

**176<sup>th</sup> BOARD YEAR**

**LEGISLATIVE ITEMS RECEIVED FOR COMMITTEE REFERRAL**

| File No.  | Rec/Ref:             | To:            | Title  |
|-----------|----------------------|----------------|--|
| 176-O-047 | 07/07/21<br>07/08/21 | HS<br>HR<br>FI | ORD: Authorize The Department Of Health And Human Services To Cease Juvenile Secure Detention Operations At The Juvenile Center; Create, Abolish, And Reclassify Positions To Continue Services Through A Contracted Solution; And Modify The 2021 Non-Departmental Budget   |
| 176-O-048 | 07/07/21<br>07/08/21 | FI<br>HR       | ORD: Modify 2021 Budget To Accept The US Department Of Treasury American Rescue Plan Act Grant Through The Coronavirus State And Local Fiscal Recovery Funds Program, Create The Special Purpose Grant Fund, And Create 1.0 FTE Senior Financial Analyst Position  |
| 176-O-049 | 07/08/21<br>07/08/21 | PW<br>FI       | ORD: Approve Lease With Capital Flight, LLC To Become A Multiple Services Aeronautical Service Provider At Waukesha County Airport   |
| 176-O-050 | 07/21/21<br>08/05/21 | LU             | ORD: Amend The Waukesha County Shoreland And Floodland Protection Ordinance District Zoning Map Of The Town Of Lisbon By Rezoning Certain Lands Located In Part Of The W ½ And The NW ¼ Of Section 2, T8N, R19E, Town Of Lisbon, Waukesha County, Wisconsin, From The A-1 Agricultural District To The R-2 Residential District (RZ81) |
| 176-O-051 | 07/21/21<br>08/05/21 | LU             | ORD: Amend The District Zoning Map Of The Town Of Mukwonago Zoning Code By Rezoning Certain Lands Located Within The Valley Woods Subdivision, Section 2, Town Of Mukwonago, Waukesha County, Wisconsin, From The P-1 Public District To The R-1 Residential And A-1 Agricultural Districts (RZ83)                                     |
| 176-O-052 | 08/04/21<br>08/05/21 | LU             | ORD: Amend The District Zoning Map Of The Town Of Lisbon Zoning Code By Rezoning Certain Lands Located In Part Of The W ½ And NW ¼ Of Section 2, T8N, R19E, Town Of Lisbon, Waukesha County, Wisconsin, From The A-10 Agricultural District To The R-2 Single Family Residential District (RZ80)                                       |
| 176-O-053 | 08/04/21<br>08/05/21 | LU<br>FI       | ORD: Execute Subgrantee Agreements And HUD Grant Agreement For Community Development Block Grant (CDBG) And Home Investment Partnership (HOME) Programs For The 2022 Program Year  |
| 176-O-054 | 08/05/21<br>08/05/21 | PW<br>FI       | ORD: Approve Lease With Capital Flight, LLC To Become A Multiple Services Aeronautical Service Provider At Waukesha County Airport   |
| 176-O-055 | 08/04/21<br>08/05/21 | EX<br>PW<br>FI | ORD: Modify The 2021-2025 Capital Plan For The Creation Of Capital Project #202108 – Airport Perimeter Road Extension And Modify 2021 Capital Project Budget   |
| 176-O-056 | 08/04/21<br>08/05/21 | EX<br>PW<br>FI | ORD: Modify The 2021-2025 Capital Plan For The Creation Of Capital Project #202109 – Airport Parking Lot Rehabilitation And Expansion And Modify 2021 Capital Project Budget   |
| 176-O-057 | 08/04/21<br>08/05/21 | EX<br>HR<br>FI | ORD: Approve Amended And Restated Medical Clinic Intergovernmental Cooperation Agreement Between Waukesha County And The City Of Waukesha  |
| 176-A-016 | 08/03/21<br>08/05/21 | EX             | APPT: Kim Khoury to the Hartland Library Board of Trustees   |
| 176-A-017 | 08/03/21<br>08/05/21 | EX             | APPT: Judith Tharman to the Aging & Disability Resource Center Advisory Board  |
| 176-A-018 | 08/03/21<br>08/05/21 | EX             | APPT: Betty Koepsel to the Aging & Disability Resource Center Advisory Board   |

**176<sup>th</sup> BOARD YEAR**

**LEGISLATIVE ITEMS RECEIVED FOR COMMITTEE REFERRAL**

| File No.  | Rec/Ref:             | To:      | Title  |
|-----------|----------------------|----------|--|
| 176-A-019 | 08/03/21<br>08/05/21 | EX       | APPT: Joel Gaughan to the Aging & Disability Resource Center Advisory Board                                      |
| 176-O-058 | 08/04/21<br>08/05/21 | HR<br>FI | ORD: Ratification Of The 2020 – 2022 Waukesha Deputy Sheriff Labor Union Collective Bargaining Agreement         |
| 176-O-059 | 08/02/21<br>08/05/21 | CB       | ORD: Approve Compromise Settlement For Worker's Compensation Case Entitled Richard Shanks vs. County Of Waukesha |

1 AMEND THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION ORDINANCE  
2 DISTRICT ZONING MAP OF THE TOWN OF LISBON BY REZONING CERTAIN LANDS LOCATED  
3 IN PART OF THE W ½ AND THE NW ¼ OF SECTION 2, T8N, R19E, TOWN OF LISBON,  
4 WAUKESHA COUNTY, WISCONSIN, FROM THE A-1 AGRICULTURAL  
5 DISTRICT TO THE R-2 RESIDENTIAL DISTRICT (RZ81)  
6  
7

8 WHEREAS, after proper notice was given, a public hearing was held and the subject matter of  
9 this Ordinance was approved by the Lisbon Town Board on May 24, 2021; and  
10

11 WHEREAS, the matter was referred to and considered by the Waukesha County Park and  
12 Planning Commission, which recommended approval and reported that recommendation to the  
13 Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors,  
14 as required by Section 59.692, Wis. Stats.  
15

16 THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the  
17 Waukesha County Shoreland and Floodland Protection Ordinance District Zoning Map for the  
18 Town of Lisbon, Waukesha County, Wisconsin, adopted by the Waukesha County Board of  
19 Supervisors on April 9, 2010, is hereby amended to rezone from the A-1 Agricultural District to  
20 the R-2 Residential District, certain lands located in part of the W ½ and the NW ¼ of Section 2,  
21 T8N, R19E, Town of Lisbon, and more specifically described in the "Staff Report and  
22 Recommendation" and map on file in the office of the Waukesha County Department of Parks  
23 and Land Use and made a part of this Ordinance by reference RZ81, is hereby approved.  
24

25 BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this  
26 Ordinance with the Town of Lisbon Clerk.  
27


28 BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon passage,  
29 approval and publication.

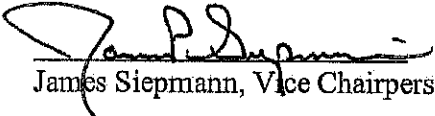
**COMMISSION ACTION**


The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Waukesha County Shoreland and Floodland Protection Ordinance hereby recommends approval of RZ81 (Kaerek\_Riteway Bus) in accordance with the attached "Staff Report and Recommendation".

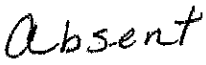
**PARK AND PLANNING COMMISSION**


**July 15, 2021**

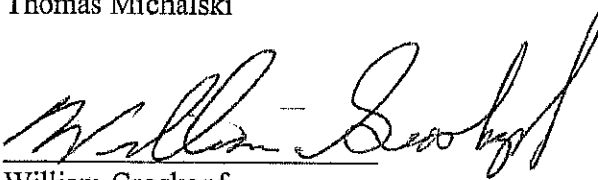
  
William Mitchell, Chairperson

  
James Siepmann, Vice Chairperson

  
Robert Peregrine

  
Richard Morris

  
Thomas Michalski

  
William Groskopf

**WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE**  
**STAFF REPORT AND RECOMMENDATION**  
**ZONING MAP AMENDMENT**

**DATE:** July 15, 2021

**FILE NO.:** RZ81

**OWNER:** Riteway Bus, LLC  
W201 N13900 Fond Du Lac Avenue  
Richfield, WI 53076

**APPLICANT:** Mike Kaerek  
Kaerek Homes, Inc.  
11600 West Lincoln Avenue  
West Allis, WI 53227

**TAX KEY NO.:** LSBT 0150.997

**LOCATION:**  
Part of the W ½ and NW ¼ of Section 2, T8N, R19E, Town of Lisbon. More specifically, the property is located at N95 W23759 County Line Road, containing approximately 41.5 acres.

**EXISTING ZONING:**  
A-1 Agricultural, HG High Groundwater, and C-1 Conservancy (wetland) Overlay Districts (County).

**PROPOSED ZONING:**  
R-2 Residential District (HG High Groundwater and C-1 Conservancy will remain unchanged) (County). Refer to Rezone Map attached.

**EXISTING USE(S):** Agricultural and undeveloped

**REQUESTED USE(S):**  
To divide approximately 1.15 acres of land and attach it to the adjacent neighboring property to the west. The larger parent parcel is currently a proposed nineteen lot single family residential subdivision (refer to Concept Map attached).

**PUBLIC HEARING DATE:** May 13, 2021

**PUBLIC COMMENT:** None.

**TOWN PLAN COMMISSION ACTION:**  
On May 13, 2021, the Town of Lisbon Plan Commission unanimously recommended approval of the rezone request to the Town Board and Waukesha County.

**TOWN BOARD ACTION:**  
On May 24, 2021, the Lisbon Town Board of Supervisors unanimously recommended approval of the rezone request to Waukesha County, subject to attorney review.

**COMPLIANCE WITH THE COMPREHENSIVE DEVELOPMENT PLAN (CDP) FOR WAUKESHA COUNTY AND THE TOWN OF LISBON CDP:**  
The Waukesha County and Town of Lisbon CDP's currently designate the portion of the property abutting CTH Q and to be transferred to an adjoining property owner (approximately 1.15 acres) as Low Density Residential on the CDP.

The remainder of the larger property is currently designated as Rural Density and Other Agricultural Land (5.0 to 34.9 acres per dwelling unit), Primary Environmental Corridor, and Other Open Lands to be Preserved. However, the applicant has a pending CDP amendment request to amend this portion of the County CDP to Suburban I Density Residential (1.5 to 2.9 acres of area per dwelling unit), Primary Environmental Corridor, and Other Open Lands to be Preserved.

The Town of Lisbon recently amended their CDP from Rural Density and Other Agricultural Land (5.0 to 34.9 acres per dwelling unit), Primary Environmental Corridor, and Other Open Lands to be Preserved to Suburban I Density Residential (1.5 to 2.9 acres of area per dwelling unit), Primary Environmental Corridor, and Other Open Lands to be Preserved for the larger property.

The applicant's request will comply with the Town and County CDP's, if the pending County amendment is approved.

**STAFF ANALYSIS:**

In conjunction with the development of a nineteen lot single family residential subdivision on the approximately 41.5 acre parent parcel, the petitioner is proposing to divide approximately 1.15 acres and transfer it to an adjacent neighboring property owner. The Town is requiring a CSM and thus a rezoning of the smaller acreage is required. The CSM will be reviewed by both the Town and the County. The proposed rezoning would allow for a minimum lot size of 30,000 square feet and a minimum lot width of 120 feet which is similar to the proposed subdivision zoning and land uses adjacent to the east.

The lands adjoining the 1.15 acres of land are zoned R-2 Residential and HG to the west; R-2 to the east; and Town zoning jurisdiction to the south (proposed R-2 as well). The lands adjoining the 1.15 acres of land are designated on the Town and County CDPs as Rural Density and Other Agricultural Land and Other Open Lands to be Preserved to the south (proposed to be amended to Suburban I Density Residential, PEC and OOLP as noted above); Low Density Residential, Rural Density and Other Agricultural Land, and PEC to the west; and Low Density Residential to the east.

It should be noted Washington County is located to the north across CTH Q from the 1.15 acres of land.

**STAFF RECOMMENDATION:**

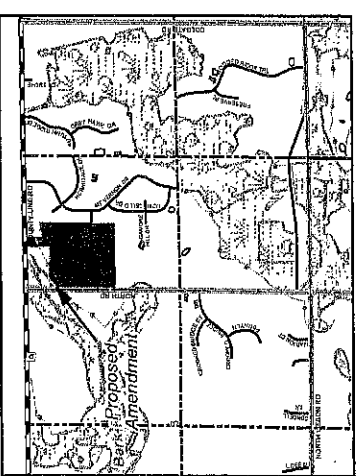
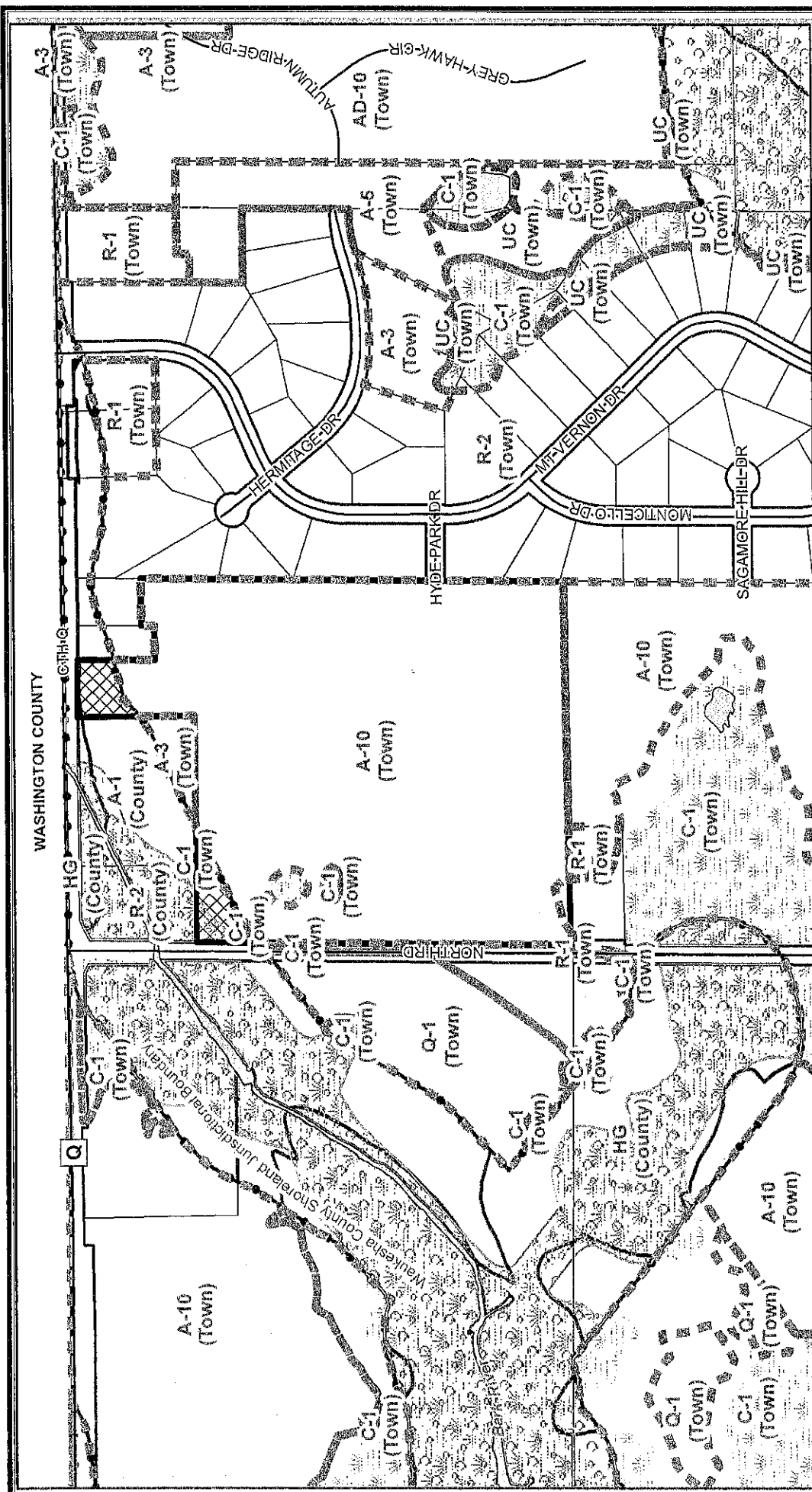
Based on the above analysis, the Planning and Zoning Division Staff recommends approval of the rezoning request to the R-2 Residential District subject to County Board approval of the County CDP amendment. The rezoning will serve to provide the appropriate zoning category in order to divide the land from the parent parcel as well as develop a proposed nineteen lot subdivision consistent with the amended Town and County Comprehensive Development Plans, and also to comply with the purpose and intent of the Waukesha County Shoreland and Floodland Protection Ordinance and the Town of Lisbon Zoning Ordinance.

Respectfully submitted,

*Sandra L Scherer*

Sandy Scherer  
Senior Planner

Attachments:     Rezoning Map  
                          Concept Map



**COUNTY ZONING CHANGE FROM A-1 AGRICULTURAL DISTRICT TO R-2 SINGLE-FAMILY RESIDENTIAL DISTRICT**

Wetlands Overlay  
 Environmental Corridor Overlay

FILE..... RZ81  
 DATE OF PLAN COMMISSION..... 7/15/21  
 AREA OF CHANGE..... 1.6 ACRES  
 TAX KEY NUMBER..... LSBT 0150.997

1 inch = 500 feet

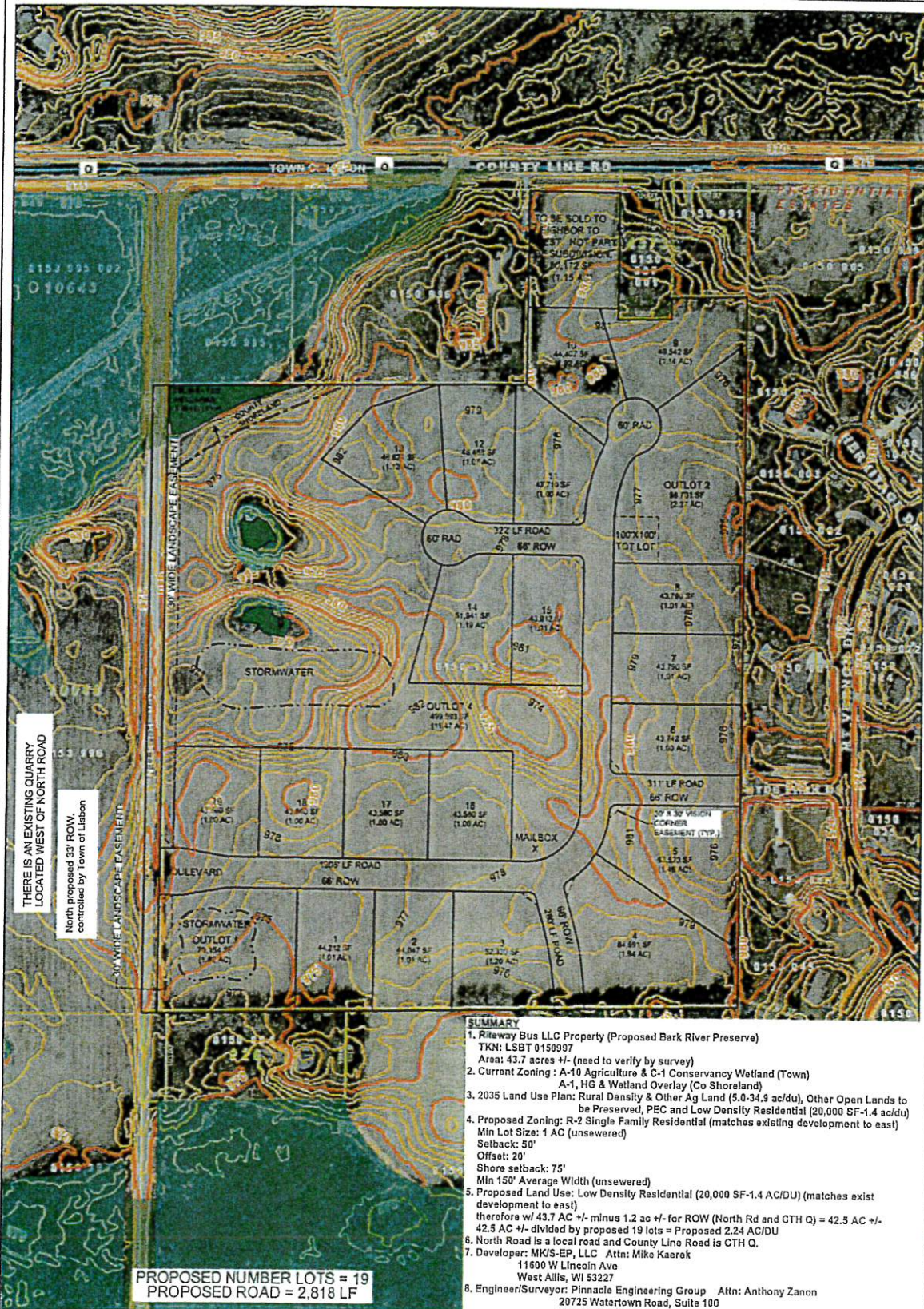
0 250 500 Feet

Prepared by the Waukesha County Department of Parks and Land Use

# ZONING AMENDMENT

PART OF THE NW 1/4 OF SECTION 2,  
TOWN OF LISBON





THERE IS AN EXISTING CLIBRARY LOCATED WEST OF NORTH ROAD  
North proposed 33' ROW, controlled by Town of Lisbon  
150' WIDE LANDSCAPE EASEMENT

**PROPOSED NUMBER LOTS = 19**  
**PROPOSED ROAD = 2,818 LF**

- SUMMARY**
1. Railway Bus LLC Property (Proposed Bark River Preserve)  
TKN: LSBT 0150997  
Area: 43.7 acres +/- (need to verify by survey)
  2. Current Zoning : A-10 Agriculture & C-1 Conservancy Wetland (Town)  
A-1, HG & Wetland Overlay (Co Shoreland)
  3. 2035 Land Use Plan: Rural Density & Other Ag Land (5.0-34.9 ac/du), Other Open Lands to be Preserved, PEC and Low Density Residential (20,000 SF-1.4 ac/du)
  4. Proposed Zoning: R-2 Single Family Residential (matches existing development to east)  
Min Lot Size: 1 AC (unsewered)  
Setback: 50'  
Offset: 20'  
Shore setback: 75'  
Min 150' Average Width (unsewered)
  5. Proposed Land Use: Low Density Residential (20,000 SF-1.4 AC/DU) (matches existing development to east)  
therefore w/ 43.7 AC +/- minus 1.2 ac +/- for ROW (North Rd and CTH Q) = 42.5 AC +/-  
42.5 AC +/- divided by proposed 19 lots = Proposed 2.24 AC/DU
  6. North Road is a local road and County Line Road is CTH Q.
  7. Developer: MK/S-EP, LLC Attn: Mike Kaerek  
11800 W Lincoln Ave  
West Allis, WI 53227
  8. Engineer/Surveyor: Pinnacle Engineering Group Attn: Anthony Zanen  
20725 Watertown Road, Suite 100  
Brookfield, WI 53186

0 200.00 Feet

The information and depictions herein are for informational purposes and Waukesha County specifically disclaims accuracy in this reproduction and specifically admonishes and advises that if specific and precise accuracy is required, the same should be determined by procurement of certified maps, surveys, plats, Flood Insurance Studies, or other official means. Waukesha County will not be responsible for any damages which result from third party use of the information and depictions herein, or for use which ignores this warning.



Notes: **CONCEPT PLAN**  
**BARK RIVER PRESERVE**  
REV DECEMBER 21, 2020  
PEG # 1778.00A-WI

Printed: 5/15/2019



1 AMEND THE DISTRICT ZONING MAP OF THE TOWN OF MUKWONAGO ZONING CODE BY  
2 REZONING CERTAIN LANDS LOCATED WITHIN THE VALLEY WOODS SUBDIVISION, SECTION 2,  
3 TOWN OF MUKWONAGO, WAUKESHA COUNTY, WISCONSIN, FROM THE P-1 PUBLIC  
4 DISTRICT TO THE R-1 RESIDENTIAL AND A-1 AGRICULTURAL DISTRICTS (RZ83)  
5  
6

7 WHEREAS, after proper notice was given, a public hearing was held and the subject matter of  
8 this Ordinance was approved by the Mukwonago Town Board on June 2, 2021; and  
9

10 WHEREAS, the matter was referred to and considered by the Waukesha County Park and  
11 Planning Commission, which recommended approval and reported that recommendation to the  
12 Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors,  
13 as required by Section (60.62), Wis. Stats.  
14

15 THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the  
16 District Zoning Map for the Town of Mukwonago Zoning Code, adopted by the Town of  
17 Mukwonago on November 24, 2020, is hereby amended to rezone certain lands located within  
18 the Valley Woods Subdivision, Section 2, Town of Mukwonago, Waukesha County, Wisconsin,  
19 from the P-1 Public District to the R-1 Residential and A-1 Agricultural Districts, and more  
20 specifically described in the "Staff Report and Recommendation" and map on file in the office  
21 of the Waukesha County Department of Parks and Land Use and made a part of this Ordinance  
22 by reference RZ83, is hereby approved, as set forth in the Town of Mukwonago Ordinance No  
23 2021-O-53.  
24

25 BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this  
26 Ordinance with the Town Clerk of Mukwonago.  
27

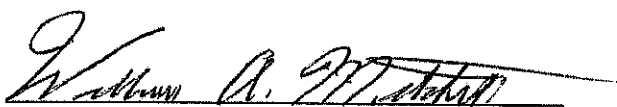
28 BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon passage,  
29 approval and publication.

