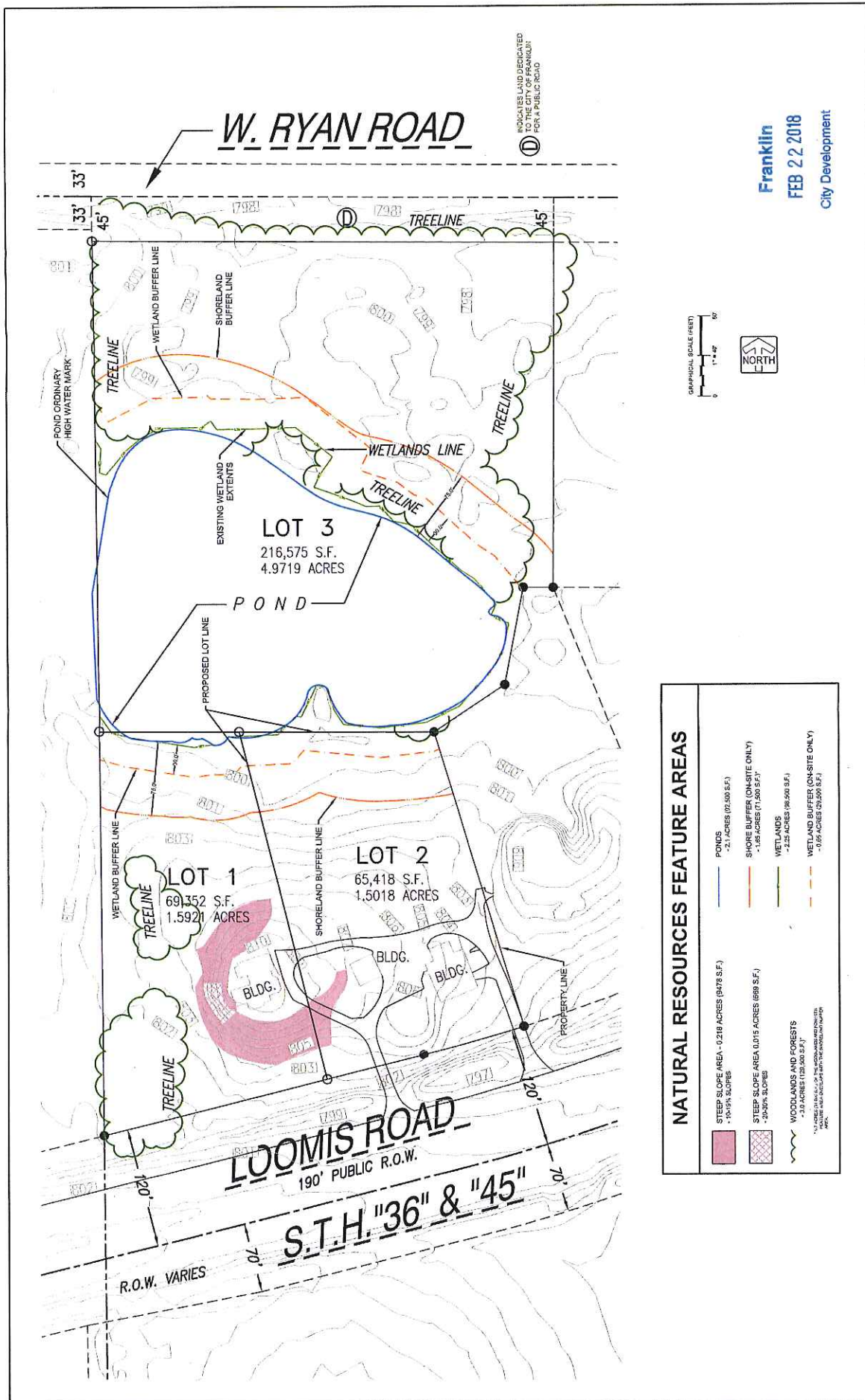
We appreciate your review of the project and look forward to your feedback.

Respectfully,



Jeff Sindles
ISA Certified Arborist





CONSERVATION EASEMENT

This Conservation easement is made by and between the CITY OF FRANKLIN, a municipal corporation of the State of Wisconsin, hereinafter referred to as "Grantee," and Mills Hotel Wyoming, LLC., a Limited Liability Corporation, hereinafter referred to as "Grantor," and shall become effective upon the recording of this Grant of Conservation Easement, together with the Acceptance following, with the Office of the Register of Deeds for Milwaukee County, pursuant to §700.40(2)(b) of the Wisconsin Statutes.

WITNESSETH

WHEREAS, Grantor is the owner in fee simple of certain real property, located within the City of Franklin, Milwaukee County, Wisconsin, in the Northeast ¼ of the Northwest ¼ of Section 30, Township 5 North, Range 21 East, described in Exhibit A attached hereto and hereby made a part hereof (protected property); and

WHEREAS, the Grantor desires and intends that the natural elements and the ecological and aesthetic values of the protected property including, without limitation, steep slopes, mature woodlands, young woodlands, lakes, ponds, streams, floodplains, floodways, floodlands, shore buffers, wetland buffers, wetlands and shoreland wetlands, and refer to Natural Resource Investigation by Pinnacle Engineering Group, dated December 19, 2016, which is located in the office of the Department of City Development, be preserved and maintained by the continuation of land use that will not interfere with or substantially disrupt the natural elements or the workings of natural systems; and

WHEREAS, Grantee is a "holder", as contemplated by §700.41(1)(b)1. of the Wisconsin Statutes, whose purposes include, while exercising regulatory authority granted to it, *inter alia*, under §62.23 and §236.45 of the Wisconsin Statutes, the conservation of land, natural areas, open space, and water areas; and

WHEREAS, the Grantor and Grantee, by the conveyance to the Grantee of the conservation easement on, over, and across the protected property, desire to conserve the natural values thereof and prevent the use or development of the protected property for any purpose or in any manner inconsistent with the terms of this conservation easement; and

WHEREAS, the Grantee is willing to accept this conservation easement subject to the reservations and to the covenants, terms, conditions, and restrictions set out herein and imposed hereby;

NOW, THEREFORE, the Grantor, for and in consideration of the foregoing recitations and of the mutual covenants, terms, conditions, and restrictions subsequently contained, and as an absolute and unconditional dedication, does hereby grant and convey unto the Grantee a conservation easement in perpetuity on, over, and across the protected property.

Grantee's rights hereunder shall consist solely of the following:

1. To view the protected property in its natural, scenic, and open condition; and to manage the property allowed under this Agreement.
2. To enforce by proceeding at law or in equity the covenants subsequently set forth, including, and in addition to all other enforcement proceedings, proceedings to obtain all penalties and remedies set forth under Division 15-9.0500 of the Unified Development Ordinance of the City of Franklin, as amended from time to time, any violation of the covenants subsequently set forth being and constituting a violation of such Unified Development Ordinance, as amended from time to time, or such local applicable ordinance as may be later adopted or in effect to enforce such covenants or the purposes for which they are made, it being agreed that there shall be no waiver or forfeiture of the Grantee's right to insure compliance with the covenants and conditions of this grant by reason of any prior failure to act; and
3. To enter the protected property at all reasonable times for the purpose of inspecting the protected property to determine if the Grantor is complying with the covenants and conditions of this grant.

