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reports.



Common Council  
Chambers  
8640 S. Howell Ave.  
PO Box 27  
Oak Creek, WI 53154  
(414) 768-6500

## COMMON COUNCIL MEETING AGENDA

TUESDAY, JANUARY 7, 2014  
AT 7:00 P.M.

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COUNCIL MEETINGS CAN BE SEEN LIVE ON GOVERNMENT ACCESS CHANNELS 25 AND 99

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1. Call Meeting to Order / Roll Call
2. Pledge of Allegiance
3. Approval of Minutes: 12/17/13

### Public Hearings (beginning at 7:00 p.m.)

*Citizen input, comments and suggestions are requested on the specific item(s) identified below. Action by the Council may occur at the same meeting if so included in the agenda.*

4. **Street Vacation:** Consider a proposed street vacation and discontinuation of a portion of a public street right-of-way in the City of Oak Creek (Glen Oaks Drive) (held 11/19/13) (5<sup>th</sup> District).
5. **Resolution:** Consider Resolution No. 11434-111913, vacating and discontinuing a part of a public street in the City of Oak Creek (Glen Oaks Drive in the NE and SE ¼ of Section 32-5-22). (5<sup>th</sup> District).
6. **Conditional Use Permit:** Consider a conditional use permit amendment submitted by Steve Kaukl, Woodman's Food Market, Inc. for the hours of operation of the existing gasoline service station located at 8151 S. Howell Ave. (2<sup>nd</sup> District).
7. **Ordinance:** Consider Ordinance No. 2702, amending Ordinance No. 2383 to allow the operation of gas pumps 24 hours per day on property located at 8151 South Howell Ave. (by Committee of the Whole)(2<sup>nd</sup> District).

### New Business

### MAYOR & COMMON COUNCIL

8. **Motion:** Consider a motion to concur with the Personnel Committee's recommendation to waive 25% employee premium contribution for life insurance for previously represented Clerk-Matron's and meet-and-confer Sergeants (by Committee of the Whole).

9. **Motion:** Consider a *motion* to concur with the Personnel Committee's recommendation to eliminate the option for regular part-time employees to participate in the City's Section 125 plan (by Committee of the Whole).
10. **Resolution:** Consider *Resolution* No. 11448-010714, an initial Resolution regarding Industrial Development Revenue Bond financing for Suzy's Cream Cheesecakes, Inc. Information with respect to the job impact of the project will be available at the time of consideration of the Initial Resolution. (by Committee of the Whole).
11. **Resolution:** Consider *Resolution* No. 11449-010714 to amend Resolution No. 11442-121713 to add territory to Tax Increment Financing District No. 11 and to amend the Project Plan for Tax Increment District No.11.
12. **Motion:** Consider a *motion* to approve the 2013 Vendor Summary Report in the amount of \$366,812.99 and 2014 Vendor Summary Report in the amount of \$108,766.61, for a total of all claims of \$475,579.60. (by Committee of the Whole).
13. **Ordinance:** Consider *Ordinance* No. 2704, Repealing and Recreating Section 11.20(f) and to Create Section 11.20(g)(2) of the Oak Creek Municipal Code Regarding Regulation of Bow and Arrow and Crossbow Hunting (by Committee of the Whole).
14. **Ordinance:** Consider *Ordinance* No. 2703, amending Ordinance #2700 fixing the salary ranges, salary, wages and allowances for non-union general management personnel and other city offices and positions for the year 2014. Also establishing the Battalion Chief position as exempt (by Committee of the Whole).

## **ENGINEERING**

15. **Motion:** Consider a *motion* to approve the purchase of a Color Series large format plotter/scanner/copier from West Allis Blueprint in the amount of \$7,895.00 (CEP accounts 4013000370 and 4013000170).
16. **Motion:** Consider a *motion* to approve a contract amendment with Strand Associates Inc. for additional design services for South 5<sup>th</sup> Avenue Relocation, not to exceed \$21,878.13. (Project No. 12026) (4<sup>th</sup> Aldermanic District).
17. **Motion:** Consider a *motion* to direct the Engineering Department on a preferred S. 5<sup>th</sup> Avenue/E. Ryan Road intersection type for the S. 5<sup>th</sup> Avenue Relocation Project (Project No. 12026) (4<sup>th</sup> Aldermanic District).

## **LICENSE COMMITTEE**

The License Committee did not meet prior to the 1/7/14 meeting. Tentative recommendations are being made as follows:

18. **Motion:** Consider a *motion* to grant an Operator's license to the following (*favorable background report received*):
  - John Mitchell, 2111 W. Oakwood Road, Oak Creek (Kwik Trip)
19. **Motion:** Consider a *motion* to grant 2014 Landfill licenses to (department approvals received):

- Mark Nicholson, Apple Tower Development, Inc., 8380, 8400 & 8432 S. 27<sup>th</sup> St. & 8351 S. 20<sup>th</sup> St.
- Elizabeth J. Kopplin, 6931 S. Howell Ave., Oak Creek
- Phillip Purpero, C.W. Purpero, Inc., 813 W. College Ave., Oak Creek

## **MISCELLANEOUS**

20. **Motion:** Consider a *motion* to convene in to Closed Session immediately following the conclusion of the Common Council meeting pursuant to Wisconsin State Statutes to discuss the following:
  - a. Section 19.85 (1)(e) to discuss the terms of a development agreement, including a TIF incentive grant, for Oakview Business Park.
21. **Motion:** Consider a *motion* to reconvene into Open Session.
22. **Motion:** Consider a *motion* to take action, if required.

## ***Adjournment.***

### **Public Notice**

Upon reasonable notice, a good faith effort will be made to accommodate the needs of disabled individuals through sign language interpreters or other auxiliary aid at no cost to the individual to participate in public meetings. Due to the difficulty in finding interpreters, requests should be made as far in advance as possible preferably a minimum of 48 hours. For additional information or to request this service, contact the Oak Creek City Clerk at 768-6511, (FAX) 768-9587, (TDD) 768-6513 or by writing to the ADA Coordinator at the Health Department, City Hall, 8640 S. Howell Avenue, Oak Creek, Wisconsin 53154.

It is possible that members of and possibly a quorum of members of other governmental bodies of the municipality may be in attendance at the above-stated meeting to gather information; no action will be taken by any governmental body at the above-stated meeting other than the governmental body specifically referred to above in this notice

# City of Oak Creek Common Council Report

**Meeting Date:** January 7, 2014

**Item No.:** 4

**Recommendation:** That the Council adopt Resolution No. 11434-111913 vacating a portion of the Glen Oaks Drive right-of-way.

**Background:** The City is requesting that the Glen Oaks Drive right-of-way, beginning at the intersection with S. Howell Ave., be vacated. This request was reviewed by the Plan Commission in July 2009 following the City's purchase and subsequent sale of property that is being developed as OakView Business Park. As part of the closing agreement for the sale of the property, the City agreed to vacate this right-of-way.

Once vacated, the land will be owned by Wispark, since they own the land on both sides of the right-of-way. There is an existing water main in this right-of-way that comes from S. Howell Avenue, along Glen Oaks Drive, and then north to W. Oakwood Road in an easement. This water main will remain in an easement after the right-of-way is vacated per Wisconsin State Statutes Section 66.1005, which stipulates that all easements and structures existing in vacated streets remain after vacation and all rights of entrance, maintenance, construction and repair shall continue as if such public way had not been vacated.

The Plan Commission reviewed this request on July 14, 2009 and recommends its approval.

This resolution was previously introduced at the November 19, 2013 meeting, and held to allow for publication and a public hearing.

**Fiscal Impact:** This vacation will return the right of way to private ownership, will allow for the use of a vacant site with the resulting increase in non-residential tax base. Additionally, Police and Fire impact fees for non-residential development are currently assessed at \$0.30/square foot and \$0.13/square foot respectively.

Prepared by:



Doug Seymour, AICP  
Director of Community Development

Respectfully Submitted,



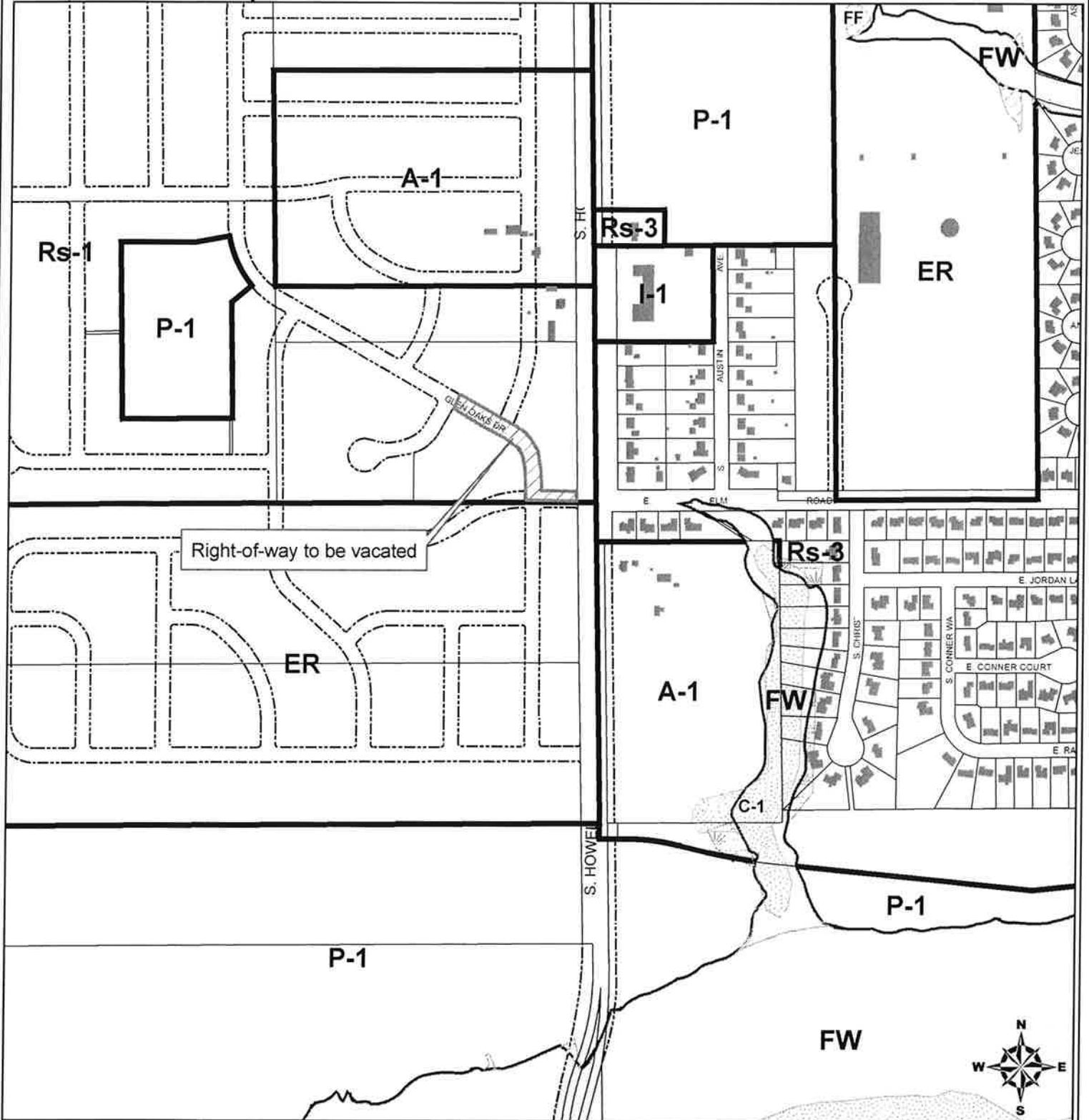
Gerald Peterson, ICMA-CM  
City Administrator

Fiscal Review by:

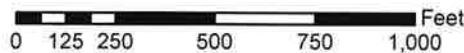


Bridget M. Souffrant, CMTW  
Finance Director/Comptroller

**Glen Oaks Drive Right-of-way vacation  
Section 32  
Location Map**





**OAKCREEK**  
— WISCONSIN —



Department of Community Development

**Legend**

-  Parcels
-  Existing Street Pattern

RESOLUTION NO. 11434-111913

RESOLUTION VACATING AND DISCONTINUING A PART OF A  
PUBLIC STREET IN THE CITY OF OAK CREEK  
(Glen Oaks Drive in the NE and SE ¼ of Section 32-5-22)  
(5<sup>th</sup> Aldermanic District)

WHEREAS the public interest requires that a part of a public street in the City of Oak Creek, Milwaukee County, Wisconsin, be discontinued and vacated, the legal description of the street being:

Commencing at the Northeast corner of the Southeast ¼ of Section 32, thence S 89°36'06" W along the North line of the Southeast ¼ aforesaid 75.01 feet to the point of beginning of the lands to be described,

Thence S 89°36'09" W, 215.99 feet to a point,

Thence N 01°07'15" W, 133.78 feet to a point,

Thence Northwesterly 151.62 feet along the arc of a curve, whose center lies to the Southwest, whose radius is 146.55 feet and whose chord bears N 30°45'32" W 144.94 feet to a point,

Thence N 60°23'50" W, 255.00 feet to a point,

Thence N 29°36'10" E, 66.00 feet to a point,

Thence S 60°23'50" E, 255.00 feet to a point,

Thence Southeasterly 219.90 feet along the arc of a curve, whose center lies to the Southwest, whose radius is 212.55 feet and whose chord bears S 30°45'32" E 210.22 feet to a point,

Thence S 01°07'15" E, 53.80 feet to a point,

Thence Southeasterly 23.37 feet along the arc of a curve, whose center lies to the Northeast, whose radius is 15.00 feet and whose chord bears S 45°45'33" E 21.08 feet to a point,

Thence N 89°36'09" E, 135.19 feet to a point,

Thence S 01°06'00" E, 66.00 feet to the point of beginning.

provided that pursuant to Section 66.1005 Wis. Stats. such vacation shall not terminate the easements acquired and the rights of the public in any of the underground structures, improvements or services as enumerated or otherwise existing in said public way and in said description of lands hereinbefore described, but such easements and rights and all rights of entrance, maintenance, construction and repair with reference thereto shall continue as if such public way had not been vacated.

and,

WHEREAS it appears that this resolution was introduced before the Common Council of the City of Oak Creek pursuant to Wis. Stats. Sec. 66.1003(4)(a) on November 19, 2013 and a Notice of Public Hearing was published in the Oak Creek NOW, the official City newspaper on November 28, 2013, December 5, 2013 and December 12, 2013, that a copy of said Notice was duly served on the following property owners in accordance with Wisconsin State Statutes:

OWNER

Wispark, LLC

PROPERTY ADDRESS

10711 S. Howell Ave., Oak Creek, WI 53154

(Mailing address: 301 W. Wisconsin Ave., Ste. 400, Milwaukee, WI 53203)

and it further appears that no sufficient written objection to said discontinuance and vacation was filed with the City Clerk; and it appears that a public hearing was held before the Common Council of the City of Oak Creek on the 7<sup>th</sup> day of January, 2014, at 7:00 p.m.; and

WHEREAS, A Notice of Pendency of Application to Vacate in the above matter was filed with the Register of Deeds for Milwaukee County, Wisconsin on the 18th day of November, 2013 and a report was received by the Plan Commission, all as required by law, and

NOW THEREFORE, in accordance with the authority vested in the Common Council by Section 66.1003(4)(a) of the Wisconsin Statutes,

BE IT RESOLVED by the Common Council of the City of Oak Creek that the following public street legally described as:

Commencing at the Northeast corner of the Southeast  $\frac{1}{4}$  of Section 32, thence S 89°36'06" W along the North line of the Southeast  $\frac{1}{4}$  aforesaid 75.01 feet to the point of beginning of the lands to be described,

Thence S 89°36'09" W, 215.99 feet to a point,

Thence N 01°07'15" W, 133.78 feet to a point,

Thence Northwesterly 151.62 feet along the arc of a curve, whose center lies to the Southwest, whose radius is 146.55 feet and whose chord bears N 30°45'32" W 144.94 feet to a point,

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provided that pursuant to Section 66.1005 Wis. Stats. such vacation shall not terminate the easements acquired and the rights of the public in any of the underground structures, improvements or services as enumerated or otherwise existing in said public way and in said description of lands hereinbefore described, but such easements and rights and all rights of entrance, maintenance, construction and repair with reference thereto shall continue as if such public way had not been vacated.

be and the same are hereby discontinued and vacated.