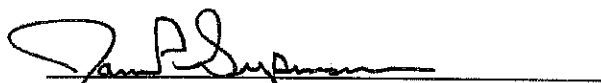
COMMISSION ACTION

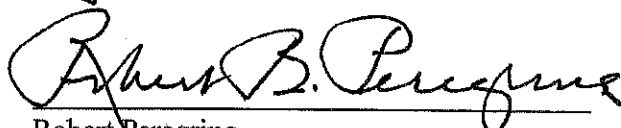
The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Town of Mukwonago Zoning Ordinance hereby recommends approval of **RZ83 (Town of Mukwonago Board)** in accordance with the attached "Staff Report and Recommendation".


PARK AND PLANNING COMMISSION

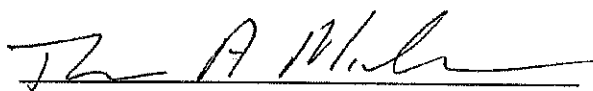
July 15, 2021

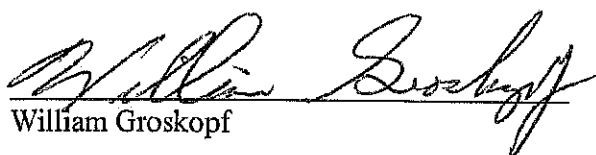
  
William Mitchell, Chairperson

  
James Siepmann, Vice Chairperson

  
Robert Peregrine

  
Richard Morris

  
Thomas Michalski

  
William Groskopf

**WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE**  
**STAFF REPORT AND RECOMMENDATION**  
**MAP AMENDMENT**

**DATE:** July 15, 2021  
**FILE NO.:** RZ83  
**APPLICANT:** Town of Mukwonago Board  
W320 S8315 Beulah Road  
Mukwonago, WI 53149  
**TAX KEY NO:** Multiple- areawide change (see Map, Exhibit A)

**LOCATION:**  
Parts of Section 2, T5N, R18E, Town of Mukwonago. The properties are located in the Valley Woods subdivisions south of CTH I.

**EXISTING ZONING:** P-1 Public District with EC Environmental Corridor Overlay (town)

**PROPOSED ZONING:** R-1 Residential District and A-1 Agricultural District with EC Environmental Corridor Overlay.

**EXISTING USE:** Residential use and wooded areas.

**PROPOSED USE:** No change.

**PUBLIC HEARING DATE:** June 2, 2021

**PUBLIC COMMENT:**  
None.

**TOWN PLAN COMMISSION ACTION:**  
On June 2, 2021, the Town of Mukwonago Plan Commission unanimously recommended to approve the map amendments.

**TOWN BOARD ACTION:**  
On June 2, 2021, the Mukwonago Town Board unanimously approved Ordinance 2021-O-53.

**COMPLIANCE WITH THE COMPREHENSIVE DEVELOPMENT PLAN (CDP) FOR WAUKESHA COUNTY AND THE TOWN OF MUKWONAGO CDP:**

The county plan designates the majority of the subject lands in the Primary Environmental Corridor category with a small area designated Low Density Residential (20,000 sq. ft. to 1.4 acres per dwelling unit). The town plan shows the affected lands in the Upland Conservancy category. With environmental corridor zoning protections proposed to remain in place, the request to amend the underlying zoning designations is consistent with the plans.

**STAFF ANALYSIS:**  
The Town of Mukwonago has initiated a multi-property rezoning to amend the zoning designation of a number of properties within the Valley Woods subdivisions from the P-1 Public District to either the A-1 Agricultural District or the R-1 Residential District. The subdivisions are located south of CTH I and to the west of the STH 83 corridor. The state owns a substantial amount of land to the east and south of the subdivisions. It may have been an inadvertent mapping error that this designation was applied to the general

area of environmental corridor on these lots. The town's zoning map also shows an Environmental Corridor Overlay across the vast majority of these same lands. The overlay designation will remain. Although one of the affected parcels is owned by the DNR, the Town Planner has indicated that the town wishes to zone that parcel consistent with the rest of the subdivision that was developed as a planned unit development.

The area to be amended to R-1 is generally the wooded rear yard areas of a number of lots along South Ridge Pass and Valley Woods Pass. The front part of these parcels is already zoned R-1. The proposed A-1 area would include several larger parcels that contain roughly four acres a piece. A-1 aligns with the existing A-1 designation in the 1<sup>st</sup> Addition to the Replat of Valley Woods, generally south of the South Ridge Pass cul de sac.

**STAFF RECOMMENDATION:**

Based on the above analysis, the Planning and Zoning Division Staff recommends **approval** of the request. This rezoning is a map correction to more appropriately zone a number of private properties that appear to have been erroneously zoned to the P-1 Public District. The corrected zoning designation will allow private property owners to be able to more fully utilize their properties.

Respectfully submitted,

*Jason Fruth*

Jason Fruth  
Planning Manager

Attachment: Town Ordinance No. 2021-O-53  
Exhibit A  
Map

N:\PRKANDLU\Planning and Zoning\Rezoning\Staff Reports\RZ83 T Mukwonago Section Map Amendments mkt.doc



STATE OF WISCONSIN

TOWN OF MUKWONAGO

WAUKESHA COUNTY

ORDINANCE 2021-O-53

**AN ORDINANCE TO AMEND CHAPTER 36 OF THE MUNICIPAL CODE**

WHEREAS, the Town Board for the Town of Mukwonago adopted a zoning code for the Town of Mukwonago in 1953 and has amended it from time to time since then; and

WHEREAS, that zoning code is codified as Chapter 36 of the Town of Mukwonago Municipal Code, titled "Town Zoning;" and

WHEREAS, the Plan Commission at their meeting on May 5, 2021, recommended various revisions to the zoning code as set forth herein; and

WHEREAS, allowing for proper notice, the Plan Commission and Town Board conducted a joint public hearing on June 2, 2021, to consider the amendment and to accept public comment; and

WHEREAS, the Plan Commission recommended approval of this ordinance at their meeting on June 2, 2021; and

WHEREAS, the Town Board considered the Plan Commission's recommendation at their meeting on June 2, 2021; and

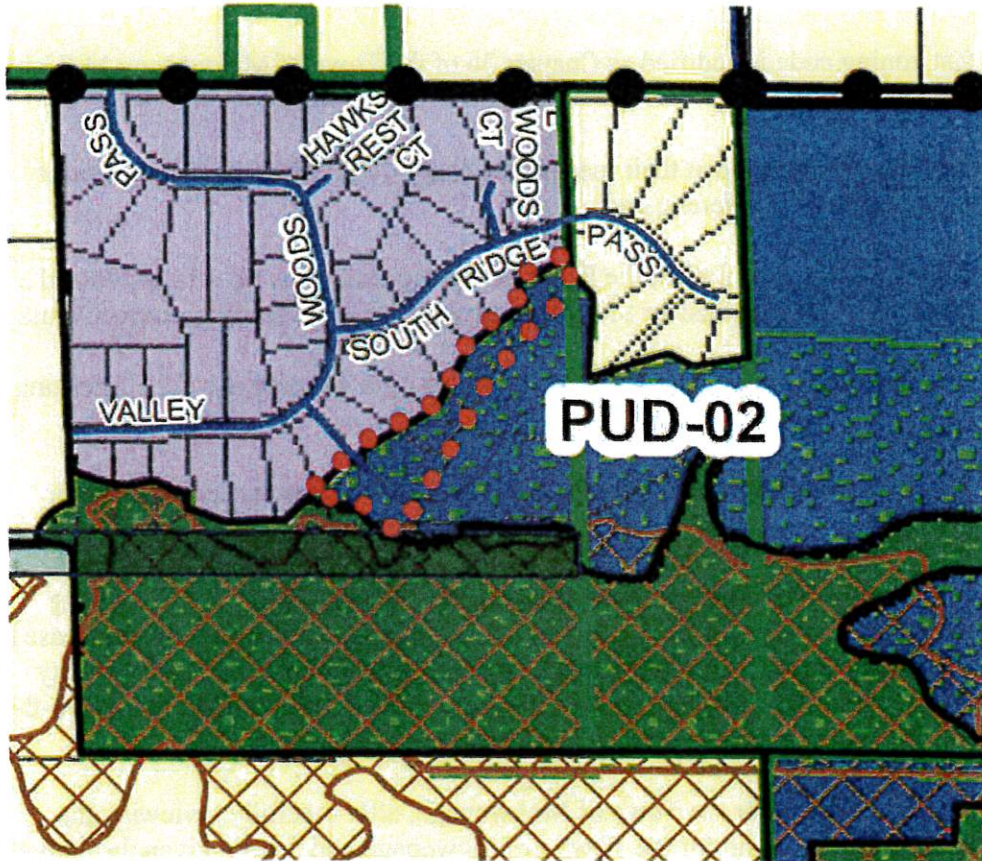
WHEREAS, the Town Board finds that the recommended revisions to the Town's zoning regulations could potentially be interpreted to be a down zoning ordinance because it may decrease the development density of land or reduce the permitted uses of land, and therefore the super majority requirement in s. 66.10015, Wis. Stats, applies to this ordinance, requiring a vote in favor by two-thirds of the members-elect of the Town Board for passage and adoption; and

WHEREAS, the Town Board for the Town of Mukwonago, after carefully reviewing the recommendation of the Plan Commission for the Town of Mukwonago and having given the matter due consideration having determined that all procedural requirements and notice requirements have been satisfied, and having based its determination on the effect of the adoption of the ordinance on the health, safety and welfare of the community and the preservation and enhancement of property values in the community, and having given due consideration to the municipal problems involved hereby determine that the ordinance amendment will serve the public health, safety and general welfare of the Town of Mukwonago, will enhance property values in the Town and will not be hazardous, harmful, noxious, offensive or a nuisance, and will not unduly limit or restrict the use of property in the Town or for any other reason cause a substantial adverse effect on the property values and general desirability of the Town.

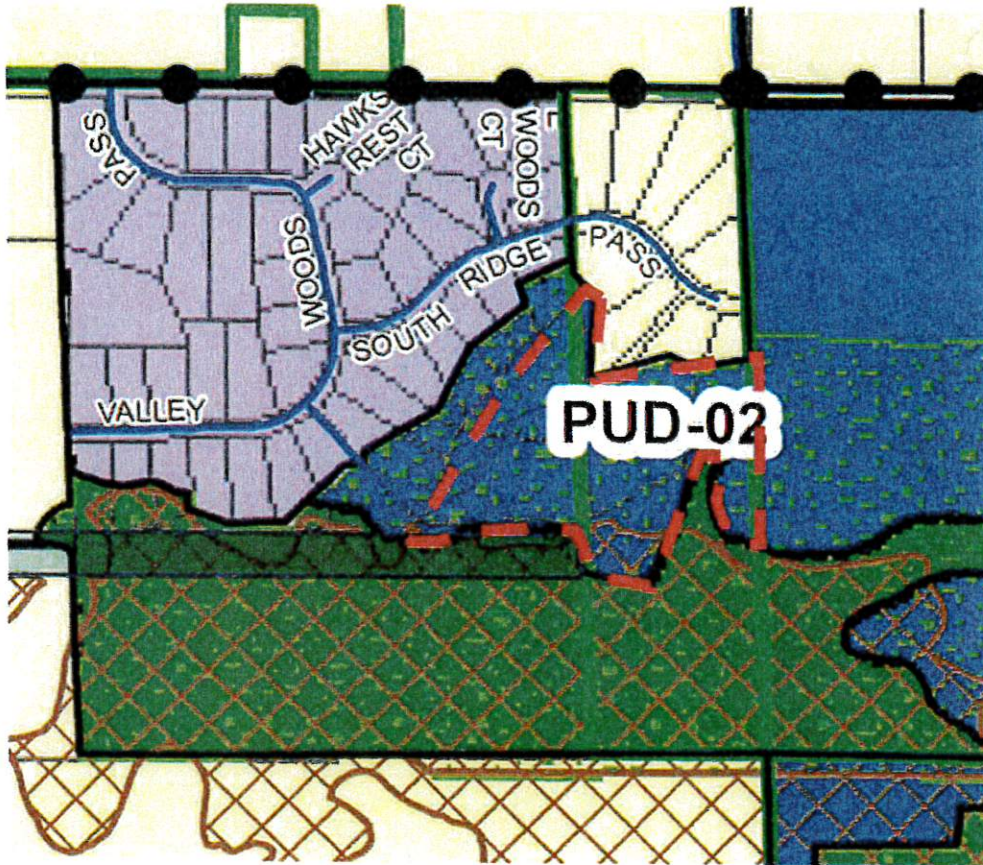
NOW, THEREFORE, the Town Board for the Town of Mukwonago, Waukesha County, does hereby ordain as follows:



**Section 1.** Revise the zoning map by changing the zoning designation for the area within the dashed red line from P-1 to A-1. That part located within PDD-02 shall remain subject to such approval.



**Section 2.** Revise the zoning map by changing the zoning designation for the area within the dotted red line from P-1 to R-1.



**Section 3.** The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful, or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision and shall not affect the validity of any other provisions, sections, or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

**Section 4.** The Town of Mukwonago Town Clerk is directed to send three signed copies of this ordinance to the Waukesha County Clerk for approval of the Waukesha County Board of Supervisors.

**Section 5.** This ordinance shall take effect immediately upon passage and posting or publication as provided by law following approval by the Waukesha County Board of Supervisors.

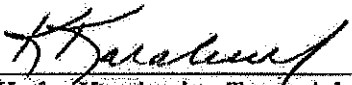
Adopted by a vote in favor by two-thirds of the members-elect of the Town Board, or more, this 2<sup>nd</sup> day of June 2021



TOWN OF MUKWONAGO

  
\_\_\_\_\_  
Peter Topczewski, Town Chair

ATTEST:

  
\_\_\_\_\_  
Kathy Karalewitz, Town Administrator

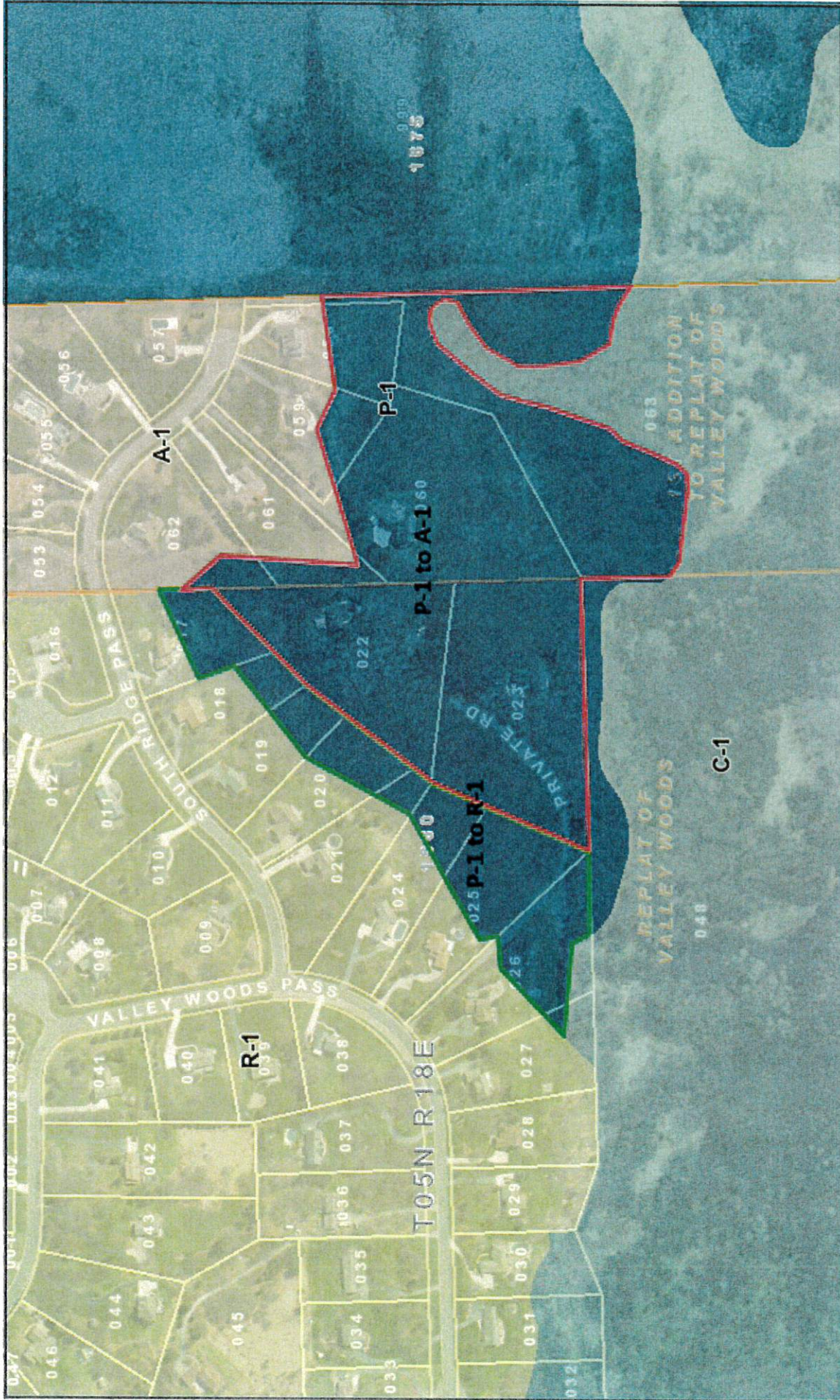
Published and/or posted this 7 day of June, 2021





LAND INFORMATION SYSTEMS DIVISION

# Exhibit A- RZ83



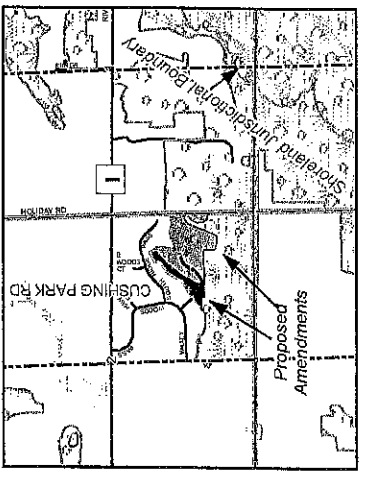
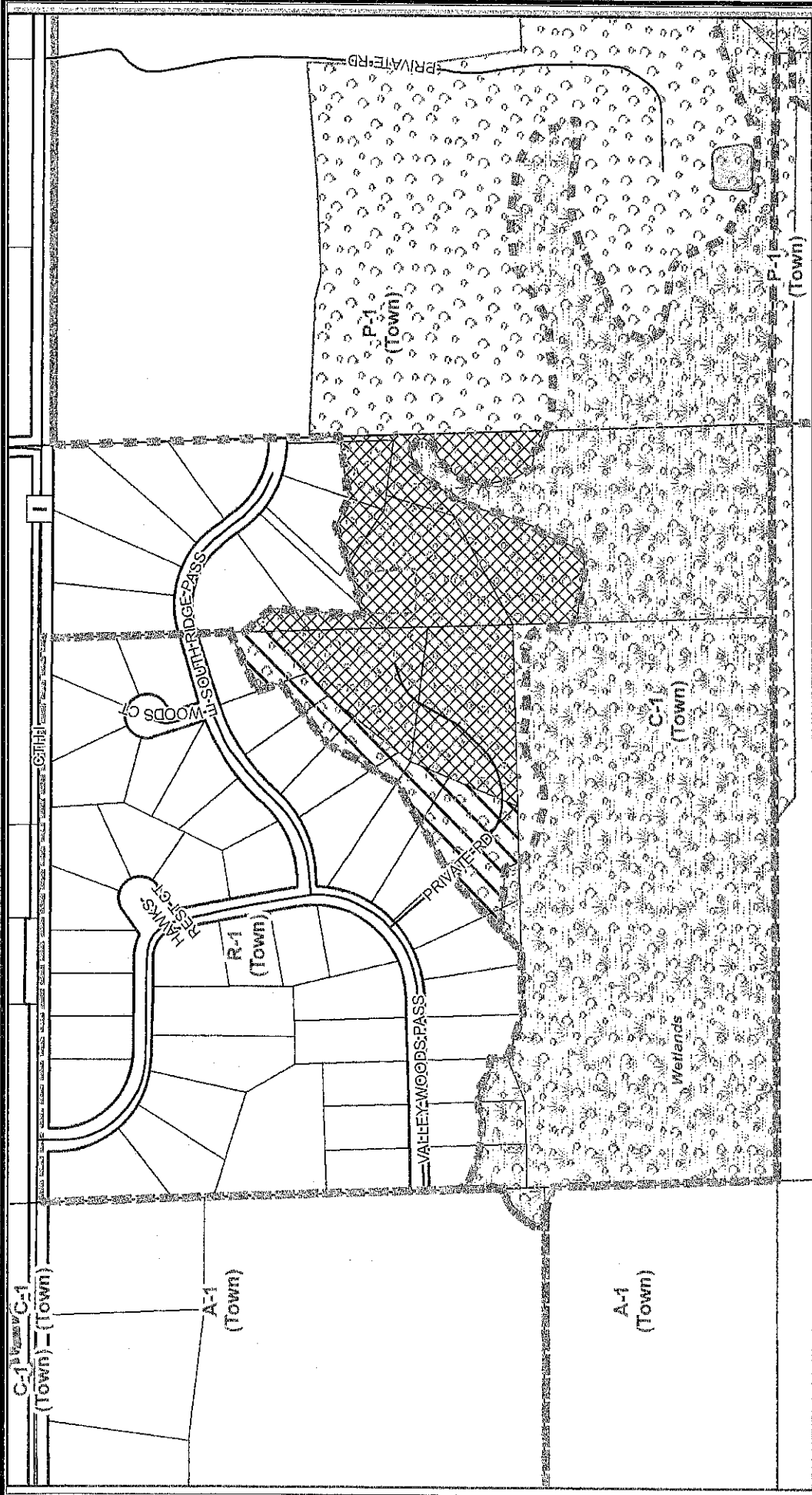
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**Notes:**

0 317.17 Feet

Printed: 6/29/2021





**TOWN ZONING CHANGE FROM P-1 PUBLIC DISTRICT TO A-1 AGRICULTURAL DISTRICT**

**TOWN ZONING CHANGE FROM P-1 PUBLIC DISTRICT TO R-1 RESIDENTIAL DISTRICT**

Environmental Corridor Overlay

FILE.....RZ83  
 DATE OF PLAN COMMISSION.....7/15/21  
 AREA OF CHANGE.....23.5 ACRES  
 TAX KEY NUMBER.....MULTIPLE

1 in = 500 ft  
 Feet  
 0 250 500

Prepared by the Waukesha County Department of Parks and Land Use

**ZONING AMENDMENT**

PART OF THE SE 1/4 OF SECTION 2,  
 TOWN OF MUKWONAGO



1 AMEND THE DISTRICT ZONING MAP OF THE TOWN OF LISBON ZONING CODE BY REZONING  
2 CERTAIN LANDS LOCATED IN PART OF THE W ½ AND NW ¼ OF SECTION 2, T8N, R19E,  
3 TOWN OF LISBON, WAUKESHA COUNTY, WISCONSIN, FROM THE A-10 AGRICULTURAL  
4 DISTRICT TO THE R-2 SINGLE FAMILY RESIDENTIAL DISTRICT (RZ80)  
5  
6

7 WHEREAS, after proper notice was given, a public hearing was held and the subject matter of  
8 this Ordinance was approved by the Lisbon Town Board on May 24, 2021; and  
9

10 WHEREAS, the matter was referred to and considered by the Waukesha County Park and  
11 Planning Commission, which recommended approval and reported that recommendation to the  
12 Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors,  
13 as required by Section 60.62, Wis. Stats.  
14

15 THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the  
16 District Zoning Map for the Town of Lisbon Zoning Code, adopted by the Town of Lisbon on  
17 April 9, 2010, is hereby amended to rezone from the A-10 Agricultural District to the R-2 Single  
18 Family Residential District, certain lands located in part of the W ½ and NW ¼ of Section 2, T8N,  
19 R19E, Town of Lisbon, Waukesha County, Wisconsin, and more specifically described in the  
20 "Staff Report and Recommendation" and map on file in the office of the Waukesha County  
21 Department of Parks and Land Use and made a part of this Ordinance by reference RZ80, is  
22 hereby approved.  
23

24 BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this  
25 Ordinance with the Town Clerk of Lisbon.  
26

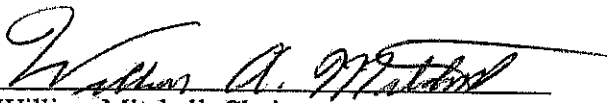
27 BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon passage,  
28 approval and publication.

