OFFICE OF THE COUNTY EXECUTIVE

Milwaukee County

CHRIS ABELE • COUNTY EXECUTIVE

Date: April 24, 2014

To: The Honorable Marina Dimitrijevic, Chairwoman, County Board of Supervisors

From: Chris Abele, County Executive

Subject: Appointment of Gladys Manzanet to the Marcus Center Board of Directors

Subject to the confirmation of your Honorable Body and pursuant to the provisions set forth in the Marcus Center By-Laws, I am hereby appointing Gladys Manzanet to serve on the Marcus Center Board of Directors. Ms. Manzanet's term will expire on May 1, 2017. A copy of Ms. Manzanet's resume is attached for your review.

I would appreciate your consideration and confirmation.

Chris Abele
Milwaukee County Executive

Cc: Kelly Bablitch, Chief of Staff , County Board of Supervisors
Supervisor Gerry Broderick, Chair, Park, Energy and Environment Committee
Paul F. Mathews, Marcus Center Board
Janelle Jensen, Committee Clerk
Gladys Manzanet

ROOM 306, COURTHOUSE • 901 NORTH 9TH STREET • MILWAUKEE, WISCONSIN 53233
PHONE: 414-278-4346 • FAX: 414-223-1375

Gladys Manzanet has an arsenal of multicultural outreach, community engagement, leadership development, graphic design and publicity experience. For the past seven years, she has worked part time in the civil engineering industry so she could limit her part-time business to projects that fuel her passion for her community. She is a "Jane-of-all-trades" with experience leading, planning, organizing and conducting activities from strategic planning retreats to annual fundraising events. She also provides full graphic design services to support all her projects. She is an avid community volunteer and lifelong Milwaukee resident.

Gladys I. Manzanet

Home: S. 20th St., Milwaukee, WI 53204 [redacted]

Attributes
- Collaborative
- Creative
- Motivational Team Player
- Can-do Attitude
- Driven
- Results Oriented
- Bilingual: English/Spanish

Years of Experience
Marketing: 19

Graphic Design: 16

Community Outreach, Event Planning & Fundraising: 8

Education
B.A., Mass Communications (emphasis in Public Relations), University of Wisconsin - Milwaukee, 1995

Future Milwaukee Community Leadership Program, 2002

Honors
CW18/My 24 and Hispanic Chamber of Commerce of Wisconsin's *Mi Comunidad* Award (1/2013)

The Business Journal's 40 under Forty (2/2005)

Milwaukee Magazine's Faces of the Future: 35 Up-and-Coming Young Leaders (9/2002)

Summary of HNTB Experience

Senior Creative Coordinator/Senior Graphic Designer, 10/1998-5/2003 (full time) and 3/2006-Present (part time)

Gladys works under tight deadlines in this fast-paced marketing department. She is responsible for visual pursuit strategy and marketing solutions on large, complex infrastructure projects to help the firm achieve aggressive sales and growth goals. She provides artistic direction in public relations efforts across the Midwest. Her skills carry strategy through delivery in the form of relationship coaching; brochures and 'pre-sell' materials; proposal cover and layout design; information graphics, advertising design strategy and innovative packaging; large-scale interview props; multimedia presentations; tradeshow exhibits; and all other related facets of marketing. During her tenure, she has supported diverse teams to facilitate effective coordination and collaboration approaches resulting in a high success rate in project pursuits.

Summary of iPa'lante! Creative Experience, 10/2005-Present

Hispanic Chamber of Commerce of Wisconsin, 1/2013-Present

The retirement of long-time leader Maria Monreal Cameron left the Chamber with a void. Gladys was asked to assist the Chamber with special events, publicity, brand and marketing strategy. She led a grand retirement affair in Maria's honor, developed promotional materials for several new initiatives and led the organization in a staff planning retreat in early November.

English Language Partners of Wisconsin, Inc. (ELPW) Marketing Plan, 2/2013-Present

ELPW recruits fluent English-speakers to serve as conversation partners to immigrants. Since 2004, over 1,200 volunteers have served as tutors for over 900 immigrant adults. Despite their efforts over the years, most Milwaukee residents have not heard about ELPW or the organization's accomplishments. The Interim Director contacted Gladys to develop a marketing plan to help build awareness about the organization, its mission and accomplishments, as well as a framework for weaving marketing tactics into everyday staff and volunteer responsibilities.

Career Youth Development (CYD) Publicity Kit and Event Planning, 6/2010-9/2010

CYD is a 43-year veteran organization that offers more than 20 programs and services that arm innercity families with tools they need to make positive life changes socially, spiritually and economically. The organization asked Gladys to develop a soft publicity campaign for CYD's new leader; create a publicity kit to routinely share progress with donors, volunteers and media; and create tools to streamline event planning, beginning with their inaugural Founder's Day Luncheon.

Gladys I. Manzanet
[redacted]

Volunteer Roles
Board Member,
TransCenter for Youth, Inc.
5/2013 - Present

Member,
Cardinal Stritch University
Leadership Center
Advisory Council
1/2011 - Present

Finance Committee member,
St. Francis of Assisi Parish
3/2011 - Present

Former Volunteer Roles
Board President,
Southside Organizing
Committee
Member, Board of Directors
12/2010-12/2011
President, Board of Directors
12/2011 - 8/2013

Latino Community Center
Board of Directors
9/2002 - 12/2007

Main Street Partners Board
Appointed by the Mayor
11/2004
Re-confirmed by
the Common Council
1/2006, 2/2008

Women's Fund of the
Greater Milwaukee Foundation
Communications
Committee & Board of Directors
9/2000 - 1/2007

Young Professionals
of Milwaukee [YPM]
affiliated with the MMAC
(now FUEL Milwaukee)
Founding Creative
Council Member,
Mosaic Council Member
8/2001 - 10/2005

Hispanic Professionals
of Greater Milwaukee [HPGM]
Communications
Committee Chair
10/2001 - 9/2003

TransCenter for Youth Student Recruitment and Community Engagement (Subconsultant to alinea), 7/2012-8/2012

Gladys led the recruitment of 60 students for a new, project-based learning school in Milwaukee's Walker's Point neighborhood, Escuela Verde. She was contracted in July and was asked to recruit students for the fall semester of the same year. She was able to meet the client's goals by:

- Employing a grassroots recruitment plan targeting summer events
- Developing and implementing a social media plan
- Organizing several events including six community open houses
- Developing an incentive plan for student referrals
- Establishing relationships with nearby schools for future recruits

TransCenter for Youth also contracted with Gladys through alinea to coach the members of their board of directors to articulate their story, set direction and establish long-term relationships to garner future resources in volunteers and funding. When the contract concluded, TransCenter for Youth asked Gladys to join their board.

League of United Latin American Citizens (LULAC) Latinas of Wisconsin Chapter Strategic Planning Retreat Facilitation, 11/2012

As a brand new chapter, the organization had a lot of great energy and passion to help their community. This energy, however, needed to be focused and strategic in order to make an effective impact. LULAC Latinas asked Gladys to facilitate a full-day retreat to help them set priorities and identify leadership within the chapter to champion these priorities. As a result of the retreat, LULAC Latinas established a mentoring program for teenage Latinas and worked with UMOS's Latina Resource Center to help victims of domestic violence. Gladys continues to mentor the chapter leadership to keep them focused and selective in their activities.

Hispanic Professionals of Greater Milwaukee (HPGM) Annual Report Development and Event Planning, 7/2012-8/2012 and 9/2011-10/2011

HPGM is an organization of multi-cultural, multi-generational Hispanic professionals. Its mission is to create a dynamic environment for members to thrive by fostering leadership, mentoring, education, networking and new Hispanic initiatives. Immediately after hiring a new executive director in April 2011, HPGM asked Gladys to assist with:

- Developing and designing their 10th anniversary annual report which documented the organization's decade-long accomplishments, interviews with past and present board members, as well as professional award and advanced degree recipients
- Planning HPGM's 10th anniversary annual luncheon and awards presentation
- Leading their fall signature gala, Noche de Sabor, which included a citywide singing competition, silent auction and the recruitment of an internationally recognized emcee

HPGM has since requested Gladys also design and develop the 2012 and 2013 annual reports and luncheon award presentations.

Froedtert Health Emerging Markets Campaign Outreach (Subconsultant to Woo Connections), 1/2012-3/2012

Gladys assisted Woo Connections and WFG Equity in qualitative research activities. Specifically, she was enlisted to recruit candidates for three sets of focus groups for Froedtert Health's

Gladys I. Manzanet
[redacted]

Skills

Graphic Design

- Expert in Adobe Creative Suite 6 (CS6)
  - InDesign
  - Photoshop
  - Illustrator
  - Acrobat Professional
  - Bridge
  - Muse
- QuarkXpress

Office Software

- Windows XP Professional 2010
  - Microsoft Word
  - PowerPoint
  - Excel
  - Access
  - Publisher
  - OneNote
  - FrontPage
  - Outlook
- Apple iWork Software/Apps for Mac, iPhone, iPad or iPod touch
  - Pages
  - Numbers
  - Keynote

Social Media

- Facebook
- Twitter
- Foursquare
- Hootsuite
- LinkedIn
- Instagram
- Flickr
- YouTube
- WordPress
- Google+

Marketing Research

- SurveyMonkey
- AmericanFactFinder

Emerging Markets campaign. The contract was for the recruitment of professionals who possessed private health insurance, earned $50,000 or more per year and were of Hispanic, African American or Caucasian descent. Once candidates were recruited, she also assisted in focus group facilitation and identifying ideal venues.

Rotary Club Amigos de Milwaukee (Rotary Amigos) Strategic Planning Retreat Facilitation, 2/2012

Rotary Amigos is an affiliate of Rotary International. The service club has a diverse membership and its mission lies in service to the Latino community. Two years after it was chartered, the organization began experiencing challenges and needed to re-energize its membership. Rotary Amigos asked Gladys to facilitate a half-day strategic planning retreat. Gladys, along with retreat planners, surmised that in order to be successful, the retreat should be part team building and part action planning. After the retreat, Gladys developed a report that described the progress made throughout the day, outlined the top three priorities/goals identified during the retreat, and an action plan developed by the retreat participants to achieve success.

Milwaukee Public Schools (MPS) Long Range Facilities Master Plan (Subconsultant to Jacobs Engineering), 9/2011-9/2011

This planning process was an opportunity for the community to determine how educational facilities can be an impetus for change and improvement. It was a collaboration of educators, administrators, policy makers, community members and facility experts. MPS condensed the 12-month process to three months, and asked Gladys to engage Latino leaders, parents and students through community outreach and translation services.

Kinnickinnic River Corridor Neighborhood Plan (Subconsultant to JRB), 1/2009-12/2009

Gladys assisted the Sixteenth Street Community Health Center and the Milwaukee Metropolitan Sewerage District in developing a comprehensive flood management strategy for the project area. In this diverse neighborhood, participation was needed from all members of the community. Community engagement activities included targeted mailings, one-on-one stakeholder interviews, school visits and public meetings. The community was asked to share their ideas about housing; safety; business development; roads, public land and bus service; parks and recreation; public access to the river; environmental improvement; and flood management.

Near South Side Area Plan Community Outreach (Subconsultant to HNTB Corporation), 2/2007-2/2009

She assisted in the development of a neighborhood plan with the City of Milwaukee Department of City Development. The project included various phases such as analysis and data collection, visioning, synthesis and documentation. The final plan provided a vision for the neighborhood's future development and redevelopment while highlighting projects and programs with catalytic effects. Critical to the plan's success was the engagement of populations often absent from the public involvement process, Milwaukee's Hmong and Latinos. As part of the community outreach team, Gladys assisted with stakeholder interviews, focus group meetings, household surveys, image preference surveys, public workshops and open houses. The plan was adopted by the Milwaukee Common Council in May 2009.

Gladys I. Manzanet
[redacted]

Hobbies/Interests

Visual Artist
Create acrylic on canvas abstract artwork for sale and to donate to social causes:

- Donated several art pieces to silent auctions over a 10-year period to benefit the UMOS Latina Resource Center, Latino Health Organization, Hispanic Chamber of Commerce of Wisconsin Scholarship Fund, NARAL Pro-Choice America, and Puerto Rican Foundation (1998-2008)
- Hosted, exhibited and sold artwork to benefit Latinas en Accion of the Women's Fund of Greater Milwaukee inaugural flagship fundraiser (2006)
- One of two Latino/a artists featured in the Roberto Hernandez Center Art Gallery at the University of Wisconsin - Milwaukee during Hispanic Heritage Month (2005)

Latino Nonprofit Leadership Program Coordination and Facilitation, 1/2009-1/2010

Gladys coordinated the Latino Nonprofit Leadership Program. She led outreach efforts in the greater Milwaukee area to recruit and retain adult Latino and non-Latino participants from community-based organizations, foundations and local businesses. She used her professional network to identify, recruit and manage 30-50 session facilitators/instructors in areas ranging from board development to nonprofit fundraising. She managed the implementation, logistics and programming of 30 training sessions, two overnight retreats and a graduation celebration for program participants, management team and program facilitators each program year. Since 2009, Gladys has returned every program year to guest facilitate sessions on personal mission/vision and community visioning.

Summary of EMCS, Inc. Experience

Creative Strategist, 3/2004-7/2005

Gladys wrote, designed and produced proposals, presentations, brochures, advertisements, newsletters and other marketing materials for this Milwaukee-based, woman-owned civil engineering firm. She led a full rebranding effort and helped plan, design and execute a variety of events, including the grand opening of newly relocated office, annual golf outing and smelt festival. She also assisted in the development of the firm's strategic planning process, go/no-go decision-making process, business development database, and created "warm leads" through community outreach efforts.

Summary of Milwaukee Bar Association Experience

Lawyer Referral and Information Service Manager, 5/2003-5/2004

Gladys effectively managed all aspects of marketing, planning, budget and finance, public relations, staff oversight, membership recruitment and retention activities for this Greater Milwaukee lawyer referral service. The service provided more than 30,000 individuals access to competent legal resource information and/or representation. She developed several presentations to promote the service to local law firms and community organizations throughout the city. She developed and designed the bar association's local brochures, promotional flyers, advertisements, and monthly newsletters. She also led the planning for the organization's annual Law Day event at six simultaneous sites city-wide.

Summary of CH2M HILL, Inc. Experience

Regional Publications Specialist, Administrative Assistant and Mailroom Clerk 8/1990-10/1998

Gladys began her career in the company's mailroom while she attended high school. After graduation, she served as an administrative assistant where she maintained, managed and organized the project database, files and inventory for a multi-million dollar Air Force Base deicing program. As Regional Publications Specialist, she edited project deliverables, assisted on business development pursuits and was a contributor to internal communications publications. She also developed and designed the regional office's first Intranet site, which replaced the monthly newsletter and saved the department hundreds of dollars in monthly printing costs.

COUNTY OF MILWAUKEE
INTEROFFICE COMMUNICATION

Date: April 25, 2014

To: Supervisor Gerry P. Broderick, Chairman,
Parks, Energy & Environment Committee

From: Greg High, Director, AE&ES Section, DAS-FM

Subject: **War Memorial/Milwaukee Art Museum Renovation Project Budget Status For Information Only**

Issue
At the April 16, 2014 Parks Energy and Environment Committee, the War Memorial Corporation (WMC) and Milwaukee Art Museum (MAM) submitted their 5-year capital improvement plan. Unfortunately, the submitted 5-year plan submitted by the WMC and MAM does not specifically address the current budget deficit issues and the potential impact it may have on the expansion project. This is an informational report to provide an update on the status of the County's $10,000,000 budget commitment for the War Memorial/Milwaukee Art Museum expansion and repairs. The County's budgetary commitment was detailed in a Development Agreement authorized by County Board Resolution File No. 13-647. The Development Agreement is dated October 1, 2013.