And in furtherance of the foregoing affirmative rights of the Grantee, the Grantor makes the following covenants which shall run with and bind the protected property in perpetuity, namely, that, on, over, or across the protected property, the Grantor, without the prior consent of the Grantee, shall not:

1. Construct or place buildings or any structure;

2. Construct or make any improvements, unless, notwithstanding Covenant 1 above, the improvement is specifically and previously approved by the Common Council of the City of Franklin, upon the advice of such other persons, entities, and agencies as it may elect; such improvements as may be so approved being intended to enhance the resource value of the protected property to the environment or the public and including, but not limited to animal and bird feeding stations, park benches, the removal of animal blockage of natural drainage or other occurring blockage of natural drainage.
3. Excavate, dredge, grade, mine, drill, or change the topography of the land or its natural condition in any manner, including any cutting or removal of vegetation, except for;
 - a.) The removal of dead, dying or diseased trees.
 - b.) The desirable control of invasive species (esp. common buckthorn, eurasion honeysuckle and garlic mustard) and nuisance species (esp. prickley ash and hawthorn) under the recommendation of a professional forester, arborist or botanist and approval by the City of Franklin designated forester.
 - c.) Silvicultural thinning upon the recommendation of a professional forester, arborist, botanist or City Staff.
4. Conduct any filling, dumping, or depositing of any material whatsoever, including, but not limited to soil, yard waste, or other landscape materials, ashes, garbage, or debris;
5. Plant any vegetation not native to the protected property or not typical wetland vegetation;
6. Operate snowmobiles, dune buggies, motorcycles, all-terrain vehicles or any other types of motorized vehicles, except for use of a lawn mower and all-terrain vehicle for maintaining and managing the natural acreage with the deire and intent to enhance its natural qualities.
7. Per Certified Survey Map 9050, One driveway shall be allowed within the Conservation Easement for each lot, subject to City of Franklin Department of City Development staff approval. The driveway shall not increase the disturbance of woodland for the entire lot, including the area shown outside the Conservation Easement boundary, beyond 30%. Furthermore, significant trees having a DBH of 25" or greater shall be preserved unless otherwise allowed to be removed by the City of Franklin.

To have and to hold this conservation easement unto the Grantee forever. Except as expressly limited herein, the Grantor reserves all rights as owner of the protected property, including, but not limited to, the right to use the protected property for all purposes not inconsistent with this grant. Grantor shall be responsible for the payment of all general property taxes levied, assessed, or accruing against the protected property pursuant to law.

The covenants, terms, conditions, and restrictions set forth in this grant shall be binding upon the Grantor and the Grantee and their respective agents, personal representatives, heirs, successors, and assigns, and shall constitute servitudes running with the protected property in perpetuity. This grant may not be amended, except by a writing executed and delivered by Grantor and Grantee or their respective personal representatives, heirs, successors, and assigns. Notices to the parties shall be personally delivered or mailed by U.S. Mail registered mail, return receipt requested, as follows:

To Grantor:
Mills Hotel Wyoming, LLC
4011 80th Street
Kenosha, WI 53142

To Grantee:
City of Franklin
Office of the City Clerk
9229 W. Loomis Road
Franklin, Wisconsin 53132

In witness whereof, the grantor has set its hand and seals this on this date of _____, 20__.

Mills Hotel Wyoming, LLC

By: Mills Enterprises, LLC its Manager

Stephen C. Mills, Member

Martha L. Mills, Member

STATE OF WISCONSIN)
) ss
COUNTY OF MILWAUKEE)

This instrument was acknowledged before me on the _____ day of _____, A.D. 20__ by

Stephen C. Mills. Member, Mills Enterprises, LLC

To me known to be the person(s) who executed the foregoing Easement and acknowledged the same as the voluntary act and deed of said Mills Hotel Wyoming, LLC.

Notary Public

My commission expires _____

STATE OF WISCONSIN)
) ss
COUNTY OF MILWAUKEE)

This instrument was acknowledged before me on the _____ day of _____, A.D. 20__ by

Martha L. Mills. Member, Mills Enterprises, LLC

To me known to be the person(s) who executed the foregoing Easement and acknowledged the same as the voluntary act and deed of said Mills Hotel Wyoming, LLC.

Notary Public

My commission expires _____

Acceptance

The undersigned does hereby consent to and accepts the Conservation Easement granted and conveyed to it under and pursuant to the foregoing Grant of Conservation Easement. In consideration of the making of such Grant Of Conservation Easement, the undersigned agrees that this acceptance shall be binding upon the undersigned and its successors and assigns and that the restrictions imposed upon the protected property may only be released or waived in writing by the Common Council of the City of Franklin, as contemplated by §236.293 of the Wisconsin Statutes.

In witness whereof, the undersigned has executed and delivered this acceptance on the ____ day of _____, A.D.20__.

CITY OF FRANKLIN

By: _____
Stephen R. Olson, Mayor

By: _____
Sandra L. Wesolowski, City Clerk

STATE OF WISCONSIN)
) ss
COUNTY OF MILWAUKEE)

Personally came before me this _____ day of _____, A.D. 20__, the above named Stephen R. Olson, Mayor and Sandra L. Wesolowski, City Clerk, of the above named municipal corporation, City of Franklin, to me known to be such Mayor and City Clerk of said municipal corporation, and acknowledged that they executed the foregoing instrument as such officers as the Deed of said municipal corporation by its authority and pursuant to Resolution No. _____, adopted by its Common Council on the _____ day of _____, 20__.

Notary Public

My commission expires _____

This instrument was drafted by the City of Franklin.

Approved as to contents:

Department of City Development

Date

Approved as to form only:

Jesse A. Wesolowski
City Attorney

Date

MORTGAGE HOLDER CONSENT

The undersigned, (name of mortgagee), a Wisconsin banking corporation ("Mortgagee"), as Mortgagee under that certain Mortgage encumbering encumbering the Property and recorded in the Office of the Register of Deeds for Milwaukee County, Wisconsin, on _____, 20____, as Document No. _____, hereby consents to the execution of the foregoing easement and its addition as an encumbrance title to the Property.

IN WITNESS WHEREOF, Mortgagee has caused these presents to be signed by its duly authorized officers, and its corporate seal to be hereunto affixed, as of the day and year first above written.

Name of Mortgagee

a Wisconsin Banking Corporation

By: _____

Name: _____

Title: _____

STATE OF WISCONSIN)
)ss
COUNTY OF MILWAUKEE)

On this, the _____ day of _____, 20____, before me the undersigned, personally appeared name of officer of mortgagee, the (title of office, i.e.: VP) of (name of mortgagee), Wisconsin banking corporation, and acknowledged that (s)he executed the foregoing instrument on behalf of said corporation, by its authority and for the purposes therein contained.