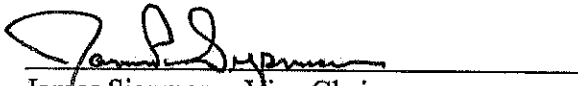
COMMISSION ACTION

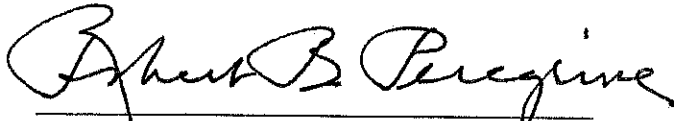
The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Town of Lisbon Zoning Ordinance hereby recommends approval of **RZ80 (Kaerek Riteway Bus)** in accordance with the attached "Staff Report and Recommendation".

PARK AND PLANNING COMMISSION

July 15, 2021

  
William Mitchell, Chairperson

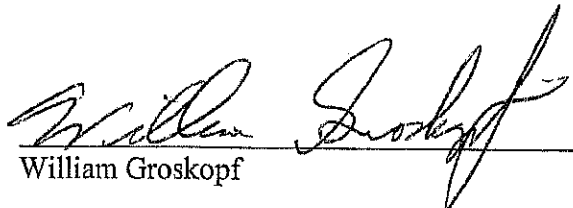
  
James Siepmann, Vice Chairperson

  
Robert Peregrine

Absent

Richard Morris

  
Thomas Michalski

  
William Groskopf

**WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE**  
**STAFF REPORT AND RECOMMENDATION**  
**ZONING MAP AMENDMENT**

**DATE:** July 15, 2021

**FILE NO.:** RZ80

**OWNER:** Riteway Bus, LLC  
W201 N13900 Fond Du Lac Avenue  
Richfield, WI 53076

**APPLICANT:** Mike Kaerek  
Kaerek Homes, Inc.  
11600 West Lincoln Avenue  
West Allis, WI 53227

**TAX KEY NO.:** LSBT 0150.997

**LOCATION:**

Part of the W ½ and NW ¼ of Section 2, T8N, R19E, Town of Lisbon. More specifically, the property is located at N95 W23759 County Line Road, containing approximately 41.5 acres, excluding the road rights-of way (ROWs) and the portion of the property abutting CTH Q.

**EXISTING ZONING:**

A-10 Agricultural District and C-1 Conservancy District (Town)

**PROPOSED ZONING:**

R-2 Single Family Residential District and C-1 Conservancy District (Town). Refer to the Rezone Map attached.

**EXISTING USE(S):** Agricultural and undeveloped

**REQUESTED USE(S):** 19 lot single family residential subdivision (refer to Concept Map attached)

**PUBLIC HEARING DATE:** January 14, 2021

**PUBLIC COMMENT:**

A person inquired as to how many houses would be in this development, what the lot sizes were and if there was a minimum size in the ordinances, and where she could find that information. Chairman Osterman noted that this particular development would have minimum one acre lots. He explained that all packet materials are posted on the Agendas and Minutes page of the Town of Lisbon website, and the packet contains all of the information that is available to the town at this time. Another person reiterated her objection to rezoning any Conservancy or Corridor land and opined that traffic in that area was of great concern as another resident stated earlier in the meeting. A person noted that he was more in favor of this proposal than the one that had been presented previously but expressed concerns with groundwater. Chairman Osterman read into the record written comments from Michael Kinlen which talked about the existing runoff issues in the area as there are no existing stormwater facilities and then asked how the new development would contribute to this existing problem since the existing culvert from Hyde Park Dr. and Mt. Vernon Dr. will direct water from the new development behind his home and into the wetland complex adjacent to his property causing additional runoff problems in this

area. He does not want things to worsen. *It should be noted that the conservancy zoning districts are not being amended herein.*

**TOWN PLAN COMMISSION ACTION:**

On January 25, 2021, the Town of Lisbon Plan Commission unanimously recommended approval of the rezone request, Ordinance No. 2021-04, to the Town Board, however, the Town inadvertently recommended rezoning the C-1 areas as well. On May 13, 2021, the Town of Lisbon Plan Commission unanimously recommended approval of the rezone request to the Town Board correcting the oversight, however the revised Ordinance is still under review by the Town Attorney.

**TOWN BOARD ACTION:**

On February 22, 2021, the Lisbon Town Board of Supervisors adopted Ordinance No. 2021-04 unanimously, however, the Town inadvertently rezoned the C-1 areas as well. On May 24, 2021, the Lisbon Town Board of Supervisors unanimously approved the request correcting the oversight, subject to review by the Town Attorney and recommendation to Waukesha County of the same. As noted above, the revised Ordinance is still under review by the Town Attorney.

**COMPLIANCE WITH THE COMPREHENSIVE DEVELOPMENT PLAN (CDP) FOR WAUKESHA COUNTY AND THE TOWN OF LISBON CDP:**

The Waukesha County CDP currently designates the subject property as Rural Density and Other Agricultural Land (5.0 to 34.9 acres per dwelling unit), Primary Environmental Corridor, and Other Open Lands to be Preserved. However, the applicant has a pending request to amend the County CDP to Suburban I Density Residential (1.5 to 2.9 acres of area per dwelling unit), Primary Environmental Corridor, and Other Open Lands to Preserved.

The Town of Lisbon recently amended their CDP from Rural Density and Other Agricultural Land (5.0 to 34.9 acres per dwelling unit), Primary Environmental Corridor, and Other Open Lands to be Preserved to Suburban I Density Residential (1.5 to 2.9 acres of area per dwelling unit), Primary Environmental Corridor, and Other Open Lands to Preserved.

The applicant's request will comply with the Town and County CDPs, if the pending County amendment is approved.

Note: The portion of the property abutting CTH Q and designated as Low Density Residential on the CDP will be transferred to an adjoining property owner.

**STAFF ANALYSIS:**

The petitioner is proposing a nineteen lot single family residential subdivision on approximately 41.5 acres (excluding the road ROWs and portion of land abutting CTH Q) located south of CTH Q and east of North Road. The property contains pocket wetlands which are zoned C-1 Conservancy in the northwest part of the property as well as PEC and additional wetlands in the northwest corner of the property.

The proposed rezoning would allow for a minimum lot size of one acre and a minimum lot width of 150 feet which is similar to the existing subdivision zoning and land use adjacent to the east. The concept plan attached calls for two stormwater areas, a tot lot, as well as connecting roads to the existing subdivision to the east and to the vacant land to the south. As noted above, the portion of the property abutting CTH Q will be transferred to an adjoining property owner requiring a separate shoreland rezone and CSM approval from the Town and the County.

The lands adjoining the subject parcel are zoned R-1 Suburban Single Family Residential, C-1 Conservancy, and A-10 Agricultural to the south; A-10 Agricultural and Q-1 Quarrying on the west side of North Road; A-3 Agricultural/Residential Estate District and R-2 Single Family Residential District to the north, in addition to County shoreland zoning jurisdiction; and R-2 Single Family Residential District to the east.

The lands adjoining the subject parcel are designated on the Town and County CDPs as: Rural Density and Other Agricultural Land and Other Open Lands to be Preserved to the south; Extractive and PEC on the west side of North Road; Low Density Residential, PEC, and Rural Density and Other Agricultural Land to the north; and Low Density Residential to the east.

**STAFF RECOMMENDATION:**

Based on the above analysis, the Planning and Zoning Division Staff recommends **approval** of the rezoning request to the R-2 Single Family Residential District in accordance with the Town's approval subject to County Board approval of the County CDP amendment and receipt of the Town's revised Ordinance. The rezone will not be processed through LUPE and the County Board until the Town's revised Ordinance is received.

As conditioned, the rezoning will serve to provide for a nineteen lot subdivision to be developed that is compatible with the surrounding land uses, is consistent with the amended Town and County Comprehensive Development Plans and complies with the purpose and intent of the Town of Lisbon's Zoning Ordinance.

Respectfully submitted,

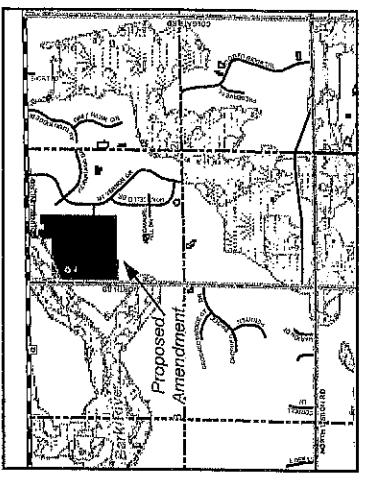
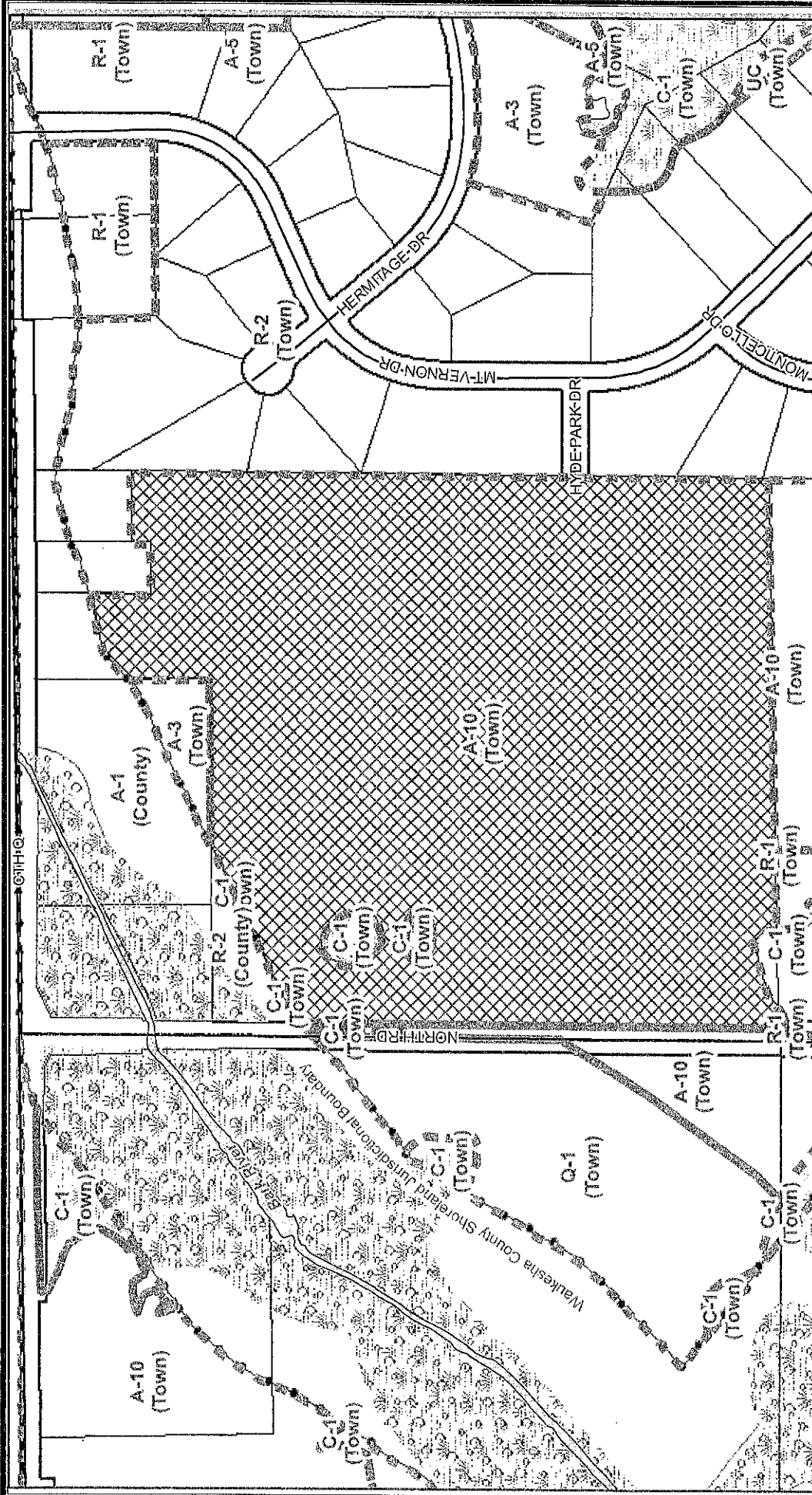
*Sandra L Scherer*

Sandy Scherer  
Senior Planner

Attachments:     Rezone Map  
                          Concept Map

N:\PRKANDLU\Planning and Zoning\Rezoning\Staff Reports\RZ80 Kaerek\_Riteway Bus Town amendment lst.doc





**TOWN ZONING CHANGE FROM A-10 AGRICULTURAL DISTRICT TO R-2 SINGLE-FAMILY RESIDENTIAL DISTRICT**

Wetlands Overlay  
Environmental Corridor Overlay

FILE.....RZ80  
DATE OF PLAN COMMISSION.....7/15/21  
AREA OF CHANGE.....40.2 ACRES  
TAX KEY NUMBER.....LSBT 0150.997

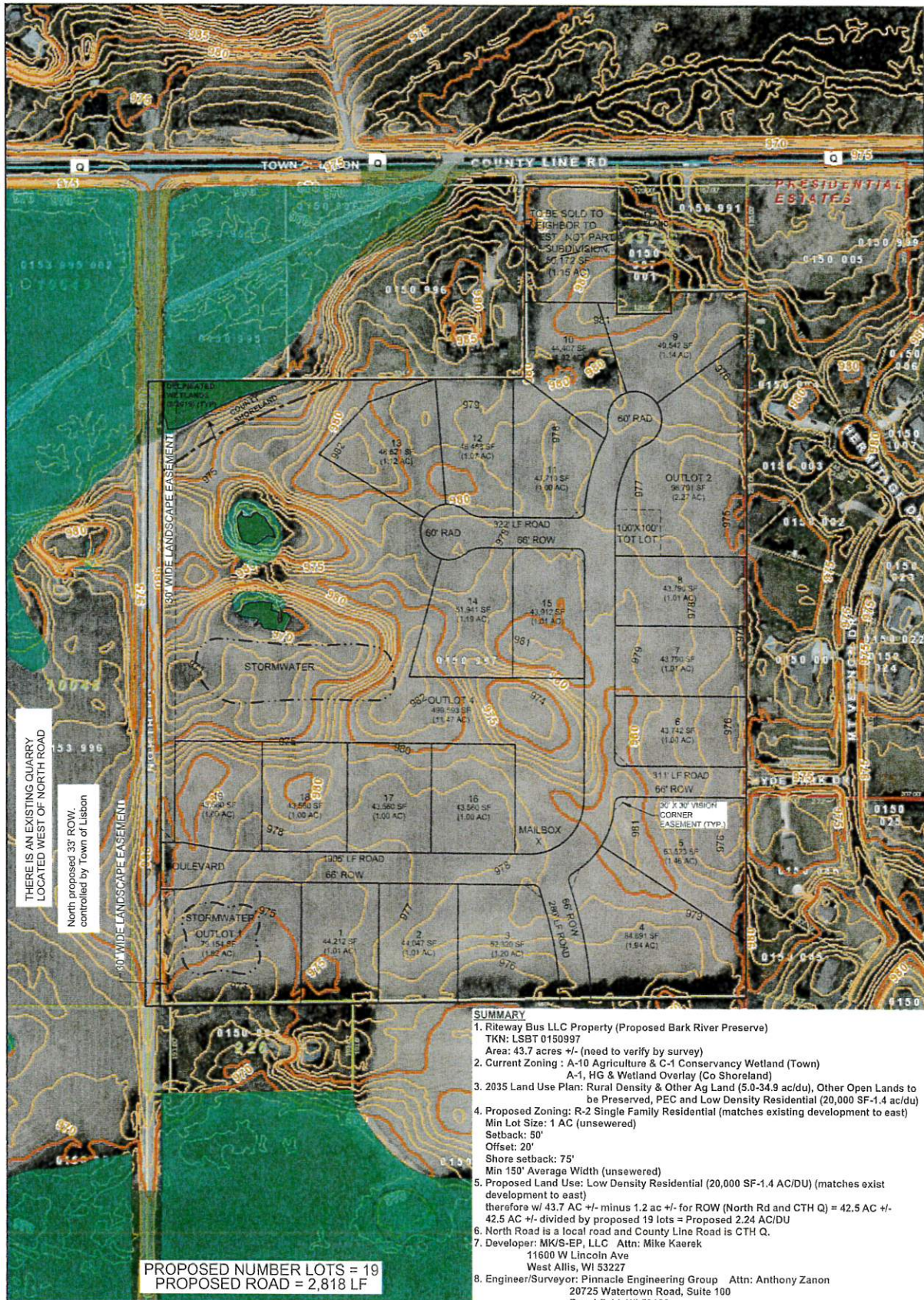
1 inch = 333 feet  
0 150 300 Feet

Prepared by the Waukesha County Department of Parks and Land Use

# ZONING AMENDMENT

PART OF THE NW 1/4 OF SECTION 2,  
TOWN OF LISBON





THERE IS AN EXISTING QUARRY LOCATED WEST OF NORTH ROAD controlled by Town of Lisbon

PROPOSED NUMBER LOTS = 19  
PROPOSED ROAD = 2,818 LF

**SUMMARY**

- Riteway Bus LLC Property (Proposed Bark River Preserve)  
TKN: LSBT 0150997  
Area: 43.7 acres +/- (need to verify by survey)
- Current Zoning : A-10 Agriculture & C-1 Conservancy Wetland (Town)  
A-1, HG & Wetland Overlay (Co Shoreland)
- 2035 Land Use Plan: Rural Density & Other Ag Land (5.0-34.9 ac/du), Other Open Lands to be Preserved, PEC and Low Density Residential (20,000 SF-1.4 ac/du)
- Proposed Zoning: R-2 Single Family Residential (matches existing development to east)  
Min Lot Size: 1 AC (unsewered)  
Setback: 50'  
Offset: 20'  
Shore setback: 75'  
Min 150' Average Width (unsewered)
- Proposed Land Use: Low Density Residential (20,000 SF-1.4 AC/DU) (matches existing development to east)  
therefore w/ 43.7 AC +/- minus 1.2 ac +/- for ROW (North Rd and CTH Q) = 42.5 AC +/-  
42.5 AC +/- divided by proposed 19 lots = Proposed 2.24 AC/DU
- North Road is a local road and County Line Road is CTH Q.
- Developer: MK/IS-EP, LLC Attn: Mike Kaerek  
11600 W Lincoln Ave  
West Allis, WI 53227
- Engineer/Surveyor: Pinnacle Engineering Group Attn: Anthony Zanon  
20725 Watertown Road, Suite 100  
Brookfield, WI 53186

0 200.00 Feet

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Printed: 8/15/2019

Notes: **CONCEPT PLAN**  
**BARK RIVER PRESERVE**  
REV DECEMBER 21, 2020  
PEG # 1778.00A-WI



ORDINANCE 2021-15

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**ORDINANCE REZONING APPROXIMATELY 42 ACRES OF UNPLATTED LANDS LOCATED ON COUNTY LINE ROAD, LSBT 0150.997, FROM A-10 AGRICULTURAL DISTRICT TO R-2 RESIDENTIAL DISTRICT, AND MAINTAINING THE C-1 CONSERVANCY OVERLAY AREAS, IN THE TOWN OF LISBON, WAUKESHA COUNTY, WISCONSIN**

---

**WHEREAS**, Mike Kaerek on behalf of property owner Riteway Bus LLC previously requested to rezone property from the A-10 Agricultural District and C-1 Conservancy District to the R-2 Single-Family Residential District; and

**WHEREAS**, the requested change in zoning was consistent with the Town of Lisbon Comprehensive Land Use Plan; and

**WHEREAS**, the Lisbon Plan Commission and Town Board of Supervisors held a Joint Public Hearing on the rezoning request on Thursday, January 14, 2021; and

**WHEREAS**, the owner wishes to maintain the C-1 Conservancy District areas; and

**WHEREAS**, the revised zoning change request is consistent with the Town of Lisbon Comprehensive Land Use Plan.

**NOW, THEREFORE**, the Town Board of the Town of Lisbon, Waukesha County, Wisconsin, does ordain as follows:

**SECTION 1.** The A-10 Agricultural areas of the following described property is hereby rezoned to R-2 Single-Family Residential, intentionally excluding the C-1 Conservancy areas:

W1/2 NW1/4 SEC 2 T8N R19E EX VOL 732/570 DEEDS EX VOL 811/493 DEEDS EX VOL 811/495 DEEDS EX R110/203 EX HWY EX 4 FT STRIP EX CERT SURV 4373 DOC# 4063852 ALSO KNOWN AS LSBT 0150.997

**SECTION 2.** All ordinances or parts of ordinances conflicting with or contravening the provisions of this ordinance are hereby repealed.

**SECTION 3.** This Ordinance shall take effect upon passage by a majority vote of the full membership of the Town Board and publication or posting as required by law.

[Signatures to follow]

**PASSED AND ADOPTED** by the Town Board of the Town of Lisbon, Waukesha County, Wisconsin this  
21 day of May, 2021.

TOWN BOARD, TOWN OF LISBON  
WAUKESHA COUNTY, WISCONSIN

BY: [Signature]  
JOSEPH OSTERMAN, Chairman

BY: [Signature]  
DOUG BRAHM, Supervisor

BY: [Signature]  
MARC MOONEN, Supervisor

BY: [Signature]  
LINDA BEAL, Supervisor

BY: [Signature]  
REBECCA PLOTECHER, Supervisor

ATTEST:

[Signature]  
Elisa M Cappozzo, WCMC  
Lisbon Clerk



APPROVED AS TO FORM:

[Signature]  
Town Attorney

1 EXECUTE SUBGRANTEE AGREEMENTS AND HUD GRANT AGREEMENT FOR  
2 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME INVESTMENT  
3 PARTNERSHIP (HOME) PROGRAMS FOR THE 2022 PROGRAM YEAR  
4  
5

6 WHEREAS, the U.S. Department of Housing and Urban Development (HUD) has qualified  
7 Waukesha County as an entitlement Urban County, and along with participating counties and  
8 municipalities is eligible to receive federal funding to provide benefits primarily to low and  
9 moderate income households as well as to meet specific community needs through the  
10 Community Development Block Grant (CDBG) and HOME Investment Partnership (HOME)  
11 programs; and  
12

13 WHEREAS, Waukesha County, as the grantee, has been authorized by the Waukesha County  
14 Board of Supervisors to participate and accept funding; and  
15

16 WHEREAS, the Parks and Land Use Department 2022 Proposed Budget includes HUD funding  
17 estimated at \$1,500,000 for the CDBG program and \$1,460,506 for the HOME program for total  
18 HUD funding of \$2,960,506; and  
19

20 WHEREAS, Waukesha County estimates revolving loan for CDBG of \$40,000; program income  
21 for CDBG of \$150,000; and program income for the HOME program of \$200,000, which will also  
22 be included in the 2022 Proposed Budget; and  
23

24 WHEREAS, program fees estimated for 2022 in the HOME Program of \$51,000, and for the  
25 CDBG Program of \$12,900, are also included in the 2022 Budget, for a total of \$63,900; and  
26

27 WHEREAS, subgrantees, participating counties and municipalities will enter into subgrantee  
28 agreements with Waukesha County to use HUD funds mainly designated to benefit low and  
29 moderate income (at-risk) persons and specific needs of participating jurisdictions.  
30

31 THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the  
32 County Executive of Waukesha County is hereby authorized to:  
33

- 34 1. Execute on behalf of Waukesha County, required subgrantee agreements for use  
35 of HUD grant funds.
- 36 2. Execute appropriate amendments to subgrantee agreements, which are deemed  
37 reasonable and appropriate by the County Executive and the Community  
38 Development Block Grant Board and the HOME Consortium Board.
- 39 3. Execute on behalf of Waukesha County a Grant Agreement and an Annual Plan  
40 requesting funds for Federal Fiscal Year 2022 with the U.S. Department of Housing  
41 and Urban Development.  
42

43 BE IT FURTHER ORDAINED that Community Development program administration is authorized  
44 to accept the anticipated 2022 HUD funding for CDBG program funds of \$1,500,000 and HOME  
45 program funds of \$1,460,506.