Mechanical Systems Component
Planning and design have been progressing for the HVAC replacement. The current cost estimate for the HVAC improvements has greatly exceeded the estimated cost identified in the Development Agreement. The following details the major reasons for the increase in the estimated cost:

- The original cost estimate anticipated reusing the existing ducts. Investigation into the condition of the existing ducts has resulted in the need for replacement of all ducts. The existing ducts were found to have deteriorated internal insulation with a heavy presence of mold. The majority of dampers are broken and there are holes in many ducts.
- Access to the existing ducts is very difficult and the duct chases are very narrow. Access to replace the ducts will require removal and replacement of numerous sections of masonry walls.
- The duct chases are located at the north and south exterior walls. The existing insulation within the duct chases has deteriorated to a dried crumbling state. The insulation needs to either be replaced or stabilized with a surface treatment. Either option may require additional openings in the masonry walls for access necessary to complete the work.
- The configuration of the MAM addition has changed from a gathering area (lobby) with an open atrium to multiple floors with additional square footage of museum space and a separate air handling unit for the gathering area. The space in the addition requiring heating and cooling has

increased from the 5000 square feet to 17,500 square feet. This has required additional design effort from the County's HVAC consultant and will require an expanded construction scope to address conditioning the air in the added museum space.

- The capacity of the existing lake water system for chiller condenser needs to be upgraded by adding additional capacity, or as an alternative, adding a new cooling tower to increase the condenser water system capacity.

The HVAC improvements are currently estimated at $4,500,000, which is $1,140,000 above the estimate for HVAC improvements included in the Development Agreement.

Exterior Building Envelope Component
Other elements currently under design include concrete and masonry repairs to building exterior, window replacements and courtyard water proofing and resurfacing. These elements are anticipated to be within budget. However, this type of work is often difficult to estimate since the extent of the repairs are unknown until construction is underway. Deteriorated concrete will need to be removed to solid concrete, which makes it difficult to quantify the extent of the repairs.

Potential Deferral of Selected Items
Given the current cost estimate for the HVAC improvements, the $10,000,000 County commitment will not cover all the improvements assigned to the County in the Development Agreement. Discussions have taken place with the WMC and MAM to prioritize the remaining County work items. The following items have been identified for possible deferral out of the $10,000,000 commitment until future funding is identified. The items are listed in order of most important to be funded:

1.	WM Roof Replacement	$440,000
2.	WM Penthouse Roof	$ 48,000
3.	Steel Rails on Rooftop Repairs	$ 60,000
4.	Penthouse Siding	$ 21,000
5.	Hydraulic Elevator Renovations	$225,000
6.	Clay Tile Repairs Under Bridge	$ 58,000
7.	Asphalt Lot Repairs	$100,000
8.	Restroom Renovations & ADA Compliance	$110,000
9.	Emergency Generator Replacement	$116,000
	Subtotal	$1,068,000
	+15% A&E	$160,200
	Total	$1,228,200

Prepared by: Karl Stave, Civil & Site Development Engineer

Approved by:

Gregory G. High P.E., Director
AE&ES Section, DAS-FM Division
Department of Administrative Services

Attachment: WMC/MAM 5 Year Capital Improvement Plan Report, 2/17/14

cc: County Executive Chris Abele
Raisa Koltun, Interim Chief of Staff, County Executive's Office
Marina Dimitrijevic, County Board Chairwoman
Paul Bargren, Corporation Counsel
Don Tyler, Director, Department of Administrative Services
Kelly Bablitch, Chief of Staff, County Board of Supervisors

Milwaukee County
War Memorial Center

MILWAUKEE ART MUSEUM

DATE: February 17, 2014

TO: Supervisor Marina Dimitrijevic, County Board Chairwoman

FROM: David J. Drent, Executive Director, War Memorial Center
Daniel Keegan, Director, Milwaukee Art Museum

SUBJECT: 5 Year Capital Improvement Plan

Per Milwaukee County Ordinance 36.04 which requires all Departments to submit five-year capital improvement program requests to their respective standing committees. The War Memorial Center and Milwaukee Art Museum have jointly evaluated the anticipated maintenance and facility needs for the County owned Saarinen and Kahler buildings. The attached includes our outstanding capital needs, listed in priority order.

The submitted 5 year plan addresses capital needs for both the War Memorial and Art Museum and is consistent with the previous joint WMC/MAM submissions and the County approved capital repair appropriation.

As is noted in the footnote in that appropriation, at the end of FY 2015, Milwaukee County shall perform a facility assessment and provide supplemental funding as necessary to insure there is available funding to properly address outstanding safety, structural, indoor air quality, code compliance, water infiltration and other critical facility issues that need to be addressed after fiscal year end 2015.

Thank you for your continued support of our organizations.

David J. Drent
Executive Director
War Memorial Corporation

Daniel T. Keegan
Director
Milwaukee Art Museum

War Memorial Center/Milwaukee Art Museum
2015

Rank	Project Number	Project Name	Total Project Cost	Reimbursement Revenue	County Financing	Project Description
1		WMC- Bird Cage Stairway	$884,000	$0	$884,000	replace window system
2		WMC- Open Emergency Stairway	$120,000	$0	$120,000	Repair spawled concrete
3		South Entrance	$90,000	$0	$90,000	Handicapped Accessible - renovation
4		MAM Loading Dock	$430,000	$0	$430,000	Repair concrete/re-roof
5		WMC roof railings	$60,000	$0	$60,000	Recoat original railings
6		WMC Roof structure	$50,400	$0	$50,400	repair structures
7		South Entrance restrooms	$110,000	$0	$110,000	restroom renovation
8		Elevator upgrades (4,6,7)	$190,000	$0	$190,000	Modernize Hydraulic/Traction elev
9		Emergency generator	$116,000	$0	$116,000	Replace 40 year old emergency gener
10		Asphalt paving	$100,000	$0	$100,000	WMC parking lot repairs
11		replace WMC Main built up roof	$40,000	$0	$40,000	repair roof system
12		replace WMC penthouse roof	$48,000	$0	$48,000	repair roof system
13		Exterior wall concrete	$50,000	$0	$50,000	sealing and repairs
14		Exterior walls metal siding	$46,000	$0	$46,000	replace with roofs and engineering
15		concrete and structural wall repair	$87,000	$0	$87,000	leaks in walls of duct space and air tunnels
16		electrical system	$68,000	$0	$68,000	system costs to upgrade to current standards
17						
18						
19						
20						
Total			$2,489,400	$0	$2,489,400	

War Memorial Center/Milwaukee Art Museum
2016

Rank	Project Number	Project Name	Total Cost	Reimbursement Revenue	County Financing	Project Description
1		WMC West entrance	$127,000	$0	$127,000	Mason street handicap accessible
2		Elevators	$225,000	$0	$225,000	modernize hydraulic/traction elev
3		Electrical systems	$82,000	$0	$82,000	Repair WMC switch gear #2
4		Cooper decks	$51,000	$0	$51,000	WMC North deck replacement
5		Asphalt paving	$200,000	$0	$200,000	Complete repaving
6		replace Main built up roof	$420,000	$0	$420,000	replace roof and engineering
7		Concrete and structual work	$75,000	$0	$75,000	concrete repairs
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Total			$1,180,000	$0	$1,180,000	

War Memorial Center/Milwaukee Art Museum
2017

Rank	Project Number	Project Name	Total Cost	Reimbursement Revenue	County Financing	Project Description
1		Mechanical chamber repair	$10,000	$0	$10,000	repair east chamber
2		Asphalt repair	$100,000	$0	$100,000	ashpalt repair, sealing
3		exterior wall concrete repair	$56,000	$0	$56,000	concrete repair and sealing
4		Concrete repair overhangs	$69,800	$0	$69,800	repair cantlever overhangs and columns
5		repair clay tile	$57,600	$0	$57,600	repair clay tile deterioration on west wall, Mason street
6		Repair concrete roof/expansion joint	$115,000	$0	$115,000	repair delaminating roof slabs, expansion joint repair
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Total			$408,400	$0	$408,400	

War Memorial Center/Milwaukee Art Museum
2018

Rank	Project Number	Project Name	Total Cost	Reimbursement Revenue	County Financing	Project Description
1		MAM Cooling Tower	$250,000		$250,000	Replace with Proper Size
2		Chiller Room Upgrade	$175,000		$175,000	Upgrade chiller room efficiency
3		Veterans Gallery Windows	$300,000		$300,000	Replace with High Efficiency Windows
4		WMC Terrazo floors	$125,000		$125,000	Grind and polish Terrazo floors
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Total			$850,000	$0	$850,000	

War Memorial Center/Milwaukee Art Museum
2019

Rank	Project Number	Project Name	Total Cost	Reimbursement Revenue	County Financing	Project Description
1		Memorial Hall Upgrade	$250,000		$250,000	Renovate 20 Year Old Event Space
2		Boiler Replacement	$700,000		$700,000	Replace 50 Year Old Boilers
3		Chiller Operation Ice Bank	$600,000		$600,000	Install Ice House for Cooling Efficiency
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Total			$1,550,000	$0	$1,550,000	

MILWAUKEE COUNTY
PARKS

CHRIS ABELE, MILWAUKEE COUNTY EXECUTIVE
JOHN DARGLE, JR., DIRECTOR OF PARKS, RECREATION AND CULTURE

Date: April 25, 2014

To: Chairwoman Marina Dimitrijevic, County Board of Supervisors

From: John Dargle, Jr., Department of Parks, Recreation and Culture

Subject: **Request to enter into a products and services agreement with Active Network, Inc. – ACTION**

POLICY
The Department of Parks, Recreation and Culture (DPRC) requests authorization to enter into a products and services agreement with Active Network, Inc. (Active).

BACKGROUND
DPRC has licensed golf course, facility, field and recreational scheduling software and purchased supplemental maintenance and support services from Active since 2007. Active is currently the only service provider that supports both DPRC software products, Class (rental reservation system and point-of-sale) and Fairway (golf reservation system). At the expiration of this agreement, the DPRC will issue a Request for Proposal for these services. Active has indicated that at that time they will no longer support the Class reservation system.

This four (4) year products and services agreement provides that DPRC will annually pay Active a flat fee for its software licenses and support and maintenance services. The fee will gradually increase throughout the term of the agreement from $44,265 to $45,808.41.

RECOMMENDATION
The Parks Director recommends that the DPRC be authorized to enter into a products and services agreement with the Active Network, Inc.

Prepared by: Suzanne Carter, Contract Services Officer, DPRC

ADDRESS
9480 Watertown Plank Road
Wauwatosa, WI 53226-3560

PHONE/FAX
ph: **414 / 257 PARK** (7275)
fax: 414 / 257 6466

EMAIL
parks@milwcnty.com

WEBSITE
countyparks.com

Recommended by:

Laura Schloesser, Chief of
Administration and External Affairs

Approved by:

John Dargle, Jr., Director

Attachment A – Products and Services Agreement
Attachment B – Pricing Schedule and Maintenance Exhibit

copy: County Executive Chris Abele
Amber Moreen, Chief of Staff, County Executive's Office
Kelly Bablitch, Chief of Staff, County Board
Sup. Gerry Broderick, Chair, Parks, Energy & Environment Committee
Sup. Khalif Rainey, Vice-Chair, Parks, Energy & Environment Committee
Sup. Willie Johnson, Jr., Co-Chair, Finance, Personnel and Audit Committee
Sup. David Cullen, Co-Chair, Finance, Personnel and Audit Committee
Sup. Jason Haas, Vice Chair, Finance, Personnel and Audit Committee
Daniel Laurila, Fiscal Mgt. Analyst, Admin & Fiscal Affairs/DAS
Scott Manske, Comptroller, Office of the Comptroller
Alexis Gassenhuber, Parks, Energy & Environment Committee Clerk
Jessica Janz-McKnight, Research Analyst, Office of the Comptroller
Janette Onizuka, Senior Account Manager, Active Network

File No. 14-
(Journal,)

(ITEM NO.) From the Director, Department of Parks, Recreation and Culture, requesting authorization to enter into a products and services agreement with the Active Network, Inc.

A RESOLUTION

WHEREAS, the Department of Parks, Recreation and Culture (DPRC) has utilized the Active Network, Inc. (Active)'s Fairway software to manage its golf course scheduling needs since 2007, and DPRC has utilized Active's Class software to manage its other recreational scheduling needs since 2007; and

WHEREAS, DPRC is pleased with the performance of Active's software and the level of software support and maintenance provided by Active; and

WHEREAS, the term of this agreement is four (4) years; and

WHEREAS, DPRC will annually pay Active $34,500 for support and maintenance services for Fairway software under the agreement; and

WHEREAS, DPRC will annually pay Active an amount increasing from $9,765 to $11,308.41 over the term of the agreement for support and maintenance services for Class software; now, therefore

BE IT RESOLVED, that the Milwaukee County Board of Supervisors hereby authorizes the Parks Director to execute a products and services agreement with Active Network, Inc. for the license, support and maintenance of golf course and recreation management software.

MILWAUKEE COUNTY FISCAL NOTE FORM

DATE: April 25, 2014

Original Fiscal Note ☒

Substitute Fiscal Note ☐

SUBJECT: The Department of Parks, Recreation and Culture (DPRC) requests authorization to enter into a products and services agreement with the Active Network, Inc. (Active).

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	0	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.

A. The Department of Parks, Recreation and Culture (DPRC) requests authorization to enter into a products and services agreement with the Active Network, Inc. (Active).
B. Direct costs for the current year are $24,689.51.
C. This operating expenditure was budgeted for so there are no additional budgetary impacts.
D. None

Department/Prepared By Laura Schloesser, DPRC

Authorized Signature _____

Did DAS-Fiscal Staff Review? ☐ Yes ☒ No

Did CBDP Review?[2] ☒ Yes ☐ No ☐ Not Required

[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.

PRODUCTS AND SERVICES AGREEMENT
CONTRACT #25432

CLIENT INFORMATION			
ORGANIZATION FULL LEGAL NAME:	Milwaukee County Department of Parks, Recreation and Culture	**ADDRESS:**	9480 Watertown Plank Road, Wauwatosa, WI 53226
CONTACT NAME:	Suzanne Carter	**TELEPHONE:**	(414) 257-8017
EMAIL:	suzanne.carter@milwaukeecountywi.gov	**FAX:**	(414) 257-5225

OVERVIEW OF AGREEMENT		
This document ("**Agreement**") consists of this cover page, and the following Schedules and Exhibits **(check all applicable Appendices)**		
☐	Appendix 1:	Hosted Software
☒	Appendix 2:	Licensed Software; Support and Maintenance
☐	Appendix 3:	Third Party Products
☒		Schedule
☒	Exhibit A:	Maintenance Exhibit

NOTE: If Client is tax exempt, certificate must be provided along with signed contract.

In consideration of the mutual promises and covenants contained in this Agreement, Client and Active hereby agree to be bound by this Agreement. By signing below, Client acknowledges and confirms that it has read this Agreement.

CLIENT	THE ACTIVE NETWORK, INC. ("ACTIVE")
Signature: _____	Signature: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

The Active Network, Inc., 10182 Telesis Court, San Diego, California 92121
Telephone: (858) 964-3801, Fax: (858) 964-3978

TERMS APPLICABLE TO ALL PRODUCTS AND SERVICES

1. INTERPRETATION

1.1 **Definitions.** For the purposes of interpreting this Agreement, the following terms will have the following meanings:

(a) "**Active**" means The Active Network, Inc. as referenced on the first page of this Agreement.

(b) "**Affiliates**" of a designated corporation, company or other entity means all entities which control, are controlled by, or are under common control with the named entity, whether directly or through one or more intermediaries. For purposes of this definition "controlled" and "control" mean ownership of more than fifty percent (50%) of the voting capital stock or other interest having voting rights with respect to the election of the board of directors or similar governing authority.

(c) "**Agreement**" means this Products and Services Agreement, inclusive of all Appendices, Schedules and exhibits.