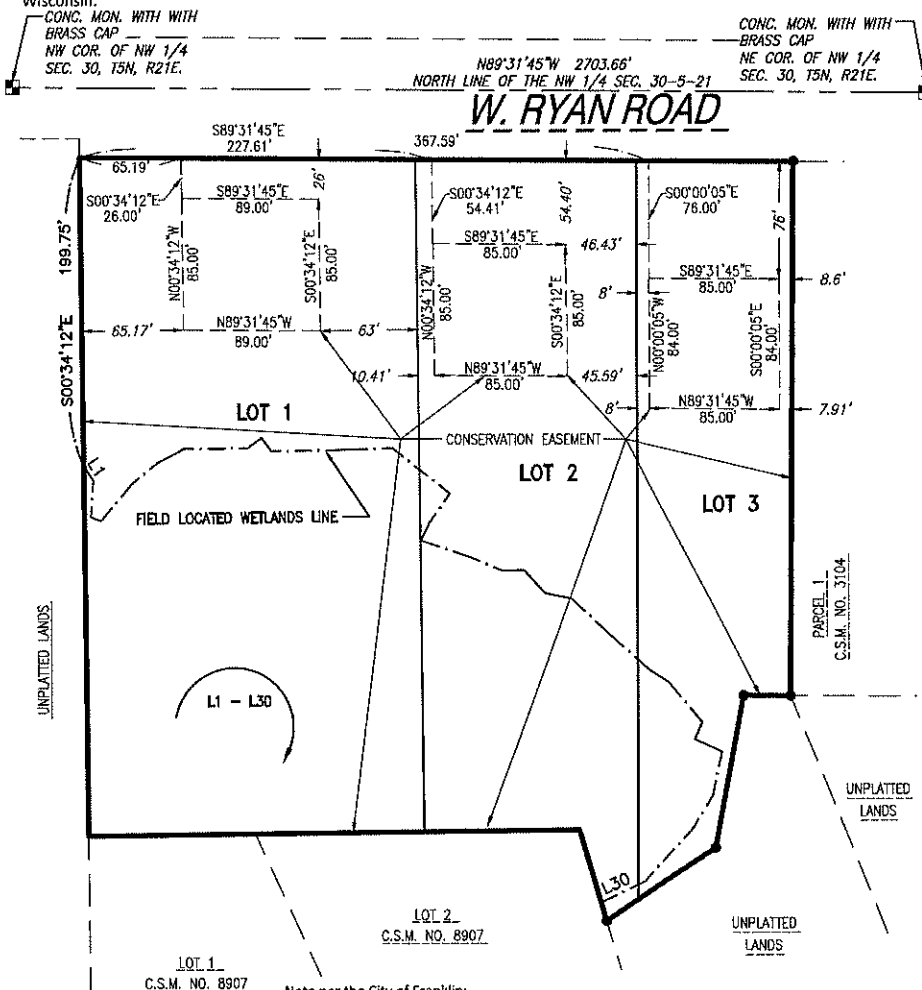
Notary Public, State of Wisconsin

My commission expires _____

Exhibit A

CERTIFIED SURVEY MAP NO. _____

Being a redivision of Lot 3 of Certified Survey Map No. 8907, recorded on April 24, 2017 as Document No. 10667627, located in the Northeast 1/4 of the Northwest 1/4 of Section 30, Town 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin.



LINE	BEARING	DISTANCE
L1	S33°44'29"E	10.74'
L2	S03°40'20"W	23.90'
L3	S71°22'52"E	6.89'
L4	N39°52'05"E	30.95'
L5	N50°44'02"E	21.03'
L6	N61°34'17"E	19.77'
L7	N89°31'56"E	41.03'
L8	N54°02'43"E	11.19'
L9	S36°03'18"E	10.70'
L10	N89°12'33"E	41.58'
L11	N88°04'35"E	14.00'
L12	N88°04'41"E	23.02'
L13	S51°29'11"E	47.35'
L14	S35°01'39"W	22.33'
L15	S26°17'26"W	13.35'
L16	S71°02'28"E	34.81'
L17	S66°44'58"E	20.82'
L18	N89°14'51"E	13.93'
L19	S41°29'55"E	19.89'
L20	S78°02'40"E	17.67'
L21	S47°05'50"E	33.64'
L22	S48°25'53"E	34.64'

Note per the City of Franklin:

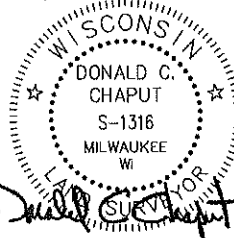
One driveway shall be allowed within the Conservation Easement for each lot, subject to City of Franklin Department of City Development staff approval. The driveway shall not increase the disturbance of woodland for the entire lot, including the area shown outside the Conservation Easement boundary, beyond 30%. Furthermore, significant trees having a DBH of 25 or greater shall be preserved unless otherwise allowed to be removed by the City of Franklin.

L23	S57°09'52"E	15.33'
L24	S39°34'36"E	33.51'
L25	S23°28'43"W	12.06'
L26	S65°39'58"E	19.26'
L27	S12°24'20"W	29.24'
L28	S31°14'35"W	25.41'
L29	S42°17'50"W	44.78'
L30	S64°18'03"W	32.22'

GRAPHIC SCALE

0 80 160

1" = 80'



CHAPUT
LAND SURVEYS

Date: July 18, 2017
Revised: June 01, 2018
Sheet 1 of 5 Sheets
Drawing No. 20180601csm2160.03-far

This instrument was drafted by Donald C. Chaput, Professional Land Surveyor S-1316

CHAPUT

LAND & SURVEYS

EXHIBIT A-1

Lot 1

Conservation Easement Legal

All of Lot 1 of Certified Survey Map No. 9050, being a redivision of Lot 3 of Certified Survey Map No. 8907 located in the Northeast 1/4 of the Northwest 1/4 of Section 30, Town 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin, except the following:

Commencing at the Northwest corner of said Lot 1 of Certified Survey Map No. 9050; thence South 89°31'45" East along the South line of West Ryan Road 65.19 feet to a point; thence South 00°34'12" East 26.00 feet to the point of beginning of lands hereinafter described; thence South 89°31'45" East 89.00 feet to a point; thence South 00°34'12" East 85.00 feet to a point; thence North 89°31'45" West 89.00 feet to a point; thence North 00°34'12" West 85.00 feet to the point of beginning.

Containing 7,565 square feet or 0.1736 acres of land.

Date: June 1, 2018

234 W. FLORIDA STREET, MILWAUKEE, WI 53204

414-224-8068

Exhibit B

CERTIFIED SURVEY MAP NO. _____

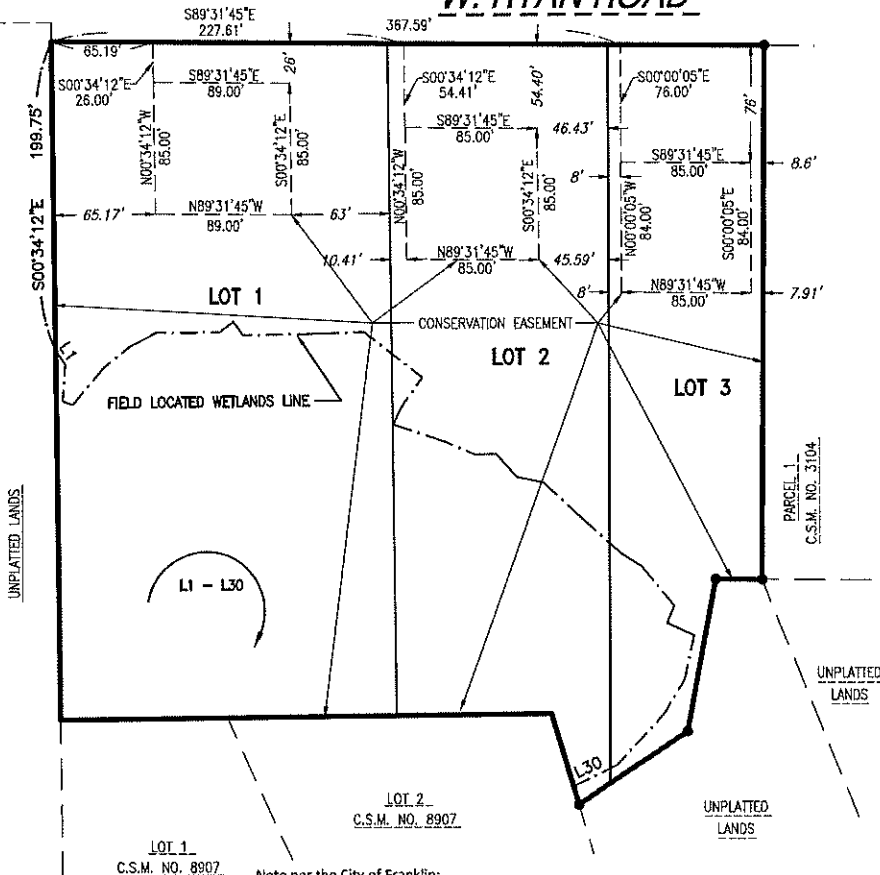
Being a redvision of Lot 3 of Certified Survey Map No. 8907, recorded on April 24, 2017 as Document No. 10667627, located in the Northeast 1/4 of the Northwest 1/4 of Section 30, Town 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin.