46

47 BE IT FURTHER ORDAINED that if actual federal Housing and Urban Development (HUD) award  
48 notification amounts are less than estimated, an appropriate reduction of subgrantee grant  
49 amounts will be required by the CDBG and HOME Boards and notification of any decreases will  
50 be sent to the Finance Committee and the Community Development expenditures will be  
51 limited to the amount of the award notification.

| <b>Full Agency Title</b>                                     | <b>Project</b>                             | <b>Recommendation</b> |
|--|--|-----------------------|
| Association for the Rights of Citizens with handicaps (ARCH) | Repair/Renovation                          | \$11,416              |
| Board of Regents of the University of Wisconsin System       | West Side NRSA Strategic Plan Update       | \$29,328              |
| City of Waukesha   | ADA & Public Improvements                  | \$122,445             |
| City of Waukesha   | Adaptive Recreational Programs             | \$3,188               |
| City of Waukesha   | Downtown Façade                            | \$30,000              |
| City of Waukesha   | Historic Springs Restoration               | \$10,000              |
| City of Waukesha   | Landmark Paint & Repair                    | \$22,222              |
| City of Waukesha   | Saratoga/Haertel Field Summer Playground   | \$9,400               |
| City of Waukesha   | Senior Activity Coordinator                | \$14,000              |
| City of Waukesha   | Sentinel Park Summer Program               | \$6,000               |
| Easter Seals   | Safe Babies/Healthy Families               | \$19,000              |
| Elmbrook Senior Taxi   | Vehicle Replacement                        | \$7,752               |
| ERAs Senior Network  | Faith in Action                            | \$7,000               |
| Family Service Agency  | C.A.R.E Center                             | \$10,000              |
| Habitat for Humanity   | Neighborhood Revitalization                | \$200,000             |
| Hebron House   | Case Management                            | \$10,000              |
| Hebron House   | Juno House 5-bed Expansion                 | \$15,000              |
| Hebron House   | Siena House                                | \$15,000              |
| Hebron House   | Siena House Rehabilitation                 | \$65,000              |
| Hebron House   | Three-Shelter Security System Replacement  | \$40,000              |
| Hope Center  | Clothing Shop                              | \$33,000              |
| Hope Center  | Day Center                                 | \$29,377              |
| Hope Center  | Transportation Assistance                  | \$10,000              |
| Hope Center  | Outreach Meal Program                      | \$75,167              |
| Metropolitan Milwaukee Fair Housing                          | Fair Housing Services                      | \$30,000              |
| Muskego Senior Taxi  | Vehicle Replacement                        | \$7,752               |
| Parents Place  | Community Education Program                | \$5,000               |
| TBD  | Unallocated                                | \$93,526              |
| The Housing Action Coalition                                 | Housing Navigator Case Manager             | \$15,000              |
| The Housing Action Coalition                                 | Waukesha Overflow Shelter                  | \$10,000              |
| The Salvation Army   | Community Meal Program                     | \$19,000              |
| The Salvation Army   | Emergency Shelter Lodge                    | \$9,000               |
| The Women's Center   | Case Management – Transitional Living      | \$6,500               |
| The Women's Center   | Children's Sexual Abuse Counseling         | \$14,000              |
| The Women's Center   | Emergency Shelter                          | \$29,000              |
| The Women's Center   | Employment Program                         | \$20,000              |
| Tower Hills Neighborhood Association                         | Crime Prevention and Public Safety         | \$21,337              |
| Tower Hills Neighborhood Association                         | Park View Park Amenity Improvement Project | \$7,490               |
| Town of Lisbon   | Lake Five Bike Path Project                | \$75,000              |
| Village of North Prairie                                     | ADA Sidewalk/ADA Water Fountain            | \$30,000              |
| Waukesha County CDBG   | Administration                             | \$252,000             |
| Waukesha County CDBG   | Housing Rehabilitation                     | \$143,850             |
| Waukesha County Parks and Land Use                           | Mukwonago Park ADA Restroom                | \$57,250              |
| WWBIC  | Business Owner                             | \$50,000              |
| <b>Total</b>   |  | <b>\$1,690,000</b>    |
|  |  |                       |

Following is the list of Projects/Activities recommended for the 2022 HOME funding:

| <b>HOME PROGRAM</b> |                                 |                    |
|---------------------|---------------------------------|--------------------|
|                     | Administration                  | \$166,050          |
|                     | Housing Development             | \$275,380          |
| CHDO Reserve        | TBD                             | \$219,076          |
| TBRA Program        | TBD                             | \$300,000          |
| CORE Programs       | Downpayment Assistance Program  | \$300,000          |
|                     | Housing Rehabilitation Program  | \$225,000          |
|                     | Purchase Rehabilitation Program | \$175,000          |
| <b>Total</b>        |                                 | <b>\$1,660,506</b> |
|                     |                                 |                    |



FISCAL NOTE

EXECUTE SUBGRANTEE AGREEMENTS AND HUD GRANT AGREEMENT FOR  
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME INVESTMENT  
PARTNERSHIP (HOME) PROGRAMS FOR THE 2022 PROGRAM YEAR

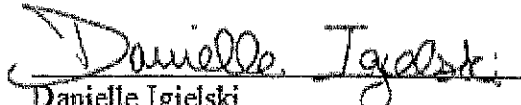
This ordinance authorizes the County Executive to execute agreements with the Federal Government to accept up to \$2,960,506 of Community Development Block Grant (CDBG) and Home Investment Partnership (HOME) grants and program income as shown below:

| <b>Funding Purpose</b>             | <b>CDBG</b> | <b>HOME</b> | <b>Total</b> |
|------------------------------------|-------------|-------------|--------------|
| 2022 Subgrantee HUD Grant Amounts  | \$1,500,000 | \$1,460,506 | \$2,960,506  |
| 2022 Revolving Loan/Program Income | \$190,000   | \$200,000   | \$390,000    |
| 2022 Estimate                      | \$1,690,000 | \$1,660,506 | \$3,350,506  |

If the Federal Housing and Urban Development (HUD) funding allocation awards are less than the estimated amount, the CDBG and HOME Consortium Boards will make appropriate reductions to subgrantee grant amounts and send a notification of any decreases to the Finance Committee. The Community Development expenditures will be limited to the amount of the HUD award notifications. According to the Department of Parks and Land Use, all subgrantee agreements for projects will include clauses providing for grant funding decreases, if necessary.

If the final Federal appropriation amount is greater than the estimated amount of \$2,960,506 an ordinance to appropriate the additional funding will require future County Board approval to increase the CDBG and HOME program expenditure appropriations and revenue budgets accordingly.

This ordinance has no direct tax levy impact.

  
Danielle Igielski  
Accounting Services Manager  
7/30/2021

1 APPROVE LEASE WITH CAPITAL FLIGHT, LLC TO BECOME A MULTIPLE SERVICES  
2 AERONAUTICAL SERVICE PROVIDER AT WAUKESHA COUNTY AIRPORT  
3

4  
5 WHEREAS, Capital Flight has applied to become an Aircraft Storage, Sales, Maintenance, Lease  
6 and Rental, Flight Training, Charter and Unscheduled Air Taxi Service Provider in accordance  
7 with Waukesha County's Minimum Standards for Aeronautical Service Providers; and  
8

9 WHEREAS, Capital Flight, LLC has been operating at Morey Field in Middleton, Wisconsin since  
10 2013; and  
11

12 WHEREAS, Capital Flight, LLC projects investment of approximately \$6.8 million to build a  
13 hangar and to hire up to 60 new full and part-time employees with annual salaries averaging  
14 \$40,000; and  
15

16 WHEREAS, an additional service provider will introduce new land lease and fuel flow revenue to  
17 the Waukesha County Airport budget.  
18

19 THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that Capital  
20 Flight, LLC is approved to become a Multiple Service Aeronautical Service Provider in  
21 accordance with Waukesha County's Minimum Standards for Aeronautical Service Providers.  
22

23 BE IT FURTHER ORDAINED that a lease with Capital Flight, LLC substantially in the form attached  
24 hereto is hereby approved. The Director of Waukesha County Public Works or her designee is  
25 authorized to take all actions necessary to finalize and execute the lease provided that the final  
26 terms do not materially alter the nature or economics of the deal.

**HANGAR LAND LEASE AGREEMENT**

**BETWEEN**

**WAUKESHA COUNTY**

**AND**

**CAPITAL FLIGHT, LLC**

**FOR**

**2471 AVIATION DRIVE  
(Hangar Lot 2471)**

**TABLE OF CONTENTS [UPDATE Prior to Execution]**

| <u>ARTICLE</u> |  | <u>PAGE NO.</u> |
|----------------|--|-----------------|
| 1              | TERM; EXTENSION  | 3               |
| 2              | LEASED PREMISES; PURPOSE                                 | 3               |
| 3              | FEES AND RENTALS   | 3               |
| 4              | STANDARDS FOR GENERAL AVIATION OPERATORS                 | 4               |
| 5              | RIGHTS AND PRIVILEGES OF LESSEE                          | 4               |
| 6              | RIGHTS AND PRIVILEGES OF COUNTY                          | 5               |
| 7              | OBLIGATIONS OF LESSEE                                    | 5               |
| 8              | SELF-FUELING   | 7               |
| 9              | INSURANCE  | 9               |
| 10             | INDEMNIFICATION AND HOLD HARMLESS                        | 10              |
| 11             | SUBLEASES; RESPONSIBILITY FOR SUBLESSEE                  | 11              |
| 12             | DEFAULTS AND REMEDIES                                    | 11              |
| 13             | ADDITIONAL TERMINATION RIGHTS                            | 12              |
| 14             | FAIR MARKET VALUE  | 12              |
| 15             | CANCELLATION BY LESSEE                                   | 13              |
| 16             | WAIVER OF SUBROGATION                                    | 13              |
| 17             | REMEDIES ARE CUMULATIVE; NO WAIVER                       | 13              |
| 18             | DAMAGE TO PROPERTY OF LESSEE AND OTHERS                  | 14              |
| 19             | DAMAGE TO PREMISES AND PROPERTY BY LESSEE<br>AND OTHERS  | 14              |
| 20             | COUNTY REPRESENTATIVE                                    | 14              |
| 21             | SUBORDINATION  | 14              |
| 22             | COMPLIANCE WITH LAW                                      | 14              |
| 23             | GOVERNING LAW; VENUE FOR DISPUTES                        | 14              |
| 24             | COUNTERPARTS   | 14              |
| 25             | SEVERABILITY   | 14              |
| 26             | SURVIVAL OF OBLIGATIONS; SUCCESSORS<br>AND ASSIGNS BOUND | 15              |
| 27             | ENTIRE AGREEMENT   | 15              |
| 28             | NO ASSIGNMENT  | 15              |
| 29             | RIGHTS UPON TERMINATION                                  | 15              |
| 30             | HOLDOVER POSSESSION OF PREMISES BY LESSEE                | 15              |
| 31             | PARAGRAPH HEADINGS                                       | 15              |
| 32             | NOTICES  | 16              |
| 33             | LEASEHOLD MORTGAGAGES                                    | 16              |

34

MEMORANDUM OF LEASE

17

35

SPECIAL EVENTS

26

THIS AGREEMENT made and entered into this 1<sup>st</sup> day of September, 2021 by and between WAUKESHA COUNTY, a quasi-municipal corporation, hereinafter referred to as the "County", and Capital Flight, LLC, a Wisconsin limited liability company, hereinafter referred to as "Lessee".

### PRELIMINARY RECITALS

WHEREAS, the County is the owner and operator of Waukesha County Airport - Crites Field, an airport situated in Waukesha County, Wisconsin (the "Airport").

WHEREAS, Lessee desires to lease from the County a parcel of land at the Airport to be used for the construction of an aircraft storage and multi-use facility (a hangar).

NOW, THEREFORE, in consideration of the mutual promises of the County and Lessee as set forth below, the County and Lessee agree as follows:

### ARTICLE 1 TERM; EXTENSION

This Agreement shall commence effective September 1, 2021 and shall terminate on August 31, 2051 (the "Initial Term"), unless terminated sooner or extended as permitted by this Agreement.

At the conclusion of the 30-year Initial Term, Lessee shall have the option to extend this Agreement for two (2) additional ten-year terms (each a "Renewal Term"). Accordingly, at the end of the Initial Term, the term of this Agreement will automatically renew for two (2) separate consecutive additional periods of ten (10) years each, provided that Lessee is not in default under the Agreement at the time of each such renewal, upon the same terms and conditions hereof, unless Lessee notifies the County in writing of Lessee's intention not to renew this Agreement at least sixty (60) days prior to the expiration of the Initial Term or the first Renewal Term as the case may be. Rent during any Renewal Term shall continue to be calculated as set forth in Article 3.

The period of the Initial Term from September 1, 2021 through February 28, 2022 shall be deemed the "Financing Period" during which time Lessee anticipates securing financing for its hangar. If Lessee is unable to secure financing and notifies the County prior to the end of the Financing Period of its intent because of that failure to terminate this Agreement, this Agreement shall be terminated without penalty or further obligation of either party.

### ARTICLE 2 LEASED PREMISES; PURPOSE

The County leases to the Lessee the following described portions of the Airport, each of which is identified and shown on Exhibit 1 which is attached to and made a part of this Agreement, and each of which, individually and collectively, is referred to in this Agreement as the "Leased Premises".

PARCEL A: A parcel of land approximately 38,085 square feet more or less, which is more specifically shown and described on Exhibit 1. Parcel A shall be exclusive use space used solely for

the construction of a hangar and multi-use facility by Lessee, which will be no less than 35,000 square feet, and may be used only for one or more of the following purposes: (1) Aircraft Storage; (2) Aircraft Sales; (3) Aircraft Airframe, Engine & Accessory Maintenance and Repair; (4) Aircraft Lease and Rental; (5) Flight Training; and (6) Aircraft Charter and Unscheduled Air Taxi. In addition, Lessee may use Parcel A for these additional approved uses: (7) approved special events authorized in accordance with Article 35 below; (8) conference and entertainment facility and (9) bar and restaurant and related services. Notwithstanding these additional approved uses, Parcel A shall always be used in part to store, maintain and service airplanes and the needs of the owners and users of said airplanes.

Lessee does not have an exclusive right to perform any aeronautical services at the Airport, and no person or entity at the Airport is obligated to use any of the aeronautical services that Lessee provides.

PARCEL B: A parcel of land, presently developed as an airport ramp, approximately 265 feet wide by 220 feet deep containing approximately 58,300 square feet and lying immediately north of Parcel A, which is more specifically shown and described on Exhibit 1. Parcel B shall be preferential use ramp space may be used by Lessee solely for aircraft parking and the staging of ground support vehicles in association with approved aeronautical services, or for special events authorized in accordance with Article 35 below. For the purposes of this Agreement, "preferential use" means the space is generally open to public for parking and operations, however, only Lessee shall have the right to provide aeronautical services in this area.

PARCEL C: A parcel of land immediately southeast of Parcel B, presently developed as an airport ramp containing approximately 72,938 square feet and which is more specifically shown and described on Exhibit 1. Parcel C may be reserved and used for occasional parking and use as an outside venue for special events authorized in accordance with Article 35 below. Except as otherwise provided herein, Lessee does not have exclusive or preferential use of Parcel C. Lessee shall have no right to reserve or use Parcel C during the week of the annual Experimental Aircraft Association Fly-In or on other dates reasonably specified in advance by the Airport Manager for local/regional events when maximum ramp and tie down space is needed or desirable to accommodate anticipated higher than normal transient airport traffic.

### ARTICLE 3 FEES AND RENTALS

The Lessee shall pay the following fees and rentals:

1. A lot description fee of \$1,200.00 payable upon execution of this Agreement.
2. A lot reservation fee of \$500.00 payable upon execution of this Agreement to reserve the Leased Premises through the Financing Period.
3. Annual rental for the Leased Premises of \$42,017.49 (calculated at \$0.3548 per square foot times 33,595 square feet plus \$2.23 per square foot times 4,490 square feet of restaurant space for Parcel A, \$0.3440 per square foot times 55,390 square feet for Parcel B, and a charge of \$1,031.12

for fifteen (15) total event days for the Special Event Use of Parcel C). For 2021, the amount of rent due is ~~Seventeen Thousand Five Hundred Dollars (\$14,005.83)~~. Rent shall be payable in equal monthly installments of Three Thousand Five Hundred One and 46/100 Dollars (\$3,501.46) on the first day of each month beginning August 1, 2021.

For the year 2022, the annual rental payment for the Leased Premises shall be adjusted on the basis of the percentage by which the average of the United States Consumer Price Index - Urban (or its successor or replacement index) for the previous twelve calendar months ending June, 2020 increased over the average for the prior twelve calendar months ending June, 2021. The same adjustment in the amount of annual rent shall be made according to the same formula for each succeeding year (i.e., the annual rent for year 2023 will be adjusted based upon the percentage increase of the index average from the twelve-month average ending June 2021 to the twelve-month average ending June 2022). Notwithstanding the foregoing, the percentage increase over the prior year's annual rental payment shall not be less than 2.5% or greater than 10%.

Commencing with the year 2022, the annual rental payments shall be made in four equal installments on January 1, April 1, July 1, and October 1 of each year. During any holdover period pursuant to Article 30 of this Lease, rent shall be paid monthly on the first day of each month at a rate of 1/12 the annual rental payment which would otherwise be due under the formula set forth in this Article 3.

3. An additional fee of \$68.74 per day shall be charged for the Special Event use of Parcel C for any days in addition to the fifteen (15) days per year authorized by this Agreement. This additional daily fee shall be adjusted annually beginning January 1, 2022 in the same manner as the annual rental payment and shall be payable upon the approval of the additional Special Event.

Any late payments under this Agreement shall bear interest at the rate of 12% per annum until paid in full.

Notwithstanding the foregoing and so long as Lessee is not in material default under this Agreement, payment of rent with respect to Parcel A shall be waived through August 31, 2026. Rent with respect to Parcel B and Parcel C shall be waived until the earlier of Lessee's receipt of an occupancy permit or September 1, 2023.

#### **ARTICLE 4 STANDARDS FOR GENERAL AVIATION OPERATORS**

The provisions set forth in Exhibit 2, entitled Waukesha County Airport Minimum Standards for Aeronautical Service Providers, are made a part of this Agreement as are any amendments thereto made from time to time. If this Agreement and the Waukesha County Airport Minimum Standards for Aeronautical Service Providers are in conflict in what they require of the Lessee, or in what they obligate the Lessee to do or not to do, the Waukesha County Airport Minimum Standards for Aeronautical Service Providers shall control.

For the avoidance of doubt, to the extent not otherwise expressly reproduced herein, the lease



clauses contained in Section 9-61 of the Waukesha County Code are incorporated herein by reference. Furthermore, in accordance with Section 9-72 of the Waukesha County Code, as a multiple aeronautical service provider Lessee shall provide the facilities, equipment and services required to meet the Minimum Standards for all aeronautical services authorized to be performed as identified in Article 2 above, shall comply with all requirements for multiple aeronautical service providers, shall comply with the Minimum Standards for each such aeronautical service, and shall at all times comply with the Minimum Standards for all aeronautical service providers in accordance with Section 9-58 of the Waukesha County Code.

The provisions set forth in Exhibit 3, entitled Declaration of Covenants and Restrictions for Buildings and Structures of Waukesha County Airport, are made a part of this Agreement as are any amendments thereto made from time to time. If this Agreement and the Declarations of Covenants and Restrictions for Buildings and Structures of Waukesha County Airport are in conflict in what they require of the Lessee, or in what they obligate the Lessee to do or not do, the Declarations of Covenants and Restrictions for Buildings and Structures of Waukesha County Airport shall control.

## **ARTICLE 5 RIGHTS AND PRIVILEGES OF LESSEE**

Subject to the terms and conditions hereinafter set forth, Lessee is hereby given the following rights and privileges during the term of this Agreement.

1. Storage and other Uses – Lessee has the right to store its own owned or leased aircraft on the Leased Premises. In addition, Lessee may use the Leased Premises for one or more of the following purposes: (1) Aircraft Storage; (2) Aircraft Sales; (3) Aircraft Airframe, Engine & Accessory Maintenance and Repair; (4) Aircraft Lease and Rental; (5) Flight Training; and (6) Aircraft Charter and Unscheduled Air Taxi. In addition, Lessee may use Parcel A for these additional approved uses: (7) approved special events in accordance with Article 35 below; (8) conference and entertainment facility, and (9) bar and restaurant and related services. Notwithstanding these additional approved uses, Parcel A shall always be used in part to store, maintain and service airplanes and the needs of the owners and users of said airplanes. Lessee shall not engage in any other business or operation from the Leased Premises without the written consent of the County, including but not limited to any business or operation which would be in competition with the services offered by any other fixed base operator or aeronautical service provider as defined in the Waukesha County Airport Minimum Standards for Aeronautical Service Providers. The Leased Premises shall not be used for Aircraft Fuel and Oil Services. Lessee understands that a violation of this paragraph is a material default and breach of this Agreement, which gives the County the rights set forth in Article 12 of this Agreement.
  
2. Aeronautical Facility Use - Lessee shall be permitted to use, in common with others, existing and future aeronautical facilities at the Airport as they may exist or be modified, augmented, or deleted from time to time. These facilities shall include, but not be restricted to the landing areas, their extensions and additions, roadways, aprons, and any air navigation facilities or other conveniences for the flying, landing, and taking-off of aircraft. Nothing

herein shall prohibit the County from modifying, augmenting, or deleting any such facilities.

3. Ingress and Egress - Subject to rules and regulations governing the use of the Airport as may be established by the Airport Manger, the Lessee, its employees, suppliers of materials, furnishers of service, sublessees (to the extent permitted or allowed hereunder), business visitors, and invitees shall have the right of ingress and egress to and from the Leased Premises leased exclusively to Lessee.
4. Quiet Enjoyment - The County covenants that upon paying the rent and performing the covenants and conditions herein contained, Lessee shall peacefully and quietly have, hold, and enjoy the Leased Premises for the term of this Agreement. Lessee agrees that temporary inconveniences, such as noise, disturbances, traffic detours and the like, caused by or associated with the construction of Airport improvements or Airport events shall not constitute a breach of quite enjoyment of the Leased Premises.

#### ARTICLE 6 RIGHTS AND PRIVILEGES OF COUNTY

In addition to the other rights and privileges herein retained by it, the County has and reserves the following rights and privileges:

1. Airport Development - The County has the right, but shall not be obligated to Lessee, to develop or improve the landing areas and other portions of the Airport as it sees fit, regardless of the desires or views of the Lessee, and without interference or hindrance. If the development of the Airport requires it, the County has the right to either (1) substitute another parcel of land for the Leased Premises, and relocate or rebuild Lessee's improvement(s) to that new parcel at no cost to the Lessee, or (2) purchase Lessee's above ground improvements on Parcel A not specific to Lessee's uses and traditionally defined as real property and real estate fixtures, but not including trade fixtures, at fair market value per Article 14 and terminate this Agreement. In the event of a substitution and relocation or a purchase and Agreement termination as permitted by this section, the County shall have no liability to the Lessee for any loss, expense, damage or cost of any nature whatsoever that results from or is occasioned by the substitution and relocation or the purchase and Agreement termination.
2. Aerial Approaches - The County has the right to take any action it considers necessary to protect the aerial approaches and transition surfaces of the Airport against obstruction, together with the right to prevent the Lessee or any sub-lessee from erecting or permitting to be erected any building or other structure on the Airport, which, in the opinion of the Airport Commission would limit the usefulness of the Airport or constitute a hazard to aircraft.
3. War, National Emergency, Riot, or Natural Disaster - During time of war, national emergency, riot or natural disaster, the County shall have the right to lease the entire Airport or any part thereof to the United States or State of Wisconsin for military or national Guard use and, in such event, the provisions of this Agreement, insofar as they are inconsistent with

the provisions of any lease to any such unit of government, shall be suspended for the term of such government lease.

4. Access to Leased Premises - To the extent necessary to protect the rights and interests of the County, or to investigate compliance with the terms of this Agreement, the Airport Manager or his designee shall at any and all times have the right to inspect the Leased Premises, including all buildings, structures, and improvements erected thereon.
5. Government Use of Airport – This Agreement shall be subordinate to the provisions of any existing or future agreement between the County and the United States Government, relative to the operation or maintenance of the Airport, the execution of which has been, or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport.
6. Unrestricted Right of Flight - The County, for the use and benefit of the public, has a free and unrestricted right of flight for the passage of aircraft in the airspace above the surface of the Leased Premises, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in the air, using said airspace or landing at, taking off from, or operating on or about the Airport.

#### **ARTICLE 7 OBLIGATIONS OF LESSEE**

Except as otherwise specifically provided herein, Lessee shall have the following obligations during the term of this Agreement.

1. Condition of Leased Premises - Lessee accepts the Leased Premises in its present condition and, without expense to the County, will maintain any installations thereon.
2. Hangar Construction – Lessee shall have all construction plans, including site preparation, approved by the Airport Commission prior to any construction occurring on the Leased Premises, such approval not to be unreasonably withheld. Hangar construction must be substantially complete within twenty-four (24) months from the execution of this Agreement (the “Construction Period”). The Construction Period shall be automatically extended by the equivalent of any amount of time Lessee is legally prohibited from accessing Parcel A by an act or order of the County or United States Government so long as such act or order is not the result of the act, error or omission of Lessee or its agents. The issuance of a certificate of occupancy shall evidence completion within the meaning of this paragraph. Construction scheduling and operations shall be coordinated with and approved by the Airport Manager before construction shall begin, such approval not to be unreasonably withheld. Lessee understands that any and all portions of the Airport which are disturbed by Lessee or its contractors during construction shall be restored at Lessee’s sole expense to the same condition as before construction began. Failure to make any restorations as identified herein shall be considered a material breach of this Agreement. Lessee shall provide the County an

irrevocable letter of credit, performance bond or other comparable security in a form acceptable to the County and in the amount equal to the total costs of construction and payable to the County upon demand upon Lessee's failure to timely commence or complete the construction of the hangar pursuant to this Agreement.

3. Maintenance, Exterior Storage, and Housekeeping - Lessee shall at its expense, keep, maintain, and repair the Leased Premises, any improvements thereto, and all equipment and buildings in a presentable and operable condition, consistent with good business practices, and in a manner to preserve and protect the general appearance and value of other premises in the immediate vicinity. This shall include, but not be limited to: roof, exterior painting, all doors, paved areas, lighting, grass, and landscaped areas within lease lines.

