

Weather Permitting: The Road Entrance to Village Hall and Library from Mequon Road may be under construction on June 3rd and June 4th. On Monday, there will be intermittent closures and reduced driving access. Division Street Road Entrance should be utilized during this construction time. The Front Building Entrances to Village Hall and Library will continue to be open during normal business hours and Meeting Times.

**VILLAGE OF GERMANTOWN
N112 W17001 MEQUON ROAD
GERMANTOWN, WI 53022**

MEETING: REGULAR MEETING OF THE VILLAGE BOARD

DATE AND TIME: MONDAY, June 3, 2019 7:00 p.m.

LOCATION: Germantown Village Hall Board Room

- I. **CALL TO ORDER:** *This meeting has been given public notice in accordance with Section 19.83 and 19.84, Wis. Stats, in such form that will apprise the general public and news media of subject matter that is intended for consideration and action.*
- II. **ROLL CALL:**
- III. **PLEDGE OF ALLEGIANCE:**
- IV. **PRESIDENT'S REPORT:**
- V. **ANNOUNCEMENTS OF FORTHCOMING EVENTS OF PUBLIC INTEREST**
COMMITTEE AND DEPARTMENT REPORTS:
The following individuals will be given the opportunity to make announcements of future municipal activities: Village President, Village Board Members, Village Administrator, Village Attorney, Village Clerk, And Department Heads.

Fire Chief Commendations for Police Officers Darren von Bereghy, Matthew Jones, and Jared Spreiter.
- VI. **CITIZEN INPUT/PUBLIC APPEARANCE on items not subject to a public hearing:**
Please be advised per §19.84(2), information will be received from the public. It is the policy of this municipality that there be a three (3) minute time period, per person, with time extension per the Chief Presiding Officer's discretion; be further advised that there may be limited discussion on the information received, however, no action will be taken under public comments. (15 minutes)
- VII. **CONSENT AGENDA:**
 - A. Approval of Minutes: May 20, 2019 Regular Village Board Meeting.
 - B. Accounts payable/payroll
 1. May 25, 2019 Accounts Payable \$ 880,468.34
 2. May 28, 2019 Payroll (Hourly) \$ 232,472.38
 3. May 31, 2019 Payroll (Salary) \$ 109,115.99
 4. May 31, 2019 Accounts Payable \$ 223,510.40
 - C. Operator's Licenses: Mary Erickson, Kailee Garstecki, Rick Perry, McKenzie Poetzel [Recommendation Forthcoming]
 - D. Operator's Licenses: Kelly Passig and Tracy Tennes. [Recommended Denial]

VIII. OLD BUSINESS:

- A. Water Rate Increase Study.
- B. Reconsideration of Resolution 19-2019, Approve Facility Usage Agreement Between the Village and School District.

IX. PUBLIC HEARING:

- A. None.

X. NEW BUSINESS:

- A. Class “B” Fermented Malt Beverage and “Class B” Liquor License, July 1, 2019 – June 30, 2020, for Das Barrel Room, LLC, W201N10466 Appleton Ave, Mark Brooks Agent.

Premise license approvals are conditional upon completion of all documentation, compliance of all code violations/permits/ requirements and monies owed to the village paid prior to issuance of licenses in addition to any other conditions noted.
- B. Application For Fireworks User Permit, July 4th At Fireman’s Park – Lynn Grgich, Kiwanis. Operator: Wolverine Fireworks Display.
- C. Kiwanis of Germantown, Picnic License, Temporary Class “B” Fermented Malt Beverage for Fireworks, July 4, Firemen’s Park, Northside of Gehl’s Performing Arts Pavilion.
- D. Kiwanis of Germantown, Picnic License, Temporary Class “B” Fermented Malt Beverage for Taste of Germantown, July 25, Firemen’s Park, Northside of Gehl’s Performing Arts Pavilion.

XI. ADJOURNMENT.

The next regular meeting of the Village Board will be on Monday, June 17, 2019 at 7:00 p.m.

UPON REASONABLE NOTICE, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For Additional information or to request this service please contact the Village Clerk at (262)250-4740 at least 2 days prior to the meeting.

**VILLAGE OF GERMANTOWN
VILLAGE BOARD MEETING MINUTES
May 20, 2019**

CALL TO ORDER: The meeting was called to order at 7:00 p.m. by President Wolter.

ROLL CALL: Present: President Wolter, Trustees Baum, Hughes, Kaminski, Miller, Myers, Warren, Wing and Zabel. Also present: Administrator Kreklow, Police Chief Hoell, Director Rath, Clerk Braunschweig, Attorney Sajdak, Director Ratayczak, Director Schroeder, and Manager Tucker.

PLEDGE OF ALLEGIANCE:

PRESIDENT'S REPORT:

President Wolter thanked Eagle Scout Cole Navin for the invitation to the Eagle Scout Ceremony. He is glad to attend and issue a proclamation of achievement.

ANNOUNCEMENTS OF FORTHCOMING EVENTS OF PUBLIC

INTEREST/DEPARTMENT AND COMMITTEE REPORTS:

Director Schroeder announced the upcoming concert series to be held at the Gehl's Performing Arts Pavilion in Firemen's Park on the following Thursdays: June 13th, June 27th, July 11th, August 8th, and August 22nd. This will include Live Music, Food Trucks, and Beer Garden. Trustees provided information on upcoming meeting dates and times.

CITIZEN INPUT/PUBLIC APPEARANCE on items not subject to a public hearing:

Chris Yatchak of Brownstone Court came to the podium. In recognition of those that died serving our Country in the Military, the American Legion Post will honor their service on Memorial Day, May 27th. Starting at 10 a.m. the Squad will visit the six cemeteries. This will be followed by a Ceremony at the Veterans Memorial starting at 11 a.m. A lunch will be held at Post 1.

CONSENT AGENDA:

- A. Approval of Minutes: May 6, 2019, Regular Meeting.
- B. Accounts payable/payroll
 - 1. May 10, 2019 Accounts Payable \$ 827,818.50
 - 2. May 12, 2019 Payroll (Hourly) \$ 227,812.75
 - 3. May 15, 2019 Payroll (Salary) \$ 110,132.98
- C. Operator's Licenses: Victoria Ahrens, Mark Brooks, Kristina Busniewski, Margaret Casey, Bridget DeLeon, Natali Espinoza, Ian Haynes, Nicholas Koeppler, Rae Koppelman, Tayla Lofton, Ruth Lunde, Pamela Martinez, Vickie Matt, Rebecca McCann, Tammy Menos, April Middleton, Claire O'Brien, Barbara Peters, Ray Maiorano, Gina Roadhouse, Cynthia Singsheim, Rebecca Ulick, Ashley Welnicke, [Recommended]

The following items were forwarded from **Public Works** with a unanimous recommendation.

- D. Resolution 33-2019 Contract with Lanzo Trenchless Technologies North, Inc., for the Cured in Place pipe lining of inceptor sewer in an amount not to exceed \$2,512,425, which includes \$228,400 of contingency.
- E. Obtain Consulting Services to Assist Staff with the Private Property Infiltration / Inflow (PPI&I) program including but not limited to Preparing plans and Specifications and Bidding the Project in an amount not to exceed \$20,000.
- F. Resolution 34-2019 Contract with R.A. Smith, for the Park Avenue Improvement Project in an amount not to exceed \$93,000.

- G. Resolution 35-2019 Contract with GRaEF for Additional Modeling to the Stormwater Quality Management Plan, in an amount not to exceed \$15,750.

The following items were forwarded from **Public Safety** with a unanimous recommendation.

- H. Police Department – Purchase Request for 2nd K-9 Unit.

MOTION (Baum/Myers) to approve Consent Agenda Items A-H. Roll Call Vote Carried Unanimously.

OLD BUSINESS:

None.

PUBLIC HEARING:

None.

NEW BUSINESS:

Ehlers – Long Term Debt Plan.

Administrator Kreklow introduced the item. Maureen Holsen of Ehlers came to the podium to present detail of the Long Term Debt Plan. She reviewed the current general obligation debt and levy. Future Borrowing Plans were reviewed for Legacy Building Projects for public buildings such as the Police Department Building and Public Works Building. Considerations included a projected capital improvement cost growth of 2% per year and annual property growth of 3% per year. The TID No. 4 Closure was also considered. Administrator Kreklow commented that the planning was done to view ways to finance the legacy buildings with minimal impact to property owners. Director Rath reported on the application of reserve fund balance during the appropriate years for planning purposes.

Resolution 36-2019, Resolution to Declare Official intent Under Reimbursement Bond Regulations.

MOTION (Baum/Kaminski) to approve Resolution 36-2019, Resolution to Declare Official intent Under Reimbursement Bond Regulations. Administrator Kreklow explained that the resolution will allow the Village to expend funds on planned projects such as the Gateway Park project and other sewer projects. The bonds will be issued later this year. Phil Cosson of Ehlers reported that the resolution does not obligate the Village but allows the Village to re-coop costs. Roll Call Vote Carried Unanimously.

