

ENROLLED ORDINANCE 167-75

APPROVE LAND USE PERMIT AND PERMANENT LIMITED EASEMENT FOR
THE WISCONSIN DEPARTMENT OF TRANSPORTATION TO CONSTRUCT,
OPERATE, REPAIR AND MAINTAIN A BOX CULVERT
BETWEEN STH 164 AND THE FOX RIVER

WHEREAS it is deemed desirable to allow the Wisconsin Department of Transportation to construct, operate, repair and maintain an eight (8) foot wide box culvert within a thirty (30) foot wide Permanent Limited Easement on Waukesha County's land for the purpose of allowing improved drainage from the properties east of S.T.H. 164 to the Fox River, and

WHEREAS it is deemed desirable to grant the Wisconsin Department of Transportation a Temporary Construction Easement on Waukesha County's land for the purpose of constructing the box culvert, and

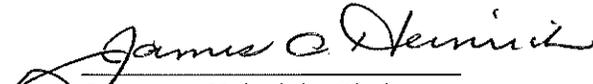
WHEREAS the County has entered into a certain Memorandum of Agreement dated as of December 21, 2010 with the Wisconsin Department of Transportation and certain surrounding property owners wherein the Wisconsin Department of Transportation has agreed to fund the project through right-of-way plat development and to fund the construction of the project, to a maximum of \$500,000, said amount estimated as being sufficient to fully fund the construction.

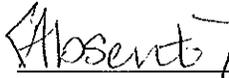
WHEREAS in the consideration of said premises, the Wisconsin Department of Transportation shall pay no fee.

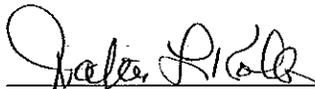
THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the Permanent Limited Easement and the Land Use Permit between the Wisconsin Department of Transportation and Waukesha County, which are on file in the Office of the County Clerk, are hereby approved, and the Director of the Department of Parks and Land Use is authorized to execute both documents.

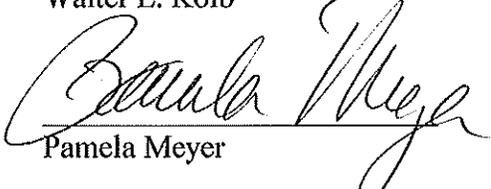
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BETWEEN STH 164 AND THE FOX RIVER

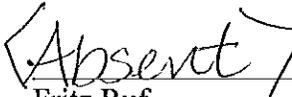
Presented by:
Land Use, Parks, and Environment Committee


James A. Heinrich, Chair

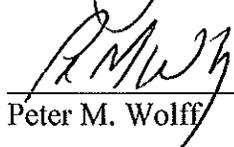

Jim Batzko


Walter L. Kolb

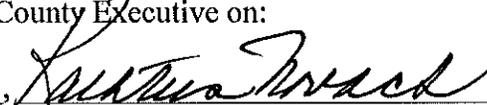

Pamela Meyer


Fritz Ruf


Thomas J. Schellinger


Peter M. Wolff

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: 2/26/2013, 
Kathy Nickolaus, County Clerk
KATHLEEN NOVACK

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:

Approved: X
Vetoed: _____
Date: 3-11-13, 
Daniel P. Vrakas, County Executive

LAND USE PERMIT
Wisconsin Department of Transportation
Town of Vernon, NW ¼ of SE ¼ Section 25, T5N R18E
Culvert Installation

This Land Use Permit is made between Waukesha County (hereinafter "Owner"), and State of Wisconsin Department of Transportation (hereinafter "WisDOT") and its agents for purposes of constructing a culvert on Waukesha County land.

PROPERTY DESCRIPTION:

See attached Exhibit A showing the Temporary Construction Easement and Exhibit B showing the Permanent Limited Easement containing the culvert.

PURPOSE OF LAND USE PERMIT:

This Land Use Permit confirms WisDOT's and its agent's authority to place and construct a storm water culvert on Owner's property. The culvert installation is in conjunction with landowners east of Hwy 164 to improve storm water drainage from their properties. The culvert shall remain in place pursuant to the Permanent Limited Easement granted to WisDOT by Owner and as shown on Exhibit B.