Lessee further agrees that there will be no outside storage of equipment, materials, supplies, or damaged or partially dismantled aircraft on the Leased Premises, and will remove at its expense all trash, garbage, and oil, and not deposit the same on any part of the Airport except temporarily in conjunction with collection or removal.

In the event Lessee does not keep the Leased Premises in a presentable condition, the County has the right to issue a written notice to remedy the condition forthwith. Should Lessee fail to perform satisfactorily within ten (10) days of such notification, or show cause for extension of said time period, the County shall have the right to perform, or have performed by an outside contractor the necessary work without liability, and Lessee agrees to pay the County one hundred twenty-five percent (125%) of such expenses within fifteen (15) days upon invoice receipt.

In the event of fire or any other casualty to buildings or other structures owned by Lessee, Lessee shall either repair or replace the building or remove the damaged building and restore the Leased Premises to its original condition; such action must be accomplished within one hundred twenty (120) days of the date the damage occurred. Upon petition by Lessee, the County may grant an extension of time if it appears such extension is warranted, and such extension shall not be unreasonably withheld.

4. Additions or Alterations - Lessee is prohibited from making alterations, attaching external fixtures, or making other changes to the hangar facility or the Leased Premises unless approved in advance in writing by the Airport Manager.
5. Signage and Illumination - Lessee shall not paint upon, attach, exhibit or display in or about said Leased Premises any sign without the written consent of the Airport Manager first obtained regarding the nature and construction of said sign, provided always that the Lessee may erect across the front of the building an appropriate sign containing the name of the Lessee with Airport Manager approval, said approval not to be unreasonably withheld.
6. Utilities - Lessee agrees to provide its own connections with utilities and to make separate arrangements with the agencies responsible for these utilities. Lessee shall pay for all utility service supplied to the Leased Premises, and if required by the utility agencies as a condition

of providing the services, Lessee will install and pay for standard metering devices for the measurement of such services. In the event it shall become necessary to make utility service or facility changes, Lessee will either make such changes and installations, at its expense, as directed and required by the utility organizations, or pay the utility organization for such changes made. The County shall have the right, without cost to Lessee, to install and maintain in, on or across the Leased Premises, sewer, water, gas, electric, and telephone lines, electric substations, or other installations necessary to the operation of the Airport, or to service other tenants of the County; provided, however, that the County shall carry out such work and locate any above-ground structures in a manner so as not to unreasonably interfere with Lessee's use of the Leased Premises.

7. Discrimination - Lessee, for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration thereof, does hereby covenant and agree that a) no person on the grounds of race, sex, color, physical handicap, or national origin shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in the use of said Leased Premises, b) that in the construction of any improvements on, over, or under such Leased Premises and the furnishings of services, thereon, no person on the grounds of race, sex, color, physical handicap, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and c) that the Lessee shall use the Leased Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.
8. Costs of Enforcement - Lessee covenants and agrees to pay and discharge all reasonable costs, attorneys' fees, and expenses that shall be made and incurred by the County in enforcing the covenants and agreements of this Agreement.
9. Taxes, Licenses, and Permits - Lessee shall obtain and keep current all municipal, County, State and Federal licenses and permits that may be required in its operation. Also, Lessee will bear, pay, and discharge all taxes, assessments and levies of every nature and kind which may be taxed, charged or assessed lawfully against the Leased Premises and improvements thereon, or which may be lawfully levied or imposed upon the leasehold by a governmental agency.
10. Liens - Lessee agrees to promptly pay all sums legally due and payable on account of any labor performed on, or materials furnished for the Leased Premised. Lessee shall not permit any liens to be placed against the Leased Premises on account of labor performed or material furnished, and in the event such a lien is placed against the Leased Premises, Lessee agrees to save the County harmless from any and all such asserted claims and liens and to remove or cause to be removed any and all such asserted claims or liens as soon as reasonably possible.

Notwithstanding the foregoing, upon approval of the Airport Commission (which approval shall not be unreasonably withheld), Lessee may grant a lien or security interest in its own personal property located upon the Leased Premises, or its interests in the Leased Premises conferred by this Agreement as set forth in Article 33, to a bonafide lending institution.

11. Parking - Lessee agrees to prohibit vehicle parking on the Airport premises other than those vehicles specifically associated with the use of the Leased Premises, and no other. Lessee, its employees, sub-lessees, guests and invites shall park only on Lessee's Leased Premises, or other publicly designated parking areas. Lessee, its agents or guests are expressly prohibited from operating any vehicle on any area of the Airport designated as a "movement area". Lessee shall at all times comply with posted signs regulating the movement of vehicles.
12. Laws, Ordinances, Rules and Regulations - Lessee agrees to observe and obey the rules and regulations governing the conduct and operation of the Airport facilities promulgated from time to time by the Airport Manager, Airport Commission, and/or Waukesha County Board. Lessee shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, including all applicable Federal Aviation Administration orders, regulations and advisory circulars that pertain to any conduct or operation at the Airport.
13. Storage of Flammable Fluids - Lessee agrees that the storage of gasoline or other flammable fluids in bulk quantities shall be limited to the Airport Fuel Farm or to such area as designated by the Airport Manager. Lessee agrees that the storage of all other gasoline or flammable fluids shall be in an approved steel locker labeled "FLAMMABLE". The Airport Manager may, in his discretion, prohibit or impose restrictions on the storage of said materials if, in the Manager's opinion, the storage is determined a safety hazard. The disposal of any hazardous chemicals or fluids on the Airport premises is prohibited and is considered a material breach of this Agreement.
14. Snow Plowing - Lessee agrees to be responsible for the plowing of snow within its Leased Premises including parking lot(s) and aircraft parking ramp(s). Snow plowing adjacent to or in aircraft parking ramp(s) area(s) will be consistent the requirements of the FAA as established in Advisory Circular Airport Winter Safety and Operations or its successors. The County shall provide snow removal on all movement areas consistent with priorities established and specified in the Waukesha County Airport Snow and Ice Control Plan.
15. Special Events - To not conduct or hold air shows, races, similar events, or other special events, including those of a non-aeronautical nature, at the Airport without written authorization from the Airport Manager in advance in accordance with the Airport's Special Event Policy.
16. Covenants - Lessee acknowledges receipt of a copy of the Waukesha County Airport Covenants that apply to its Leased Premises and shall comply with the requirements of these Covenants as they may be amended from time to time.
17. Ramp Maintenance/Repair - Lessee shall, at its own expense, maintain and keep in good

order and repair (and replace if necessary) the preferential use airport ramp upon Parcel B in accordance Federal Aviation Regulation (FAR) Part 139.305, as amended or modified from time to time, and County standards.

If Lessee fails to comply with any part of the preceding paragraph, the Airport Manager may notify Lessee in writing of any such maintenance or repair that must be done. If Lessee fails to perform the maintenance or repair within fifteen (15) days of the written notice, the County may provide the necessary maintenance or repair services, and Lessee shall pay the County one hundred twenty-five percent (125%) of the County's expenses within fifteen (15) days of receipt of an invoice.

## **ARTICLE 8 SELF-FUELING**

Notwithstanding Article 7, paragraph 13, "Storage of Flammable Fluids," upon issuance of a permit for self-fueling, the Lessee shall be entitled to transfer fuel into aircraft owned by or leased exclusively to it. For all matters related to self-fueling, the Lessee must comply with each and every obligation and requirement below and of the Waukesha County Airport Self Fueling Ordinance. The Waukesha County Airport Self Fueling Ordinance, hereafter referred to as "Ordinance," is attached as Exhibit 3 and made a part of this Agreement, as are any amendments thereto made from time to time.

1. Location and Installation of Tank and Components – The entire tank fueling system and components shall be positioned and constructed in a manner consistent with requirements set forth in the Ordinance for the type of system being used.
2. Security Deposit – At the time of execution and issuance of a self-fueling permit, the Lessee shall deposit with the County the sum of \$10,000 per fuel tank (or such greater amount as may be set forth in the then-current version of the Ordinance) plus the amount of any self-insured retention (deductible) in the pollution liability and environmental impairment insurance that the Lessee will be required to supply, to be held by the County as security for and against any loss, cost or expense incurred by the County as a result of any activity related to self-fueling engaged in by the Lessee, including Lessee's failure to pay the fuel flowage fee required by the Ordinance. If the self-insured retention exceeds \$5,000.00 (or such greater amount as may be set forth in the then-current version of the Ordinance), it may be satisfied by an irrevocable letter of credit in favor of the County in a form acceptable to the County. The County will pay Lessee interest on the money deposited with it, at a rate to be determined by the County based upon any actual rate of return received, payable annually. Unless it is used as permitted in the following paragraph, this money shall be returned to Lessee following the completion of all of its obligations under this Agreement, including any payment obligations.

If Lessee fails to make any payment to the County required by this Agreement, including charges for maintenance and repair and for damage to property, or if Lessee otherwise defaults with respect to any provision of this Agreement, the County may use, apply or retain

so much of the deposit as necessary to fulfill the payment obligation, cure the default or otherwise compensate the County for damage or loss sustained by it resulting from Lessee default. Such use of the deposit by the County in no way limits its right to pursue the remedies given to it by this Agreement. Lessee shall be required to, within ten (10) days of receipt of written notice to do so, fully replenish all security deposit funds so applied.

3. Fuel Flowage Fee – The Lessee shall pay a fuel flowage fee of \$0.10 (10 cents) for each gallon of fuel delivered to Lessee’s fuel tank system (or such greater amount as may be set forth in the then-current version of the Ordinance). Payment of the fee shall be made to the Airport Manager on the 20th day of each month for fuel that was delivered or transferred during the previous month. Any late payment shall be subject to interest in the amount per month set forth in the then-current version of the Ordinance. With each payment, the Lessee shall furnish the Airport Manager with a statement and documentation showing the number of gallons delivered or transferred for the applicable payment period. **The Lessee understands and agrees that if the Waukesha County Board of Supervisors amends the Ordinance by changing the amount of the fuel flowage fee, the Lessee shall pay the new fee.**
4. Inspection and Maintenance – Lessee shall perform daily, weekly and monthly inspections, maintenance and testing of any fuel tank system and fuel servicing vehicles it operates as required by the system and component manufacturers, local, state and federal laws, codes, ordinances rules and regulations and FAA Advisory Circulars and Orders now or hereafter in force and effect. Lessee shall maintain written records required by this paragraph for a minimum of six (6) years and shall be made available to the Airport Manager upon request.
5. Record Keeping and Audits – Records kept by Lessee shall include but not be limited to the following: The dates, quantities and supplier of all fuel brought onto the Airport for the purpose of self-fueling. Fuel product quantity monitoring reports generated by an underground fuel tank monitoring system, which reports must clearly identify the tank owner, hangar location and tank contents. Reports shall be provided to the Airport Manager every three (3) months. Records required by this paragraph shall be maintained for a minimum of six (6) years.

In addition to the records required by paragraph, the Lessee shall provide the Airport Manager with information and records which are requested for the purpose of determining compliance with the Ordinance including, but not limited to, records pertaining to business organization and ownership, ownership of equipment, and employee status, and promptly forward to the Airport Manager copies of any fire or safety inspection reports, underwriting audits or insurance company reviews that relate to its self-fueling operations at the Airport, including its fuel tank system and aircraft fuel servicing vehicles. The Lessee shall also allow the Airport Manager, or his designee, to inspect the Lessee’s fuel tank system and aircraft fuel servicing vehicles for the purpose of determining compliance with the Ordinance.

The Lessee shall keep training records for the employees who perform fueling operations for a minimum of six (6) years, and shall make the training records available to the Airport Manager upon request.



~~The County shall have the right, during reasonable hours and upon reasonable advance notice, to audit Lessee's records regarding its self-fueling operations at the Airport.~~

6. Tank Removal – Lessee shall be required to remove tank system and restore the site upon expiration of the land lease, upon permit expiration or revocation, or upon the expiration of the manufacturer's warranty period, whichever comes sooner.
7. Fueling Personnel Requirements - No individual may perform a fueling operation unless the individual meets all of the following requirements and does all of the following things:
  - a. Remains with the fueling apparatus at all times during the fueling operation;
  - b. Exercises extreme caution to prevent a fuel spill, and if a fuel spill occurs, immediately ceases fueling operations and notifies the Airport Manager;
  - c. Is an employee of the Lessee, but this requirement does not apply to an individual delivering fuel into a fuel storage tank;
  - d. For any fueling operation that results in the transfer of fuel into an aircraft, can demonstrate that he or she is authorized, trained and fully qualified to operate the fuel transfer equipment by having completed, or been trained by an individual who has completed, an accepted FAA training program, and carrying with him or her an identification card issued by the employer which certifies his or her qualifications;
  - e. Complies with all NFPA and FAA requirements regarding fuel transfers for aircraft fuel servicing.
8. Compliance with other Laws - Lessee shall comply with all local, federal and state laws, codes, ordinances, rules and regulations now or hereafter in force and effect applicable to any activity associated with the storage and transfer of aircraft fuel. This includes, but is not limited to, compliance with ordinances of the City of Waukesha and rules of administrative agencies of the State of Wisconsin, including Wisconsin Administrative Code Chapter Commerce 10 Flammable and Combustible Liquids, and the Natural Resources Chapters. Lessee shall also comply with all covenants of the Waukesha County Airport and all FAA Advisory Circulars and Orders pertaining to the storage, handling and dispensing of aircraft fuel and all amendments and revisions thereto. A violation of any law, code, ordinance, rule, regulation, circular or order referred to herein is a material breach of this Agreement.

## ARTICLE 9 INSURANCE

Lessee shall, at its expense, maintain insurance in full force and effect during the terms of this Agreement in such amounts and coverages as to meet the minimum limits of liability specified below, and insurance shall be placed with companies or underwriters authorized to do business in the State of Wisconsin satisfactory to the County. The County, its boards, commissions, agencies, appointed and elected officials, employees, and representatives shall be named as additional insureds. Certificates of Insurance evidencing the required insurance shall be filed with the County's Airport Manager and upon request certified copies of the required insurance policies shall also be filed. The Certificates of Insurance and all such policies shall contain a provision that coverages will

not be canceled or non-renewed during the term of this Agreement unless thirty (30) days advance notice in writing has been given to the County in the manner specified in this Agreement.

1. Commercial General Liability  
Lessee shall maintain commercial general liability insurance with the policy written to provide coverage for, but not be limited to, the following: premises and operations, products and completed operations, personal injury, blanket contractual and independent contractors. The County, its boards, commissions, agencies, officers, employees and representatives shall be named as additional insured and stated as such on the certificate of insurance.  
Limits - The limits of liability shall be not less than \$1,000,000 per occurrence and \$1,000,000 aggregate.
2. Automobile Liability  
Comprehensive Automobile Liability or Business Auto Policy form covering all owned, hired and non-owned private passenger autos and commercial vehicles, including vehicles that are used in any way related to self-fueling.  
Limit - \$1,000,000 combined single limit, each occurrence. Bodily injury and property damage.
3. Hangar Keepers Liability -  
Limit - Total value of aircraft stored, each accident.
4. Workers Compensation and Employers Liability  
Lessee shall maintain statutory worker's compensation benefits and employers' liability insurance with a limit of liability of not less than \$100,000 each accident for employees of Lessee who are engaged in any operations on the airport, including self-fueling.
5. Property Insurance (for all property on the Leased Premises).  
Limit - Lessee shall carry sufficient all-risk property insurance on owned and leased buildings and equipment, including aircraft and self-fueling equipment at the Airport.
6. Pollution Liability and Environmental Impairment Insurance - Lessee shall maintain pollution liability and environmental impairment insurance for sudden and nonsudden occurrences for aircraft fuel storage, handling and dispensing operations at the Airport which cause injury or damage, including environmental restoration. The limits of liability shall be not less than \$1,000,000 per occurrence or per claim and \$1,000,000 aggregate. For claims-made coverage, the retroactive date of coverage for policies in force during the Agreement shall be no later than the date on which the Agreement commences, unless the policy in force on the commencement date is extended indefinitely to cover all acts. Coverage shall be extended beyond the Agreement termination date and policy year by a supplemental extended reporting period for at least one year after the Agreement is terminated with no less coverage. The policy shall state that such extended reporting coverage is automatic at the time of policy termination or non-renewal. The retroactive date and automatic extended reporting coverage shall be stated on the certificate of insurance. Any deductibles or self-insured retentions must be declared on the certificate of insurance and must not exceed \$10,000.

It is expressly understood that the County has no responsibility for Lessee's owned or leased equipment.

The County may require reasonable increased limits of liability for the above insurance coverages if it determines that the stated limits are inadequate based on insurance industry standards, legal considerations or risk exposure review.

The Lessee shall require that any entity that delivers bulk fuel to Lessee's fuel storage tank provide Lessee with a certificate of insurance which certifies and shows that the entity maintains all of the above insurance. The lessee shall provide the County with a copy of any such certificate upon request.

The County may elect, at its option, to terminate this Agreement upon the cancellation or other termination of any insurance policy issued in compliance with this Article, unless another policy has been filed and approved pursuant to this Article, and shall have been in effect at the time of such cancellation or termination.

#### **ARTICLE 10 INDEMNIFICATION AND HOLD HARMLESS**

The Lessee will not hold the County liable for any damage to property or injury or death to person when the damage, injury or death is in any way connected or related to the Lessee's obligations under or its performance of this Agreement, its use or occupancy of the Leased Premises, or any of its operations permitted or required by the Agreement. This hold harmless provision will not apply if the damage, injury or death was caused by 1) an intentional act of the County, or 2) a negligent act of the County, in which case the County's liability shall be limited to the percentage of negligence attributable to it.

If any demand, claim, lawsuit or proceeding is brought against the County and is in any way connected or related to the Lessee's performance of, or its obligations under this Agreement, its use or occupancy of the Leased Premises, or the operations permitted or required by this Agreement, Lessee shall fully defend the County against the demand, claim, lawsuit or proceeding. The County shall give the Lessee prompt notice of any such demand, claim, lawsuit or proceeding. If such demand, claim, lawsuit or proceeding is brought the County shall have the right, but not the duty, to (1) investigate and settle the demand, claim, lawsuit or proceeding, and (2) participate in the defense of the demand, claim, lawsuit or proceeding.

If a demand, claim, lawsuit or proceeding as described in the preceding paragraph is brought, the Lessee shall pay all expenses, costs, losses, damages, fees, including attorney fees, fines, forfeitures, judgments and awards that result from the demand, claim, lawsuit or proceeding. If the demand, claim, lawsuit or proceeding was settled by the County, the Lessee shall have no payment obligation unless it approved the settlement.

In this Article, "County" includes Waukesha County and the Waukesha County Airport

Commission and all of their members, employees, officials, officers and agents.

**ARTICLE 11**  
**SUBLEASES; RESPONSIBILITY FOR SUBLESSEE**

The Lessee shall not sublease the Leased Premises, nor any part of the Leased Premises without the express written consent of the County, such consent to not be unreasonably withheld, conditioned or delayed. At a minimum, the County will require that any sublease agreement be in writing and that it include: that the agreement be subject to the terms and conditions of this Agreement; that sublessees maintain aircraft liability insurance in the amounts the County sees fit; that sublessees maintain other insurance coverages and amounts as the County prescribes; and that sublessees hold the County harmless.

Notwithstanding the foregoing, Lessee may sublease part of the Leased Premises for the operation of an on-site restaurant and bar, which shall also offer catering services, to any vendor identified on the list maintained by the Airport Manager of preapproved vendors or as approved by the County.

Lessee shall accept full responsibility and liability for the acts and omissions of its sublessees. Lessee shall not be released from any liability under this Agreement in the event of any subleases of the Leased Premises in whole or in part.

**ARTICLE 12**  
**DEFAULTS AND REMEDIES**

The occurrence of any one or more of the following events shall constitute a material default and breach of this Agreement by the Lessee.

1. The filing by Lessee of a voluntary petition in bankruptcy.
2. The institution of proceedings in bankruptcy against Lessee and the adjudication of Lessee as a bankrupt pursuant to such proceedings.
3. The taking by a court of Lessee and its assets pursuant to proceedings brought under the provisions of any Federal Reorganization Act.
4. The filing of any lien against the Airport or any of its property as the result of any act or omission of Lessee, if the lien is not discharged or contested in good faith by Lessee (as determined by the County) within fifteen (15) days of Lessee's receipt of notice of the lien, unless Lessee posts a bond within this time period equal to the amount of the lien.
5. The voluntary abandonment by Lessee of its operations at the Airport for a period of twenty (20) days or more.
6. The appointment of a receiver of Lessee's assets, or any general assignment for the benefit of Lessee's creditors.
7. The transfer of Lessee's interest herein by other operation of law (except reorganization).
8. The failure by Lessee to make any payment required by this Agreement the time such payment becomes due, where such failure continues for a period of sixty (60) days after written notice from the County.

9. The falsification by the Lessee of any of its records or figures so as to deprive the County of any of its rights under this Agreement.
10. The failure by Lessee to perform any of the covenants, conditions, or obligations imposed on it by this Agreement where the failure continues for a period of sixty (60) days after written notice from the County.
11. A sale or other transfer of stock in Lessee's corporation which divests the present stockholders of controlling interest without the written approval of the County, such approval not to be unreasonably withheld.
12. The transfer or assignment, or attempted transfer or assignment of this Agreement by Lessee, without securing prior written approval of the County, such approval not to be unreasonably withheld. It shall be understood for the purpose of this part that negotiations by Lessee for the assignment or transfer of this Agreement shall not be construed as "attempted transfer".

In the event of a breach of this Agreement by Lessee, the County shall be entitled to any and all legal and equitable remedies available to it under applicable law. Without limitation, these remedies shall include the following, which are cumulative and not exclusive:

1. Specific performance of any obligation of Lessee.
2. Declaratory and injunctive relief.
3. The recovery of all damages of any nature that result from the Lessee's breach, which damage include unpaid rent, fees and other payments, and the loss of future rent.
4. Reasonable attorney fees for services related to Lessee's breach of this Agreement, including fees for attorneys who are County employees.
5. The termination of the Agreement and repossession of the Leased Premises by the County upon thirty (30) days written notice of termination provided that the breach serving as the basis for termination is not sooner fully cured. If this Agreement is terminated for a Lessee default, Section 29 of this Agreement shall apply. Unless otherwise acquired by the County or an approved third party as permitted under Section 29, Lessee shall remove all personal property owned by it from the Leased Premises and restore and surrender the Leased Premises to the County in the same condition as when originally received. If the Lessee fails to remove its property and to restore and surrender the Leased Premises, the County may do so and the Lessee shall be liable to the County for all expenses of removing the property (including storage fees, if any) and restoring the Leased Premises.

The failure of the County to declare this Agreement terminated for any of the reasons set out above shall not bar the right of the County to subsequently terminate this Agreement for any of the reasons set out above. Further, the acceptance of rental or fees by the County for any period after a default by Lessee shall not be deemed a waiver of any right on the part of the County to terminate this Agreement. In the event of termination, the County shall be obligated to make reasonable efforts to re-rent the Leased Premises and otherwise mitigate damages.

Any bonafide lending institution with a security interest or lien approved by the County pursuant to Article 7, paragraph 10 hereof, or the holder of a Leasehold Mortgage authorized by Article 33 hereof, shall be entitled to receive any notice of default or termination delivered by the County to the Lessee, provided that the bonafide lending institution has made a written request to the County to receive such notices and has provided the County with its notice address. Such bonafide lending institution shall have the same, but no greater, rights as Lessee to cure the default within the time periods set forth above for cure.

### **ARTICLE 13 ADDITIONAL TERMINATION RIGHTS**

In addition to the termination rights set forth in the preceding Article, the County may also terminate this Agreement if any of the following events occur:

1. A determination by the Waukesha County Board of Supervisors, by resolution or ordinance, that termination is necessary to secure material federal funding for Airport development. In this event, the County shall use all reasonable efforts to give Lessee one hundred twenty days (120) days advance written notice of its intent to terminate the Agreement. It is understood that the length of this advance written notice may be dependent upon federal or state government requirements pertaining to funding, but at no time shall such notice be less than thirty (30) days. At the expiration of the notice period, title to any and all improvements made by Lessee upon any Airport land shall immediately vest in the County without further proceedings or conveyances, and the County may immediately enter and take possession. However, in such event, the County shall make payment to Lessee in a sum sufficient to cover the fair market value of any structure it has erected upon such land. Fair market value shall be determined as specified in Article 14, Fair Market Value.
2. The lawful assumption by the United States Government, or any authorized agency thereof, of the operation, control or use of the Airport and facilities, or any substantial part of parts thereof, in such manner as to substantially restrict Lessee, for a period of at least sixty (60) days, from its operations.