Resolution 37-2019, Resolution to contract with Wolverine Fireworks Display for July 4th Fireworks, in an amount not to exceed \$14,862.50, Kiwanis contributing \$7,431

MOTION (Baum/Zabel) to approve Resolution 37-2019, Resolution to contract with Wolverine Fireworks Display for July 4th Fireworks, in an amount not to exceed \$14,862.50, Kiwanis contributing \$7,431. Roll Call Vote Carried Unanimously.

Resolution 38-2019, Weidenbach Park Playground Equipment Purchase & Installation - Approval of Contract.

MOTION (Baum/Miller) to approve Resolution 38-2019, Weidenbach Park Playground Equipment Purchase & Installation - Approval of Contract. Roll Call Vote Carried Unanimously.

Resolution 39-2019, Approving the Appointment of Interim Judge for the Mid-Moraine Municipal Court.

MOTION (Zabel/Myers) to approve Resolution 39-2019, Approving the Appointment of Interim Judge for the Mid-Moraine Municipal Court. Motion Carried Unanimously.

Waive Sewer Connection Fee for the Proposed Precinct Restaurant and refund of \$2,048.64 of sewer connection Fee.

MOTION (Zabel/Miller) to approve Waive Sewer Connection Fee for the Proposed Precinct Restaurant in the amount as recommended by staff.

Trustee Kaminski reported that it was a split vote at Public Works. She commented on a Village Ordinance Change to allow the ability to assist businesses.

Trustee Zabel commented that the fee is similar to an impact fee that has already been paid.

Trustee Wing commented on the sewer connection fee and the history of various uses of the building.

Jody Kanzenbach came to the podium. She is a new owner to the building; the other two partners have owned the building previously. The fee is new to her.

Director Ratayczak came to the podium. He reported that Gehls contributed approximately 50% of the project for new sanitary sewer to the relay cost. The MMSD has a rating table to use that is based on typical use. That is where the valuation comes from.

Trustee Kaminski questioned if there is something that can be done such as an enterprise zone.

Attorney Sajdak reported that the best approach would be to postpone and look at the code / enterprise zone and bring it back.

Director Ratayczak proposed 25% of the fee to not hold up the remodeling. \$2,048.64 has been paid as they do have the building permit.

Trustee Kaminski suggested to give the options of a payment plan. Attorney Sajdak advised that this is no different than deviating from the code.

Attorney Sajdak reviewed the code and suggested to change the code.

Roll Call Vote Carried. Baum, Hughes, and Kaminski voted no.

Resolution 40-2019, Woodland Ponds Estates Development Agreement.

MOTION (Baum/Zabel) to approve Resolution 40-2019, Woodland Ponds Estates Development Agreement.

Zabel questioned if the Elm Lane dollars had been worked out.

David Leszczynski came to the podium. He reported he is okay with language he received today.

He commented on the proportionate funding as he had not heard from the Board in regards to proportionate funding until the last meeting.

Attorney Sajdak reported on the subdivision code stating that the developer is responsible for road construction. The issue is that there is a road in need of reconstruction. This is the approach that has been discussed. This is similar to the Harvest Hills Development.

AMENDMENT MOTION(Baum/Zabel) amend section 1.05 to reflect a per lot payment as discussed in language acceptable to the Village Attorney. Motion Carried Unanimously. Original Motion as Amended Carried Unanimously.

License Renewals: All premise license recommendations / approvals to be conditional upon completion of all documentation, compliance of all code violations/requirements and monies owed to the village paid prior to issuance of licenses in addition to any other conditions noted.

RENEWALS: "Class B" Fermented Malt Beverage and Intoxicating Liquor Licenses:

Aldo's Pizza & Pub, LLC, Dwayne Ketterer, Agent, 584 Jordan Circle, Colgate, d/b/a **Aldo's Pizza & Pub**, W156 N11058 Pilgrim Rd. Includes an outside dining area of approximately 30 feet in front of building to be open until 10:00 p.m.

Barley Pop Brew Haus, LLC, Deborah Reinbold, Agent, 1388 Parkview Dr, Hubertus, d/b/a **Barley Pop Pub & Restaurant**, N116 W16137 Main Street. Includes outside beer garden located on North Side of Building. During July 4 parade beginning at 11 am outside extension from east end of building to western end to sidewalk.

Blackstone Creek Golf Club Ltd., Troy D. Schmidt, Agent, N105 W14467 Wilson Circle, d/b/a **Blackstone Creek Golf Club**, N112 W17300 Mequon Road. Includes golf course property of 156 acres.

BSC Wisconsin LLC, Eric D Schroeder, Agent, 4619 W Bluemound Ct, Milwaukee, d/b/a **Big Sky Country**, W204 N11498 Goldendale Rd. Includes 8' x 55' outside patio on side open until 10:00 p.m.

Bubs on Main, LLC, Scott H. Pecor, Agent, 306 W. Ravine Baye, Bayside, d/b/a **Bubs Irish Pub**, N116 W16218 Main St. Bar and Banquet Hall.

Blazin Wings, Inc., Frank Arena, Agent, 14565 W Janice Place, New Berlin, d/b/a **Buffalo Wild Wings**, N96 W17990 County Line Rd. Includes attached patio with hours restricted between 10:00 p.m. and 8:00 a.m. (Reserve)

Maple Road, LLC, Boro Buzdum, Agent, 1804 Barton Ave., West Bend, d/b/a **Buzdum's Pub & Grill**, W188 N10515 Maple Rd. First Floor, Basement, and outdoor patio area.

ERJ Dining III, LLC, Paul S. Thompson, Agent, 7188 W Fox Haven Court, Franklin, WI 53132, d/b/a **Chili's Grill & Bar**, N96 W18640 County Line Rd. Dining and Bar Areas.

Eastern Kettle Moraine Moose Lodge 1238, Dan Walk, Agent, W211 N11863 Hilltop, d/b/a **E.K.M. Moose Lodge 1238**, W198 N10217 Appleton Ave., Germantown. (includes outside pavilion 22' x 20', and open area for Lodge picnics including buildings to be open until 10:00 p.m., 480' x 525' grounds area).

Florian Park, Inc., Ryan Rahl, Agent, 311 Preserve Way, Colgate, WI 53017, d/b/a **Florian Park Conference & Event Center**, N111 W18611 Mequon Rd, Germantown. Includes outside premise Willow Path, Willow Gardens, and Willow Point on south end of Willow Pond to be open until 10:00 p.m. and outdoor designated smoking area to the north of property.

KJ's Bar & Grill, Gerald Louis Wagner, Agent, N112 W21209 Mequon Rd., dba **KJ's Bar & Grill**, N112 W21209 Mequon Rd. Bar, Basement and 20x25 outside deck.

Germantown American Legion Post #1, Inc., James A. Heimann, Agent, 2584 Country Aire, Cedarburg, d/b/a **Germantown American Legion Post #1**, N120 W15932 Freistadt Rd. Hall, Bar, Lounge, Walk In Cooler.

JK GAM, LLC, Jon R. Gamroth, Agent, N104 W15303 Donges Bay Rd, d/b/a **Gamroth's Kuhburg Junction**, W140 N10385 Fond du Lac Ave. Bar Area, Liquor Room, and Office.

Northridge Automotive Enterprises, Inc., David L. Iverson, Agent, N166 W19523 Ravens Way, Jackson, d/b/a **Ivee's at Main**, W157 N11618 Fond du Lac Ave. Includes outside patio in front of building until 10:00 p.m.

Lone Star, LLC, Karen Ann Pritzlaff, Agent, W204 N11912 Goldendale Rd., d/b/a **Lone Star**, W204 N11912 Goldendale Rd. Includes horseshoe courts, path, outside fenced area to be open until 10:00 p.m., and outside front porch area.

Mama Mia's – Port, Inc. Jude Barbieri, Agent, 12205 Bonniwell Rd, Mequon, d/b/a **Mama Mia's**, N112W16344 Mequon Road. Restaurant, Bar, Liquor Closet, and Beer Cooler.

Marko's Pizza II Inc., Ken Ubert, Agent, 3943 Rosie Court, Colgate, d/b/a **Marko's Pizza II**, W156 N9664 Pilgrim Rd. First Floor Restaurant and Dining Area.

Metro Cigars, LLC, Jennifer Lynn Groh, Agent, 1671 Holy Hill Lane, Hubertus, d/b/a **Metro Cigars, LLC**, N102W19455 Willow Creek Way. 3,760 Sq Foot Building with 400 Sq Foot Outdoor Patio.

Old Town WI, LLC, Brian A. Meyer, Agent, N26 W30227 Maple Ave., d/b/a **Jerry's Old Town**, N116 W15841 Main Street. Building and includes outdoor deck open until 10:00 p.m.

The Precinct, Jodi Kazenbach, Agent, 709 S 2nd Ave, West Bend, **The Precinct**, W16N11629 Church Street, Germantown. Locked Basement, Bar Area, Dining Room, Outdoor Patio.

Robin L. Bird, LLC, Robin L. Bird, Agent, W188 N13367 Maple Rd, Richfield, d/b/a **Sports Corner Bar & Grill**, W187 N12793 Fond du Lac Avenue. Includes outside volleyball courts and smoking room to be open until 10:00 p.m.

