RECORD OF COUNTY BOARD AND COUNTY EXECUTIVE ACTIONS 3327 R2	XXX Resolution ☐ Ordinance	COUNTY BOARD FILE NO. File No. 05-207

CERTIFICATION TO COUNTY BOARD PASSAGE	I certify that the attached resolution or ordinance was adopted by The Board of Supervisors of Milwaukee County at a meeting held on the 28th day of April 2005 by a vote of 15 ayes 4 noes. 4-28-05 DATE SIGNED — Mark Ryan COUNTY CLERK 4-28-05 DATE SIGNED — Lee Holloway COUNTY BOARD CHAIRMAN
COUNTY EXECUTIVE'S ACTION	I approve the attached resolution or ordinance. 5-24-2005 DATE SIGNED — COUNTY EXECUTIVE
CERTIFICATION OF PUBLICATION	DATE PUBLISHED — DATE SIGNED — COUNTY CLERK

RECEIPTS

BY COUNTY CLERK'S OFFICE	MAY 25 2005 DATE SIGNED — Mark Ryan SIGNATURE

APR 2 8 2005
DeBruin moved app. with an easement fee of $5000
McCue moved LO
on motion 1-18
adopted 15-4

File No. 05-207
(Journal, April 19, 2005)

(ITEM NO. 12) From Superintendent, Parks Division/Department of Parks and Public Infrastructure (DPPI), requesting approval of an easement for construction of a new residence at 2994 S. Root River Parkway, by recommending adoption of the following:

A RESOLUTION

WHEREAS, in February 2005, Mr. Paul Konkol contacted the Milwaukee County Park System (MCPS) regarding permission to construct a driveway approach upon the Root River Parkway; and

WHEREAS, Mr. Konkol has purchased a vacant lot adjacent to the parkway and plans to construct a new residence; and

WHEREAS, the lot is located east of the river just north of W. National Avenue at 2994 S. Root River Parkway; and

WHEREAS, in February 2005, Mr. Konkol submitted a letter requesting that he be granted an easement to construct a portion of the driveway across the County-owned street frontage; and

WHEREAS, a permanent easement from the County will allow the property owner to construct, utilize and maintain an approach approximately 28 feet long by 12 feet wide to access the new driveway; and

WHEREAS, to accommodate the construction, operation and ongoing maintenance of the proposed improvements, a permanent easement is required; and

WHEREAS, the fee for granting this easement has been set at $5,000; and

WHEREAS, the City of West Allis and the MCPS will issue all required permits for construction of the driveway, residence and related improvements; and

WHEREAS, at no cost to the County, the property owner or its agents will perform all initial and future construction, repair, restoration and on-going maintenance of the driveway; and

WHEREAS, any areas of the parkway disturbed by this work will be restored to the satisfaction of the Superintendent, Parks Division/DPPI; and

WHEREAS, prior to execution, the MCPS, Corporation Counsel and Risk Management will review and approve all required documents; and

WHEREAS, the Committee on Parks, Energy and Environment, at its meeting on April 19, 2005, amended the said request to charge a $2,500 easement fee (vote 4-2) and thereafter voted 3-3 to approve the said request, as amended; now, therefore,

BE IT RESOLVED, that the County Board of Supervisors, on a motion by Supervisor De Bruin at the County Board meeting of April 28, 2005, does hereby:

- Approve the Superintendent's, Parks Division/DPPI, request to prepare, approve and record all documents as required to accommodate the construction of a new residence at 2994 S. Root River Parkway;
- Authorize and direct Corporation Counsel and Risk Management to review and approve all required documents prior to execution of the said easement; and
- Authorize the County Executive and County Clerk to execute the easement agreement for an easement fee of $5,000.

Lh
4/29/2005
I:\Digests\042805\05-207resCBaction.doc

File No. 05-207
(Journal, April 19, 2005)

(ITEM NO. 12) From Superintendent, Parks Division/Department of Parks and Public Infrastructure (DPPI), requesting approval of an easement for construction of a new residence at 2994 S. Root River Parkway, by recommending adoption of the following:

A RESOLUTION

WHEREAS, in February 2005, Mr. Paul Konkol contacted the Milwaukee County Park System (MCPS) regarding permission to construct a driveway approach upon the Root River Parkway; and

WHEREAS, Mr. Konkol has purchased a vacant lot adjacent to the parkway and plans to construct a new residence; and

WHEREAS, the lot is located east of the river just north of W. National Avenue at 2994 S. Root River Parkway; and

WHEREAS, in February 2005, Mr. Konkol submitted a letter requesting that he be granted an easement to construct a portion of the driveway across the County-owned street frontage; and

WHEREAS, a permanent easement from the County will allow the property owner to construct, utilize and maintain an approach approximately 28 feet long by 12 feet wide to access the new driveway; and

WHEREAS, to accommodate the construction, operation and ongoing maintenance of the proposed improvements, a permanent easement is required; and

WHEREAS, the fee for granting this easement has been set at $5,000; and

WHEREAS, the City of West Allis and the MCPS will issue all required permits for construction of the driveway, residence and related improvements; and

WHEREAS, at no cost to the County, the property owner or its agents will perform all initial and future construction, repair, restoration and on-going maintenance of the driveway; and

WHEREAS, any areas of the parkway disturbed by this work will be restored to the satisfaction of the Superintendent, Parks Division/DPPI; and

WHEREAS, prior to execution, the MCPS, Corporation Counsel and Risk Management will review and approve all required documents; and

WHEREAS, the Committee on Parks, Energy and Environment, at its meeting on April 19, 2005, amended the said request to charge a $2,500 easement fee (vote 4-2) and thereafter voted 3-3 to approve the said request, as amended; now, therefore,

BE IT RESOLVED, that the County Board of Supervisors, on a motion by Supervisor De Bruin at the County Board meeting of April 28, 2005, does hereby:

- Approve the Superintendent's, Parks Division/DPPI, request to prepare, approve and record all documents as required to accommodate the construction of a new residence at 2994 S. Root River Parkway;
- Authorize and direct Corporation Counsel and Risk Management to review and approve all required documents prior to execution of the said easement; and
- Authorize the County Executive and County Clerk to execute the easement agreement for an easement fee of $5,000.

Lh
4/29/2005
I:\Digests\042805\05-207resCBaction.doc

COMMITTEE ON PARKS, ENERGY AND ENVIRONMENT
Tuesday, April 19 , 2005 – 9:00 a.m.
Milwaukee County Courthouse, Room 201-B

11. 05-207 From Superintendent, Parks Division/DPPI, requesting approval of an easement for construction of a new residence at 2994 S. Root River Parkway. (Tape No. 19A-149 to 485)

Supervisor Clark present (tape no. 19A-220).

APPEARANCES: Mr. Kevin Haley, Landscape Architect, Parks Division
Ms. Sue Black, Superintendent, Parks Division
Mr. Paul Konkol, requesting easement

MOTION BY: (CLARK) Amend to reduce the fee to $2,500.

Discussion ensued regarding the details of granting a permanent easement, including permitting and future maintenance costs and the value of the land with the permanent easement.

(Tape No. 19A-427) VOTE ON MOTION TO AMEND (4-2):
AYES: Schmitt, Broderick, Clark and Devine (Acting Chairman)
NOES: Borkowski and McCue
EXCUSED: De Bruin

MOTION BY: (CLARK) Approve,. as amended (Tape No. 19A-481). **(Vote 3-3)**
AYES: Schmitt, Clark and Devine (Acting Chairman)
NOES: Borkowski, McCue and Broderick
EXCUSED: De Bruin

1.18 PERMIT FEE SCHEDULE.

Before receiving any permit under this Chapter, the application fee hereinafter provided shall be paid to the City Treasurer.