### **ARTICLE 14 FAIR MARKET VALUE**

If the Lessee and the County are unable to agree on the fair market value of any above ground improvements on Parcel A not specific to Lessee's uses and traditionally defined as real property and real estate fixtures, but not including trade fixtures to be acquired by County under this Agreement, each shall obtain an appraisal of the fair market value and send the appraisal to the other party. The appraisals herein shall be performed by an independent third-party appraiser licensed in the State of Wisconsin. Appraisals shall appraise the property proposed to be acquired only without regard to the existence or non-existence of the lease or the value of Lessee's business as a going concern. The failure to send an appraisal to the other party within 60 days of Lessee's receipt of the written notice of termination or written notice of intent to purchase constitutes an acceptance of the other party's fair market value appraisal. If the Lessee's fair market value appraisal and the



County's fair market value appraisal vary by less than 10% from the average of the two appraisals, then the average of the two appraisals shall be the fair market value of the property for which the County shall make payment. However, if the Lessee's fair market value appraisal and the County's fair market value appraisal vary by more than 10% from the average of the two appraisals, then the two appraisers shall select a third appraiser. The third appraiser shall appraise the fair market value of the structure and his appraisal shall be final and binding so long as it is no greater than the higher, and no lower than the lesser of the two appraisals. The County and Lessee will share the cost of the third appraisal. Each appraiser used shall be certified by the State of Wisconsin or shall have a temporary practice permit issued by the State.

#### **ARTICLE 15 CANCELLATION BY LESSEE**

Lessee may cancel this Agreement at any time that it is not in default in its obligations by giving the Airport Manager thirty (30) days written notice to be served as hereinafter provided after the happening of any of the following events, if such event materially impairs the conduct of Lessee's normal business on the Airport:

1. The issuance by a court of competent jurisdiction of any injunction in any way preventing or restraining normal use of the Airport or any substantial part of it, and the remaining in force of such injunction for a period of sixty (60) consecutive days, such injunction not being the result of any fault of Lessee;
2. The inability of Lessee to use, for a period of three consecutive months, the Airport, the Leased Premises or any substantial part of either due to any restriction or right reserved by the County under this Lease, due to the enactment or enforcement of any law or regulation, because of fire, earthquake or similar casualty or Acts of God or the public enemy, or due to any default or fault of the County; or
3. The lawful assumption by the United States Government of the operation, control or use of the Airport or any substantial part of it for military purposes in time of war or national emergency for a period of at least ninety (90) days.

Failure of Lessee to declare this Agreement canceled for any of the reasons set out above shall not operate to bar or destroy the right of Lessee to cancel this Agreement by reason of any subsequent occurrence of the described events.

#### **ARTICLE 16 WAIVER OF SUBROGATION**

The County and Lessee hereby release each other from any and all responsibility to the other for any loss of damage to property caused by fire or other peril if the property is insured for such loss or damage in any policy of insurance, even if such loss or damage is caused by the fault or negligence of the other party or anyone for whom such party is responsible. The County and the Lessee agree that to the extent any such policy of insurance provides a right of subrogation in the

insurer, or to the extent a right of subrogation exists independent of such policy, each will indemnify and hold the other harmless for any loss, claim or expense suffered as the result of any action taken pursuant to the right of subrogation. To the greatest extent possible, the County and the Lessee will, in furtherance of the intent of this provision, make every effort to obtain from its insurance carrier a waiver of subrogation for the matters here described in any such policy of insurance.

**ARTICLE 17  
REMEDIES CUMULATIVE; NO WAIVER**

All of the rights and remedies given to the County in this Agreement are cumulative and no one is exclusive of any other. The County shall have the right to pursue any one or all of such remedies or any other remedy or relief that may be provided by law, whether stated in this Agreement or not.

The failure of the County to take action with respect to any breach by Lessee of any covenant, condition or obligation in this Agreement shall not be a waiver of such covenant, condition or obligation or a subsequent breach of the same or any other covenant, condition or obligation. The acceptance by the County of any rent or other payment shall not be a waiver by it of any breach by Lessee of any covenant, condition or obligation.

**ARTICLE 18  
DAMAGE TO PROPERTY OF LESSEE AND OTHERS**

The County shall have no liability to the Lessee or its sublessees, contractors, guests or invitees for any damage to their property caused by fire, tornado, earthquake, windstorm or other casualty, and not for any damage caused by the act or omission of a third party.

**ARTICLE 19  
DAMAGE TO PREMISES AND PROPERTY  
BY LESSEE AND OTHERS**

If any part of any Airport property is damaged by the act or omission of the Lessee, its agents, officers, employees, contractors, invitees, sublessee and subcontractors, the Lessee shall pay to the County, upon demand, any amount which the County reasonably determines is necessary to repair or replace the property.

**ARTICLE 20  
COUNTY REPRESENTATIVE**

The Airport Manager is the official representative of the County for the administration and enforcement of this Agreement.

**ARTICLE 21  
SUBORDINATION**

This Agreement is and shall be subordinate to any existing or future Agreement between the County and the United States regarding the operation or maintenance of the Airport.

**ARTICLE 22  
COMPLIANCE WITH LAW**

At its own expense, the Lessee shall comply with all laws of the United States and the State of Wisconsin, all applicable local ordinances, and all rules and requirements of any law enforcement, fire department or other municipal agency. At its own expense, the Lessee shall obtain any and all permits and licenses which may be necessary for any activity at the Airport for which a license or permit is required. The Lessee shall not do or allow to be done anything at the Airport which is in violation of, or prohibited by any law, ordinance, rule, requirement, permit or license. If the attention of the Lessee is called to any such violation, the Lessee will immediately desist from or cause to be corrected such violation.

**ARTICLE 23  
GOVERNING LAW;  
VENUE FOR DISPUTES**

This Agreement shall be deemed to have been made in, and shall be construed in accordance with the laws of the State of Wisconsin. Any lawsuit related to or arising out of disputes under this Agreement shall be commenced and tried in the circuit court of Waukesha County, Wisconsin, and the County and the Lessee submit to the exclusive jurisdiction of the circuit court for such lawsuits.

**ARTICLE 24  
COUNTERPARTS**

This Agreement may be executed in several counterparts, each of which shall be taken to be an original, and all collectively but one instrument.

**ARTICLE 25  
SEVERABILITY**

In the event that any provision in this Agreement is held to be invalid by any court of competent jurisdiction, the invalidity of any such provision shall in no way affect any other provision in this Agreement, provided that the invalidity of any such provision does not materially prejudice either the County or Lessee in their respective rights and obligations contained in the valid provisions of this Agreement.

**ARTICLE 26  
SURVIVAL OF OBLIGATIONS/  
SUCCESSORS AND ASSIGNS BOUND**

The Lessee shall be responsible for the obligations in Article 10 in perpetuity. Additionally, any payment obligation and repair obligation that exists as of the termination or cancellation of this Agreement shall extend until the obligation is satisfied.

All of the provisions, covenants, and stipulations in this Agreement shall extend to and bind the legal representatives, successors and assigns of the respective parties.

**ARTICLE 27  
ENTIRE AGREEMENT**

This Agreement, together with any exhibits, contains and embodies the entire Agreement between the County and the Lessee and supersedes and replaces any and all prior agreements, understandings and promises on the same subject, whether they are written or oral.

**ARTICLE 28  
NO ASSIGNMENT**

This Agreement may not be assigned, nor may any part of it be assigned, without the express written consent of the County, which consent shall not be unreasonably withheld. Lessee shall specifically be permitted to assign the Agreement and all of its rights and duties hereunder to a bonafide lending institution, subject to Article 33 below.

**ARTICLE 29  
RIGHTS UPON EXPIRATION, TERMINATION**

Subject to Article 12 and Lessee's extension rights, upon expiration of this Agreement or upon termination of this Agreement, the County may, in its sole discretion, do any of the following:

1. Negotiate a new agreement with Lessee;
2. Purchase and take title to all structures located on the Leased Premises by paying Fair Market Value in accordance with Article 14.; or
3. If the County declines to pursue either option 1 or 2 above, Lessee shall have 180 days from notice by the County to sell Lessee's structure to a third party approved to lease property at the Airport or, at the request of the County, remove all structures located on the Lease Premises and restore the site to its original condition. During this 180 day period, Lessee shall have no right to continue to operate on the Leased Premises and shall pay an occupation fee to the County equal to the Airport's then-current lot reservation fee out of the proceeds of any sale of Lessee's structure. Notwithstanding Article 30, provided that Lessee pays the requisite fee and is diligently pursuing sale or removal, Lessee shall not be deemed a holdover tenant.

Notwithstanding the foregoing, if the parties agree, title to the structure may be transferred to the County and no cost.

**ARTICLE 30**

**HOLDOVER POSSESSION OF PREMISES BY LESSEE**

In the event that Lessee should hold over and remain in possession of the Leased Premises after the expiration of this Agreement or termination for any cause, the holding over shall be deemed not to operate as a renewal or extension of this Agreement and shall create a tenancy from month to month which may be terminated at any time by the Airport Manager or Lessee, upon notice as required to end month to month tenancies.

**ARTICLE 31**

**PARAGRAPH HEADINGS**

All paragraph and subparagraph headings contained in this Agreement are for convenience in reference only, and are not intended to define or limit the scope of any provision.

**ARTICLE 32**

**NOTICES**

Notices to the County or Lessee provided for in this Agreement shall be hand delivered, sent by certified mail, postage prepaid, or delivered by Federal Express or a similar national delivery service and emailed addressed to:

County  
Airport Manager  
Waukesha County Airport  
2525 Aviation Drive  
Waukesha, WI 53188  
kstanich@waukeshacounty.gov

Lessee  
Capital Flight, LLC  
Attn: Matt Hofeldt  
\_\_\_\_\_  
matt@capital-flight.com

With copy to:  
Jeffrey J. Bartzten, Esq.  
Neider & Boucher, S.C.

\_\_\_\_\_  
Jbartzen@neiderboucher.com

or to such other addresses as the parties may designate to each other in writing from time to time, and such notices shall be deemed to have been given when so sent.

All payments shall be made payable to the Waukesha County Airport and sent to the attention of the Airport Manager at the County's address stated above.

**ARTICLE 33**  
**LEASEHOLD MORTGAGES**

1. Lessee shall have the right from time to time to mortgage, pledge, encumber, hypothecate or assign as security the "Leasehold Estate" (as defined herein) upon approval of the Airport Commission (such approval not to be unreasonably withheld). For purposes of this Agreement, the term "Leasehold Estate" shall mean Lessee's interest in this Agreement and the leasehold estate created hereby, and shall exclude any and all interests of the County in the land and the Leased Premises.

2. IN NO EVENT SHALL THE COUNTY BE OBLIGATED TO SUBORDINATE ITS FEE INTEREST IN THE LEASED PREMISES TO ANY LEASEHOLD MORTGAGE NOR SHALL ANY LEASEHOLD MORTGAGE ATTACH TO THE FEE INTEREST IN THE LEASED PREMISES, ANY SUCH MORTGAGE BEING LIMITED TO LESSEE'S LEASEHOLD ESTATE, LESSEE'S INTEREST IN ANY AND ALL IMPROVEMENTS CONSTRUCTED BY OR ON BEHALF OF LESSEE AND LESSEE'S RIGHTS AND INTERESTS IN AND UNDER THIS AGREEMENT.

3. Whenever the County shall send Lessee any written notice related to this Agreement, the County shall also send a duplicate copy of such written notice contemporaneously to each of Lessee's lenders who hold a Leasehold Mortgage (hereafter "Lender") of which the County has received written notice.

4. Upon any Lender's receipt of a notice of default or termination the Lender shall have the right, but not the obligation, to cure such default or avoid such termination on behalf of Lessee in the same manner and within the same amount of time as permitted to the Lessee, and the County shall not have the right to terminate this Agreement in the event that the Lender completes the cure within such time permitted. The County agrees that it shall not terminate this Agreement nor shall the Leasehold Estate be surrendered due to the occurrence of any default so long as any Lender (i) notifies the County prior to expiration of the cure period that it intends to foreclose its leasehold mortgage, and (ii) pays all delinquent rent and other sums then due and owing prior to the expiration of the cure period and continues to pay all rent and other sums thereafter coming due under this Agreement and performs all other obligations of Lessee as and when the same are due throughout the duration of the foreclosure proceedings.

5. Any sale, assignment or transfer of the Leasehold Estate to any Lender or its affiliate or a third party in any foreclosure proceedings (or the assignment or transfer of this Agreement and the Leasehold Estate by Lessee in lieu of any such foreclosure) and, also, if to any Lender or its affiliate, the subsequent sale, assignment or transfer to a third party, shall require the County's consent, which consent shall not be unreasonably withheld. A purchaser, assignee or transferee pursuant to this paragraph shall acquire no greater rights than those set forth in this Agreement for Lessee.

6. A mortgage, pledge, encumbrance, hypothecation or assignment as allowed by this Article shall be expressly made subject to all of the County's rights and privileges set forth in this Agreement.



**ARTICLE 34**  
**MEMORANDUM OF LEASE**

Upon request of Lessee, the County and Lessee shall execute, and Lessee shall have the right to record with the Office of the Register of Deeds of Waukesha County, a memorandum of this Agreement in a form prepared by Lessee and approved by the County, which approval shall not be unreasonably withheld.

**ARTICLE 35**  
**SPECIAL EVENTS**

Notwithstanding the specific uses to which the Leased Premises may otherwise be put pursuant to this Agreement, the County may authorize other temporary aeronautical or non-aeronautical uses upon the Leased Premises or upon other Airport property (a "Special Event"). To the extent Lessee wishes to host a Special Event, Lessee shall comply with the Airport's Special Event Policy then in place at the time of the Special Event. All Special Events must be approved in advance by the Airport Manager in accordance with the Special Event Policy.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their proper officers, as of the \_\_\_\_\_ day of July, 2021.

Signed in the Presence of:

\_\_\_\_\_

WAUKESHA COUNTY:

By: \_\_\_\_\_  
Kurt S. Stanich  
Airport Manager

Signed in the Presence of:

\_\_\_\_\_

LESSEE: CAPITAL FLIGHT, LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

FISCAL NOTE

APPROVE LEASE WITH CAPITAL FLIGHT, LLC TO BECOME A MULTIPLE SERVICES AERONAUTICAL SERVICE PROVIDER  
AT WAUKESHA COUNTY AIRPORT

This ordinance would approve Capital Flight LLC (herein, "Capital Flight") as an aeronautical service provider at the Waukesha County Airport and approve a lease agreement between the county and Capital Flight. The lease agreement would be for 30 years.

The new agreement would generate additional annual revenue streams including land lease agreements and additional fuel flow revenues (described in the table below). In recognition of the investments in new facilities that Capital Flight is proposing, the agreement delays the implementation of lease payments for the new aeronautical service provider facility (Items #1 and #2 below) for five years from the execution of the agreement, and delays the implementation of all other lease payments (items #3 & #4) for up to two years from execution of the agreement or upon occupancy of those facilities, whichever is sooner. The agreement requires Capital Flight to build a hangar on Parcel A (item #1) within two years of the execution of this agreement. Airport management estimates that new fuel flow revenue from increased air traffic activity will begin in 2023 and gradually increase as Capital Flight develops their facilities and builds business.

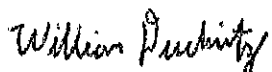
As a result, revenue from this agreement will begin materializing in stages during the initial years of the agreement. The table below summarizes the estimated annual revenue from each item in 2021 dollars for comparability purposes. All lease rates will be adjusted up from existing 2021 rates by the consumer price index each year, with the adjustment being at least 2.5% but not more than 10%.

| Item # | Description  | \$ Amount |
|--------|--|-----------|
| 1      | New aeronautical service provider facility (Parcel A): Leasing 33,595 square feet for hangar and multi-use space.  | \$11,900  |
| 2      | Restaurant space (Also Parcel A): Leasing 4,490 square feet to build and operate a restaurant.   | \$10,000  |
| 3      | Ramp space (Parcel B): Leasing 55,390 square feet adjacent to Parcel A (mentioned above). Parcel B includes 37,798 square feet of existing "preferential use" terminal ramp space leased by Atlantic Aviation, which will result in lower annual lease revenue from Atlantic Aviation. The revenue estimate displayed to the right is net of this reduction (\$19,100 minus \$13,000). | \$6,100   |
| 4      | Special event revenue (Parcel C): Capital Flight may reserve the use of 72,938 square feet of ramp space for special events and will be charged on a per-day basis, including days involving set-up and take-down of equipment. Regardless of the number of events, Capital Flight will be charged a minimum of 15 days per year (about \$1,000) and \$69/day thereafter.              | \$1,000   |
| 5      | Fuel flow from additional air traffic and based jets (\$0.10/gallon of fuel sold by existing fuel providers, Atlantic Aviation and Stein Aircraft Services).   | \$10,000  |
|        | Total estimated annual revenues  | \$39,000  |

Department management indicates that the terminal parking lot is already in need of rehabilitation and expansion and that additional traffic from this proposal will require parking lot improvements in 2022. Department management is requesting County Board approval for a terminal parking lot capital project through a separate ordinance this board cycle, with an estimated county share (net of 95% state/federal funding) of \$82,500 (\$7,500 for design in 2021 and \$75,000 for construction in 2022).

Overall, the agreement is estimated to generate an additional \$39,000 of annual revenues (in 2021 dollars, adjusted annually each year for CPI, mentioned above), which generates a return on investment (discounted to net present value) to cover the \$82,500 in parking lot rehabilitation/expansion costs and related maintenance in seven years (2028).

The Airport is an enterprise fund that does not rely on county tax levy, and this ordinance does not result in an ongoing direct tax levy impact.



William Duckwitz  
Budget Manager

1                   MODIFY THE 2021-2025 CAPITAL PLAN FOR THE CREATION OF CAPITAL  
2                   PROJECT #202108 – AIRPORT PERIMETER ROAD EXTENSION AND  
3                   MODIFY 2021 CAPITAL PROJECT BUDGET  
4  
5

6       WHEREAS, Federal Aviation Administration (FAA) funding is made available through the State  
7       of Wisconsin Bureau of Aeronautics (BOA) to support airport projects; and  
8

9       WHEREAS, in 2006, a short perimeter road was constructed on the South side of the airport  
10       linking the Southwest and Southeast Hangar Areas reducing Runway 18/36 crossings by  
11       airport service vehicles and increasing safety; and  
12

13       WHEREAS, the Federal Aviation Administration’s (FAA) Runway Safety Action Team has  
14       prioritized the construction of the perimeter road in order to remove all airport service vehicle  
15       traffic from the runways and taxiways and to increase safety for pilots and drivers; and  
16

17       WHEREAS, department management did not include this project in the 2021-2025 capital plan  
18       due to anticipating the perimeter road project to be funded in future years; and  
19

20       WHEREAS, the BOA estimates total design costs to be \$426,000 in 2021, with the airport’s  
21       contribution being \$21,300; and  
22

23       WHEREAS, the remaining airport share of costs of \$103,500 for construction in 2022 will be  
24       incorporated and managed into the department’s 2022-2026 capital plan request.  
25

26       THE COUNTY BOARD OF SUPERVISORS OF WAUKESHA COUNTY ORDAINS that the Waukesha  
27       County Adopted 2021-2025 Capital Plan be modified by creating capital project #202108 –  
28       Airport Perimeter Road Extension.  
29

30       BE IT FURTHER ORDAINED that the 2021 Capital Project budget be modified to appropriate  
31       additional expenditures of \$21,300 and increase Airport Fund Balance usage of \$21,300 for  
32       Capital Project #202108 – Airport Perimeter Road Extension.

|                       |                                  |                      |                                |
|-----------------------|----------------------------------|----------------------|--------------------------------|
| <b>Project Title:</b> | Airport Perimeter Road Extension | <b>Project #:</b>    | 202108                         |
| <b>Department:</b>    | Public Works - Airport           | <b>Project Type:</b> | Airport                        |
| <b>Phase:</b>         | Preliminary Design               | <b>Sponsor:</b>      |                                |
| <b>Budget Action:</b> | New                              | <b>Manager:</b>      | Allison Bussler – DPW Director |
| <b>Date:</b>          | July 30, 2021                    |                      |                                |

| <b>CAPITAL BUDGET SUMMARY</b>         |                  |                                 |                  |
|---------------------------------------|------------------|---------------------------------|------------------|
| Year                                  | 2021             | 2022                            | Total Project    |
| Project Phase                         | Design           | Construction                    |                  |
| Expenditure Budget                    | \$21,300         | \$103,500                       | \$124,800        |
| Revenue Budget (Airport Fund Balance) | <u>\$21,300</u>  | <u>\$103,500</u>                | <u>\$124,800</u> |
| Net County Cost                       | \$0              | \$0                             | \$0              |
| <b>COST DOCUMENTATION</b>             |                  | <b>REVENUE</b>                  |                  |
| Design & Engineering                  | \$426,000        | Federal Aviation Administration | \$2,246,400      |
| Construction                          | \$1,870,000      | Wisconsin Bureau of Aeronautics | \$124,800        |
| Contingency                           | <u>\$200,000</u> | County Airport Fund Balance     | \$124,800        |
| Total Project Cost                    | \$2,496,000      | Total Revenue                   | \$2,496,000      |
| <b>EXPENDITURE BUDGET</b>             | <b>\$124,800</b> | <b>REVENUE BUDGET</b>           | <b>\$124,800</b> |

**Project Scope & Description**

This project will extend a two-lane vehicle access road around the south and east perimeter of the airport. The road will connect the North Ramp to the Southeast Hangar Area and allow vehicles to access all hangar areas without driving on the runways and taxiways. The length of the new road will be approximately 3,700 feet long and 22 feet wide.

**Location**

South side of the airport along Northview Road (CTH FT) and the East side of the airport along Pewaukee Road (CTH J).

**Analysis of Need**

In 2006, a short perimeter road was constructed on the South side of the airport along Northview Road (CTH FT) linking the Southwest and Southeast Hangar Areas reducing Runway 18/36 crossings by airport service vehicles and increasing safety. The existing road is showing signs of age, however, it is in good condition. The 2017 Environmental Analysis (referencing the Runway Safety Area project (#200310)), identified the need for a perimeter road to connect the Southeast Hangar Area to the North Ramp. The Federal Aviation Administration's (FAA) Runway Safety Action Team has prioritized the construction of the perimeter road in order to remove all airport service vehicle traffic from the runways and taxiways and to increase safety for pilots and drivers. Additionally, use of the perimeter road will significantly decrease radio communications between vehicles and the air traffic control tower allowing controllers to focus on communications with pilots. It is designed to be a 22-foot-wide asphalt road with three-foot wide gravel shoulders. The completed length of the road will be 5,295 feet.

**Alternatives**

Continue with current traffic levels on the runways and taxiways.

**Ongoing Operating Revenues/Costs**

Ongoing costs will include pavement maintenance (i.e., sealing, striping, and other general maintenance) and snow plowing. Initially the pavement maintenance costs are expected to be low, however, could increase to about \$1,300 per year over time as road maintenance is needed. Snow removal costs are expected to be about \$9,200 per year.

**Previous Action**

None

FISCAL NOTE  
MODIFY THE 2021-2025 CAPITAL PLAN FOR THE CREATION OF CAPITAL  
PROJECT #202108 – AIRPORT PERIMETER ROAD EXTENSION AND  
MODIFY 2021 CAPITAL PROJECT BUDGET

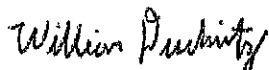
This ordinance modifies the 2021-2025 capital plan to create capital project #202108 – Airport Perimeter Road Extension and modifies the 2021 capital project budget. Department management indicates that this project was not included in the proposed 2021-2025 capital plan as the Federal Aviation Administration (FAA) Runway Safety Action Team had not yet prioritized this project and made available State or Federal funds. However, in 2021, the county received notification that the FAA Runway Safety Action Team prioritized the construction of the perimeter road in order to remove all airport service vehicle traffic from the runways and taxiways to increase safety.

Funding has been approved to begin design work for the project in 2021. The total project costs are estimated at \$2,496,000. The estimated county share is \$124,800 which is net of 95% state/federal funding. The county share of design costs is \$21,300 and is scheduled to take place in 2021. The county share of construction costs is \$103,500 for 2022, and this request will be included in the 2022-2026 capital plan. The entire county share of the project will be funded with Airport Fund balance

After the road is constructed, ongoing pavement maintenance costs are estimated to be about \$1,300 per year over time as road maintenance is needed. Snow removal costs are expected to be about \$9,200 per year.

The net remaining Airport Fund balance as of 12/31/2020, factoring in future obligated fund balance use (e.g., Airport capital projects), is estimated at \$1,037,800 (before approval of August ordinances).

The Airport is an enterprise fund that does not rely on county tax levy, and this ordinance does not result in an ongoing direct tax levy impact.