(d) "**Client**" means the legal entity other than Active entering this Agreement.

(e) "**Concurrent Use**" means use at the same moment in time to access a given server computer (of any kind) owned or controlled by Client.

(f) "**Database Server**" means the single server computer upon which the Enterprise Database is resident.

(g) "**Effective Date**" means the last date set forth on page one of this Agreement.

(h) "**Enterprise Database**" means the MSDE, MS SQL Server, or Oracle database files containing customer data and that are accessed by the Licensed Software.

(i) "**Hosted Software**" means computer code and programs, in executable code form only, including related data files, rules, parameters and documentation, which have been created or licensed by Active and are identified in a Schedule as licensed (or sublicensed) to Client by Active in connection with this Agreement, and which reside on Active's servers and are accessible by Client's staff or Users via the Internet.

(j) "**Internet Client**" means a remote device capable of using the Internet to access selected Licensed Software on the Internet Server or the Enterprise Database on the Database Server via the Internet Server.

(k) "**Internet Server**" means a single server computer used by Client which enables access to the Licensed Software by individuals using an Intranet or the Internet, having a minimum configuration as set out in hardware specifications previously described to Client as applicable to the Licensed Software to be installed and used upon it.

(l) "**IVR Server**" means a single server computer used by Client for voice-recognition and telephone-based, rather than computer-based, access to the Enterprise Database by Client's clients, having a minimum configuration as set out in hardware specifications previously described to Client as applicable to the Licensed Software to be installed and used upon it.

(m) "**Licensed Software**" means computer code and programs, in executable code form only, including related data files, rules, parameters and documentation, which have been created or licensed by Active and are identified in a Schedule as licensed (or sublicensed) to Client by Active in connection with this Agreement, and/or which are in the future provided to Client by Active under any circumstances unless provided under a separate licensing agreement.

(n) "**Maintenance**" means the provision of error investigation and repair services as set out in Sections 20 through 23, the Support and Maintenance Handbook attached as Exhibit A, and the provision of new Versions and Releases in respect of the Licensed Software all as more particularly set out in the Support and Maintenance Handbook.

(o) "**Module**" means a single module element of Licensed Software listed in a Schedule.

(p) "**Online Services**" means services, such as Internet registration, that are enabled by Hosted Software and available to the public via the Internet.

(q) "**Other Services**" means Services other than Professional Services as provided in an agreed Schedule.

(r) "**Payment Server**" means a single server computer used by Client to process electronic payments from its clients, having a minimum configuration as set out in hardware specifications previously described to Client as applicable to the Licensed Software to be installed and used upon it.

(s) "**Products**" means all Licensed Software, Hosted Software, Third Party Products, and other products (including documentation) provided to Client by or on behalf of Active.

(t) "**Professional Services**" means any and all types of services which Active provides, to Client and/or to other customers of Active, in the course of Active's business, including but not limited to services relating to the installation, implementation, optimization, administration, training and troubleshooting of computers, computer software including the Licensed Software, computer networks, databases, internet-related equipment and applications, but expressly excludes Support and Maintenance. Professional Services shall be as set forth in the applicable Schedule.

(u) "**Release**" means any release, update, patch, set of revisions, or bug/permanent fix or temporary bypass solution released by Active to its customers generally during the term of this Agreement, which provides enhancements and/or error corrections to the then-current Version or Release, and where a new Version has been released and no new Release has been released since the release of that Version, that Version will also constitute a Release for the purpose of determining whether Support or Maintenance is available with respect to that Version. New Releases will be denoted by an increase to

the version number to the right of the decimal point such as from Release 1.1 to Release 1.2.

(v) "**Schedule**" means a schedule, quote, pricing form, order form, or similar document associated with this Agreement that lists the Products and Services provided by Active to Client hereunder and the related fees. The features, services, options, and fees may be described more fully on web pages describing the Software and Services, and/or in an applicable Schedule. Each Schedule will reference this Agreement or the Contract Number above (if applicable), must be signed by Client and will be governed by and incorporated into this Agreement.

(w) "**Services**" means all Professional Services, Support and Maintenance, Online Services, and Other Services provided to Client by or on behalf of Active.

(x) "**Software**" means the Licensed Software and the Hosted Software as defined elsewhere in this Section.

(y) "**Support**" means the ongoing telephone, email, web-based and dial-in support and problem resolution to assist Client in the use of the Licensed Software, the Hosted Software, and Other Services and Products of Active as set out in the Support and Maintenance Handbook.

(z) "**Support and Maintenance Handbook**" means the documents published by Active setting out the applicable service levels, processes, restrictions, and other particulars of Support and Maintenance provided in respect of the Software and Other Services and Products of Active, as amended from time to time upon notice to Client.

(aa) "**Support and Maintenance Start Date**" means, for implementations performed by Active, the first day of implementation of the Licensed Software or ninety (90) days following the delivery of the Licensed Software, whichever occurs first, and upon delivery of the Licensed Software for implementations being performed by the customer or a 3rd party vendor.

(bb) "**System Utilities**" includes the following: Accounting Processes, Central Login, Log File, Copy Database, Maintain Database, MSDE Tool, Oracle Setup Utility, Query Tool, System Maintenance, Upgrade Database and View Components.

(cc) "**Third Party Products**" means those hardware, firmware and/or software products, provided to Active by third parties, listed in a Schedule, together with all user manuals and other documents accompanying the delivery of the Third Party Products, provided that the Third Party Products shall not include software developed by Active.

(dd) "**User**" means a person who accesses and uses any of the Products in any manner whatsoever.

(ee) "**Version**" means a version of the Licensed Software providing a particular functionality, while a new Version of the Licensed Software will provide new/additional functionality and/or improvements to a previous Version. New Versions will be denoted by a change to the version number to the left of the decimal point such as from Version 1.0 to Version 2.0.

(ff) "**Workstation**" means a computer attached to a local or wide-area network (including an Intranet), which accesses the Licensed Software or Enterprise Database.

1.2 **Headings.** The headings contained in this Agreement are inserted for convenience and do not form a part of this Agreement and are not intended to interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof.

2. CHARGES AND PAYMENTS

2.1 **Taxes.** Client will pay all applicable sales, use, withholding and excise taxes, and any other assessments against Client in the nature of taxes, duties or charges however designated on the Services and Products or their license or use, on or resulting from this Agreement, exclusive of taxes based on the net income of Active, unless exempted by law and unless a valid tax exemption certificate has been provided to Active prior to invoicing.

2.2 **Currency.** Unless otherwise indicated in a Schedule, all prices are in the currency of the country in which Client is located.

2.3 **Delivery.** Delivery for Products supplied by Active under this Agreement will be deemed to have occurred F.O.B. origin, which in the case of Licensed Software and/or Hosted Software will typically be in the form of an email from Active providing a FTP (i.e. file transfer protocol) downloadable link. To the extent applicable, Client will be responsible for shipping and handling costs.

2.4 **Invoices/Payment.** Active will provide invoices to Client for all amounts owing by Client hereunder. Payment of invoices is due within thirty (30) days from the date of invoice.

3. CLIENT INFORMATION; CONFIDENTIALITY

3.1 **Client Information and Obligations.** In order to assist Active in the successful provision of Services and Products to Client, Client shall (i) provide to Active information relating to Client's organization, technology platforms, systems configurations, and business processes and otherwise relating to Client that is reasonably requested by Active from time to time, (ii) make available such personnel assistance to Active as may be reasonably necessary for Active to perform hereunder; and (iii) carry out in a timely manner all other Client responsibilities set forth herein. Any delay by Client hereunder shall result in a day-for-day extension of Active's dependent obligations.

3.2 **Confidential Information.**

(a) In the performance of or otherwise in connection with this Agreement, one party ("Disclosing Party") may disclose to the other party ("Receiving Party") certain Confidential Information of the Disclosing Party. "Confidential Information" means any information of either party, which is

not generally known to the public, whether of a technical, business or other nature (including, but not necessarily limited to: trade secrets, know how, computer program source codes, and information relating to the customers, business plans, promotional and marketing activities, finances and other business affairs of such party); provided that the same is conspicuously marked or otherwise identified as confidential or proprietary information prior to, upon or promptly after receipt by the other party; and provided further that the any software or software application server source code provided by Active or its licensors shall be deemed to constitute Confidential Information without further designation by Active. The Receiving Party will treat such Confidential Information as confidential and proprietary of the Disclosing Party and will use such Confidential Information solely for the purposes for which it is provided by the Disclosing Party and will not disclose such Confidential Information to any third party (other than a third party under contract whereby that third party has agreed in writing to keep the Confidential Information confidential).

(b) Exclusions. The obligations under this paragraph will not apply to any: (i) use or disclosure of any information pursuant to the exercise of the Receiving Party's rights under this Agreement; (ii) information that is now or later becomes publicly available through no fault of the Receiving Party; (iii) information that is obtained by the Receiving Party from a third party authorized to make such disclosure (other than in connection with this Agreement) without any obligation of secrecy or confidentiality; (iv) information that is independently developed by the Receiving Party (e.g., without reference to any Confidential Information); (v) any disclosure required by applicable law (e.g., pursuant to applicable securities laws or legal process), provided that the Receiving Party, to the extent reasonably practicable, will use reasonable efforts to give advance notice to and cooperate with the Disclosing Party in connection with any such disclosure; and (vi) any disclosure with the consent of the Disclosing Party. Active acknowledges that Client is subject to public records law pursuant to Wis. Stat. sec. 19.27 et seq.

4. EXCLUSION OF WARRANTIES AND LIMITATION OF LIABILITY

4.1 **SPECIFIC EXCLUSION OF OTHER WARRANTIES.** THE EXPRESS WARRANTIES SET OUT IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES, AND THERE ARE NO OTHER WARRANTIES, REPRESENTATIONS, CONDITIONS, OR GUARANTEES OF ANY KIND WHATSOEVER APPLICABLE, EITHER EXPRESS OR IMPLIED BY LAW (IN CONTRACT OR TORT OR OTHERWISE) OR CUSTOM, INCLUDING, BUT NOT LIMITED TO THOSE REGARDING MERCHANTABILITY, FITNESS FOR PURPOSE, DURABILITY, CORRESPONDENCE TO SAMPLE, TITLE, DESIGN, CONDITION, OR QUALITY. WITHOUT LIMITING THE ABOVE, ACTIVE DOES NOT WARRANT THAT ANY PRODUCTS OR SERVICES PROVIDED HEREUNDER WILL MEET THE REQUIREMENTS OF CLIENT OR THAT THE OPERATION OF PRODUCTS AND SERVICES PROVIDED HEREUNDER WILL BE FREE FROM INTERRUPTION OR ERRORS.

4.2 **RESTRICTIONS ON WARRANTY.** ACTIVE HAS NO OBLIGATION TO REPAIR OR REPLACE PRODUCTS DAMAGED BY EXTERNAL CAUSE OR THROUGH THE FAULT OR NEGLIGENCE OF ANY PARTY OTHER THAN ACTIVE OR ITS SUBCONTRACTORS.

4.3 **NO INDIRECT DAMAGES.** WITHOUT LIMITING THE GENERALITY OF SECTIONS 4.1 AND 4.4, IN NO EVENT WILL ACTIVE BE LIABLE TO CLIENT OR TO ANY OTHER PARTY FOR INDIRECT DAMAGES OR LOSSES (IN CONTRACT OR TORT OR OTHERWISE), INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOST PROFITS, LOST SAVINGS, LOST DATA, LOSS OF USE OF INFORMATION OR SERVICES, OR INCIDENTAL, CONSEQUENTIAL, OR SPECIAL DAMAGES.

4.4 **LIMITS ON LIABILITY.** IF, FOR ANY REASON, ACTIVE BECOMES LIABLE TO CLIENT OR ANY OTHER PARTY FOR DIRECT OR ANY OTHER DAMAGES FOR ANY CAUSE WHATSOEVER, AND REGARDLESS OF THE FORM OF ACTION (IN CONTRACT OR TORT OR OTHERWISE), THEN:

(a) THE TOTAL AGGREGATE LIABILITY OF ACTIVE TO CLIENT AND ALL OTHER PARTIES IN CONNECTION WITH THIS AGREEMENT WILL BE LIMITED TO THE AMOUNT OF FEES ACTUALLY PAID BY CLIENT TO ACTIVE AS CONSIDERATION FOR THE PRODUCTS AND SERVICES GIVING RISE TO SUCH CLAIM DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE DATE ON WHICH THE CAUSE OF ACTION AROSE; AND

(b) IN ANY CASE CLIENT MAY NOT BRING OR INITIATE ANY ACTION OR PROCEEDING AGAINST ACTIVE ARISING OUT OF THIS AGREEMENT OR RELATING TO ANY PRODUCTS OR SERVICES PROVIDED HEREUNDER MORE THAN TWO YEARS AFTER THE RELEVANT CAUSE OF ACTION HAS ARISEN.

4.5 **SEPARATE ENFORCEABILITY.** SECTIONS 4.1 THROUGH 4.4 ARE TO BE CONSTRUED AS SEPARATE PROVISIONS AND WILL EACH BE INDIVIDUALLY ENFORCEABLE.

4.6 For the purposes of this Section 4, reference to Active shall also include its suppliers and licensors.

5. RESTRICTIONS

5.1 **U.S. GOVERNMENT RESTRICTED RIGHTS.** The Products are provided with restricted rights. Use, duplication, or disclosure by the U.S. Government is subject to restrictions as set forth in subparagraph (c) of The Rights in Technical Data and Computer Software clause at DFARS 252.227-7013, or subparagraphs (b)(1) and (2) of the Commercial Computer

Software - Restricted Rights at 48 CFR 52.227-19, as applicable. The Manufacturer is The Active Network, Inc. or one of its Affiliates or subsidiaries.

5.2 **Export Restrictions.** The Products may include encryption software or other encryption technologies that may be controlled for import, export, or purposes under the laws and regulations of the countries and/or territories in which the Products are used ("**Applicable Law**"). Client may not export, re-export, or assist or facilitate in any manner the export or re-export of, any portion of the Products, as determined by Applicable Law under which Client operates: (i) to any country on Canada's Area Control List; (ii) to any country subject to UN Security Council embargo or action; (iii) contrary to Canada's Export Control List Item 5505; (iv) to countries subject to U.S. economic sanctions and embargoes; and (v) to persons or entities prohibited from receiving U.S. exports or U.S.-origin items. Client hereby represents and covenants that: (i) to the best of Client's knowledge Client is eligible to receive the Products under Applicable Law; (ii) Client will import, export, or re-export the Products to, or use the Products in, any country or territory only in accordance with Applicable Law; and (iii) Client will ensure that Client's Users use the Products in accordance with the foregoing restrictions.

5.3 **Third Party Software and Open Source Components.** The Software may contain open source components or other third party software of which the use, modification, and distribution is governed by license terms (including limitations of liability) set out in the applicable documentation (paper or electronic) or read me files.

5.4 **Restrictions; Acceptable Use Policies.** Client shall: (i) use the Products exclusively for authorized and legal purposes, consistent with all applicable laws, regulations, and the rights of others, including privacy and anti-spamming laws; (ii) not reverse engineer, disassemble, or decompile any Products or prepare derivative works thereof; (iii) not copy, modify, transfer, display, or use any portion of the Products except as expressly authorized in this Agreement or in the applicable documentation; (iv) not contest or do or aid others in contesting or doing anything which impairs the validity of any proprietary or intellectual property rights, title, or interest of Active in and to any Products; (v) not obliterate, alter, or remove any proprietary or intellectual property notices from the Products in physical or electronic forms; (vi) not use the Products to transmit, publish, or distribute any material or information: (a) for which Client does not have all necessary rights and licenses, including any material or information that infringes, violates, or misappropriates the intellectual property rights of any third party; (b) that contains a computer virus or other code, files, or programs designed to disrupt or interfere with the functioning of the Products; or (c) that is or that may reasonably be perceived as being harmful, threatening, offensive, obscene, or otherwise objectionable; (vii) not attempt to gain access to any systems or networks that connect thereto except for the express purpose of using the Products for their intended use; (viii) not rent, lease, sublicense, resell, or provide access to the Products on a time-share or service bureau basis; and (ix) not input credit card information into the Products or solicit the input of such information other than in pre-defined fields within the Products that are intended for that purpose.