Permit Fee

(1)	Parking construction machinery on public streets or alleys between sunset and sunrise	$ 5.00
(2)	Street decorations	$ 5.00
(3)	High voltage/utility poles**14(1)**	$60.00
(4)	Transportation of oversized loads**15(2)**	$85.00
(5)	Temporary occupancy of public streets, alleys and sidewalks [fee required per every thirty (30) feet or part thereof]	
	1. Five (5) days or less	$15.00
	2. Six (6) days to thirty (30) days	$30.00
	3. Additional days - per month or part thereof	$10.00
(6)	Excavations in public streets, sidewalks or alleys, per location**16(3)** The minimum fee for each excavation permit shall be sixty dollars ($60); plus an additional ten dollars ($10) per 100 square feet for excavation and thirty cents ($.30) per linear foot for boring.	$60.00
(7)	Construction, alteration or repairing of sidewalks	$25.00

	sidewalks made of concrete or other like materials	
(8)	Driving over gutters, curbs, sidewalks or sidewalk areas**17(1)**	$30.00
(9)	Construction of a driveway connecting with any improved or semi-improved street or alley	$25.00
(10)	Construction, installation, maintenance of any coal hole, trap door, areaway grading, hyatt light or glass prism or covered opening in any public sidewalk, street or alley	$10.00
(11)	Discontinuance of streets and alleys	$250.00
(12)	Municipal lot parking permit	
	1. Twenty-four-hour parking	$15.00 per month/ $40.00 per quarter
	2. Day or night parking only	$10.00 per month/ $40.00 per quarter
	3. Ten-hour parking	$15.00 per month/ $40.00 per quarter
(13)	Block party permit	$25.00
(14)	Concrete contractor's license**18(2)**	$50.00
(15)	Driveway approach application**19(3)**	$10.00

Permit No. 779

MILWAUKEE COUNTY PARK COMMISSION

CURB PERMIT TERMS AND CONDITIONS

IT IS HEREBY UNDERSTOOD AND AGREED in the issuing and granting of this permit that:

1) The private drive is to be constructed by the owner according to grades established by Milwaukee County. NO CONSTRUCTION WORK UNDER THIS PERMIT SHALL BE DONE UNTIL THE COUNTY HAS PLACED THE GRADE STAKES.

2) Only one opening is to be permitted to the parkway drive from the premises, and the private drive to be built shall enter the parkway drive at right angles. Drive shall not exceed 12 feet in width on County property.

3) Where a concrete curb is in place on the parkway drive, the owner shall construct concrete curb returns with radii of not less than 2.0 feet on the face of the curb.

4) The grading, planting, and treatment of the County-owned land between the curb and the property line shall conform with grades, lines, and plans established by the County so as to provide uniformity of appearance and uniformity of grades.

5) Should the provision of condition 4 not be adhered to, the Commission reserves the right to order removal of any objectional feature by the owner at his sole expense, and in case of failure of the owner to do so, the Commission shall cause to have removed said objectionable feature.

6) The private drive to be constructed under this permit shall be provided with a permanent, dustless, hard surface.

7) Maintenance of the area between the parkway drive and the property line marking the division between the private property and the County-owned lands shall be the responsibility of the abutting property owner. (Section (Parks) 27.065 (4)(B) of the Wis. Statutes.

8) Removal of any snow from the sidewalk, if and when such sidewalk is built between the parkway drive and the private property, and from the private drive to be constructed by the owner, shall be the responsibility of the abutting property owner.

9) No trees on County property are to be removed, disturbed, or trimmed unless written approval therefor has been granted by the General Manager of the Milwaukee County Park Commission.

THE OWNER WILL BE HELD RESPONSIBLE TO THE COUNTY FOR VIOLATION OF THE REQUIREMENTS OF THIS PERMIT.

PERMIT FEE $15.00

Thanks for your cooperation

PERMIT No. [illegible]

DATE [illegible]

RECEIPT NO. [illegible]

PERMISSION IS HEREBY GRANTED by the **MILWAUKEE COUNTY PARK COMMISSION** to [illegible]

Address [illegible]

to enter [illegible]

at this location [illegible]

for the purpose of [illegible]

pursuant to easement granted by the Milwaukee County Board of Supervisors on [illegible]

County Board Journal, page [illegible], File No. [illegible], (or) action by Milwaukee County Park Commission on [illegible].

THIS PERMIT is issued with the express condition that a deposit of [illegible] Dollars ($ [illegible])

in cash or surety bond be made as guarantee that the work will be performed and completed according to the terms and conditions stated herein and made a part hereof.

Cash amount $ [illegible] Bond amount $ [illegible] Carrier [illegible]

MILWAUKEE COUNTY PARK COMMISSION

Administrative Assistant

General Manager

FEE $ [illegible]

DEPOSIT $ [illegible] $ [illegible]

RETAINED BY COUNTY $ [illegible]

REFUND TO PERMITTEE $ [illegible]

Work involving County property shall be under the supervision of the Park District Supervisor listed below.

Name [illegible] Location [illegible] Phone [illegible]

Approval upon satisfactory completion _____

PARK SUPERVISOR

CURB

PERMIT No. 316

DATE Mar. 9, 1972.

RECEIPT NO. 247536

PERMISSION IS HEREBY GRANTED by the **MILWAUKEE COUNTY PARK COMMISSION** to:

Dick Bohl

Address 4644 S. 76th St.

to enter Root River Parkway, East Branch

at this location S. 2600 Block

for the purpose of Driveway

pursuant to easement granted by the Milwaukee County Board of Supervisors on _____,

County Board Journal, page _____, File No. _____, /(or) action by Milwaukee County

Park Commission on (Staff Action).

THIS PERMIT is issued with the express condition that a deposit of

None Dollars ($ _____)

in cash or surety bond be made as guarantee that the work will be performed and completed according to the terms

and conditions stated herein and made a part hereof. (Curb Conditions

Cash amount $ 15.00 Bond amount $ None Carrier _____

MILWAUKEE COUNTY PARK COMMISSION

Administrative Assistant

General Manager

FEE $ 15.00

DEPOSIT $ None $ _____

RETAINED BY COUNTY ..... $ _____

REFUND TO PERMITTEE ..... $ _____

Work involving County property shall be under the supervision of the Park District Supervisor listed below:

Name S. Bailey Location Greenfield Park Phone 543-6080

Approval upon satisfactory completion _____

PARK SUPERVISOR

2393 R2

Curb
PERMIT No. 265

Copy to WA-DPW

DATE June 22, 1970

RECEIPT NO. 186075

PERMISSION IS HEREBY GRANTED by the **MILWAUKEE COUNTY PARK COMMISSION** to:

Fred E Warden Inc

Address 15160 Franklin Drive, Brookfield 53005

to enter Root River Parkway

at this location 2783 Root River Pkwy -- Anton Kemets residence

for the purpose of installing private driveway to residence

pursuant to easement granted by the Milwaukee County Board of Supervisors on _____,

County Board Journal, page _____, File No. _____, /(or) action by Milwaukee County

Park Commission on staff action 6/22/70.

THIS PERMIT is issued with the express condition that a deposit of _____

_____ Dollars ($ none)

in cash or surety bond be made as guarantee that the work will be performed and completed according to the terms

and conditions stated herein and made a part hereof.

Cash amount $ 15.00 ok Bond amount $ none Carrier _____

MILWAUKEE COUNTY PARK COMMISSION

Administrative Assistant General Manager

FEE $ 15.00
DEPOSIT $ none $ _____

RETAINED BY COUNTY ..... $ _____

REFUND TO PERMITTEE ..... $ _____

Work involving County property shall be under the supervision of the Park District Supervisor listed below:

Name Steve Bailey Location Greenfield Dist ofc Phone 543 6080

Approval upon satisfactory completion _____
PARK SUPERVISOR

2383 R2

PERMIT No. 279

DATE April 6, 1971

RECEIPT NO 215 416

PERMISSION IS HEREBY GRANTED by the MILWAUKEE COUNTY PARK COMMISSION to

Dr James J. Papandrea

Address 11130 W Morgan St., Apt. 211, 53228

to enter Root River parkway

at this location 2900 S. Root River pkway

for the purpose of installing driveway

pursuant to easement granted by the Milwaukee County Board of Supervisors on _____

County Board Journal, page _____, File No. _____, (or) action by Milwaukee County

Park Commission on (staff action).

THIS PERMIT is issued with the express condition that a deposit of _____

_____ Dollars ($ _____

in cash or surety bond be made as guarantee that the work will be performed and completed according to the terms and conditions stated herein and made a part hereof.

