

VILLAGE OF THIENSVILLE  
COMMITTEE OF THE WHOLE  
AGENDA

DATE: Monday, May 6, 2019

LOCATION: 250 Elm Street  
Thiensville, WI

TIME: 6:00 PM

I. CALL TO ORDER

II. ROLL CALL

President: Van Mobley  
Trustees: Samuel Azinger Kristina Eckert  
Ronald Heinritz  
Rob Holyoke  
Kenneth Kucharski David Lange  
Administrator: Colleen Landisch-Hansen  
Staff: Director of Community Services/Public Works Andy LaFond  
Fire Chief Brian Reiels  
Police Chief Curt Kleppin  
Village Clerk Amy Langlois

III. BUSINESS

A. Review Capital Expenditures List

Documents:

[CAPITAL EXPENDITURES.PDF](#)

B. Review And Recommendation Regarding Request From Jesse Daily, Cheel, 105 South Main Street, To Extend Noise Ordinance For Cheel-Abration, July 27, 2019 Until Midnight As Well As Baaree Hours For Summer Special Events

Documents:

[BAAREE CUP.PDF](#)

C. Update Regarding Application For Parade Permit Or Street Closing Permit, Jon Oppitz, 401 Park Crest Drive, Grand Avenue From Park Crest Drive West To Property Line

D. Presentation Of Frank L. Weyenberg Library Annual Report And Strategic Plan From Rachel Muchin Young, Library Director

E. Review And Recommendation Regarding Community Promenade Memo Of Understanding, Mequon-Thiensville Gateway Feature (Trustee Lange)

Documents:

[PROMENADE MOU - 042219.PDF](#)

F. Discussion Regarding Overnight Parking Restrictions During Non-Winter Months

(Trustee Azinger)

G. Review And Recommendation Regarding Appointing The Following New Fire Department Members:

1. Rachel L. Nelson
2. Andrew T. Purser

H. Review And Recommendation Regarding License Approvals:

1. Class B Beer And Class B Liquor
  - a. Prime Minister Family Restaurant
2. Skippy's Burger Bar Licenses:
  - a. Class B Beer And Class B Liquor
  - b. Cigarette License
  - c. Billiard & Pool Table License
  - d. Amusement License

I. Operator's Licenses - Renewal

1. The Cheel, Llc
  - a. Cheryl Marie Raymond
2. Shully's Catering, Inc.
  - a. Mark D. Lavine
3. Glaze, Llc
  - a. Heather Albrecht
  - b. Philip Gerald Eckert
  - c. Skye Fisher Marach

J. Operator's Licenses - New

1. The Cheel, Llc
  - a. Joshua David Herman
2. Falafel Guys
  - a. Hannah Rose Strolia

K. Review And Recommendation Of:

BOARD APPOINTMENTS:

Ozaukee County Bike Trails Committee

Ronald G. Heinritz, One-Year Term

Board Representative to Mid-Moraine

David A. Lange, One-Year Term

Community Development Authority

Rob Holyoke, One-Year Term

David A. Lange, One-Year Term

Farmland Preservation Committee  
Ronald G. Heinritz, One-Year Term

Historic Preservation Commission  
Ronald G. Heinritz, One-Year Term

Telecommunication & IT Oversight  
Vacant, One-Year Term

Weyenberg Library Board  
Rob Holyoke, One-Year Term

CITIZEN APPOINTMENTS:  
Community Development Authority  
Greg Huffman, 208 East Freistadt Road, Four-Year Term

Historic Preservation Commission  
Bob Blazich, 627 Lake Bluff Road, Three-Year Term  
Mary Giuliani, 409 Susan Lane, Three-Year Term

MMSD Citizen Advisory Council  
Vacant

Weyenberg Library Board  
Mary (Mimi) Rosing, 512 Alta Loma Drive, Three-Year Term

