

**BOARD OF PUBLIC WORKS AND SAFETY**  
**Agenda Request Form**

(Form B-01-2012)

*Organizations and individuals are asked to submit a request form and supporting documents to be placed on the agenda. You will be contacted by the City confirming the date of the meeting in which your request will be heard.*

*Please make sure that your contact information is accurate in case we need to get in touch with you. The Board of Works meets on the 1st and 3rd Monday of each month at 5:00 p.m. in City Hall located at 70 E. Monroe Street.*

Date Submitted:	Nov. 27, 2012	Requested Meeting Date:	December 3, 2012
		Confirmed Meeting Date:	
Received by:			
<b>Contact Information: Please provide all requested information in the fields below. (Print or Type)</b>			
On Behalf of Organization or Individual:		Department of Planning	
Name:	Joanna Myers	Telephone:	317-736-3631
Title or Position:	Senior Planner		
E-Mail:	jmyers@franklin.in.gov		
Address:	70 E. Monroe Street		
City:	Franklin	State:	IN
		ZIP:	46131
<b>Who will attend the meeting and present the request?</b>			
Name:	Joanna Myers	Telephone:	317-736-3631
Title or Position:	Senior Planner		
E-Mail:	jmyers@franklin.in.gov		
<b>Please describe the purpose or title of your presentation.</b>			
Approval of Resolution Number 2012-07: Approving a Real Estate Transfer from the City of Franklin to Franklin Parks & Recreation Board (Main Street to Dunn Street Buyout) and execution of Real Estate Agreement.			
<b>Supporting documents: All supporting documents should be submitted with the request form.</b>			
1. Resolution Number 2012-07			
2. Exhibit A			
3. Exhibit B			
4. Real Estate Transfer Agreement between City of Franklin and Franklin Park & Recreation Board			

**RESOLUTION NUMBER 2012-07  
OF THE BOARD OF PUBLIC WORKS AND SAFETY  
CITY OF FRANKLIN, INDIANA**

**APPROVING A REAL ESTATE TRANSFER  
FROM THE CITY OF FRANKLIN, INDIANA TO THE  
FRANKLIN PARK AND RECREATION BOARD**

**WHEREAS**, the City of Franklin, Indiana (“City”) owns fee simple title to approximately 4.5 acres of unimproved real property located at 15, 127, 167, 201 & 235 W. South Street, 450 & 452 S. Main Street, 449, 450, 451, 474 & 480 S. Jackson Street, and 401-403, 451, 454, 455, 459, 488, 490, 492, 494, 498, & 501 S. Dunn Street (“Main Street to Dunn Street Buyout”), and legally described on Exhibit A attached hereto and incorporated herein by reference.

**WHEREAS**, the parties desire that the Main Street to Dunn Street Buyout be transferred by deed from the City to the Franklin Park and Recreation Board for appropriate use consistent with the deed restrictions described on Exhibit B and the Franklin Park and Recreation Board’s statutory duties and powers.

**NOW, THEREFORE**, in consideration of the foregoing and other valuable consideration, including the Franklin Park and Recreation Board’s continuing statutory duty to use the Main Street to Dunn Street Buyout consistent with the deed restrictions and the Board’s duties and powers, the receipt and legal sufficiency of which the parties acknowledge, the City agrees to transfer the Main Street to Dunn Street Buyout to the Franklin Park and Recreation Board and the Franklin Park and Recreation Board agrees to accept the transfer pursuant to the terms and conditions of a Real Estate Transfer Agreement attached hereto and approved in substantially final form.

This resolution shall be in full force and effect from and after its adoption.

**INTRODUCED & APPROVED** by the Board of Public Works and Safety of the City of Franklin, Johnson County, Indiana, this \_\_\_\_ day of \_\_\_\_\_, 2012.

Voting Affirmative:

Voting Opposed:

\_\_\_\_\_  
Mayor Joseph McGuinness

\_\_\_\_\_  
Mayor Joseph McGuinness

\_\_\_\_\_  
Steve Barnett

\_\_\_\_\_  
Steve Barnett

\_\_\_\_\_  
Bob Swinehamer

\_\_\_\_\_  
Bob Swinehamer

Attest:

\_\_\_\_\_  
Janet P. Alexander, Clerk-Treasurer

**EXHIBIT A**  
**LEGAL DESCRIPTIONS**

**15 W. SOUTH STREET**

Lot Numbered 7 in Leach's Addition to the City of Franklin as recorded in Plat Book 2, Page 56, in the Office of the Recorder of Johnson County, Indiana.

**ALSO:**

A strip of land 6 feet in width adjoining the south boundary of the above described real estate being a part of a vacated alley by the Common Council of the City of Franklin, Indiana, under Ordinance Number 2012-14, dated June 4, 2012, and recorded June 6, 2012, as Instrument Number 2012-011975 in the Office of the Recorder of Johnson County, Indiana.

Subject to any and all easements, agreements and restrictions of record.

**127 W. SOUTH STREET**

Lot Numbered 4 in Leach's Addition to the City of Franklin as recorded in Plat Book 2, Page 56, in the Office of the Recorder of Johnson County, Indiana.

Subject to any and all easements, agreements and restrictions of record.

**167 W. SOUTH STREET**

Lot Numbered 2 in Leach's Addition to the City of Franklin as recorded in Plat Book 2, Page 56, in the Office of the Recorder of Johnson County, Indiana.

Subject to any and all easements, agreements and restrictions of record.

**201 W. SOUTH STREET**

Part of the East half of the Northwest quarter of Section 23, Township 12 North, Range 4 East of the Second Principal Meridian, Johnson County, Indiana, described as follows:

Beginning at a point in the middle of the Franklin and Williamsburg Road, 600.4 feet east of the west line thereof; thence south and parallel with said west line a distance of 158.5 feet to a point on the north line of lands heretofore sold by Grace O. Tucker and Elizabeth E. Demaree to Don L. Earlywine; thence running east on the north line of said Earlywine lands 72.2 feet; thence north 158.5 feet to a point parallel with the south line of hereof 72.4 feet to the place of beginning, containing 0.263 acres, more or less.

Subject to any and all easements, agreements and restrictions of record.