Cash amount $ 15.00 fee Bond amount $ none Carrier _____

MILWAUKEE COUNTY PARK COMMISSION

Administrative Assistant

General Manager

FEE $ 15.00

DEPOSIT $ _____ $ _____

RETAINED BY COUNTY ..... $ _____

REFUND TO PERMITTEE ..... $ _____

Work involving County property shall be under the supervision of the Park District Supervisor listed below:

Name Steve Bailey Location Greenfield Bathhouse Phone 543 6080

Approval upon satisfactory completion _____

PARK SUPERVISOR

OFFICIAL RECEIPT FOR CASH OR OTHER VALUABLES

COUNTY OF MILWAUKEE

OFFICE COPY ONLY

No. 2[illegible]5.10

RECEIVED OF

COLLECTOR	ACCT. FUND	CREDIT	ITEM	AMOUNT

DEPARTMENT [illegible] COUNTY PARK COMMISSION

AUTHORIZED SIGNATURE

DATE

Milwaukee County Board of Supervisors 7203

_____ Committee Hearing Registration

4-19-5
DATE

Name PAUL ROWKOL

Address 1726 S 82 ST

Organ. Represented _____

Subject or File No. #11

(Please check one)

Registering .... For ✓ Against _____

Appearing ..... For ✓ Against _____

For Information Only _____

Wish to Speak on the Matter ✓

REMARKS: EASEMENT AT 2994 ROOT RIVER PKY (over)

05-207

MILWAUKEE COUNTY FISCAL NOTE FORM

DATE: April 12,2005

Original Fiscal Note ☐

Substitute Fiscal Note ☒

SUBJECT: Request for Authorization to Grant an Easement for Residential Driveway Access at 2994 S. Root River Parkway

FISCAL EFFECT:

☐ No Direct County Fiscal Impact

☒ Existing Staff Time Required

☐ Increase Operating Expenditures
(If checked, check one of two boxes below)

☐ Absorbed Within Agency's Budget

☐ Not Absorbed Within Agency's Budget

☐ Decrease Operating Expenditures

☒ Increase Operating Revenues

☐ Decrease Operating Revenues

☐ Increase Capital Expenditures

☐ Decrease Capital Expenditures

☐ Increase Capital Revenues

☐ Decrease Capital Revenues

☐ Use of contingent funds

Indicate below the dollar change from budget for any submission that is projected to result in increased/decreased expenditures or revenues in the current year.

	Expenditure or Revenue Category	Current Year	Subsequent Year
Operating Budget	Expenditure	0	0
	Revenue	$5,000	0
	Net Cost	0	0
Capital Improvement Budget	Expenditure	0	0
	Revenue	0	0
	Net Cost	0	0

DESCRIPTION OF FISCAL EFFECT

In the space below, you must provide the following information. Attach additional pages if necessary.

A. Briefly describe the nature of the action that is being requested or proposed, and the new or changed conditions that would occur if the request or proposal were adopted.
B. State the direct costs, savings or anticipated revenues associated with the requested or proposed action in the current budget year and how those were calculated.[1] If annualized or subsequent year fiscal impacts are substantially different from current year impacts, then those shall be stated as well. In addition, cite any one-time costs associated with the action, the source of any new or additional revenues (e.g. State, Federal, user fee or private donation), the use of contingent funds, and/or the use of budgeted appropriations due to surpluses or change in purpose required to fund the requested action.
C. Discuss the budgetary impacts associated with the proposed action in the current year. A statement that sufficient funds are budgeted should be justified with information regarding the amount of budgeted appropriations in the relevant account and whether that amount is sufficient to offset the cost of the requested action. If relevant, discussion of budgetary impacts in subsequent years also shall be discussed. Subsequent year fiscal impacts shall be noted for the entire period in which the requested or proposed action would be implemented when it is reasonable to do so (i.e. a five-year lease agreement shall specify the costs/savings for each of the five years in question). Otherwise, impacts associated with the existing and subsequent budget years should be cited.
D. Describe any assumptions or interpretations that were utilized to provide the information on this form.

In February 2005, Mr. Konkol submitted a letter requesting that he be granted an easement to construct a portion of a new driveway across the County owned street frontage. A permanent easement from the County will allow the property owner to construct, utilize and maintain an approach approximately 28 feet long by 12 feet wide to access the new driveway. The City of West Allis and Milwaukee County Park System will issue all required permits for construction of the driveway, residence and related improvements.

At no cost to the County, the property owner or its agents will perform all initial and future construction, repair, restoration and on-going maintenance of the driveway. Any areas of the parkway disturbed by this work will be restored to the satisfaction of the Park System. The adoption of this resolution will not require an appropriation of funds. The fee for granting this easement has been set at $5,000.

Department/Prepared By Kevin Haley/Milwaukee County Park System

Authorized Signature [signature] for Sue Black

Did DAS-Fiscal Staff Review? ☐ Yes ☒ No

[1] If it is assumed that there is no fiscal impact associated with the requested action, then an explanatory statement that justifies that conclusion shall be provided. If precise impacts cannot be calculated, then an estimate or range should be provided.

MILWAUKEE COUNTY PARK SYSTEM

INTER-OFFICE COMMUNICATION

APR 2005
Referred
County Board
Chairman

Date: April 5, 2005

To: Chairman Lee Holloway, County Board of Supervisors

From: Sue Black, Superintendent, Parks Division/DPPI

Subject: Request for Authorization to Grant an Easement for Residential Driveway Access at 2994 S. Root River Parkway

FILE NO. 05-207

Policy Issue

The Parks Superintendent is requesting authorization for the County to grant a driveway access easement to accommodate the construction of a new residence along the Root River Parkway in the City of West Allis.

Background

In February 2005, Mr. Paul Konkol contacted the Milwaukee County Park System (MCPS) regarding permission to construct a driveway approach upon the Root River Parkway. Mr. Konkol has purchased a vacant lot adjacent to the parkway and plans to construct a new residence. The lot is located east of the river just north of W. National Avenue at 2994 S. Root River Parkway. Mr. Konkol submitted a letter requesting that he be granted an easement to construct a portion of the driveway across the County owned street frontage (Attachment 1). A permanent easement from the County will allow the property owner to construct, utilize and maintain an approach approximately 28 feet long by 12 feet wide to access the new driveway. A draft copy of the Easement Agreement prepared for this residence is attached (Attachment 4). The fee for granting this easement has been set at $5,000.

The City of West Allis and the MCPS will issue all required permits for construction of the driveway, residence and related improvements. The property owner or its agents will perform all initial and future construction, repair, restoration and on-going maintenance of the driveway at no cost to the County. Any areas of the parkway disturbed by this work will be restored to the satisfaction of the Park System. Prior to execution, the MCPS, Corporation Counsel and Risk Management will review and approve all required documents.

Recommendation

The Parks Superintendent respectfully recommends that Park System staff, Corporation Counsel and Risk Management be authorized to prepare, review, approve and record all documents as required to execute the required permits and easements to accommodate the construction of a new residence at 2994 S. Root River Parkway. It is

further recommended that the County Executive and County Clerk be authorized to execute the Easement.

Sincerely,

FOR

Sue Black, Superintendent
Milwaukee County Park System

Encl.: Letter from Mr. Paul Konkol dated February 4, 2005 (Attachment 1)
Letter from Mr. Paul Konkol dated March 25, 2005 (Attachment 2)
Plat of Survey (Attachment 3)
Draft Easement Agreement (Attachment 4)

cc: County Executive Scott Walker
Steve Mokrohisky, Deputy Chief of Staff, County Executive's Office
Linda Seemeyer, Director, DAS
Steve Agostini, Fiscal & Budget Administrator, Admin. & Fiscal Affairs Division/DAS
Supervisor Lynne De Bruin, Parks, Energy & Environment Committee Chairman
Supervisor Dan Devine, Parks, Energy & Environment Committee Vice-Chair
Julie Esch, Research Analyst, County Board
Maribeth Welchman, Parks, Energy & Environment Committee Clerk
Greg High, Chief of AE&ES, Parks Division/DPPI
Bill Domina, Corporation Counsel
John Rath, Risk Management
Paul Konkol

File No.
(Journal,)

(ITEM NO.) The Parks Superintendent is requesting authorization to grant an easement for a residential driveway access at 2994 S. Root River Parkway, by recommending adoption of the following:

A RESOLUTION

WHEREAS, in February 2005, Mr. Paul Konkol contacted the Milwaukee County Park System (MCPS) regarding permission to construct a driveway approach upon the Root River Parkway; and

WHEREAS, Mr. Konkol has purchased a vacant lot adjacent to the parkway and plans to construct a new residence; and

WHEREAS, the lot is located east of the river just north of W. National Avenue at 2994 S. Root River Parkway; and

WHEREAS, in February 2005, Mr. Konkol submitted a letter requesting that he be granted an easement to construct a portion of the driveway across the County owned street frontage; and

WHEREAS, a permanent easement from the County will allow the property owner to construct, utilize and maintain an approach approximately 28 feet long by 12 feet wide to access the new driveway; and

WHEREAS, to accommodate the construction, operation and on-going maintenance of the proposed improvements a permanent easement is required; and

WHEREAS, the fee for granting this easement has been set at $5,000; and

WHEREAS, the City of West Allis and the MCPS will issue all required permits for construction of the driveway, residence and related improvements; and

WHEREAS, at no cost to the County, the property owner or its agents will perform all initial and future construction, repair, restoration and on-going maintenance of the driveway; and

WHEREAS, any areas of the parkway disturbed by this work will be restored to the satisfaction of the Park System; and

WHEREAS, prior to execution, the MCPS, Corporation Counsel and Risk Management will review and approve all required documents; and

BE IT RESOLVED, that the Milwaukee County Board of Supervisors does hereby authorize and direct the Parks Superintendent to prepare, approve and record all documents as required to accommodate the construction of a new residence at 2994 S. Root River Parkway; and

BE IT FURTHER RESOLVED that Corporation Counsel and Risk Management will review and approve all required documents prior to execution of the easement; and

BE IT FURTHER RESOLVED that the County Executive and County Clerk are hereby authorized to execute the easement agreement.

MILWAUKEE COUNTY FISCAL NOTE FORM

DATE: March 26,2005

Original Fiscal Note ☒

Substitute Fiscal Note ☐

SUBJECT: Request for Authorization to Grant an Easement for Residential Driveway Access at 2994 S. Root River Parkway

FISCAL EFFECT:

☐ No Direct County Fiscal Impact

☒ Existing Staff Time Required

☐ Increase Operating Expenditures
(If checked, check one of two boxes below)

☐ Absorbed Within Agency's Budget

☐ Not Absorbed Within Agency's Budget

☐ Decrease Operating Expenditures

☒ Increase Operating Revenues

☐ Decrease Operating Revenues

☐ Increase Capital Expenditures

☐ Decrease Capital Expenditures

☐ Increase Capital Revenues

☐ Decrease Capital Revenues

☐ Use of contingent funds

Indicate below the dollar change from budget for any submission that is projected to result in increased/decreased expenditures or revenues in the current year.

	Expenditure or Revenue Category	Current Year	Subsequent Year
Operating Budget	Expenditure	0	0
	Revenue	$5,000	0
	Net Cost	0	0
Capital Improvement Budget	Expenditure	0	0
	Revenue	0	0
	Net Cost	0	0

DESCRIPTION OF FISCAL EFFECT

In the space below, you must provide the following information. Attach additional pages if necessary.

A. Briefly describe the nature of the action that is being requested or proposed, and the new or changed conditions that would occur if the request or proposal were adopted.
B. State the direct costs, savings or anticipated revenues associated with the requested or proposed action in the current budget year and how those were calculated. [1] If annualized or subsequent year fiscal impacts are substantially different from current year impacts, then those shall be stated as well. In addition, cite any one-time costs associated with the action, the source of any new or additional revenues (e.g. State, Federal, user fee or private donation), the use of contingent funds, and/or the use of budgeted appropriations due to surpluses or change in purpose required to fund the requested action.
C. Discuss the budgetary impacts associated with the proposed action in the current year. A statement that sufficient funds are budgeted should be justified with information regarding the amount of budgeted appropriations in the relevant account and whether that amount is sufficient to offset the cost of the requested action. If relevant, discussion of budgetary impacts in subsequent years also shall be discussed. Subsequent year fiscal impacts shall be noted for the entire period in which the requested or proposed action would be implemented when it is reasonable to do so (i.e. a five-year lease agreement shall specify the costs/savings for each of the five years in question). Otherwise, impacts associated with the existing and subsequent budget years should be cited.
D. Describe any assumptions or interpretations that were utilized to provide the information on this form.

In February 2005, Mr. Konkol submitted a letter requesting that he be granted an easement to construct a portion of a new driveway across the County owned street frontage. A permanent easement from the County will allow the property owner to construct, utilize and maintain an approach approximately 28 feet long by 12 feet wide to access the new driveway. The City of West Allis and Milwaukee County Park System will issue all required permits for construction of the driveway, residence and related improvements.

At no cost to the County, the property owner or its agents will perform all initial and future construction, repair, restoration and on-going maintenance of the driveway. Any areas of the parkway disturbed by this work will be restored to the satisfaction of the Park System. The adoption of this resolution will not require an appropriation of funds. The fee for granting this easement has been set at $5,000. The easement fee of $5,000 will be deposited into the Parks Segregated Fund account.

Department/Prepared By Kevin Haley/Milwaukee County Park System

Authorized Signature SMG for Sue Black

Did DAS-Fiscal Staff Review? ☐ Yes ☒ No

[1] If it is assumed that there is no fiscal impact associated with the requested action, then an explanatory statement that justifies that conclusion shall be provided. If precise impacts cannot be calculated, then an estimate or range should be provided.

Attachment 1

Sue Black
Milwaukee County Parks, Supervisor

February 4, 2005

Dear Ms. Black,

I respectfully request that you grant me an easement for my property located on the 3000 Block of Root River Parkway (See attachment). I am in the process of building a house on this property and need your approval. Unfortunately, this was a detail that I was unaware of before I started the building process. I understand that this decision also needs to be approved by the Milwaukee County Board of Supervisors.

I am aware that a fee may be needed for the easement and I ask that a minimal fee be assessed because this was a cost a I didn't anticipate. I assumed that my builder disclosed all costs involved with building my house. I have learned from this mistakes.

If any further correspondence is need you may contact me at 414-475-0789 or at my address (1726 S. 82 St West Allis WI. 53214).

Respectfully Submitted.

Paul Konkol

Attachment 2

Sue Black
Milwaukee County Parks, Supervisor

Dear Ms. Black.

March 25. 2005

I respectfully request that you grant me an easement for my property located on the 3000 Block of Root River Parkway as requested in my letter dated February 4, 2005. I also have sent a copy of my request to the Parks, Energy and Environment Community. I understand that this decision also needs to be approved by the Milwaukee County Board of Supervisors.

If any further correspondence is need you may contact me at 414-475-0789 or at my address (1726 S. 82 St West Allis WI, 53214).

Attachment 1

Respectfully Submitted.