William Duckwitz  
Budget Manager  
08/03/2021  
MYB  
JE# 2021-00005344

1           MODIFY THE 2021-2025 CAPITAL PLAN FOR THE CREATION OF CAPITAL PROJECT #202109 –  
2                           AIRPORT PARKING LOT REHABILITATION AND EXPANSION AND  
3                           MODIFY 2021 CAPITAL PROJECT BUDGET  
4  
5

6       WHEREAS, Federal Aviation Administration (FAA) funding is made available through the State  
7       of Wisconsin Bureau of Aeronautics (BOA) to support airport projects; and  
8

9       WHEREAS, the current Waukesha County Airport Parking Lot was constructed in 1997 and is in  
10      need of rehabilitation due to increasing maintenance and repair costs; and  
11

12      WHEREAS, the parking lot is in need of expansion to meet current and projected vehicle  
13      parking demands; and  
14

15      WHEREAS, the Waukesha County Airport Manager was notified by the BOA that authorization  
16      was received and funding approved to begin design work for the rehabilitation and expansion  
17      of the parking lot in 2021; and  
18

19      WHEREAS, while the need to expand the parking lot was identified in the 2002 Waukesha  
20      County Airport Master Plan, it was not included in the 2021-2025 or previous capital plans due  
21      to unavailability of State or Federal Funds; and  
22

23      WHEREAS, the BOA estimates total design costs in 2021 to be \$150,000, with the airport's  
24      contribution being \$7,500; and  
25

26      WHEREAS, the remaining airport share for construction in 2022 of \$75,000 will be  
27      incorporated and managed into the department's 2022-2026 capital plan request.  
28

29      THE COUNTY BOARD OF SUPERVISORS OF WAUKESHA COUNTY ORDAINS that the Waukesha  
30      County Adopted 2021-2025 Capital Plan be modified by creating capital project #202109 –  
31      Airport Parking Lot Rehabilitation and Expansion.  
32

33      BE IT FURTHER ORDAINED that the 2021 Capital Project budget be modified to appropriate  
34      additional expenditures of \$7,500 and increase Airport Fund Balance usage of \$7,500 for  
35      Capital Project #202109 – Airport Parking Lot Rehabilitation and Expansion.

|                       |  |                      |                                |
|-----------------------|--|----------------------|--------------------------------|
| <b>Project Title:</b> | Airport Parking Lot Rehabilitation and Expansion | <b>Project #:</b>    | 202109                         |
| <b>Department:</b>    | Public Works - Airport                           | <b>Project Type:</b> | Airport                        |
| <b>Phase:</b>         | Preliminary Design                               | <b>Sponsor:</b>      |                                |
| <b>Budget Action:</b> | New  | <b>Manager:</b>      | Allison Bussler – DPW Director |
| <b>Date:</b>          | July 30, 2021                                    |                      |                                |

| CAPITAL BUDGET SUMMARY                |                 |                 |                |            |            |                                    |
|---------------------------------------|-----------------|-----------------|----------------|------------|------------|------------------------------------|
| Year                                  | 2021            | 2022            | 2023           | 2024       | 2025       | Total                              |
| Project Phase                         | Design          | Construction    |                |            |            | Project                            |
| Expenditure Budget                    | \$7,500         | \$75,000        | \$0            | \$0        | \$0        | \$82,500                           |
| Revenue Budget (Airport Fund Balance) | <u>\$7,500</u>  | <u>\$75,000</u> | <u>\$0</u>     | <u>\$0</u> | <u>\$0</u> | <u>\$82,500</u>                    |
| Net Costs After Revenues Applied      | \$0             | \$0             | \$0            | \$0        | \$0        | \$0                                |
| <b>COST DOCUMENTATION</b>             |                 |                 | <b>REVENUE</b> |            |            |                                    |
| Design & Engineering                  | \$150,000       |                 |                |            |            | Federal Aviation Admin \$1,485,000 |
| Construction                          | \$1,200,000     |                 |                |            |            | WI Bureau of Aeronautics \$82,500  |
| Contingency                           | \$300,000       |                 |                |            |            | Airport Fund Balance \$82,500      |
| Total Project Cost                    | \$1,650,000     |                 |                |            |            | Total Revenue \$1,650,000          |
| <b>EXPENDITURE BUDGET</b>             | <b>\$82,500</b> |                 |                |            |            | <b>REVENUE BUDGET</b> \$82,500     |

**Project Scope & Description:** This project will rehabilitate the existing airport terminal parking lot and expand the parking lot to the East by 6,616 square yards (for a total of 14,977 square yards) as planned in the Airport Master Plan and the Airport Layout Plan. The project will provide an additional 107 parking spaces.

**Location:** Waukesha County Airport Terminal Ramp Development Area.

**Analysis of Need:** The current parking lot is 8,361 square yards and was constructed with the Airport Terminal in 1997 and contains 103 spaces for airport users, rental cars, event traffic and employees. It was designed to meet the demand for aeronautical service providers with the intent of expanding the parking lot once demand was met. The parking lot is filled to capacity on a weekly basis. Several times each year during larger events, alternate parking must be created on Aviation Drive, in adjacent service provider parking lots, and on the Terminal aircraft parking ramp. Maintenance on the existing lot has been increasing over the last six years including crack sealing, line striping, repaving failed sections, and resetting storm water inlets.

The 2002 Airport Master Plan evaluated the available parking facilities supporting activities in the terminal building and found that, at that time, there was a need for an additional 25 parking spaces and projected that by 2020, the airport would require an additional 116 spaces. The current design will accommodate most of the need with 107 additional spaces. The terminal ramp development area was designed to be able to "mirror" the existing parking lot to the East when demand necessitated expansion. At this point, the parking lot is in need of rehabilitation and expansion.

**Alternatives:** The parking lot rehabilitation and expansion could be divided into multiple projects over several years. This option would reduce expenditures in 2022 but would increase expenditures in later years. Overall project cost would increase due to multiple mobilizations. State and federal funding availability as well as material costs may vary greatly in future years.

**Ongoing Operating Revenues/Costs:** A new airport tenant is expected to complete construction of their building in late 2022 or early 2023. The net annual increase to the airport revenue budget is estimated to be approximately \$39,000. This includes additional based aircraft and increased fuel revenues (the airport receives \$0.10/gallon sold).

The new parking lot space will result in additional ongoing costs of approximately \$3,000 annually for snow removal. In the short term, this will be balanced by a decrease in maintenance for the existing parking lot which has required increased maintenance each year over the past six years.

**Previous Action:** None



FISCAL NOTE

MODIFY THE 2021-2025 CAPITAL PLAN FOR THE CREATION OF CAPITAL  
PROJECT #202109 – AIRPORT PARKING LOT REHABILITATION AND EXPANSION AND MODIFY  
2021 CAPITAL PROJECT BUDGET

This ordinance modifies the 2021-2025 capital plan to create capital project #202109 – Airport Parking Lot Rehabilitation and Expansion and modifies the 2021 capital project budget.

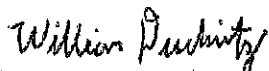
Department management indicates that this project was not included in the proposed 2021-2025 capital plan due to the unavailability of State or Federal funds. However, in 2021, the county received notification from the State Bureau of Aeronautics that funding has been approved to begin design work for the project in 2021. The total project costs are estimated at \$1,650,000. The estimated county share is \$82,500, which is net of 95% state/federal funding. The county share of design costs is \$7,500, with design scheduled to take place in 2021. The county share of construction costs is \$75,000, and this request will be included in the 2022-2026 capital plan. The entire county share of the project will be funded with Airport Fund balance.

Additionally, department management is currently working on an agreement with Capital Flight, LLC, to become a multiple services aeronautical service provider at Waukesha County Airport. The ordinance to approve the lease will be considered by the County Board in August 2021. In order to accommodate the increased anticipated vehicle parking demands at the airport for this development, the existing terminal parking lot must be rehabilitated and expanded.

Overall, the Capital Flight agreement is estimated to generate an additional \$39,000 of annual revenues (in 2021 dollars, adjusted annually each year for CPI, mentioned above), which generates a return on investment (discounted to net present value) to cover the \$82,500 in parking lot rehabilitation/expansion costs and related maintenance (e.g., snow removal at approximately \$3,000 annually) in seven years (2028).

The net remaining Airport Fund balance as of 12/31/2020, factoring in future obligated fund balance use (e.g., Airport capital projects), is estimated at \$1,037,800 (before approval of August ordinances).

The Airport is an enterprise fund that does not rely on county tax levy, and this ordinance does not result in an ongoing direct tax levy impact.



William Duckwitz  
Budget Manager  
08/03/2021  
MYB  
JE# 2021-00005341

1 APPROVE AMENDED AND RESTATED MEDICAL CLINIC INTERGOVERNMENTAL COOPERATION  
2 AGREEMENT BETWEEN WAUKESHA COUNTY AND THE CITY OF WAUKESHA  
3  
4

5 WHEREAS, the County and the City of Waukesha (City) have been parties to a Medical Clinic  
6 Intergovernmental Cooperation Agreement with the School District of Waukesha (District) for  
7 the operation of a shared on site medical clinic since 2014; and  
8

9 WHEREAS, the District decided to withdraw from the agreement effective December 31, 2021;  
10 and  
11

12 WHEREAS, the County and City wish to amend and restate the prior agreement for the  
13 cooperative operation of the on-site clinic going forward; and  
14

15 WHEREAS, the amended and restated agreement establishes a two-party Intergovernmental  
16 Agreement which sets forth the oversight, management, and financial terms by which each  
17 organization will be responsible for the on-site medical clinic; and  
18

19 WHEREAS, the provision of an on-site clinic has proven to be an effective tool in the  
20 management of County healthcare costs; and  
21

22 WHEREAS, based on a thorough analysis, it has been determined that a two-party shared on-  
23 site medical clinic between the County and City will continue to provide an effective approach  
24 to managing and controlling current health care costs and achieving long term health plan  
25 savings.  
26

27 THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the  
28 Medical Clinic Intergovernmental Cooperation Agreement on file in the Department of  
29 Administration be approved.

**AMENDED AND RESTATED  
MEDICAL CLINIC INTERGOVERNMENTAL COOPERATION AGREEMENT**

This Intergovernmental Cooperation Agreement (this "**Agreement**") is entered into as of the 1<sup>st</sup> day of August 2021 (the "**Effective Date**"), by and between WAUKESHA COUNTY, WISCONSIN (the "**County**"), and the City of Waukesha, Waukesha County, Wisconsin (the "**City**"). The County and the City, and any additional members pursuant to Article IV, are each sometimes referred to herein as a "**Party**" and collectively as the "**Parties**."

**RECITALS**

WHEREAS, the County owns a building located at 615 W. Moreland Boulevard in Waukesha, Wisconsin (the "**Facility**");

WHEREAS, the Parties wish to have the Provider (as defined in Section 1.3) assist the Parties by establishing and operating a medical clinic (the "**Clinic**") at the Facility and provide other value-added services, which will be designed to assist the Parties in supplementing the current health benefit plans offered to the Parties' respective employees as well as reduce occupational medicine costs associated with worker's compensation and decreasing lost productivity due to illness-related absences;

WHEREAS, under Wis. Stat. § 66.0301, two or more municipalities may contract to join together in the joint exercise of any power or duty required or authorized by law and to provide for administration of the function or project thereby contracted for, including but not limited to, proration of expenses involved, deposit and disbursement of funds appropriated, submission and approval of budget, creation of a commission, selection and removal of commissioners, and formation and letting of contracts;

WHEREAS, the County and City are "municipalities" as defined in Wis. Stat. § 66.0301;

WHEREAS, the County and the City are parties to that certain Medical Clinic Intergovernmental Cooperation Agreement, together with the School District of Waukesha (the "District"), dated on or about March 12, 2014 (the "Prior Agreement") for the operation of the Clinic and following the District's withdrawal from that Prior Agreement, the County and the City now wish to amend and restate their Prior Agreement for the cooperative operation of the Clinic going forward.

NOW, THEREFORE, in consideration of the foregoing, the Parties agree as follows:

## AGREEMENT

### ARTICLE I ESTABLISHMENT OF CLINIC

#### 1.1 Improvements to Facility.

The County shall be responsible for constructing and acquiring all building improvements and renovations and equipment (collectively, the "**Improvements**"). Each Party shall be responsible for reimbursing the County for a share of the Improvements as provided in Article II.

#### 1.2 Ownership of Facility and Improvements.

(a) The County shall have sole ownership of the Facility, the Improvements and any supplies or equipment purchased for the Clinic pursuant to Section 2.2.

(b) The County agrees that it will make the Facility available for the Clinic through the Initial Term and any Subsequent Term (as defined in Section 4.1) unless the agreement has been terminated earlier in accordance with Section 4.2. In the event that the Facility is not available after the Initial Term, the County will provide the Parties with 12 months notice and the Advisory Council (as defined in Article III) will recommend an alternative location to the Parties for approval.

#### 1.3 Contract with Provider.

(a) The Parties will enter into a services contract (the "**Provider Contract**") with a health services provider (the "**Provider**") to staff and operate the Clinic. The Provider Contract shall be for a term at least equal to the Initial Term of this Agreement. The Provider Contract shall establish the scope of services, staffing, hours of operation, pricing, insurance requirements, indemnification and other provisions necessary for the operation of the Clinic by the Provider.

(b) The Parties hereby authorize, empower and direct the Advisory Council and hereby expressly delegate all necessary authority to the Advisory Council, to negotiate changes to the Provider Contract or make decisions under the Provider Contract, including without limitation, for the scope of services, staffing, hours of operating, pricing, insurance requirements, indemnification and all other provisions necessary for the operation of the Clinic.

(c) Any renewal of the Provider Contract after the Initial Term or any subsequent Provider Contract either with the initial Provider or a subsequent Provider shall require approval of the respective governing bodies of the Parties.

#### 1.4 [reserved]

**ARTICLE II  
FINANCING AND OPERATION OF THE CLINIC**

2.1 Operating Costs of the Clinic; Collection of Fees.

(a) The Parties agree to pay their share of the operational expenses of the clinic, including but not limited to costs for contracted clinic staff, technology fees, dues and licenses, professional development, marketing and communications, laboratory fees and other operating costs (the "**Operating Costs**").

(b) The Parties agree to pay their share of all ongoing incidental services necessary for operating the Facility not provided by the Provider under the Provider Contract, including but not limited to repairs and maintenance to the Facility, utilities, insurance and snow plowing and removal and acquisition of certain supplies and equipment for the Facility (collectively, the "**Facility and Grounds Costs**").

(c) The Parties agree to pay their share of all costs of reasonable consulting services necessary for the negotiation or ongoing management of the Provider Contract, including but not limited to services provided by CBIZ Benefits & Insurance Services, Inc. or any subsequent benefits and insurance consultant (collectively, the "**Consulting Costs**").

(d) Costs of new Improvements, Operating Costs, Facilities and Grounds Costs, and Consulting Costs (collectively "**Shared Costs**") are shared based on a rolling 3-year average of clinic utilization of the eligible insured for each Party. The Advisory Council will review and approve the percentage allocation each year.

(e) The County shall be responsible for paying the collectively "Shared Costs". The Parties will reimburse the County by each March 31 and September 30 for their respective portion of these collectively "Shared Costs" from the previous two calendar quarters. The first payment will be made by the Parties to the County by September 30, 2022 for any Costs incurred in quarters one and two 2022. The portion of the collectively "Shared Costs" to be paid by each Party until the payment due March 31, 2024 (which payment shall include all remaining Costs incurred through the Initial Term).

(f) The allocation for the first year of the agreement (2022) for the Shared Costs is based on the rolling three-year average of the three preceding years under the Prior Agreement adjusted for the removal of non-continuing parties and is as follows:

County: 65%

City: 35%

The County will deliver an itemized invoice to the other Parties by no later than 30 days prior to when payment of the Parties' respective portion is due.

(g) The Advisory Council may agree to amend the cost sharing methodology for direct Party costs.

(h) Fees for services (patient copays) paid by the a Party's covered employees and their enrolled dependents will be collected by the Provider in accordance with the Provider Contract and credited in full against the corresponding Party's account.

(i) If any of the Parties requires a specific program or service to be developed and delivered by the Provider, then the Operating Costs allocable to that specific program or service (the "**Specific Operating Costs**") will be the sole responsibility of the Party or Parties requiring the program or service and will not be included in the Operating Costs under Section 2.1(a). The Advisory Council shall prepare a schedule showing such Specific Operating Costs. The Provider shall separately bill the Party or Parties responsible for any Specific Operating Costs.

## 2.2 Insurance.

(a) The County shall maintain customary physical loss or damage insurance on the Facility. The County and each other Party hereby release each other from any and all responsibility and liability to the other Parties to the extent permitted by their insurance carriers for any loss or damage, including consequential damages, that any Party may incur if the property loss or damage is caused by fire or other peril.

(b) The Provider Contract shall require the Provider to maintain, at all times during the term of the Provider Contract, insurance policies meeting the following minimum requirements:

- (i) Worker's Compensation and Employers' Liability Insurance: Statutory worker's compensation benefits and employers' liability insurance with a limit of liability not less than \$100,000 each accident. The Provider shall require any subcontractors not protected under its insurance to take out and maintain such insurance.
- (ii) General Liability Insurance: Limit of liability not less than \$1,000,000 each occurrence and aggregate.
- (iii) Automobile Liability Insurance: Limit of liability not less than \$1,000,000 combined single limit.
- (iv) Professional Liability/Medical Malpractice: Limits of liability not less than \$1,000,000 per occurrence and \$3,000,000 aggregate.
- (v) Umbrella Liability Insurance: Limits of liability not less than \$3,000,000 each occurrence and aggregate.

The Provider shall furnish the County a Certificate of Insurance and upon request, certified copies of the required insurance policies. The County shall provide such documents to any other Party upon request.

2.3 Records.

(a) The County shall maintain all records associated with administering and performance of this Agreement, and will make those records available to any Party upon request.

(b) The Parties recognize the importance of protecting the privacy and security of Eligible Insured's health information. The Parties agree to only use and disclose Eligible Insured's health information in accordance with state and federal law, including without limitation, the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations ("HIPAA"). The Parties may share aggregated, de-identified information with one another for purposes of reviewing the performance objectives of the Clinic. The Parties shall not use, disclose or receive any personally identifiable health information about any Eligible Insured without the written authorization of such Eligible Insured except as permitted by applicable law.

2.4 Guaranty and Other Payments Under Provider Contract.

(a) If the Provider fails to meet performance measures specified in the Provider Contract, the Provider shall be required to refund certain management fees allocable to year being assessed. In the event of such refund, such management fees shall be returned to the Parties in accordance with the cost sharing proportions established for the year correlated to the fees refunded.

(b) Any other payments to be refunded under the Provider Contract and not attributable to a particular Party shall be refunded to the Parties in accordance with the cost sharing proportions established for the year correlated to the payments refunded.

2.5 [reserved]

**ARTICLE III  
CREATION OF ADVISORY COUNCIL**

3.1 Establishment of Advisory Council.

The Parties hereby create the "Waukesha Intergovernmental Health Group" (the "Advisory Council") as a commission pursuant to Wis. Stat. § 66.0301. The Advisory Council shall be made up of one representative from each Party which enters into this Agreement. The chief executive officer of each Party, or his or her designee, shall serve as the representative to the Advisory Council. The initial members of the Advisory Council shall be the Director of Administration of the County and the City Administrator. The Advisory Council shall serve as an advisory body to the Parties on all matters affecting the Clinic and shall have power to carry out all duties necessary for operation of the Clinic under this Agreement as may be provided under Wis. Stat. § 66.0301, including those provisions specifically delegated to the Advisory Council pursuant to Section 1.3(b) of this Agreement.



3.2 Quorum and Majority Vote.

A majority of members of the Advisory Council shall be a quorum for the transaction of business. Any action to be taken by the Advisory Council under this Agreement shall be approved by majority vote of all members present of the Advisory Council.

3.3 Number of Advisory Council Members.

The Advisory Council shall initially consist of one representative from each Party as provided in Section 3.1. The Parties may, from time to time, deem it desirable to change the number of members of the Advisory Council. Any such decision altering the number of members of the Advisory Council shall be in writing, take the form of an amendment to this Agreement, and be approved by the governing bodies of the Parties.

3.4 Meetings.

(a) The Advisory Council shall meet regularly according to a schedule determined by the Advisory Council. Special meetings of the Advisory Council may be held for the purpose of transacting any business of the Advisory Council upon the request of a majority of the members of the Advisory Council.

(b) The Advisory Council shall comply with the provisions of the Wisconsin Open Meeting and Records Law in Chapter 19, Wisconsin Statutes.

3.5 Rules of Procedure.

Except as otherwise agreed by the Advisory Council members, meetings and proceedings of the Advisory Council shall be conducted in accordance with Roberts Rules of Order.

3.6 [reserved]

**ARTICLE IV**

**TERM; WITHDRAWAL OR EXPULSION OF PARTIES; NEW PARTIES**

4.1 Effective Date and Term.

The term of this Agreement (the "**Initial Term**") shall begin on the Effective Date and end on January 1, 2025; provided however that this Agreement shall automatically be renewed for five (5) consecutive periods of two (2) years each (each a "**Subsequent Term**") unless terminated as provided in Section 4.2.

4.2 Renewal of Agreement; Withdrawal of Parties.

(a) Any Party may terminate this Agreement at the expiration of the Initial Term, or at the expiration of any Subsequent Term, by delivering written notice of termination to the other Parties in accordance with the following provisions:

- (i) The termination date (the "**Termination Date**") shall be the last day of the then-current Initial Term or Subsequent Term, as the case may be.
- (ii) The Party electing to terminate this Agreement shall deliver to the other Parties written notice of termination not later than 18 months prior to the Termination Date.

(b) [reserved]

#### 4.3 Expulsion of Parties

(a) A Party may be expelled from this Agreement for cause by majority vote of the Advisory Council. Cause for expulsion includes, but is not limited to, failure to cure any Default under Article VII.

(b) Upon expulsion, the expelled Party continues to be responsible for its share of the costs of any Improvements, Facility and Grounds Costs, Operating Costs, Specific Operating Costs or Consulting Costs incurred prior to such expulsion pursuant to this Agreement.

#### 4.4 New Parties.

(a) After the Effective Date of this Agreement, additional municipalities (as that term is defined in Wis. Stat. § 66.0301) may join in this Agreement upon request to the Advisory Council and approval by the governing bodies of each of the existing Parties. Approval shall be conditioned upon the adoption by the governing body of the new municipality of the terms and provision of this Agreement by resolution, a certified copy of which is to be provided to each Party.

(b) In the event a new Party joins under this Agreement pursuant to this Section 4.4, the Advisory Council shall determine portion of any costs and reimbursements for each Party under Article II.

4.5 [reserved]

**ARTICLE V**  
**STATEMENT OF COMMITMENT; DISPUTE RESOLUTION**

The Parties are entering into this Agreement with a full understanding that the success of the Clinic depends upon the commitment of the Parties to work diligently and cooperatively to accomplish their mutual objectives with respect to the Clinic.

The Parties acknowledge and agree that they shall endeavor to resolve any and all issues that may arise under this Agreement in good faith and in a spirit of cooperation consistent with the intent of this Agreement. In the event they are not able to so resolve any material issue related to this Agreement within sixty (60) days after commencement of negotiations with respect thereto, any Party shall have the right to present the matter to the Advisory Council. A Party may submit an issue to the Advisory Council by providing written notice to the other Parties describing the subject at issue and a proposed resolution. The Advisory Council shall meet as soon as reasonably possible thereafter to consider and decide upon the issue identified in the notice. The decision of a majority of the members of the Advisory Council shall be binding upon the Parties.

**ARTICLE VI**  
**NOTICE**

Any notices under this Agreement shall be in writing and shall be considered given upon delivery, if personally delivered with evidence thereof, or one (1) business day after deposit with a nationally-recognized commercial courier, or two (2) business days after deposit in the United States Postal Service, certified or registered mail, postage prepaid, in all cases addressed as follows:

If to the County:       Waukesha County  
                                  515 W. Moreland Blvd.  
                                  Waukesha, WI 53188  
                                  Attn: Director of Administration

If to the City:         City of Waukesha  
                                  City Hall  
                                  201 Delafield Street  
                                  Waukesha, WI 53188  
                                  Attn: City Administrator

## **ARTICLE VII DEFAULT**

If any Party shall fail to perform, or shall violate, any covenant, term, condition, or obligation of this Agreement, and if such failure to perform or such violation shall remain uncured for a period of thirty (30) days or more after notice of such failure or violation from any other Party, then such failure or violation shall constitute a "Default" under this Agreement; provided, however, that if such failure or violation cannot reasonably be cured within the pertinent thirty (30) day period, and if the Party notified of its failure or violation thereafter immediately commences and diligently and without interruption pursues a cure of such failure or violation, then such Party shall have a reasonable period, not exceeding one hundred twenty (120) days, to cure such failure or violation before the same shall be considered a Default. In the event of any Default, each non-Defaulting Party shall, without any notice (except only the notice of failure or violation required under this Article VII), be entitled to exercise at its option—whether concurrently, successively, or in any combination—any and all remedies available at law or in equity, including without limitation any one or more of the following: (i) expulsion of the defaulting Party under Section 4.3; and (ii) recovery from the defaulting Party of all cost, damage, loss, and expense (including attorneys' fees) reasonably paid or incurred as a result of any such Default.

## **ARTICLE VIII AUTHORIZING RESOLUTIONS**

This Agreement is entered into by the Parties pursuant to the authority granted under Wis. Stats. §66.0301 and other provisions of the Wisconsin Statutes. By resolution or ordinance adopted by its governing body, each Party has authorized and directed the representatives of the governing body to enter this Agreement on behalf of the Party.

## **ARTICLE IX MISCELLANEOUS**

### 9.1 No Assignment.

No Party to this Agreement may assign its interest in this Agreement to any other entity or individual.