**235 W. SOUTH STREET**

Part of the East half of the Northwest quarter of Section 23, Township 12 North, Range 4 East of the Second Principal Meridian, Johnson County, Indiana, described as follows:

Beginning at a point in the middle of the Franklin and Williamsburg Road, 528 feet east of the west line thereof; thence south and parallel with said west line, 158.5 feet more or less, to the northwest corner of a lot of land heretofore sold by Grace O. Tucker and Elizabeth Demaree to Don Earlywine; thence east upon and along said north line of the Earlywine property a distance of 72.2 feet; thence north a distance of 158.5 feet to a point 72.4 feet east of the place of beginning; thence west

parallel with the south line hereof 72.4 feet. (NOTE: The tract herein is shown as containing 0.242 acres, more or less, in the deeds in the chain of title.)

Subject to any and all easements, agreements and restrictions of record.

#### 450 S. MAIN STREET

Lot Numbered 9 in Leach's Addition to the City of Franklin as recorded in Plat Book 2, Page 56, in the Office of the Recorder of Johnson County, Indiana. EXCEPTING THEREFROM 20 feet in width off the south end of said lot.

ALSO:

A strip of land 6 feet in width adjoining the north boundary of the above described real estate being a part of a vacated alley by the Common Council of the City of Franklin, Indiana, under Ordinance Number 2012-14, dated June 4, 2012, and recorded June 6, 2012, as Instrument Number 2012-011975 in the Office of the Recorder of Johnson County, Indiana.

Subject to any and all easements, agreements and restrictions of record.

#### 452 S. MAIN STREET

Twenty (20) feet off the south side of Lot Numbered 9 and 20 feet of the north side of Lot Numbered 10 in Leach's Addition to the City of Franklin as recorded in Place Book 2, Page 56, in the Office of the Recorder of Johnson County, Indiana.

Subject to any and all easements, agreements and restrictions of record.

#### 449 S. JACKSON STREET

Eighty (80) feet by parallel lines off the south end of Lot Numbered 5 in Leach's, an addition to the City of Franklin as recorded in Plat Book 2, Page 56, in the Office of the Recorder of Johnson County, Indiana.

Subject to any and all easements, agreements and restrictions of record.

#### 450 S. JACKSON STREET

Lot Numbered 35 in Crim's Addition to the City of Franklin as recorded in Plat Book 2, Page 63, in the Office of the Recorder of Johnson County, Indiana.

ALSO:

A strip of land 6 feet in width adjoining the west boundary of the above described real estate being a part of a vacated alley by the Common Council of the City of Franklin, Indiana, under Ordinance Number 2012-16, dated June 4, 2012, and recorded June 6, 2012, as Instrument Number 2012-011979 in the Office of the Recorder of Johnson County, Indiana.

Subject to any and all easements, agreements and restrictions of record.

#### 451 S. JACKSON STREET

Lot Numbered 34 and 12 feet in width off the entire north side of Lot Numbered 33 all in Crim's Addition to the City of Franklin as recorded in Plat Book 2, Page 63, in the Office of the Recorder of Johnson County, Indiana.

Subject to any and all easements, agreements and restrictions of record.

474 S. JACKSON STREET

Lot Numbered 36 in Crim's Addition to the City of Franklin as recorded in Plat Book 2, Page 63, in the Office of the Recorder of Johnson County, Indiana.

ALSO:

A strip of land 6 feet in width adjoining the west boundary of the above described real estate being a part of a vacated alley by the Common Council of the City of Franklin, Indiana, under Ordinance Number 2012-16, dated June 4, 2012, and recorded June 6, 2012, as Instrument Number 2012-011979 in the Office of the Recorder of Johnson County, Indiana.

ALSO:

A strip of land 6 feet in width adjoining the south boundary of the above described real estate being a part of a vacated alley by the Common Council of the City of Franklin, Indiana, under Ordinance Number 2012-15, dated June 4, 2012, and recorded June 6, 2012, as Instrument Number 2012-011977 in the Office of the Recorder of Johnson County, Indiana.

Subject to any and all easements, agreements and restrictions of record.

480 S. JACKSON STREET

Lot Numbered 37 in Crim's Addition to the City of Franklin as recorded in Plat Book 2, Page 63, in the Office of the Recorder of Johnson County, Indiana.

ALSO:

A strip of land 6 feet in width adjoining the west boundary of the above described real estate being a part of a vacated alley by the Common Council of the City of Franklin, Indiana, under Ordinance Number 2012-16, dated June 4, 2012, and recorded June 6, 2012, as Instrument Number 2012-011979 in the Office of the Recorder of Johnson County, Indiana.

ALSO:

A strip of land 6 feet in width adjoining the north boundary of the above described real estate being a part of a vacated alley by the Common Council of the City of Franklin, Indiana, under Ordinance Number 2012-15, dated June 4, 2012, and recorded June 6, 2012, as Instrument Number 2012-011977 in the Office of the Recorder of Johnson County, Indiana.

Subject to any and all easements, agreements and restrictions of record.

401-403 S. DUNN STREET

Lot Numbered 1 in Leach's Addition, an addition to the City of Franklin as recorded in Plat Book 5, Page 71, in the Office of the Recorder of Johnson County, Indiana.

Subject to any and all easements, agreements and restrictions of record.

451 S. DUNN STREET

Lot Numbered 61 in Crim's Addition to the City of Franklin as recorded in Plat Book 2, Page 63, in the Office of the Recorder of Johnson County, Indiana.

ALSO:

A strip of land 6 feet in width adjoining the east boundary of the above described real estate being a part of a vacated alley by the Common Council of the City of Franklin, Indiana, under Ordinance

Number 2012-16, dated June 4, 2012, and recorded June 6, 2012, as Instrument Number 2012-011979 in the Office of the Recorder of Johnson County, Indiana.

Subject to any and all easements, agreements and restrictions of record.

454 S. DUNN STREET

Lot Numbered 60 in Crim's Addition to the City of Franklin as recorded in Plat Book 2, Page 63, in the Office of the Recorder of Johnson County, Indiana.

ALSO:

A strip of land 6 feet in width adjoining the east boundary of the above described real estate being a part of a vacated alley by the Common Council of the City of Franklin, Indiana, under Ordinance Number 2012-16, dated June 4, 2012, and recorded June 6, 2012, as Instrument Number 2012-011979 in the Office of the Recorder of Johnson County, Indiana.