Zoning Board of Appeals  
Jesse Daily, 215 Madero Drive, Three-Year Term

STAFF APPOINTMENTS:  
Assessor  
Michael Grota, Two-Year Term

Attorney  
Robert L. Feind, Jr., Two-Year Term

Auditor  
Wendy Unger, CPA, Annually

Building Inspector  
Paul Mortimer, Two-Year Term

Engineer  
Jerad Wegner, Two-Year Term

Planner  
Jonathan P. Censky, Annually

Treasurer  
Colleen Landisch-Hansen, Four-Year Term

#### IV. BUSINESS FROM THE FLOOR

##### A. Citizens to be Heard

Open to any citizen who wishes to speak on items not on the agenda. Please step to the podium and give your name and address for the record.

V. MISCELLANEOUS BUSINESS BY TRUSTEES AS MAY PROPERLY BE BROUGHT BEFORE THE BOARD.

- A. Inter-Governmental Committee With Mequon
- B. Use Of 101 Green Bay Road, Old Village Hall & Fire Station
- C. Acceptance/Report Of Gifts Received
  - 1. \$200.00 To Village Park Relimagined Phase III From Mequon Lawn & Garden
  - 2. \$500.00 To The Thiensville Police Department-Auxiliary From The T-M Lions Club, Inc.
  - 3. \$350.00 To The Thiensville Police Department-Cards From The T-M Lions Club, Inc.
  - 4. \$350.00 To The Thiensville Police Department-Bike Safety From The T-M Lions Club, Inc.
- D. Dialog With Mequon Regarding Water Utility Service
- E. Review Next Month's Meeting Date Schedule

VI. MOTION TO ADJOURN TO CLOSED SESSION

Deliberating about the investment of public funds in future Village properties requiring a Closed Session due to the competitive nature and bargaining positions at risk if conducted in a public meeting. Such Closed Session is authorized pursuant to Wis. Stats. Article 19.85(1)(e).

- 1. Roll Call Vote

MOTION TO RECONVENE IN OPEN SESSION

- 1. Vote of Board to reconvene
- 2. Review and action on Closed Session

VII. ADJOURNMENT

Amy L. Langlois, Village Clerk  
May 3, 2019

Please advise the Thiensville Municipal Hall, 250 Elm Street (242-3720) at least 24 hours prior to the start of this meeting if you have disabilities and desire special accommodations.

Notice is hereby given that a quorum of the Village Board and/or Village Committees may be in attendance at this meeting to present, discuss and/or gather information about a subject over which they have decision-making responsibility, although they will not take any formal action thereto at this meeting.