CONC. MON. WITH WITH
BRASS CAP
NW COR. OF NW 1/4
SEC. 30, T5N, R21E.

CONC. MON. WITH WITH
BRASS CAP
NE COR. OF NW 1/4
SEC. 30, T5N, R21E.

N89°31'45"W 2703.66'
NORTH LINE OF THE NW 1/4 SEC. 30-5-21

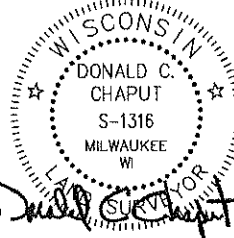
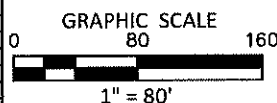
W. RYAN ROAD



LINE	BEARING	DISTANCE
L1	S33°44'29"E	10.74'
L2	S03°40'20"W	23.90'
L3	S71°22'52"E	6.89'
L4	N39°52'05"E	30.95'
L5	N50°44'02"E	21.03'
L6	N61°34'17"E	19.77'
L7	N89°31'56"E	41.03'
L8	N54°02'43"E	11.19'
L9	S36°03'18"E	10.70'
L10	N89°12'33"E	41.58'
L11	N88°04'35"E	14.00'
L12	N88°04'41"E	23.02'
L13	S51°29'11"E	47.35'
L14	S35°01'39"W	22.33'
L15	S26°17'26"W	13.35'
L16	S71°02'29"E	34.81'
L17	S66°44'58"E	20.82'
L18	N89°14'51"E	13.93'
L19	S41°29'55"E	19.89'
L20	S78°02'40"E	17.67'
L21	S47°05'50"E	33.64'
L22	S48°26'53"E	34.64'

Note per the City of Franklin:
One driveway shall be allowed within the Conservation Easement for each lot, subject to City of Franklin Department of City Development staff approval. The driveway shall not increase the disturbance of woodland for the entire lot, including the area shown outside the Conservation Easement boundary, beyond 30%. Furthermore, significant trees having a DBH of 25 or greater shall be preserved unless otherwise allowed to be removed by the City of Franklin.

L23	S57°09'52"E	15.33'
L24	S39°34'36"E	33.51'
L25	S23°28'43"W	12.06'
L26	S65°39'58"E	19.26'
L27	S12°24'20"W	29.24'
L28	S31°14'35"W	25.41'
L29	S42°17'50"W	44.78'
L30	S64°18'03"W	32.22'



CHAPUT
LAND SURVEYS

Date: July 18, 2017
Revised: June 01, 2018
Sheet 1 of 5 Sheets
Drawing No. 20180601csm2160.03-far

This instrument was drafted by Donald C. Chaput, Professional Land Surveyor S-1316.

CHAPUT

LAND & SURVEYS

EXHIBIT B-1

Lot 2

Conservation Easement Legal

All of Lot 2 of Certified Survey Map No. 9050, being a redivision of Lot 3 of Certified Survey Map No. 8907 located in the Northeast 1/4 of the Northwest 1/4 of Section 30, Town 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin, excepting therefrom the following:

Commencing at the Northwest corner of said Lot 1 of Certified Survey Map No. 9050; thence South 89°31'45" East along the South line of West Ryan Road 227.61 feet to a point; thence South 00°34'12" East 54.41 feet to the point of beginning of lands hereinafter described; thence South 89°31'45" East 85.00 feet to a point; thence South 00°34'12" East 85.00 feet to a point; thence North 89°31'45" West 85.00 feet to a point; thence North 00°34'12" West 85.00 feet to the point of beginning.

Containing 7,225 square feet or 0.1658 acres of land.

Date: June 1, 2018

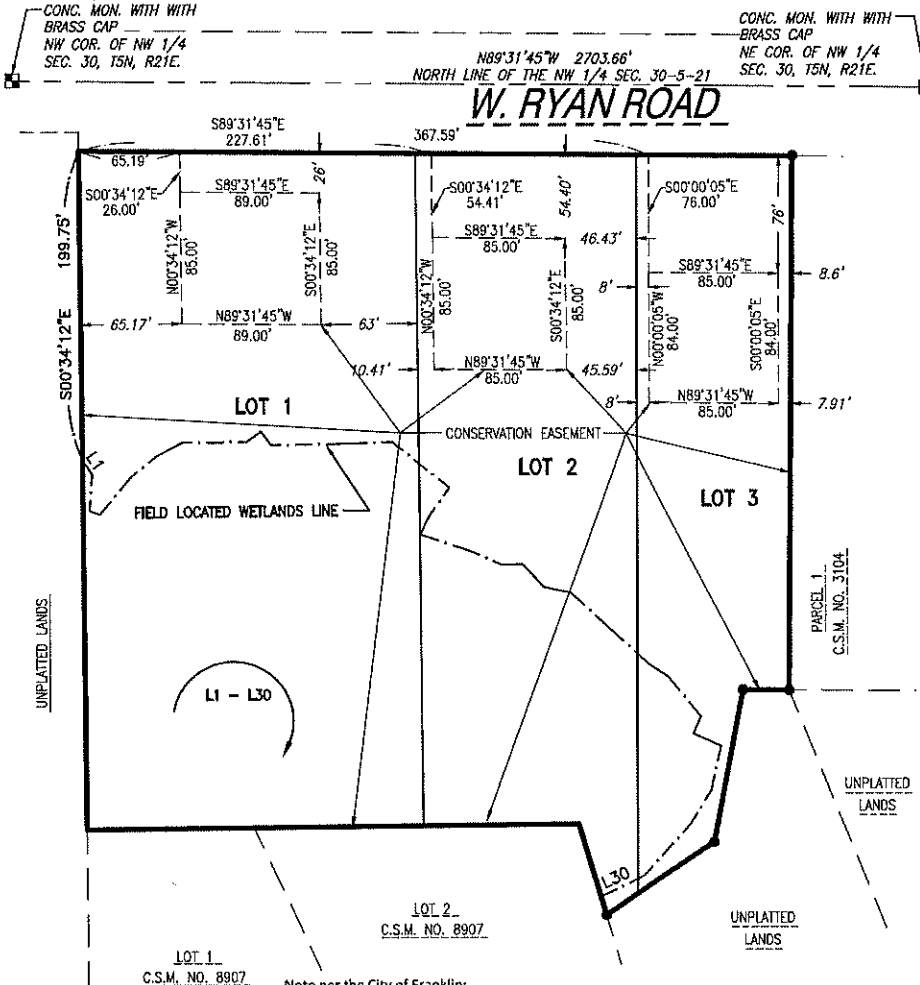
234 W. FLORIDA STREET, MILWAUKEE, WI 53204

414-224-8068

Exhibit C

CERTIFIED SURVEY MAP NO. _____

Being a redivision of Lot 3 of Certified Survey Map No. 8907, recorded on April 24, 2017 as Document No. 10667627, located in the Northeast 1/4 of the Northwest 1/4 of Section 30, Town 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin.