ST1X Golf Entertainment, W164 N11271 Squire Dr., Agent, Robert Stafford 13985 N. Pine Bluff Rd., Mequon; Owners, Daniel Hughes and Ryan Hughes of N108 W6905 Berkshire St., Cedarburg. 4,300 Sq Foot Building, All Rooms, Including Storage, Office, Bar, Dining Area, Kitchen, Open Floor Plan.
Christine A. Brockman, W157 N11638 Fond du Lac Avenue, d/b/a **Tiny T's**, W157 N11638 Fond du Lac Avenue, Germantown, WI 53022. Bar, Basement, outside fenced in premise for 4th of July.
WI Bier Stube LLC, Brian A. Meyer, Agent, N26 W30227 Maple Ave., d/b/a **Von Rothenburg Bier Stube**, N116 W15863 Main Street. Main Building, Garage and includes outside fenced beer garden extended to parking lot open until 10:00 p.m.

MOTION (Myers/Baum) to approve "Class B" Fermented Malt Beverage and Intoxicating Liquor Licenses. Motion carried. Wing Abstained.

Class "B" Fermented Malt Beverage and "Class C" Wine Licenses

Zhengren Zheng, N111 W16424 Esquire Ct., d/b/a **China Kitchen**, N112 W16560 Mequon Rd. Dining Room.
Hung Hao LLC, Hung D. Lu, Agent, N109 W12628 Coneflower Cir., d/b/a **Hung Hao Restaurant**, N112 W15800 Mequon Rd. Dining Room, Coolers, Storage Room.
MC Roadhouse LLC, Matthw Roadhouse, W160N10544 Old Farm Rd, **Swingtime**, W197N10340 Appleton Ave. Includes 12 acres of property, buildings and back room.

MOTION (Baum/Miller) to approve Class "B" Fermented Malt Beverage and "Class C" Wine Licenses. Motion carried unanimously.

"Class B" (wine only) Winery License and Class "B" Fermented Malt Beverage

Apple Works Winery LLC, Kevin H. Behnke, Agent, W179 N12536 Fond Du Lac Ave., d/b/a **Apple Works Winery/Behnke Estates**, W179 N12536 Fond Du Lac Ave. (Includes an Outside Premise Extension which includes an outdoor patio area and tent.)

MOTION (Kaminski/Baum) to approve "Class B" (wine only) Winery License and Class "B" Fermented Malt Beverage. Motion carried unanimously.

"Class A" Fermented Malt Beverage and Intoxicating Liquor Licenses

Aldi Inc., Michelle Kind, Agent, 5230 State Rd. 167, Hubertus, d/b/a **Aldi #67**, N96 W18838 County Line Rd. Single Story Brick Bldg, Grocery Store.

Cost Plus, Inc., Heather Lazar, Agent, 443 E Dover St., Milwaukee, d/b/a **Cost Plus World Market**, N96 W18970 County Line Rd. Left rear of store and back stock room.

Colgate Gas, Inc., Didar Singh, Agent, W150 N7248 Paseo Lane, Menomonee Falls, d/b/a **County Line BP**, N96 W21962 County Line Rd.

Kwik Trip, Inc., Kimberly Kuecker, Agent, 320 N German St. Mayville, d/b/a **Kwik Trip #631**, W188 N10963 Maple Rd. Sales Floor and Behind Counter.

Ultra Mart Foods, LLC., Jared Beilke, Agent, N89W15640 Cleveland Ave, Menomonee Falls, Cedarburg, d/b/a **Pick 'n Save #6357**, N112 W16200 Mequon Rd. Includes exterior parking stalls designated for on-line grocery pick up.

B&B Inc of Milwaukee, Asif Vadsaria, Agent, W151 N11492 Potomac Cir., dba **Quick Pick Food Mart**, N128 W21760 Holy Hill Rd.

Sendik's Germantown LLC, Theodore Balistreri, Agent, 5566 N. Diversey Blvd., Whitefish Bay, d/b/a **Sendik's Food Market**, N112 W15800 Mequon Rd. Includes exterior parking stalls designated for on-line grocery pick up.

Speedway, LLC, Richard Eastham, Agent, 2958 S. 90th St, West Allis, d/b/a **Speedway #4465**, W178 N9653 Riversbend Lane.

Speedway, LLC, Dawn Reith, Agent, N75 W222586 Cherry Hill Rd., Sussex, d/b/a **Speedway #4495**, W164 N11233 Squire Dr.

Walgreen Co., Vickie Matt, Agent, 1411 Deer Trail Ct., Hubertus, d/b/a **Walgreens #05427**, W156 N11261 Pilgrim Rd.

Wal-Mart Stores East, LP, Kimberly Kuecker, Agent, 3115 Lilly Rd., Brookfield; d/b/a **Wal-Mart #1515**, W190 N9855 Appleton Ave. Includes outside parking lot specifically designated for on-line grocery pick up.

NSM Enterprises LLC, Naseem Abbas, Agent, N114 W15775 Sylvan Ct, #2, d/b/a Willow Creek BP, W201 N10451 Appleton Ave.

MOTION (Myers/Baum) to approve "Class A" Fermented Malt Beverage and Intoxicating Liquor Licenses. Motion carried unanimously.

Meridian Germantown LLC / Wal-Mart Stores, Inc claim of excessive real estate tax. The Village Board may convene into closed session per Wis. Stats. §19.85(1)(g) for the purpose of conferring with Legal Counsel who is rendering advice concerning strategy to be adopted by the Village with respect to litigation in which it is involved or is likely to become involved and then may reconvene into open session to take such action as it deems appropriate; and,

Resolution 41-2019, Village Board Support of Improvements to Public Works Facilities to Address Storm Water Pollution Prevention Requirements, DNR Notice of Violation. The Village Board may convene into closed session per Wis. Stats. §19.85(1)(g) for the purpose of conferring with Legal Counsel who is rendering advice concerning strategy to be adopted by the Village with respect to litigation in which it is involved or is likely to become involved and then may reconvene into open session to take such action as it deems appropriate.

Motion by Myers, second by Baum to go into closed session and include the Village Board, Village Attorney, Administrator Kreklow, and Clerk Braunschweig at 8:56 P.M.

Attorney Sajdak advised that the Board could motion to come out of closed session prior to going to the second closed session.

Attorney Jason Gehr and Director Rath were included for the Meridian Germantown LLC discussion from 8:56 P.M. to 9:16 P.M. Director Ratayczak and Engineer Nitschke were included for Resolution 41-2019 discussion from 9:16 P.M. to 9:45 P.M.

Motion Carried Unanimously.

The Village Board Reconvened in open session at 9:45 P.M.

MOTION (Baum/Myers) In Regards to the Meridian Germantown LLC / Wal-Mart Stores Inc. claim of excessive real estate tax, to proceed as discussed in closed session. Motion carried unanimously.

MOTION (Baum/Zabel) to approve Resolution 41-2019, Village Board Support of Improvements to Public Works Facilities to Address Storm Water Pollution Prevention Requirements. Motion carried unanimously.

ADJOURNMENT.

ADJOURNMENT: There being no further business, the meeting adjourned at 9:46 p.m.

The next regular meeting of the Village Board will be on Monday, June 3, 2019 at 7:00 p.m.

Respectfully Submitted,
Deanna B. Braunschweig, WCMC/CMC
Village Clerk



Germantown Water Rate Discussion June, 2019



The information provided here is of a general nature and is not intended to address the specific circumstances of any individual or entity. In specific circumstances, the services of a professional should be sought. Tax information, if any, contained in this communication was not intended or written to be used by any person for the purpose of avoiding penalties, nor should such information be construed as an opinion upon which any person may rely. The intended recipients of this communication and any attachments are not subject to any limitation on the disclosure of the tax treatment or tax structure of any transaction or matter that is the subject of this communication and any attachments. Baker Tilly Virchow Krause, LLP trading as Baker Tilly is a member of the global network of Baker Tilly International Ltd., the members of which are separate and independent legal entities. © 2018 Baker Tilly Virchow Krause, LLP



Conservation Rates

Pro's

- PSC encourages, (but does not require)
- PSC will ask what conservation measures the Village has undertaken in the Construction Authorization process for the new well
- Sends a pricing signal to encourage conservation

Con's

- PSC requires a special annual report to measure effectiveness of your conservation efforts
- Common approved methods have minimal impact
- Costs of a utility are fairly fixed. Lower volume creates need for a higher volume rate
- Impacts customers differently
- Depending on the type of program, special metering might be required (or at a minimum a special demand analysis).

Types of Conservation in WI (in addition to general education)

Conservation Rates

Intended to send pricing signal to customers to encourage conservation.

Of over 530 utilities, 51 have some sort of conservation rates (refer to handout – map of WI). Most of these utilities have only set conservation rates for residential customers.

Rebates

Utilities, sometimes along with a wastewater utility, offer rebates if customers install certain approved water efficient toilets and other appliances.

Refer to handout – map of WI utilities offering rebates.