VILLAGE OF THIENSVILLE  
2019 CAPITAL PROJECT EXPENDITURE REPORT  
MAY 6, 2019

| ITEM BUDGETED                               | AMOUNT<br>BUDGETED | AMOUNT IN<br>RESERVES | TOTAL AMOUNT<br>AVAILABLE | ACTUAL<br>EXPENSE | DIFFERENCE      |
|---------------------------------------------|--------------------|-----------------------|---------------------------|-------------------|-----------------|
| <u>ADMINISTRATION</u>                       |                    |                       |                           |                   |                 |
| Municipal Center Roof Evaluation            | \$ -               | \$ 2,500.00           | \$ 2,500.00               | \$ -              | \$ 2,500.00     |
| Replace Rooftop HVAC Board Room             | \$ -               | \$ 14,500.00          | \$ 14,500.00              | \$ -              | \$ 14,500.00    |
| Village Board iPad Upgrade                  | \$ -               | \$ 4,755.99           | \$ 4,755.99               | \$ 2,223.00       | \$ 2,532.99     |
| Front Office Security/Reception Upgrades    | \$ 60,000.00       | \$ -                  | \$ 60,000.00              | \$ -              | \$ 60,000.00    |
| Security Camera Additions                   | \$ 7,500.00        | \$ -                  | \$ 7,500.00               | \$ -              | \$ 7,500.00     |
|                                             | \$ -               | \$ -                  | \$ -                      | \$ -              | \$ -            |
|                                             | \$ 67,500.00       | \$ 21,755.99          | \$ 89,255.99              | \$ 2,223.00       | \$ 87,032.99    |
| <u>POLICE DEPARTMENT</u>                    |                    |                       |                           |                   |                 |
| 1 Squad Replacement (Year 1 of 3)           | \$ 22,000.00       | \$ 8,224.65           | \$ 30,224.65              | \$ -              | \$ 30,224.65    |
| 2 Station Computers                         | \$ 2,400.00        | \$ -                  | \$ 2,400.00               | \$ 2,632.00       | \$ (232.00)     |
| 3 Pepper Ball Pistols                       | \$ 3,000.00        | \$ -                  | \$ 3,000.00               | \$ -              | \$ 3,000.00     |
| Fast ID Hand Held                           | \$ 2,500.00        | \$ -                  | \$ 2,500.00               | \$ -              | \$ 2,500.00     |
| 2 Squad Head Rest Printers                  | \$ 1,500.00        | \$ -                  | \$ 1,500.00               | \$ 559.90         | \$ 940.10       |
| Thermal Camera                              | \$ 1,000.00        | \$ -                  | \$ 1,000.00               | \$ -              | \$ 1,000.00     |
| 2 Ballistic Shield Replacements             | \$ 3,000.00        | \$ -                  | \$ 3,000.00               | \$ -              | \$ 3,000.00     |
| Crime Scene Canopy Tent with Sides          | \$ -               | \$ 500.00             | \$ 500.00                 | \$ -              | \$ 500.00       |
| P25 Radio                                   | \$ 3,500.00        | \$ 16,500.00          | \$ 20,000.00              | \$ -              | \$ 20,000.00    |
|                                             | \$ 38,900.00       | \$ 25,224.65          | \$ 64,124.65              | \$ 3,191.90       | \$ 60,932.75    |
| <u>FIRE DEPARTMENT</u>                      |                    |                       |                           |                   |                 |
| Fire Department Tires                       | \$ 8,600.00        | \$ 11,290.92          | \$ 19,890.92              | \$ -              | \$ 19,890.92    |
| Hose Replacement Program                    | \$ 5,000.00        | \$ 7,591.00           | \$ 12,591.00              | \$ -              | \$ 12,591.00    |
| Equipment Replacement Fund                  | \$ 50,000.00       | \$ -                  | \$ 50,000.00              | \$ 51,840.00      | \$ (1,840.00)   |
| Pager Replacement                           | \$ -               | \$ 6,225.25           | \$ 6,225.25               | \$ -              | \$ 6,225.25     |
| Turnout Gear                                | \$ 10,000.00       | \$ 30,000.00          | \$ 40,000.00              | \$ 29,456.00      | \$ 10,544.00    |
| Hydro Testing                               | \$ 3,500.00        | \$ 3,500.00           | \$ 7,000.00               | \$ -              | \$ 7,000.00     |
| Repair/Replace Apparatus Bay Floor          | \$ 25,000.00       | \$ -                  | \$ 25,000.00              | \$ -              | \$ 25,000.00    |
| Station Exhaust Modification                | \$ -               | \$ 16,000.00          | \$ 16,000.00              | \$ -              | \$ 16,000.00    |
|                                             | \$ 102,100.00      | \$ 74,607.17          | \$ 176,707.17             | \$ 81,296.00      | \$ 95,411.17    |
| <u>PUBLIC WORKS DEPARTMENT</u>              |                    |                       |                           |                   |                 |