ALSO:

A strip of land 6 feet in width adjoining the south boundary of the above described real estate being a part of a vacated alley by the Common Council of the City of Franklin, Indiana, under Ordinance Number 2012-15, dated June 4, 2012, and recorded June 6, 2012, as Instrument Number 2012-011977 in the Office of the Recorder of Johnson County, Indiana.

Subject to any and all easements, agreements and restrictions of record.

455 S. DUNN STREET

Lot Numbered 59 in Crim's Addition to the City of Franklin as recorded in Plat Book 2, Page 63, in the Office of the Recorder of Johnson County, Indiana.

ALSO:

A strip of land 6 feet in width adjoining the east boundary of the above described real estate being a part of a vacated alley by the Common Council of the City of Franklin, Indiana, under Ordinance Number 2012-16, dated June 4, 2012, and recorded June 6, 2012, as Instrument Number 2012-011979 in the Office of the Recorder of Johnson County, Indiana.

ALSO:

A strip of land 6 feet in width adjoining the north boundary of the above described real estate being a part of a vacated alley by the Common Council of the City of Franklin, Indiana, under Ordinance Number 2012-15, dated June 4, 2012, and recorded June 6, 2012, as Instrument Number 2012-011977 in the Office of the Recorder of Johnson County, Indiana.

Subject to any and all easements, agreements and restrictions of record.

459 S. DUNN STREET

Lot Numbered 58 in Crim's Addition to the City of Franklin as recorded in Plat Book 2, Page 63, in the Office of the Recorder of Johnson County, Indiana.

ALSO:

A strip of land 6 feet in width adjoining the east boundary of the above described real estate being a part of a vacated alley by the Common Council of the City of Franklin, Indiana, under Ordinance Number 2012-16, dated June 4, 2012, and recorded June 6, 2012, as Instrument Number 2012-011979 in the Office of the Recorder of Johnson County, Indiana.

Subject to any and all easements, agreements and restrictions of record.

488 S. DUNN STREET

Part of the East half of the Northwest quarter of Section 23, Township 12 North, Range 4 East of the Second Principal Meridian, Johnson County, Indiana, described as follows:

Beginning at a point 528 feet east and 1376.66 feet north of the southwest corner; thence east 144.4 feet to the west line of Dunn Street; thence south on said west line of Dunn Street 50 feet; thence west 145.08 feet; thence north and parallel with the west line of said half quarter section 50 feet to the place of beginning.

Subject to any and all easements, agreements and restrictions of record.

490 S. DUNN STREET

Part of the East half of the Northwest quarter of Section 23, Township 12 North, Range 4 East of the Second Principal Meridian, Johnson County, Indiana, described as follows:

Beginning at a point 528 feet east and 1,326.66 feet north of the southwest corner; thence east 145.08 feet to the west line of Dunn Street; thence south on the said west line 50 feet; thence west 145.76 feet to a point 528 feet east of the west line of said half quarter; thence north and parallel with said west line 50 feet to the place of beginning, containing 0.16 of an acre.

Subject to any and all easements, agreements and restrictions of record.

492 S. DUNN STREET

Part of the East half of the Northwest quarter of Section 23, Township 12 North, Range 4 East of the Second Principal Meridian, Johnson County, Indiana.

Beginning at a point 1276.55 feet North and 528 feet East of the Southwest corner; thence East 145.76 feet, to the West line of Dunn Street, in the City of Franklin, Indiana; thence South on the West line of said street 50 feet; thence West 146.44 feet to a point 528 feet East of the West line of said half quarter section; thence north and parallel with said West line 50 feet to the place of beginning. The tract herein is shown as containing 0.16 acre, in the prior deeds in the chain of title.

Subject to any and all easements, agreements and restrictions of record.

494 S. DUNN STREET

Part of the East half of the Northwest quarter of Section 23, Township 12 North, Range 4 East of the Second Principal Meridian, in Johnson County, Indiana, described as follows:

Beginning at a point 528 feet east and 1226.66 feet north of the southwest corner; thence running east 146.44 feet to the west line of Dunn Street; thence south on said west line 50 feet; thence west to a point 528 feet east of the west line of said half quarter section; thence north and parallel with said west line 50 feet to the place of beginning, containing 0.17 of an acre, more or less.

Subject to any and all easements, agreements and restrictions of record.

498 S. DUNN STREET

Part of the East half of the Northwest quarter of Section 23, Township 12 North, Range 4 East of the Second Principal Meridian, Johnson County, Indiana described as follows:

Beginning at a point 1126.66 feet north and 528 feet east of the southwest corner; thence east 147.46 feet to the west line of Dunn Street; thence south on the said west line 50 feet; thence west 147.80 feet to a point 528 feet east of the west line of said half quarter section; thence north and parallel with said west line 50 feet to the place of beginning, containing 0.18 acres, more or less.

Subject to any and all easements, agreements and restrictions of record.

501 S. DUNN STREET

Lots Numbered 56 and 57 in Crim's Addition to the City of Franklin as recorded in Plat Book 2, Page 63, in the Office of the Recorder of Johnson County, Indiana.

Subject to any and all easements, agreements and restrictions of record.

**EXHIBIT B**  
**DEED RESTRICTIONS**

In reference to the property or properties ("Property") conveyed by the Deed between City of Franklin, Indiana, herein after referred to as the Grantor, participating in the federally-assisted acquisition project and the City of Franklin Park and Recreation Board, its successors and assigns, herein after referred to as the Grantee:

WHEREAS, the Flood Mitigation Assistances program ("FMA"), as authorized by Section 1323 of the National Flood Insurance Act of 1968 (42 USC §§ 4030), as amended by the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004, Public Law 108-264, identifies the use of FMA funds for reducing flood damages to individual properties for which one or more claim payments for losses have been made under flood insurance coverage and that will result in the greatest savings to the National Flood Insurance Fund in the shortest period of time;

WHEREAS, the FMA provides a process for a local government, through the State, to apply for federal funds for flood mitigation assistance to acquire interests in property, including the purchase of structures in the floodplain, to demolish and/or remove the structures, and to maintain the use of the Property as open space in perpetuity;

WHEREAS, the State of Indiana, Department of Homeland Security has applied for and been awarded such funding from the Department of Homeland Security, Federal Emergency Management Agency ("FEMA"), and has entered into an FMA Project Grant Agreement dated June 10, 2008 with FEMA and herein incorporated by reference;