Conservation Rates

Types of rate options:

- Declining, current standard. Unit rate declines as the volume of water increases. Industry standard with engineering basis for the decrease in unit cost the more volume is used.
- Flat, moving from a declining unit rate to a flat (uniform) rate regardless of how much water is billed.
- Inclining, increase the unit cost as the volume of water increases.
- Irrigation rate, charging a higher rate for volume used for sprinkling for those with a second water meter.

WI utility Residential
Class Rate
Breakdown:

Residential		
Declining		529
Declining w/irrigation		2
Flat		37
Inclining		12

Non-Residential Conservation Rates

- The majority of utilities with conservation rates, only apply those rates to residential (and sometimes, the multifamily) rate classes.
- While there are 12 WI utilities that have an Inclining Rate for the residential class, there are NO utilities with an inclining rate structure for non-residential customer classes.
- If conservation rates are applied to the non-residential classes, flat or uniform rate is the option.
- Of A/B utilities in South/Southeastern WI with conservation rates, only Madison and Brookfield have a non-residential flat rate. All others continue the declining rate structure for the non-residential class (see spreadsheet with details).

Summary of Discussion with Staff

1. Moving to a Flat Non-residential Charge is uncommon.
 - A. Most utilities that have conservation rates only apply those rates to residential customer classes.
 - B. There are no utilities that have an inclining rate block.
 - C. Analysis of the southern/southeastern utilities that have conservation rates found only two that have a flat vs. declining rate block for non-residential classes. Of those two, Brookfield is the only true uniform rate with no rate difference between classes.
 - D. Madison has different rates for each class. Madison has demand data through their smart meters that provides that data. The Village does not have access to that data so the Madison method is not an option. Therefore, all classes of non-residential customers would be treated the same. Some customers will see a large increase in billings, some will see a decrease. Equity or impact on your customer base would not be determined until the PSC completed it's analysis.
 - E. Based on the limited number of utilities using the flat rate for conservation and the unknown related to fairness between customers staff recommends not moving to a flat rate for non-residential customer classes.
2. Moving to a flat rate for residential will have little to no impact.
 - A. Few customers reach a level of water usage to fall into the second rate block because the Village has a large amount of volume set in the first rate block. Village first rate block is set at 100,000 per quarter, higher than most
 - B. Because the benefits of moving to this rate are minimal and do not outweigh the costs (extra reporting, potential delay in rate case, etc.) staff believes this should not be pursued at this time.
 - C. If the Village wants to pursue meaningful conservation measures, the sprinkler credit (break on the sewer bills for the water assumed to be used in sprinkling) could be addressed outside of a PSC rate case. Sewer is not regulated therefore the Village Board can take this issue up at any time.

Village of Germantown
June 2019

DISCUSSION ON
PUBLIC FIRE PROTECTION

At your request, we have prepared this memo on Public Fire Protection (PFP) discussing alternative methods available for direct billing public fire protection for the Village.

Our memo includes the following sections:

1. What is PFP? – An explanation of what makes up this cost of water service.
2. Historical Background – A discussion of the Public Service Commission (PSC) history that allows alternatives for recovering PFP.
3. Effects of Converting to Direct Billing of PFP – Identifies issues to be considered in making a decision on converting to direct billing of PFP.
4. Allowable Direct Billing Methods – Discusses the allowable alternatives, including advantages and disadvantages of each.
5. Detailed Analyses of Four Alternatives – In this section, we look further at the implementation and recurring issues of the four most likely alternatives.
6. Financial Impact of Direct Billing – This is a table giving preliminary estimates of the impacts of selected alternatives on an array of customers.
7. Conclusions.

Village of Germantown
June 2019

WHAT IS PUBLIC FIRE PROTECTION?

Before we discuss methods for collecting PFP, it is helpful to have a basic understanding of what PFP is.

In developing water rates, costs of providing water are first divided into three main categories:

- Volume related
- Meter or fixed charges
- Public fire protection

All water utility costs are assigned to these categories. For example, meter reading time is in the meter charge category, and the depreciation on wells is allocated to volume. Fire hydrants, since they are primarily used for fighting fires, are allocated to PFP.

In designing well and storage capacity, distribution main sizing and other system design, utilities recognize that a certain volume is needed in standby to fight fires. Therefore, in rate design, a portion of the volume costs identified above are also allocated to PFP.

The PFP charge is a combination of the direct charges, such as costs related to hydrants, as well as indirect capacity and other volume related costs.

The following table summarizes PFP:

	<u>2018</u>
Public fire protection service (per water rates)	537,429
Total sales of water	\$ 2,317,394
% PFP/Total sales	23%

Village of Germantown
June 2019

HISTORICAL BACKGROUND

In 1988, the Public Service Commission of Wisconsin (PSCW) opened an investigation to explore alternative methods of calculating direct customer charges for public fire protection (PFP) service. The investigation ensued from legislation passed in Assembly Bill 850 which decreed that the utility include the PFP charge in the water utility bill of each customer unless the municipality adopts a resolution to have the general fund pay the charge.

The resulting investigation by the PSCW considered alternative calculations which endeavored to meet two goals: billing equity and administrative feasibility. The following list summarizes the findings of the PSCW investigation as they relate to the Village of Deerfield.

- The PSCW approved 10 alternative methods for calculating PFP.
- Customers who have private fire protection will pay for the PFP in addition to the private fire protection.
- The utility has the option of showing PFP separately on customer bills. The utility must, however, notify the community of the rates for PFP service under s. 185.33(1)(f), Wisconsin Administrative Code.
- The direct method chosen may be changed at a later date, providing that the change meets statutory requirements for utility rate increases.
- If the municipality elects to continue to pay the PFP charge to the utility, the municipality must have a resolution documenting this decision.

In September 1993, the PSCW authorized a change in policy for recovering public fire protection costs. The Franklin decision allows a combination recovery where a portion of the cost is collected through a charge to the village and the remainder through direct charges to the general service customers. Although the original intention of the PSCW was for a utility to choose one method, this multi-method cost recovery of PFP was accepted by the PSCW and may provide a charge that is the most equitable. Utilities are now allowed to mix methods in any combination that is reasonable and non-discriminatory.

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EFFECTS OF CONVERTING TO A DIRECT BILLING METHOD

Currently, the state offers utilities two methods for collection of PFP service revenue: from the municipality and directly from customers of the service. Before considering the conversion to any direct billing method, the Village Board should evaluate the effects associated with changing to this alternative method. The following issues are discussed further in this section:

1. Collection from tax exempt properties
2. Impact on state payment for municipal services
3. Impact on state shared revenues
4. Village expenditure restraint program
5. Personal income tax impact to residential customers

TAX EXEMPT PROPERTIES

One reason some communities direct bill PFP is to collect some costs from tax exempt properties. Currently, the village does not directly collect PFP from tax exempt parcels. Many argue this is unfair since these properties do receive PFP service. Tax exempt customers, however, may fight any effort to charge them PFP, since they feel this is a tax, and they are exempt from taxes. The PSCW has ruled that under any direct billing method, the water utility may charge tax exempt properties for PFP service.

Tax exempt properties may also take issue with the details of some of the direct billing methods and, possibly, add legal costs to the conversion to a direct billing method. For instance, a tax exempt property might argue the validity of the improvement value of their property.

Another effect of the change to direct billing would include a possible reduction in the amount of payment in lieu of taxes (PILOT) that some tax exempt properties currently pay, if applicable, to the village. Tax exempt properties might reduce the PILOT paid to the village by the amount of PFP service charges they received from the water utility.

Finally, tax exempt properties include the village. Therefore, the village would receive a bill for its portion of the PFP service increasing general fund expenditures by this amount. In some situations these costs may be substantial.

STATE SHARED REVENUES

With the current levy limits, public fire protection is not having a significant impact on the calculation of shared revenues.

Village of Germantown
June 2019

EFFECTS OF CONVERTING TO A DIRECT BILLING METHOD (cont.)

VILLAGE EXPENDITURE RESTRAINT PROGRAM

The village may be eligible to receive additional state assistance by limiting budgeted general expenditures to a specified growth and inflation increase. This is an all or nothing program, meaning if the village exceeds the allowable limit, the entire amount is lost. PFP is currently one of the village expenditures. Shifting all or a portion of PFP to the direct billing would provide the village with additional flexibility in meeting the future constraints of this program while maintaining other village services.

INCOME TAX EFFECT

The conversion to a direct billing method also would affect homeowners and water utility customers. The change to a direct billing method would reduce the current expenses in the village's budget, but at the same time increase water bills. The change would eliminate the deduction on homeowners' federal income taxes for the public fire protection charge (included in property taxes) if the homeowner itemizes. Recent tax law changes have mitigated this concern as limits on deductions have made this less impactful.

Village of Germantown
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ALLOWABLE METHODS

When the PSCW completed its investigation of alternative methods for direct billing PFP service, 10 different methods were authorized. After the order, the last methods were eliminated by the PSCW. The PSCW considers all the remaining 8 alternative calculations acceptable.