Paul Konkol

cc: Supervisor Lynn DeBruin
Supervisor Dan Devine
Supervisor Lee Halloway

PLAT OF SURVEY

Attachment 3

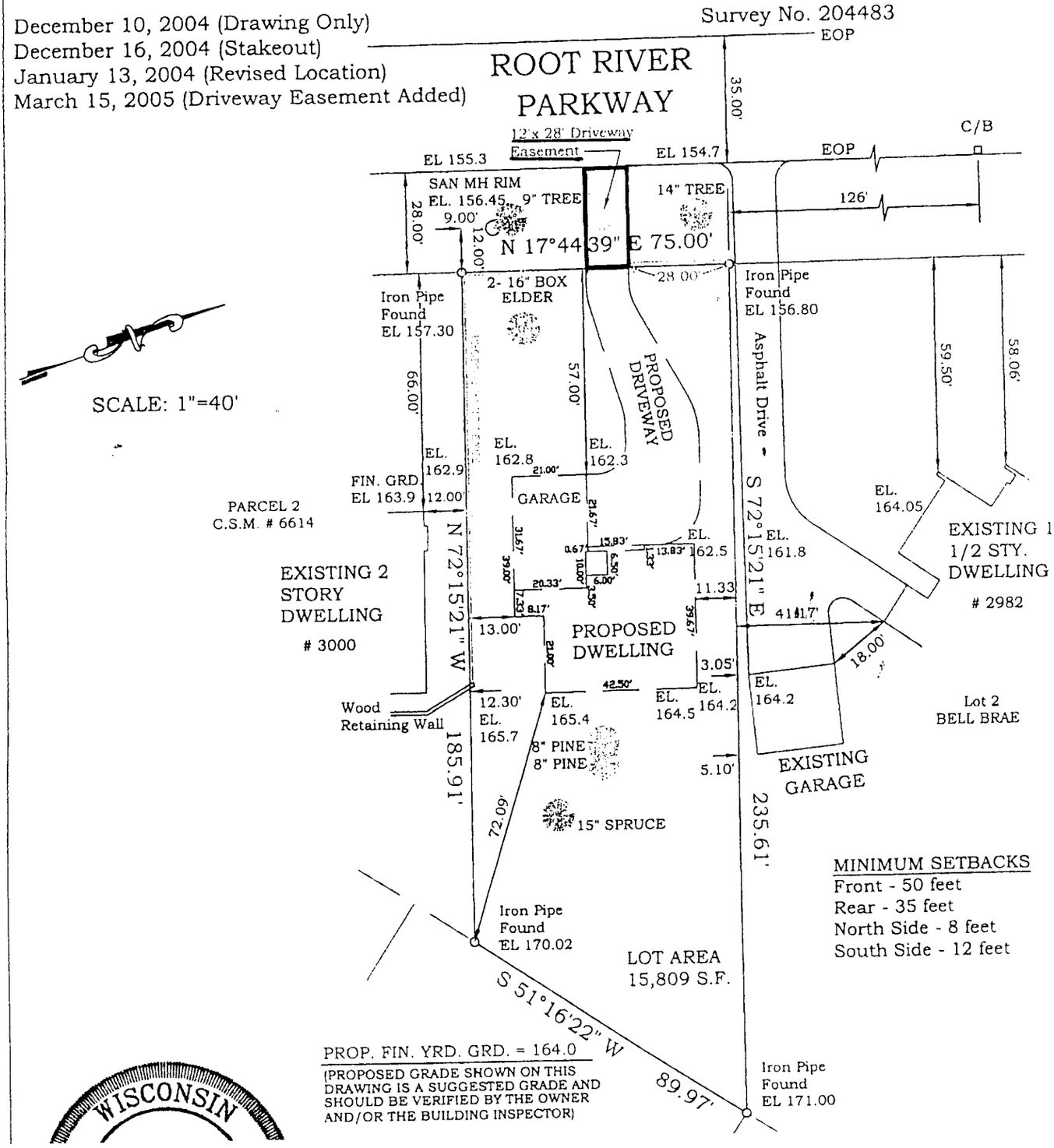
PREPARED FOR: GATE[illegible]Y HOMES

LOCATION: 2994 S. Root River Parkway, West Allis, Wisconsin

LEGAL DESCRIPTION: Parcel 1 of C.S.M. #6614 being a redivision of Lot 3 and 1/2 of the vacated alley in Bell Brae Subdivision, being a part of the Southwest 1/4 of the Southeast 1/4 of Section 7, Town 6 North, Range 21 East, in the City of West Allis, Milwaukee County, Wisconsin.
ALSO, an easement for driveway purposes, from Milwaukee County; over upon and across that portion of Root River Parkway bounded and described as follows; Commencing at the Northwest corner of Parcel 1 of Certified Survey Map No. 6614, thence S 17°44'39"W 28.00 feet to the Point of Beginning of the easement to be described; thence continuing S 17°44'39"W 12.00 feet; thence N 72°15'21" W 28.00 feet; thence N 17°44'39" E 12.00 feet; thence S 72°15'21" E 28.00 feet to the Point of Beginning. Said easement containing 336 S.F. of land and being in the Southwest 1/4 of the Southeast 1/4 of Section 7, Town 6 North, Range 21 East, in the City of West Allis, Milwaukee County, Wisconsin.

December 10, 2004 (Drawing Only)
December 16, 2004 (Stakeout)
January 13, 2004 (Revised Location)
March 15, 2005 (Driveway Easement Added)

Survey No. 204483



Attachment 4

EASEMENT AGREEMENT

DOCUMENT NO.

DRAFT

This Easement Agreement ("Agreement") is entered into by and between Paul Konkol, GRANTEE and Milwaukee County ("County"), GRANTOR as of the ___ day of _____, 2005.

THIS SPACE RESERVED FOR RECORDING DATA

NAME AND RETURN ADDRESS

Parcel Identification Number

RECITALS:

WHEREAS, County is the fee simple owner of a certain parcel of land commonly known as a portion of the Root River Parkway generally depicted on EXHIBIT A attached hereto ("County Parcel").

WHEREAS, the GRANTEE owns approximately 0.3 acre of real estate located in the City of West Allis, Wisconsin, which has an address of 2994 S. Root River Parkway, and is described in EXHIBIT B attached hereto ("GRANTEE Parcel").

WHEREAS, The GRANTEE intends to develop the Property into a new residence along with related driveway and other site improvements as shown on EXHIBIT C, collectively called the "Improvements"

WHEREAS, agreements from Milwaukee County and other contractual obligations expressed herein and between the County and the GRANTEE are required in order for the GRANTEE to develop the GRANTEE Parcel.

WHEREAS, The authority to enter into these agreements was granted pursuant to Resolution File No. _____ approved by the Milwaukee County Board of Supervisors and the County Executive on _____, 2005.

WHEREAS, the parties desire to create an easement over, upon and across the Root River Parkway for the benefit of the GRANTEE Parcel and to set forth certain other agreements regarding the Property.

WHEREAS, Milwaukee County desires to grant an access easement, but also desires to control and limit the construction and operating traffic on the Root River Parkway; now, therefore, in consideration of the mutual promises herein contained, subject to obtaining all required approvals, it is agreed as follows:

NOW, THEREFORE, for compensation of $_____ and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as set forth below.

1. Access Easement. County hereby grants and conveys to GRANTEE, for the benefit of the GRANTEE Parcel, an easement on, over and across that portion of the Root River Parkway depicted and legally described on EXHIBIT B attached hereto (the "Access Easement Area") for access to the Improvements per the terms and conditions contained herein. GRANTEE will design, construct and maintain the paving, related site improvements and ingress/egress curb cuts and driveways providing access to the GRANTEE property in accordance with plans and specifications submitted to and approved by the County in writing prior to the commencement of any such work. Notwithstanding the foregoing, County may, but shall not be obligated to, install landscaping, paving; walkways or other improvements it deems appropriate within the Access Easement Area.

2. Maintenance, Repair and Replacement Easement. County hereby grants and conveys to GRANTEE and its agents, employees and contractors, for the benefit of the Improvements, non-exclusive rights of access to, on, over and across the Access Easement Area for the maintenance, repair and replacement of the Improvements and related appurtenances. GRANTEE shall be solely responsible for maintaining, repairing and replacing all of the Improvements, including, but not limited to building, utility, landscape and other site improvements installed by GRANTEE pursuant to Sections 1 and 2 above. GRANTEE agrees to apply for a right of entry permit from Milwaukee County Parks System (as well as any other necessary permits as applicable), unless otherwise agreed to by and between County and GRANTEE in writing, at least five (5) working days before conducting any construction or repairs in the Access Easement Area, except in the event of an emergency repair (i.e. when there is an imminent threat to public health and/or safety) where no advance communication shall be required; provided that GRANTEE shall give County written notice of any such emergency requiring such emergency repair within twenty-four (24) hours of such event. GRANTEE shall use commercially reasonable efforts to minimize interference with the County's use of the Parkway and, subject to the alterations and improvements made pursuant to Sections 1 and 2 herein, shall restore the Access Easement Area to reasonably the same condition as existed immediately prior to any entry pursuant to this Agreement, including the repair by GRANTEE at GRANTEE's sole cost and expense of any damage to improvements of the County located within the Parkway resulting from GRANTEE's activities within the Access Easement Area. In conducting any maintenance, repairs or replacements to the County's improvements located upon the COUNTY Parcel, County shall use its good faith efforts, at no incremental cost to County, to minimize interference with GRANTEE's use of the GRANTEE Parcel and the easement areas granted herein. It is hereby agreed that County shall have reciprocal access for maintenance and repair purposes pertaining to its own property across and upon the GRANTEE Property under similar requirements to obtain advance permission from GRANTEE. Grants of right of access by both parties shall be at no cost.