WHEREAS, the Property is located in City of Franklin, Indiana, and City of Franklin, Indiana participates in the National Flood Insurance Program ("NFIP") and is in good standing with NFIP as of the date of the Deed;

WHEREAS, the City of Franklin, Indiana, acting by and through the City of Franklin Common Council, has applied for and been awarded federal funds pursuant to an agreement with the State of Indiana, Department of Homeland Security dated November 5, 2009 ("State-Local Agreement"), and herein incorporated by reference;

WHEREAS, the terms of the FY 2007 FMA Program Guidance, consistent with FEMA Hazard Mitigation Grant Program guidance involving acquisition for open space, the FEMA-State Grant Agreement and the State-Local Agreement require that the Grantee agree to conditions which are intended to restrict the use of the land to open space in perpetuity in order to protect and preserve natural floodplain values;

NOW, THEREFORE, the transfer is made subject to the following terms and conditions:

1. Terms. Pursuant to Paragraph 1, the terms of the FMA Guidance, and any applicable FEMA-State Grant Agreement, and the State-Local Agreement, the following conditions and restrictions shall apply in perpetuity to the Property described in the attached deed and acquired by the Grantee pursuant to FMA Guidance providing for acquisition:
  - a. Compatible uses. The Property shall be used only for purposes compatible with open space, recreational, or wetlands management practices; in general, such uses include parks for outdoor recreational activities, nature reserves, unimproved permeable parking lots and other uses consistent with FEMA FMA Guidance for open space acquisition.
  - b. Structures. No new structures or improvements shall be erected on the Property other than:
    - i. A public facility that is open on all sides and functionally related to the open space use;

- ii. A public rest room; or
    - iii. A structure that is compatible with the uses described in Paragraph 1(a), above, and approved by the Director in writing prior to the commencement of the construction of the structure. Any structures built on the Property according to this paragraph shall be floodproofed or elevated to the Base Flood Elevation plus one foot of freeboard.
  - c. Disaster Assistance. No future disaster assistance from any Federal source for any purpose related to the Property may be sought, nor will such assistance be provided;
  - d. Transfer. The Grantee shall convey any interest in the Property only if the Regional Director of FEMA gives prior approval of the transferee in accordance with this paragraph. The Grantee may only convey an interest in the Property to another public entity or to an organization qualified under Section 170(h) of the Internal Revenue Code of 1954, as amended, and applicable regulations promulgated thereunder. However, the Grantee may convey a lease or an easement to a private individual or entity for purposes compatible with the uses described in Paragraph 1(a), above, with the prior approval of the Regional Director, and so long as the conveyance does not include authority to control and enforce these terms and conditions. If title to the Property is transferred to a public entity that is not a qualified state or federal agency with a conservation mission, it must be conveyed subject to a Conservation Easement that shall be recorded with the deed and shall incorporate all terms and conditions set forth herein, including the easement holder's responsibility to enforce the easement. This shall be accomplished by one of the following means:
    - i. The Grantee shall convey, in accordance with section (d), above, a conservation easement to an entity other than the title holder, or
    - ii. At the time of title transfer, the Grantee shall retain such conservation easement, and record it with the deed.
2. Inspection. FEMA, its representatives, and assigns, including the State of Indiana, shall have the right to enter upon the Property, at reasonable times and with reasonable notice, for the purpose of inspecting the Property to ensure compliance with the terms of the grant.
3. Monitoring and Reporting. Every three years from November 5, 2009, the Grantee, through the State of Indiana, shall submit to the FEMA Regional Director a report certifying that the Grantee has inspected the subject Property within the month preceding the report, and that the Property continues to be maintained consistent with the provisions of the grant.
4. Enforcement. If the subject Property is not maintained according to the terms of the grant, the Grantee, the State of Indiana, and FEMA, its representatives, and assigns are responsible for taking measures to bring the Property back into compliance.
- a. The State will notify the Grantee in writing and advise the Grantee that it has 60 days to correct the violation.
  - b. If the Grantee fails to demonstrate a good faith effort to come into compliance with the terms of the grant within the 60-day period, the State shall enforce the terms of the grant by taking any measures it deems appropriate, including but not limited to bringing an action at law or in equity in a court of competent jurisdiction.
  - c. FEMA, its representatives and assigns may enforce the terms of the grant by taking any measures it deems appropriate, including but not limited to the following:



**REAL ESTATE TRANSFER AGREEMENT  
BETWEEN  
CITY OF FRANKLIN, INDIANA  
AND THE  
FRANKLIN PARK AND RECREATION BOARD**

This Agreement is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2012 (the "Agreement Date") by and between the City of Franklin, Indiana, by and through its Board of Public Works and Safety ("City" or "Transferring Party"), and the Franklin Park and Recreation Board ("Park Board" or "Receiving Party").

**WHEREAS**, the City owns fee simple title to approximately approximately 4.5 acres of unimproved real property located at 15, 127, 167, 201 & 235 W. South Street, 450 & 452 S. Main Street, 449, 450, 451, 474 & 480 S. Jackson Street, and 401-403, 451, 454, 455, 459, 488, 490, 492, 494, 498, & 501 S. Dunn Street ("Main Street to Dunn Street Buyout"), and legally described on Exhibit A attached hereto and incorporated herein by reference.

**WHEREAS**, the parties desire that the Property be transferred by deed from the City to the Park Board for appropriate use consistent with the deed restrictions described on Exhibit B and the Park Board's statutory duties and powers.

**NOW, THEREFORE**, in consideration of the foregoing and other valuable consideration, including the Park Board's continuing statutory duty to use the Property consistent with the deed restrictions and the Board's duties and powers, the receipt and legal sufficiency of which the parties acknowledge, the City agrees to transfer the Property to the Park Board and the Park Board agrees to accept the transfer pursuant to the terms and conditions set forth below:

1. **Cooperation of Transferring Party.** Transferring Party will cooperate with Receiving Party and its representatives in obtaining information about the Main Street to Dunn Street Buyout, and will furnish same to Receiving Party and its representatives, whenever reasonably requested by Receiving Party. Transferring Party will further cooperate with and furnish Receiving Party with all information to obtain all approvals.
2. **Closing.** The closing of the Property transfer (the "Closing") will occur at the time and place that is mutually agreeable to the parties.
3. **Insurance and Risk of Loss.** Transfer of insurance on the Property will be coordinated by the Clerk-Treasurer.
4. **Closing Documents.** At the Closing, Transferring Party will execute and deliver to Receiving Party a quit claim deed conveying the Property to Receiving Party.
5. **Possession.** Possession of the Property will be delivered to Receiving Party on the Closing Date, free and clear of the claims of any other party, except as provided otherwise in this Agreement. Notwithstanding the foregoing, Receiving Party or its designee will be entitled to enter the property on and after the date hereof for the purpose of making all tests and inspections deemed necessary by Receiving Party to determine the condition of the Property.