LINE	BEARING	DISTANCE
L1	S33°44'29"E	10.74'
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Note per the City of Franklin:

One driveway shall be allowed within the Conservation Easement for each lot, subject to City of Franklin Department of City Development staff approval. The driveway shall not increase the disturbance of woodland for the entire lot, including the area shown outside the Conservation Easement boundary, beyond 30%. Furthermore, significant trees having a DBH of 25 or greater shall be preserved unless otherwise allowed to be removed by the City of Franklin.

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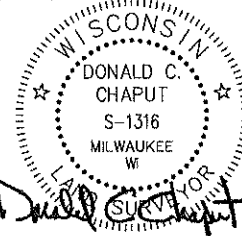
GRAPHIC SCALE

0 80 160

1" = 80'



CHAPUT
LAND SURVEYS



Date: July 18, 2017
Revised: June 01, 2018
Sheet 1 of 5 Sheets
Drawing No. 20180601csm2160.03-far

This instrument was drafted by Donald C. Chaput
Professional Land Surveyor S-1316

CHAPUT

LAND & SURVEYS

EXHIBIT C-1

Lot 3

Conservation Easement Legal

All of Lot 3 of Certified Survey Map No. 9050, being a redivision of Lot 3 of Certified Survey Map No. 8907 located in the Northeast 1/4 of the Northwest 1/4 of Section 30, Town 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin, excepting therefrom the following:

Commencing at the Northwest corner of said Lot 1 of Certified Survey Map No. 9050; thence South 89°31'45" East along the South line of West Ryan Road 367.59 feet to a point; thence South 00°00'05" East 76.00 feet to the point of beginning of lands hereinafter described; thence South 89°31'45" East 84.00 feet to a point; thence South 00°00'05" East 84.00 feet to a point; thence North 89°31'45" West 84.00 feet to a point; thence North 00°00'05" West 84.00 feet to the point of beginning.

Containing 7,056 square feet or 0.1619 acres of land.

Date: June 1, 2018

234 W. FLORIDA STREET, MILWAUKEE, WI 53204

414-224-8068

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APPROVAL <i>Slw</i>	REQUEST FOR COUNCIL ACTION	MEETING DATE December 18, 2018
	RESOLUTION TO AMEND PROFESSIONAL SERVICES CONTRACT WITH LAKESIDE ENGINEERS FOR PHASE 2 OF DESIGN OF S. 68TH STREET FROM W. LOOMIS ROAD TO W. PUETZ ROAD FOR \$48,597.80	ITEM NUMBER <i>G.4.</i>

BACKGROUND

At the December 4, 2018, Common Council meeting:

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.

ANALYSIS

Enclosed is the scope provided by Lakeside Engineering to perform a detailed design of S. 68th Street as selected by Common Council. This phase 2 work will help Staff determine which portion(s) of S. 68th Street should be reconstructed in 2019 and what, if any, should be held over to 2020.

OPTIONS

- A. Execute Contract Amendment for Lakeside Engineers to design improvements to S. 68th Street from W. Loomis Road to W. Puetz Road.
- B. Refer back to Staff with further direction.

FISCAL NOTE

The 2019 Capital Improvement Fund has a \$300,000 appropriation for design and construction of work on S. 68th Street and the Local Road Program anticipates approximately \$200,000 work on this segment. The construction work is anticipated to be included in the 2019 Local Road Program. Total construction costs will be a deliverable of the Phase 2 design efforts.

COUNCIL ACTION REQUESTED

(Option A) Resolution 2018-_____ a resolution to amend professional services contract with Lakeside Engineers for Phase 2 of design of S. 68th Street from W. Loomis Road to W. Puetz Road for \$48,597.80.

Engineering: GEM

STATE OF WISCONSIN : CITY OF FRANKLIN : MILWAUKEE COUNTY

RESOLUTION NO. 2018 - _____

RESOLUTION TO AMEND PROFESSIONAL SERVICES CONTRACT WITH
LAKESIDE ENGINEERS FOR PHASE 2 OF DESIGN OF S. 68TH STREET
FROM W. LOOMIS ROAD TO W. PUETZ ROAD FOR \$48,597.80

WHEREAS, Lakeside Engineers performed an evaluation design of S. 68th Street from W. Loomis Road to W. Puetz Road; and

WHEREAS, the City of Franklin Common Council determined that the appropriate cross section for S. 68th Street should be 10-foot travel lane and 2-foot pedestrian and bicycle lanes.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that Staff finalize and execute an amendment to Lakeside Engineering's contract for a Phase 2 design for \$48,597.80.

Introduced at a regular meeting of the Common Council of the City of Franklin the
_____ day of _____, 2018, by Alderman _____.

PASSED AND ADOPTED by the Common Council of the City of Franklin on the
_____ day of _____, 2018.

APPROVED:

Stephen R. Olson, Mayor

ATTEST:

Sandra L. Wesolowski, City Clerk

AYES _____ NOES _____ ABSENT _____



December 12, 2018

Mr. Glen Morrow, PE
City Engineer/Director of Public Works/Utility Manager
City of Franklin
9229 W. Loomis Road
Franklin, WI 53132

RE: 68th Street, Phase 2
Puetz Road to Loomis Road

Dear Mr. Morrow:

Lakeside Engineers, LLC is pleased to provide services for the above referenced project. Enclosed is our proposed scope of services with enumerated tasks and a table with estimated hours and hourly rates for the four work items, based upon a cost not to exceed \$48,597.80. The survey SUBCONSULTANT for this project will be GRAEF.

Scope of Services:

The scope of this project is to offer design services for improvements to 68th Street in the City of Franklin, Wisconsin. The design project limits are from Puetz Road to Rawson Avenue. The plan set will be delivered as one segment for 2020 construction. The scope of services includes:

- Roadway plans for widening the roadway from Puetz Road to Drexel Avenue for 1-foot on each side and roadway plans from Drexel Avenue to Rawson Avenue matching the existing roadway width.
- Cross-section and topographic survey for River Terrace Drive to Drexel Avenue and Wildwood Creek Court to Pineberry Ridge to be performed by SUBCONSULTANT.
- Beam guard design for locations including culvert extensions, if necessary at:
 - Approximately 700-feet north of River Terrace Drive
 - Approximately 100-feet south of Wildwood Creek Court
- Crest vertical curve improvements at two locations at:
 - Curve #5 at STA 85+05
 - Curve #6 at STA 98+42
- Crosswalk pavement marking and signing enhancements at three locations at:
 - Christine Rathke Park
 - Oak Leaf Trail Crossing south of Rawson Avenue
 - Oak Leaf Trail Crossing south of Loomis Avenue

The Lakeside Engineers scope of services includes four tasks: (1) Field Survey, (2) Preliminary Design, (3) Final Construction Plans and Bidding Documents, and (4) Administration and Coordination.

1. Field Survey

The field survey task will include field survey cross sections will be completed in 50-foot intervals for River Terrace Drive to Drexel Avenue and Wildwood Creek Court to Pineberry Ridge by the SUBCONSULTANT. From this survey information, the survey data will be processed to create a surface for design purposes and an alignment will be finalized for this segment. This task will also include subconsultant coordination and field review performed by the CONSULTANT.

2. Preliminary Design

The preliminary design phase includes designing the corridor and developing plan sheets. Anticipated plan sheets include:

- Title Sheet
- Typical Sections
- Construction Details
- Plan Details
- Erosion Control
- Traffic Control
- Signing and Marking
- Miscellaneous Quantities
- Beam Guard
- Plan and Profile
- Cross Sections

The preliminary design will include the design tasks outlined above in addition to the plan production and a plan QA/QC activity completed by construction field staff.