TERMS:

1. The Owner does hereby issue this permit to WisDOT, regarding the construction of WisDOT culvert facilities within the Temporary Construction Easement shown in Exhibit A and with the culvert residing in the Permanent Limited Easement shown in Exhibit B in accordance with a set of plans approved in writing by Waukesha County. The WisDOT shall record the Permanent Limited Easement with the Register of Deeds.
2. Insurance. WisDOT employees are indemnified for their liability under state law pursuant to the terms of Wis. Stats. §§893.82 and 895.46. WisDOT represents that individuals that are WisDOT employees assigned to this project and insurable under §§893.82 and 895.46 are employees or agents entitled to the liability and indemnity protections under those sections. Prior to entering the subject property pursuant to this Permit, WisDOT's contractors and subcontractors shall have in force and effect the insurance policies as outlined in Exhibit C issued by a company or companies authorized to do business in the State of Wisconsin and satisfactory to the Owner. Such insurance shall be primary. WisDOT will provide the Owner with a list of all contractors and subcontractors that will be entering the subject property prior to the initial entry for the site investigation. Prior to initially entering the subject property, each contractor and subcontractor shall furnish the Owner with a Certificate of Insurance and upon request, certified copies of the required insurance policies. The Owner, its boards, commissions, agencies, officers, employees and representatives shall be named as additional insureds and so stated on the Certificate of Insurance. The Certificate shall be renewed annually prior to each policy expiration date for any contractors or subcontractors planning to enter the subject property pursuant to this Permit during the term of the Permit for as long as the construction period. The Owner shall be given at least thirty (30) days advance notice of cancellation, non-renewal or material reduction of coverages, scope or limits during the term of this Permit. It is understood that the specified coverages in no way limits the liability of WisDOT's contractors or subcontractors that will enter the subject property pursuant to this Permit.
3. WisDOT shall comply with Section 30.2022 of the Wisconsin Statutes and Chapter Trans 401 of the Wisconsin Administrative Code, and all activities on the subject property shall be accomplished in accordance with the interdepartmental liaison procedures established by WisDOT and the Wisconsin Department of Natural Resources.
4. WisDOT and its agents shall have the right of access upon the premises for the purposes of exercising the rights herein acquired, and WisDOT shall promptly restore the premises to the condition existing prior to the entry by WisDOT or its agents. The restoration shall not apply to any trees or brush which may be permitted to be removed pursuant to the rights granted herein. Owner shall file a claim with WisDOT regarding any damage alleged as caused by it or its agents to any of Owner's fences, parking lots, trail improvements, signs, entrance gates, park improvements, or any other fixtures or facilities of the Owner and for the unauthorized removal of trees. WisDOT will process and respond to such claims as allowed and required under law.

5. The WisDOT is given the right to trim, cut down and remove trees and brush within the construction easement. Proper care shall be maintained to preserve the health of the Oak and American Elm trees within or near the zone, as detailed on Exhibit A.
6. Term of Permit: WisDOT shall have and hold this Land Use Permit for a term of one (1) year, commencing on the date on which the Owner executes this document. This Land Use Permit is renewable by the Director of the Department of Parks and Land Use for one additional one (1) year period. Any renewal thereafter must be approved by the Waukesha County Board of Supervisors.
7. The Owner reserves the right to revoke this Land Use Permit for cause. However, prior to any revocation, Owner shall give written notice to WisDOT and WisDOT shall thereafter have sixty (60) days to remedy any breach and bring its use of the land into compliance with this permit.
8. All notices to the Owner shall be sent by certified mail addressed to the Land Resources Manager, Waukesha County Department of Parks and Land Use, Park System Division, 515 Moreland Blvd, Room AC-230, Waukesha, Wisconsin 53188.