6. **Rights and Obligations.** The rights and obligations of Transferring Party and Receiving Party herein contained will inure to the benefit of and be binding upon the parties hereto and their respective personal representatives, heirs, successors, and assigns.
7. **Notices.** All notices required or permitted to be given hereunder will be in writing and delivered either in person or by certified first-class prepaid mail, return receipt requested, or by a nationally-recognized overnight courier, to Transferring Party or Receiving Party at their respective addresses set forth below, or at such other address, notice of which may have been given to the other party in accordance with this paragraph. Any notice given in accordance with paragraph will be deemed to have been duly given or delivered on the date the same is personally delivered to the recipient or received by the recipient as evidenced by the return receipt.

**To the Franklin Park Board:** Franklin Park and Recreation Board  
396 Branigin Boulevard  
Franklin, IN 46131

**To the City:** Franklin Board of Public Works and Safety  
70 E. Monroe Street  
Franklin, IN 46131

8. **Further Representations and Warranties of Transferring Party.** Transferring Party represents and warrants that:
  - a. The execution, delivery, and performance by Transferring Party of its obligations under this Agreement will not conflict with or result in a breach of, or constitute a default under, any of the provisions of any law, governmental rule, regulations, judgment, decree, or order by which the Transferring Party is bound, or by any of the provisions of any contract to which the Transferring Party is bound, or, if Transferring Party is not an individual, by the Transferring Party's declaration of trust, certificate of incorporation, bylaws, or partnership agreement, as the case may be.
  - b. Transferring Party will have as of the date of the Closing, good, marketable, and indefeasible title to the Property.
  - c. There are no liens or other encumbrances against the Property which will remain after closing.
  - d. There are no covenants, agreements, restrictions, or other arrangements or understandings (whether or not in writing or of record) respecting the Transferring Party, the Property, or the use or possession of the Property which would impose any obligation or expense on Receiving Party or require payment by Receiving Party to any person, owners' association, or other entity of or for shared easements, improvements, utilities or services, with the exception of those referenced in Exhibit A and Exhibit B.
  - e. Transferring Party will indemnify, defend, and hold Receiving Party harmless from and against any and all claims, demands, liabilities, damages, suits, actions, judgments, fines, penalties, loss, costs, and expense (including, but not limited to, attorney's fees) arising or resulting from, or suffered, sustained, or incurred by Receiving Party as a result (direct or indirect) of the untruth or inaccuracy of any of the foregoing matters represented and warranted by Transferring Party, which indemnity will survive the Closing hereof.

9. **Survival of Representations, Warranties, and Covenants.** Each of the obligations, covenants, representations, and warranties of the parties hereto set forth in this Agreement will survive the Closing and will not be merged in the deed or other instruments of conveyance.
10. **Complete Agreement.** This Agreement represents the entire agreement between Transferring Party and Receiving Party covering everything agreed upon or understood in this transaction. There are no oral promises, conditions, representations, understandings, interpretations, or terms of any kind as conditions or inducements to the execution hereof or in effect between the parties. No change or addition will be made to this Agreement except by a written agreement executed by Transferring Party and Receiving Party.
11. **Authorized Signatories.** The persons executing this Agreement for and on behalf of Receiving Party and Transferring Party each represent that they have the requisite authority to bind the entities on whose behalf they are signing.
12. **Partial Invalidity.** If any term, covenant, or condition of this Agreement is held to be invalid or unenforceable in any respect, such invalidity or unenforceability will not affect any other provision hereof, and this Agreement will be construed as if such invalid or unenforceable provision had never been contained herein.
13. **Use of Brokers.** Neither party has used a broker during the negotiation of this Agreement.
14. **Miscellaneous.**
  - a. This Agreement will be construed, interpreted, and enforced in accordance with the laws of the State of Indiana. The parties agree that the State and Federal Courts of Indiana will have jurisdiction over the parties and the subject matter with respect to enforcement of this agreement.
  - b. In the event that either party will bring an action or legal proceeding for an alleged breach of any provision of this Agreement or any representation, warranty, covenant, or agreement herein set forth, or to enforce, protect, determine, or establish any term, covenant, or provision of this Agreement or the rights hereunder of either party, the prevailing party will be entitled to recover from the nonprevailing party, as a part of such action or proceedings, or in a separate action brought for that purpose, reasonable attorneys' fees and costs, expert witness fees, and court costs fixed by the court.
  - c. All headings and sections of this Agreement are inserted for convenience only and do not form part of this Agreement or limit, expand, or otherwise alter the meaning of any provisions hereof.
  - d. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original and all of which will constitute one and the same Agreement.
  - e. The provisions of this Agreement are intended to be for the sole benefit of the parties hereto, and their respective successors and assigns, and none of the provisions of this Agreement are intended to be, nor will they be construed to be, for the benefit of any other party.
  - f. The parties agree that if any judicial interpretation and/or construction of this Agreement is required, the drafting party should be of no consequences to the interpretation or construction that occurs.

**IN WITNESS WHEREOF**, the parties have entered into this Agreement as the date set forth above.

**Agreed:**

**CITY OF FRANKLIN, INDIANA by and through its  
Board of Public Works and Safety**

\_\_\_\_\_  
Mayor Joseph McGuinness

\_\_\_\_\_  
Steve Barnett

\_\_\_\_\_  
Bob Swinehamer

Attest:

\_\_\_\_\_  
Janet P. Alexander, Clerk-Treasurer

**FRANKLIN PARK AND RECREATION BOARD**

\_\_\_\_\_  
Michael Auger, President

\_\_\_\_\_  
Pam Ault, Vice President

\_\_\_\_\_  
Debbie Gill

\_\_\_\_\_  
John Shafer

**EXHIBIT A**  
**LEGAL DESCRIPTIONS**

**15 W. SOUTH STREET**

Lot Numbered 7 in Leach's Addition to the City of Franklin as recorded in Plat Book 2, Page 56, in the Office of the Recorder of Johnson County, Indiana.