6. TERMINATION

6.1 **Termination.** This Agreement will terminate:

(a) at the option of either party if the other party materially defaults in the performance or observance of any of its obligations hereunder and fails to remedy the default within thirty (30) days after receiving written notice thereof; and

(b) without limiting (a), at the option of Active if Client breaches its payment obligations, provided that the right of termination will be in addition to all other rights and remedies available to the parties for breach or default by the other.

6.2 **Suspension of Obligations.** If either party should materially default in the performance or observance of any of its obligations hereunder, then, in addition to all other rights and remedies available to the non-defaulting party, the non-defaulting party may suspend performance and observance of any or all its obligations under this Agreement, without liability, until the other party's default is remedied, provided however that this Section will not permit Client to suspend its obligation to make any payments due for Products or Services that are unrelated to any default alleged against Active.

6.3 **Return of Materials.** In the event of termination of this Agreement for any reason whatsoever, Client will immediately (i) return to Active all physical copies of Products delivered by Active to Client or otherwise in Client's possession or control, or (ii) if expressly permitted by Active, destroy all physical copies of the Products not returned to Active and delete all electronic copies of the Products from its systems and certify in writing to Active that such actions have all been completed.

7. AUDIT AND MONITORING RIGHTS

7.1 **By Active.** Active may, upon a minimum of twenty-four (24) hours written notice to Client, attend upon Client's premises and verify that the Products are being used only as permitted hereby. Such inspections shall be limited to a maximum of twice per calendar year, and will be performed only during Client's regular business hours and conducted in a manner as to minimize, to the extent reasonable, interference with Client's business. Further, Active may, using automatic means which do not interfere with the use of the Products by Client or Users other than as described in this provision, monitor at any time usage of the Products by Client and or its Users including through monitoring of the number of copies of any particular Module(s) in Concurrent Use.

7.2 By Client. Pursuant to Milwaukee County ordinance section 56.30(6)(e), during the term of this Agreement and for a period of three (3) years after the conclusion of this Agreement, Active shall allow Milwaukee County, the Milwaukee County Department of Audit, or any other party Milwaukee County may name, upon advance written notice,

during Active's normal business hours, not more than once per calendar year, to audit, examine and make copies of records in any form and format, meaning any medium on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by Active, including not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), computer files, computer printouts and optical disks, and excerpts or transcripts from any such records or other information directly relating to matters under this Agreement, all at no cost to Milwaukee County. Any subcontracting by Active in performing the duties described under this Agreement shall subject the subcontractor and/or associates to the same audit terms and conditions as Active. Active (or any subcontractor) shall maintain and make available to Milwaukee County the aforementioned audit information for no less than three (3) years after the conclusion of each Agreement term. For the avoidance of doubt, in no event shall Client or Milwaukee County have access to Active's network, servers, or systems.

8. INTELLECTUAL PROPERTY RIGHTS

8.1 **Warranty of Title.** Active warrants that it has all rights necessary to make the grant of license herein by having all right, title, and interest in and to the Products (other than Third Party Products) or as licensee of all such rights from the owner thereof.

8.2 **Intellectual Property.** Active and its licensors shall retain all right, title, and interest in and to the Products and the results of the Services and to all software, trademarks, service marks, logos, and trade names and other worldwide proprietary rights related thereto ("**Intellectual Property**"). Client shall use the Intellectual Property only as provided by Active, and shall not alter the Intellectual Property in any way, or act or permit action in any way that would impair Active's or its licensors' rights in its Intellectual Property. Client acknowledges that its use of the Intellectual Property shall not create in Client or any other person any right, title, or interest in or to such Intellectual Property. Any goodwill accruing from the use of the Intellectual Property shall inure solely to the benefit of Active or its licensors, as applicable.

9. INDEMNIFICATION

(a) Each party (the "**Indemnifying Party**") shall defend, settle, and pay damages (including reasonable attorneys' fees) ("**Damages**") relating to any third party claim, demand, cause of action or proceedings (whether threatened, asserted, or filed) ("**Claims**") against the other party hereto (the "**Indemnified Party**") to the extent that such Claim is based upon provision, by the Indemnifying Party, of materials, products, or services as part of such party's obligations hereunder that infringe the intellectual property rights of any third party provided that such materials, products, or services are used in accordance with this Agreement.

(b) If any Claim that Active is obligated to defend, settle, and pay damages to Client under this Section 9(a) has occurred or, in Active's opinion, is likely to occur, Active may, at its option and expense either (1) obtain for Client the right to continue to use the applicable Software, (2) replace or modify the Software so it becomes non-infringing, without materially adversely affecting the Software's specified functionality, or (3) if (1) or (2) are not readily available after using reasonable commercial efforts or, if neither of the foregoing options is commercially reasonable, refund a pro-rata portion of the fees paid by Client based on its lost use and terminate this Agreement. Active shall not be obligated to defend, settle, or pay Damages for any Claims to the extent based on: (x) any Client or third party intellectual property or software incorporated in or combined with the Software where in the absence of such incorporated or combined item, there would not have been infringement, but excluding any third party software or intellectual property incorporated into the Software at Active's discretion; (y) Software that has been altered or modified by Client, by any third party or by Active at the request of Client (where Active had no discretion as to the implementation of modifications to the Software or documentation directed by Client), where in the absence of such alteration or modification the Software would not be infringing; or (z) use of any version of the Software with respect to which Active has made available a non-infringing updated, revised or repaired subsequent version or other applicable update, patch or fix.

(c) Client agrees to defend, settle, and pay Damages relating to Claims to the extent based on (i) injury or death to a person or damage to property resulting from the participation in an event or activity operated by Client in connection with the Products and/or Services; (ii) any claim brought by a Third Party Beneficiary or brought in connection with Active's payment to a Third Party Beneficiary of any fees due hereunder in accordance with this Agreement; and/or (iii) Client's or any of its User's breach of Section 5. To the extent applicable, Client's liability shall be limited by Wis. Stat. sec. 345.03(3) for automobile and sec. 893.80(3) for general liability.

(d) **Indemnification Claims Procedure.** Each party's obligations under this Section are conditioned upon (1) prompt written notice of the existence of a Claim, provided that a failure of prompt notification shall not relieve the Indemnifying Party of liability hereunder except to the extent that defenses to such Claim are materially impaired by such failure of prompt notification; (2) sole control over the defense or settlement of such Claim by the Indemnifying Party; and (3) the provision of assistance by the Indemnified Party at the Indemnifying Party's request to the extent reasonably necessary for the defense of such Claim.

(e) For the purposes of this Section 9, reference to Active shall also include its suppliers and licensors.

(f) Notwithstanding the foregoing, Client shall not be bound by the terms of this Section 9 to the extent precluded by

applicable law (e.g., sovereign immunity of a governmental entity).

(g) Damages paid pursuant to a Claim under this Section 9 shall not be subject to the limitations set forth in Sections 4.3 and 4.4.

10. GENERAL

10.1 **Entire Agreement.** This Agreement, including all attachments and referenced Appendices, Schedules and exhibits, constitutes the complete and exclusive statement of the agreement between Active and Client with respect to the subject matter hereof. It supersedes and replaces all oral or written RFPs, proposals, prior agreements, and other prior or contemporaneous communications between the parties concerning the subject matter of this Agreement. This Agreement may not be modified or altered except by written instrument duly executed by both parties, except that Active may fill future purchase or other orders for further goods or services available under this Agreement and, if Active does so, the provisions of this Agreement will contain the only commercial terms applicable to such transaction despite such purchase or other order stating otherwise. Any addendum attached hereto shall form an integral part of this Agreement and, in the event of any inconsistency between this Agreement and any addendum, the provisions of the addendum shall prevail; provided however, in the case of indemnification, limitations of liability, and confidentiality obligations, this Agreement shall always control. Any 'click-wrap' agreement, terms of use, electronic acceptance or other terms and conditions which attempt to govern the subject matter of this Agreement that either party might be required to acknowledge or accept before entering into this Agreement are of no force and effect as between Client and Active and are superseded by this Agreement.

10.2 **Force Majeure.** Dates or times by which either party is required to perform under this Agreement, excepting the payment of any fees or charges due hereunder, will be postponed automatically to the extent that any party is prevented from meeting them by causes beyond its reasonable control, provided such party promptly notifies the other thereof and makes reasonable efforts to perform.

10.3 **Insurance.** Active agrees to provide evidence of and maintain insurance coverage to cover costs as may arise from claims of tort, statutes and benefits under Workers' Compensation law and/or vicarious liability arising from employees. Such evidence shall include insurance coverage for Workers' Compensation claims as required by the State of Wisconsin, including Employer's Liability and insurance covering General Liability coverage in the following minimum amounts:

Type of Coverage	Minimum Limits
Commercial General Liability	
Bodily Injury and Property Damage (incl. Personal Injury, Fire, Legal, Contractual & Products/Completed Operations)	$1,000,000 Per Occurrence $1,000,000 Gen. Aggregate
Wisconsin Workers' Compensation or Proof of All States Coverage	Statutory
Employers' Liability	$100,000/$500,000/ $100,000

Milwaukee County, as its interests may appear, shall be included as an additional insured for General Liability insurance policy, and Active shall endeavor to provide thirty (30) days' written notice of cancellation or non renewal. A certificate indicating the above coverages shall be submitted for review and approval by Milwaukee County prior to the initial delivery of Services or Products under this Agreement and submitted annually to Milwaukee County throughout the term.

Coverages shall be placed with an insurance company approved by the State of Wisconsin and rated "A" per Best's Key Rating Guide. Additional information as to policy form, retroactive date, discovery provisions and applicable retentions shall be submitted to Milwaukee County, if requested in writing, to obtain approval of insurance requirements. Any deviations, including use of purchasing groups, risk retention groups, etc., or requests for waiver from the above requirements shall be submitted in writing to Milwaukee County for approval prior to the commencement of activities under this Agreement.

The insurance requirements contained within this Agreement are subject to periodic review by the County Risk Manager.

10.4 **Non-Discrimination.** Active certifies that it will not discriminate against any employee or applicant for employment because of race, color, national origin, age, sex or handicap which includes, but is not limited to, the following: employment, upgrading, demotion or transfer, recruitment, or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship. Active will post in conspicuous places, available for employment, notices setting forth the provisions of the non-discriminatory clause. Active certifies that it will strive to implement the principles of equal employment opportunity through an effective affirmative action program which shall have as its objective to increase the utilization of women, minorities and handicapped persons and other protected groups, at all levels of employment in all divisions of its work force, where these groups may have been previously under-utilized and under-represented. Active also agrees that in the event of any disputes as to compliance with the aforementioned requirements, it shall be its responsibility to show that it has exercised good faith efforts to meet all requirements. Active certifies that it is not currently in receipt of any outstanding letters of deficiencies, show cause,

probable cause, or other such notification of noncompliance with EEO regulations.

10.5 **Disadvantaged Business Enterprise Goals.** Active shall use commercially reasonable efforts to establish Disadvantaged Business Enterprise ("DBE") participation goals, consistent with Milwaukee County DBE goals of ten percent (10%) for goods and services, purchases and subcontracts. The Milwaukee County Community Business Development Partners shall assist Active in soliciting potential DBE vendors for the improvements and shall monitor such goal attainment.

10.6 **Notices.** All notices and requests in connection with this Agreement will be given to the respective parties in writing and will be deemed given as of the first business day of the notified party following the day the notice is faxed or sent via overnight courier, providing a hard copy acknowledgment of such successful faxed notice transmission or evidence of such couriering, as applicable, is retained. Notice may also be deposited in the mails, postage pre-paid, certified or registered, return receipt requested, and addressed to the parties as indicated on the face of this Agreement or such other address of which the party gives notice in accordance herewith, and receipt of any such notice will be deemed to be effective as of the third business day following such deposit.

10.7 **Governing Law.** This Agreement shall be governed by the laws of the State of California, without giving effect to the conflict of laws provisions thereof. Neither the United Nations Convention of Contracts for the International Sale of Goods nor the Uniform Computer Information Transactions Act shall apply to this Agreement. Any legal action or proceeding relating to this Agreement shall be instituted only in any state or federal court in San Diego County, California.

10.8 **Attorney Fees.** In any action or suit to enforce any right or remedy under this Agreement or to interpret any provision of this Agreement, the prevailing party shall be entitled to recover its costs, including reasonable attorneys' fees.

10.9 **Affiliates.** During the term of this Agreement, Client or Client's Affiliates may order additional Products and/or Services from Active or one of Active's Affiliates by entering into a Schedule. In the event that Client or Client's Affiliate enters into a Schedule with Active or an Affiliate of Active, reference in this Agreement to "Client" and "Active" shall mean the respective entity that executed the applicable Schedule. A breach of this Agreement by Active's Affiliate or Client's Affiliate shall not affect the rights, privileges, or obligations of Active or Client, as applicable, or any other Affiliate not in breach of this Agreement.

10.10 **Non-Assignability.** Neither party may assign its rights or obligations arising out of this Agreement without the other party's prior written consent, except that (i) Active may assign this Agreement to one of its affiliates or in connection with any sale or security interest involving all or substantially all of its assets or any other transaction in which more than fifty percent of its voting securities are transferred; and (ii) Client automatically assigns this Agreement to the purchaser of all or substantially all of Client's assets or equity securities or to any successor by way of any merger, consolidation or other corporate reorganization of Client. In the event that any such assignment is made by Client pursuant to (ii), Client must provide Active with written notice of such event within thirty (30) days of such assignment. Active shall have thirty (30) days from its receipt of such notice to terminate this Agreement without further liability or obligation to Client.

10.11 **Term and Survival.** The term of this Agreement shall commence on the Effective Date set out on the cover page hereof and shall continue as set forth in Sections 16 or 23.1, as applicable, or until terminated in accordance with Section 6. Sections 1.1, 4, 5.4, 6.3, 8.2, 9, 10, 27.1, and 27.2 of this Agreement, along with all unpaid payment obligations, will survive termination and expiration of this Agreement.

10.12 **No Authority to Bind.** Neither party shall incur any obligations for or in the name of the other party, or have the authority to bind or obligate the other party. Neither party shall make, issue or authorize any statements (whether oral or written) in contravention of the foregoing.

10.13 **Counterparts.** This Agreement may be executed in separate counterparts and delivered by facsimile or such other electronic means as are available to the Parties. Such counterparts taken together shall constitute one and the same original document.

10.14 **Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, unenforceable, or void, the remainder of this Agreement and such provisions shall remain in full force and effect.

10.15 **Cooperative Procurement.** Upon consent by Active, this Agreement may be used for permitted cooperative procurement by any public or municipal body, entity, agency or institution. If so authorized, and in order to forego a related entity RFP or similar competitive bidding process, this Agreement may be extended to such other entities indicated above for the procurement of similar products and/or services provided to Client herein and at fees in accordance with this Agreement unless separately negotiated between such other entities and Active. Further related entities participating in a cooperative procurement process shall place their own orders directly with Active and will fully and independently administer their use of this Agreement to include such contractual obligations as those entities and Active deem appropriate without direct administration from the original Client.

10.16 **Approval.** Client has executed this Agreement pursuant to action taken by its Board of Supervisors on _____, Resolution File No. _____.