IN WITNESS WHEREOF, the Owner has caused this Land Use Permit to be approved by the Waukesha County Board of Supervisors and signed by the Director of the Department of Parks and Land Use as evidenced below.

COUNTY OF WAUKESHA

Date: _____

By _____
 Dale R. Shaver
 Director
 Waukesha County Parks and Land Use

This Land Use Permit is accepted by the WisDOT by the signature of its authorized officers this _____ day of _____, 2013.

By _____
 (Title) _____
 Wisconsin Department of Transportation

Exhibit A

Temporary Construction Easement

Note: Easement is between the two red lines on the attached map

Exhibit B

Permanent Limited Easement

PERMANENT LIMITED EASEMENT

Wisconsin Department of Transportation
Exempt from fees s.77.23(2) Wis. Stats.
DT1552 4/2005 (Replaces RE3643) Ch. 84 Wis. Stats.

THIS EASEMENT, made by Waukesha County GRANTOR, conveys a permanent limited easement as described below to the State of Wisconsin, Department of Transportation, GRANTEE, for the sum of One Dollar or other Valuable Consideration (\$ 1.00) for the purpose of a Drainage Facility as indicated on Legal Description "Parcel 1 Project 2010-02-01" attached and made a part here-of by reference.

Any person named in this conveyance may make an appeal from the amount of compensation within six months after the date of recording of this conveyance as set forth in s.32.05(2n) Wisconsin Statutes. For the purpose of any such appeal, the amount of compensation stated on the conveyance shall be treated as the award, and the date the conveyance is recorded shall be treated as the date of taking and the date of evaluation.

Other persons having an interest of record in the property:

LEGAL DESCRIPTION IS ATTACHED AND MADE A PART OF THIS DOCUMENT BY REFERENCE.

This space is reserved for recording data

Return to

Wisconsin Department of Transportation
141 NW Barstow Street,
Waukesha, WI 53187-0790
Traci Gengler

Parcel Identification Number/Tax Key Number

VNT 2116997001

(Signature)

(Print Name)

(Signature)

(Print Name)

(Date)
State of _____ County } ss.
On the above date, this instrument was acknowledged before me by the named person(s).

(Signature, Notary Public, State of Wisconsin)

(Print or Type Name, Notary Public, State of Wisconsin)

(Not a Commission Expires)