3. Final Construction Plans and Bidding Documents

The final construction plans and bidding documents will include the compilation for all final plan sheets, the development of specifications to supplement the City of Franklin standard specifications, and the development of construction cost estimates.

4. Administration and Coordination

The administration and coordination phase includes project management tasks and meetings. The scope of work includes two (2) meetings with City staff, preparation of project invoices and progress reports, utility coordination, other minor project coordination tasks, and attendance at a project pre-construction meeting.

The table below provides a summary of the estimated hours and costs associated with completion of the 68th Street Phase 2 design.

WORK TASKS	PROJECT MANAGER	PROJECT ENGINEER	PLANNER	SURVEY SUBCONTRACTO R	Costs
Task 1: Field Survey	\$137.70	\$96.90	\$107.10		
Puetz Road to Rawson Avenue	2	34		\$ 7,400.00	\$10,970.00
Task 2: Preliminary Design					
Puetz Road to Rawson Avenue	24	192	20		\$24,051.60
Task 3: Final Construction Plans & Bidding Documents					
Puetz Road to Rawson Avenue	8	72			\$ 8,078.40
Task 4: Administration & Coordination					
Puetz Road to Rawson Avenue	8	10	32		\$ 5,497.80
Total	42	308	52	\$ 7,400.00	\$48,597.80

Services provided by the City of Franklin:

- As-built plans
- Project bidding management
- Public involvement tasks associated with the project
- Pavement design structure for the rehabilitation and reconstructed segments

The proposed scope of this project does not include:

- Roadway design services for Rawson Avenue to Loomis Road
- Title searches and real estate services
- Drainage analysis and design
- Traffic reports
- Public involvement tasks including, meetings, newsletters, or property owner meetings



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125 South 84th Street, Suite 401
Milwaukee, WI 53214-1470
414 / 259 1500
414 / 259 0037 fax
www.graef-usa.com

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December 11, 2018

Mr. Chris Quesnell, P.E.
Lakeside Engineers
16745 West Bluemound Road
Suite 140,
Brookfield, Wisconsin 53005

SUBJECT: Topographic Survey for 68th

Dear Mr. Quesnell,

We are very pleased to provide you with this proposal for professional services. When accepted, this proposal will become the formal Agreement between Graef-USA Inc. (GRAEF) and Lakeside Engineers (Client).

This proposal is for preparing Topographic Survey of South 68th Street from West Drexel Avenue to River Terrace Drive and from Wildwood Creek Ct to Pineberry Ridge Road (Project). It is subject to GRAEF's Standard Terms and Conditions, a copy of which is attached and incorporated by reference.

It is our understanding that the nature of the Project is a topographic survey of South 68th Street. The limits of the survey will be from right of way to right of way on S. 68th Street and to curb returns on side roads. The intersection of W. Drexel Ave is not included in this proposal.

For this Project, GRAEF proposes to provide the Basic Services as described below. The survey will include the following:

- Contact Diggers Hotline service to have underground utilities marked on the ground surface for the survey crew to locate. All utility markings provided by this service will be included on the drawing.
- Conduct a field topographic and utility survey of the site, to include:
 - Field location of existing visible features of the site (buildings, utilities, walks, roads, etc.).
 - Existing spot elevations and break lines at sufficient density to allow the generation of accurate one-foot contour intervals. Cross sections will be taken at 50' intervals.
 - Location of utility markings.
- Prepare a topographic map showing existing features and field verified contour lines on one-foot contour intervals. This mapping will be used for the design



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process and as base mapping for preparation of construction plans. The drawing will include the following items:

- Description of ground surfaces (concrete, bituminous asphalt, grass, etc.)
- Description and location of existing improvements including, fences, walls, buildings, walks, drives, or any other existing visible site improvements.
- Significant trees will be located; wooded areas will be outlined.
- Spot elevations on an approximate 50-foot grid including all break lines so as to accurately generate 1-foot contour intervals
- Underground utilities marked by Diggers Hotline will be located and shown on the survey.
- Existing ground contours (1-foot interval)
- Datum for elevations
- Bench Marks and Control Points (location and description)
- Power, telephone and cable TV poles and lines, above and below ground
- Hydrants and valves

GRAEF will endeavor to perform the Basic Services in accordance with a mutually agreed-upon schedule in the Spring of 2019.

GRAEF can provide the following Additional Services for additional compensation as detailed below:

- Survey ties to section corners,
- Right of way plat preparation

You agree to compensate GRAEF for all basic services noted above for a lump sum of \$7,400.00.

To accept this proposal, please sign and date below and return one copy to us.

We look forward to working with you on this important project. Please call us at 414-266-9030 if you have any questions regarding this proposal.

Sincerely,

Graef-USA Inc.

**Accepted by:
Lakeside Engineers**

Michael J. Ratzburg, P.L.S
Survey Manager

(Signature)

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APPROVAL <i>slw</i>	REQUEST FOR COUNCIL ACTION	MTG. DATE December 18, 2018
Reports & Recommendations	RESOLUTION TO AUTHORIZE A PROFESSIONAL SERVICES CONTRACT NOT TO EXCEED \$20,000 WITH JACOBS ENGINEERING FOR THE REDESIGN OF WISDOT'S IMPROVEMENTS OF W. ELM ROAD FROM I-94 TO S. 27TH STREET	ITEM NO. <i>G. 5</i>

BACKGROUND

The Wisconsin Department of Transportation (WISDOT) is proceeding with the construction of I-94 that will include W. Elm Road improvements from I-94 to S. 27th Street. As part of the City's design of a proposed business park west of S. 27th Street, North of W. County Line Road and south of W. Oakwood Road, the City has been coordinating with WISDOT. Franklin's Traffic Impact Analysis (TIA) was just approved by WISDOT and it illustrates that any development in the new business park will require some modifications to the W. Elm Road / S. 27th Street intersection as well as an added west bound lane on W. Elm Road from I-94 to S. 27th Street.

ANALYSIS

On December 13, 2018, Staff discussed the needed improvements with WISDOT and it appears that an immediate redesign of W. Elm Road from I-94 to S. 27th Street could greatly minimize the cost to Franklin in the future when the business park is developed. According to WISDOT staff, "a redesign of the project now will save millions of dollars to the City and eliminate a lot of throwaway work." A cursory view of the modifications by WISDOT indicate that there would be a minimal change to the current contract. The WISDOT contractor is expected to start installing storm sewer along this route in January 2019.

WISDOT would require Franklin to engage the WISDOT designer of record (Jacobs Engineering) to modify the road plans and also require Franklin to enter into a State Municipal Agreement (SMA) specifying Franklin would be required to pay for any increase in cost.

Note that Staff has determined that any work outside of the City is not an eligible tax increment district (TID) cost. Even with this work accommodated within the WISDOT project, the TIA indicates that a future lane is needed. The future cost is expected to be over \$1 million.

OPTIONS

- A. Instruct Staff to finalize and execute a design contract with Jacobs Engineering for a fee not to exceed \$20,000 for the design modifications to WISDOT's improvements to W. Elm Road, or
- B. Refer back to Staff with further direction.

FISCAL NOTE

The 2018 Capital Improvement plan has available contingency appropriations for this project.

RECOMMENDATION

(Option A) Resolution 2018-_____ a resolution to authorize a professional services contract not to exceed \$20,000 with Jacobs Engineering for the redesign of WISDOT's improvements of W. Elm Road from I-94 to S. 27th Street.