Introduced at a regular meeting of the Common Council of the City of Oak Creek held the 19th day of November, 2013.

Passed and adopted this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
President, Common Council

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

ATTEST:

\_\_\_\_\_

Mayor

\_\_\_\_\_

City Clerk

VOTE: Ayes \_\_\_\_\_ Noes \_\_\_\_\_



# City of Oak Creek Common Council Report

**Meeting Date:** January 7, 2014

**Item No.:** 5

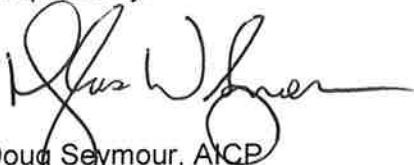
**Recommendation:** That the Council adopt Ordinance No. 2702 amending Ordinance No. 2383 to allow the operation of gas pumps 24 hours per day on property located at 8151 S. Howell Ave.

**Background:** On December 20, 2006, the Common Council adopted Ordinance 2383, approving the conditional use and corresponding conditions and restrictions for a gasoline service station, oil lube center, and car wash for the Woodman's property at 8151 S. Howell Ave. Within the adopted conditions and restrictions was a limitation on the hours of operation for the gasoline service station (7:00 AM to 9:00 PM seven days/week). Woodman's has requested approval to amend the existing conditional use permit to allow the gas station to remain open 24 hours/day, 7 days/week. An attendant(s) would continue to staff the station between 7:00 AM and 7:00 PM. After 7:00 PM customers will be allowed to pay at the pump. The pumps are set up to accommodate 24-hour service and no other changes to the site are proposed with the request.

The Plan Commission has reviewed the proposed amendment, and has recommended that the amendment be approved. A copy of the revised conditions and restrictions with the amendment is included with this report.

**Fiscal Impact:** There is no fiscal impact associated with this change.

Prepared by:



Doug Seymour, AICP  
Director of Community Development

Respectfully Submitted,



Gerald Peterson, ICMA-CM  
City Administrator

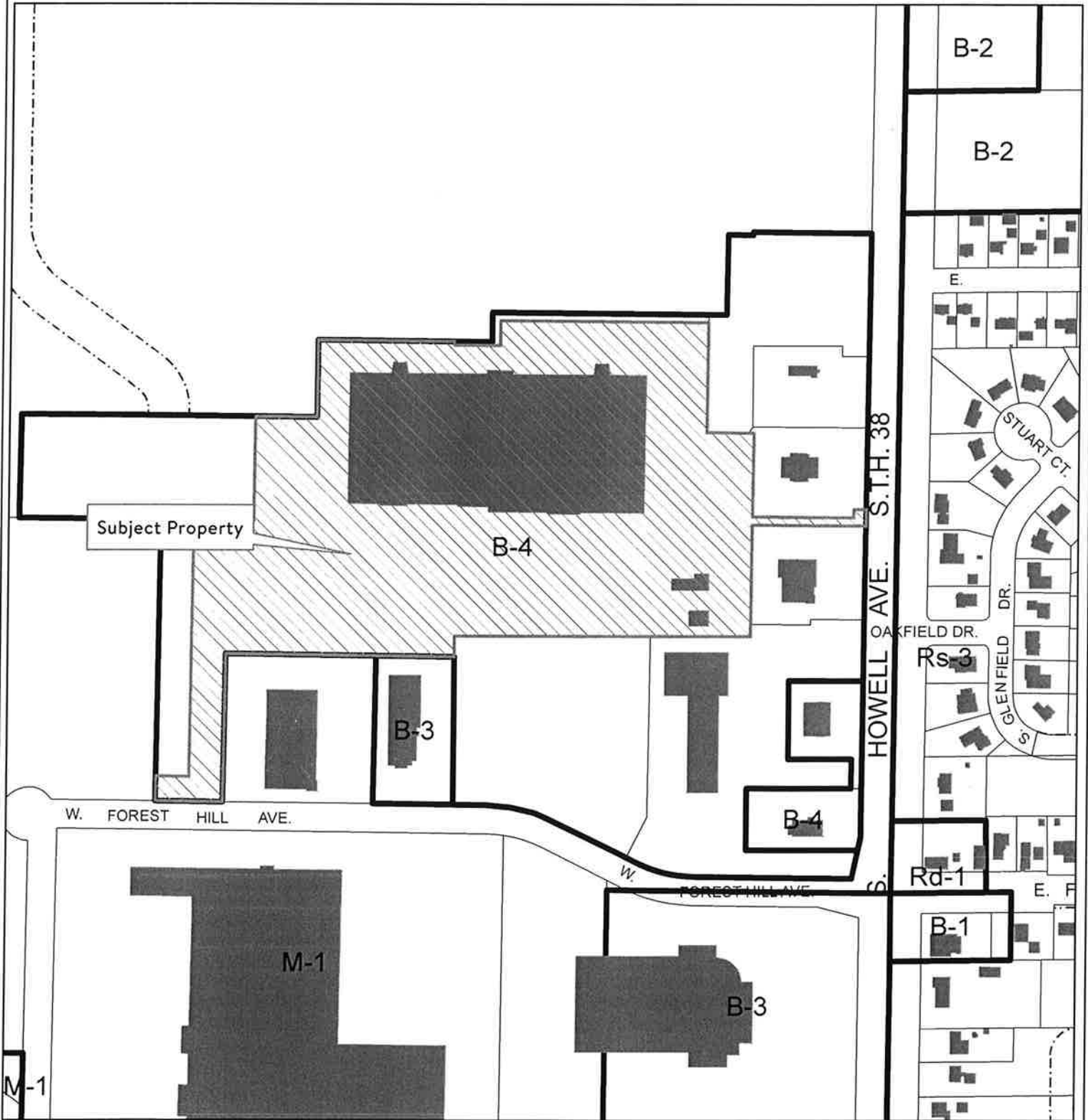
Fiscal Review by:



Bridget M. Souffrant  
Finance Director / Comptroller

# Location Map

## 8151 S. Howell Ave.


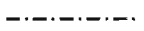


**OAKCREEK**  
— WISCONSIN —

Department of Community Development



### Legend

-  8151 S. Howell Ave.
-  Existing Street Pattern

ORDINANCE NO. 2702

By: \_\_\_\_\_

AN ORDINANCE TO AMEND THE CONDITIONS AND RESTRICTIONS  
IN ORDINANCE NO. 2383 FOR A CONDITIONAL USE PERMIT FOR WOODMAN'S  
FOOD MARKET, INC.

(8151 S. Howell Ave.)  
2nd Aldermanic District

The Common Council of the City of Oak Creek does ordain as follows:

WHEREAS, Ordinance No. 2383 (The "Ordinance"), which approved a conditional use permit for a gasoline service station for the properties at 8081, 8131, and part of 8201 South Howell Avenue (now known as 8151 S. Howell Avenue), was approved on December 20, 2006, and the conditional use permit contained a restriction that the hours of operation for the gasoline service station be limited to the hours of 7:00 AM to 9:00 PM seven (7) days a week; and

WHEREAS, the Ordinance affected the following legally described property;

CSM NO 7910 NE 1/4 SEC 17-5-22 LOT 1 & INCL PT OF CSM NO 803 8 LOT 1  
COM 230.60 FT FROM SW COR OF SD LOT TO POB, THENCE N 20 FT, E 17 FT, S  
20 FT, THENCE W 17 FT TO POB (21.778 ACS) (The "Property").

WHEREAS, the owner of the Property, Woodman's Food Market, Inc., is requesting that Sections 6(c) and 9 of the Ordinance be amended to permit the existing fuel pumps to be operated 24 hours per day, seven days per week; and

WHEREAS, the Plan Commission has reviewed this proposal and has recommended that the requested amendment be approved; and

WHEREAS, a public hearing was held on this matter on January 7, 2014 to hear comments from all who were interested.

NOW, THEREFORE, BE IT RESOLVED, the Common Council of the City of Oak Creek does hereby ordain as follows:

SECTION 1: To promote the general welfare, public safety and general planning within the City of Oak Creek, Section 6(C) and Section 9 of the conditions and restrictions approved by the Ordinance affecting the Property, is amended as follows:

6(C). The hours of operation for the gasoline service station shall be limited to the hours of 7:00 AM to 9:00 PM seven (7) days a week. The gasoline fuel pumps may be operated 24 hours a day, seven (7) days a week.

9. The operator of the conditional use shall commence 24-hour operation of the gasoline fuel pumps within twelve (12) months from the date of adoption of the ordinance authorizing the amendment of the conditional use permit as evidenced by a verification letter from the operator. The amendment to allow for the 24-hour

operation shall expire within twelve (12) months of the date of adoption if the 24-hour operation has not commenced and such verification has not been received. In such case, the applicant is required to re-apply for the conditional use amendment prior to 24-hour operation of the gasoline fuel pumps.

SECTION 2: Except as herein modified the conditions and restrictions approved by the Ordinance shall remain in full force and effect.

SECTION 3: The several sections of this ordinance are declared to be severable. If any section shall be declared by a decision of a court of competent jurisdiction to be invalid, such decision shall not affect the validity of other provisions of this ordinance.

SECTION 4: All ordinances or parts of ordinances contravening the provisions of this ordinance are hereby repealed.

SECTION 5: This Ordinance shall take effect and be in force from and after its passage and publication.

Passed and adopted this 7th day of January, 2014.

\_\_\_\_\_  
President, Common Council

Approved this 7th day of January, 2014

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

VOTE: Ayes \_\_\_\_\_ Noes \_\_\_\_\_

City of Oak Creek – Conditional Use Permit

**DRAFT** Conditions and Restrictions

Applicant: Steve Kaukl, Woodman's Food Market, Inc.

Approved by Plan Commission: 12/10/2013

Property Address: 8151 S. Howell Ave.

Approved by Common Council: 1/7/2014

Tax Key Number: 813-9014-006

(Ord. #2702)

Conditional Use: Gas service station – 24-hour operation of gasoline fuel pumps.

A. LEGAL DESCRIPTION

CSM NO 7910 NE 1/4 SEC 17-5-22 LOT 1 & INCL PT OF CSM NO 803 8 LOT 1 COM 230.60 FT FROM SW COR OF SD LOT TO POB, THENCE N 20 FT, E 17 FT, S 20 FT, THENCE W 17 FT TO POB (21.778 ACS).

B. REQUIRED PLANS, EASEMENTS, AGREEMENTS AND PUBLIC IMPROVEMENTS

A. A precise detailed site plan for the area affected by the conditional use shall be submitted to, and approved by, the Plan Commission prior to the issuance of any building or occupancy permits. This plan shall show and describe the following:

1) **General Development Plan**

- a) detailed building locations with setbacks
- b) square footage of building
- c) areas for future expansion
- d) area to be paved
- e) access drives (width and location)
- f) sidewalk locations
- g) parking layout and traffic circulation
  - i) location
  - ii) number of employees
  - iii) number of spaces
  - iv) dimensions
  - v) setbacks
- h) location of loading berths
- i) location of sanitary sewer (existing and proposed)
- j) location of water (existing and proposed)
- k) location of storm sewer (existing and proposed)
  - i) including detention/retention basins if needed
- l) precise location of outdoor storage
- m) location of wetlands (field verified)
- n) location, square footage and height of signs
- o) a description of the vehicles, materials and equipment to be stored at the site

- b) number, initial size and type of plantings
- c) parking lot screening/berming

3) **Building Plan**

- a) architectural elevations
- b) building floor plans
- c) materials of construction

4) **Lighting Plan**

- a) types of fixtures
- b) mounting heights
- c) type of poles
- d) photometrics of proposed fixtures

5) **Grading, Drainage and Stormwater Management Plan**

- a) contours (existing and proposed)
- b) location of storm sewer (existing and proposed)
- c) location of stormwater management structures and basins (if required)

6) **Fire Protection**

- a) location of existing and proposed fire hydrants (public and private)
- b) interior floor plan
- c) materials of construction

2) **Landscape Plan**

- a) screening plan for outdoor storage

B. All plans for new buildings, additions, or exterior remodeling shall be submitted to the Plan Commission for their review and approval prior to the issuance of a building permit.

C. For any new buildings or structures and additions, site grading and drainage, stormwater management and erosion control plans shall be submitted to the City Engineer for approval, if

required. The City Engineer's approval must be received prior to the issuance of any building permits.

- D. Plans and specifications for any necessary public improvements within developed areas (e.g. sanitary sewer, water main, storm sewer, etc.) shall be subject to approval by the City Engineer.
- E. If required by the City of Oak Creek, public easements for telephone, electric power, sanitary sewer, storm sewer and water main shall be granted. Said easements shall be maintained free and clear of any buildings, structures, trees or accessory outdoor appurtenances. Shrubbery type plantings shall be permitted; provided there is access to each of the aforementioned systems and their appurtenances.
- F. All new electric, telephone and cable TV service wires or cable shall be installed underground within the boundaries of this property.
- G. For each stage of development, detailed landscaping plans showing location, types and initial plant sizes of all evergreens, deciduous trees and shrubs, and other landscape features such as statuary, art forms, water fountains, retaining walls, etc., shall be submitted to the Plan Commission for approval prior to the issuance of a building permit.

### 3. PARKING AND ACCESS

- A. Parking requirements for this project shall be provided in accordance with Section 17.0403 of the Municipal Code.
- B. Where 90° parking is indicated on the site plans, individual-parking stalls shall be nine (9) feet in width by eighteen (18) feet in length. The standards for other types of angle parking shall be those as set forth in Section 17.0403(d) of the Municipal Code.
- C. Movement aisles for 90° parking shall be at least twenty-two (22) feet in width.
- D. All off-street parking areas shall be surfaced with an all-weather wearing surface of plant mix asphaltic concrete over crushed stone base subject to approval by the City Engineer. A proposal to use other materials shall be submitted to the Plan Commission and the Engineering Department for approval. All parking areas and private drives, within a phase, shall be in place prior to the issuance of an occupancy permit for any building in that phase.
- E. Other parking arrangements, showing traffic circulation and dimensions, shall be submitted to the Plan Commission for approval.
- F. All driveway approaches to this property shall be in compliance with all the standards set forth in Chapter 6 of the Oak Creek Municipal Code. Any off-site improvements shall be the responsibility of the property owner.
- G. All off street parking areas shall be landscaped in accordance with Sections 17.0330 & 17.0403 of the Municipal Code.
- H. Parking lots must provide a minimum of 5% interior landscaped islands or peninsulas. Parking lots 50,000 square feet or larger must provide a minimum of 10% of interior landscaped islands or peninsulas.
- I. Cross-access shall be provided between all parcels within the boundaries of this conditional use permit.
- J. Sidewalks shall be provided along all sides of the lot that abut a public street, and a continuous internal pedestrian walkway must be provided from the perimeter public sidewalk to the principal customer

entrance. The internal pedestrian walkways must be distinguished from driving surfaces through the use of contrasting materials to enhance pedestrian safety. Examples of acceptable materials include, but are not limited to special pavers, bricks or scored concrete.

