

January 3, 2002

MEMORANDUM OF UNDERSTANDING
OAK LEAF TRAIL

This Memorandum of Understanding between Milwaukee County and the City of Oak Creek sets forth the terms and conditions required of the City of Oak Creek (City) and Milwaukee County (County) for the installation, long term operation, maintenance and redevelopment of portions of the Oak Leaf Bike Trail in the City of Oak Creek.

The following are the mutually agreed to terms and conditions:

1. The City agrees to reimburse the County for the cost to design, provide construction management services and construct additions, Sections A and B, to the Oak Leaf Trail as outlined below:
Section A- Extension of the North Shore Oak Leaf Trail from Marshall Avenue to Manitoba Avenue using the former North Shore right of way and City of Oak Creek property (Attachment A).
Section B- Construct an Oak Leaf Trail segment in the Oak Creek Parkway from the parking lot east of Howell Avenue to an existing trail segment near Shepard Avenue (Attachment B).
2. Contingent upon obtaining the necessary easement from the Oak Creek/Franklin School District, the County agrees to construct Section C as outlined below:
Section C- The County agrees to develop a portion of the North Shore Oak Leaf Trail along Oak Creek Parkway through the East Middle School site located at 9330 South Shepard Avenue (Attachment C). The County will use its best effort to obtain an easement from the Oak Creek / Franklin School District for the trail on the East Middle School property.
3. Trail Operation and Maintenance:
The County agrees to operate and maintain Sections A and B as described above and shown on Attachment A and B. The City agrees to operate and maintain the Section C as described above and shown on Attachment C. The City agrees to perform winter snow and ice removal on Sections B and C. The City agrees repair any damage caused by winter plowing operations on Sections B and C.
4. Trail Operation and Maintenance responsibilities include normal day to day operations to keep the bike trail in good safe operation. This includes: grass mowing, litter pick up, removing any gravel or debris from the trail, maintenance and replacement of signage, asphalt patching, and the removal of any woody vegetation from the corridor. The corridor is defined as 17.5 linear feet from the centerline of the trail.
5. At the time the trail sections A, B and C require reconstruction or repaving, plans and specifications shall be prepared by the County to the specifications of Milwaukee County. The City will pay for the cost to design, provide construction management services and reconstruction for Sections A and B. The County will pay for the cost to reconstruct Section C as needed subject to overall Departmental priorities and available resources.
6. By executing this Memorandum of Understanding, the County and the City agree to work together as public sector neighbors and to attempt to facilitate and demonstrate consideration for each other's operational needs and requirements.

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7. Insurance and Indemnification

Section 7.01. Waiver of Subrogation. County and City of Oak Creek hereby waive and release all right of recovery against each other by way of subrogation or otherwise for any insured or self-funded loss by fire, extended coverage or other property coverage existing for the benefit of County or City of Oak Creek with respect to the Premises. Such subrogation waivers shall apply to any property insurers and if required by insurers, notice of this waiver shall be given the insurers and said waiver obtained.

Section 7.02. Other Insurance. City of Oak Creek shall, during the entire Term of this Agreement, keep in full force and effect a policy of commercial general liability insurance with respect to City of Oak Creek's activities in and around the Premises in an amount of not less than \$1,000,000.00 combined single limit. City of Oak Creek shall also maintain insurance coverage for worker's compensation claims as required by the State of Wisconsin, including employer's liability. All liability insurance policies required hereunder shall be issued by a responsible insurance company or companies with a rating of "A" or better by Best's Rating Service or a comparable rating from an equivalent rating service if Best's shall cease publishing such ratings and shall name City of Oak Creek as the insured and County as an additional insured and shall contain a clause that the insurer will not cancel or change the insurance without first giving County thirty (30) days prior written notice. The insurance shall be with an insurance company licensed to do business in Wisconsin and a copy of the paid-up policies evidencing such insurance or a certification of insurer shall be delivered to County prior to commencement of the Term of this Agreement, and such delivery shall also be made upon renewal of such policies not less than ten (10) days prior to the expiration of such coverage.

Section 7.03. Liability Release. To the fullest extent permitted by law, City of Oak Creek and County shall be liable for their own acts and negligence and each agrees to hold the other harmless for any losses, damages, costs, or expense including but not limited to reasonable attorneys fees and litigation expenses paid or sustained by reason of tort and/or legal liabilities of the other.