This instrument was drafted by Wisconsin Department of Transportation

PERMANENT LIMITED EASEMENT

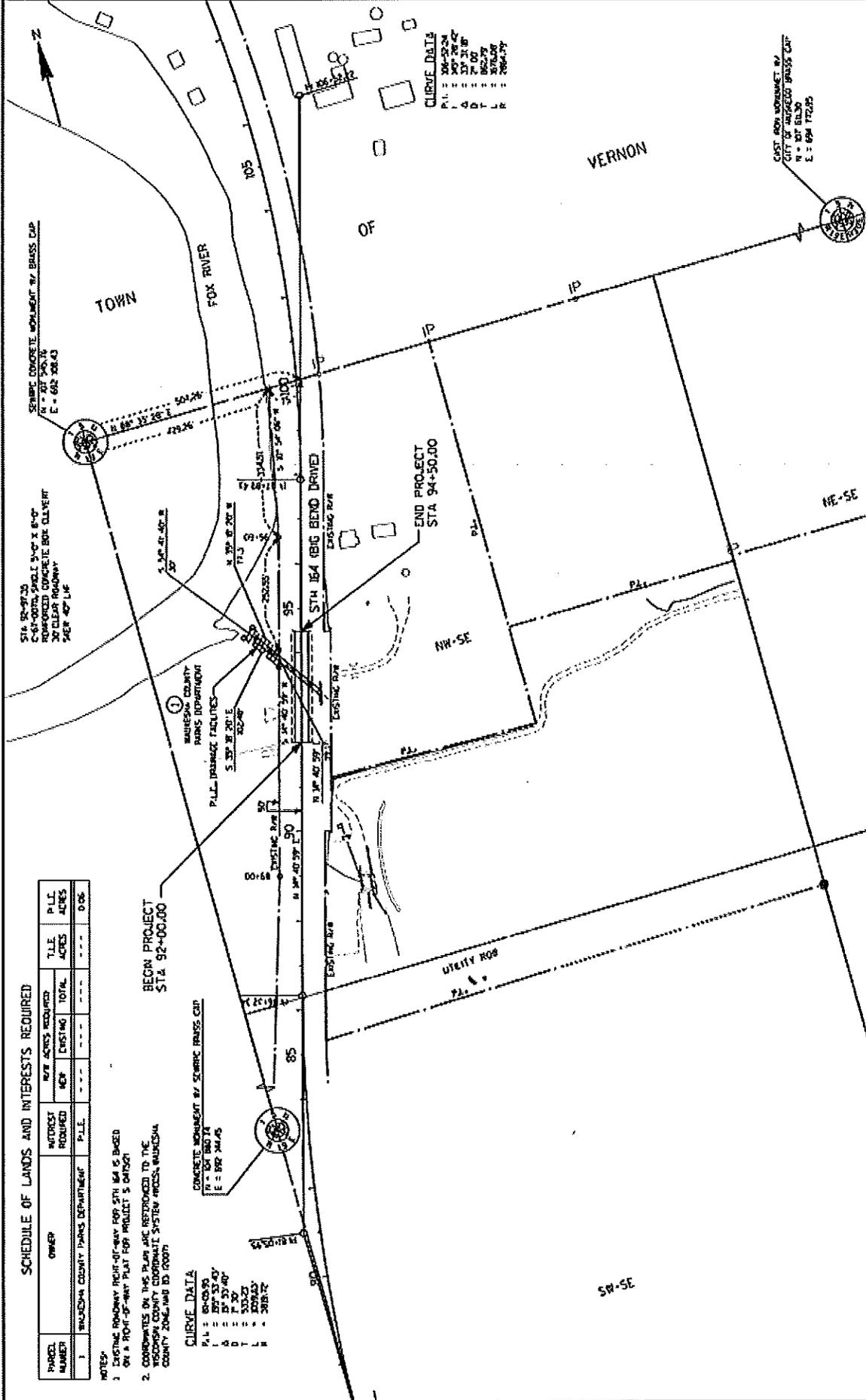
PARCEL 1

WisDOT Project 2810-02-01

A **Permanent Limited Easement** for the right to construct and maintain a drainage facility, a box culvert designed to convey runoff from a 300-acre drainage area east of STH 164, mitigating flooding on properties east of STH 164, including for such purpose the right to operate the necessary equipment thereon and the right of ingress and egress as long as required for such public purpose, including the right to preserve, protect, remove or plant thereon any vegetation that the highway authorities may deem necessary to desirable, but without prejudice to the owner's right to make or construct improvements on said lands or to flatten the slopes, providing said activities will not impair or otherwise adversely affect the highway facilities within the right of way, in and to the following tract of land in Waukesha County, State of Wisconsin, described as that part of the Northwest ¼ of the Southeast ¼ of Section 25, Township 5 North, Range 19 East, described as follows:

Beginning at the Center of said Section 25; thence North 88° 35' 28" East, 429.26' along the North line of said Southeast ¼ to the westerly right-of-way line of STH 164; thence South 10° 54' 06" West, 334.51 feet along the westerly right-of-way line of STH 164; thence South 14° 40' 59" West, 252.55' along the westerly right-of-way line of STH 164 being the point of beginning; thence North 35° 18' 20" West, 77.30'; thence South 54° 41' 40" West, 30.00'; thence South 35° 18' 20" East, 102.48 feet to the westerly right-of-way line of STH 164; thence North 14° 40' 59" East, 39.17 feet along the westerly right-of-way line of STH 164 to the point of beginning.

Said parcel contains 0.06 acres, more or less.