4. LIGHTING

- A. All plans for new outdoor lighting shall be reviewed and approved by the Plan Commission. For each stage of the development, the plan shall show the location of all lights, type of fixture and poles, mounting height and photometrics of the fixture and shall be in accord with the following:
  - 1. All designated parking areas, access drives and the approach aprons from the public right-of-way shall be illuminated during hours of operation when natural light value is reduced to one (1) candela.
  - 2. Illumination shall be maintained on the surface at an average of one (1.0) candela with a minimum uniformity ratio of 5 to 1 through the access drives and a minimum of 0.05 candela/square foot in the parking area.
  - 3. All luminaires shall be designed and mounted at a sufficient elevation above the surface to insure adequate control of glare, interreflected and reflective light to abutting property, the abutting public roadways, access drives and to maintain the minimum uniformity ratio, but in no case shall exceed 30 feet. A luminaire controlled cut-off of 72 degrees will effectively minimize glare which interferes with vision and causes eye discomfort.
  - 4. Plans shall be submitted for approval with the manufacturer's descriptive literature showing photometrics and design of proposed luminaire. Plans shall include location and height of poles, foundations, wire size, circuit protection, controller, equipment grounding and luminaire elevation above grade.

5. BUILDING AND PARKING SETBACKS

A. Setback Requirements for Gasoline Service Station

	Front and Street Setback	Rear Setback	Side Setback
Principal Structure	200 ft.	25 ft.	15 ft.
Gas Pumps	200 ft.	25 ft.	25 ft.
Canopy	200 ft.	20 ft.	20 ft.
Accessory Structure	200 ft.	5 ft.	5 ft.
Off-street Parking	150 ft.	5 ft.	5 ft.

- B. All other buildings shall meet the setbacks in accordance with the Zoning Ordinance
- C. Parking lots must provide a minimum of 5% interior landscaped islands or peninsulas. Parking lots 50,000 square feet or larger must provide a minimum of 10% of interior landscaped islands or peninsulas.

6. BUILDING HEIGHT, AREA, & OTHER STANDARDS

- A. Building height and area shall be in accordance with Section 17.0317 (e) of the Zoning Ordinance

- B. All buildings shall meet the architectural standards in accordance with Section 17.1009 of the Zoning Ordinance.
- C. Additional architectural standards for the gasoline service station
  - i. Any accessory structures, including canopies, car wash facilities, and dumpster enclosures shall be constructed of materials similar to those found on the principal structure. EIFS or pre-fabricated steel panels shall not be used as a primary material on any principal building or accessory structure.
  - ii. The gasoline service station and all accessory structures shall incorporate four (4) sided architecture.
  - iii. A minimum of 75 percent of the perimeter of the principal building must be glass, brick, or decorative masonry material.
  - iv. The principal building shall have a clearly defined, highly visible customer entrance with features such as canopies or porticos, arcades, arches, wing walls, and integral planters.
  - v. The principal structure and accessory structures shall incorporate architectural materials and design that is compatible with those found on surrounding developments.
- D. The front of any building within the boundaries of the conditional use permit must be parallel to W. Forest Hill Avenue. The Plan Commission shall not approve any building whose front does not parallel W. Forest Hill Avenue. In the event that this condition is not complied with, the zoning of this property shall revert to M-1, Manufacturing after due notice and a public hearing in compliance with State and Local ordinances.

## 6 MAINTENANCE AND OPERATION

- A. The number, size, location and screening of appropriate solid waste collection units shall be subject to approval of the Plan Commission as part of the required site plan(s). Solid waste collection and recycling shall be the responsibility of the owner.
- B. Removal of snow from off-street parking areas, walks and access drives shall be the responsibility of the owners.
- C. **The hours of operation for the gasoline service station shall be limited to the hours of 7:00 AM to 9:00 PM seven (7) days a week. The gasoline fuel pumps may be operated 24 hours a day, seven (7) days a week.**
- D. This conditional use permit shall only allow one (1) gasoline service station, one (1) oil lube center, and one (1) car wash within the boundaries of the conditional use area.
- E. There shall be no outdoor storage or outdoor display of merchandise permitted as part of this conditional use.
- F. The gasoline service station shall be used for the retail dispensing and sales of vehicular fuels; and including as an accessory use, a car wash and the sale and installation of lubricants, tires, batteries, and similar accessories. Contemporary service stations may specialize in a singular service such as providing fast oil changes. Contemporary services may also be associated with another principal use such as a convenience food store. In such instance, the facility is to comply with both the service station and food store requirements of the zoning ordinance.

## 7. SIGNS



- A. Any freestanding sign shall be a monument style ground sign with materials to match those found on the building on that particular site. No pole signs shall be permitted.
- B. No off premise signs shall be permitted.
- C. All signs shall conform to the provisions of Sec. 17.0706 of the Municipal Code.

8. PERMITTED USES

- A. Gasoline service station with an oil lube center and a car wash.
- B. All permitted uses in the B-4, Highway Business District.
- C. Usual and customary accessory uses to the above listed permitted uses.

9. TIME OF COMPLIANCE

**The operator of the conditional use shall commence 24-hour operation of the gasoline fuel pumps within twelve (12) months from the date of adoption of the ordinance authorizing the amendment of the conditional use permit as evidenced by a verification letter from the operator. The amendment to allow for the 24-hour operation shall expire within twelve (12) months of the date of adoption if the 24-hour operation has not commenced and such verification has not been received. In such case, the applicant shall re-apply for the conditional use amendment prior to 24-hour operation of the gasoline fuel pumps.**

10. OTHER REGULATIONS

Compliance with all other applicable City, State and Federal regulations not heretofore stated or referenced, is mandatory.

11. REVOCATION

Should an applicant, his heirs, successors or assigns, fail to comply with the conditions and restrictions of the approval issued by the Common Council, the Conditional Use approval may be revoked. The process for revoking an approval shall generally follow the procedures for approving a Conditional Use as set forth in Section 17.1007 of the Municipal Code.

12. ACKNOWLEDGEMENT

The approval and execution of these conditions and restrictions shall confirm acceptance of the terms and conditions hereof by the owner, and these conditions and restrictions shall run with the property unless revoked by the City, or terminated by mutual agreement of the City and the owner, and their subsidiaries, related entities, successors and assigns.

\_\_\_\_\_  
Owner's authorized representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
(please print name)

OFFICIAL NOTICE

**NOTICE OF PUBLIC HEARING  
BEFORE THE OAK CREEK COMMON COUNCIL**

**PURPOSE:** The purpose of this public hearing is to consider a conditional use permit amendment submitted by Steve Kaukl, Woodman's Food Market, Inc. for the hours of operation of the existing gasoline service station located 8151 S. Howell Ave.

**Hearing Date:** Tuesday, January 7, 2014  
**Time:** 7:00 p.m.  
**Place:** Oak Creek City Hall  
8640 South Howell Avenue  
Oak Creek, WI 53154  
Common Council Chambers

**Applicant:** Steve Kaukl, Woodman's Food Market, Inc.  
**Property Owner:** Woodman's Food Market, Inc.  
**Property Location:** 8151 S. Howell Ave.  
**Tax Key(s):** 813-9014-006

**Legal Description:**

LOTS 1, 2, AND 3 AND OUTLOT 1 OF CERTIFIED SURVEY MAP 7910, RECORDED WITH THE MILWAUKEE COUNTY REGISTER OF DEEDS ON APRIL 19, 2007, AS DOCUMENT NO. 09420336, IN THE CITY OF OAK CREEK;

AND

PART OF LOT 3 OF CERTIFIED SURVEY MAP NO. 7619. BEING A DIVISION OF PARCEL 1 OF CERTIFIED SURVEY MAP NO. 6759 IN THE NORTHWEST 1/4, NORTHEAST 1/4, SOUTHWEST 1/4 AND SOUTHEAST 1/4 OF THE NORTHEAST 1/4 AND THE NORTHEAST 1/4 AND SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 17, TOWN 5 NORTH, RANGE 22 EAST, IN THE CITY OF OAK CREEK, MILWAUKEE COUNTY, WISCONSIN BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE WEST LINE OF SOUTH HOWELL AVENUE, BEING SOUTH 00°33'20" WEST, 976.15' FROM WEST DREXEL AVENUE AND THE NORTHEAST CORNER OF LOT 1, CERTIFIED SURVEY MAP NO. 7819; THENCE CONTINUING SOUTH 00°33'20" WEST ALONG SAID WEST LINE, 491.63 FEET TO THE NORTHEAST CORNER OF LOT 2, CERTIFIED SURVEY MAP NO. 7819, AND THE POINT OF BEGINNING OF THE LANDS TO BE DESCRIBED; THENCE NORTH 89°08'27" WEST ALONG THE NORTH LINE OF SAID LOT 2, A DISTANCE OF 288.11 FEET TO A POINT; THENCE NORTH 001°31'21" EAST, 0.89 OF A FOOT TO A POINT OF CURVATURE; THENCE NORTHEASTERLY 24.36 FEET ALONG THE ARC OF A CURVE WHOSE CENTER LIES TO THE SOUTHEAST, WHOSE RADIUS IS 15.50 FEET AND WHOSE CHORD BEARS NORTH 45°32'20" EAST, 21.93 FEET TO A POINT OF TANGENCY; THENCE SOUTH 89°26'40" EAST, 272.60 FEET TO A POINT ON THE WEST LINE OF SAID SOUTH HOWELL AVENUE; THENCE SOUTH 00°33'20" WEST ALONG SAID WEST LINE, 17.92 FEET OT THE POINT OF BEGINNING; CONTAINING 4,893 SQUARE FEET OR 0.112 ACRE.

The Common Council has scheduled other public hearings for January 7, 2014 at 7:00 PM. This hearing may begin at 7:00 PM or as soon as possible following the conclusion of other public hearings.

Any person(s) with questions regarding the proposed change may call the Department of Community Development at (414) 768-6527, during regular business hours.

Date of Notice: December 5, 2013  
CITY OF OAK CREEK COMMON COUNCIL  
By: Steve Scaffidi, Mayor

### **PUBLIC NOTICE**

PLEASE NOTE: Upon reasonable notice, a good faith effort will be made to accommodate the needs of disabled individuals through sign language interpreters or other auxiliary aid at no cost to the individual to participate in public meetings. Due to the difficulty in finding interpreters, requests should be made as far in advance as possible, preferable a minimum of 48 hours. For additional information or to request this service, contact the Oak Creek City Clerk at 768-6511, (FAX) 768-9587, (TDD) 768-6513 or by writing to the ADA Coordinator at the Health Department, City Hall, 8640 South Howell Avenue, Oak Creek, Wisconsin 53154.

Project: Woodmans CUP Amendment

Alderman Dan Bukiewicz

WOODMAN'S FOOD MARKET, INC  
2631 LIBERTY LN  
JANESVILLE, WI 53545

ONE WEST DREXEL LLC, A WI LLC  
OR CURRENT OCCUPANT  
301 W WISCONSIN AVE STE 400  
MILWAUKEE, WI 53203

RIVER VALLEY OAK CREEK, LLC, A WI LLC  
OR CURRENT OCCUPANT  
230 OHIO ST  
OSHKOSH, WI 54902

LANDMARK CREDIT UNION  
OR CURRENT OCCUPANT  
PO BOX 51870

DEMCO WI 1, LLC  
OR CURRENT OCCUPANT  
2060 N HUMBOLDT AVE STE 250  
MILWAUKEE, WI 53212

HOWELL OAKS II, LLC  
OR CURRENT OCCUPANT  
2060 N HUMBOLDT AVE STE 225  
MILWAUKEE, WI 53212

HOWELL OAKS III, LLC  
OR CURRENT OCCUPANT  
2060 N HUMBOLDT AVE STE 250  
MILWAUKEE, WI 53212

EDWARD J & PAMELIA K REESE  
OR CURRENT OCCUPANT  
115 E STUART CT  
OAK CREEK, WI 53154

JEFFREY C HERING  
OR CURRENT OCCUPANT  
110 E STUART CT  
OAK CREEK, WI 53154

DAVID M & KATHLEEN M DOBEK  
OR CURRENT OCCUPANT  
131 E STUART CT  
OAK CREEK, WI 53154

LOREN & JUDITH BAUER  
OR CURRENT OCCUPANT  
8174 S HOWELL AVE  
OAK CREEK, WI 53154

KULDIP SINGH  
OR CURRENT OCCUPANT  
100 E OAKFIELD DR  
OAK CREEK, WI 53154

DAWN BURKEL  
OR CURRENT OCCUPANT  
8170 S HOWELL AVE  
OAK CREEK, WI 53154

GENEVA FHIX VII, LLC, GENEVA FHIX I, II, IV, ET AL  
OR CURRENT OCCUPANT  
527 MARQUETTE AVE STE 820  
MINNEAPOLIS, MN 55402

GIUFFRE XX, LLC, A WI LLC  
OR CURRENT OCCUPANT  
2060 N HUMBOLDT AVE STE 250  
MILWAUKEE, WI 53212

HMJ HOLDINGS LLC  
OR CURRENT OCCUPANT  
310 W FOREST HILL AVE  
OAK CREEK, WI 53154

EBENEZER CHILD CARE CENTERS INC  
OR CURRENT OCCUPANT  
1496 S 29TH ST  
MILWAUKEE, WI 53215

# City of Oak Creek Common Council Report

Report Date: January 7, 2014

8


**Recommendation:** That the Common Council concur with the Personnel Committee's recommendation to waive 25% employee premium contribution for life insurance for previously represented Clerk-Matrons and meet-and-confer Sergeants.

**Background:** Discussions with the Finance Department regarding life insurance premium payments to previously represented Clerk-Matrons and meet-and-confer Sergeants raised consideration to waive the employee portion of life insurance premiums. These employees now pay 25% of the life insurance premium. Seventeen individuals are impacted by this consideration amounting to \$274.56 total annual employee contributions.

The City stated it would continue to provide benefits and administer working conditions as it had under the old contracts as part of the approval discussions for the City's Personnel Manual. Some employees were contributing to life insurance payments and this practice has continued. Due to our year-end review and the small dollars involved relative to administering this contribution, we would recommend consideration to eliminate the 25% life insurance requirement for these 17 employees.

**Fiscal Impact:** If the Personnel Committee concurs in this recommendation, the City's cost to pay the employee portion of life insurance premiums would increase by \$274.56 in 2014.

Fiscal Review by:

  
Bridget M. Souffrant, CMTW  
Finance Director/Comptroller

Prepared and Submitted by:

  
Gerald R. Peterson, ICMA-CM  
City Administrator

# City of Oak Creek Common Council Report

9

**Report Date:** January 7, 2014

**Recommendation:** To concur with the Personnel Committee's recommendation to eliminate the option for regular part time employees to participate in the City's Section 125 plan.