<u>Method</u>	<u>Basis of Allocation</u>	<u>Primary Advantage</u>	<u>Primary Disadvantage</u>
1. Equivalent Meters	Meter equivalencies (EM)	Simple	Lower value properties may pay more
2. Equivalent Services	Service lateral equivalencies (ES)	Simple	Shift cost to small meter sizes
3. Property Value	Valuation	Continuity with past	Data access, upkeep
4. Madison Method	Square feet of property and EM	Mitigates impact on small meters	Shifts impact to mid-size meters
5. Square Feet of Improvements	Square feet of improvements	Some continuity with tax roll	Data access
6. Fire Calls Method	Fire calls and valuation categories	Mitigates impact on small meters	Data access, relatively complex to develop and administer
7. WP&L Method	Property value and ES	Mitigates impact on small meters	Data access
8. Actual Demand	Fire insurance rating criteria	Improved cost assignment to higher risk property	Relatively complex

Village of Germantown
June 2019

EXPLANATION OF MOST COMMON METHODS INCLUDING
ADVANTAGES AND DISADVANTAGES

EQUIVALENT METER

The equivalent meter method of direct billing bases the allocation of PFP on meter equivalencies. Water meters are multiplied by a size weighting factor to create a meter equivalent. For example, a 5/8" meter has a weight of 1, and a 4" meter a weight of 25. Revenue required from PFP service is then allocated to each equivalent meter.

Overall, utilities consider this method simple to administer and least costly to implement and maintain. Users of the equivalent meter method also recognize its lack of billing equity and customer fairness. The water meter size is not a good indicator of the property value protected or the PFP needs. For example, a car wash or laundromat usually has a larger meter but less PFP needs than a food storage warehouse. Under the equivalent meter method, both the car wash and the warehouse would have a charge based on their equivalent meter and not based on their fire protection needs. The most significant reason utilities select this method is to keep implementation and maintenance costs low. The village should consider its customer base (diversity of customers, in particular). **This method is the most often the selected method of entities your size.**

EQUIVALENT SERVICE (ES)

The equivalent service method is essentially the same as equivalent meters (EM) except a different weighting scale is used. The advantages and disadvantages are the same as EM except that determining service sizes can be difficult initially. For this reason, the PSCW will allow meter size as the service size if you select this method. The ES weighting scale is flatter than EM, meaning residential customers see a slightly higher PFP under ES than EM. Conversely, larger customers can see a significantly lower bill under ES than EM.

PROPERTY VALUE METHOD

The property value method of direct billing bases its allocation of PFP on the improved value of properties. Communities usually use the assessed values of properties from property tax records for the improved values. Users of this method typically divide property values into strata, or groupings of relative value. The utility allocates a portion of the public fire protection to each "grouping," and then divides this amount equally among the properties within each strata.

Utilities who use this method consider its main advantage to be billing equity because fire protection benefits each property in proportion to the relative value of the property. Another advantage is possible revenue enhancements because when the value of improvements increase each year, utilities PFP revenue increases.

Utilities using this method identify the disadvantages as difficulty in obtaining improved value of tax exempt parcels, possible litigation relating to the improved value of tax exempt properties, billing software changes, increase in communication between village and utility to maintain accurate assessed value data, and increase in maintenance for annual valuation updates.

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EXPLANATION OF METHODS INCLUDING
ADVANTAGES AND DISADVANTAGES (cont.)

SQUARE FOOTAGE

The square feet of improvements method of direct billing bases the allocation of PFP on the square footage of property improvements.

Utilities using this method find the time and expense of maintaining the system quite involved. Users of this method consider its main disadvantage to include the high cost of initial analysis. Determining the initial total square footage of buildings in the village can be difficult, especially when tax exempt properties are included. Other disadvantages include annual updates for construction and remodeling footages, as well as possible billing software changes. The primary advantage is that it is more directly related to the costs of PFP, since PFP system design factors in size and types of structures being protected.

DIRECT BILLING ADMINISTRATION EFFORT

Implementing any of the aforementioned billing methods includes a variety of implementation costs, both at implementation and recurring. These costs consist of billing system modifications, public notice, customer complaint and response time, legal costs, and updating customer bills and rate schedules. These costs vary depending upon the size of each utility.

The following charts illustrate the implementation and recurring issues related to the various billing methods.

<u>Implementation Issues</u>	<u>EM</u>	<u>ES</u>	<u>Tax Value</u>	<u>Square Footage</u>
1. Develop allocation database				
A. Taxable property	M	M	M	S
B. Tax-exempt property	M	M	S	S
2. Billing system modifications	M	M	S	S
3. PSCW process	M	M	M	M
4. Customer notification	M	M	M	M
 <u>Recurring Issues</u>				
1. Maintain allocation database				
A. Taxable property	M	M	M	S
B. Tax-exempt property	M	M	S	S
2. Rate case issues	M	M	M	M

M = minor effort required
S = substantial effort required

Village of Germantown
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FINANCIAL IMPACT OF DIRECT BILLING

Table 1 is a comparison of the approximate impact of direct billing on an array of customers. In preparing this table, we have used the following assumptions:

1. The total PFP to be recovered is \$537,429. This is based on current water rates. Depending on when a change is made, if at all, to direct billing, this amount may be understated.
2. Meter and service counts by size are taken from the December 31, 2018 PSC report.

Village of Germantown
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CONCLUSIONS

The first and most important decision the board needs to make is whether to shift all or a portion of PFP from the tax roll to utility bills. Both alternatives has merits, and the choice is truly a policy decision.

If the decision is made to direct bill all or a portion, alternative methods are discussed in Section 4. This becomes a decision of administrative simplicity to implement and maintain versus equity.

Keep in mind that you can elect to combine methods, first, by leaving a portion on the tax roll and direct billing a portion. Secondly, any or all of the direct billed amounts can be on combined methods. Due to the multitude of options this creates, we did not extensively study these combinations, although we can, upon your request.

Finally, although we don't advocate this, the utility does have the option of changing your initial decision at a later date should you find any decisions made are not meeting your goals.

In order to change the billing method, the PSC needs to be notified by letter or it needs to be done with a rate case. Since the village has a rate case in process, this would be part of the filing.

Germantown Water Utility
Rate Design
Current Method

Table 1a

2018 Public Fire Protection	\$ 537,429
2018 Total Assessed Value	<u>2,408,001,766</u>
Rate	<u>0.000223</u>
Rate / quarter	<u>0.000056</u>

Table 1b

Germantown Water Utility
Rate Design
Equivalent Meter Method

Meter Size	Meters	Factor	Equivalent Meters	Rate Per Equivalent Meter	Annual Rate	PFP Charge Per Quarter
5/8"	5,216	1.0	5,216	\$ 74.55	\$ 74.55	\$ 18.64
1"	152	2.5	380	74.55	186.37	46.59
1 1/2"	159	5.0	795	74.55	372.75	93.19
2"	46	8.0	368	74.55	596.40	149.10
3"	20	15.0	300	74.55	1,118.25	279.56
4"	2	25.0	50	74.55	1,863.74	465.94
6"	2	50.0	100	74.55	3,727.49	931.87
	<u>5,597</u>		<u>7,209</u>			
Annual Public Fire Protection Charge						
			<u>\$ 537,429</u>			
Rate per Equivalent Meter per year						
			<u>\$ 74.55</u>	/ equivalent meter		
per Qtr						
			<u>\$ 18.64</u>			
Per Month						
			<u>\$ 6.21</u>			

Germantown Water Utility
Rate Design
Equivalent Service Method

Table 1c

Service Size	Services	Factor	Equivalent Services
5/8"	201	1.0	201
1"	2,899	1.3	3,769
1 1/4"	386	1.7	656
1 1/2"	419	2.0	838
2"	507	3.0	1,521
4"	15	5.0	75
6"	140	6.0	840
8"	26	7.0	182
	<u>4,593</u>		<u>8,082</u>

Annual Public Fire Protection Charge \$ 537,429

Rate per Equivalent Service \$ 66.50 / equivalent service

Size	Rate Per Equivalent Service	Services Factor	Annual Rate	PFP Charge Per Quarter
5/8"	66.50	1.0	66.50	16.62
1"	66.50	1.3	86.45	21.61
1 1/4"	66.50	1.7	113.05	28.26
1 1/2"	66.50	2.0	133.00	33.25
2"	66.50	3.0	199.49	49.87
4"	66.50	5.0	332.49	83.12
6"	66.50	6.0	398.99	99.75
8"	66.50	7.0	465.48	116.37

Germantown Water Utility
Comparative Array
Public Fire Protection

Table 2

Customer	Assessed Value	Annual @ Present Rates	Annual				
			Equivalent Meter	Percentage Change	Equivalent Service Percentage Change		
Residential:							
Small Residential	5/8" Meter, 1" Svc	\$ 350,000	\$ 78.11	\$ 74.55	-4.56%	\$ 86.45	10.67%
Large Residential	5/8" Meter, 1" Svc	650,000	\$ 145.07	74.55	-48.61%	86.45	-40.41%
Commercial							
Small Commercial	1" Meter, 2" Svc	1,000,000	\$ 223.18	186.37	-16.49%	199.49	-10.62%
Large Commercial	2" Meter, 4" Svc	2,000,000	\$ 446.37	596.40	33.61%	332.49	-25.51%
Industrial							
Small Industrial	4" Meter, 6" Svc	7,000,000	\$ 1,562.29	1,863.74	19.30%	398.99	-74.46%
Large Industrial	6" Meter, 8" Svc	17,000,000	\$ 3,794.14	3,727.49	-1.76%	465.48	-87.73%