Section 7.04. Indemnification. In furtherance hereof, City of Oak Creek also hereby agrees to indemnify and completely hold harmless the County, its agents, insurers and/or employees from and against all actions, claims, demands, damages, losses, liabilities, costs and expenses, including but not limited to attorneys' fees and expenses where any or all of such actions claims, damages, losses, liabilities, costs or expenses in any way arise out of or by reason of, in whole or in part, any third party claims for actions taken by City of Oak Creek, or City of Oak Creek's agents, which are not specifically granted by the County to City of Oak Creek under this Agreement. In the event any lawsuit is commenced which names the County as a defendant therein, the County shall promptly tender the

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defense thereof to City of Oak Creek and City of Oak Creek shall promptly assume such defense with counsel selected by City of Oak Creek at its sole cost and expense. The County shall promptly give notice to City of Oak Creek of any claim filed against the County by such third party.

8. Notices. Whenever in the Agreement it shall be required that notice be given by any party hereto to the other, such notice shall be given by certified or registered mail, and any notice so sent shall be deemed to have been given on the date that the same is deposited in the United States mail, postage prepaid. Notices shall be addressed to County at Milwaukee County Department of Parks, Recreation and Culture, 9480 Watertown Plank Road, Wauwatosa, Wisconsin 53226, Attn: Director (with a copy to Corporation Counsel, Room 303, Milwaukee County Courthouse, 901 North Ninth Street, Milwaukee, Wisconsin 53233), and to the City of Oak Creek at City Hall, 8640 South Howell Avenue, Oak Creek, Wisconsin 53154, Attn: City Administrator, or at such other address as either party may from time to time specify in writing in lieu thereof. It is further agreed that each party hereto will promptly furnish to the other party hereto a copy of any notice it may receive from any third person, which may affect the rights of any party hereunder.

These terms and conditions have been reviewed and are hereby agreed to by:

Susan L. Baldwin, Director
Department of Parks, Recreation & Culture

Date: _____

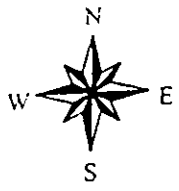
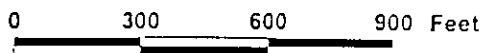
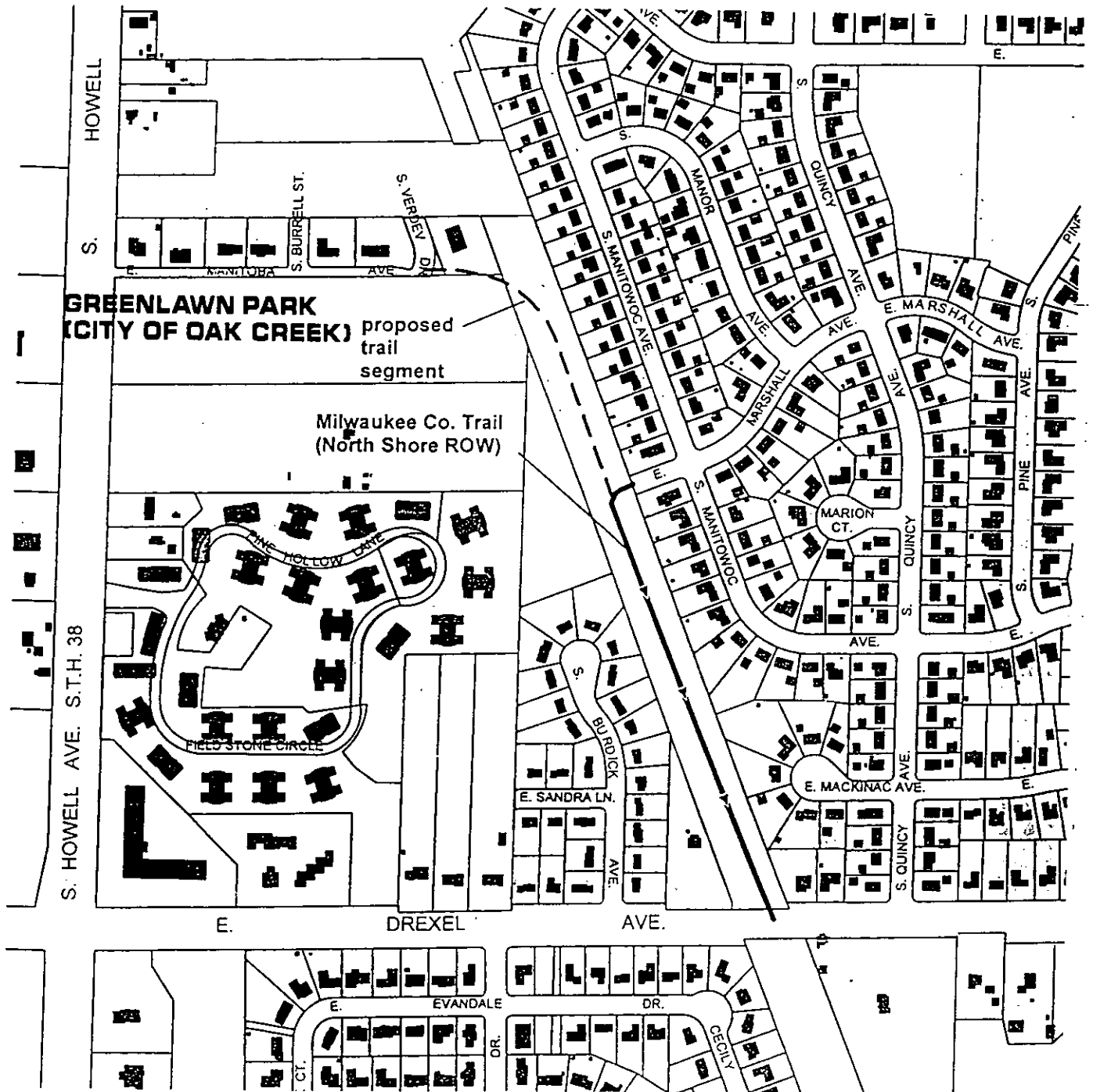
Mayor Dale Richards
City of Oak Creek