**Background:** On December 2, the City received notice from Diversified Benefit Services, the City's Section 125 Administrator, of various changes to 125 plans as a result of the Affordable Care Act and IRS compliance issues (see attached notice).

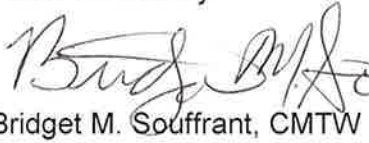
Currently, the City of Oak Creek offers a Section 125 plan participation option (pre-tax dollars which can be used for health care and dependent care costs) to all of its full time and regular part time employees. Based upon this recent IRS determination, the City may no longer provide this option to part time employees without also offering them the opportunity to participate in the City's health insurance plan. This participation may be at 100% the employee's cost. The City has three options to consider regarding Section 125 participation by part time employees:

1. Discontinue offering part time employees the ability to participate in the City's Section 125 plan.
2. Allow part time employees the option to participate in the City's health insurance plan at 100% the employee's cost.
3. Allow part time employees the option to participate in the City's health insurance plan on the same basis as full time employees.

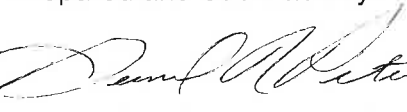
After discussing these options and considering financial impacts of the options presented, the Personnel Committee recommends the Common Council concur in their recommendation to amend the City's Section 125 plan, eliminating the opportunity for regular part time employees to participate in the plan.

**Fiscal Impact:** In order to comply with IRS regulations and not face additional tax or penalty consequences, the City will need to select the recommended option. The other two options would have the potential to significantly increase City costs.

Fiscal Review by:

  
Bridget M. Souffrant, CMTW  
Finance Director/Comptroller

Prepared and Submitted by:

  
Gerald R. Peterson, ICMA-CM  
City Administrator



**DI<sup>ERS</sup>IFIED BENEFIT SER<sup>V</sup>ICES, INC.**  
*Dedicated to Excellence in Benefit Management Solutions*

**DBS Notice: 12/02/2013**

## **Excepted vs. Non-Excepted Health FSAs: An Important Review of IRS Notice 2013-54 and the Implications for Health FSAs**

### **Background**

On September 13, 2013 the IRS released Notice 2013-54 and DOL published Technical Release 2013-03 pertaining to the Affordable Care Act (ACA). The regulations addressed compliance issues related to Health Reimbursement Arrangements (HRAs), Flexible Spending Accounts (FSAs), Employee Assistance Plans (EAPs), and defined contribution health plan arrangements.

This DBS notice provides an explanation of Q&A 7 of Notice 2013-54 & 2013-03 and the impact on health FSAs. The notice also explains health FSAs 'excepted' verses 'non-excepted' status and items for employers to consider as future benefit planning is developed.

It is also important to note that coverage provided through health FSAs under Section 125 plans are 'eligible employer-sponsored plans' and therefore are subject to the ACA's reforms unless the coverage consists solely of excepted benefits.

DBS released a notice on October 18, 2013 where we addressed another portion of Notice 2013-54 concerning Cafeteria plans with the Independent Premium Feature and premium reimbursements from HRAs.

### **What is an Excepted Health FSA vs. a Non-Excepted Health FSA?**

On July 2, 2013 DBS released a notice explaining PCOR fees and their impact on FSAs. In that notice we discussed what would be required for a health FSA to be an excepted benefit as follows:

For a health FSA to be an excepted benefit two conditions must be satisfied:

- 1) The maximum benefit payable from the employer to any plan participant for the plan year cannot exceed: two times the employee's salary reduction election, or if greater, the salary reduction amount plus \$500.
- 2) Traditional group health coverage (such as major medical plan coverage) must also be made available to all health FSA participants.

By way of example, a health FSA would meet point #1 above if the employer does not make any contribution to the health FSA. Likewise, the criterion would be met if the employer limits its contribution to a dollar for dollar matching contribution up to the maximum described.

Point #2 has greater impact on health FSAs and mandates that employers must make their traditional group health plans available to *all* health FSA participants.

This requirement may have a negative effect on health FSAs. Many employers allow part-time employees to participate in a health FSA even though they are not eligible for the employer-sponsored group health plan.



**DBS Notice: 12/02/2013**

## **Excepted vs. Non-Excepted Health FSAs: An Important Review of IRS Notice 2013-54 and the Implications for Health FSAs**

By allowing these part-time employees to participate in a health FSA, the health FSA would be considered 'non-excepted' with respect to part-time employees. As a result, the non-excepted health FSA would be subject to ACA market reforms such as:

- Full COBRA notices and election periods for terminating employees. This would replace the limited COBRA requirement allowed for excepted health FSAs
- PCOR fees (which were \$1/participant in 2013 and will be \$2/participant in 2014)
- Issuance of a Summary of Benefits & Coverage (SBC) notice
- HIPAA portability (this was in force prior to the ACA, but it is not going to be an issue in 2014 because of the ban on pre-existing conditions)
- Preventive service requirement (the agencies consider health FSAs to be a form of group health coverage, thus the preventive service requirement)
- Penalties of \$100/day/participant for non-compliance

### **What Does Q&A 7 State**

Q&A 7 of IRS Notice 2013-54 and DOL Technical Release 2013-03 reiterates that health FSAs are group health plans and that ACA market reforms do apply to certain health FSAs as follows:

**Question 7:** How do the market reforms apply to a health FSA that does not qualify as excepted benefits? *(The following is the section of Answer 7 that deals with a non-excepted health FSA. Notice 2013-54 makes it clear that a health FSA that is considered to provide only excepted benefits is not subject to the market reforms.)*

**Answer 7:** '...Health FSAs are group health plans but will be considered to provide only excepted benefits if the employer also makes available group health plan coverage...' '...Therefore, a health FSA that is considered to provide only excepted benefits is not subject to the market reforms. ...'. *(Answer 7 also states) 'If an employer provides a health FSA that does not qualify as excepted benefits, the health FSA generally is subject to the market reforms, including the preventive services requirements. Because a health FSA that is not excepted benefits is not integrated with a group health plan, it will fail to meet the preventive services requirements.'*

### **Why is this so Important for Employers, Employees and Health FSAs?**

The rule places employers and part-time employees in a terrible position of either:

- Continuing to offer part-time employees health FSA benefits (causing the health FSA to be non-excepted with respect to those employees) or;
- Taking away health FSA benefits from part-time employees in order to have the health FSA qualify as an excepted benefit

This situation could be even worse next year if employers start to discontinue group health plans and move employees to the exchanges. Under these circumstances employers would not be able to offer non-excepted health FSAs to any employee (full or part-time) if group health insurance was not offered.





**DBS Notice: 12/02/2013**

**Excepted vs. Non-Excepted Health FSAs: An Important Review of IRS Notice 2013-54 and the Implications for Health FSAs**

The DOL confirmed to DBS this week that if an employer does not offer group health insurance coverage the employer would not be able to offer health FSAs to any employees as a result of the regulatory guidance! The DOL representative who spoke with DBS acknowledged that the DOL was receiving calls from around the country regarding this provision and that there are difficulties with it.

**What Should Employers Consider Regarding their Health FSA?**

Employers need to evaluate whether they should continue to offer health FSAs to all eligible employees (including part-time employees) or change the health FSA eligibility to include only those employees who are offered group health insurance coverage.

Some employers currently only allow employees who are eligible for the group health plan to participate in the health FSA. For these employers no changes would be necessary.

Employers who currently are not offering group health coverage (or those employers contemplating not offering group health coverage next year) will need to consider not being able to offer a health FSA to employees as a result.

**What is being done Regarding this Regulatory Provision?**

There needs to be some type of change to the regulation to allow health FSAs to be excepted benefits regardless of whether an employer offers group health insurance coverage. Interestingly, as more employers consider the exchanges for employees to obtain health coverage the need for health FSAs increases. Part-time and potentially full-time employees should not have their health FSA taken away because of the ACA regulation.

DBS is actively reviewing this situation with several Legislative Directors of Wisconsin Congressional Representatives from both parties in an attempt to modify the regulation. DBS has also discussed Technical Release 2013-13 with one of the DOL authors in November and has suggested a solution to the regulatory provision.

In addition, DBS is a member of the Employer's Council on Flexible Compensation (ECFC), a Washington, D.C. based trade organization. We are working together with representatives of ECFC who have been having ongoing discussions with the IRS & DOL regulators.

# City of Oak Creek Common Council Report

Meeting Date: January 7, 2014

Item No.: 10

**Recommendation:** That the Common Council adopt Resolution No. 11448-010714, an initial resolution relating to Industrial Revenue Bond (IDRB) financing for Suzy's Cream Cheesecakes, Inc.

**Background:** Suzy's Cream Cheesecakes, Inc. a Wisconsin Corporation that manufactures cheesecakes and desserts, has been working with the City to purchase property at 9911 South Howell Avenue in the City of Oak Creek. The company intends to acquire and rehabilitate an existing approximately 44,200 square foot facility.

The Bond issue would be in one or more series of tax-exempt and/or taxable bonds, in an amount not to exceed \$2,200,000 in order to finance the costs of the project.

One of the tools available to Wisconsin businesses and local units of government to foster business expansion is the Industrial Revenue Bond program (IRB).

The Department of Commerce's IRB Program allows all Wisconsin cities, villages and towns to support industrial development through the sale of tax-exempt bonds. The proceeds from the bond sale are loaned to businesses to finance capital investment projects at, primarily, manufacturing facilities. **Even though IRBs are municipal bonds, they are not general obligations of the municipality.** The bonds do not count against the City's debt limit and are not a charge against the City's general credit or taxing power. Suzy's Cream Cheesecakes, Inc. will make the interest and principal payments on the loan. **The City lends its name, but not its credit, to the bond issue.**

IRBs are a means of financing the construction, expansion and/or equipping of, primarily, manufacturing facilities. The proceeds of the bond issue may be used to finance the cost of land, construction of new or expanded facilities, purchase of equipment, and the payment of certain costs incurred in the issuance of the bonds.

Unlike most conventional loans, IRBs can offer businesses a convenient, long-term, and, often, a fixed-rate financing package. Similar to other municipal bonds, the interest earned on IRBs is exempt from federal income taxes. As a result, the bond buyer is willing to accept a lower rate of interest in exchange for tax-free income. The terms of the bond issue are negotiable and can be structured to meet the needs of the borrower. The costs of issuing the bonds, which can be sizeable, can be spread out over the term of the bond issue.

The business must secure the buyer or the underwriter of the bond issue. The bonds are sold by the municipality, which, in turn, lends the proceeds of the sale to the business. The funds come from private lenders or from public markets. Tight credit standards apply. The facilities and equipment are pledged as collateral for the loan. A letter of credit or bond insurance is often required.

The first, initial resolution expresses the City's intent to issue the Industrial Revenue Bonds. It is not a firm commitment to issue the bonds. A second resolution would approve the issuance of the bonds and provide a waiver from the public bidding requirements for the development.

**Fiscal Impact:** No direct fiscal impact on the City of Oak Creek.

Prepared by:



Catherine A. Roeske  
City Clerk

Respectfully submitted,



Gerald Peterson, ICMA-M  
City Administrator

Fiscal review by:



Bridget M. Souffrant, CMTW  
Finance Director / Comptroller

RESOLUTION NO. 114480-0010714

INITIAL RESOLUTION RELATING TO INDUSTRIAL DEVELOPMENT REVENUE BOND  
FINANCING  
(SUZY'S CREAM CHEESECAKES, INC. PROJECT)  
(5<sup>th</sup> Aldermanic District)

WHEREAS, Section 66.1103 of the Wisconsin Statutes (the "Act") authorizes the City of Oak Creek, Wisconsin (the "Issuer"), to authorize the issuance and sale of bonds by the Issuer to construct, equip, re-equip, acquire by gift, lease or purchase, install, reconstruct, rebuild, rehabilitate, improve, supplement, replace, maintain, repair, enlarge, extend or remodel industrial projects; and

WHEREAS, Howell Avenue Oak Creek LLC, a Wisconsin limited liability company, and/or a related entity, and/or a limited liability entity to be formed (collectively, the "Borrower"), desires to complete a project to be owned by the Borrower consisting of financing the (i) acquisition and rehabilitation of an existing approximately 44,200 square foot facility located at 9911 South Howell Avenue in the City of Oak Creek, Wisconsin (the "Facility"), which Facility will be leased by Suzy's Cream Cheesecakes, Inc., a Wisconsin corporation (the "Eligible Participant"), and used by the Eligible Participant to manufacture cheesecakes and desserts, (ii) purchase and installation of equipment at the Facility and (iii) payment of certain professional costs and costs of issuance (collectively, the "Project"), all of which would contribute to the well-being of the City of Oak Creek, Wisconsin; and

WHEREAS, the cost of the Project is presently estimated to be \$2,200,000 and the amount proposed to be financed with one or more issues or series of tax-exempt and/or taxable industrial development revenue bonds (the "Bonds") issued under the Act does not exceed \$2,200,000; and

WHEREAS, it is the public interest of the Issuer to promote, attract, stimulate, rehabilitate and revitalize commerce, industry and manufacturing, to promote the betterment of the economy of the Issuer; and

WHEREAS, the Borrower has requested that the Issuer now approve an initial resolution (the "Initial Resolution") providing for the financing of the Project in an amount not to exceed \$2,200,000; and

WHEREAS, the Issuer is a municipality organized and existing under and pursuant to the laws of the State of Wisconsin, and is authorized to enter into revenue agreements with eligible participants with respect to the Project whereby eligible participants agree to cause said Project to be constructed and to pay the Issuer an amount of funds sufficient to provide for the prompt payment when due of the principal and interest on said industrial development revenue bonds.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Oak Creek, Wisconsin, as follows:

1. Based upon representations of the Borrower, it is the finding and determination of the Common Council that the Project is a qualified "project" within the meaning of the Act and that the Borrower is an "eligible participant" within the meaning of the Act. The Issuer shall:

- (a) Finance the Project in an amount not to exceed \$2,200,000; and
- (b) Issue industrial development revenue bonds in one or more series of tax-exempt and/or taxable bonds (the "Bond(s)"), in an amount not to exceed \$2,200,000 in order to finance costs of the Project.

2. The aforesaid plan of financing contemplates, and is conditioned upon, the following:

(a) The Bonds shall never constitute an indebtedness of the Issuer within the meaning of any state constitutional provision or statutory limitation;

(b) The Bonds shall not constitute or give rise to a pecuniary liability of the Issuer or a charge against its general credit or taxing powers;

(c) The Project shall be subject to property taxation in the same amount and to the same extent as though the Project were not financed with industrial development revenue bonds;

(d) The Borrower shall find a purchaser for all of the Bonds; and

(e) The City's out-of-pocket costs, including but not limited to legal fees and Trustee's fees, in connection with the issuance and sale of the Bonds shall be paid by the Borrower; and

(f) A notice of public hearing required by federal law for purposes of Section 147(f) of the Internal Revenue Code, as amended, shall be published in a newspaper of general circulation in the City of Oak Creek and a public hearing shall be held to provide interested individuals or parties the opportunity to testify as to the Project and the issuance of the Bonds.