Engineering Department: GEM

STATE OF WISCONSIN : CITY OF FRANKLIN : MILWAUKEE COUNTY

RESOLUTION NO. 2018 - _____

RESOLUTION TO AUTHORIZE A PROFESSIONAL SERVICES CONTRACT
NOT TO EXCEED \$20,000 WITH JACOBS ENGINEERING FOR THE REDESIGN OF
WISDOT'S IMPROVEMENTS OF W. ELM ROAD
FROM I-94 TO S. 27TH STREET

WHEREAS, the Wisconsin Department of Transportation (WISDOT) is proceeding with the construction of I-94 that will include W. Elm Road improvements from I-94 to S. 27th Street; and

WHEREAS, the City of Franklin is planning a business park in the southeast corner of the City that will warrant additional improvements on W. Elm Road between I-94 and S. 27th Street; and

WHEREAS, redesign of WISDOT's project will greatly reduce Franklin's future cost of additional improvements on W. Elm Road; and

WHEREAS, Jacobs Engineering is the designer of record for WISDOT's project; and

WHEREAS, WISDOT needs Jacobs Engineering to redesign their project to formulate a state municipal agreement with Franklin;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that Staff finalize and execute a professional services contract for the redesign of WISDOT's W. Elm Road project with Jacobs Engineering for a not to exceed amount of \$20,000.

Introduced at a regular meeting of the Common Council of the City of Franklin the
_____ day of _____, 2018, by Alderman _____.

PASSED AND ADOPTED by the Common Council of the City of Franklin on the
_____ day of _____, 2018.


APPROVED:

Stephen R. Olson, Mayor

ATTEST:

Sandra L. Wesolowski, City Clerk

AYES _____ NOES _____ ABSENT _____

APPROVAL 	REQUEST FOR COUNCIL ACTION	MEETING DATE 12/18/2018
REPORTS & RECOMMENDATIONS	Direction on Contract with Quorum Architects for the Design of the City Hall Roof, HVAC, and Fascia Wood Replacement Project	ITEM NUMBER G, 6.

The recent budget action on the City Hall project caused the contract with Quorum Architects to be laid over since it required restructuring that would dramatically impact the cost structure proposed therein. Given the change of strategy that has occurred already once and the split votes that have occurred so far, the Director of Administration seeks further guidance on two items: the amount of input the Common Council is looking for relative to the design process and consideration of a two-step, two-contract process versus the single contract previously proposed.

Design Process: The design process culminates with the approval of a Design Report. The last contract proposed (attached) started the process with the schematic design previously approved.

- One meeting would be held with staff and interested Aldermen to review the selected Option C in detail and discuss potential adjustments. Quorum would then prepare 2-3 schematic design options with material samples.
- A second meeting at Quorum's office would be held to review the updated plans and elevations.
- After that meeting, necessary tweaks would be made to the designs which would then be presented to the Common Council for final approval. Completing the schematic design, therefore, involved 3 meetings.
- The Design Development Report is then developed with detailed drawings and addressing colors and materials, etc. One meeting was to be held at the Quorum office after which Quorum could complete the Design Development Report.
- A final meeting is held with the Common Council to approve the Design Development Report that is then used to develop construction bid documents.

During these steps, each meeting could involve staff and interested Aldermen. Pre-notification of participation was to be required in case a public meeting notice became necessary. The bulk of the discussion occurred with staff and was followed by consideration/approval by the Common Council. Multiple cycles through the Common Council were not incorporated; however, the contract provides that additional staff meetings could occur and would be billed at \$500 per meeting and additional Council meetings/presentations would be billed at \$800.

The question, therefore, is whether or not this same structure is acceptable or whether the Common Council wants more cycles of review/adjust presentations to occur? Adding extra Common Council reviews will add cost, but it will also provide more opportunity for public comment during the process.

Two-Contract Process: The initial proposed contract required the Architect to also present pricing for Phase 2: preparation of construction documents, bidding, and construction administration. This was done so that the City retained some leverage in the pricing. It was, however, difficult to get accurate pricing because sub-contractors (Roofing Consultant and Civil, Structural, Mechanical, and Electrical Engineers) did not know

exactly what work they were bidding on since the initial schematic was still very conceptual. That unknown aspect was why the Phase 2 portion was an hourly, not-to-exceed price.

That problem exists even more with the reconstituted project since the stated goal is to scale back a schematic version to fit the approved budget. At this point, it is less clear to the Architect and sub-contractors exactly what the City desires. The City might be better off from a process perspective by simply contracting at this time for getting through the schematic design and design report steps (Phase 1). This would enable the subs, which were nearly half of the initial total Phase 2 cost, to be able to present more accurate cost estimates. At the same time, the City could lose some leverage. A change in fees of 1% of the project could have a \$6,000 to \$15,000 impact on project costs. Note, also, that one might expect slightly higher proportional fees with a smaller project due to the loss of economies of scale.

The question, therefore, is whether or not the Common Council prefers a contract strategy that is operationally advantageous with two separate contracts and a more phased, informed approach OR, conversely, whether the Council prefers to retain more leverage in Phase 2 and have staff negotiate a price in advance of approval of the Design Report.

Conclusion: The intent of this Council Action Sheet is to get guidance from the Common Council as to their intended level of participation in the design steps as well as their willingness to consider a two-step process. By doing so, the hope would be to have a final contract that is approved and avoid the need for a third attempt. Any additional contract development cycles would not be advantageous to the City.

COUNCIL ACTION REQUESTED

Provide input or action as determined by the Common Council.

A G R E E M E N T

This AGREEMENT, made and entered into this ____ day of _____, between the City of Franklin, 9229 West Loomis Road, Franklin, Wisconsin 53132 (hereinafter "CLIENT") and Quorum Architects, Inc. (hereinafter "CONTRACTOR"), whose principal place of business is 3112 West Highland Blvd, Milwaukee, WI 53208.

W I T N E S S E T H

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

WHEREAS, in the judgment of CLIENT, it is necessary and advisable to obtain the services of the CONTRACTOR to provide architectural design, construction document, bidding, and construction administration services;

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

I. BASIC SERVICES AND AGREEMENT ADMINISTRATION

- A. CONTRACTOR shall provide services to CLIENT for architectural design, construction document preparation, bidding review, and construction administration, as described in CONTRACTOR's proposal to CLIENT dated 9 November 2018, annexed hereto and incorporated herein as Attachment A.
- B. CONTRACTOR shall serve as CLIENT's professional representative in matters to which this AGREEMENT applies. CONTRACTOR is not guaranteed to be the CLIENT's sole representative in such matters, and the CLIENT is not restricted from engaging other professional service consultants to address such matters as the CLIENT shall determine is appropriate.
- C. CONTRACTOR may employ the services of outside consultants and subcontractors when deemed necessary by CONTRACTOR to complete work under this AGREEMENT following approval by CLIENT.
- D. CONTRACTOR is an independent contractor and all persons furnishing services hereunder are employees of, or independent subcontractors to, CONTRACTOR and not of CLIENT. All obligations under the Federal Insurance Contribution Act (FICA), the Federal Unemployment Tax Act (FUTA), and income tax withholding are the responsibility of CONTRACTOR as employer. CLIENT understands that express AGREEMENTS may exist between CONTRACTOR and its employees regarding extra work, competition, and nondisclosure.
- E. During the term of this AGREEMENT and throughout the period of performance of any resultant AGREEMENT, including extensions, modifications, or additions thereto, and for a period of one (1) year from the conclusion of such activity, the parties hereto agree that neither shall solicit for employment any technical or

professional employees of the other without the prior written approval of the other party. Such limitation, however, shall not prohibit any individual from applying for or being awarded a position advertised as part of the CLIENT's Civil Service System, as provided for by Wisconsin Statutes and incorporated into the Municipal Code of the City of Franklin.