Date: _____



Common Council Report

SECTION A





Common Council Report

SECTION B

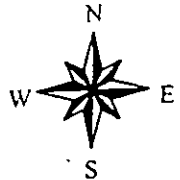


proposed trail segment

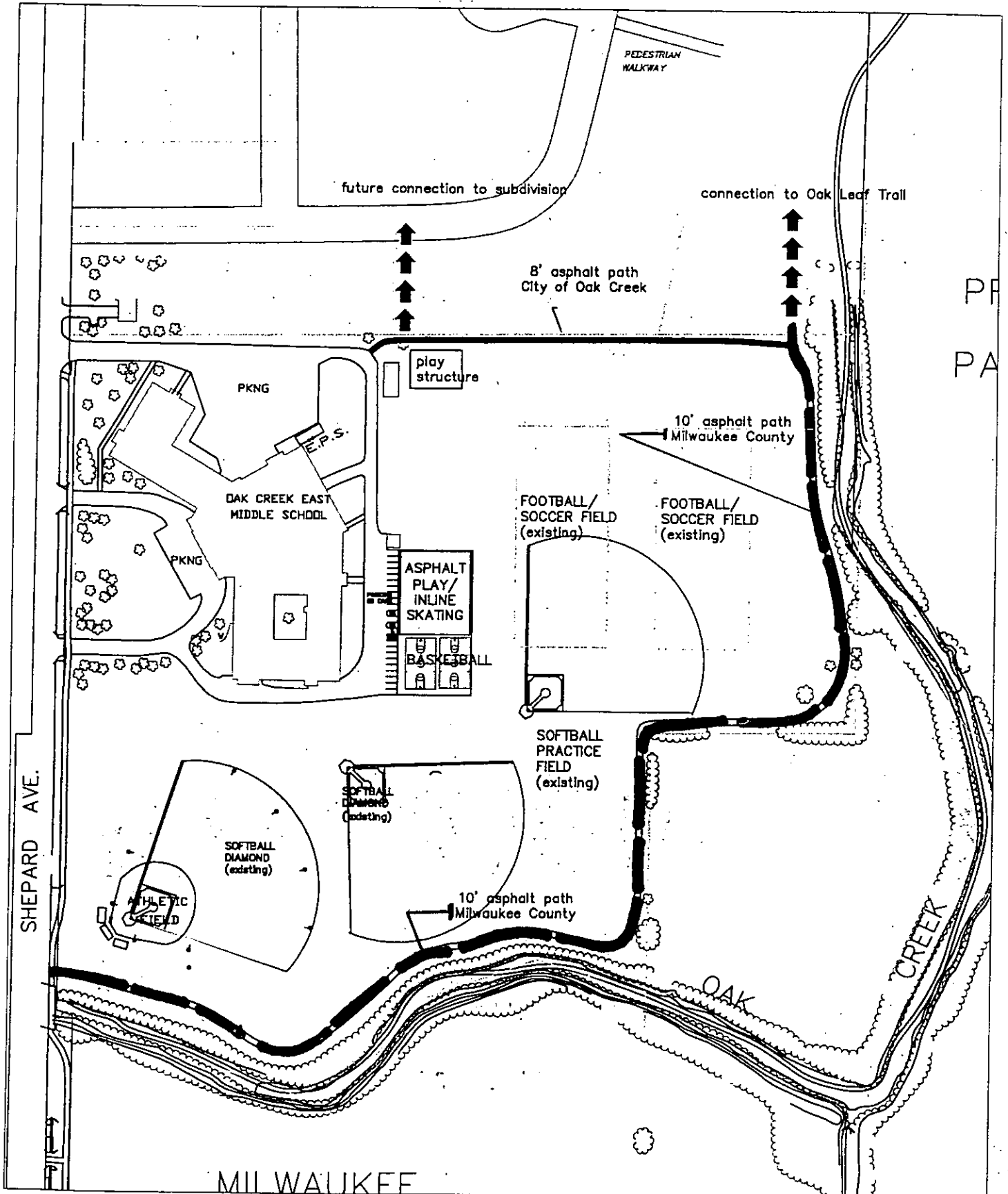
existing parkway drive

existing bike trail

0 300 600 900 Feet



SECTION C



PP
PA

MAR 21 2002
Adopted
H-O

File No. 02-51
(Journal, January 24, 2002)

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(ITEM NO. 8) From the Director of the Department of Parks, Recreation and Culture, requesting authorization to execute a Memorandum of Understanding with the City of Oak Creek to develop, operate, maintain and redevelop, when necessary, three Oak Leaf bike trail segments in Oak Creek; further authorizing the Parks Director to develop and enter into an easement with the Oak Creek/Franklin School District, as stated in the Memorandum of Understanding, by recommending adoption of the following:

A RESOLUTION

WHEREAS, on December 17, 1997, the City of Oak Creek adopted the 1998 City of Oak Creek Park and Open Space Plan; and

WHEREAS, the Oak Creek Park and Open Space Plan called for bikeway development throughout the City; and

WHEREAS, in December, 2001, the Milwaukee County Board of Supervisors adopted File No. 01-710 that authorized the Parks Director to negotiate with the City of Oak Creek to develop, operate and maintain the bike trail segments with the City of Oak Creek; and

WHEREAS, the proposed bikeway developments consist of the following:

- Section A would connect the North Shore Oak Leaf Trail Phase I construction to the City of Oak Creek Greenlawn Park;
- Section B would connect the Oak Creek Parkway Drive east of Howell Avenue to Shepard Avenue; and
- Section C would connect the North Shore Oak Leaf Trail development through the City of Oak Creek East Middle School.

; and

WHEREAS, a Memorandum of Understanding has been developed following negotiations with the City of Oak Creek and will be reviewed and approved by the Corporation Counsel and Risk Management staff; and