3. The aforesaid plan of financing shall not be legally binding upon the Issuer nor be finally implemented unless and until:

(a) The details and mechanics of the same are authorized and approved by a further resolution of the Common Council which shall be solely within the discretion of the Common Council;

(b) The City Clerk shall cause notice of adoption of this Initial Resolution, in the form attached hereto as Exhibit A, to be published once in a newspaper of general circulation in the City of Oak Creek, and the electors of the City of Oak Creek shall have been given the opportunity to petition for a referendum on the matter of the aforesaid Bond issue, all as required by law;

(c) Either no such petition shall be timely filed or such petition shall have been filed and said referendum shall have approved the Bond issue;

(d) The City Clerk shall have received an employment impact estimate issued under Section 560.034 of the Wisconsin Statutes;

(e) All documents required to consummate the financing have been duly authorized and delivered; and

(f) The Issuer and the Borrower have resolved all land use and special use issues with respect to the affected property and the Project.

4. Pursuant to the Act, all requirements that the Project be subject to the contracting requirements contained in Section 66.1103 are waived, the Borrower having represented that it is able to negotiate satisfactory arrangements for completing the Project and that the Issuer's interests are not prejudiced thereby.

5. The City Clerk is directed, following adoption of this Initial Resolution (i) to publish notice of such adoption not less than one time in the official newspaper of the City of Oak Creek, Wisconsin, such notice to be in substantially the form attached hereto as Exhibit A and (ii) to file a copy of this Initial Resolution, together with a statement indicating the date the Notice to Electors was published, with the Wisconsin Economic Development Corporation within twenty (20) days following the date of publication of such notice.

6. This Initial Resolution is an "initial resolution" within the meaning of the Act and official action toward issuance of the Bonds for purposes of Sections 103 and 144 of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder. Furthermore, it is the reasonable expectation of the Issuer that proceeds of the Bonds may be used to reimburse expenditures made on the Project prior to the issuance of the Bonds. The maximum principal amount of debt expected to be issued for the Project on the date hereof is \$2,200,000. This statement of official intent is made pursuant to Treasury Regulations §1.150-2.

Passed and adopted at a regular meeting of the Common Council of the City of Oak Creek this 7th day of January, 2014.

\_\_\_\_\_  
President, Common Council

Approved this 7<sup>th</sup> day of January, 2014.

\_\_\_\_\_  
Mayor, Stephen Scaffidi

ATTEST:

\_\_\_\_\_  
Catherine A. Roeske, City Clerk

VOTE: Ayes \_\_\_\_ Noes \_\_\_\_\_

# City of Oak Creek Common Council Report

Meeting Date: January 7, 2014

Item No.: 11

**Recommendation:** That the Council adopts Resolution No. 11449-010714 to amend Resolution No. 11442-121713 to add territory to Tax Increment Financing District No. 11 and to amend the Project Plan for Tax Increment District No. 11.

**Background:** At the December 17, 2013 meeting, the Council adopted Resolution 11442-121713 for the approval of adding territory (400 W. Forest Hill Ave.) to TID 11 and amendments to the Project Plan.

Per review of the Resolution by the City's attorneys for this project (Godfrey Kahn S.C.), some amendments were proposed for clarification purposes and to ensure compliance with State requirements. These changes are included in the attached Draft Resolution, and do not change the intent or scope of the project as previously presented.


**Fiscal Impact:** No additional change from the previous resolution.

Prepared by:



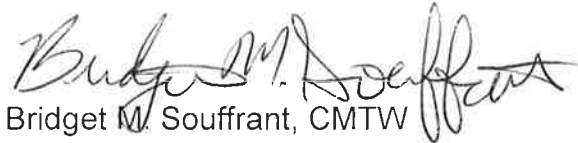
Doug Seymour, AICP  
Director of Community Development

Respectfully Submitted,



Gerald Peterson, ICMA-CM  
City Administrator

Fiscal Review by:



Bridget M. Souffrant, CMTW  
Finance Director/Comptroller

**RESOLUTION NO. 11449-010714**

**A RESOLUTION BY THE COMMON COUNCIL  
MAKING CERTAIN FINDINGS AND APPROVING AMENDMENT NO. 1 TO THE  
PROJECT PLAN AND TERRITORY AMENDMENT NO. 1 FOR  
TAX INCREMENTAL DISTRICT NO. 11,  
CITY OF OAK CREEK, WISCONSIN**

WHEREAS, the overall development of the City of Oak Creek is recognized as a major need of the City; and

WHEREAS, the City on April 3, 2012, adopted Resolution No. 11229-040312 to create Tax Incremental District No. 11, City of Oak Creek, Wisconsin ("District"), as a mixed-use district, in accordance with the provisions of Section 66.1105 of the Wisconsin Statutes ("Tax Increment Law"), in order to provide a viable method of financing the costs of needed public improvements within said District and thereby create incentives and opportunities for appropriate private development, which will contribute to the overall development of the City; and

WHEREAS, the City of Oak Creek Joint Review Board on April 20, 2012, adopted Resolution No. 2012-01 that approved the creation of the District; and

WHEREAS, in order to further the goals contained in the original Project Plan for the District, the City now finds it desirable to amend the District's territorial boundaries to add additional property to the District as set forth in Exhibit A attached hereto and incorporated herein ("Territory Amendment"), and this is the first territory amendment to the District; and

WHEREAS, the City of Oak Creek desires to amend the Project Plan for the District for the purpose of additions or modifications to the eligible project costs, which may include street improvements, sanitary sewer, stormwater management, water main extensions, street lighting, potential cash grants/developer incentives made by the City to owners or lessees or developers of land located within the District, related organizational and administrative costs, and any other eligible project costs permitted by the Tax Incremental Finance law, as set forth in the Amendment No. 1 to Project Plan attached hereto as Exhibit B and incorporated herein ("Project Plan Amendment"); and

WHEREAS, in accordance with the procedures specified in the Tax Increment Law, the Plan Commission, on December 10, 2013, after giving proper Class 2 public notice and having a quorum present, held a public hearing concerning the proposed Territory Amendment and Project Plan Amendment during which interested parties from the public were afforded a reasonable opportunity to express their views ("Public Hearing"); and

WHEREAS, prior to its first publication, a copy of the notice of said Public Hearing was sent via first class mail to the chief executive officer of Milwaukee County, the Oak Creek Franklin Joint School District, the Milwaukee Metropolitan Sewerage District, the Milwaukee County Technical College District, and the other entities having the power to levy taxes on property located within the proposed District, in accordance with the procedures specified in the Tax Increment Law; and

WHEREAS, after said Public Hearing, the Plan Commission approved and recommended to the City Common Council that it adopt the Territory Amendment and Project Plan Amendment; and



WHEREAS the Plan Commission has prepared the Project Plan Amendment, attached as Exhibit B and incorporated herein, which includes the following amendments:

1. Map 3, Conceptual Land Uses;
2. Map 4, Proposed Improvements;
3. A detailed list of additional estimated project costs (including infrastructure and cash grants/developer incentives);
4. A project economic feasibility study;
5. An opinion of the City Attorney or of an attorney retained by the City advising the plan is complete and complies with Wisconsin Statutes, Section 66.1105(4)(f); and

WHEREAS, the Plan Commission has submitted the Territory Amendment and the Project Plan Amendment to the City Common Council and recommended approval thereof.

NOW, THEREFORE, BE IT RESOLVED, by the City Common Council of the City of Oak Creek as follows:

1. That the City Common Council, pursuant to the Tax Increment Law, hereby adopts the Territory Amendment to amend the territorial boundaries of Tax Incremental District No. 11 in the City of Oak Creek to add and include the property set forth in the attached Exhibit A and incorporated herein, and
2. The City Common Council hereby finds and declares that:
  - (a) The Project Plan, as amended, is feasible and in conformity with the master plan; and
  - (b) Not less than 50% by area of the real property within the District remains suitable for and will directly serve to promote a combination of industrial, commercial, and residential uses, defined as "mixed-use development," within the meaning of Section 66.1105(2)(cm) of the Wisconsin Statutes; and
  - (c) Based upon the findings, as stated in (b) above, the District remains a mixed-use district based on the identification, classification, and zoning of the property included within the District; and
  - (d) The project costs relate to directly serve to promote mixed-use development consistent with the purpose for which the District is created; and
  - (e) The improvement of such area is likely to enhance significantly the value of substantially all of the other real property in the District; and
  - (f) The equalized value of taxable property of the District plus the value increment of all existing tax incremental districts within the City, does not exceed 12% of the total equalized value of taxable property within the City; and

- (g) The City does not estimate that more than 35% of the territory within the District will be devoted to retail business at the end of the District's maximum expenditure period, pursuant to Section 66.1105(6)(am)1. of the Wisconsin Statutes; and
- (h) The project costs relate directly to promoting mixed-use development in the District, consistent with the purpose for which the District is created; and
- (i) Lands proposed for newly platted residential development as shown in the Project Plan, as amended, do not exceed 35% by area, of the real property within the District; and
- (j) Costs related to newly platted residential development are identified as part of the Project Plan and such residential developments, as identified on Map 3 in the Project Plan, as amended, will result in residential density of at least three residential units per acre; and
- (k) The property to be added in the Territory Amendment is contiguous to the District and will be served by improvements in the District Project Plan.

BE IT FURTHER RESOLVED THAT, the City Common Council of the City of Oak Creek approves the Territory Amendment attached as Exhibit A and incorporated herein and the Project Plan Amendment attached hereto as Exhibit B and incorporated herein, both as recommended and adopted by the Plan Commission, and finds that:

1. Such Project Plan, as amended, for the District in the City are feasible; and
2. Such Project Plan, as amended, is in conformity with the master plan of the City.

BE IT FURTHER RESOLVED THAT, except as specifically amended by the Territory Amendment or the Project Plan Amendment, the District territory and Project Plan remains unchanged and in full force and effect, except as amended by any and all previous amendments.

BE IT FURTHER RESOLVED THAT, the City Clerk is hereby authorized and directed to apply to the Wisconsin Department of Revenue, in such form as may be prescribed, for approval of the Territory Amendment and Project Plan Amendment and for a redetermination of the tax incremental base, as of January 1, 2014, pursuant to the provisions of Section 66.1105(5)(b) of the Wisconsin Statutes.

BE IT FURTHER RESOLVED THAT, the City Assessor is hereby authorized and directed to identify upon the assessment roll returned and examined under Section 70.45 of the Wisconsin Statutes, those parcels of property which are within or have been added to the District, specifying thereon the name of the said District, and the City Clerk is hereby authorized and directed to make similar notations on the tax roll made under Section 70.65 of the Wisconsin Statutes, pursuant to Section 66.1105(5)(f) of the Wisconsin Statutes.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Stephen Scaffidi, Mayor

Attest:

\_\_\_\_\_  
Catherine Roeske, Clerk

## EXHIBIT A

### AMENDMENT NO. 1 TO TERRITORY

The description of the territory to be added ("Additional Territory") is:

Outlot 1 of Certified Survey Map No. 7910 being in the Northeast 1/4 of Section 17-5-22 (4.4624 ACS)

The Additional Territory is commonly known as 400 W. Forest Hill Avenue.

The description of the combined Existing Territory and Additional Territory is:

Commencing at the Northwest corner of the Northeast ¼ of Section 17-5-22; thence S00°18'04"E, 65 feet to the point of beginning of the lands to be described:

thence S 89°07'01" E, 2570.94 feet ; thence S 00°33'20" W, 1449.85 feet ; thence N 89°26'40" W, 272.6 feet ; thence southwesterly 24.36 feet along the arc of a curve whose center lies to the South, whose radius is 15.50 feet and whose chord bears S 45°32'20" W, 21.93 feet ; thence S 01°31'21" W, 0.89 feet ; thence N 89°08'27" W, 104.99 feet; thence N 00°30'12" E, 267.39 feet ; thence N 89°29'48" W, 503.03 feet ; thence S 00°30'12" W, 60.77 feet ; thence N 89°29'48" W, 111.68 feet ; thence N 00°30'12" E, 9.00 feet ; thence N 89°28'51" W, 331.17 feet ; thence S 00°30'40" W, 187.72 feet ; thence N 89°26'10" W, 147.17 feet; thence S 00°33'50" W, 253.49 feet; thence N 89°20'23" W, 144.00 feet; thence S 00°39'37" W, 623.62 feet; thence N 89°20'23" W, 80.00 feet; thence S 00°39'37" W, 60.00 feet; thence N 89°20'23" W, 255.41 feet ; thence southwesterly 269.322 feet along the arc of a curve whose center lies to the Southeast, whose radius is 65 feet and whose chord bears S 29°22'51" W, 114.029 feet ; thence S 00°41'14" W, 645.67 feet ; thence southwesterly 878.23 feet along the arc of a curve whose center lies to the southeast, whose radius is 407.32 feet and whose chord bears S 70°33'07 W, 717.73 feet; thence northeasterly, 302.76 feet along the arch of a curve whose center lies to the West, whose radius is 22988.33 feet and whose chord bears N 00°47'41" E, 302.76 feet; thence northeasterly, 47.70 feet along the arc of a curve whose center lies to the West, whose radius is 735.76 feet and whose chord bears N 07°15'01" E, 47.69 feet; thence N 80°14'06" W, 15.53 feet; thence northeasterly, 107.83 feet along the arc of a curve whose center lies to the West, whose radius is 715.88 feet and whose chord bears N 05°26'59" E, 107.73 feet ; thence N 00°00'50" W, 10.00 feet ; thence N 05°13'10" W, 17.07 feet ; thence N 03°28'50" E, 22.63 feet ; thence N 00°00'50" W, 279.70 feet ; thence S 89°28'52" E, 1.62 feet ; thence N 00°08'46" W, 2075.34 feet ; thence northwesterly 193.99 feet along the arc of a curve whose center lies to the West, whose radius is 822.79 feet and whose chord bears N 06°54'02" W, 193.54 feet ; thence N 00°10'30" W, 324.85 feet ; thence S 89°17'21" E, 182.71 feet to the point of beginning. (Contains 120.6 acres)

**EXHIBIT B**

**AMENDMENT NO. 1 TO PROJECT PLAN**

[TO BE ATTACHED]

10623177.2

# City of Oak Creek Common Council Report

Meeting Date: January 7, 2014

Item No.: 12

**Recommendation:** That the Common Council approves payment of the obligations as listed on the December 26, 2013 for 2013 and December 30, 2013 for 2014 Vendor Summary Report.

**Background:** Of note are the following payments:


1. \$65,843.51 to Advanced Disposal-Muskego-C6 (pg #1) for recycling and landfill charges.
2. \$21,450.00 to American Signal Corporation (pg #2) for disposal and installation of warning siren.
3. \$17,014.33 to Godfrey & Kahn S.C. (pg #10) for October legal services regarding TIF 11.
4. \$15,000.00 to Howell Oaks III, LLC (pg #12) per parking & access release agreement.
5. \$12,930.44 to Milwaukee County Treasurer (pg #17) for September, October and November court fines.
6. \$5,026.94 to Oak Creek Water & Sewer Utility (pgs #17-18) for locating services and equipment.
7. \$5,500.00 to Strand Associates, Inc. (pg #23) for November professional services regarding S. 5<sup>th</sup> Avenue relocation.
8. \$13,390.00 to Tyler Technologies, Inc. (pg #24) for assessment consulting services.
9. \$32,892.80 to WI Court Fines & Surcharges (pgs #25-26) for September, October and November court fines.
10. \$50,152.80 to WE Energies (pgs #26-27) for street lighting and gas/electric utilities.
11. \$7,209.17 to WI Dept. of Transportation (pg #27) for Drexel, Puetz Road, and 5<sup>th</sup> Avenue project payments.
12. \$60,972.51 to Benistar/UA (pg #1) for January retiree Medicare supplement.
13. \$25,000.00 to Burkwald & Associates, Inc. (pg #1) for 2014 consulting services.
14. \$8,721.99 to League of Wisconsin (pg #1) for 2014 dues and membership.
15. \$9,967.11 to Milwaukee Area Domestic Animal (pg #1) for 1<sup>st</sup> quarter operating and capital costs.