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APPENDIX 1: TERMS APPLICABLE ONLY TO HOSTED SOFTWARE

11. INTENTIONALLY DELETED

12. INTENTIONALLY DELETED

13. INTENTIONALLY DELETED

14. INTENTIONALLY DELETED

15. INTENTIONALLY DELETED

16. INTENTIONALLY DELETED

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APPENDIX 2: TERMS APPLICABLE ONLY TO LICENSED SOFTWARE AND ASSOCIATED SUPPORT AND MAINTENANCE SERVICES

17. ACCESS TO SYSTEM AND OTHER CLIENT OBLIGATIONS

17.1 **Access.** Client will provide, at no cost to Active:

(a) subject to the security requirements of Client, 24-hour access to Client's system via either an always-available telephone circuit or an always available internet connection to enable Active or its designated representative to perform any of the obligations placed upon Active by this Agreement; and

(b) subject to the security requirements of Client, remote dial up/internet access methods approved by Active to allow Active to remotely diagnose and correct errors in the Licensed Software and provide other Services.

17.2 **Client Obligations.** Without limiting any of Client's other obligations under this Agreement, Client will:

(a) use its best efforts to upgrade to any new Release or Version of the Licensed Software as soon as possible after becoming aware of its availability;

(b) ensure that at all times at least one current staff person of Client has been fully trained on the Licensed Software; and

(c) designate by written notice a single site and single person as the point of contact for telephone or other contact, which site and/or person Client may change upon fourteen (14) days prior notice to Active.

18. GRANT OF LICENSES AND LIMITATIONS THEREON

18.1 Active hereby grants to Client a non-exclusive and non-transferable right and license, subject to this Agreement, to install and/or use the Licensed Software, in the manner and for the term stated in the applicable Schedule and Active provided and related written user documentation as follows:

(a) **Workstation-Based Modules.** In respect of each Workstation-based core Module and each Workstation-based add-on Module, Client may install and use each Module on Workstations to access the Enterprise Database on the Database Server, provided that the number of copies of any particular Module in use does not exceed the number of licenses granted to Client therefor as set out in the applicable Schedule.

(b) **Server-based Add-on Modules.** Client may install and use each server-based Module on as many Workstations as is desired by Client, and Client may use and permit use of such Modules by its clients, all without limit to the number of Users or transactions which simultaneously use any such Module, provided however that:

(i) in respect of each TeleReg and Voice Server Module, Client may install one copy of each Module on one IVR Server, provided that the number of copies of any particular Module in use does not exceed the number of licenses granted to Client therefor as set out in the applicable Schedule, and all such Modules together may be in Concurrent Use not to exceed the number of licenses granted to Client for TeleReg Lines Modules as set out in the applicable Schedule; and

(ii) in respect of each Payment Server Module, such Modules may be in Concurrent Use not to exceed the number of licenses granted to Client for Point of Sale Modules as set out in the applicable Schedule.

(c) **Server-based On-line (Internet) Modules.** In respect of each Server-based On-line (Internet) Module, Client may:

(i) install one copy of each Module on one Internet server, provided that the number of copies of the Module in use does not exceed the number of licenses granted to Client therefor as set out in the applicable Schedule; and

(ii) subject to Section 18(d), permit Users to access and use such Modules to access the Database Server via Internet Clients connecting via a licensed Internet Server, and all such Modules together may be in Concurrent Use not to exceed the number of licenses granted to Client for Online Client Access Modules as set out in the applicable Schedule multiplied by twenty-five (25).

(d) **Cumulative Workstation-based Modules.** In respect of each Cumulative Workstation-based Module, Client may:

(i) install one copy of each Module on a single Workstation for each license granted to Client therefor as set out in the applicable Schedule; and

(ii) permit Users using such licensed Workstation(s) to use such Module(s) provided, for greater certainty, that the Modules may be in Concurrent Use not to exceed the number of licenses granted to Client therefor as set out in the applicable Schedule.

(e) Client hereby acknowledges that the mechanism utilized by the Licensed Software to control the number of Users or Online Client Access which can simultaneously access and use Server-based On-line (Internet) Modules is based upon the number of Users who have at any time logged into Client's computer network using their passwords, such that any User so logged into such network in a manner that would automatically enable the User to access and use such Modules will reduce by one the number of Users able to simultaneously access those Modules, regardless of whether or not such User is in fact accessing or using any such Module. Client hereby waives any claim, and releases Active from any such claim and from any losses or damages Client suffers in relation thereto, in connection with the inability of Users to simultaneously access such Modules where such inability is the result of inactive logged-in Users absorbing available login access.

18.2 **Additional Copies.** Client will not make any copies of the Licensed Software except as necessary for the installation permitted hereby and except for:

(a) copies of each Module licensed hereunder for training and testing purposes, and

(b) for backup purposes, provided that all electronic copies made include screen displays of Active's proprietary or intellectual property notices as recorded on the original copy provided by Active and Client affixes a label to each disk, reel, or other housing for the medium on which each physical copy is recorded setting out the same proprietary and intellectual property notices as appear on the unit of Licensed Software from which the copy is made in the same manner as those notices appear on that original copy.

19. LICENSED SOFTWARE FEES

19.1 In respect of each Module, Client shall pay to Active all applicable Licensed Software fees listed in the applicable Schedule upon delivery (as defined in Section 2.3) of the Licensed Software.

20. MAINTENANCE SERVICES AND LIMITED WARRANTY

20.1 Active will develop new Releases and new Versions of Licensed Software in accordance with the procedures and other particulars set out in the Support and Maintenance Handbook attached as Exhibit A.

20.2 Provided that Client continues to subscribe for Support and Maintenance in respect of a particular Licensed Software Product, Active will provide to Client, either in physical form by mail or courier or in electronic form via the Internet, new Releases and Versions (and appropriate documentation) for such Licensed Software Products on a when-and-if-available basis.

20.3 **Limited Warranty of Software.** Active warrants that when utilized by Client in a manner authorized hereunder, the Licensed Software will conform to the functional specifications set out in the user documentation accompanying the Software for ninety (90) days from delivery of the Licensed Software ("**Warranty Period**"). Active's sole obligation and liability hereunder with respect to any failure to so perform will be to use reasonable efforts to remedy any non-conformity which is reported to Active in writing by Client within that Warranty Period. In the event Active is unable to remedy such non-conformity within a reasonable time using reasonable efforts, Active may refund to Client the license fee pertaining to the Licensed Software, subject to Client's return of the Licensed Software, and this Agreement will be automatically terminated. All warranty service will be performed at service locations designated by Active. This limited warranty is void if failure of the Licensed Software has resulted from accident, abuse or misapplication caused by Client or its employees or agents. Any replacement Licensed Software will be warranted for the remainder of the original warranty period or thirty (30) days, whichever is longer.

21. EXCLUDED SUPPLIES AND SERVICES

Without limitation, the following supplies and services are excluded from Support and Maintenance:

(a) Services which are required to remedy problems that stem from changes to or defects in system configuration upon which the Licensed Software was initially installed;

(b) Services which are required to remedy problems which do not stem from any defect in Licensed Software, unless such problems were caused by Active or its subcontractors;

(c) Services which are required to remedy problems caused by lack of training of Client's personnel or Client's or its personnel's or agents' improper treatment or use of the Licensed Software;

(d) Full report customization service;

(e) Any and all hardware support, maintenance or troubleshooting issues, except as described in Section 26 regardless of the source of such hardware.

22. FEES FOR SUPPORT AND MAINTENANCE

22.1 Support and Maintenance services begin for all Licensed Software listed in the applicable Schedule on the Support and Maintenance Start Date. The cost for Support and Maintenance services is payable annually in advance and is due in its entirety thirty (30) days from date of Active's delivered invoice. Client may elect to specify a preferred alternate Support Renewal Date by so notifying Active in writing. If an alternate preferred Support Renewal Date is specified, the cost of Support and Maintenance will be prorated from the anniversary of the Support and Maintenance Start Date to the specified Support Renewal Date. Thereafter, the Support and Maintenance fee is payable in advance on every annual anniversary of the Support and Maintenance Start Date or, if there is a Support Renewal Date, every anniversary of the Support Renewal Date (the applicable anniversary being the "**Support Renewal Date**"). Active will provide invoices to Client for all such amounts, such invoices due on the later of (a) the Support and Maintenance Start Date

or applicable Support Renewal Date, as applicable, and (b) thirty (30) days from the date of the invoice.

22.2 For the first year of this Agreement commencing with the Effective Date, Support and Maintenance pricing shall be equal to twenty-five percent (25%) of the gross software license fees. Support and Maintenance pricing for all successive years shall be equal to twenty-five percent (25%) of the gross software license pricing charged by Active for equivalent software as of the date of each such renewal year, provided, however, that any increase in Active's annual Support and Maintenance pricing for any renewal year shall not exceed ten percent (10%) of the renewal fees charged in the prior year. Any additional software licensed to Client by Active will increase the total gross software license fees upon which Maintenance and Support pricing is based. Active will provide invoices to Client for renewal fees up to sixty (60) days prior to expiration of each term.

22.3 The Support and Maintenance fees identified in the applicable Schedule are applicable only upon the date of entry into this Agreement, and are subject to change thereafter in accordance with this Agreement's terms.

22.4 In consideration of the Support and Maintenance provided hereunder, Client agrees to pay Active the fees described in the applicable Schedule, as modified explicitly pursuant to this Agreement. In the event Client requires Support and Maintenance for additional Licensed Software, Client agrees to pay Active the additional Support and Maintenance fees applicable based upon the fees then in effect, prorated from the date of agreement to acquire such services to the Support Renewal Date.

22.5 Unless the applicable Schedule indicates otherwise, the fees charged hereunder are applicable to Support and Maintenance of Licensed Software used with respect to only a single database of Client data. If Client, after entering this Agreement, places in service one or more additional databases to be used in relation to the Licensed Software, then for each such additional database, an additional 25% of all gross Licensed Software fees due, exclusive of such extra database fees, will be payable hereunder for Support and Maintenance. Client will notify Active as soon as reasonably possible of the installation or use of any such additional database(s).

22.6 Active may terminate and suspend performance of all Support and Maintenance if Client fails to pay any past due Active invoice within thirty (30) days of written notice of such failure, in the event of any other material breach by Client which remains uncured thirty (30) days after notice thereof or if any of the Licensed Software ceases to be subject of a valid software license agreement.

22.7 If at any time after Client has initially licensed any of the Licensed Software from Active, Client's right to receive Support and Maintenance, or comparable services, from Active under this Agreement or a comparable agreement has lapsed for any reason whatsoever, voluntarily or otherwise, and Client wishes to receive Support and Maintenance from Active, Client will pay to Active, prior to re-instatement of Support and Maintenance services:

(a) a reinstatement fee equal to the greater of 50% of the current annual support fee or the sum of the unpaid support fees that would have been payable hereunder had this Agreement been in force during the time in which Support and Maintenance rights had so lapsed to the date of reinstatement, and

(b) at least one additional year of Support and Maintenance from the date of reinstatement.

23. TERM FOR SUPPORT AND MAINTENANCE

23.1 **Term.** Active shall provide to Client, and Client shall purchase from Active, Support and Maintenance for a period commencing on the Support and Maintenance Start Date and, subject to termination as provided herein, continuing until the fourth (4th) anniversary of the Support and Maintenance Start Date.

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APPENDIX 3: TERMS APPLICABLE ONLY TO THIRD PARTY PRODUCTS AND SERVICES

24. PURCHASE AND SALE; DELIVERY

24.1 **Purchase Commitment and Price.** Active hereby agrees to sell to Client, and Client hereby agrees to purchase from Active, the Third Party Products listed in a Schedule in the volumes and at the prices described therein.

24.2 **Delivery.** Active will ship all or any part of the Third Party Products to Client as soon as reasonably practicable (or, if the below-described purchase order documentation does not seek immediate shipping, at the time Active considers reasonable in order to meet the desired delivery date described) after receipt by Active of a purchase order from Client specifying the particular Third Party Products sought, the number of such Third Party Products sought, the price payable therefor, and the desired date and location of delivery thereof. Any such purchase order must, at a minimum, reference quantity, description and price.

24.3 **Changes by Client to Delivery Schedule.** Following delivery by Client of any purchase order documentation described in Section 24.2, no changes by Client to the shipment schedule described therein will be permitted unless Active is notified thereof in writing at least ninety (90) days in advance of the delivery date sought in such purchase order documentation.

24.4 **Acceptance of Purchase Orders.** Purchase orders delivered by Client to Active in respect of Third Party Products are not binding upon Active until accepted by Active in writing. In any case, despite any indication to the contrary contained in any such purchase order documentation, no terms or conditions on purchase order documentation issued by Client, other than the information required by Active as set forth expressly in this Agreement, will be binding upon Active, nor will any such terms or conditions modify or

supplement this Agreement in any way, notwithstanding the fact that Active may accept or otherwise approve such purchase orders. Active reserves the right to refuse any such purchase order for any reason not contrary to this Agreement, including without limitation pricing differences as described in Section 25.2.

24.5 **Additional Third Party Products.** Client may purchase Third Party Products in addition to those listed in a Schedule by issuing additional purchase order documentation as described herein, provided that the supply (or non-supply) of such additional Third Party Products will be subject to this Agreement as though such additional Third Party Products had been included in a Schedule on the date of execution of such Schedule subject to the following:

(a) the price for such additional Third Party Products is subject to agreement between the parties each in their own absolute discretion, and

(b) Active shall have the right to discontinue delivery of such additional Third Party Products upon at least ninety (90) days written notice to Client without any liability to Client whatsoever for such discontinuance.

25. CHARGES AND PAYMENTS

25.1 **Prices.** The pricing applicable to Third Party Products is as set out in the applicable Schedule in the form finally agreed to by the parties.

25.2 **Pricing Variability.** Client acknowledges that:

(a) the prices described in a Schedule are applicable for six (6) months after the date of execution hereof, and such prices are based upon Client taking delivery of the full number of any particular Third Party Product listed in the applicable Schedule in a single shipment; and

(b) Client hereby agrees that after the expiry of such initial six-month period or, in case of Client seeking, in a particular shipment, delivery of less than all of the Third Party Products of a particular type listed a Schedule, the actual prices may be higher. Prior to shipment of any Third Party Products that would be subject to pricing that differs from that described in the applicable Schedule, Active will notify Client of any such different pricing and Client will accept such different pricing, as mutually agreed between Client and Active, in writing.

26. SUPPORT FOR THIRD PARTY PRODUCTS

For the purpose of isolating support issues and responsibility in respect of Third Party Products and their interaction with any Products, Active will provide initial first-tier support, to a maximum of fifteen (15) minutes per support inquiry, for Third Party Products, as further specified in the Support and Maintenance Handbook.

27. PROPRIETARY RIGHTS

27.1 **Third Party Proprietary Rights and Indemnity by Client.** Client acknowledges that any Third Party Products supplied by Active hereunder are supplied by Active as a reseller thereof and that the Third Party Products are subject to the intellectual property rights of the various third party developers and/or manufacturers thereof, as applicable, including without limitation copyright, trade secret, trademark, and patent rights. Client will maintain in confidence and not use or disclose any and all confidential business or technical information connected with any Third Party Product except as specifically permitted by a party having legal control of such rights, and Client will defend, indemnify and hold harmless Active for any claim based on an allegation that any Third Party Product provided to Client hereunder has been installed, used, or otherwise treated by Client or any client or customer of Client in violation of the proprietary rights of any third party or on an allegation that Client or any client or customer of Client has disclosed or used any confidential business or technical information connected with any Third Party Product; provided, however, that nothing in this Section 27 shall prohibit or otherwise restrict Client's disclosure of any information that Client is required to disclose pursuant to applicable law, and Client shall not be required to defend, indemnify or hold harmless Active for any such claim if disclosure occurred pursuant to applicable law.

27.2 **Additional Terms.** Client acknowledges that the possession, installation and use of Third Party Products may be subject to additional terms and conditions accompanying such Third Party Products at the time of delivery.