| Vehicle Replacement Fund                    | \$ 20,000.00       | \$ -                  | \$ 20,000.00              | \$ 20,000.00      | \$ -            |
| Garbage Truck & Cushman Replace Reserve     | \$ 124,571.00      | \$ -                  | \$ 124,571.00             | \$ -              | \$ 124,571.00   |
| Emerald Ash Borer Program                   | \$ 8,000.00        | \$ 8,005.00           | \$ 16,005.00              | \$ -              | \$ 16,005.00    |
| Utility Trailer                             | \$ -               | \$ 5,800.00           | \$ 5,800.00               | \$ -              | \$ 5,800.00     |
| Radio Replacement                           | \$ -               | \$ 13,000.00          | \$ 13,000.00              | \$ -              | \$ 13,000.00    |
| Public Works Building Reserve               | \$ 25,000.00       | \$ -                  | \$ 25,000.00              | \$ -              | \$ 25,000.00    |
| Public Works Bldg Improvement-Architectural | \$ -               | \$ 81,863.00          | \$ 81,863.00              | \$ -              | \$ 81,863.00    |
|                                             | \$ 177,571.00      | \$ 108,668.00         | \$ 286,239.00             | \$ 20,000.00      | \$ 266,239.00   |
| <u>DPW PARK DEPARTMENT</u>                  |                    |                       |                           |                   |                 |
| Annual Pigeon Creek Maintenance             | \$ -               | \$ 15,000.00          | \$ 15,000.00              | \$ -              | \$ 15,000.00    |
| Annual Fishladder Maintenance               | \$ -               | \$ 2,758.00           | \$ 2,758.00               | \$ -              | \$ 2,758.00     |
| Tennis Court Light Replacement              | \$ 10,000.00       | \$ 8,000.00           | \$ 18,000.00              | \$ -              | \$ 18,000.00    |
| Tennis Court Resurface                      | \$ 24,000.00       | \$ -                  | \$ 24,000.00              | \$ -              | \$ 24,000.00    |
| Octagon Building/Snack Shack Improvements   | \$ -               | \$ 5,307.67           | \$ 5,307.67               | \$ 12.15          | \$ 5,295.52     |
|                                             | \$ 34,000.00       | \$ 31,065.67          | \$ 65,065.67              | \$ 12.15          | \$ 65,053.52    |
| <u>UNCLASSIFIED IMPROVEMENT FUND</u>        |                    |                       |                           |                   |                 |
| Entryway Feature-Cedarburg & Mequon Rds     | \$ -               | \$ 50,000.00          | \$ 50,000.00              | \$ -              | \$ 50,000.00    |
| Old Village Hall Upper Floor Study          | \$ -               | \$ 30,000.00          | \$ 30,000.00              | \$ -              | \$ 30,000.00    |
| Downtown Improvements/Well Monitoring       | \$ -               | \$ -                  | \$ -                      | \$ -              | \$ -            |
| Profile & Concrete Replace. Main Street     | \$ -               | \$ 14,078.16          | \$ 14,078.16              | \$ -              | \$ 14,078.16    |
| Remediation DPW Yard                        | \$ -               | \$ 20,000.00          | \$ 20,000.00              | \$ -              | \$ 20,000.00    |
| Thiensville Business Association Event      | \$ -               | \$ 10,000.00          | \$ 10,000.00              | \$ -              | \$ 10,000.00    |
| EMS/Paramedic Study                         | \$ -               | \$ 20,000.00          | \$ 20,000.00              | \$ -              | \$ 20,000.00    |
| Village Park Improvement Plan               | \$ -               | \$ 79,761.85          | \$ 79,761.85              | \$ 137,644.15     | \$ (57,882.30)  |
| Spring Street Connection to Bike Path       | \$ -               | \$ -                  | \$ -                      | \$ -              | \$ -            |
| Storm Sewer Improvement Madero/Riverview/Lu | \$ -               | \$ 50,000.00          | \$ 50,000.00              | \$ -              | \$ 50,000.00    |
| North Main Street Bike Trail Spur           | \$ 25,000.00       | \$ 25,000.00          | \$ 50,000.00              | \$ -              | \$ 50,000.00    |
| Road Program Reserve                        | \$ 10,000.00       | \$ 436,220.00         | \$ 446,220.00             | \$ 3,315.65       | \$ 442,904.35   |
| Green Bay Road Overlay & Lights             | \$ -               | \$ 105,748.40         | \$ 105,748.40             | \$ 611.50         | \$ 105,136.90   |
| Freistadt Entryway Features                 | \$ -               | \$ -                  | \$ -                      | \$ 580.41         | \$ (580.41)     |
| CONTINGENCY                                 | \$ -               | \$ 70,000.00          | \$ 70,000.00              | \$ -              | \$ 70,000.00    |
|                                             | \$ 35,000.00       | \$ 910,808.41         | \$ 945,808.41             | \$ 142,151.71     | \$ 803,656.70   |
| TOTALS                                      | \$ 455,071.00      | \$ 1,172,129.89       | \$ 1,627,200.89           | \$ 248,874.76     | \$ 1,378,326.13 |