II. FEES AND PAYMENTS

CLIENT agrees to pay CONTRACTOR, for and in consideration of the performance of Basic Services further described in Attachment A, at our standard billing rates with a fixed fee of \$41,820 for Phase One Services, a hourly, not-to-exceed budget of \$154,830 for Phase Two Services, subject to the terms detailed below:

- A. CONTRACTOR may bill CLIENT and be paid for all work satisfactorily completed hereunder on a monthly basis following submission of an invoice and appropriate supporting documentation to substantiate the invoice. CLIENT agrees to pay CONTRACTOR's invoice, if undisputed, within 30 days of invoice date for all approved work.
- B. For services rendered, monthly invoices will include a report that clearly states the hours and type of work completed and the fee earned during the month being invoiced.
- C. In consideration of the faithful performance of this AGREEMENT, the CONTRACTOR will not exceed the fee for Basic Services, which is inclusive of all expenses, without written authorization from CLIENT to perform work over and above that described in the original AGREEMENT.
- D. Should CLIENT find deficiencies in work performed or reported, it will notify CONTRACTOR in writing within thirty (30) days of receipt of invoice and related report and the CONTRACTOR will remedy the deficiencies within thirty (30) days of receiving CLIENT's review. This subsection shall not be construed to be a limitation of any rights or remedies otherwise available to CLIENT.

III. MODIFICATION AND ADDITIONAL SERVICES

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

IV. ASSISTANCE AND CONTROL

- A. Mark Luberda, Director of Administration, acting on behalf of the CLIENT, will coordinate the work of the CONTRACTOR, and be solely responsible for communication within the CLIENT's organization as related to all issues originating under this AGREEMENT. Meetings, whether in person or on the phone, solely between Mr. Luberda and representatives of CONTRACTOR shall not constitute a "meeting" or "Additional Service" as described in the proposal.
- B. CLIENT will timely provide CONTRACTOR with information in its possession related to the PROJECT as mutually deemed necessary and pertinent.
- C. CONTRACTOR will appoint Chris Hau, Associate AIA/Principal, CONTRACTOR's Project Manager and other key providers of the Basic Services. Substitution of other staff may occur only with the consent of CLIENT.

V. TERMINATION

- A. This AGREEMENT may be terminated by CLIENT, for its convenience, for any or no reason, upon written notice to CONTRACTOR. Upon such termination by CLIENT, CONTRACTOR shall be entitled to payment of such amount as shall fairly compensate CONTRACTOR for all approved and performed work up to the date of termination, except that no amount shall be payable for any losses of revenue or profit from any source outside the scope of this AGREEMENT, including but not limited to, other actual or potential agreements for services with other parties. Additionally, the CLIENT shall not be entitled for payment for any amount or portion of the cost identified in the proposal as a component of Phase 2 until the CLIENT has provided the CONTRACTOR with notice of a) acceptance of the Design Development report and b) authorization to proceed to Phase 2.
- B. In the event that this AGREEMENT is terminated for any reason, CONTRACTOR shall deliver to CLIENT all data, reports, summaries, correspondence, and other written, printed, or tabulated material pertaining in any way to Basic Services that CONTRACTOR may have accumulated. Such material is to be delivered to CLIENT whether in completed form or in process. CLIENT shall hold CONTRACTOR harmless for any work that is incomplete due to early termination.
- C. The rights and remedies of CLIENT and CONTRACTOR under this section are not exclusive and are in addition to any other rights and remedies provided by law or appearing in any other article of this AGREEMENT.

VI. INSURANCE

The CONTRACTOR shall, during the life of the AGREEMENT, maintain insurance coverage with an authorized insurance carrier at least equal to the minimum limits set forth below:

A. Limit of General/Commercial Liability	\$3,000,000
B. Automobile Liability: Bodily Injury/Property Damage	\$1,000,000
C. Excess Liability or Umbrella Policy for General/Commercial and Automobile Liability	\$4,000,000
D. Worker's Compensation and Employers' Liability	\$500,000
E. Professional Liability	\$2,000,000

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

VII. INDEMNIFICATION AND ALLOCATION OF RISK

- A. This AGREEMENT does not incorporate any provision for either party to indemnify or hold harmless the other party, including each party's officers, directors, partners, and employees from and against costs, losses, and damages (including but not limited to reasonable fees and charges of engineers, architects, attorneys, and other professionals, and reasonable court or arbitration or other dispute resolution costs).
- B. Nothing contained within this AGREEMENT is intended to be a waiver or estoppel of the contracting municipality CLIENT or its insurer to rely upon the limitations, defenses, and immunities contained within Wisconsin law, including those contained within Wisconsin Statutes §§ 893.80, 895.52, and 345.05. To the extent that indemnification is available and enforceable, the municipality CLIENT or its insurer shall not be liable in indemnity or contribution for an amount greater than the limits of liability for municipal claims established by Wisconsin Law.

VIII. TIME FOR COMPLETION

CONTRACTOR shall commence work promptly and diligently upon execution of this AGREEMENT.

CONTRACTOR shall complete the work in a timeframe as set forth within the proposal.

IX. DISPUTES

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

X. RECORDS RETENTION

CONTRACTOR shall maintain all records pertaining to this AGREEMENT during the term of this AGREEMENT and for a period of 3 years following its completion. Such records shall be made available by the CONTRACTOR to CLIENT for inspection and copying upon request.

XI MISCELLANEOUS PROVISIONS

- A. Professionalism: The same degree of care, skill, and diligence shall be exercised in the performance of the services as is possessed and exercised by a member of the same profession, currently practicing, under similar circumstances, and all persons providing such services under this AGREEMENT shall have such active certifications, licenses and permissions as may be required by law.
- B. Pursuant to Law: Notwithstanding anything to the contrary anywhere else set forth within this AGREEMENT, all services and any and all materials and/or products provided by CONTRACTOR under this AGREEMENT shall be in compliance with all applicable governmental laws, statutes, decisions, codes, rules, orders, and ordinances, be they Federal, State, County or Local.
- C. Conflict of Interest: CONTRACTOR warrants that neither it nor any of its affiliates has any financial or other personal interest that would conflict in any manner with the performance of the services under this AGREEMENT and that neither it nor any of its affiliates will acquire directly or indirectly any such interest. CONTRACTOR warrants that it will immediately notify the CLIENT if any actual or potential conflict of interest arises or becomes known to the CONTRACTOR. Upon receipt of such notification, a CLIENT review and written approval is required for the CONTRACTOR to continue to perform work under this AGREEMENT. Additionally, CONTRACTOR shall not take an action or provide to an individual any item that confers a personal benefit upon an employee or officer of the CLIENT.

XII. CONTROLLING TERMS AND PROVISIONS

The aforesaid terms and provisions shall control over any conflicting term or provision of any CONTRACTOR proposal, Attachment, Exhibit, and standard terms and provisions annexed hereto.

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

CITY OF FRANKLIN, WISCONSIN

QUORUM ARCHITECTS, INC.

BY: _____

BY: _____

PRINT NAME: _____

PRINT NAME: _____

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____

BY: _____

BY: _____

PRINT NAME: _____

PRINT NAME: _____

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____

BY: _____

PRINT NAME: _____

TITLE: _____

DATE: _____

APPROVED AS TO FORM:

Jesse A. Wesolowski, City Attorney