



**Memorandum**

To: Common Council  
From: Greg Keil, CDD  
Date: December 16, 2015  
RE: First Amendment to Development Agreement between Menasha Downtown Development, LLC and City of Menasha

The proposed amendment to the development agreement is for the purpose of accelerating the completion of curb and sidewalk restoration associated with the office tower and the Broad Street ramp construction. Section 2.7 of the development agreement obligates the city to make certain improvements including "restoration and/or repair of all streets, sidewalks, gutters and curbs, adjacent to Building on Mill and Main Street and on the south side of Broad Street, necessary as a result of construction of the Project..." It is now proposed to assign this responsibility to the developer so as to enable the restoration work to take advantage of the favorable weather conditions we are experiencing. If the amendment is approved, restoration work will commence next week and be completed shortly thereafter.

Accelerating the restoration work will benefit both the developer and the city. Completing the restoration now will create a safe and orderly surface condition around the buildings. The developer's plan is to initiate occupancy of the office tower by April 15 with the tenants bringing in the necessary furniture, fixtures and equipment to operate their businesses. Employees are to follow the first week in May. Late winter conditions may not enable the grading and excavating necessary for the restoration work to take place consistent with that schedule, thereby creating unfavorable or hazardous conditions around the buildings for the tenants. The city will benefit from the public sidewalks being open now to provide circulation and full access to our downtown businesses.

This amendment will have negligible fiscal impact on the city. The city is already obligated to pay for the work. This amendment will simply oblige the developer to perform the work.

I urge you to support the proposed amendment.

## **FIRST AMENDMENT TO DEVELOPMENT AGREEMENT**

THIS FIRST AMENDMENT TO DEVELOPMENT AGREEMENT is made by and between **MENASHA DOWNTOWN DEVELOPMENT, LLC** (“Developer”) and **CITY OF MENASHA, WISCONSIN** (“City”).

**WHEREAS**, Developer and City are parties to that certain Development Agreement recorded in the Winnebago County Register of Deeds on October 14, 2015 (“Development Agreement”); and

**WHEREAS**, Developer and City desire to make a slight modification to particular provisions of the Development Agreement to allow the project to be completed in a timely manner;

**NOW THEREFORE**, in consideration of the mutual agreements contained herein, and for additional consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

1. The following paragraph is hereby added to the Development Agreement:

“1.10. Restoration of Curb, Sidewalks, and Gutters. Developer shall be responsible for restoring the curb, sidewalks, and gutters adjacent to the Building on Mill and Main Streets and on the south side of Broad Street in accordance with City specifications.”

2. The words and numbers “One Million Seven Hundred Fifty Thousand Dollars (\$1,750,000.00)” are deleted from the first sentence in paragraph 2.1 of the Development Agreement and are replaced with the following words and numbers: “one million eight hundred eight thousand nine hundred forty and 00/100 dollars (\$1,808,940.00).”

3. The following language is hereby added to the conclusion of the first sentence in paragraph 2.1 of the Agreement:

“...and (iii) City shall pay Developer \$58,940.00 upon the restoration of the curb, sidewalks, and gutters adjacent to the Building along Mill and Main Streets and the south side of Broad Street (the “Third Incentive Payment”).”

4. The first sentence of paragraph 2.7. (viii) is hereby deleted and replaced with the following language:

“restoration and/or repair of all streets adjacent to Building on Mill and Main Streets and on the south side of Broad Street, necessary as a result of the construction of the Project.”

5. Except as set forth herein, all terms and conditions of the Agreement are unchanged and remain in full force and effect.