South/Southeastern Wisconsin Utilities with Conservation Rates

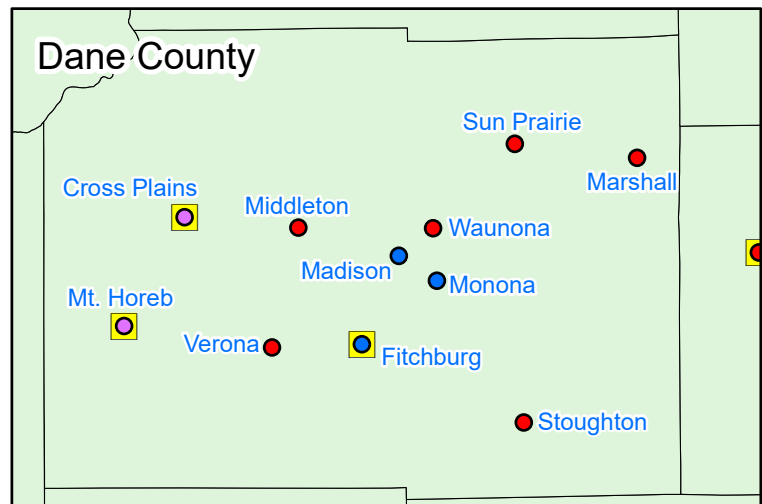
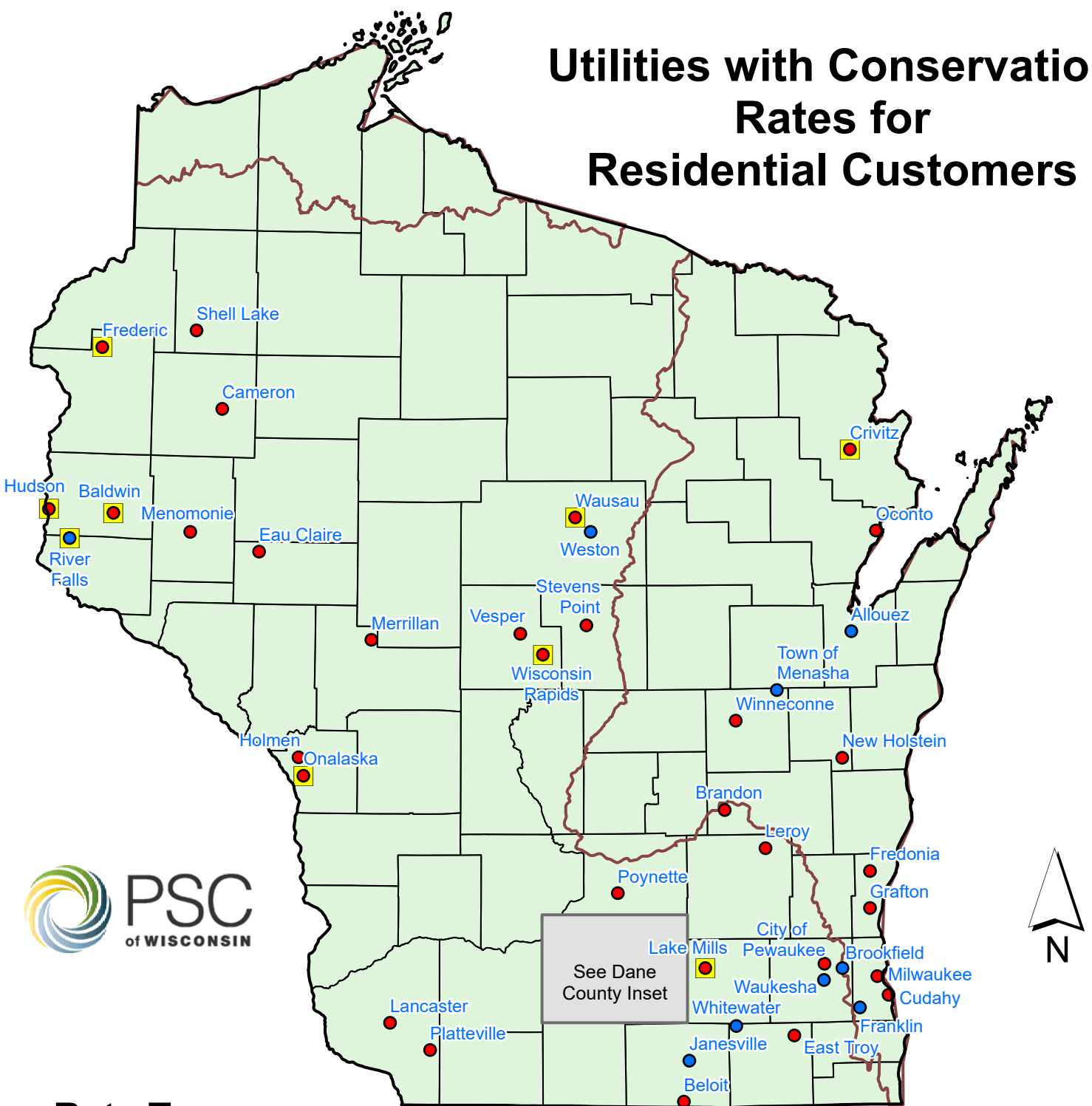
		Residential	Duplex Charge	Multifamily	Non-Residential		Cust #	Volume	Ave/Cust
Germantown	First	100,000	2.29			Commercial	455	128,235	282
	Next	900,000	1.97						
	Over	1,000,000	1.67			Industrial	22	144,840	6,584

A/B Utilities - South/Southeastern part of State

Brookfield	Qrtly	Inclining			Inclining		Flat	Flat				
	First	10,000	2.53	Gal	18,000	2.53	2.90	2.90	Commercial	803	315,447	393
	Next	20,000	3.32		36,000	3.32			Industrial	12	6,344	529
	Over	30,000	4.01		54,000	4.01						
Madison	Monthly	Inclining			Flat		Flat	Commercial Flat	Commercial	4955	1,850,335	373
	First	3,000	3.41	Gal		3.40	3.40	4.15	Industrial	47	197,963	4,212
	Next	3,000	4.55					Industrial Flat				
	Next	3,000	5.46					3.91				
	Next	5,000	7.85					Publ Author Flat				
	Over	14,000	9.40					4.67				

Waukesha	Qrtly	Inclining		Inclining		Declining	Declining		Commercial	1258	388,426	309	
	First	10,000	3.10	20,000	3.20	Same as Non-R	75,000	3.60					
	Next	20,000	4.00	15,000	4.30		1,425,000	3.40					
	over	30,000	5.10	35,000	5.50		1,500,000	3.00					
Grafton	Qrtly	Flat				Flat	Declining		Commercial	246	65,059	264	
	First		2.68	Gal	2.68	30,000	2.87						
	Next					470,000	2.72						
	over					500,000	2.28						
Janesville	Qrtly	Inclining				Declining	Declining		Commercial	1586	417,272	263	
	First	1,500	1.52	CF	same as ---->	10,000	1.70						
	Next	2,500	1.97	190,000		1.50							
	over	4,000	2.55	200,000		1.42							
Middleton	Qrtly	Flat				Flat	Declining		Commercial	784	219,215	280	
	First		2.61	Gal	2.42	50,000	2.32						
	Next					450,000	2.03						
	Over					500,000	1.59						
Verona	Qrtly	Flat				Declining---->	Declining		Commercial	389	90,414	232	
	First		2.47	Gal	2.47		30,000	2.78					
	Next						70,000	2.52					
	Over						100,000	1.56					
Cudahy	Monthly	Flat				Flat	Declining		Commercial	338	87,323	258	
	First		2.20	CF	2.20	2,000	2.12						
	Next					148,000	1.82						
	Next					1,350,000	1.59						
Over						1,500,000	1.07						
	Milwaukee	Quarter	Flat				Flat	Declining		Commercial	12383	3,231,728	261
				2.08	CF	2.08	500,000	2.11					
							1,500,000	1.36					
						2,000,000	1.22						
Sun Prairie	Monthly	Flat				Flat	Declining		Commercial	834	199,255	239	
	First		1.66	CF	1.66	2,000	1.66						
	Next					14,700	1.29						
	Over					17,000	1.06						
Franklin	Qtrly	Inclining				Declining--->	Declining		Commercial	309	118,481	383	
	First	10,000	5.04	Gal	60,000		5.49						
	Next	10,000	5.20		940,000		5.39						
	Over	20,000	5.64		1,000,000		4.94						

Utilities with Conservation Rates for Residential Customers



Implementing Toilet Rebates & Other Incentive Programs

Revised April 1, 2009

Offering incentives on water-saving devices, such as toilet rebate programs, can be an effective component of a utility's water conservation and efficiency program. The Public Service Commission of Wisconsin (PSC) may authorize the recovery of the cost of incentives programs through rates if the utility can demonstrate that the program is reasonable, cost effective, and necessary to achieve its water conservation goals. To assist the Commission in evaluating the costs and benefits to ratepayers of your proposed program, please address each of following questions. The format for a response is not prescribed; however a well-formed and descriptive plan of how the utility intends to implement its water conservation program is preferred.