28. WARRANTY

28.1 **Warranty.** Active warrants to Client that Active has the right to deliver the Third Party Products subject to any documentation accompanying such Third Party Products at the time of delivery and/or any licensing mechanisms, physical, electronic or otherwise, included in any Third Party Products that are software.

28.2 **Warranties Provided by Third Party Suppliers.** Third Party Products are warranted by the manufacturers, suppliers or licensors thereof in accordance with the warranty statements accompanying delivery of the Third Party Products, and Client agrees that Client will rely solely on such Third Party Product warranties. Client agrees not to make a claim against Active on account of any warranty, express or implied, which may apply to any Third Party Product. If Client notifies Active of a defect or nonconformity within thirty (30) days of the date of delivery of such Third Party Product, Active will assist Client in troubleshooting such Third Party Product in accordance with Section 26. If such defect or nonconformity cannot be remedied during such troubleshooting and such Third Party Product is still under the Third Party Product warranty, Active shall contact the applicable manufacturer, supplier or licensor of such Third Party Product to coordinate any returns or refunds. If a notice of a defect or nonconformity is received by Active from Client of the defect or nonconformity following the initial the 30-day period, Active's sole obligation and liability will be to provide support in accordance with Section 26. Returns and refunds

are at the sole discretion of the applicable manufacturer, supplier or licensor.

SCHEDULE

Schedule

Company Address	10182 Telesis Ct., Suite 100 San Diego, CA 92121 US	Created Date	1/31/2014
		Quote Number	00025432
		Currency	USD
Prepared By	Ken Fordham	Contact Name	Suzanne Carter
Phone	1 (800) 661-1196 #1285	Phone	(414) 257-8017
E-mail	ken.fordham@activenetwork.com	Email	suzanne.carter@milwcnty.com
Bill To Name	County of Milwaukee Dept of Parks	Ship To Contact	Suzanne Carter
Bill To Contact	Suzanne Carter	Ship To Address	Milwaukee County Treasurer WAUWATOSA, WI 53226 United States
Bill To Address	Milwaukee County Treasurer WAUWATOSA, WI 53226 United States		

Product	Product Type	Quantity	UOM	Sales Price	Total Price
Class - Maintenance & Support - Reservations (includes QuickRez) - per workstation	Maintenance	6	Yr	551.25	3,307.50
Class - Maintenance & Support - Customized Reports - per server/per workstation	Maintenance	3	Yr	78.75	236.25
Payment Manager - Maintenance & Support - Payment Server	Maintenance	1	Yr	1,575.00	1,575.00
Class - Maintenance & Support - Finance-link (Financial Systems Integration) - per server	Maintenance	1	Yr	787.50	787.50
Class - Maintenance & Support - League Scheduling - per workstation	Maintenance	3	Yr	551.25	1,653.75
Class - Maintenance & Support - Reservations (includes QuickRez) - per workstation	Maintenance	4	Yr	551.25	2,205.00

Total Price	USD 9,765.00
Maintenance Total	9,765.00

All fees described herein are in consideration of the Software and Services that Active provides. Active and Client acknowledge that certain credit card network rules and laws prohibit imposing a surcharge that is based on the type of payment method used (e.g., having a different fee for the use of a credit card vs. debit card), and therefore, each agree not to impose such a surcharge on any End User.

*Sales Tax not included in total price. Sales tax, where applicable, will be added to your invoice.

Quote Acceptance Information

Signature: _____

Printed Name: _____

Title: _____

Date: _____

PO# (if applicable): _____

Year	Class Maintenance	Fairway Maintenance
2013	$9,300.00	$34,500.00
2014	$9,765.00	$34,500.00
2015	$10,253.25	$34,500.00
2016	$10,769.91	$34,500.00
2017	$11,308.41	$34,500.00

Company Address	10182 Telesis Ct., Suite 100 San Diego, CA 92121 US	Created Date	10/3/2013
		Quote Number	00006732

Prepared By	Ed Baker	Contact Name	Joe Mrozinski
Phone	1 (586) 649-7797	Phone	1 (414) 254-9450
E-mail	edward.baker@activenetwork.com	Email	jmrozinski@milwcnty.com
Fax	(586) 649-4925		

Bill To Name	County of Milwaukee Dept of Parks	Ship To Contact	Joe Mrozinski
Bill To Contact	Joe Mrozinski	Ship To Address	Milwaukee County Treasurer WAUWATOSA, WI 53226 United States
Bill To Address	Milwaukee County Treasurer WAUWATOSA, WI 53226 United States		

Product	Product Type	Quantity	UOM
Fairway - Maintenance & Support - IVR: first 4 lines (add-on) - per server	Maintenance	1.00	Yr
Fairway - Maintenance & Support - IVR: subsequent 4 lines (add-on) - per server	Maintenance	3.00	Yr
Fairway - Maintenance & Support - Private Label Website Reservations (website license)	Maintenance	1.00	Yr
Fairway - Maintenance & Support - Propagation (add-on) - per site	Maintenance	13.00	Yr
Fairway - Maintenance & Support - Retail Point of Sale with Inventory (core, site license) - per site	Maintenance	3.00	Yr
Fairway - Maintenance & Support - Tee Sheet & Point of Sale with Inventory (core, site license) - per site	Maintenance	10.00	Yr

Hardware Total	USD 0.00	Total Price	USD 34,500.00
Software Total	USD 0.00		
Service Total	USD 0.00		
Maintenance Total	USD 34,500.00		
SaaS Total	USD 0.00		
Other Total	USD 0.00		

*Sales Tax not included in total price. Sales tax, where applicable, will be added to your invoice.

Quote Acceptance Information

Signature: _____

Printed Name: _____

Title: _____

Date: _____

PO# (if applicable): _____

EXHIBIT A

MAINTENANCE EXHIBIT

SUPPORT AND MAINTENANCE HANDBOOK

SUPPORT AND MAINTENANCE

The following supplies and services are included in Support and Maintenance:
• Unlimited technical support between 5:00am and 6:00pm Pacific Time, Monday through Friday via telephone (800.663.4991), email or web portal (http://support.theactivenetwork.com)
• Unlimited phone support for System Down issues on a **24 hours x 7 days a week** basis, provided that:
  ○ If self-hosted, the site must have remote access and Internet email capability for extended support hours
  ○ Support calls placed during extended support hours must be placed by an authorized contact person
  ○ The type of support call is an urgent issue that includes site down, revenue impacting, or customer facing issues that have no reasonable work-around
• Access to Active's secure customer care web portal, discussion forums, knowledgebase and online training materials
• Regular documentation and communication
• **Support also includes, if such assistance can be provided in 15 minutes or less:**
  ○ Assistance troubleshooting Third Party Products (e.g., Crystal Reports, Citrix client)
  ○ Assistance to isolate and/or troubleshoot difficulties resulting from sources other than Active Network products and services, such as:
  ▪ General network/internet support (e.g., network access, printing, internet access)
  ▪ PC hardware troubleshooting
  ▪ PC setup, configuration and optimization
  ▪ Network operating system configuration and functionality
  ▪ Basic Microsoft Windows functionality (i.e. Windows Explorer or Internet Explorer)
  ▪ Loss of supervisor or other password

ANNUAL SUPPORT AND MAINTENANCE FOR NON-HOSTED CUSTOMERS
The following supplies and services are included in Support and Maintenance for non-hosted customers: • New releases and version of the Software and free assistance in planning upgrades

SUPPORT AND MAINTENANCE FOR HOSTED CUSTOMERS

The following supplies and services are included in Support and Maintenance:

- Installation of new Software releases
- Monitoring of connectivity and critical functionality at all times (24hr x 365 days/year) by skilled personnel using an extensive series of automated probes from multiple locations
- Response to site-down/critical issues within one hour, with reasonable efforts to advise your organization of the current status and expected resolution time
- Service agreements between Active and critical vendors essential to the continuing successful operation of the hosted environment
- Scheduled maintenance to increase performance, fix defects or update applications, with reasonable efforts to notify your organization of scheduled maintenance times and potential impacts to service
- Urgent maintenance (done to correct network, hardware or Software issues that are likely to cause significant service disruption and that require immediate action), which may temporarily degrade service or cause outages. Active may undertake urgent maintenance at any time deemed necessary and shall provide status updates to your organization as soon as possible.

SUPPORT ISSUE PRIORITIES AND TIMELINES

TICKET RESOLUTION TARGETS

- New support incidents are assigned one of the following levels, each with its respective standard ticket resolution target:

Call Priority Level	**Description**	**Standard Completion Target**
Priority 1 – System Outage	Fatal issues that result in the customer's inability to fulfill critical business functions (i.e., those pertaining to core functionality such as processing registrations, memberships, rentals) and that have no reasonable work-around	1 business Day
Priority 2 – High Business Impact	Serious issues significantly impacting use of the system but do not prevent core functions from being fulfilled (i.e., Customer cannot perform critical business functions; Customer experiences severe site degradation)	2 business day
Priority 3 – Medium Business Impact	All other issues, except those classified as low; (e.g., how-to questions, reporting/reconciliation issues, general questions, work around options)	3 business days
Priority 4 – Low Business Impact	Issues that are not time-sensitive or may be undertaken as customer service initiatives outside the scope of this Agreement (i.e., feature requests or low priority questions)	None
Guaranteed Uptime	For clients licensing Hosted Software	99%

SERVICES NOT INCLUDED
The following supplies and services are excluded from Support and Maintenance: • Services required to remedy problems that stem from changes to or defects in system configuration upon which the Software was originally installed • Services required to remedy problems which do not stem from any defect in the Software • Services required to remedy problems caused by lack of training of Client's personnel • Improper treatment or use of the Software • Onsite or remote training services • Full report customization service • Database-specific services or assistance

RESTRICTIONS
The following actions will void Active's obligations under this Support and Maintenance Handbook: • The use of any other application that modifies data in the database, whether created by you or otherwise • The use or creation of third party applications that work in connection with Active's application or application database without prior written notification and consent from Active

HOLIDAY HOURS (US AND CANADA)		
Holiday	Open with reduced staff	Closed
New Year's Day (January 1st)		✓
Martin Luther King Day (3rd Monday in January)	✓	
President's Day (3rd Monday in February)	✓	
Good Friday (Friday before Easter)	✓	
Victoria Day (3rd Monday in May)	✓	
Memorial Day (Last Monday in May)	✓	
Canada Day (July 1st)	✓	
Independence Day (July 4th)	✓	
Civic holiday (1st Monday in August)	✓	
Labor Day (1st Monday in September)		✓
Canadian Thanksgiving/Columbus Day (2nd Monday in October)	✓	
Remembrance Day/Veteran's Day (November 11th)	✓	
US Thanksgiving (4th Thursday in November)	✓	
Day after US Thanksgiving (4th Friday in November)	✓	
Christmas Day (Dec. 25th)		✓
Boxing Day (December 26th)	✓	
New Year's Eve (December 31st)	✓	

MILWAUKEE COUNTY
PARKS

CHRIS ABELE, MILWAUKEE COUNTY EXECUTIVE
JOHN DARGLE, JR., DIRECTOR OF PARKS, RECREATION AND CULTURE

Date: April 30, 2014

To: Marina Dimitrijevic, Chairwoman, County Board of Supervisors

From: John Dargle, Jr., Director, Department of Parks, Recreation and Culture

Subject: Authorization to execute an agreement and amend an existing easement between Milwaukee County and the City of Milwaukee in the Menomonee River Parkway – ACTION

POLICY

The Director of the Department of Parks, Recreation and Culture (DPRC) is seeking authorization to execute an agreement and amend a current easement with the City of Milwaukee in the Menomonee River Parkway.

BACKGROUND

Milwaukee County (County) in the 1930's and 1940's, was acquiring parkway property along the Menomonee River in the City of Milwaukee (City) and Wauwatosa. As land was subdivided and developed in the City, a storm sewer system needed to be constructed that crossed the parkway property north of Burleigh Street. In November of 1947, County and the City executed an easement to install storm sewer piping and develop a lagoon and outfall structure on park property. A condition of that easement was that the City agreed to bear the cost of removing any silt deposits caused by the storm sewer.

In 2011, the City diverted 75% of the storm sewer area into a new detention basin on City property formerly known as Hartung Quarry. During this process, the County and the City determined the lagoon was partially filled with silt deposits that needed to be removed under the terms of the existing easement. As this issue was discussed, the DPRC applied for and received $220,000 from the Fund for Lake Michigan (FLM) to implement a Wetlands Restoration Initiative in the existing lagoon.

The City's Common Council on January 4, 2014 agreed to contribute $150,000 to Milwaukee County to help implement this project. In addition to the funding, the City and County have agreed to reduce the size easement area to include reduced basin within the easement. The City will retain the responsibility to remove sedimentation and debris in this area. This reduction in area was recommended by a consulting

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engineering firm hired to study the basin. The remaining portion of the lagoon will be reconstructed to simulate a wetland complex to meet the following goals:

- Restoration of approximately 6 acres of the site to a Palustrine Emergent Wetland.
- Create one acre of Palustrine Forest.
- Create one acre of Riverine Upper Perennial Wetland.
- Use plants to clean or contain contaminants such as nitrogen, potassium and potash.
- Reduce the amount of fecal runoff from pets and wildlife.
- Filtration of storm water to remove sediments.
- Improved water quality.
- Pretreatment of sediment and removal of trash in the fore bay.
- May provide additional fresh water fish habitat.
- Enhance wildlife habitat

The County has prepared plans and specifications to meet these goals. The wetland is scheduled to be constructed in 2014 and to mature in 3-5 years. A fund transfer has been prepared for consideration by the Finance, Personnel and Audit Committee to increase expenditure authority for capital project WP275, Menomonee River Parkway Wetlands.

This project has received community support from the City of Wauwatosa, Milwaukee Metropolitan Sewerage District, and the Wisconsin Department of Natural Resources.

RECOMMENDATION

The Parks Director recommends that the DPRC be authorized to amend the current easement with the City of Milwaukee and to accept the $150,000 contribution from the City of Milwaukee for a wetland restoration project.

Prepared by: Jim Ciha, Landscape Architect III

Recommended by:	**Approved by:**
Laura Schloesser, Chief of Administration & External Affairs	John Dargle, Jr., Director

Attachment A - Location Map
Attachment B - City of Milwaukee Certified Resolution File No. 1311124

copy: County Executive Chris Abele
Amber Moreen, Chief of Staff, County Executive's Office

Kelly Bablitch, Chief of Staff, County Board
Sup. Gerry Broderick, Chairman, Parks, Energy & Environment Committee
Sup. Khalif Rainey, Vice-Chair, Parks, Energy & Environment Committee
Dan Laurila, Fiscal Mgt. Analyst, Admin & Fiscal Affairs/DAS
Scott Manske, Comptroller, Office of the Comptroller
Alexis Gassenhuber, Parks, Energy & Environment Committee Clerk
Jessica Janz-McKnight, Research Analyst, Office of the Comptroller
Sup. James "Luigi" Schmitt, District 6, County Board of Supervisors

File No. 14-
(Journal,)

(ITEM NO.) From the Director, Department of Parks, Recreation and Culture, seeking authorization to amend an existing storm water easement and enter into an agreement with the City of Milwaukee.