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TX:4293526

1063380

RONALD A. VOIGT  
OZAUKEE COUNTY  
REGISTER OF DEEDS  
RECORDED ON  
04/26/2018 03:32 PM  
REC FEE: 30.00  
TRANS FEE:  
PAGES: 10  
EXEMPT #:

| DOCUMENT NUMBER                                                                                                                                                                                                                                              | CONDITIONAL USE PERMIT |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|
| Before the Plan Commission of the Village of Thiensville, Ozaukee County, Wisconsin, in regard to the premises at 107 Buntrock Avenue, located in Section 23, Town 9 North, Range 21 East, Ozaukee County, State of Wisconsin, further described as follows: |                        |
| <div>Return to:<br/>Amy L. Langlois, Village Clerk<br/>250 Elm Street<br/>Thiensville, WI<br/>\$30</div>                                                                                                                                                     |                        |

Parcel Identification No. 12-050-07-23-000

Zoning Classification of the Premises is: B-1 Central Business District.  
Mailing Address of the Premises is: 107 Buntrock Avenue.

WHEREAS, a petition has been filed by Jesse Daily and Matthew Buerosse (hereinafter "Owners") for the operation of an Outdoor Beer Garden in the rear yard of property at 107 Buntrock Avenue, such premises owned by the property owners identified in the signature lines shown below (hereinafter "Owners"); and

WHEREAS, Outdoor Beer Gardens are permitted as a Conditional Use in the B-1 Central Business Zoning District pursuant to Sections 17.0308 C. of the Zoning Code; and

WHEREAS, upon careful consideration of information received in this matter, including information received at the Public Hearing, and in consideration of the particular nature, character and circumstances of the proposed use, and of the specific and contemporary conditions the Village of Thiensville Plan Commission hereby finds that the proposed use will not be hazardous, harmful, offensive, or otherwise adverse to the environment or the value of the neighborhood or the community, and will be in accordance with the purpose and intent of the Village of Thiensville Zoning Code and the Village of Thiensville Smart Growth Comprehensive Land Use Plan provided the Conditional Use is operated pursuant to the following conditions and in strict conformance therewith.

NOW, THEREFORE, the Plan Commission of the Village of Thiensville, at its meetings on March 6, 2018 and April 10, 2018, approved the issuance of a Conditional Use Permit (hereinafter "CUP") for the premises for the above-stated purposes.