5. Restrictions/County Approvals. Notwithstanding anything contained in this Agreement to the contrary, GRANTEE shall indemnify and hold County harmless from any and all loss, liability, damage or expense, including reasonable attorneys' fees, incurred by County arising out of any damage to the County's improvements attributable to GRANTEE, its employees, agents and other individuals and entities working for or on behalf of GRANTEE and its successors or any Municipal, Public Works, Police or Fire Department access upon or use of the easement areas in violation of this Section 5. GRANTEE and any successor owner of the GRANTEE parcel shall provide final conceptual plans and the final construction plans for the review and written approval of the Milwaukee County Park System (or successor), which approvals must be obtained prior to bidding out and awarding any contracts to commence construction. As a condition to issuance of approval, the Milwaukee County Park System (or successor) may require reasonable proof that adequate private or public funding exists for the construction and the subsequent operation, maintenance and repair of all improvements. Notwithstanding anything contained herein to the contrary, if any routine cleaning or maintenance to the Easement Area will require that GRANTEE restrict access to the Parkway or Access Easement Area, GRANTEE will obtain County's approval prior to conducting any such routine maintenance and repairs, which request for approval County agrees shall be processed in a reasonably prompt manner. It is hereby agreed that County shall have reciprocal access for maintenance and repair purposes pertaining to its own property across and upon the GRANTEE Property under similar requirements to obtain advance permission from GRANTEE. Grants of right of access by both parties shall be at no cost. Any approvals granted by the MILWAUKEE COUNTY PARK SYSTEM shall be pursuant to the provisions contained in Section 12 (n) herein.

6. Insurance.

(a) Liability Insurance. GRANTEE shall, during the entire term of this Agreement, keep in full force and effect a policy of commercial general liability insurance with respect to GRANTEE's activities in and around the Property in an amount of not less than $1,000,000.00 combined single limit or such higher limit as may be reasonably requested in writing by County's Director of Department of Administrative Services, and as may be reasonably necessary from time to time to protect County, to the extent GRANTEE has such obligation hereunder. GRANTEE shall also maintain insurance coverage for worker's compensation claims as required by the State of Wisconsin, including employer's liability. GRANTEE shall also maintain or cause its general contractor to maintain a general liability policy of insurance coverage, written on an occurrence basis, with completed operations and explosion, collapse and underground (XCU Coverage) with the completed operations coverage applicable for three years after completion of the Improvements construction and providing for limits of $10,000,000. GRANTEE shall also cause its general contractor to maintain an environmental impairment liability insurance policy with limits of $1,000,000, for a 12 month extended reporting period after completion of the Improvements construction. 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 County as an additional insured. Such insurance shall contain a clause that the insurer will notify County at lease thirty (30) days prior to any cancellation or material change in the insurance. 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 certificate of insurance 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. If GRANTEE is permissibly self-insured under Wisconsin State Statutes, then evidence of such relevant self-insurance levels may be submitted in a form acceptable to the Milwaukee County Department of Administrative Services and accepted in lieu of the required policies and certifications of insurer specified above as proof of insurance.

(b) Waiver of Subrogation. County and GRANTEE 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 GRANTEE with respect to the Property. 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.

(c) Liability Release. To the fullest extent permitted by law, GRANTEE 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.

7. Indemnification/Release. GRANTEE shall indemnify and hold County harmless from and against any and all loss, liability, damage or expense incurred by County for or in any way arising out of any and all claims or causes of action brought by third parties for or on account of personal injury or property damage caused by GRANTEE or its agents, employees or contractors in the course or in any way as the result of construction of the Improvements or the subsequent entry upon the Easement Area, or the Landscape Easement Area by GRANTEE or its tenants, their agents, employees or contractors pursuant to the easements granted in this Agreement. The parties acknowledge that the improvements now located on the COUNTY Parcel as such improvements are currently configured may affect the GRANTEE Parcel and improvements thereon, including but not limited to, as a result of water runoff from the COUNTY Parcel onto the GRANTEE Parcel. GRANTEE agrees to consider such existing improvements and anticipate the potential water runoff and other impacts resulting therefrom when designing the Improvements and related improvements on the GRANTEE Parcel; and GRANTEE hereby releases County from any and all loss, liability, damage or expense incurred by GRANTEE arising out of water runoff from the COUNTY Parcel onto the GRANTEE Parcel or other impacts due to the location of existing improvements as currently configured on the COUNTY Parcel and as subsequently reconfigured or modified, provided that any such reconfiguration or modification does not significantly change the quantity or substantive impact of such improvements upon the GRANTEE Parcel. It is expressly understood that GRANTEE shall not construct anything that would affect the flow of water onto or off of the COUNTY Parcel until it has provided the plans and specifications to County's Department of Parks and Public Infrastructure and obtained approval to proceed, in writing, from the Director of the County's Department of Parks and Public Infrastructure, which approval shall not be unreasonably withheld.

8. Easement Fee. GRANTEE shall, in consideration for the easements granted herein, compensate the County as delineated herein. The County may allocate the easement fee among various departments within the County as the County may determine in its sole discretion.

9. Term. Subject to the exceptions set forth in this section, the term of this Agreement shall continue for so long as the Improvements shall remain in place without expansion. The commencement of this easement is subject to and contingent upon County's Department of Parks and Public Infrastructure receipt, review and approval of plans and specifications to be provided by GRANTEE at its sole expense, detailing the plan and method of construction proposed by GRANTEE for development of the Improvements, the possible impacts such construction may have on existing Parkway improvements and the steps recommended to insure that such construction will not have any adverse impact on the Parkway improvements. The Report shall at a minimum (i) set forth the manner in which GRANTEE and its contractors/consultants will establish a baseline condition survey of the existing improvements and structures of the Parkway, (ii) set forth the plan and method of constructing the Improvements, including soil retention and dewatering procedures and construction vibration control, (iii) provide an assessment of any structural or foundation concerns regarding the construction on the GRANTEE Parcel or other Parkway improvements and present a proposed remediation plan for any such concerns, and (iv) establish a plan for monitoring the Parkway structures for a reasonable period of time (not to exceed three years) following the completion of construction on the Improvements. The GRANTEE shall also address site dewatering procedures and erosion control methods. Upon receipt of the plans, the Director of the County's Department of Parks and Public Infrastructure, in consultation with the County Parks Department and/or other consultants, shall review the plans and notify GRANTEE of any objections or clarifications required by the County. The parties agree to work in good faith to address any concerns of the County or its consultants. GRANTEE will reimburse the County for its reasonable costs of reviewing GRANTEE's Report, including time expended by County personnel as well as costs of retaining any consultants, provided that the total cost required to be reimbursed by GRANTEE shall not exceed $10,000.00. Once the Report is approved by the Director of the County's Department of Parks and Public Infrastructure, GRANTEE shall perform or cause to be performed all work called for in the Report and shall otherwise proceed with development of the Improvements in accordance with the plan and method of operations set forth in the Report. Notwithstanding anything preceding in this paragraph, and regardless of any review and/or approval given GRANTEE by the Director of County's Department of Parks and Public Infrastructure, it is expressly understood that GRANTEE is taking and will retain full responsibility for any damage sustained at any time by the Parkway as a result of the construction of the Improvements, regardless of when the damage occurs or is discovered. Further, GRANTEE shall reimburse all mitigation of damages to Parkway attributable to the construction of the Improvements, regardless of when the mitigation occurs to County, at no risk or expense to County.

For purposes of this Section 9, the term "Termination Trigger Event" is defined as any of the following:

(i) development of the Improvements is not commenced within eighteen (18) months from the commencement date set forth above, or

(ii) the Improvements are at any time partially or totally razed or modified beyond the footprint as initially constructed.

If a Termination Trigger Event occurs, then the then current owner of the County Parcel and the then current owner of the GRANTEE Parcel shall each have the right to terminate this Agreement by delivering written notice to the other party and this Agreement shall terminate on the ninetieth (90th) day following the date of receipt of any such termination notice. If the Improvements are razed as a result of fire or other casualty occurring during the first fifty (50) years of the term of this Agreement, then the owner of the Improvements shall have a right to extend the term of the easements granted hereunder and nullify any notice of termination that may have been given by the County provided that:

(i) written notice of such extension is given to the County within the earlier to occur of (a) sixty (60) days after the date of receipt of the County's notice of termination or (b) one (1) year after the date of such casualty;

(ii) reconstruction of the Improvements is commenced, subject to all of the construction terms and conditions of this easement and particularly the County review and approval provisions, within one (1) year after the date of the extension notice and reconstruction of the Improvements is completed within eighteen (18) months after the start of construction;

(iii) the reconstructed Improvements shall not vary from the original Improvements, nor extend beyond the footprint of the original Improvements as initially constructed nor otherwise have any greater impact on the Parkway; and

(iv) the term of this Agreement shall continue so long as the reconstructed Improvements remains in place.

Nothing in this provision is to be construed as granting advance permission by County to GRANTEE to construct improvements or to modify the improvements beyond the footprint as initially constructed.

10. Notice. All notices delivered in connection with this Agreement shall be given in writing and shall be considered to have been delivered: (a) when personally delivered; (b) when sent by telecopy or facsimile transmission with confirmation of completed transmission and a copy of the notice deposited in the United States mail within forty-eight (48) hours after such transmission; (c) three (3) days after deposit in the United States mail, certified mail, return receipt requested and postage prepaid; or (d) one (1) day after deposit with a nationally recognized overnight courier service. The current notice address for each party is as follows:

If to GRANTEE: GRANTEE, Paul Konkol

With a copy to:

If to County: Milwaukee County
Department of Parks and Public Infrastructure
9480 Watertown Plank Road
Wauwatosa, Wisconsin 53226
Attention: Director

With copies to: Milwaukee County
Office of Corporation Counsel
901 North 9th Street
Courthouse, Room 303
Milwaukee, Wisconsin 53233

Any party may change their designated notice address by delivering proper written notice of such address change to the other party.

11. Environmental. GRANTEE shall be responsible for any required repair, clean-up, remediation or detoxification arising out of any Hazardous Materials brought onto or introduced into the County Parcel or surrounding areas by GRANTEE, its agents or guests, or disturbed as a result of GRANTEE's construction on, at or near the County Parcel. GRANTEE shall indemnify, defend and hold County harmless from any liability, cost, damage, claim or injury (including reasonable attorney fees) arising therefrom. GRANTEE shall be responsible for the investigation/remediation of any other pre-existing Hazardous Materials discovered within, under or upon the COUNTY Parcel during construction activity relating to the Improvements and/or in the course of GRANTEE's entry upon the COUNTY Parcel. GRANTEE shall have the continuing obligation to pay for costs associated with investigation and remediation of pollutants, contaminants and Hazardous Materials that have migrated or threaten to migrate from the GRANTEE Parcel, and, to the extent construction requires dewatering and/or the Improvements design includes a permanent dewatering system for the external perimeter of the Improvements, GRANTEE shall have the continuing obligation to pay for costs associated with investigation and remediation of Hazardous Materials migrating to the GRANTEE Parcel.

"Hazardous Materials" means any substance: (i) the presence of which requires investigation or remediation under any Federal, State or local statue, regulation, ordinance, order, action or policy; or (ii) which is or becomes defined as a "hazardous waste" or "hazardous substance" under any Federal, State or local statue, regulation, ordinance, or amendments thereto.

County hereby warrants and represents to GRANTEE that to the best of the County's knowledge, there are no Hazardous Materials located within, under or upon the COUNTY Parcel and the County during the time that the County has owned the COUNTY Parcel has not stored or disposed upon the COUNTY Parcel any Hazardous Materials.

12. Miscellaneous.

(a) No Joint Venture. Nothing in this Agreement shall be construed to make the parties hereto partners or joint venturers, or to render any of said parties liable for the debts or obligations of any other.

(b) Headings. Paragraph and subparagraph headings herein are for convenience and reference only and in no way define or limit the scope or content of this Agreement or in any way affect its provisions.

(c) Waiver No delay or omission by any of the parties hereto to exercise any right or power occurring upon any non-compliance or failed performance by another party under the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by any of the parties hereto of any of the covenants, conditions or agreements hereof to be performed by another, shall not be construed to be a waiver of any succeeding breach thereof or of any other covenant, condition or agreement contained herein.

(d) Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Wisconsin.

(e) Amendments or Further Agreements to be in Writing. No agreement or amendment shall be effective to add to, change, modify, waive or discharge this Agreement in whole or in part, unless such agreement is in writing and signed by all parties bound hereby.

(f) Partial Invalidity. If any provisions, or portions thereof, of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such provision, or portion thereof, to any other persons or circumstances shall not be affected thereby and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

(g) Conveyance. Upon conveyance of all of its interest in the GRANTEE Parcel or the COUNTY Parcel, as applicable, a party shall be relieved of any further liability under this Agreement arising on and after the date of transfer and such transferee shall be deemed to have assumed all rights and obligations of the transferor hereunder arising on and after the date of transfer. It is expressly understood that the transferor shall notify the other party to this easement of any such conveyance.

(h) Covenants Running With the Land All of the covenants set forth in this Agreement are intended to be and shall be construed as covenants running with the land for the term set forth herein, binding upon, inuring to the benefit of, and enforceable by the parties hereto and their respective heirs, successors and assigns.

(i) Counterparts. This Agreement may be signed in counterparts, which, when taken together, shall be deemed an original for all purposes.

(j) Prohibited Practices. During the term of this Agreement, GRANTEE shall not hire, retain or utilize for compensation any member, officer or employee of the County or any person who, to the actual knowledge (without inquiry) of GRANTEE, has a conflict of interest.

(k) Code of Ethics. GRANTEE hereby acknowledges that portion of County's Code of Ethics, which states in part: "No person may offer to give to any County officer or employee or his immediate family, and no County officer of employee or his immediate family may solicit or receive anything of value pursuant to an understanding that such officers or employees vote, official actions or judgment would be influenced thereby."

(l) No Responsibility. There is no responsibility/liability on the County except for acts by the County or agents of the County, and then only to the extent of actual cost of repair, which the County may have verified by a mutually agreed upon independent third party.

(m) Permits. The County has no responsibility to secure for, or on behalf of GRANTEE any building permits, zoning changes or other permits which are needed by GRANTEE for their proposed business operation, future installations and/or maintenance unless and only to the extent that the County is the Agency that issues such building permits, zoning changes or other permits. At Agreement inception, Right of Entry Permits to Park Land are the only items of this nature that the County issues.

(n) Approvals. All approvals are subject to there being no conflicts with other existing zoning regulations, laws, applicable rules or regulations, or other factors beyond the reasonable control of the Parks Department. Notwithstanding anything contained in this agreement, the Director of Parks, Recreation and Culture is authorized, but not required, to act on behalf of the County to approve, in writing, changes in the use of the COUNTY Parcel which the Director determines are not detrimental to Milwaukee County as long as such uses benefit the use of the adjacent GRANTEE Parcel. GRANTEE will indemnify the County for actions taken by GRANTEE or GRANTEE's agents in this regard.

(o) Utilities. GRANTEE is to be responsible for locating and plotting utilities and other infrastructure of the County and others that may be present in the area and which may be impacted by GRANTEE's operations and activities. GRANTEE is also responsible for any damage to these items caused by operations and programming and maintenance and repair work done by the GRANTEE under cover of this Agreement.

(p) Safety and Security. The GRANTEE assumes full responsibility for safety and security of the Easement Areas whenever GRANTEE is conducting activities on the Easement Areas.

(q) No Alterations by County. Nothing set forth anywhere in this Agreement shall be construed to obligate County to remove or modify any existing improvements in, on or under the areas within or adjacent to the Easement Area. Any alterations to the COUNTY Parcel recommended by the approved Report to limit the exposure of the COUNTY Parcel to damage due to the proposed GRANTEE Parcel improvements or construction practices shall be implemented at GRANTEE's sole expense prior to GRANTEE's proceeding with construction. Alternatives to the original proposed design of the GRANTEE development that will limit the adverse impact on COUNTY Parcel may be pursued at GRANTEE's option.

(r) Authority. Each of the parties hereby represents and warrants that the individual executing this Easement Agreement on its behalf has full power and authority to bind such party to the terms and conditions hereof. The parties shall each, at all times, provide the other party with written notice as to the contact person regarding this Agreement.