A RESOLUTION

WHEREAS, in 1947 Milwaukee County (County) and the City of Milwaukee (City) entered into an easement for a storm sewer across Menomonee River Parkway; and

WHEREAS, conditions of the easement required that the City enlarge an existing lagoon, construct a weir and pedestrian bridge; and

WHEREAS, the City was required by easement to "bear the cost of removing any silt deposits from the lagoon caused by the discharge of the storm sewer"; and

WHEREAS, the County and City officials have surveyed the lagoon and determined the value of removing the silt deposits is $150,000 based on the current contractual prices; and

WHEREAS, the City has diverted over 300 acres of the storm sewer area into a new storm water detention basin on City property; and

WHEREAS, the City Common Council has resolved in January 2014 to authorize the payment to the County and modify the easement due to the diverted storm sewer system; and

WHEREAS, the payment for sediment removal will be used to permanently reduce and the size of the lagoon and to convert the former lagoon to a wetland combined with grant funding from the Fund for Lake Michigan; and

WHEREAS, prior to execution, the Department of Parks, Recreation and Culture, Department of Administrative Services, Corporation Counsel and other appropriate staff will review and approve all documents as required; and

WHEREAS, the Parks Director respectfully recommends the DPRC be authorized to enter into an agreement with the City to amend the existing easement and to accept payment of $150,000; and

WHEREAS, the Parks Director has recommended that the authority to prepare, review, approve, execute and record all documents as required to execute the requested agreement, easement and payment be granted to the Department of Parks, Recreation and

Culture, the Department of Administrative Services, Corporation Counsel, Risk Management, County Clerk, Register of Deeds, and the County Executive; now, therefore,

BE IT RESOLVED, that the Milwaukee County Board of Supervisors hereby authorizes the Parks Director, the Department of Administrative Services, the Register of Deeds, Corporation Counsel and Risk Management to prepare, review, approve, execute and record all documents, and take all actions as required to enter into an agreement with the City to amend an existing easement and accept payment for the removal of the sediment; and,

BE IT FURTHER RESOLVED, that the County Executive and County Clerk are authorized to execute the easements and other required documents.

MILWAUKEE COUNTY FISCAL NOTE FORM

DATE: April 29, 2014

Original Fiscal Note ☒

Substitute Fiscal Note ☐

SUBJECT: Authorization to amend an existing storm water easement with the City of Milwaukee in the Menomonee River Parkway and to accept $150,000 in payment from the City for debris removal.

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	0	0
	Net Cost	0	0
Capital Improvement Budget	Expenditure	150,000	0
	Revenue	150,000	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.

A. Amending the easement to fit the current design conditions for the storm sewer system and accepting payment to Milwaukee County from the City of Milwaukee for their obligations under the terms of the original easement.
B. The payments were calculated by surveying the lagoon and comparing the original construction drawings and negotiating payment from up to date contracts in the area.
C. No impact
D. None

Department/Prepared By Jim Ciha, DPRC

Authorized Signature _____

Did DAS-Fiscal Staff Review? ☐ Yes ☒ No

Did CBDP Review?[2] ☐ Yes ☐ No ☒ Not Required

[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 / CITY OF MILWAUKEE
EASEMENT

Legend

- County Boundary
- Highways, to 8k
- Street Centerlines, 0k to 8k
- Railroad 8k
- Water 8k
- Rivers 8k
- Airport 8k
- Landmarks 8k
- County Parks 8k
- Municipal Subdivisions 25k
- Tax Parcels
- AERIAL PHOTO 2013 HIGH R
  - Red: Band_1
  - Green: Band_2
  - Blue: Band_3
- AERIAL PHOTO 2010 HIGH R
  - Red: Band_1
  - Green: Band_2
  - Blue: Band_3

1: 6,379

1,063 0 532 1,063 Feet

© MCAMLIS

THIS MAP IS NOT TO BE USED FOR NAVIGATION

DISCLAIMER: This map is a user generated static output from the Milwaukee County Land Information Office Interactive Mapping Service website.The contents herein are for reference purposes only and may or may not be accurate, current or otherwise reliable. No liability is assumed for the data delineated herein either expressed or implied by Milwaukee County or its employees.

Notes

LOCATION MAP

City of Milwaukee

Office of the City Clerk

200 E. Wells Street
Milwaukee, Wisconsin 53202

Certified Copy of Resolution

FILE NO: 131124

Title:
Resolution authorizing the Commissioner of Public Works to execute an agreement between the City of Milwaukee and Milwaukee County regarding the alteration, maintenance and easement amendment of the Menomonee River Parkway Lagoon.

Body:
Whereas, The County owns the Menomonee River Parkway Lagoon (lagoon) located on the west side of North Menomonee River Parkway between West Concordia Avenue and West Auer Avenue on Milwaukee County lands; and

Whereas, The City owns and maintains a storm sewer in County lands in a sewer easement (SE-761) granted by the County on November 5, 1947 and discharges storm water flows into the lagoon; and

Whereas, The lagoon has now become partially filled with silt deposits and requires dredging to maintain its functionality and aesthetics; and

Whereas, The City has diverted approximately 75% of the storm water flows away from the lagoon by constructing a wet detention pond at Hartung Quarry; and

Whereas, The County intends to undertake a project to modify the lagoon into a stormwater wetland; and

Whereas, Said sewer easement requires the City to “bear the cost of removing any silt deposits from the lagoon caused by the discharge of the storm sewer”; and

Whereas, The entire cost of the County project is estimated to be $350,000; and

Whereas, In lieu of future lagoon dredging costs, the City will contribute $150,000 towards the design and construction of the project to create a permanent stormwater wetland area; and

Whereas, Subject to funding availability, County has tentatively scheduled the project to be completed by late 2016; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee, that the Commissioner of Public Works is hereby authorized to execute the Agreement and Easement Amendment between the City of Milwaukee and Milwaukee County, said Agreement and Easement Amendment being attached to this Common Council Resolution File Number 131124 and incorporated in this

resolution by reference as though set forth in full.

I, James R. Owczarski, City Clerk, do hereby certify that the foregoing is a true and correct copy of a(n) Resolution Passed by the COMMON COUNCIL of the City of Milwaukee, Wisconsin on December 17, 2013.

January 03, 2014

James R. Owczarski

Date Certified

MILWAUKEE COUNTY
PARKS

CHRIS ABELE, MILWAUKEE COUNTY EXECUTIVE
JOHN DARGLE, JR., DIRECTOR OF PARKS, RECREATION AND CULTURE

Date: April 29, 2014

To: Marina Dimitrijevic, Chairwoman, County Board of Supervisors

From: John Dargle, Jr., Director, Department of Parks, Recreation and Culture

Subject: **Authorization to accept a donation of art – ACTION**

POLICY
The Department of Parks, Recreation and Culture (DPRC) requests authorization to accept a donation of art to be installed at Boerner Botanical Gardens in Whitnall Park pursuant to Wis. Stats. 59.52(19).

BACKGROUND
Mr. Richard Edelman, a local metal sculptor, is offering to make a gift of a permanently installed sculpture in conjunction with the 75th anniversary of Boerner Botanical Gardens. The steel sculpture is entitled “Sundial” and would be set on a poured foundation for stability and permanence. The sculpture would be simple, graceful, and in harmony with the garden.

Sundials are traditional in landscape architecture and in botanical gardens. They evoke sun, seasons, and the cycle of life. Sundials also provide visual focal points without blocking views since they can be "seen through" and cast changing shadows. The sculpture will not actually be calibrated to keep time; however, it will create an evocative reference to the movement of the sun and seasons.

The proposed installation site would be to the west of the Education and Visitor Center, to the South of the Circle and the Oval formal shapes, in line with the west exit doors in order to center and stabilize the site lines.

RECOMMENDATION
The Parks Director recommends that the DPRC be authorized to accept the donation of art to be installed in Boerner Botanical Gardens in Whitnall Park.

Prepared by: Laura Schloesser, Chief of Administration and External Affairs

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Recommended by:

Laura Schloesser, Chief of
Administration and External Affairs

Approved by:

John Dargle, Jr., Director

Attachment A – Picture of sculpture

copy: County Executive Chris Abele
Amber Moreen, Chief of Staff, County Executive's Office
Kelly Bablitch, Chief of Staff, County Board
Sup. Gerry Broderick, Chair, Parks, Energy & Environment Committee
Sup. Khalif Rainey, Vice-Chair, Parks, Energy & Environment Committee
Daniel Laurila, Fiscal Mgt. Analyst, Admin & Fiscal Affairs/DAS
Scott Manske, Comptroller, Office of the Comptroller
Alexis Gassenhuber, Parks, Energy & Environment Committee Clerk
Jessica Janz-McKnight, Research Analyst, Office of the Comptroller

File No. 14-
(Journal,)

(ITEM NO.) From the Director, Department of Parks, Recreation and Culture, seeking authorization accept a donation of art to be install in Boerner Botanical Gardens in Whitnall Park.

A RESOLUTION

WHEREAS, Mr. Richard Edelman is offering to make a gift of a permanently installed sculpture in conjunction with the 75th Anniversary of Boerner Botanical Gardens; and

WHEREAS, The steel sculpture is entitled "Sundial" and would be set on a poured foundation for stability and permanence; and

WHEREAS, sundials are traditional in landscape architecture and in botanical gardens; and

WHEREAS, the sculpture would not be calibrated to keep time; however, it will create an evocative reference to the movement of the sun and seasons; and

WHEREAS, the proposed installation site would be to the west of the Education and Visitor Center and to the south of the Circle and the Oval formal shapes in line with the west exit doors; and

WHEREAS, the Parks Director recommends that the DPRC be authorized to accept the donation of art to be installed in Boerner Botanical Gardens in Whitnall Park; now, therefore,

BE IT RESOLVED, that the Milwaukee County Board of Supervisors hereby authorizes the Parks Director to accept the donation of art to be installed in Boerner Botanical Gardens in Whitnall Park.

MILWAUKEE COUNTY FISCAL NOTE FORM

DATE: April 29, 2014

Original Fiscal Note ☒

Substitute Fiscal Note ☐

SUBJECT: Authorization to accept a donation of art to be installed in Boerner Botanical Gardens in Whitnall Park

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	0	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.

A. Seeking authorization to accept a donation of art.
B. None.
C. No impact.
D. None.

Department/Prepared By Laura Schloesser/DPRC

Authorized Signature _____

Did DAS-Fiscal Staff Review? ☐ Yes ☒ No

Did CBDP Review?[2] ☐ Yes ☐ No ☒ Not Required

[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
PARKS

CHRIS ABELE, MILWAUKEE COUNTY EXECUTIVE
JOHN DARGLE, JR., DIRECTOR OF PARKS, RECREATION AND CULTURE

Date: April 29, 2014

To: Gerry Broderick, Chair, Parks, Energy and Environment Committee

From: John Dargle, Jr., Department of Parks, Recreation and Culture

Subject: **Emerald Ash Borer Update – INFORMATIONAL**

ISSUE
The Department of Parks, Recreation and Culture (DPRC) presenting a verbal report on the Department's Emerald Ash Borer management efforts.

BACKGROUND
Since the destructive presence of the emerald ash borer, *Agrilus planipennis* Fairmaire, (EAB) was discovered in Michigan in 2002, governmental entities at every level, from federal to municipal, have been working to slow the movement of EAB and to curb the damage caused to tree populations it infests. EAB is 100% fatal to all ash (*Fraxinus*) species, healthy and stressed trees alike.

Ash is a prominent tree species in Milwaukee County. There are approximately 356,000 ash trees on parkland alone making up 24% of all Parks trees. About one-third of these trees (119,000) are located in areas of active recreation, including playgrounds, picnic areas, parkways, and athletic fields, while the rest are located in areas of passive recreation or natural areas. The effects of EAB range from loss of aesthetic and ecological values to hazardous trees posing a threat to public safety. Trees provide economic and ecological benefits to communities including substantial energy savings, removal of pollution from the air, and carbon storage.

In 2009, the Milwaukee County Parks Department created an EAB Preparedness Plan. The plan's goal is to minimize the impact of EAB using current scientific methods and efficient techniques at the lowest cost to the community. Objectives of the plan include:

- Educating DPRC staff and the Milwaukee County community on the signs and symptoms of EAB, as well as how EAB is spread to assist in the identification of an EAB infestation and to attempt to slow the spread of this pest.
- Continual monitoring for EAB by DPRC Land Resources staff during regular tree maintenance activities, and further investigation if EAB is suspected.

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- Continual assessment and management of the ash population.
- Replacement of removed ash with diverse tree species.
- Investigation for outside funding sources, including grants from various national and state sources.

RECOMMENDATION

No action requested. Informational item unless further action required.

Prepared by: Laura Schloesser, Chief of Administration and External Affairs

Recommended by:	**Approved by:**
Laura Schloesser, Chief of Administration and External Affairs	John Dargle, Jr., Director

copy: County Executive Chris Abele
Amber Moreen, Chief of Staff, County Executive's Office
Kelly Bablitch, Chief of Staff, County Board
Sup. Khalif Rainey, Vice-Chair, Parks, Energy & Environment Committee
Daniel Laurila, Fiscal Mgt. Analyst, Admin & Fiscal Affairs/DAS
Scott Manske, Comptroller, Office of the Comptroller
Alexis Gassenhuber, Parks, Energy & Environment Committee Clerk
Jessica Janz-McKnight, Research and Policy Analyst, Office of the Comptroller

MILWAUKEE COUNTY
PARKS

CHRIS ABELE, MILWAUKEE COUNTY EXECUTIVE
JOHN DARGLE, JR., DIRECTOR OF PARKS, RECREATION AND CULTURE

Date: April 29, 2014

To: Gerry Broderick, Chair, Parks, Energy and Environment Committee

From: John Dargle, Jr., Department of Parks, Recreation and Culture

Subject: **Rose Park Revitalization – INFORMATIONAL**

ISSUE
The Department of Parks, Recreation and Culture (DPRC) presenting a verbal report on a proposal by the Harambee Great Neighborhood Initiative (HGNI) to revitalize Rose Park.

BACKGROUND
HGNI has expressed great interest in partnering with the DPRC in revitalizing Rose Park. Rose Park, located at 3045 N. Martin Luther King Drive in Milwaukee, is home to Clinton and Bernice Rose Senior Center, a softball field, a wading pool, basketball courts, and a tot lot.

HGNI has partnered with the University of Wisconsin – Milwaukee Community Design Solutions to engage residents and stakeholders and prepare a concept plan for the park. After detailed discussions with the DPRC, HGNI is spearheading two initiatives in 2014 that include raised garden beds and a mural wall.

RECOMMENDATION
No action requested. Informational item unless further action required.

Prepared by: Laura Schloesser, Chief of Administration and External Affairs

Recommended by:

Laura Schloesser, Chief of Administration and External Affairs

Approved by:

John Dargle, Jr., Director

copy: County Executive Chris Abele

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Sup. Willie Johnson, Jr., District 13, County Board of Supervisors
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MILWAUKEE COUNTY
PARKS

CHRIS ABELE, MILWAUKEE COUNTY EXECUTIVE
JOHN DARGLE, JR., DIRECTOR OF PARKS, RECREATION AND CULTURE

Date: April 29, 2014

To: Gerry Broderick, Chair, Parks, Energy and Environment Committee

From: John Dargle, Jr., Department of Parks, Recreation and Culture

Subject: **Farm and Fish Hatchery – INFORMATIONAL**

ISSUE
The Department of Parks, Recreation and Culture (DPRC) presenting a verbal report on the status of the Farm and Fish Hatchery.

BACKGROUND
The Hunger Task Force (HTF) has been responsible for the operation and maintenance of the farm and fish hatchery since 2012. Recently, there have been some infrastructure issues requiring emergency repair and consideration and planning to identify near and long-term solutions. The DPRC, HTF, House of Corrections, and University of Wisconsin – Milwaukee School of Freshwater Sciences have all collaborated on solutions that will sustain the operation of both the farm and fish hatchery.

RECOMMENDATION
No action requested. Informational item unless further action required.

Prepared by: Guy Smith, Chief of Operations

Recommended by:

Laura Schloesser, Chief of
Administration and External Affairs

Approved by:

John Dargle, Jr., Director

copy: County Executive Chris Abele
Amber Moreen, Chief of Staff, County Executive's Office
Kelly Bablitch, Chief of Staff, County Board
Sup. Khalif Rainey, Vice-Chair, Parks, Energy & Environment Committee

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MILWAUKEE COUNTY
PARKS

CHRIS ABELE, MILWAUKEE COUNTY EXECUTIVE
JOHN DARGLE, JR., DIRECTOR OF PARKS, RECREATION AND CULTURE

Date: April 29, 2014

To: Gerry Broderick, Chair, Parks, Energy and Environment Committee

From: John Dargle, Jr., Director, Department of Parks, Recreation and Culture

Subject: **Capital Improvement Proposal for Hales Corners Park from the Friends of Hales Corners Park and Pool – INFORMATIONAL**

ISSUE

The Department of Parks, Recreation and Culture (DPRC) presenting a verbal report on a proposal from the Friends of Hales Corners Park and Pool for capital improvements for Hales Corners Park.