The CUP is subject to initial and continued compliance with the Village of Thiensville Municipal Zoning Code and with the following conditions:

1. The CUP shall not be transferrable to another location.
2. The use shall be constructed and operated in conformity with the Owners' written description and the full-scale architectural, site and exterior lighting plans on file in the Village Planning Department attached as Exhibit A, except as may be limited or restricted herein.
3. The hours of operation of the Outdoor Beer Garden shall be:

Tuesday - Sunday = 11:00 AM to 10:00 PM  
Monday = Closed
4. All amplified music or sound associated with the Outdoor Beer Garden shall comply with Village of Thiensville Ordinances.
5. The serving of alcohol in this Outdoor Beer Garden shall be subject to the rules and regulations of the applicants' approved liquor license associated with the cheel restaurant.
6. Any glare resulting from use of proposed light fixtures shall be eliminated to the satisfaction of the Village of Thiensville.
7. Signage to be approved by the Plan Commission.
8. The Property Owners are required to sign below, before a notary, to approve the issuance of this CUP and to indicate their acceptance of the terms and conditions of this CUP.
9. Prior to the operation of the use granted herein, the Owners shall apply and obtain an Occupancy Permit and/or a Building Permit as required by the Village of Thiensville's Building and Zoning Codes.

10. Any changes or expansion not included in this CUP shall require approval by the Village as an amendment to this CUP.

11. Any substantiated material problems with noise, health, safety, parking, capacity limits of the cheel restaurant, etc. associated with the Outdoor Beer Garden shall be the responsibility of the Owners to correct. Failure to correct the problem in a timely manner may result in the partial of complete revocation of this Conditional Use Permit.

#### SIGNATURES OF PROPERTY OWNERS AND PERMITTEE(S):

As **OWNERS** of the subject property, we approve the issuance of the CUP with the above described conditions.

Jesse Daily, Owner  
STATE OF WISCONSIN )  
OZAUKEE COUNTY ) SS

Matthew Buerosse, Owner

Personally came before me this 17<sup>th</sup> day of April, 2018, the above-named Jesse Daily, Owner, and Matthew Buerosse, Owner, to me known to be the persons who executed the foregoing instrument and acknowledge the same.

Amy Louise Langlois  
Printed Name Amy Louise Langlois  
Notary Public, Ozaukee County, Wisconsin  
My Commission Expires: May 12, 2019



#### SIGNATURES – VILLAGE OF THIENSVILLE

Van C. Mobley  
Van Mobley, Village President

Dianne Robertson  
Dianne Robertson, Village Administrator

STATE OF WISCONSIN)

OZAUKEE COUNTY )

Personally came before me this 18<sup>th</sup> day of April, 2018, the above-named Van Mobley, Village President and Dianne Robertson, Village Administrator, to me known to be the person(s) who executed the foregoing instrument and acknowledge the same.

Amy Louise Langlois  
Printed Name Amy Louise Langlois  
Notary Public, Ozaukee County, Wisconsin  
My Commission Expires: May 12, 2019



THIS INSTRUMENT WAS DRAFTED BY:  
Jonathan P. Censky, Village Planner

**AN UNDERSTANDING BETWEEN THE CITY OF MEQUON, THE VILLAGE OF THIENSVILLE, AND  
THE THIENSVILLE-MEQUON ROTARY FOUNDATION, INC., CONCERNING THE CONSTRUCTION  
AND FUNDING OF THE COMMUNITY PROMENADE.**

THIS MEMORANDUM OF UNDERSTANDING is entered into by and between THE CITY OF MEQUON, WISCONSIN, a Wisconsin municipal corporation (the “City”), THE VILLAGE OF THIENSVILLE, a Wisconsin municipal corporation (the “Village”), and the THIENSVILLE-MEQUON ROTARY FOUNDATION, INC. (the “the Foundation”) as of this \_\_\_\_ day of May, 2019.

**I. Background**

The area known as the Town Center is a mixed-use traditional neighborhood that represents the heart of Mequon and Thiensville, an idea joining the two communities conceptualized in 1999, to offer a walkable central destination for homes, restaurants, businesses and local government services and activities. One of the original goals, dating back to 2002, was the selection of a design for a community feature, a “gateway feature” at the northeast corner of Mequon and Cedarburg Roads.