**ALSO:**

A strip of land 6 feet in width adjoining the south boundary of the above described real estate being a part of a vacated alley by the Common Council of the City of Franklin, Indiana, under Ordinance Number 2012-14, dated June 4, 2012, and recorded June 6, 2012, as Instrument Number 2012-011975 in the Office of the Recorder of Johnson County, Indiana.

Subject to any and all easements, agreements and restrictions of record.

**127 W. SOUTH STREET**

Lot Numbered 4 in Leach's Addition to the City of Franklin as recorded in Plat Book 2, Page 56, in the Office of the Recorder of Johnson County, Indiana.

Subject to any and all easements, agreements and restrictions of record.

**167 W. SOUTH STREET**

Lot Numbered 2 in Leach's Addition to the City of Franklin as recorded in Plat Book 2, Page 56, in the Office of the Recorder of Johnson County, Indiana.

Subject to any and all easements, agreements and restrictions of record.

**201 W. SOUTH STREET**

Part of the East half of the Northwest quarter of Section 23, Township 12 North, Range 4 East of the Second Principal Meridian, Johnson County, Indiana, described as follows:

Beginning at a point in the middle of the Franklin and Williamsburg Road, 600.4 feet east of the west line thereof; thence south and parallel with said west line a distance of 158.5 feet to a point on the north line of lands heretofore sold by Grace O. Tucker and Elizabeth E. Demaree to Don L. Earlywine; thence running east on the north line of said Earlywine lands 72.2 feet; thence north 158.5 feet to a point parallel with the south line of hereof 72.4 feet to the place of beginning, containing 0.263 acres, more or less.

Subject to any and all easements, agreements and restrictions of record.

**235 W. SOUTH STREET**

Part of the East half of the Northwest quarter of Section 23, Township 12 North, Range 4 East of the Second Principal Meridian, Johnson County, Indiana, described as follows:

Beginning at a point in the middle of the Franklin and Williamsburg Road, 528 feet east of the west line thereof; thence south and parallel with said west line, 158.5 feet more or less, to the northwest corner of a lot of land heretofore sold by Grace O. Tucker and Elizabeth Demaree to Don Earlywine; thence east upon and along said north line of the Earlywine property a distance of 72.2 feet; thence north a distance of 158.5 feet to a point 72.4 feet east of the place of beginning; thence west

parallel with the south line hereof 72.4 feet. (NOTE: The tract herein is shown as containing 0.242 acres, more or less, in the deeds in the chain of title.)

Subject to any and all easements, agreements and restrictions of record.

#### 450 S. MAIN STREET

Lot Numbered 9 in Leach's Addition to the City of Franklin as recorded in Plat Book 2, Page 56, in the Office of the Recorder of Johnson County, Indiana. EXCEPTING THEREFROM 20 feet in width off the south end of said lot.

ALSO:

A strip of land 6 feet in width adjoining the north boundary of the above described real estate being a part of a vacated alley by the Common Council of the City of Franklin, Indiana, under Ordinance Number 2012-14, dated June 4, 2012, and recorded June 6, 2012, as Instrument Number 2012-011975 in the Office of the Recorder of Johnson County, Indiana.

Subject to any and all easements, agreements and restrictions of record.

#### 452 S. MAIN STREET

Twenty (20) feet off the south side of Lot Numbered 9 and 20 feet of the north side of Lot Numbered 10 in Leach's Addition to the City of Franklin as recorded in Place Book 2, Page 56, in the Office of the Recorder of Johnson County, Indiana.

Subject to any and all easements, agreements and restrictions of record.

#### 449 S. JACKSON STREET

Eighty (80) feet by parallel lines off the south end of Lot Numbered 5 in Leach's, an addition to the City of Franklin as recorded in Plat Book 2, Page 56, in the Office of the Recorder of Johnson County, Indiana.

Subject to any and all easements, agreements and restrictions of record.

#### 450 S. JACKSON STREET

Lot Numbered 35 in Crim's Addition to the City of Franklin as recorded in Plat Book 2, Page 63, in the Office of the Recorder of Johnson County, Indiana.

ALSO:

A strip of land 6 feet in width adjoining the west boundary of the above described real estate being a part of a vacated alley by the Common Council of the City of Franklin, Indiana, under Ordinance Number 2012-16, dated June 4, 2012, and recorded June 6, 2012, as Instrument Number 2012-011979 in the Office of the Recorder of Johnson County, Indiana.

Subject to any and all easements, agreements and restrictions of record.

#### 451 S. JACKSON STREET

Lot Numbered 34 and 12 feet in width off the entire north side of Lot Numbered 33 all in Crim's Addition to the City of Franklin as recorded in Plat Book 2, Page 63, in the Office of the Recorder of Johnson County, Indiana.

Subject to any and all easements, agreements and restrictions of record.

474 S. JACKSON STREET

Lot Numbered 36 in Crim's Addition to the City of Franklin as recorded in Plat Book 2, Page 63, in the Office of the Recorder of Johnson County, Indiana.

ALSO:

A strip of land 6 feet in width adjoining the west boundary of the above described real estate being a part of a vacated alley by the Common Council of the City of Franklin, Indiana, under Ordinance Number 2012-16, dated June 4, 2012, and recorded June 6, 2012, as Instrument Number 2012-011979 in the Office of the Recorder of Johnson County, Indiana.

ALSO:

A strip of land 6 feet in width adjoining the south boundary of the above described real estate being a part of a vacated alley by the Common Council of the City of Franklin, Indiana, under Ordinance Number 2012-15, dated June 4, 2012, and recorded June 6, 2012, as Instrument Number 2012-011977 in the Office of the Recorder of Johnson County, Indiana.

Subject to any and all easements, agreements and restrictions of record.

480 S. JACKSON STREET

Lot Numbered 37 in Crim's Addition to the City of Franklin as recorded in Plat Book 2, Page 63, in the Office of the Recorder of Johnson County, Indiana.

ALSO:

A strip of land 6 feet in width adjoining the west boundary of the above described real estate being a part of a vacated alley by the Common Council of the City of Franklin, Indiana, under Ordinance Number 2012-16, dated June 4, 2012, and recorded June 6, 2012, as Instrument Number 2012-011979 in the Office of the Recorder of Johnson County, Indiana.