### 9.2 Entire Agreement; Rules of Construction.

The Parties acknowledge and agree that this Agreement, including the recitals which are incorporated into and a part of this Agreement, expresses the entire agreement between the Parties as to the subject matter of this Agreement, and that this Agreement replaces and supersedes any prior negotiations and agreements, written or oral. The Parties further acknowledge and agree that each Party has been adequately and fully represented in connection with the negotiation and execution of this Agreement, and that, accordingly, rules of interpretation that signify that an agreement shall be construed against the drafter shall not apply.

9.3 Captions.

The captions or headings in this Agreement are for convenience and in no way define, limit, or describe the scope or intent of the provisions of this Agreement

9.4 Governing Law.

The laws of the State of Wisconsin shall govern the interpretation and enforcement of this Agreement.

9.5 Amendment.

This Agreement shall not be effectively modified without the written consent of all Parties hereto, and no such modification shall be binding upon any Party until such modification is reduced to writing and executed by the Parties. If there is a withdrawal of a Party under Section 4.2 or an expulsion of a Party under Section 4.3, the Parties required to agree to an amendment of this Agreement are only the remaining Parties.

9.6 Counterparts

This Agreement may be signed in any number of counterparts with the same effect as if the signatures were on the same instrument.

9.7 No Third-party Beneficiaries

This Agreement is entered into for the sole and exclusive benefit of the Parties. No third party (including, without limitation, any employees of the Parties) shall have, obtain, or derive from this Agreement any rights or other benefits or interests, under law, in equity, or otherwise.

9.8 No Joint Venture.

Nothing contained in this Agreement shall be deemed or construed as creating a partnership or joint venture between the Parties.

9.9 Exculpatory Provision.

The Parties expressly acknowledge and agree that, anything herein to the contrary notwithstanding, that no officer, director, employee, agent, or official (elected or appointed) of any Party shall have any personal liability or obligation arising out of this Agreement, and no Party shall make any claim to the contrary.

9.10 No Waiver.

No failure to exercise, and no delay in exercising, any right, power, or remedy under this Agreement on the part of any Party shall operate as a waiver of such right, power, or remedy, nor shall any single or partial exercise of any right, power, or remedy preclude any other or further exercise thereof or the exercise of any other right, power, or remedy. No express waiver shall affect any event or default other than the event or default specified in such waiver, and any such waiver, to be effective, must be in writing and shall be operative only for the time and to the extent expressly provided therein. A waiver of any covenant, term, or condition contained in this Agreement shall not be construed as a waiver of any subsequent breach of the same covenant, term, or condition.

9.11 Severability.

The terms of this Agreement are severable and any determination by any court or agency having jurisdiction over the subject matter of this Agreement that results in the invalidity of any part shall not affect the remainder of the Agreement.

9.12 Force Majeure.

Except as otherwise specifically provided herein, no Parties shall be considered in default in the performance of any of its obligations under this Agreement, other than obligations to make payments as specified in this Agreement, when there is the occurrence of an event of Force Majeure, as defined below, and the result is a delay or a failure of performance of a Party, and in such case, no Party shall be liable for any loss or damage suffered by any other Party as a result thereof. **Force Majeure**, as used herein, shall mean any conditions affecting a Party in connection with this Agreement, which condition is beyond the reasonable control of the Party, including, without limitation: acts of God, strikes, lockouts, acts of public enemy, war, blockages, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, civil disturbances, or explosions.

9.13 Indemnification.

(a) Each Party retains for itself all legal responsibility for any injuries, claims, or losses arising from or caused by the acts or omissions of its agents or employees acting within the scope of their employment. Nothing in this Agreement shall be construed as an assumption or indemnification by one Party of any legal liability of the other Party. The obligations of the Parties under this provision shall be subject to the limitations set forth in Wis. Stat. § 893.80 and Wis. Stat. § 895.46, and shall survive the expiration or termination of this Agreement.

(b) The County shall retain for itself all legal responsibility for any injuries, claims or losses relating to the Facility or Facility grounds.

(c) Under the Provider Contract, the Provider shall agree to hold the Parties and their medical insurance carriers and/or third party administrators, and all of their partners, harmless in any and all liability claims that may arise from the services provided under the Provider Contract.

9.14 [reserved]

**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the Effective Date.

**WAUKESHA COUNTY, WISCONSIN**

By:

[\_\_\_\_\_]

By:

[\_\_\_\_\_]

**CITY OF WAUKESHA, WAUKESHA  
COUNTY, WISCONSIN**

By:

[\_\_\_\_\_]

By:

[\_\_\_\_\_]



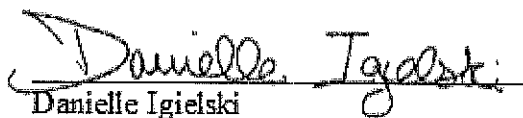
FISCAL NOTE

APPROVE AMENDED AND RESTATED MEDICAL CLINIC INTERGOVERNMENTAL COOPERATION  
AGREEMENT BETWEEN WAUKESHA COUNTY AND THE CITY OF WAUKESHA

This ordinance approves an amended intergovernmental agreement covering the oversight, management, and financial terms of operating a shared on-site medical clinic. The agreement specifies a two-member advisory council to include the County's Director of Administration and the City Administrator. The cost-share basis is as follows: County at 65% and City at 35% in 2022, based on the rolling three-year average of clinic utilization for the three preceding years under the prior agreement, adjusted for the removal of non-continuing party. The cost share will be updated annually for the rolling three-year average utilization. Exceptions to the cost-share arrangement may include programs specifically requested by individual parties and other items that can be billed directly to the parties, subject to advisory council approval.

As part of the transition to a two-party clinic, the 2022 Waukesha County Employee Health Clinic budget will be adjusted to reflect projected patient volume. The Department of Administration will work with the city and the contracted clinic provider to adjust contracted clinic staffing, operations, and clinic provider administrative costs to right-size clinic operations while continuing to provide services focused on reducing health claims costs. The department anticipates that these adjustments will result in minimal impact to the County's clinic budget in 2022.

The term of this intergovernmental agreement is through December 31, 2024, with the option for five two-year renewals.

  
Danielle Igielski  
Accounting Services Manager  
7/30/2021



WAUKESHA COUNTY  
OFFICE OF THE COUNTY EXECUTIVE

MEMO:

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DATE: August 3, 2021  
TO: Chairman Paul Decker  
FROM: Paul Farrow  
RE: Appointment of Citizen Member to the Hartland Library  
Board of Trustees

I am pleased to submit to the County Board for your consideration, the appointment of Ms. Kim Khoury to the Hartland Library Board of Trustees. Ms. Khoury is a resident of the Village of Hartland and has been recommended by Hartland Village Board President, Jeffrey Pfannerstill. Ms. Khoury received her bachelor's degree from Rutgers University and currently serves as the Vice President of Customer Delivery at Henry Schein Multisite. Ms. Khoury states:

*I spent most of my childhood in the library, those memories are fond. With students relying less on libraries as a sole source for accessing information and more for finding a place to be productive; we should reimagine library spaces. Create the library to become an all-in-one space for learning, consuming, sharing, creating, and experiencing. We need outside of the box thinking to create library experiences...*

If appointed, Ms. Khoury's term would fulfill the vacancy due to the resignation of Brianna Rasmussen who left the board effective June 2021. Ms. Khoury's term, if appointed, will expire in July of 2023.

cc: Meg Wartman  
Karol Kennedy

# KIM DIAMOND

VICE PRESIDENT, CUSTOMER DELIVERY

## CONTACT

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Phone: 516-287-1523

Email: [kkhoury31209@icloud.com](mailto:kkhoury31209@icloud.com)

## EDUCATION

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### RUTGERS UNIVERSITY

1996

*Computer Information Systems, Business Administration*

## ACHIEVEMENTS

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007 Top 10% Technology Sales

2008 Top 5% Technology Sales

2009 Top 5% Technology Sales

2010 Top 10% Technology Sales

2011 Top 5% Technology Sales

2012 Top 5% Overall Technology Sales

2012 #1 Cad Cam and Digital Restoration Sales

2013 #1 Business Development Specialist

2013 HSD Center Growth Award Long Island Region

2018 Top Director Achievement Award

2019 Exceeded budget across all categories by 5%

## PROFESSIONAL AFFILIATIONS

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Co-Professor at New York University Dental School

Kaizen Continuous Improvements / Danaher Business System

CEB Executive Training (Challenger Sales)

Miller Heiman Large Account Management Process

WLN (Women s Leadership Network)

Member SCN (Speak Consultant Network)

Member AADOM (American Association Dental Office Managers)

## EXPERIENCE

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7/2020 –  
Present

**Vice President, Customer Delivery**  
*Henry Schein Multisite*

West Allis, WI

Responsible for developing and managing the overall account delivery strategy and operations for the company's U.S. Multisite business (\$800M) accountable for the achievement of target financial objectives (growth, retention, cost) and the development & execution of client partnership strategies. Leads the provision of services for customers across the spectrum from initial on boarding through long-term engagement.

- Strategic business executive who shares ownership for both business strategy and business value results. Owns executive-level relationships and serves as a single point of focus, working to converge strategic objectives to achieve growth and efficiency goals. A primary objective is to break down the silos separating business functions to optimize cohesive organizational effectiveness and jointly determine strategic direction.
- Develop an organizational structure and team to deliver high value customer engagements, services, and solutions that exceed customer expectations.
- Responsible for improving operating income, optimizing P&L, and overall customer financial objectives across the organizations' business units
- Leads multi- cross -functional teams to support the day to day operations of the customers' business throughout the organization
- Oversees regular joint strategic account planning and business reviews (roadmaps, innovation, etc.) and tactical activities (governance, performance objectives, critical milestones) to ensure client needs and expectations are met.
- Proactively and continually assesses, clarifies, and validates short term needs and long-term client objectives. Directs client to solution development efforts to address client needs.
- Work with other commercial leaders to develop customer specific strategies to secure new business and retain existing customers through renewals.
- Lead new customer / affiliation on-boarding team
- Facilitates the meeting of the key leader counterparts to deepen the overall relationship. Involves all resources from sales, operations, to service delivery teams as needed to problem solve, collaborate and/or otherwise ensure client performance objectives and expectations are met. Becomes an expert on the client's business in the context of the overall health care industry. Understands how the client differentiates itself in markets and creates client specific value and how the HS portfolio can support/maximize their differentiation.
- Establish key service level expectations and measures of performance for all Multi Site customers and a subset of measures tailored for specific customer relationships.
- Help define and implement plans to comply with customer specific agreements (e.g., service level agreements).

- Identify, develop, and maintain relevant voice of customer, market, and competitive trends. Use these insights to identify future customer needs.
- Directly and indirectly manage operational and field service delivery for Multi-Site customers.
- Attracts, develops, and retains high performing team members.

**EXPERIENCE** *(continued)*

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7/2020 –  
Present

**Senior Director, Strategic & National Accounts**  
*Henry Schein Special Markets*

**West Allis, WI**

Lead the commercial team efforts with the “Elite Markets” customer business segment in the U.S. representing \$300M+ in top-line revenue.

- Responsible for developing and implementing national based contracts that support sales strategies and objectives across Henry Schein Commercial businesses
- Work collaboratively with Henry Schein Dental leadership and field teams, Henry Schein One teams, Specialty Businesses, and Commercial Development contracting teams to develop and execute contracting plans for key accounts
- Cross-functional team building, leading, coaching, development of contracting strategy, leading negotiations, conducting comprehensive business reviews, positioning of Henry Schein’s value offering, driving revenue, managing contract compliance integrity, and protecting margins
- Manage key account relationships at the senior executive level (C-suite or senior decision maker)
- Responsible for overall account profitability, to include partnering with finance on deal modeling and approval processes, developing and executing account profitability strategies across Segment
- Negotiating agreements, rebate and discount programs, and resource deployment across accounts
- Determine overall direction for strategic accounts, understand competitive landscape, market insights, and effectively communicate across key internal and external stakeholders
- Understand account strategic priorities, direction and needs, to develop strategic sales plans across business units, to ensure effective prioritization and execution
- Expand relationships and build customer insights in order to identify new sales opportunities that will grow revenue, profitability and market share
- Oversee all contracting activity within the account, to include providing leadership and direction for all contract strategies, Request for Proposals (RFP) and locally negotiated agreements. Work with business unit teams on deal modeling and financial approval process, and negotiate and manage all contracts within accounts

- Ensure mutual development of KPI's with account are established, business reviews are conducted to measure and track progress, to attain all customer commitments
- Support ongoing improvement of group strategies, including segmentation and targeting criteria, program and offering development, and organizational effectiveness.
- Coordination of the communication to internal leadership stakeholders on a consistent basis

**EXPERIENCE** *(continued)*

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10/2016 –  
12/2017

**Director, N.A. Dental Group Strategic Initiatives**  
*Henry Schein Inc.*

**Melville, NY**

Lead acquisition and integration for short and long-term strategy development. Provide strategic leadership through facilitating or advising strategy development while demonstrating foresight, conceptual capability and environmental market awareness. Responsible for Core software sales for Henry Schein One led inside sales team.

- Support large-scale cross functional/ divisional projects that incorporate a proactive and innovative solution to addressing business challenges and achieving organizational goals and objectives. Integrates how the big picture of the initiatives comes together from definition through implementation on implications across the business.
- Support development of clear case for change, desired outcomes, accurate scope, clear roles and decision-making
- Counsel leaders to ensure the steps, tracking and expectations are consistent
- Support initiative teams with skills in process excellence, project management, facilitation, problem solving, accelerating transformation and value creation to drive toward required outcomes
- Ensure effective stakeholder engagement and communications.
- Ensure timelines are adhered to for initiatives by keeping executives aware of any red flags concerning the timing or integration process
- Ensure organizational alignment in the design and execution of initiative efforts
- Work with teams to develop One Dental focus with the changing customer configuration within NA, focused on the Elite and Mid-Market Customers
- Leverage Service with our customer base to build a stronger business both in service and supplies
- Enhance Solutions portfolio to our customer base to increase our overall business

2013 –  
2016

**Director, Technology Sales**  
*Henry Schein Inc.*

**West Allis, WI**

Responsible for the overall coordination, functional management and leadership of all the sales activities of the business.

- Led the largest exclusive strategic vendor relationship for Henry Schein Dental (DEXIS Imaging)
- Responsible for sales, category management and brand
- Maintained and managed vendor relationships
- Coordinated with vendors and resolved operational, support, and inventory management
- Strategic planning with vendor partners on quarterly promotions, quarterly buys, and go to market strategies for their brand
- Develop sales strategy to meet sales objectives, increase market share, and strengthen our value proposition, while partnering with and overseeing cross divisional vertical sales

**EXPERIENCE - Director, Technology Sales** *(continued)*

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- Drive sales and operations for our various technology solutions
- Develop and implements strategic marketing plans and sales plans and forecasts to achieve corporate objectives for products and services
- Develop and manage sales/marketing operating budgets
- Responsible for planning and implementing sales, marketing, and product development programs, both short and long range
- Established, Coordinated, and Executed Sales Development for ALL Digital Technology Reps
- Established, Coordinated, and Executed ALL DTS Trainings for New or Existing TSMs
- Work regularly with product managers to develop and recommend product positioning, sales process, packaging, and pricing strategy to produce the highest possible long-term market share
- Achieve satisfactory profit/loss ratio and market share in relation to preset standards and industry and economic trends for a \$200mm P&L
- Ensure effective control of marketing results and takes corrective action to guarantee that achievement of marketing objectives falls within designated budgets
- Oversees and evaluates market research and adjusts marketing strategy to meet changing market and competitive conditions
- Present to Executive Management, competitor products perceived advantages, sales and marketing activities
- Establish and maintains relationships with industry influencers and key strategic partners
- Direct sales forecasting activities and sets performance goals accordingly
- Direct market channel development activity and coordinates sales distribution by establishing sales territories, quotas, and goals
- Represent company at trade association meetings to promote product
- Meet with key clients, assisting sales representative with maintaining relationships and negotiating and closing deals
- Review and analyzes sales performances against programs, quotes and budget





**WAUKESHA COUNTY**  
OFFICE OF THE COUNTY EXECUTIVE

**MEMO:**

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**DATE:** August 3, 2021  
**TO:** Chairman Paul Decker  
**FROM:** Paul Farrow  
**RE:** Appointment of Citizen Member to the Waukesha County ADRC Advisory Board

I am pleased to submit to the County Board for your consideration, the appointment of Ms. Judith Tharman to the Waukesha County ADRC Advisory Board. Ms. Tharman is a long-term resident of Waukesha County and has been recommended by Jeremy Otte of the Wisconsin Parkinson Association and Bradley Colmerauer of the Better Business Bureau in Milwaukee. Ms. Tharman is a retired dietetics instructor and previously served as the Executive Director of the Dairy Council of Wisconsin. Ms. Tharman gives of her time by serving as a Member of the Wisconsin Parkinson Association Caregiver Committee in addition to other organizations. If appointed, Ms. Tharman's term would begin effective August 2021 and would end August of 2024.

cc: Meg Wartman  
Mary Smith

## Kristin Bendlin

---

**From:** Mary Smith  
**Sent:** Friday, July 16, 2021 4:12 PM  
**To:** Kristin Bendlin  
**Subject:** New ADRC Advisory Board member information  
**Attachments:** 2021 Tharman ADRC Advisory Board info.pdf

Hi Kristin, below and attached is information for a new ADRC Advisory Board member. Please let me know if you have any questions. I am in need of board members, so would appreciate this appointment be processed as soon as possible. Please let me know if you have any questions. Thank you so much,  
Mary

Judith Tharman  
[Judth6064@gmail.com](mailto:Judth6064@gmail.com)

### PROFESSIONAL BACKGROUND AND EXPERIENCE

- Taught nutrition and dietetics to nursing students, dietetic interns, and university dietetic students
- Executive Director of the Dairy Council of Wisconsin, the nutrition education arm of the dairy industry
- Executive search placement experience
- Sales and group travel for the travel industry
- Wisconsin lobbying representative to the Academy of Nutrition and Dietetics, president and other offices of the Wisconsin Academy of Nutrition and Dietetics
- Evaluator of dietetic internship and university educational programs for the Academy of Nutrition and Dietetics
- Facilitator for a Wisconsin Parkinson Association support group

### VOLUNTEER EXPERIENCE

- Member of the Wisconsin Parkinson Association Caregiver Committee
- Personal caregiving experience of a loved one
- Coordinate luncheon caregiver and grief group gatherings for a parkinson support group
- Arbitrator for the National Programs Better Business Bureau Autoline

Mary Check Smith  
Manager  
Aging and Disability Resource Center  
Department of Health and Human Services  
Human Services Center  
514 Riverview Avenue  
Waukesha, WI 53188  
Phone: 262-548-7834  
Toll free: 1-866-677-2372  
Fax: 262-896-8275



**WAUKESHA COUNTY**  
OFFICE OF THE COUNTY EXECUTIVE

**MEMO:**

---

**DATE:** August 3, 2021  
**TO:** Chairman Paul Decker  
**FROM:** Paul Farrow  
**RE:** Reappointment of County Representative to the Waukesha County ADRC  
Advisory Board

I am pleased to submit to the County Board for your consideration, the reappointment of Ms. Betty Koepsel to the ADRC Advisory Board. Ms. Koepsel has been serving diligently on the ADRC Advisory Board since 2019. She is a Waukesha County resident with over 40 years of direct healthcare experience. If reappointed, Ms. Koepsel's term will expire in August of 2024.

Thank you for your swift consideration.

**cc:** Meg Wartman  
Mary Smith



WAUKESHA COUNTY  
OFFICE OF THE COUNTY EXECUTIVE

**MEMO:**

---

DATE: August 3, 2021  
TO: Chairman Paul Decker  
FROM: Paul Farrow  
RE: Appointment of County Board Supervisor to the Waukesha County ADRC  
Advisory Board

I am pleased to submit to the County Board for your consideration, the appointment of County Board Supervisor Joel Gaughan to the Aging and Disability Resource Center Advisory Board. Supervisor Gaughan currently serves on both the Health and Human Services Committee as well as the Finance Committee. If appointed, Supervisor Gaughan will serve as a County Board representative to the ADRC Advisory Board, a position previously filled by Supervisor Christine Howard. If appointed, Supervisor Gaughan's term will expire in August of 2023.

cc: Meg Wartman  
Mary Smith



- 46 B. An across the board increase of two point two-five percent (2.25%) will be applied to  
47 the 2020 rates of pay effective January 2, 2021.  
48
- 49 C. Modify the Deputy Sheriff salary range by eliminating the Steps 1, 8 and 9 of the salary  
50 range effective January 1, 2022.  
51
- 52 D. Modify the Detective salary range by eliminating Step 1 of the salary range effective  
53 January 1, 2022.  
54
- 55 E. An across the board increase of two point two-five percent (2.25%) will be applied to  
56 the 2021 rates of pay effective January 1, 2022 for all steps except the top step of the  
57 Deputy Sheriff and Detective salary ranges.  
58
- 59 F. An across the board increase of three point two-five percent (3.25%) will be applied to  
60 the 2021 rates of pay for the top step of the Deputy Sheriff and Detective salary ranges  
61 effective January 1, 2022.

FISCAL NOTE

RATIFICATION OF THE 2020 – 2022 WAUKESHA DEPUTY SHERIFF LABOR  
UNION COLLECTIVE BARGAINING AGREEMENT

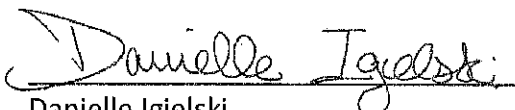
This ordinance authorizes the ratification of a collective bargaining agreement between Waukesha County and Waukesha Deputy Sheriff Labor Union (WDSLUI) for the years 2020-2022. The agreement includes modifications to compensation and classification for deputy sheriffs and detectives, including across-the-board increases of 2.25% retroactive to January 4, 2020 and 2.25% retroactive to January 2, 2021. In addition, effective January 1, 2022, this agreement eliminates steps 1, 8 and 9 for the deputy sheriff positions and eliminates step 1 for the detective positions. Lastly, this ordinance provides a 2.25% across-the-board increase to all represented employees not at their top step as of January 1, 2022. All represented employees at their top step will receive a 3.25% increase effective January 1, 2022.

The fiscal impact of these changes are illustrated below:

| Year                     | 2020             | 2021             | 2022  |                                      |   |                                  | 2022 Total Impact | Total Impact     |
|--------------------------|------------------|------------------|---|--------------------------------------|---|----------------------------------|-------------------|------------------|
|                          | (A)<br>2.25% ATB | (B)<br>2.25% ATB | (C)<br>Deputy Sheriff<br>Eliminate Steps 1,<br>8, 9 | (D)<br>Detective<br>Eliminate Step 1 | (E)<br>2.25% ATB<br>Excluding Top<br>Step | (F)<br>3.25% ATB for<br>Top Step |                   |                  |
| Earnings                 | 255,431          | 261,178          | 18,550  | 6,868                                | 120,401                                   | 212,458                          | 358,277           |                  |
| Employer Social Security | 19,540           | 19,980           | 1,419   | 525                                  | 9,211                                     | 16,253                           | 27,408            |                  |
| Employer Share of WRS    | 29,988           | 30,923           | 2,233   | 827                                  | 14,496                                    | 25,580                           | 43,136            |                  |
| Subtotal                 | <b>304,959</b>   | <b>312,081</b>   | <b>22,202</b>                                       | <b>8,220</b>                         | <b>144,108</b>                            | <b>254,291</b>                   | <b>428,821</b>    |                  |
| Prior Year Impact        |                  | <b>304,959</b>   |   |                                      |   |                                  | <b>617,040</b>    |                  |
| Cumulative Impact        | <b>304,959</b>   | <b>617,040</b>   |   |                                      |   |                                  | <b>1,045,861</b>  | <b>1,967,860</b> |

The total three-year impact to employee wages of \$1.97 million is spread over approximately 150 represented employees over a three year period.

An estimate of the 2020 impact was accrued from 2020. The 2021 adopted budget included sufficient funding for these changes, and the 2022 proposed budget will include sufficient funding to cover the 2022 impact of this agreement.



Danielle Igielski  
Accounting Services Manager  
7/30/2021

1                   APPROVE COMPROMISE SETTLEMENT FOR WORKER'S COMPENSATION  
2                   CASE ENTITLED RICHARD SHANKS VS. COUNTY OF WAUKESHA  
3  
4

5   WHEREAS, an employee of the Waukesha County Department of Public Works has filed a  
6   Worker's Compensation claim against Waukesha County for injuries allegedly occurring while  
7   employed with Waukesha County; and  
8

9   WHEREAS, the continuation of the litigation possesses substantial risk to both sides of the  
10   litigation and both sides will continue to incur significant additional expenses without a  
11   settlement; and  
12

13   WHEREAS, the employee has expressed a willingness to enter into a settlement agreement  
14   which is on file in the Corporation Counsel's office pending approval by the County Board and  
15   which has been shared in closed session with the County Board; and  
16

17   WHEREAS, it has been determined that settlement of these issues at this time is in the best  
18   interest of Waukesha County.  
19

20   THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the  
21   settlement agreement on file with the Corporation Counsel and previously shared with the  
22   Board in the Worker's Compensation case entitled Richard Shanks vs. County of Waukesha is  
23   hereby approved.