WHEREAS, the Committee on Parks, Energy and Environment, at its meeting of March 12, 2002, recommended approval of the request of the Director of Parks (vote 7-0); now, therefore

BE IT RESOLVED, that the Director of the Department of Parks, Recreation and Culture, is hereby authorized and directed to execute a Memorandum of Understanding with the City of Oak Creek (copy contained herein in File No. 02-51) to develop,

APPROVED AS TO FORM
Timothy R. Schreyer
CORPORATION COUNSEL

38 operate, maintain and redevelop when necessary, three bike trail sections in Oak
39 Creek; and

40 BE IT FURTHER RESOLVED, that the Director of the Department of Parks,
41 Recreation and Culture, is hereby authorized and directed to develop and enter into an
42 easement with the Oak Creek/Franklin School District as stated in the Memorandum of
43 Understanding.

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46 **FISCAL NOTE:** Adoption of this resolution will require staff time to prepare an
47 agreement and easement. The City of Oak Creek will reimburse
48 Milwaukee County the cost to design and construct bike trail
49 Sections A and B. Section C will be constructed under the North
50 Shore – Oak Leaf Trail conversion project which was authorized
51 in the 1999 Milwaukee County Parks Department Capital
52 Improvement Budget. Operation and maintenance of the bike
53 trail Sections A and B will increase the operational
54 responsibilities of the Park Department’s South Region staff. An
55 appropriation transfer will be processed recognizing revenue
56 from the City of Oak Creek and establishing the offsetting
57 appropriation for the construction of Sections A and B.

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62 PARKS:mw:3/18/02:02-51 reso

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