1. What are the goals of the rebate or incentive program?
(Describe what the purpose of this program is and how it fits into the utility's overall water conservation goals.)
2. How long does the utility intend to run the rebate or incentive program?
(For example, is the program expected to last for 5 years, 10 years, or indefinitely?)
3. How much will the program cost annually and in total?
(Describe how much the utility intends to spend annually and over the program's lifetime, including customer incentives, advertising, product certification, verification, and other administrative costs. If the program has an indefinite ending date, estimate expected costs for at least five years.)
4. Identify the products for which rebates or other financial incentives will be available. For example, will rebates or financial incentives be available for both low-flow toilets (1.6 gpf) and high efficiency (HET) toilets (1.28 gpf)? To what extent will the utility use WaterSense-labeled products in its program?
(In general, the Commission will not allow the utility to recover the costs of rebates on non-WaterSense labeled products. If the utility proposes to include non-WaterSense labeled products, please justify the inclusion of such products in your program and identify the source of funding that will be used for the rebates.)
5. Describe the existing market for the rebate or incentive program.
(The utility should estimate the number of toilets that would be eligible for replacement over the program's lifetime. It may be necessary to rely on other data, such as age of construction, to identify the number of dwellings constructed pre-1994 (1.6 gpf standard) or

pre-1980 (3.5 gpf standard) in assessing this information. In addition, the utility should attempt to quantify the existing market penetration of low-flow or high efficiency toilets in the utility's service area, using information such as the number of dwellings built or remodeled after 1994 identified through building permits or other information.)

6. Identify which customers will be eligible for the rebate/incentive program.
(For example, if the proposed program includes multi-family residential or commercial properties, identify who is authorized to accept rebates – the owner, the property manager, or the tenants. Also, identify whether rebates and incentives will be limited to one per customer or whether multiple incentives would be available to each customer.)
7. Describe how the utility intends to notify its customers of the program.
(For example, public service announcements, point-of-sale advertising, water utility bills, etc.)
8. Describe how the program will be implemented.
(For example, does the utility intend to offer rebates to individual customers, provide vouchers for the purchase of specific products, distribute products that are purchased in bulk, or authorize the installation of products by qualified plumbers?)
9. Describe how the program will be administered.
(For example, will be rebates or financial incentives be managed by the utility, a private contractor, or another government agency?)
10. If offering rebates or vouchers, describe how the utility plans to work with local retailers to make sure that acceptable products are available.
11. If offering rebates or vouchers, describe whether the utility intends to verify that the toilets were properly installed. If so, describe who will be responsible for verification.
12. If proposing a distribution or direct installation program, describe how the utility intends to recycle or otherwise dispose of old toilets or other products.
13. Estimate the expected water savings and other benefits that will result from the rebate or incentive program annually and over the program's lifetime. Describe how these savings will benefit the utility's ratepayers. The utility may wish to refer to AWWA Manual M52, or similar guidelines, to assist with calculating expected benefits.

(For example, the utility could calculate the amount of water that will be saved annually and use projected demand growth to identify the number of new residential units that could be served with these savings. Other benefits the utility may wish to include are: customer education and awareness, reduced energy and chemical costs, deferred capital expenditures, and other avoided costs. If the program's end date is indefinite, you should estimate savings and benefits for at least 5 years.)

14. Identify how the utility intends to measure and verify savings and to evaluate program effectiveness, including whether the program is helping the utility to achieve its overall water conservation goals.

**VILLAGE OF GERMANTOWN
WASHINGTON COUNTY**

RESOLUTION NO. 19-2019

**APPROVE FACILITY USAGE AGREEMENT
BETWEEN THE VILLAGE AND SCHOOL DISTRICT**

WHEREAS, the Village operates a variety of programs for the community and a portion of the programs are held at school district facilities; and,

WHEREAS, on February 20, 2019, the Park and Recreation Commission reviewed the attached Facility Usage Agreement; and,

WHEREAS, the Village Board met on March 4, 2019, and reviewed the Agreement; and,

WHEREAS, After review and discussion, the attached agreement is subject to the following amendments:

Amendment 1: Section 6, Capital Fund, to be removed as The Village retains the Capital Fund that held a balance of \$28,346.32 as of December 2018; and,

Amendment 2: Section 5, Fees Associated with Programming and Usage to be amended to state under paragraph one:

"The current fee schedule is attached hereto as Addendum B, shall govern during the term of this agreement and then after the term of the agreement, may change no more frequently than annually by the board, subject to input and review by the Village Attorney; and,

Amendment 3: The Facility Usage Agreement Between the Village and the School District is subject to the Village Attorney review and acceptance.

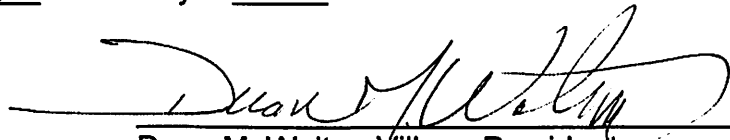
NOW THEREFORE BE IT RESOLVED, that the Facility Usage Agreement Between the Village of Germantown and the Germantown School District is subject to the amendments as above and is HEREBY approved pending review and acceptance by the Village Attorney.

Resolution 19-2019, Approve Facility Usage Agreement Between the Village and School District

Introduced by: Trustee Miller

Adopted: March 4, 2019

Vote: Ayes: 6 Nays: 3


Dean M. Wolter, Village President

ATTEST:


Deanna B. Braunschweig, WCMC/CMC
Village Clerk

**FACILITY USAGE AGREEMENT
BETWEEN THE VILLAGE OF GERMANTOWN
AND THE
GERMANTOWN SCHOOL DISTRICT**

The Village of Germantown ("the Village"), a Wisconsin Municipal Corporation represented by its Village Board of Trustees ("Village Board") and the Germantown School District ("the District"), a Wisconsin Public School District represented by the authority of the Germantown School District Board of Education ("School Board"), collectively referred to as "the Parties", hereby enter into an Intergovernmental Agreement to serve their common interests and that of the community pursuant to the authority provided for in Section 66.0301, Wis. Stats., as set forth below.

WHEREAS, the Village operates several community programs for its residents and the District school buildings and school grounds contain facilities (the "Facilities") suitable for use as sites for many of these Village programs; and

WHEREAS, the parties have previously been party to an Intergovernmental Agreement for the shared use of District facilities, the most recent of which expired on August 31, 2018 and the Parties wish to renew that relationship;

NOW, THEREFORE, in consideration of the mutual obligations and promises set forth in this Agreement, the Parties agree as follows:

1. **Purpose.** The Village may make reasonable use of the Facilities for its educational and recreational programming in such a manner and under such time terms as described in this Agreement. All programming shall be lawful, consistent with the legal obligations and limitations applicable to either governmental entity, including but not limited to the maintenance of safety and security in school facilities, respect for constitutional obligations of each Party, and consistent with the District's established rules and regulations governing the use of its Facilities for, among other purposes, compliance with insurance requirements.
2. **Right of Usage.** The Village is permitted nonexclusive use of the Facilities for its programming needs. Given the nature of the programming, the volume of usage it involves, the recurring nature of said programs, and the Parties interest in avoiding conflicts with other Facilities usage requests, the Village shall communicate its Facilities needs to the District for each period of programming at the earliest possible time after such programming schedule is established and the Village has engaged in efforts to communicate programs to the public, but in no event later than the following dates:

For Programming that takes place during
the school year (August 25 to June 15)

By June 30

Intergovernmental Agreement
Village of Germantown
Facilities Usage

For programming during the Summer

By April 1

The Village's schedule of activities and events presented to the District under this section shall include (a) start date/end date of the program/event; (b) a brief description of the program/event; (c) the Facilities required for the program/event; (d) the approximate number of hours the program/event will require Facilities during the duration period of the program/event identified by the Village. The District shall notify the Village within 5 business days of its receipt of a schedule of any known conflicts for Facilities usage requests and the Parties shall work in good faith together to identify suitable alternatives if appropriate.

3. **Compliance with Policies.** The Village acknowledges that the Facilities are governed by District policies enacted by the School Board and amended by the School Board from time to time. Such policies are available at the District's website or by request from District officials. To the extent that they are applicable to third-party users of the Facilities, the Village is responsible for compliance with those policies, except as provided herein to the extent the terms of this Agreement are in conflict with policy.
4. **Term of Agreement:** This Agreement shall commence with the beginning of Programs scheduled by the Village to begin on or after May 15, 2019. This Agreement shall continue for a period of two (2) years through the conclusion of the Summer programs of the Summer of 2021.

All programs currently operating or that will start prior to that date shall be governed by the terms of the Parties agreement which expired August 31, 2018, but which has continued to be and shall continue to be the Agreement governing the Parties relationship relative to the subject matter herein until such time as this Agreement takes effect.