In 2017 the Ad Hoc Mequon-Thiensville Gateway Committee (“the Committee”) was formed with representatives from both communities to advance a concept and design for the gateway feature. The Committee partnered with GROTH Design Group and ZEBRADOOG, selected a design that won the support of both the Mequon Common Council and Thiensville Village Board, and received preliminary estimates for the gateway feature, now referred to as the Community Promenade. The Community Promenade is estimated to cost about \$750,000.

The City has committed \$150,000 in funds for the project, and the Village has committed \$50,000. The remaining \$550,000 is to be raised through private donations.

In mid-2018, the Committee established a fundraising subcommittee and kicked off a major capital fundraising effort to secure private and corporate donations. The Foundation is serving as the conduit for the subcommittee’s efforts, whereas it will receive, account for, and hold funds until disbursement is needed. As of April 2019, nearly \_\_\_\_% of the fundraising goal has been reached.

A number of donors have asked to make their donation by means of a multi-year pledge. In order to accommodate these requests, and to meet a 2019 construction timeline for the Promenade, temporary contingency funding is needed.

The facilitation of such temporary contingency funding is similar to the vehicle used when both Mequon and Thiensville Rotary Clubs supplemented City and Wisconsin Department of Natural Resources funding for the Riverfront Park segment of the Riverwalk in 2012. In that effort, both Rotary clubs committed to raising \$250,000 but the project needed a financing mechanism because the Rotary Clubs did not have all the funds available to pay for construction in 2012. A memorandum of understanding was reached between the two clubs and the City, in which the

City underwrote the 2012 construction costs, and both Clubs reimbursed the City within less than three years.

In January 2019 the City, on behalf of both the City and the Village, solicited bids for the 2019 construction of the Community Promenade. The City rejected those bids, re-engineered the project and re-bid the project in April 2019.

## **II. Purpose**

The Parties' first desire to acknowledge and emphasize that their respective efforts, in-kind services provided, and funding support for the entire Community Promenade project, is in furtherance of a public, and not private purpose, and will inure to the benefit of the City of Mequon and the Village of Thiensville, its citizens and others who may use and enjoy this public amenity to be created.

It is the Parties' additional purpose to memorialize the cooperative undertaking to fund construction of the Community Promenade which will be dedicated to the public as an amenity of the Town Center and stand as a complementary element to the Riverwalk which was the Rotary Clubs' centennial project.

This Memorandum of Understanding incorporates and ratifies the Parties' joint efforts to date, including design work, the upcoming bidding process and administration. Going forward, the Parties wish to provide for:

- A. Their mutual agreement for the placement and construction of the Community Promenade on City-owned land, and its dedication to the City for the benefit of the public.
- B. The construction of the Community Promenade; and
- C. The financing, including temporary contingency financing, of the Community Promenade.

## **III. City and Village Understandings**

### **A. Construction**

- 1. The City, the Village (working jointly with the City through the Committee, as appropriate), and the Foundation agree to work together to assure a bidding process that best reflects the aspirations for this project, with costs that are within the financial projected estimates for the projects, and meets the City's and the Village's guidelines.
- 2. The City and Village will provide and contribute through in-house labor force the project's contract administration and on-site construction management and inspection.
- 3. The construction and the permanent improvements shall be in the City-owned land lying along the Milwaukee River in the Civic Center area, as is depicted and more particularly

described in the plans and specifications for the project approved and permitted by the City of Mequon.

#### **B. Financing**

1. The Foundation will pay for the entire cost of constructing the Community Promenade, with exceptions expressly noted herein, with funds raised by the Committee and other interested parties known to all involved in the project.
2. The City will commit \$150,000 toward the cost of the Community Promenade's construction.
3. The Village will commit \$50,000 toward the cost of the Community Promenade's construction.
4. Only in the event the Committee's fundraising does not meet its goal in 2019 and project costs need to be paid, the City will loan the Foundation, on terms and conditions as shall then be agreed as reasonable and as subjecting public assets to as little risk as practicable, funds to cover the project's construction costs, as limited next below.