SCHEDULE OF LANDS AND INTERESTS REQUIRED

PARCEL NUMBER	OWNER	ACRES REQUIRED	NET ACRES REQUIRED		P.L.L. ACRES	TOTAL ACRES	P.L.L. ACRES
			NEW	EXISTING			
1	WISCONSIN COUNTY PARKS DEPARTMENT	P.L.L.					0.08

- NOTES:**
- EXISTING HIGHWAY RIGHT-OF-WAY FOR STN 164 IS BASED ON A 100 FT 30'-WAY PLAT FOR PROJECT 5 640201
 - COORDINATES ON THIS PLAN ARE RETROCKED TO THE WISCONSIN COUNTY COORDINATE SYSTEM AREA, WALKESHA COUNTY ZONE, AND IS 1000'

CONCRETE MONUMENT BY SCARPIC BRASS CAP
 N = 87° 53' 47"
 E = 89° 34' 45"

CURVE DATA
 P.L. = 88-03-59
 L = 29° 33' 47"
 R = 2000.00'
 T = 333.23
 L = 2099.62
 M = 2818.72

CURVE DATA
 P.L. = 88-03-24
 L = 29° 33' 47"
 R = 2000.00'
 T = 333.23
 L = 2099.62
 M = 2818.72

CAST BRASS MONUMENT BY CAST BRASS BRASS CAP
 N = 87° 53' 47"
 E = 89° 34' 45"

PROJECT NO: 2610-02-71 HWY: STH 164 COUNTY: WALKESHA PROJECT OVERVIEW SHEET E

PLAT NAME: P 101 164 02 71 PLAT DATE: 8-20-2022 PLAT SCALE: 100 000 1/1 20' WSP007-CAD005-SHEET 43

Exhibit C

Contractor/Subcontractor Insurance Requirements

Standard Insurance Requirements

Any WisDOT contractor or subcontractor shall maintain the following types and limits of commercial insurance in force until such time as all work under or incidental to the Land Use Permit has been completed by the contractor/subcontractor and accepted by WisDOT:

Type of Insurance Minimum Limits Required

1. Commercial General Liability Insurance;

shall be endorsed to include blanket contractual liability coverage.

\$2 Million Combined Single Limits per Occurrence; may be subject to an Annual Aggregate Limit of not less than \$4 Million.

2. Workers' Compensation and Employers' Liability Insurance.

Workers' Compensation--Statutory

Limits Employers' Liability:

Bodily Injury by Accident:

\$100,000 Each Accident

Bodily Injury by Disease:

\$500,000 Each Accident

\$100,000 Each Employee

3. Commercial Automobile Liability Insurance;

shall cover all contractor-owned, non-owned, and hired vehicles used in carrying out the contract.

\$1 Million-Combined Single Limits Per Occurrence.

The above insurance requirements shall apply with equal force whether the work under the project is performed by the contractor, by a subcontractor or by anyone directly or indirectly employed by either of them.

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-02/26/13

(ORD) NUMBER-1670075

1 C. SLATTERY.....AYE
 3 R. MORRIS.....AYE
 5 J. BRANDTJEN.....AYE
 7 J. GRANT.....AYE
 9 J. HEINRICH.....AYE
 11 F. RUF.....
 13 P. DECKER.....AYE
 15 W. KOLB.....AYE
 17 D. PAULSON.....AYE
 19 C. CUMMINGS.....
 21 W. ZABOROWSKI.....AYE
 23 K. HAMMITT.....AYE
 25 G. YERKE.....

2 D. FALSTAD.....AYE
 4 J. BATZKO.....AYE
 6 J. JESKEWITZ.....AYE
 8 P. HAUKOHL.....AYE
 10 D. SWAN.....AYE
 12 P. WOLFF.....AYE
 14 P. MEYER.....
 16 M. CROWLEY.....AYE
 18 L. NELSON.....AYE
 20 T. SCHELLINGER....AYE
 22 P. JASKE.....AYE
 24 D. DRAEGER.....AYE

TOTAL AYES-21

TOTAL NAYS-00

CARRIED _____

DEFEATED _____

UNANIMOUS X

TOTAL VOTES-21