5. **Fees Associated with Programming and Usage:** This Agreement shall govern the payment and assessment of facilities and program fees pertaining to the Village programming which will utilize the Facilities and shall first apply to programs that begin on or after May 15, 2019. All fee rates based on District policy fee schedule for Priority 4 users. The current fee schedule is attached hereto as Addendum A.
 - a. **Standard Usage Fees:** The Village shall be permitted to use the Facilities as otherwise described in this agreement and District policy, at a rate of 75% of the applicable published rate for the particular room per hour.

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- b. Facilities fee for Village Kids Klub programs, including the school year and summer programs. The Village shall be charged a fee based on the applicable board approved fee schedule, with the following discounts:

<i>Programs beginning on or after May 15, 2019 but before May 15, 2020</i>	At a rate of 50% of the applicable hourly rate under the Fee Schedule
<i>Programs beginning on or after May 15, 2020</i>	At a rate of 75% of the applicable hourly rate under the Fee Schedule

- c. Program Fees: The Village may set participant or user fees for its programs as it deems appropriate. Nothing in this Agreement shall restrict or otherwise govern the manner in which such fees are established, except that the Village agrees to permit all School District residents the right to participate in programs governed by this Agreement at the same rate as Village of Germantown residents.
- d. Excluded Facilities: Any facility subject to state or federal grant-based or other limitations regarding the District's authority to assess a user fee shall be subject to the fees described herein only to the extent permissible by such limitations. All other provisions of this Agreement shall apply. At the time of the execution of this Agreement, this provision applies to the District's tennis courts constructed with Federal Land & Water Conservation Fund grant monies.
- e. Fee Waivers: The Board may grant a fee waiver or fee reduction for programs directly related to school services.
- f. Assessed Fee Parity: If another organization uses District facilities for a program comparable to one offered by the Village, the District will not assess the Village a higher fee than that assessed to the other organization.

6. **Capital Fund:** The Village has maintained a non-lapsing facilities fund for use in funding capital improvements of the Facilities. All such funds shall be transferred to the District within 30 days of execution of this Agreement. The District shall utilize said funds to pay for planned and appropriate improvements or repairs to the Facilities. No further such fund shall be maintained by the Village and no additional contribution to any Facilities capital funds shall be required of the Village.

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7. **Schedule of Payments:** The Village shall remit payment to the District no more than 30 days following the end of each program or activity that used the Facilities. For programs that are ongoing programs throughout the school year, payment shall be remitted within 30 days of the conclusion of each term (semester or summer) of the school calendar.
8. **Tracking of Hours of Usage:** The Village shall track the number of hours its uses the Facilities for each program and shall, as soon as practicable, inform the District of any discrepancy between the anticipated number of hours of usage in the initial schedule provided to the District as described in Section 2, above.
9. **Facilities Security Measures:** The Village shall comply with all security measures put in place by the District to control and monitor access to school Facilities as per Board policy. The District Administration shall coordinate with Village representatives to develop procedures for Village programming to assure compliance with such security and/or safety measures. Such measures may include access screening, background checks, limited building access points, mandatory check-in/check-out procedures, or other such measures implemented by the District.
10. **Insurance:** The Village shall maintain fire and extended liability insurance, and other risk insurance as required by Village policy or School Board policy and shall provide the District with a certificate of insurance showing the level of coverage and expressly providing the Village with coverage for occurrences in or at the Facilities during the Village's use for its programs/events.
11. **Maintenance, Repairs, Damage:** The District shall maintain the facilities consistent with its own standards of maintenance. The Village shall record the condition of the Facilities being used prior to each period of usage and report any damage or excessive wear and tear observed, whether prior to usage or in the course of its usage, as soon as practicable to do so. The Village shall return the Facilities in the same condition it found them, subject to normal wear and tear associated with the permissible activity, including without limitation the clean-up of any activity, the collection and disposal of all waste generated by or due to the activity, and the return of any equipment or furniture to its position prior to the Village's use. The Village shall notify the District immediately in the event the Village becomes aware of any equipment or furniture that needs repair/replacement or is unsafe.
12. **Damage, Destruction, Force Majeure:** In the event any of the Facilities shall be damaged, destroyed, or otherwise unusable, in whole or part, due to fire, natural disaster, or other force outside the control of the District, the District may either cancel the permitted usage of the program/event scheduled for the affected space; or may provide suitable alternative facilities. The District will promptly determine whether, and if so on

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what schedule, any such damaged Facilities will be repaired and returned to service. The District shall not be responsible for any damages to the Village or to its users for the loss of suitable Facilities under this paragraph.

13. **Termination**: Either party may terminate this agreement upon the breach of the other provided that the non-breaching party provides a notice of the breach and at least 30 days to cure the breach. If the breach was not the result of an intentionally wrongful act or omission of the breaching party and the breach or failure cannot be cured using commercially reasonable and diligent efforts within such 30-day period but could, with additional time, be cured using commercially reasonable and diligent efforts, such 30-day cure period shall be extended for the period reasonably necessary to cure if (and for such period as) (i) the breaching party uses commercially reasonable and diligent efforts during such 30-day period; (ii) the breaching party continues to use all commercially reasonable and diligent efforts to cure after such 30-day period; and (iii) such efforts are adequate to ensure a cure. If after 30 days either the breach is not cured or the breaching party has not made good faith efforts to cure the breach, the non-breaching party may immediately terminate the Agreement. If the breaching party is making good faith efforts to remedy the breach, but has not done so after 30 days-notice, the non-breaching party may terminate this agreement on a date certain by providing a notice of termination no fewer than 30 days from the stated date of termination.

If no agreement extending the Term of this Agreement has been reached by its expiration, the Parties shall continue to operate under the Terms as exist at the time of expiration except that the then-current fee schedule adopted by the School District shall apply to all new programs/events scheduled.

14. **Indemnification**. The School District and the Village each agree to defend, indemnify, and hold harmless the other parties' employees, officers, directors, agents, and authorized representatives from and against any and all claims, demands, suits, losses, damages, expenses, obligations, judgments, or other forms of liability to third parties, actual or claimed arising out of (i) the indemnifying party's breach of its representations, warranties, and agreements herein; (ii) any injury to property or persons occurring or allegedly occurring in connection with the negligence or intentionally wrongful act or omission of the indemnifying party or its employees, officers, directors, contractors, and authorized representatives or guests, invitees of any kind with respect to the Facilities; or (iii) any damage or harm to the Facilities, the School District's land, buildings, parking lots, sidewalks or to third parties as a result of the indemnifying party.
15. **Assignment**. The School District shall have the right at any time during the Term to sell or convey the Facilities, or to assign its rights, title and interest under this Agreement in whole or in part. In the event of any such sale or assignment, the School District shall be

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relieved from and after the date of such transfer or assignment of any further obligations under this Agreement as to such Facilities, except as to those which have arisen prior to such assignment or transfer.

16. **Relationship of Parties.** This agreement does not create the relationship of principal and agent, or of partnership or joint venture, or of any association or relationship between the parties, including as to any program or event which uses the Facilities under the terms of this Agreement.
17. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties and supersedes any prior understandings, agreements, or representations by or between the Parties, written or oral, to the extent they relate in any way to the subject matter hereof. This Agreement shall be deemed to amend and restate any prior written agreements relating to the Facilities. This Agreement shall not be modified, amended, or supplemented in any manner, except by an instrument in writing executed by the Parties.
18. **Notices.** All notices, requests, demands, claims, and other communications hereunder shall be in writing. Any notice, request, demand, claim, or other communication hereunder shall be deemed duly given when sent via certified mail or hand delivered and addressed to and delivered to the following:

If to the Village:

Village of Germantown
Attn: Village Administrator
N112 W17001 Mequon Road
Germantown, WI 53022-0337

If to the School District:

Germantown School District
District Administrative Offices
Attn: District Administrator
N104 W13840 Donges Bay Road
Germantown, WI 53022-4499

Other forms of communication may constitute notice provided that the designated recipient of such notice actually receives said notice, which shall be determined by affirmative acknowledgement. Such notice may include by e-mail, fax, courier, or other such method.

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19. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the Wisconsin, without giving effect to any choice or conflict of law provision or rule.
20. **Waivers.** No waiver by any Party of any default, misrepresentation, or breach of warranty or covenant hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.
21. **Construction.** The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement.
22. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument.
23. **Force Majeure.** If either party is prevented from carrying out its obligations under this Agreement by events beyond its reasonable control, including acts or omissions of the other party, acts of God or of government not a party to this Agreement, natural disasters or storms, fire, act of terrorism, explosion, riot, war, political strike, labor disputes, failure or delay of third party transportation, or the availability of raw materials, then such party's performance of its obligations hereunder shall be excused during the period of such event and the time for performance of such obligations shall be automatically extended by the same period.

IN WITNESS WHEREOF, the Village and School District have entered into this Agreement as of the date set forth above.

VILLAGE OF GERMANTOWN

GERMANTOWN SCHOOL DISTRICT

Village President

President

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Village Clerk (Attest)

Clerk (Attest)

Park & Recreation Director

Superintendent

Park & Recreation Commission Chair

Village Attorney (As to Form)

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**ADDENDUM A
Current Fee Schedule**