**Fiscal Impact:** Total claims paid of \$366,812.99 for 2013 and \$108,766.61 for 2014. Total of all claims \$475,579.60.

Prepared by/Fiscal Review by:

Respectfully submitted,

  
Bridget M. Souffrant, CMTW  
Finance Director/Comptroller

  
Gerald R. Peterson, ICMA-CM  
City Administrator

# City of Oak Creek Common Council Report

Meeting Date: 1/7/14

Item No.: 13

**Recommendation:** That the Common Council adopt Ordinance No. 2704, an Ordinance to Repeal and Recreate Section 11.20(f) and to Create Section 11.20(g)(2) of the Oak Creek Municipal Code Regarding Regulation of Bow and Arrow and Crossbow Hunting.

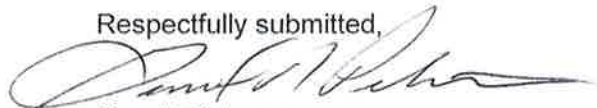
**Background:** Under 2013 Wisconsin Act 71, section 29.038 of the Wisconsin Statutes was amended. Attached is a copy of Act 71. This amendment prevents a municipality from imposing restrictions that prohibit hunting with a bow and arrow or crossbow. However, a municipality may enact restrictions that have an incidental effect on hunting, fishing or trapping if the purpose of those restrictions is to further public health and safety. In addition, a municipality may adopt restrictions that prohibit persons from hunting with a bow and arrow or crossbow within 100 yards of another person's home. A homeowner may give permission to allow a hunter to hunt within 100 yards of his or her home. A municipality may also require a person hunting with a bow and arrow or crossbow to discharge the arrow or bolt from the weapon toward the ground. With the adoption of Ordinance 2704, Section 11.20 of the Municipal Code would be modified to reflect these changes in state law.

**Fiscal Impact:** None

Prepared by:

  
Melissa L. Karls  
Assistant City Attorney

Respectfully submitted,

  
Gerald Peterson  
City Administrator

Approved by:

  
Lawrence J. Haskin  
City Attorney

ORDINANCE NO. 2704

BY: \_\_\_\_\_

AN ORDINANCE TO REPEAL AND RECREATE  
SECTION 11.20(f) AND TO CREATE SECTION 11.20(g)(2) OF THE OAK CREEK  
MUNICIPAL CODE REGARDING THE REGULATION OF  
BOW AND ARROW AND CROSSBOW HUNTING

The Common Council of the City of Oak Creek does hereby ordain as follows:

SECTION 1: Section 11.20(f) of the Municipal Code is hereby repealed and recreated to read as follows:

(f) **Shooting or Discharging a Bow and Arrow or Crossbow.**

- (1) It shall be unlawful for a person to hunt with a bow and arrow or crossbow within a distance of one hundred (100) yards from a building located on another person's land. This restriction shall not apply if the person who owns the land on which the building is located allows the hunter to hunt with a bow and arrow or crossbow within the specified distance of the building.
- (2) A person who hunts with a bow and arrow or crossbow shall discharge the arrow or bolt from the weapon toward the ground.
- (3) No person shall discharge an arrow with any bow or similar device where the arrow may endanger the life, limb or property of another or will traverse any part of any street, alley, public grounds or parks.
- (4) The Recreation Department and the Oak Creek-Franklin Joint School District may conduct supervised archery activities in areas under their jurisdiction when authorized by the Police Chief.

SECTION 2: Section 11.20(g)(2) of the Municipal Code is newly created to read as follows:

- (2) For purposes of this Section, a building is defined as a permanent structure used for human occupancy and includes a manufactured home, as defined in Sec. 101.91(2) Wis. Stats.

SECTION 3: All ordinances or parts of ordinances contravening the provisions of this ordinance are hereby repealed

SECTION 4: This ordinance shall take force and be in effect from and after its passage and publication.



Introduced this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

Passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
President, Common Council

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

VOTE:      Ayes \_\_\_\_\_      Noes \_\_\_\_\_

# State of Wisconsin



2013 Assembly Bill 8

Date of enactment: **December 12, 2013**  
Date of publication\*: **December 13, 2013**

## 2013 WISCONSIN ACT 71

AN ACT *to renumber and amend* 29.038 (3); and *to create* 29.038 (3) (b) of the statutes; relating to: restrictions imposed by local governmental units on hunting with a bow and arrow or crossbow.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 29.038 (3) of the statutes is renumbered 29.038 (3) (a) and amended to read:

29.038 (3) (a) ~~Except as provided in par. (b),~~ a local governmental unit may enact an ordinance or adopt a regulation, resolution or other restriction that has an incidental effect on hunting, fishing or trapping, but only if the primary purpose is to further public health or safety.

SECTION 2. 29.038 (3) (b) of the statutes is created to read:

29.038 (3) (b) 1. In this paragraph:

a. "Building" means a permanent structure used for human occupancy and includes a manufactured home, as defined in s. 101.91 (2).

b. "Restriction" means an ordinance, regulation, resolution, or other restriction enacted or adopted by a local governmental unit.

2. Except as provided in subd. 3., a local governmental unit may not enact or adopt a restriction that prohibits a person from hunting with a bow and arrow or crossbow within the jurisdiction of that local governmental unit.

3. A local governmental unit may enact or adopt a restriction that does any of the following:

a. Prohibits a person from hunting with a bow and arrow or crossbow within a specified distance, not to exceed 100 yards, from a building located on another person's land. A restriction enacted or adopted under this subd. 3. a. shall provide that the restriction does not apply if the person who owns the land on which the building is located allows the hunter to hunt within the specified distance of the building.

b. Requires a person who hunts with a bow and arrow or crossbow to discharge the arrow or bolt from the respective weapon toward the ground.

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\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

# City of Oak Creek Common Council Report

**Report Date:** January 7, 2014

14

**Recommendation:** That the Common Council concur with the Personnel Committee's recommendation for approval of Ordinance #2703 amending Ordinance #2700 fixing the salary ranges, salary, wages and allowances for non-union general management personnel and other city offices and positions for the year 2014 and establish the Battalion Chief position as exempt and not eligible for overtime pay. It is also recommended that a side letter of agreement for Acting Battalion Chief compensation be approved.

**Background:** The Fire Department currently has four positions designated as Battalion Chief. One of those positions is the Battalion Chief of Training, which is a 40-hour per week position. The other three Battalion Chief positions are designated Battalion Chief Operations. These positions work on a shift basis and have a scheduled 56-hour week. Currently, one of these positions is vacant due to the promotion of Mike Kressuk to Assistant Chief and the uncertain status of overtime vs. no overtime for the BC position. Clarification of base pay ranges and exempt/non-exempt status is needed for department operations.

In 2012, the Chief of Police approached the Personnel Committee with a request to increase the pay of Police Sergeants and Lieutenants due to compression issues with the top of the range for the Police Officer position. The Committee and Council concurred with the Police Chief's recommendations and made changes as requested. The Fire Chief, at that time, made a request to the Committee to amend the Battalion Chief pay to be consistent with Police Lieutenants. The current range of pay for Battalion Chief is \$73,863 to \$82,881. The 2014 range for Police Lieutenants is \$74,602-\$89,687. Fire Lieutenant pay in 2014 will be \$78,225 to \$83,701 (depending upon whether they are certified in EMS and as a paramedic or not). Police Lieutenants are eligible for overtime. The Personnel Committee did not concur with the Fire Chief's request.


The City Administrator did not recommend or support a change in the pay rate for Battalion Chiefs in large part due to significant overtime which is accumulated and earned by these management level employees. Instead, it was recommended to establish a salary range somewhat consistent with City department managers like the IT Manager, Health Officer, and City Engineer with a range of \$87,886 to \$90,490 (the lower range creates a 5.0% spread with a Fire Lieutenant who is also a paramedic:  $\$83,701 \times 1.05 = \$87,886$ ) including the provision that these would be exempt positions and overtime would not be paid. I have reviewed this matter with the Battalion Chiefs, the Assistant Fire Chief, the Fire Chief, some department managers and the Police Chief. I believe it is important to establish a strong management team in the Fire Department to conduct operations and to work with the Personnel Committee, labor attorney and the City Administrator in developing and negotiating future fire contracts and in managing current contracts in the best interest of the City. I believe the changes recommended to the Battalion Chief pay will help accomplish this. Consistent with the Personnel Manual and good personnel practices, the Personnel Committee recommends adjusting the pay for the Assistant Fire Chief from \$90,296 to \$95,105 to maintain a 5.0% separation between Battalion Chief and Assistant Fire Chief pay.

**Fiscal Impact:** Based upon a 4-year review of overtime earned by Battalion Chiefs, it is expected that this change would result in an annual savings of \$16,117. The current fire contract provides for Acting Battalion Chief pay for properly trained Lieutenants who can fill in, in the absence of a Battalion Chief. A letter of agreement with the Fire union to establish this pay at \$29.53 per hour (compared to \$28.20) has been negotiated and is recommended for approval. Coverage for critical operations in the absence of a Battalion Chief is also available Monday through Friday from 8:00 a.m. to 5:00 p.m.

Fiscal Review by:

  
Bridget M. Spuffrant, CMTW  
Finance Director/Comptroller

Prepared and Submitted by:

  
Gerald R. Peterson, ICMA-CM  
City Administrator

**2013 SIDE LETTER – ACTING BATTALION CHIEF COMPENSATION**

This **Side Letter of Agreement** (Agreement) is entered into by and between the City of Oak Creek (City) and the IAFF, Local 1848 (Union) which represents fire lieutenants that act in the capacity of a battalion chiefs as determined by the City. The parties hereby agree as follows:

When it is necessary for fire lieutenants to act in the capacity of a battalion chief, the City will compensate the fire lieutenant at a rate of \$29.53 per hour. All other provisions of the Collective Bargaining Agreement remain in effect.

The parties will enter into good faith negotiations during bargaining the successor agreement to clarify any issues either party foresees related to the application of this language or its integration into the collective bargaining agreement. Both parties agree that the terms of this Agreement shall not prejudice either party or its position with regard to said negotiations, but both parties agree the above-referenced language shall constitute the *status quo* should either party seek a change to the above-referenced language during negotiations.

This Agreement is entered into on a nonprecedent setting basis related to any other matters not covered by this Agreement and shall not prejudice either party's interpretation of any other language of the collective bargaining agreement.

\_\_\_\_\_  
For the City

\_\_\_\_\_  
Date

\_\_\_\_\_  
For the Association

\_\_\_\_\_  
Date

ORDINANCE No. 2703

BY: \_\_\_\_\_

AN ORDINANCE AMENDING ORDINANCE 2700 AND  
MODIFYING THE SALARY RANGES, SALARY, WAGES AND  
ALLOWANCES FOR ASSISTANT FIRE CHIEF AND BATTALION CHIEFS FOR THE YEAR 2014

The Common Council of the City of Oak Creek do hereby ordain as follows:

SECTION 1: There is herewith established the uniform rates of pay of those certain offices and positions in the civil service under the control of the Common Council of the City of Oak Creek affecting non-union, management, general, and miscellaneous personnel for the year 2014. The proper city officials are hereby authorized and directed to make the required payments to those affected employees of the City pursuant to this ordinance. The bi-weekly rate will prevail in years with more or less than 26 payrolls.

SECTION 3: The pay ranges and rates of pay of those certain offices and positions covered by the Police and Fire Commission service under the control of the Common Council of the City of Oak Creek affecting management and supervisory personnel shall be as follows provided that the salary range and salaries are subject to review by the Common Council. Those affected employees pursuant to this section shall receive the clothing allowance and other fringe benefits set forth in the current Personnel Manual. Employees shall contribute fifteen percent (15%) of the cost of the premium for a single and family medical plan, respectively. These employees and their spouses who participate in a health risk assessment (HRA) program, or an annual physical exam and completion of the HRA certification, shall contribute ten percent (10%) of the premium for a single and family plan, respectively.

Police/Fire Commission Position Title	Current Salary	Salary as of 1/1/2014	Bi-weekly Rate	Starting Salary	Top Salary
Assistant Fire Chief	\$90,296	\$95,105	\$3,657.88	\$95,105	\$98,120
Battalion Chiefs (4)	\$82,881	n/a	n/a	\$87,886	\$90,490

SECTION 9: This ordinance shall take effect and be in force upon its passage and publication and shall apply as of January 1, 2014, except where otherwise noted.

Introduced this \_\_\_\_ day of \_\_\_\_\_, 2014.

Passed and adopted this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
President, Common Council

Approved this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

VOTE: Ayes \_\_\_\_\_ Noes \_\_\_\_\_

# City of Oak Creek Common Council Report

Meeting Date: January 7, 2014

Item No.: 15

**Recommendation:** That the Common Council considers a motion to purchase a Canon 825 Color Series large format plotter/scanner/copier from West Allis Blueprint for the amount of \$7,895.00.


**BACKGROUND:** The city currently has three large format machines; KIP 3100 (5 years old – no color), HP Design Jet (11 years old – printing only and inadequate memory) and Océ 7056 (20 years old – copy only and no color). Purchasing the Canon would provide more efficient multi-functions, smaller floor space (replace three machines) and provide the necessary equipment to meet the initiative to go paperless with more efficiency. The unit would be utilized by several departments.

West Allis Blueprint has provided the city with a price of \$7,895.00 for the Canon which includes trade-in value of \$3,100.00 for the KIP 3100. When the price was compared to other suppliers along with trade-in value, it was found to be lower. This machine will be able to replace the KIP, HP and Océ'.

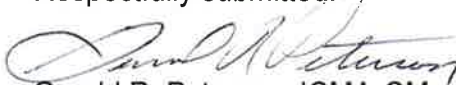
The IT Department's recommendation is to purchase the Canon 825 for \$7,895.00. This purchase was approved in the 2014 budget.

**FISCAL IMPACT:** The payment of \$7,895.00 would come from the funds in CEP accounts 4013000370 and 4013000170.

Prepared by:

  
Matthew J. Sullivan, P.E.  
Design Engineer

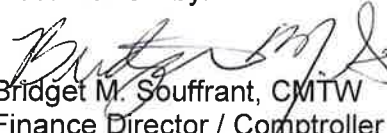
Respectfully submitted:

  
Gerald R. Peterson, ICMA-CM  
City Administrator

Approved by:

  
Caesar Geiger  
Information Technology Manager

Fiscal review by:

  
Bridget M. Souffrant, CMTW  
Finance Director / Comptroller



2013 4089

Randy Steinberg

randy@westallisblueprint.com

Vendor 84182  
2063 South 116<sup>th</sup> Street West Allis WI 53227  
(414) 321-1422 Fax (414) 321-4616



WWW.WESTALLISBLUEPRINT.COM

Matthew Sullivan  
City of Oak Creek WI.  
8640 S. Howell Ave.  
Oak Creek WI. 53154

**Canon IPF 825 MFP M40 Color  
Plotter/Scanner/Copier  
DUAL ROLL – 44 INCH**



The Canon IPF 825MFP is a full function plotter.