If a loan by the City to the Foundation for the project is required, the City will use its \_\_\_\_\_ fund, at an amount not to exceed \$\_\_\_\_\_. Such loan(s) shall be evidenced by one or more promissory notes in a form approved by the City Attorney, and subscribed by the appropriate officers of the Foundation on their behalf.

The Foundation will reimburse the City any and all funds loaned to the Foundation by the City for costs associated with the construction of the Community Promenade. Reimbursement will be made according to the terms of (a) promissory note(s) within five years beginning from when the city makes the first payment to the construction project's contractor. It is intended that in-kind services contributed by the City and Village shall not be subject to reimbursement by the Foundation.

#### **C. Dedication and Easement**

1. The resulting permanent improvements which comprise the Community Promenade shall be, upon final completion and satisfactory final inspection and acceptance by the City of Mequon, dedicated to the City for the benefit of the public as a recreational and educational outdoor feature.
2. All warranties on the construction materials, workmanship and finished improvements shall be deemed by the Parties to be assigned and run to the City of Mequon, and shall be fully enforceable by it in its name.

#### **IV. General Provisions**

1. Nothing herein shall be construed to relieve any Party, their officers, agents or contractors of the obligation to secure plan and permit approvals, inspection approvals, and final acceptance of completed improvements by or from any governmental authority having jurisdiction, including payment of fees and costs associated therewith, except insofar as the governmental authority may expressly waive such fees and costs.
2. The Committee and Foundation will defer to the City's technical staff in all matters of construction and inspection of the improvements before, during and after construction. Notwithstanding, the construction plan approved by the City before construction shall be deemed to be controlling, unless circumstances not presently known shall require a change to the building plans and specifications during construction.

#### **V. Disputes**

1. With respect to any dispute which may arise between the Parties to this agreement, they shall make a good faith effort to expeditiously negotiate and arrive at a mutual solution, however, if they are unable to do so, the dispute shall be submitted to mediation upon the delivery of a written demand therefore from one Party to the other Party. Such mediation shall be conducted by a mediator reasonably acceptable to the Parties with the fees and expenses of said mediator to be split equally between the Parties. In the event the Parties are unable, within twenty (20) days after a written demand for mediation, to agree on a mutually acceptable mediator, each party shall name a mediator and the panel of mediators shall select a mediator to mediate the dispute.
2. Upon selection of the mediator by the Parties, the Parties shall diligently attempt, in good faith, to settle the Dispute by mediation. If the Parties are unable to reach a mediated settlement with respect to such Dispute within thirty (30) days after the commencement of mediation, the Parties may continue to diligently mediate in good faith with respect to such Dispute, or, at the option of any Party, the Dispute may be submitted to arbitration by written demand therefore delivered to the other Party.
3. Any Dispute that remains unresolved after negotiation and mediation shall be settled by arbitration in the City of Mequon, Wisconsin. Either Party, after negotiation and mediation, may commence arbitration by written demand therefore. Notice of demand for arbitration shall be effective when filed, in writing, with the other Party.
4. The Parties to the dispute shall select a single arbitrator to hear the Dispute. If the Parties are unable to agree on the selection of a single arbitrator, then each Party shall name one arbitrator and the arbitrators thus selected shall select an arbitrator to hear

the dispute. Once selected, the arbitrator shall determine the rules by which the arbitration shall be conducted.

5. The award of the arbitrator shall be accompanied by a written, reasoned opinion and shall be rendered no later than fifteen (15) days from the date the subject arbitration is formally closed unless mutually extended by the Parties. The award rendered by the arbitrator shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. The costs of arbitration shall be borne equally by the parties.

#### **VI. Authorization**

All parties, as authorized by their respective boards or officers, approved this memorandum of understanding, as so witnessed below.

For the City of Mequon:

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For the Village of Thiensville:

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For the Thiensville-Mequon Rotary Foundation:

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