BACKGROUND

The Friends of Hales Corners Park and Pool (Friends) presented to the DPRC a proposal for the creation of an ice rink with related amenities within the park in honor of Hales Corners resident Alyson Dudek. Ms. Dudek is a short track speed skater who won a bronze medal in the 2010 Olympic Winter Games and participated in the 2014 Olympic Winter Games in Sochi, Russia.

The total project cost is estimated at approximately $225,000 and will include a 20,000 square foot temporary ice rink, an open air picnic shelter with restrooms and concession area, pathways, and lighting. The Friends are proposing naming rights for the improvements to recognize major donors and sponsors. The DPRC, along with the Friends, hosted a public information meeting on April 14 and attendees overwhelmingly supported the project.

The Friends installed a small temporary ice rink in the park this past winter with great participation and support from the community.

RECOMMENDATION

No action requested. Informational item unless further action required.

ADDRESS
9480 Watertown Plank Road
Wauwatosa, WI 53226-3560

PHONE/FAX
ph: **414 / 257 PARK** (7275)
fax: 414 / 257 6466

EMAIL
parks@milwcnty.com

WEBSITE
countyparks.com

Prepared by: Laura Schloesser, Chief of Administration and External Affairs

Recommended by:

Laura Schloesser, Chief of
Administration and External Affairs

Approved by:

John Dargle, Jr., Parks Director

copy: County Executive Chris Abele
Amber Moreen, Chief of Staff, County Executive's Office
Kelly Bablitch, Chief of Staff, County Board
Sup. Khalif Rainey, Vice-Chair, Parks, Energy & Environment Committee
Sup. Steve Taylor, District 9, County Board of Supervisors
Daniel Laurila, Fiscal Mgt. Analyst, Admin & Fiscal Affairs/DAS
Alexis Gassenhuber, Parks, Energy & Environment Committee Clerk
Jessica Janz-McKnight, Research and Policy Analyst, Office of the Comptroller
Scott Manske, Comptroller, Office of the Comptroller
Donald Schwartz, President, Friends of Hales Corners Park and Pool

MILWAUKEE COUNTY
PARKS

CHRIS ABELE, MILWAUKEE COUNTY EXECUTIVE
JOHN DARGLE, JR., DIRECTOR OF PARKS, RECREATION AND CULTURE

Date: April 29, 2014

To: Gerry Broderick, Chair, Parks, Energy and Environment Committee

From: John Dargle, Jr., Department of Parks, Recreation and Culture

Subject: **Mobile Beer Garden Proposal – INFORMATIONAL**

ISSUE
The Department of Parks, Recreation and Culture (DPRC) presenting a verbal report on a proposal to create a mobile beer garden.

BACKGROUND
In April 2014, the DPRC issued a Request for Proposal (RFP) for mobile beer garden operations. The guidelines set forth in the RFP were that the mobile beer garden would be located in approximately six (6) parks for two (2) weeks each. Vendors would provide the trailer, product, glassware, décor, and tables to accommodate 200 people. The vendor would also be responsible for moving the beer garden operation from one park to another. The DPRC would be responsible for planning, management, and operation of the mobile beer garden and will retain all revenue from the service. The DPRC is currently negotiating a vendor agreement.

RECOMMENDATION
No action requested. Informational item unless further action required.

Prepared by: Laura Schloesser, Chief of Administration and External Affairs

Recommended by:

Laura Schloesser, Chief of Administration and External Affairs

Approved by:

John Dargle, Jr., Director

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Scott Manske, Comptroller, Office of the Comptroller
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MILWAUKEE COUNTY
PARKS

CHRIS ABELE, MILWAUKEE COUNTY EXECUTIVE
JOHN DARGLE, JR., DIRECTOR OF PARKS, RECREATION AND CULTURE

Date: April 29, 2014

To: Gerry Broderick, Chair, Parks, Energy and Environment Committee

From: John Dargle, Jr., Director, Department of Parks, Recreation and Culture

Subject: **Estabrook Dam and Milwaukee River Clean-up – INFORMATIONAL**

ISSUE
The Department of Parks, Recreation and Culture (DPRC) presenting a verbal report on the status of the Estabrook Dam Rehabilitation project and Phase 2 of the Milwaukee River Channel Sediment project.

BACKGROUND
Completion of both of these projects is anticipated in 2014. Although these are two different projects with separate funding sources, both projects will impact the same general areas of Lincoln and Estabrook Parks within a similar time frame. The DPRC will take this opportunity to advise the Committee and answer questions on the current status, timeline, funding, and course of action related to these projects.

RECOMMENDATION
No action requested. This is an informational item unless further is action required.

Prepared by: Kevin Haley, Landscape Architect, Planning & Development Division

Recommended by:

Laura Schloesser, Chief of
Administration and External Affairs

Approved by:

John Dargle, Jr., Director

copy: County Executive Chris Abele
Amber Moreen, Chief of Staff, County Executive's Office
Kelly Bablitch, Chief of Staff, County Board
Sup. Khalif Rainey, Vice-Chair, Parks, Energy & Environment Committee
Daniel Laurila, Fiscal Mgt. Analyst, Admin & Fiscal Affairs/DAS

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Scott Manske, Comptroller, Office of the Comptroller
Alexis Gassenhuber, Parks, Energy & Environment Committee Clerk
Jessica Janz-McKnight, Research and Policy Analyst, Office of the Comptroller

COUNTY OF MILWAUKEE
INTEROFFICE COMMUNICATION

DATE : May 5, 2014

TO : County Executive Chris Abele
Milwaukee County Board Chairwoman Marina Dimitrijevic
Supervisor Gerry Broderick, Chairman, Parks, Energy and Environment Committee
Willie Johnson Jr., Co-Chair, Committee on Finance and Audit
David Cullen, Co-Chair, Committee on Finance and Audit

FROM : Charles Wikenhauser, Director, Zoological Department

SUBJECT : **Report on Impact of the WISDOT Zoo Interchange Reconstruction Project on Zoo Facilities and Operations and Approval of Proposed Mitigation Plans and Authorization to Enter Into an Agreement with WISDOT for the Acquisition of Land**

Issue
The Zoo Interchange reconstruction project will require the acquisition by WISDOT of various property interests, including approximately eight acres of Zoo property comprising a parking lot with 700 car capacity. Approval is requested of the Zoo's mitigation program including an auxiliary entrance for Zoo guests, parking facilities, and the relocation of entrance/exit drives and replacement of landscaping and the sale of the Zoo land to WISDOT.

Background
WISDOT plans for the reconstruction of the Zoo Interchange are impacting Zoo grounds, facilities, and operations. The plans also include the WISDOT's acquisition of the Zoo's easternmost parking lot with a capacity of 700 cars. Driveways and parking associated with the Zoofari Conference Center as well as the Zoo's entrance/exit drive will have to be reconfigured.

The Zoo engaged several professional consultants to develop plans for the parking lot replacement and a description of additional facilities needed to create an auxiliary entrance. Fortunately, the Zoo owns eight undeveloped acres on the western edge of the Zoo bordering HWY 100 and Bluemound Road.

Zoo staff has utilized the expertise of the outside legal counsel previously engaged by Milwaukee County to assist in negotiating with the WISDOT to obtain equitable compensation for the Zoo regarding the "cost to cure" all Zoo components impacted by the Zoo Interchange reconstruction project at an equivalent function and quality.

Zoo staff and outside counsel have met on several occasions with WISDOT and are close to finalizing a compensation package adequate to fund the attached cost to cure plan.

Recommendation

The Zoological Department Director recommends approval of the Zoo's mitigation plan and land sale to the WISDOT. It is anticipated that the compensation package will be final by the May 13, 2014 Parks, Energy and Environment Committee and an updated report seeking authorization to enter into an agreement with Wisconsin Department of Transportation will be submitted along with an updated fiscal note and resolution.

_____

Charles Wikenhauser
Director, Zoological Department

Attachments

pc: Supervisor Khalif Rainey, Vice-Chair, Parks, Energy and Environment Committee
Scott Manske, Comptroller
Raisa Koltun, Acting Chief of Staff, County Executive's Office
Kelly Bablitch, Chief of Staff, County Board
Josh Fudge, Fiscal and Budget Administrator, DAS
Steve Cady, Comptroller's Office, Research & Policy Director
Jessica Janz-McKnight, Comptroller's Office, Research Analyst
Daniel Laurila, DAS, Fiscal and Management Analyst
Vera Westphal, Deputy Zoo Director (Administration/Finance)

(Item)From the Director, Milwaukee County Zoo requesting approval of the Remediation Plan to cure the effects of the Wisconsin Department of Transportation (WISDOT) Zoo Freeway Project on the Milwaukee County Zoo.

A RESOLUTION

WHEREAS, WISDOT has been legislatively authorized to reconstruct the Zoo Freeway Interchange by the State of Wisconsin and by the Federal Highway Administration (FHWA) under various state and federal statutes and codes; and

WHEREAS, WISDOT plans for the renovation of the Zoo Interchange are impacting Zoo grounds, facilities, and operations. The plans also include the WISDOT's acquisition of the Zoo's easternmost parking lot with a capacity of 700 cars. Driveways and parking associated with the Zoofari Conference Center as well as the Zoo's entrance/exit drive will have to be reconfigured; and

WHEREAS, The Zoo engaged several professional consultants to develop plans for the parking lot replacement and a description of additional facilities needed to create an auxiliary entrance; and

WHEREAS, The Zoo recommends proceeding to implement the aforesaid plans; and

WHEREAS, Negotiations are ongoing with WISDOT and the latest offer by WISDOT will provide sufficient funds to implement most of the aforesaid plans; and

WHEREAS, If negotiations are unsuccessful, WISDOT will acquire the Zoo property needed by Award, and pay the amount of the Award to County, with County then having a right to appeal the amount; now, therefore,

BE IT RESOLVED, (1) If an Award is made, the Zoo may use the Award funds paid to the County to implement the Remediation Plan, to the extent of such funds paid. (2) If an additional Award is recovered on appeal, the Zoo may use such funds to complete the Remediation Plan, to the extent of such funds paid; and

BE IT FURTHER RESOLVED, that the Department of Administrative Services is authorized to process a 2014 Administrative Fund Transfer and establish expenditure authority for the respective Zoo remediation projects.

MILWAUKEE COUNTY FISCAL NOTE FORM

DATE: May 5, 2014

Original Fiscal Note ☒

Substitute Fiscal Note ☐

SUBJECT: Report on Impact of the WISDOT Zoo Interchange Reconstruction Project on Zoo Facilities and Operations and Authorization to Enter Into an Agreement with WISDOT for the Acquisition of Land

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	0	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.

A. The Zoological Department Director is requesting authorization to enter into an agreement with the Wisconsin Department of Transportation (WISDOT) for the acquisition of land and approval for the Zoo's mitigation plan as part of the Zoo Interchange Reconstruction project. As part of entering into this agreement, expenditure and revenue authority will be created for the mitigation project. It is anticipated that the compensation package from the WISDOT will be final for the May 13 meeting of the Parks, Energy and Environment Committee and a revised fiscal note will be submitted.

B. The Zoo's cost to cure program is estimated at $8,087,115. Attached is a breakdown of areas affected by the land sale and the associated cost to cure.

C. Revenues anticipated from the land sale to the WISDOT will cover all mitigation plans.

D. Zoo staff has engaged several professional consultants to develop plans for the parking lot replacement and a description of additional facilities needed to create an auxiliary entrance. Zoo staff also worked with contractors and other professionals to develop costs for the other areas that will be impacted by the construction of the Zoo Interchange.

Department/Prepared By Vera Westphal, Deputy Zoo Director

Authorized Signature _____

Did DAS-Fiscal Staff Review? ☐ Yes ☒ No

Did CBDP Review?[2] ☐ Yes ☐ No ☒ Not Required

[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.

[2] Community Business Development Partners' review is required on all professional service and public work construction contracts.

Cost to Cure

5/5/2014

- Zoofari Conference Center Parking & Access Drive
    - Asphalt southwest corner of property to replace 37 parking spaces lost to acquired right of way: $160,000
    - New access drive to Zoo exit drive: $23,340
    - New electronic 24 foot wide slide gate with operator equipment: $10,500
    - **Total: $193,840**
- Parking Lot #4 Access Alteration
    - Partial removal of landscape island and restoration of road: $30,856
    - New lot #4 road to WE Energies property: $31,876
    - New access gate and fencing to WE Energies property from lot #4: $36,000
    - **Total: $98,732**
- Hoof Stock Isolation/Quarantine Facilities
    - Concrete Pad: $10,000
    - Plumbing – Trench drain with grates and 4" sanitary sewer 150 feet away: $24,960
    - Pole barn cover (to meet code): $30,849 purchase price
    - Pole barn installation: $25,000
    - Asphalt roadway: $5,997
    - **Total: $96,806**
- Railroad Track Replacement
    - Original work quote: $28,150
    - Additional work due to DOT contractor damage: $5,550
    - **Total: $33,700**
- Reconfiguration of Point of Sale System Due to New Admission Facilities at West Side of Property
    - Existing Hardware updates: $142,560
    - New equipment: $213,010
    - Installation and training: $91,255
    - Extra hardware and software for back-up/A La Carte: $93,270
    - Contingency: $67,787
    - **Total: $607,882**
- New Parking Lot (Sigma estimate): $2,655,594
- New Entry Complex (PGAV estimate): $2,760,000
- Sense of Arrival (PGAV estimate): $70,000

DRAFT

- Entry Area Exhibit (PGAV estimate): $1,410,000
- Picnic Area (PGAV estimate): $90,000
- TADI Traffic Study: $15,756
- Sigma Preliminary Parking Lot Design: $8994.86
- PGAV West Entrance Conceptual Design: $45,810
- **Zoo Cost to Cure Grand Total: $8,087,115**
  5/5/2014

DRAFT

FILE NAME : 00....design\file....00 PLOT DATE : 00...plotting date...00 PLOT BY : mjain PLOT NAME : PLOT SCALE : 00.....plot scale.....00 WISDOT/CADOS SHEET 42

Milwaukee County Zoo
10001 W. Blue Mound Road
Milwaukee, WI 53226
milwaukeezoo.org
414.771.3040
Blue Mound Rd.
Parking Lot
Parking Lot
West Entrance
N
Walk-In Entrance
Drive-In Entrance
Exit
Zoofari Conference Center
Zebra Parking Lot
ENTRANCE
Giraffe Parking Lot
Briggs & Stratton Big Backyard at Zoo Terrace
Elephant Parking Lot
Lion Parking Lot
New Freeway
East Parking Lot
New Freeway
Sea Lion Show
Birds
Swan
Primates
Apes
Welcome Center
Small Mammals
Grizzly Bear
Elk
Prairie Dogs
Sky Safari
Pony Rides
African Waterhole
Lion
Big Cats
South America
African Savanna
Bongo
Camel
Tapir
Rhino
Elephant
Giraffe
Family Farm
Barnyard
Goat Yard
Petting Farm
Camel Ride
Education
Maple Cove
Little Oak
Oak Grove
Lake Evinrude
Polar Bear
Moose
Wolf Woods
Brown Bear
Dall Sheep
Kangaroo
Emu
Australia
Brown Bear Den
Australian Outback

Milwaukee County
Zoo

MILWAUKEE COUNTY ZOO
WEST ENTRANCE

COUNTY ZOO
SNACKS
GIFT SHOP