The printer uses a modular printing technology.

Printheads are separate from the ink cartridges. With a steady flow of fresh ink, the printheads are able to achieve maximum efficiency, yielding superior output performance.

Size 11" to 44" media (2 rolls – 500')  
Speed 24x36 line drawings in 30 seconds  
Quality 4pl droplet size  
Memory 256mb + 250GB HD

Purchase:	.....	\$11495.00
KIP 3100 Trade In:	.....	-\$3100.00
7 Day Open House Special Discount	.....	-\$500.00
<b>Total Purchase Price:</b>	.....	<b>\$7895.00</b>

Lease option:	.....	\$272.22 36 mo. + \$1.00 buyout
		\$218.91 48 mo. +\$1.00 buyout
		\$188.31 60 mo. +\$1.00 buyout

Cloud Managed Option:	.....	\$69.00 mo. / 1 yr. renew
		+\$0.035 ft <sup>2</sup>
		+\$0.69mil. ink

\* Includes paper, ink, service parts & service labor \*



The CMP program offers full local warranty coverage teamed with remote usage reporting and device management. Users will now pay for equipment "usage" as opposed to hard cartridge and paper roll orders – no more delivery fees, calls or emails for orders, or service bills. Customers receive one monthly invoice – and it includes every single cost required to operate a Canon imagePROGRAF device.

Service	Benefit
Full warranty coverage	Never see another service quote or bill – it breaks, we fix it
Real-time usage reporting	Never run out of inventory – 25% remaining notifications
Supplies consistency	Lock in contract pricing for quality OEM ink and paper
Real-time error reporting	Increased uptime - technicians diagnose issues immediately
Remote troubleshooting	Increased uptime - technicians diagnose specific jobs immediately
FREE Printheads	\$450.00 savings (each)
FREE Maintenance Carts	\$76.00 savings (each)

\*\*\* NOTE: West Allis Blueprint will pick up and remove the existing OCE and HP Plotters at the City Of Oak Creek.

Pricing good for 30 days – Any applicable taxes not included – Purchase terms NET 15

# City of Oak Creek Common Council Report

**Meeting Date:** January 7, 2014

**Item No.:** 16

**Recommendation:** That the Common Council considers a motion to approve a contract amendment with Strand Associates Inc. for an actual cost fee not-to-exceed \$21,878.13, for additional design services for S. 5<sup>th</sup> Avenue Relocation (Project No. 12026) (4<sup>th</sup> Aldermanic District).

**Background:** Strand Associates has been working with Engineering staff on the design of the 5<sup>th</sup> Avenue relocation project, which will be the new road extension spanning from the intersection of STH 100 (Ryan)/STH 32 (Chicago) to 5<sup>th</sup> Avenue/Ryan Road. It will be a divided urban section roadway with on-street bicycle lanes, sidewalks, storm sewer and street lighting.

Until recently, the city had been anticipating that a major portion of the project construction costs would be covered by a WisDOT-administered federal funding source (STP program), and because of this, there was a required design process that had to be followed and strictly adhered to. Through the review process by state and federal agencies, additional tasks have been required to finish the Environmental Assessment (EA), and Traffic Impact Analysis (TIA) that were beyond Strand's original scope of work. This amendment covers the actual cost associated with the additional tasks required and completed by Strand to date.


This amendment covers the following:

- 1) Additional tasks required for the EA:
  - a. Two additional revisions (WisDOT/DAAR) to the Environmental Assessment (\$4,124.11)
  - b. Additional tasks/meetings (WDNR & WisDOT/DAAR) for potential wetland impacts (\$1,886.23)
  - c. Additional maps/reports (WisDOT/DAAR) for Hazardous Materials/Contamination Assessment (\$823.20)
  - d. Two additional alternatives (low-build & on-alignment) (WisDOT/DAAR & FHWA) for comparison to the three original alternatives (\$5,883.41)
  - e. Coordination with United States Fish and Wildlife Services (WisDOT/DAAR) (\$556.07)
  
- 2) Additional tasks required for the TIA:
  - a. Survey for additional turn bay lengths and widening at intersection of STH 32/STH100 (\$4,365.66)
  - b. Traffic modeling based on new TIA findings (WisDOT/DAAR & FHWA) (\$2,921.91)
  - c. Twelve-hour traffic count at intersection of STH 32/STH 100 (WisDOT/DAAR) (\$1,317.54)

Additional amendment(s) will be forthcoming for additional work associated with revised EA, TIA, and proposed utility improvements. The cost of this work will be dependent on further decisions made by the Common Council as the design progresses.

**Fiscal Impact:** This design work will be paid through the sale of promissory notes authorized by Resolution No. 11440-121713.

Prepared by:



Matthew J. Sullivan, P.E.  
Design Engineer

Respectfully submitted,



Gerald Peterson, ICMA-CM  
City Administrator

Approved by:



Michael C. Simmons, P.E.  
City Engineer

Fiscal review by:



Bridget M. Souffrant, CMTW  
Finance Director / Comptroller



**DRAFT**

Strand Associates, Inc.<sup>®</sup>  
910 West Wingra Drive  
Madison, WI 53715  
(P) 608-251-4843  
(F) 608-251-8655

December 4, 2013

Mr. Matt Sullivan  
City of Oak Creek  
8640 S. Howell Avenue  
P.O. Box 27  
Oak Creek, WI 53154

Re: S. 5th Avenue Relocation

Dear Mr. Sullivan:

This letter provides clarification to Strand Associates, Inc.'s<sup>®</sup> (Strand) proposed Amendment No. 1 for the S. 5th Avenue Relocation project. As you know, many of the amended services requested in **Amendment No. 1** were previously discussed in April 2013. In April, it was the City of Oak Creek's (City) direction for Strand to continue with the project without an amendment because the city engineering department was not sure the project would be funded by the Wisconsin Department of Transportation (WisDOT). Without WisDOT funding, the City suggested it may take a different approach to the project, which could have changed the overall scope of the project. Essentially, the project team was waiting to see how the outcome of the funding unfolded and Strand was told to proceed. Future amendments would come, as needed, once the funding was determined.

Based on recent discussions with you, the City did not receive the anticipated WisDOT funds this fall. Further, the council decided to continue the project approach based on receiving future WisDOT funding. This would require Strand to continue under the same agreement with the City and with the review process developed in that agreement. Based on this outcome, Amendment No 1. includes the additional services discussed in April and August of this year. Those items are as follows.

1. Section B—Environmental Document
  - a. Two additional revisions to the Environmental Assessment (EA) documents according to WisDOT and DAAR reviews were requested for this project. It took an additional 40 hours to complete these services for a cost of \$4,124.11
  - b. A wetland meeting and additional coordination with WisDOT and the Wisconsin Department of Natural Resources (WDNR) was needed because of potential impacts to wetlands along the proposed S. 5th Avenue relocation corridor. We were also asked by the WDNR to survey additional wetland boundaries north of the project corridor. It took an additional 18 hours to complete these services for a cost of \$1,886.23.
  - c. Additional report information was required by DAAR and WisDOT for a Hazardous Materials/Contamination Assessment. We included additional maps and reports for their approval. It took an additional 8 hours to complete these services for a cost of \$823.20.

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Mr. Matt Sullivan  
City of Oak Creek  
Page 2  
December 4, 2013

- d. An additional low-build alternative and on-alignment reconstruction alternative were requested by WisDOT, the Federal Highway Administration (FHWA), and DAAR for comparison in the EA document. Those alternatives required figures for the geometric improvements, traffic modeling and reporting, and real estate and construction cost impacts. This effort took an additional 40 hours to complete for a cost of \$4,124.11.
2. Section C–Agency Coordination
    - a. Strand was required to coordinate with the United States Fish and Wildlife Service as part of this project for the EA document. It involved a letter, e-mails, and phone conversations. It took an additional 6 hours to complete these services for a cost of \$556.07.
  3. Section F–Survey
    - a. When scoping this project, Strand anticipated a left-turn bay addition to STH 100 and a left-turn bay addition to the southbound S. Chicago Road approach, as the City had preliminarily designed with WisDOT. The traffic impact analysis (TIA) and intersection control evaluation (ICE) for the intersection of STH 100 and S. Chicago Road did warrant both left-turn bays but also suggested the reconstruction of the northbound approach of S. Chicago Road. Therefore, the limits of survey increased because of greater than originally anticipated improvements at this intersection. Strand performed an additional 400 feet of topographic survey on STH 100 and 950 feet along S. Chicago Road to accommodate turn bay lengths, through lanes, and widening at the intersection. This also increased the limits of property corner locating and investigation. It took an additional 48 hours to complete these services for a cost of \$4,365.66.
  4. Section M–Locating

Two additional alternative alignments were created for selection by the City, WisDOT, DAAR, and FHWA. The additional alignments included a low-build alternative and on-alignment reconstruction alternative. It took an additional 16 hours to complete these services for a cost of \$1,759.30.
  5. Section P–Traffic Analysis and Modeling

WisDOT and FHWA requested the intersection of S. Chicago Avenue and E. Ryan Road be modeled for improvements based on the TIA and EA comparison. It took an additional 26 hours to complete these services for a cost of \$2,921.91

A 12-hour traffic count was also required at S. Chicago Avenue and E. Ryan Road for the TIA, ICE, and EA. It took an additional 14 hours to complete these services for a cost of \$1,317.54

Mr. Matt Sullivan  
City of Oak Creek  
Page 3  
December 4, 2013

We hope this explanation for the additional services provides the City with sufficient information to approve Amendment No. 1 for the S. 5th Avenue Relocation project. If further information is needed, please call me.

Sincerely,

STRAND ASSOCIATES, INC.®



Joshua J. Straka, P.E.

Enclosures

c: Mike Simmons, City Engineer, City of Oak Creek

**AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT  
BETWEEN THE CITY OF OAK CREEK, WISCONSIN (City)  
AND STRAND ASSOCIATES, INC.<sup>®</sup> (Consultant) FOR**

Project ID 12026

The Agreement made and entered into by and between the City and the Consultant dated July 2, 2012, is hereby amended as set forth on the following pages.

The primary reason(s) for this Amendment:

Additional topographic surveying is needed along USH 100 and USH 32. The traffic impact analysis will be updated to include an additional intersection. Additional wetland coordination is needed for the project. The environmental coordination will increase with the addition of alternative analysis and an increase in project complexity.

In witness whereof, the parties hereto have caused this Amendment to be executed and approved on the date signed by their authorized officers or representatives.

CITY OF OAK CREEK, WISCONSIN

STRAND ASSOCIATES, INC.<sup>®</sup>

**DRAFT**

**DRAFT**

\_\_\_\_\_  
Stephen A. Scaffidi Date  
Mayor

\_\_\_\_\_  
Matthew S. Richards Date  
Corporate Secretary

**DRAFT**

**DRAFT**

\_\_\_\_\_  
Gerald R. Peterson Date  
City Administrator

\_\_\_\_\_  
Witness Date

**DRAFT**

\_\_\_\_\_  
Catherine A. Roeske Date  
City Clerk

**DRAFT**

\_\_\_\_\_  
Michael C. Simmons Date  
City Engineer

Approved as to Form:

\_\_\_\_\_  
Lawrence J. Haskin Date  
City Attorney

AMENDMENT NO. 1

Under **SECTION 4 - PAYMENTS TO CONSULTANT**, REPLACE item 4.1 with the following:

"4.1 Consultant shall perform and provide all Basic Services outlined in Exhibit A. Total compensation for Basic Services outlined in Exhibit A and as provided in the breakdown of services rendered according to the lump sum fee shown in Exhibit C, shall not exceed \$420,923.13 (an increase of \$21,878.13) without an approved amendment to this Agreement as signed by the City and Consultant. Additional Services for an Exceptions to Design Standards and an Access Management Report shall be reimbursed for a lump sum fee of \$6,565.00, if authorized."

Under **EXHIBIT A, SCOPE OF SERVICES**,

B. ENVIRONMENTAL DOCUMENTATION

REPLACE the last sentence of the third paragraph with the following:

"Four revisions are anticipated. More than four revisions shall be considered Additional Services."

2. Wetland

ADD the following to the end of the existing paragraph:

"Attend a wetland meeting with the Department and WDNR for wetland impacts along the Project. The Consultant will survey the wetland limits provided by SEWRPC."

9. Hazardous Materials/Contamination Assessments,

REPLACE paragraph 9.a.D. Figures in its entirety with the following:

"The Consultant will include in the report copies of corridor cross section diagrams (plan and profile), Sanborn Maps, aerial photographs, or highway as-built plans and plats. Information obtained from the review of these sources will be shown on site plans, as appropriate."

ADD the following:

"10. Low-Build Alternative and On-Alignment Alternative

The Consultant will evaluate a low-build alternative and an on-alignment alternative as requested by the Federal Highway Administration (FHWA) for comparison in the Environmental Assessment (EA)."

C. AGENCY COORDINATION

Under C.1., ADD the following:

"j. Fish and Wildlife Service"



## F. SURVEYS

REPLACE paragraph F.5. in its entirety with the following:

- "5. The Consultant will perform survey services that provide topographic and utility information for four side roads within the project corridor, survey download, and creation of a base map. Survey services to obtain topographic and utility information outside the limits outlined below shall be considered Additional Services.

Survey limits will be:

Distance along Side Road	Name of Side Road
1,950 feet	S. Chicago Road
900 feet	STH 100
1,000 feet	E. Ryan Road
1,000 feet	Railroad

Survey limits on both sides of the referenced side roads will be 100 feet from the centerline or 100 feet to the face of the building, whichever is closer."

## M. LOCATING

REPLACE paragraph M.1. in its entirety with the following:

- "1. The Consultant will prepare five alternative alignments to enable selection of a suitable alternate for preliminary design by the City and the Department."

## P. TRAFFIC ANALYSIS AND MODELING

Under P.1. ADD the following:

- "c. S. Chicago Road and E. Ryan Road"

REPLACE paragraph P.2. in its entirety with the following:

- "2. The Consultant will perform 12-hour traffic counts at the following intersections:
- S. 5th Avenue and S. Chicago Road
  - S. 5th Avenue and E. Ryan Road
  - S. Chicago Road and E. Ryan Road"

REPLACE **EXHIBIT C**, Consultant Contract Total Fee Computation, with the attached **EXHIBIT C-REVISED**.