ALSO:

A strip of land 6 feet in width adjoining the north boundary of the above described real estate being a part of a vacated alley by the Common Council of the City of Franklin, Indiana, under Ordinance Number 2012-15, dated June 4, 2012, and recorded June 6, 2012, as Instrument Number 2012-011977 in the Office of the Recorder of Johnson County, Indiana.

Subject to any and all easements, agreements and restrictions of record.

401-403 S. DUNN STREET

Lot Numbered 1 in Leach's Addition, an addition to the City of Franklin as recorded in Plat Book 5, Page 71, in the Office of the Recorder of Johnson County, Indiana.

Subject to any and all easements, agreements and restrictions of record.

451 S. DUNN STREET

Lot Numbered 61 in Crim's Addition to the City of Franklin as recorded in Plat Book 2, Page 63, in the Office of the Recorder of Johnson County, Indiana.

ALSO:

A strip of land 6 feet in width adjoining the east boundary of the above described real estate being a part of a vacated alley by the Common Council of the City of Franklin, Indiana, under Ordinance

Number 2012-16, dated June 4, 2012, and recorded June 6, 2012, as Instrument Number 2012-011979 in the Office of the Recorder of Johnson County, Indiana.

Subject to any and all easements, agreements and restrictions of record.

454 S. DUNN STREET

Lot Numbered 60 in Crim's Addition to the City of Franklin as recorded in Plat Book 2, Page 63, in the Office of the Recorder of Johnson County, Indiana.

ALSO:

A strip of land 6 feet in width adjoining the east boundary of the above described real estate being a part of a vacated alley by the Common Council of the City of Franklin, Indiana, under Ordinance Number 2012-16, dated June 4, 2012, and recorded June 6, 2012, as Instrument Number 2012-011979 in the Office of the Recorder of Johnson County, Indiana.

ALSO:

A strip of land 6 feet in width adjoining the south boundary of the above described real estate being a part of a vacated alley by the Common Council of the City of Franklin, Indiana, under Ordinance Number 2012-15, dated June 4, 2012, and recorded June 6, 2012, as Instrument Number 2012-011977 in the Office of the Recorder of Johnson County, Indiana.

Subject to any and all easements, agreements and restrictions of record.

455 S. DUNN STREET

Lot Numbered 59 in Crim's Addition to the City of Franklin as recorded in Plat Book 2, Page 63, in the Office of the Recorder of Johnson County, Indiana.

ALSO:

A strip of land 6 feet in width adjoining the east boundary of the above described real estate being a part of a vacated alley by the Common Council of the City of Franklin, Indiana, under Ordinance Number 2012-16, dated June 4, 2012, and recorded June 6, 2012, as Instrument Number 2012-011979 in the Office of the Recorder of Johnson County, Indiana.

ALSO:

A strip of land 6 feet in width adjoining the north boundary of the above described real estate being a part of a vacated alley by the Common Council of the City of Franklin, Indiana, under Ordinance Number 2012-15, dated June 4, 2012, and recorded June 6, 2012, as Instrument Number 2012-011977 in the Office of the Recorder of Johnson County, Indiana.

Subject to any and all easements, agreements and restrictions of record.

459 S. DUNN STREET

Lot Numbered 58 in Crim's Addition to the City of Franklin as recorded in Plat Book 2, Page 63, in the Office of the Recorder of Johnson County, Indiana.

ALSO:

A strip of land 6 feet in width adjoining the east boundary of the above described real estate being a part of a vacated alley by the Common Council of the City of Franklin, Indiana, under Ordinance Number 2012-16, dated June 4, 2012, and recorded June 6, 2012, as Instrument Number 2012-011979 in the Office of the Recorder of Johnson County, Indiana.

Subject to any and all easements, agreements and restrictions of record.

488 S. DUNN STREET

Part of the East half of the Northwest quarter of Section 23, Township 12 North, Range 4 East of the Second Principal Meridian, Johnson County, Indiana, described as follows:

Beginning at a point 528 feet east and 1376.66 feet north of the southwest corner; thence east 144.4 feet to the west line of Dunn Street; thence south on said west line of Dunn Street 50 feet; thence west 145.08 feet; thence north and parallel with the west line of said half quarter section 50 feet to the place of beginning.

Subject to any and all easements, agreements and restrictions of record.

490 S. DUNN STREET

Part of the East half of the Northwest quarter of Section 23, Township 12 North, Range 4 East of the Second Principal Meridian, Johnson County, Indiana, described as follows:

Beginning at a point 528 feet east and 1,326.66 feet north of the southwest corner; thence east 145.08 feet to the west line of Dunn Street; thence south on the said west line 50 feet; thence west 145.76 feet to a point 528 feet east of the west line of said half quarter; thence north and parallel with said west line 50 feet to the place of beginning, containing 0.16 of an acre.

Subject to any and all easements, agreements and restrictions of record.

492 S. DUNN STREET

Part of the East half of the Northwest quarter of Section 23, Township 12 North, Range 4 East of the Second Principal Meridian, Johnson County, Indiana.

Beginning at a point 1276.55 feet North and 528 feet East of the Southwest corner; thence East 145.76 feet, to the West line of Dunn Street, in the City of Franklin, Indiana; thence South on the West line of said street 50 feet; thence West 146.44 feet to a point 528 feet East of the West line of said half quarter section; thence north and parallel with said West line 50 feet to the place of beginning. The tract herein is shown as containing 0.16 acre, in the prior deeds in the chain of title.

Subject to any and all easements, agreements and restrictions of record.

494 S. DUNN STREET

Part of the East half of the Northwest quarter of Section 23, Township 12 North, Range 4 East of the Second Principal Meridian, in Johnson County, Indiana, described as follows:

Beginning at a point 528 feet east and 1226.66 feet north of the southwest corner; thence running east 146.44 feet to the west line of Dunn Street; thence south on said west line 50 feet; thence west to a point 528 feet east of the west line of said half quarter section; thence north and parallel with said west line 50 feet to the place of beginning, containing 0.17 of an acre, more or less.

Subject to any and all easements, agreements and restrictions of record.