(s) Further Assurances. The parties hereto agree to execute immediately upon presentation and deliver such additional documentation as may be required from time to time by either of the parties hereto to further evidence and/or as are necessary to carry out the terms and conditions of this Agreement.

13. ENGINEERING

(a) Restoration of Property. In the event the existing COUNTY Parkway improvements or the existing site utilities are damaged during the construction of the Improvements, the said improvements or the existing site utilities will be repaired and restored at GRANTEE's expense as nearly as it is reasonably possible given the baseline condition existing prior to any disturbance by GRANTEE. GRANTEE shall also repair or restore at GRANTEE's expense any damage to the surface of the COUNTY Parcel caused during construction of the Improvements. GRANTEE shall also repair or restore at GRANTEE's expense any negative change caused by the impact of stormwater flows that directly results from the Improvements development.

(b) Maintenance and Restoration of Property. In the event the surface or sub-surface of the COUNTY Parkway inside or outside of the Access Easement Area is disturbed in the construction, operation, use, maintenance and repair of the GRANTEE Parcel improvements, said surface or subsurface shall be restored as nearly as it is reasonably possible given the baseline condition existing prior to such construction by GRANTEE. GRANTEE shall also repair or restore, at GRANTEE's sole expense, any negative change in the current condition (as detailed in the baseline condition survey) of that portion of the COUNTY Parcel, which negative change is caused by GRANTEE's development of the GRANTEE Parcel. In the furtherance of the maintenance and restoration activities provided for herein, County shall notify GRANTEE in writing upon any occurrence of a materially detrimental change within the COUNTY Parcel. In the event GRANTEE disagrees as to its responsibility for any change to the COUNTY Parcel, GRANTEE and County shall jointly retain and share the costs for a mutually agreed upon engineer or other professional, to inspect the condition of the Property for any materially detrimental changes due to the impact of GRANTEE's development of the GRANTEE Parcel. In the event any materially detrimental changes are observed by the engineer or other professional which are determined to be caused by GRANTEE's development of the GRANTEE Parcel, GRANTEE shall repair or restore same to the condition it was prior to construction of the GRANTEE Parcel improvements.

14. This Easement Grant is Further Subject to the Following Terms and Special Conditions:

a) The COUNTY reserves to itself, its successors and assigns the right to make use of the land included in the above-mentioned landscape legal description and to erect buildings or other structures thereon, as will not injure or disturb the facilities or related appurtenances, provided, however that plans for said improvements shall be reviewed and approved by the GRANTEE. Said approval shall not be unreasonably withheld and the review will be made in a timely fashion at no charge to the COUNTY.

b) It is further understood and agreed that the COUNTY may construct in, upon or along said landscape easement such improvements (the Improvements) relating to vehicular traffic or public usage (including but not limited to driveways, roadways, parking areas, walkways, trails, signage and lighting) as the COUNTY may deem appropriate provided such improvements do not damage the facilities and appurtenances thereto installed by the GRANTEE.

c) The GRANTEE shall provide written notice to the Director of the Milwaukee County Department of Parks and Public Infrastructure prior to the commencement of any construction work within the easement area by the GRANTEE. Said notice shall indicate the anticipated start date and duration of the proposed work and include; plans and specifications showing the location, depth, type of installation, trees and shrubs within line or easement, drawings and specifications detailing construction methodology, the erosion and sedimentation control plan and the preservation and restoration methods to be employed. These shall be reviewed and approved by the COUNTY prior to commencing any construction activities. Said approval shall not be unreasonably withheld and the review will be made in a timely fashion at no charge to the GRANTEE.

d) The GRANTEE shall secure and pay for all permits required by any governing body or agency, including but not limited to, the Milwaukee County Department of Parks and Public Infrastructure before any substantial construction, repair or maintenance work commences. All construction, operation and repairs of the facilities installed within this easement shall be completed at no expense to the COUNTY.

e) No trees, shrubs or vegetation within or adjacent to the easement area shall be removed, trimmed or damaged without the written permission of the Department of Parks. In that regard, a specific construction and restoration landscaping plan will be reviewed and approved by said department of Milwaukee County.

f) It is an express condition of the granting of this easement that as much of the surface and subsurface of the soil and as much of the Improvements as may be disturbed or damaged in the construction, operation, use, maintenance and repair of the purpose for which this easement is granted will, at the expense of the GRANTEE, be replaced or repaired to essentially the same condition, or better, as existed immediately prior to the occurrence of such damage, to the satisfaction of the Milwaukee County Department of Parks.

g) The COUNTY and GRANTEE hereby expressly agree to defend, hold harmless and indemnify each other from and against any and all claims, actions, liabilities, damages, expenses and judgments, including but not limited to, reasonable attorneys fees, reasonable investigative and discovery costs, court costs, and all other sums on account of any injury to any persons, loss of life or damage to property occurring on the Easement Areas and on the ways immediately adjoining the Easement Areas caused by the active or passive negligence or willful misconduct of such Party, its employees, agents or servants; provided that no Party shall be required to indemnify any other Party against any injury to persons, to the extent it is caused by the active or passive negligence or willful misconduct of that Party, its agents, servants or employees.

h) This easement shall terminate upon the abandonment or non-use of the facilities herein authorized to be constructed in, under, over, and along said easement. Prior to abandonment or upon non-use, the facilities and related structures shall be abandoned in accordance with "Wisconsin State Standards for Facilities and Water Construction" and other applicable standards. The site shall be restored to the satisfaction of the County.

i) The Milwaukee County Department of Parks and Public Infrastructure utilizing available data has reviewed this easement, but in no way can the COUNTY assure complete accuracy. The GRANTEE shall comply with all state and local laws regarding location and protection of existing utilities. The GRANTEE shall contact Diggers Hotline, the Park Maintenance Division of the Milwaukee County Department of Parks and all applicable municipalities prior to commencing any construction to verify all pertinent easements and existing utility locations within the easement boundaries. Punitive damages will be charged, if easements are not strictly adhered to, for additional personal charges and subsequent property damages.

NOW, THEREFORE, it is further agreed that the GRANTEE in consideration of the easement so granted to it through all the land previously described, hereby covenants and agrees with the Grantor(s) that it will construct and maintain said facilities in good order and condition and that, in and during the construction of said facilities and thereafter in and about their operation, maintenance, repair or reconstruction, will indemnify and save harmless the Grantor(s), its successors and assigns, from all loss or injury to its property due to such construction, operation, maintenance, repair and reconstruction, and that no special charge will be made against said land, for the cost of such construction, operation, maintenance, repair and reconstruction. The GRANTOR(s) reserves unto itself, its successors and assigns, all mineral rights and the right to make such use of the land included in the previously described permanent easement and to erect such buildings or other structures thereon as will not injure or disturb said facilities provided, however, that plan for said improvements be reviewed and approved by the GRANTEE prior to construction. Said approval will not be unreasonably withheld and the review will be made in a timely fashion for no charge to the GRANTOR.

TO HAVE AND TO HOLD the same to the only proper use and benefit, of the GRANTEE, its successors and assigns forever, and the foregoing shall bind the successors and assigns of the COUNTY and the GRANTEE.

IN WITNESS WHEREOF, the parties have executed this Agreement as the day and year first above written.

GRANTEE,

By:_____

Its_____

MILWAUKEE COUNTY

By:_____

Its_____

Attest:_____

Its_____

Reviewed by Risk Management

By:_____

Approved by Corporation Counsel

By:_____

STATE OF WISCONSIN)
) SS
COUNTY OF _____)

Personally came before me this ____ day of _____, 2005, the above-named _____, as _____ of GRANTEE Health Care Metro Inc., to me known to be the person who executed the foregoing document and acknowledged the same on behalf of GRANTEE Health Care Metro, Inc.

_____
* _____
Notary Public, State of _____
My commission: _____

STATE OF WISCONSIN)
) SS
COUNTY OF _____)

Personally came before me this ____ day of _____, 2005, the above-named _____ and _____, as _____ and _____ of Milwaukee County, to me known to be the persons who executed the foregoing document and acknowledged the same on behalf of Milwaukee County.

_____
* _____
Notary Public, State of _____
My commission: _____