**EXHIBIT C—REVISED**  
 (Amendment No. 1)

**STRAND ASSOCIATES, INC.®**

**Project ID 12026  
 S. 5th Avenue  
 City of Oak Creek  
 Milwaukee County**

**Consultant Contract Total Fee Computation**

<b>Project ID</b>	<b>12026</b>	<b>Amendment No. 1</b>	<b>Total for Contract</b>
<b>Number of Staff Hours</b>	3,240	216	<b>3,456</b>
<b>Total Labor/Expense</b>	\$328,635.00	\$21,878.13	<b>\$350,513.13</b>
<b>Subtotal</b>	<b>\$328,635.00</b>	<b>\$21,878.13</b>	<b>\$350,513.13</b>
<b>GLARC</b>	\$3,370.00	\$0.00	<b>\$3,370.00</b>
<b>Single Source, Inc.</b>	\$53,570.00	\$0.00	<b>\$53,570.00</b>
<b>PSI</b>	\$9,180.00	\$0.00	<b>\$9,180.00</b>
<b>Knight Barry</b>	\$4,290.00	\$0.00	<b>\$4,290.00</b>
<b>Subcontract Total</b>	<b>\$70,410.00</b>	<b>\$0.00</b>	<b>\$70,410.00</b>
<b>Total Cost</b>	<b>\$399,045.00</b>	<b>\$21,878.13</b>	<b>\$420,923.13</b>
<b>If Authorized, Exceptions to Design Standards</b>	\$3,075.00	\$0.00	<b>\$3,075.00</b>
<b>If Authorized, Access Management Report</b>	\$3,490.00	\$0.00	<b>\$3,490.00</b>

**DRAFT**

**Strand Associates, Inc.®**

910 West Wingra Drive

Madison, WI 53715

(P) 608-251-4843

(F) 608-251-8655



December 4, 2013

Mr. Matt Sullivan  
City of Oak Creek  
8640 S. Howell Avenue  
P.O. Box 27  
Oak Creek, WI 53154

Re: S. 5th Avenue Relocation

Dear Mr. Sullivan:

This letter provides clarification to Strand Associates, Inc.'s® (Strand) proposed **Amendment No. 2** for the S. 5th Avenue Relocation project. The main reason for this amendment is due to the expansion of the original project parameters. It includes the addition of design and plans along S. Chicago Road along with a 300-foot-long retaining wall along S. 5th Avenue. It also includes the extension of the project schedule from May 1, 2014, to November 1, 2014. The additional services are as follows.

1. Section G—Soils and Subsurface Investigations
  - a. A total of 20 soil borings will be required for this project instead of 15. The additional borings are needed for the detention basins and retaining wall according to Strand's subconsultant's recommendations.
  - b. Strand's subconsultant will also provide a geotechnical engineering report for the retaining wall design. The report will include bearing pressures, coefficient of friction, lateral earth pressures, and global slope stability analysis for the retaining wall.
  - c. Strand's subconsultant's additional cost for this effort is \$6,000.

2. Section H—Road Plans

Because of the STH 100 and S. Chicago Road signal improvements required by the traffic impact analysis and intersection control evaluation, the roadway plans have increased in effort from the originally scoped left-turn bay additions at that intersection. These changes will require additional design and plan preparation. The plan changes are as follows.

- a. Typical Section Sheets have increased to 8 drawings (3 were scoped).
- b. Paving Detail Sheets have increased to 11 drawings (6 were scoped).
- c. Traffic Signal Drawings have become more complex and detailed.
- d. Traffic Control/Staging Drawings have become more complex and detailed.
- e. Plan and Profile Sheets have increased to 7 drawings (4 were scoped).
- f. Cross Section Sheets have increased to 40 drawings (25 were scoped).

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Mr. Matt Sullivan  
City of Oak Creek  
Page 2  
December 4, 2013

Because of the increase in project length along STH 100 and S. Chicago Road, Strand anticipates an additional 186 hours of total effort to complete these services for a cost of \$17,440.97

A retaining wall was added to the scope of the project. Strand will assist the City of Oak Creek (City) in the selection of a retaining wall structure type and will design and incorporate the wall into the roadway plans and specifications. This will require a survey structural report and preliminary and final plan review by the Wisconsin Department of Transportation's (WisDOT) Bureau of Structures. Strand anticipates 140 hours of total effort to complete these services for a cost of \$13,246.80

3. Section N-Plat

Strand will need up to five additional title searches along S. Chicago Road for plat and acquisition preparation. This is needed because of the expansion of the project limits along S Chicago Road. The subconsultant's additional cost for this effort is \$1,650.

4. Schedule Extension

The schedule for this project has changed from a PS&E of May 1, 2014, to November 1, 2014. This extension will add an additional 45 hours for project administration and agency coordination (City, DAAR, WisDOT) though that period for a cost of \$5,315.92

We hope this explanation for the additional services provides the City with sufficient information to approve Amendment No. 2 for the S. 5th Avenue Relocation project. If further information is needed, please call me.

Sincerely,

STRAND ASSOCIATES, INC.<sup>®</sup>



Joshua J. Straka, P.E.

c: Mike Simmons, City Engineer, City of Oak Creek

**AMENDMENT NO. 2 TO THE PROFESSIONAL SERVICES AGREEMENT  
BETWEEN THE CITY OF OAK CREEK, WISCONSIN (City)  
AND STRAND ASSOCIATES, INC.® (Consultant) FOR**

Project ID 12026

The Agreement made and entered into by and between the City and the Consultant dated July 2, 2012, is hereby amended as set forth on the following pages.

The primary reason(s) for this Amendment:

The USH 100 and USH 32 intersection improvements will be expanded from minor turn bay improvements to major intersection improvements from E. Ryan Road to E. Garden Place. A 300-foot retaining wall will be added to the project. The timeline will be extended from a Plans, Specifications, and Estimates (PS&E) of May 1, 2014, to a PS&E of November 1, 2014.

In witness whereof, the parties hereto have caused this Amendment to be executed and approved on the date signed by their authorized officers or representatives.

CITY OF OAK CREEK, WISCONSIN

STRAND ASSOCIATES, INC.®

**DRAFT**

**DRAFT**

Stephen A. Scaffidi \_\_\_\_\_ Date  
Mayor

Matthew S. Richards \_\_\_\_\_ Date  
Corporate Secretary

**DRAFT**

**DRAFT**

Gerald R. Peterson \_\_\_\_\_ Date  
City Administrator

Witness \_\_\_\_\_ Date

**DRAFT**

Catherine A. Roeske \_\_\_\_\_ Date  
City Clerk

**DRAFT**

Michael C. Simmons \_\_\_\_\_ Date  
City Engineer

Approved as to Form:

Lawrence J. Haskin \_\_\_\_\_ Date  
City Attorney

## AMENDMENT NO. 2

Under **SECTION 4 - PAYMENTS TO CONSULTANT**, REPLACE item 4.1 with the following:

- "4.1 Consultant shall perform and provide all Basic Services outlined in Exhibit A. Total compensation for Basic Services outlined in Exhibit A and as provided in the breakdown of services rendered according to the lump sum fee shown in Exhibit C, shall not exceed \$464,576.82 (an increase of \$43,653.69) without an approved amendment to this Agreement as signed by the City and Consultant. Additional Services for an Exceptions to Design Standards and an Access Management Report shall be reimbursed for a lump sum fee of \$6,565.00, if authorized."

Under **EXHIBIT A, SCOPE OF SERVICES**,

## G. SOILS AND SUBSURFACE INVESTIGATIONS

REPLACE paragraph G.1. with the following:

- "1. The Consultant's Subconsultant will perform 20 soil borings to a depth of approximately 15 feet as a part of subsurface investigations to analyze the Project's geotechnical parameters and provide recommendations. The soils will be classified by pedological means to provide pavement and retaining wall design parameters."

ADD the following to the end of the section:

- "4. The Consultant's Subconsultant will prepare a geotechnical engineering report for retaining wall design parameters. The report will include bearing pressures, coefficient of friction, lateral earth pressures, and global slope stability analysis for the retaining wall type selected by the City."

## H. ROAD PLANS

REPLACE paragraph H.1. with the following:

- "1. Road plans will be prepared on 11-inch x 17-inch sheets. Drawings will consist of the following items and with a plan scale, as appropriate, according to the Manual:
- a. Title sheet (1 sheet)
  - b. General notes (1 sheet)
  - c. Project overview (single sheet schematic drawing)
  - d. Typical sections (estimate 8 drawings at 10 scale)
  - e. Construction details (estimate 5 drawings at 40 scale)
  - f. Paving details (estimate 11 drawings at 40 scale)
  - g. Erosion control drawings (estimate 6 drawings at 40 scale)
  - h. Storm sewer drawings (estimate 8 drawings at 40 scale)
  - i. Permanent signing drawings (estimate 6 drawings at 40 scale)
  - j. Lighting drawings (estimate 6 drawings at 40 scale)
  - k. Roundabout drawings (estimated 4 drawings at 40 scale)
  - l. Traffic signal drawings (estimate 6 drawings)

- m. Pavement marking drawings (estimate 6 drawings at 40 scale)
- n. Traffic control/staging drawing (estimate 5 drawings)
- o. Alignment drawings (estimate 2 drawings at 100 scale)
- p. Miscellaneous quantities (estimate 15 sheets)
- q. Plan and profile drawings (estimate 7 drawings at 100 scale)
- r. Earthwork summary (estimate 3 sheets)
- s. Cross sections (estimate 40 drawings at 10' x 5' scale)
- t. Control point location drawings (1 drawing)
- u. Retaining wall drawings (3 drawings)

Road plans will be designed in accordance with the current practices of the Department and in accordance with the principles, standards, and practices adopted by the Department for manual and computer-aided design of highway plans, as specified in the Manual and will be developed in accordance with the latest edition of the STANDARD SPECIFICATIONS for HIGHWAY and STRUCTURE CONSTRUCTION of the Department, hereinafter referred to as STANDARD SPECIFICATIONS.”

ADD the following to the end of the section:

- “7. The Consultant will assist the City in selection of a retaining wall structure type including design and a survey structural report for the wall. A preliminary and final plan review will be prepared for the Department’s Bureau of Structures.”

N. PLATS

REPLACE the last sentence under paragraph 2. with the following:

“Eighteen title searches are included in the Agreement.”

REPLACE **EXHIBIT B**, PROJECT SCHEDULE, with the attached **EXHIBIT B–REVISED**.

REPLACE **EXHIBIT C**, Consultant Contract Total Fee Computation, with the attached **EXHIBIT C–REVISED**.

**EXHIBIT B—REVISED**

(Amendment No. 2)

**PROJECT SCHEDULE**

The following items of service will be completed and submitted to the City by the indicated dates based on the Consultant receiving the Notice to Proceed on approximately July 9, 2012.

	<u>Date</u>
OCR Hearing	July 2012
Operational Planning Meeting	August 2012
Public Information Meeting No. 1	November 2012
Alternative Selection	December 2012
30 Percent Plans	February 2013
Public Information Meeting No. 2	June 2013
Public Hearing	December 2013
Environmental Document	January 2014
60 Percent Plans	January 2014
Preliminary TPP	January 2014
Design Study Report	January 2014
Appraisal TPP	February 2014
Utility Submittal	March 2014
Public Information Meeting No. 3	July 2014
Pre-PS&E Plans	July 2014
Draft PS&E Review Meeting	September 2014
Final PS&E Submittal	November 2014



**EXHIBIT C-REVISED**  
(Amendment No. 2)

STRAND ASSOCIATES, INC.\*

Project ID 12026  
S. 5th Avenue  
City of Oak Creek  
Milwaukee County

Consultant Contract Total Fee Computation

Project ID	12026	Amendment No. 1	Amendment No. 2	Total for Contract
Number of Staff Hours	3,240	216	371	3,827
Total Labor/Expense	\$328,635.00	\$21,878.13	\$36,003.69	\$386,516.82
<b>Subtotal</b>	<b>\$328,635.00</b>	<b>\$21,878.13</b>	<b>\$36,003.69</b>	<b>\$386,516.82</b>
GLARC	\$3,370.00	\$0.00	\$0.00	\$3,370.00
Single Source, Inc.	\$53,570.00	\$0.00	\$0.00	\$53,570.00
PSI	\$9,180.00	\$0.00	\$8,000.00	\$15,180.00
Knight Barry	\$4,290.00	\$0.00	\$1,650.00	\$5,940.00
<b>Subcontract Total</b>	<b>\$70,410.00</b>	<b>\$0.00</b>	<b>\$7,650.00</b>	<b>\$78,060.00</b>
<b>Total Cost</b>	<b>\$399,045.00</b>	<b>\$21,878.13</b>	<b>\$43,653.69</b>	<b>\$464,576.82</b>
If Authorized, Exceptions to Design Standards	\$3,075.00	\$0.00	\$0.00	\$3,075.00
If Authorized, Access Management Report	\$3,490.00	\$0.00	\$0.00	\$3,490.00

# City of Oak Creek Common Council Report

Meeting Date: January 7, 2014

Item No.: 17

**Recommendation:** That the Common Council directs the Engineering Department on a preferred S. 5<sup>th</sup> Avenue/E. Ryan Road intersection type for the S. 5<sup>th</sup> Avenue Relocation project (Project No. 12026) (4<sup>th</sup> Aldermanic District).

**Background:** Strand Associates has been working with Engineering staff on the design of the 5<sup>th</sup> Avenue relocation project, which is nearing 60 percent completion. One key decision needed to complete this milestone is the City's preferred type of intersection at S. 5<sup>th</sup> Avenue and E. Ryan Road. The two types of intersections under consideration are stop control and roundabout intersection (see attachment for both). Each intersection is summarized below;

- 1) Stop Control
  - a. Lesser environmental and real estate impacts
  - b. Easy upgrade to signals to handle future traffic when needed
  - c. Lower initial construction cost
  - d. Supported by public opinion
  
- 2) Roundabout
  - a. Initial higher cost option by \$110,000
  - b. Higher environmental and real estate impacts
  - c. High traffic capacity with no signalization required
  - d. Landscaping potential in circle of roundabout
  - e. Not supported by public opinion (based on comments received at the public informational meetings)

The traffic impact analysis has determined that both intersection types would satisfy the current and future safety and traffic for this area. Because of this, the higher cost of the roundabout alternative would not be eligible for any potential federal funding.

**Fiscal Impact:** The roundabout intersection is estimated to cost \$110,000 more than the stop control intersection, and would not be eligible to receive any federal funding.

Prepared by:



Matthew J. Sullivan, P.E.  
Design Engineer

Approved by:



Michael C. Simmons, P.E.  
City Engineer

Respectfully submitted,



Gerald Peterson, ICMA-CM  
City Administrator

Fiscal review by:



Bridget M. Souffrant, CMTW  
Finance Director / Comptroller

Preliminary  
Date: 2012-12-03



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PROJECT NO:	HWY: WIS 32	COUNTY:	5TH AVE AND RYAN RD SIDE STREET STOP CONTROL ALTERNATIVE	SHEET	E
FILE NAME : S:\MIL\3300--1999\1860\08 MilGrwa\Kubla\1\DES\3\m_Ryan_Traffic Signal.dgn					
PLOT DATE : 12/4/2012					
PLOT BY : J. J. WILSON					
PLOT NAME :					
PLOT SCALE : 1/8" = 100'					
WISDOT/CAODS SHEET 44					

Preliminary  
Date: 2012-12-03



PROJECT NO:

HWY: WIS 32

COUNTY:

PLOT DATE: 12/14/2012

5TH AVE AND RYAN RD ROUNDABOUT ALTERNATIVE

SHEET

E

FILE NAME: S:\MILL\1300--1200\1306\0000\44\0200\1306\0000\1\1025\5thRyanRoundabout.dgn

PLOT BY: J. J. J. J.

PLOT NAME:

PLOT SCALE: 1" = 40'

WISDOT/CADDIS SHEET 44