498 S. DUNN STREET

Part of the East half of the Northwest quarter of Section 23, Township 12 North, Range 4 East of the Second Principal Meridian, Johnson County, Indiana described as follows:

Beginning at a point 1126.66 feet north and 528 feet east of the southwest corner; thence east 147.46 feet to the west line of Dunn Street; thence south on the said west line 50 feet; thence west 147.80 feet to a point 528 feet east of the west line of said half quarter section; thence north and parallel with said west line 50 feet to the place of beginning, containing 0.18 acres, more or less.

Subject to any and all easements, agreements and restrictions of record.

501 S. DUNN STREET

Lots Numbered 56 and 57 in Crim's Addition to the City of Franklin as recorded in Plat Book 2, Page 63, in the Office of the Recorder of Johnson County, Indiana.

Subject to any and all easements, agreements and restrictions of record.

**EXHIBIT B**  
**DEED RESTRICTIONS**

In reference to the property or properties ("Property") conveyed by the Deed between City of Franklin, Indiana, herein after referred to as the Grantor, participating in the federally-assisted acquisition project and the City of Franklin Park and Recreation Board, its successors and assigns, herein after referred to as the Grantee:

WHEREAS, the Flood Mitigation Assistances program ("FMA"), as authorized by Section 1323 of the National Flood Insurance Act of 1968 (42 USC §§ 4030), as amended by the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004, Public Law 108-264, identifies the use of FMA funds for reducing flood damages to individual properties for which one or more claim payments for losses have been made under flood insurance coverage and that will result in the greatest savings to the National Flood Insurance Fund in the shortest period of time;

WHEREAS, the FMA provides a process for a local government, through the State, to apply for federal funds for flood mitigation assistance to acquire interests in property, including the purchase of structures in the floodplain, to demolish and/or remove the structures, and to maintain the use of the Property as open space in perpetuity;

WHEREAS, the State of Indiana, Department of Homeland Security has applied for and been awarded such funding from the Department of Homeland Security, Federal Emergency Management Agency ("FEMA"), and has entered into an FMA Project Grant Agreement dated June 10, 2008 with FEMA and herein incorporated by reference;

WHEREAS, the Property is located in City of Franklin, Indiana, and City of Franklin, Indiana participates in the National Flood Insurance Program ("NFIP") and is in good standing with NFIP as of the date of the Deed;

WHEREAS, the City of Franklin, Indiana, acting by and through the City of Franklin Common Council, has applied for and been awarded federal funds pursuant to an agreement with the State of Indiana, Department of Homeland Security dated November 5, 2009 ("State-Local Agreement"), and herein incorporated by reference;

WHEREAS, the terms of the FY 2007 FMA Program Guidance, consistent with FEMA Hazard Mitigation Grant Program guidance involving acquisition for open space, the FEMA-State Grant Agreement and the State-Local Agreement require that the Grantee agree to conditions which are intended to restrict the use of the land to open space in perpetuity in order to protect and preserve natural floodplain values;

NOW, THEREFORE, the transfer is made subject to the following terms and conditions:

1. Terms. Pursuant to Paragraph 1, the terms of the FMA Guidance, and any applicable FEMA-State Grant Agreement, and the State-Local Agreement, the following conditions and restrictions shall apply in perpetuity to the Property described in the attached deed and acquired by the Grantee pursuant to FMA Guidance providing for acquisition:
  - a. Compatible uses. The Property shall be used only for purposes compatible with open space, recreational, or wetlands management practices; in general, such uses include parks for outdoor recreational activities, nature reserves, unimproved permeable parking lots and other uses consistent with FEMA FMA Guidance for open space acquisition.
  - b. Structures. No new structures or improvements shall be erected on the Property other than:
    - i. A public facility that is open on all sides and functionally related to the open space use;

- ii. A public rest room; or
  - iii. A structure that is compatible with the uses described in Paragraph 1(a), above, and approved by the Director in writing prior to the commencement of the construction of the structure. Any structures built on the Property according to this paragraph shall be floodproofed or elevated to the Base Flood Elevation plus one foot of freeboard.
- c. Disaster Assistance. No future disaster assistance from any Federal source for any purpose related to the Property may be sought, nor will such assistance be provided;
- d. Transfer. The Grantee shall convey any interest in the Property only if the Regional Director of FEMA gives prior approval of the transferee in accordance with this paragraph. The Grantee may only convey an interest in the Property to another public entity or to an organization qualified under Section 170(h) of the Internal Revenue Code of 1954, as amended, and applicable regulations promulgated thereunder. However, the Grantee may convey a lease or an easement to a private individual or entity for purposes compatible with the uses described in Paragraph 1(a), above, with the prior approval of the Regional Director, and so long as the conveyance does not include authority to control and enforce these terms and conditions. If title to the Property is transferred to a public entity that is not a qualified state or federal agency with a conservation mission, it must be conveyed subject to a Conservation Easement that shall be recorded with the deed and shall incorporate all terms and conditions set forth herein, including the easement holder's responsibility to enforce the easement. This shall be accomplished by one of the following means:
- i. The Grantee shall convey, in accordance with section (d), above, a conservation easement to an entity other than the title holder, or
  - ii. At the time of title transfer, the Grantee shall retain such conservation easement, and record it with the deed.
2. Inspection. FEMA, its representatives, and assigns, including the State of Indiana, shall have the right to enter upon the Property, at reasonable times and with reasonable notice, for the purpose of inspecting the Property to ensure compliance with the terms of the grant.
3. Monitoring and Reporting. Every three years from November 5, 2009, the Grantee, through the State of Indiana, shall submit to the FEMA Regional Director a report certifying that the Grantee has inspected the subject Property within the month preceding the report, and that the Property continues to be maintained consistent with the provisions of the grant.
4. Enforcement. If the subject Property is not maintained according to the terms of the grant, the Grantee, the State of Indiana, and FEMA, its representatives, and assigns are responsible for taking measures to bring the Property back into compliance.
- a. The State will notify the Grantee in writing and advise the Grantee that it has 60 days to correct the violation.
  - b. If the Grantee fails to demonstrate a good faith effort to come into compliance with the terms of the grant within the 60-day period, the State shall enforce the terms of the grant by taking any measures it deems appropriate, including but not limited to bringing an action at law or in equity in a court of competent jurisdiction.
  - c. FEMA, its representatives and assigns may enforce the terms of the grant by taking any measures it deems appropriate, including but not limited to the following:

