

ORDINANCE NO. 17-33

AN ORDINANCE APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE VILLAGE OF MANTENO, KANKAKEE COUNTY CONVENTION AND VISITORS BUREAU, INC., AND ZAGSTER, INC., CONCERNING PARTICIPATION IN A BIKE SHARING PROGRAM

BE IT ORDAINED by the President and Board of Trustees of the Village of Manteno, Kankakee County, Illinois, as follows:

Section 1

That the Memorandum of Understanding for a Bike Share Program ("MOU") between the Village of Manteno, Kankakee County Convention and Visitors Bureau, Inc., and Zagster, Inc. in substantially the same form as attached hereto as Exhibit "A," is hereby accepted and approved, subject to such revisions deemed acceptable by the Village Attorney.

Section 2

The President and Village Clerk are hereby authorized and directed to execute the MOU herein provided for, and to do all things necessary and essential, including the execution of any further agreements, instruments, documents and certificates incidental thereto or necessary to carry out the provisions and effectuate the purpose thereof.

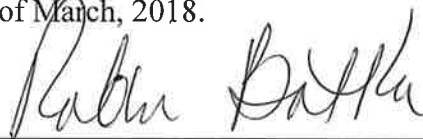
Section 3

The Village hereby appropriates EIGHTEEN THOUSAND DOLLARS and 00/100 (\$18,000.00) for its sponsorship costs under the MOU.

Section 4

This Ordinance shall be in full force and effect after passage and approval as provided by law.

DEPOSITED with the Village Clerk this 19th day of March, 2018.



ROBIN BATKA, Village Clerk

APPROVED by me this 19th day of March, 2018.



TIMOTHY O. NUGENT, Village President

Memorandum of Understanding: Bike Share Program

Purpose

This memorandum of understanding (**MOU**) is between Kankakee County Convention & Visitors Bureau, Inc. (**Partner**), ___Village of Manteno_ (**Sponsor**), and Zagster, Inc. (**Zagster**) and outlines the details regarding becoming a sponsor for the Kankakee County bike share program system provided by Zagster to be launched in Spring 2018 (**Program**).

Fees

Sponsor will pay Partner a fee in the amount of ___9,000.00_ (**Sponsor Fees**), representing Sponsor's annual sponsorship of _5_ bicycles and _1_ bicycle racks within the Program. Sponsor will provide Partner with the Sponsor Fees at least 45 days before the launch of the Program, or if launched, within 30 days of the signing of this MOU. Sponsor shall have the ability to renew its sponsorship in subsequent years with the consent of the Partner and in alignment with the applicable Zagster contract(s) to provide the Program. Should Sponsor wish to expand its sponsorship of the Program, it may do so by increasing the annual contribution to reflect the cost of the desired additional expansion. In exchange for the additional Zagster-provided bicycles and bicycle racks to be added to the Program through Sponsor's sponsorship set forth hereunder, Partner will manage and take responsibility for the contract with Zagster and will work to promote the Program. Sponsor acknowledges that by participating as a sponsor, Zagster will use its name and logo for the sponsorship benefits (on bicycle baskets, station signage, etc). Zagster shall have the right to collect any Sponsor Fees unpaid by Sponsor directly from Sponsor. If Sponsor is a Municipality, Sponsor agrees that the MOU has been approved by ordinance and Sponsor has or will have appropriated the full amount of the Sponsor Fees set forth above for a minimum of the 2 year commitment.

Term and Termination

Unless earlier terminated in accordance with this Agreement, this Agreement is effective for 2 years from signing and automatically renews for successive 1-year periods thereafter. Partner may terminate this Agreement at any time upon 30 days' notice, but is not entitled to a refund of any Sponsor Fees and, if terminated within the initial 2 year term, shall be responsible for full fees associated with the 2-year term. If Zagster or Partner terminates this Agreement at any time upon 30 days' notice, Sponsor may be entitled to a pro-rata refund for any prepaid Sponsor Fees unless such termination is a result of a material breach by Partner.

Location License and Exclusivity

Sponsor agrees that in connection with its sponsorship, Zagster will install the number of bicycle racks set forth above at the property located at _____Square on Second__ (**Property**). Zagster and its users may access the Property for the purpose of utilizing and supporting the Program. During the Term, Sponsor agrees that (i) it will be the exclusive sponsor of any Zagster bicycle racks installed on its property, (ii) bikes on the Property may be sponsored by other third parties, (iii) it will not sponsor any other bike sharing programs, and (iv) Zagster will be the only bicycle sharing and/or bicycle rental service with the right to use the Property.

Indemnification and Limitation of Liability

Sponsor agrees to indemnify Partner, Zagster and their trustees, officers, directors, agents, employees, successors or assigns ("Indemnified Parties") and hold the Indemnified Parties harmless from and against all third party liability, losses, damages, claims, liens, and expenses (including reasonable attorneys' fees) arising out of or connected with any third-party claim that the Sponsor's logo violates or infringes on a trademark, copyright, patent or other intellectual property rights. To the maximum extent permitted by law (i) in no event will any of the parties be liable to any other party for any indirect, incidental, or consequential damages, and (ii) each party's entire liability hereunder for any cause whatsoever will be limited to the Sponsor Fees except for liability for physical property damage and personal injuries, which will be limited to insurance proceeds received for such damages. For the avoidance of doubt, Sponsor will have no liability to Partner or Zagster and Partner will have no liability to Sponsor in the event that a user of the sponsored bicycle and/or bicycle rack is injured during their use thereof unless such injury results from Sponsor's, or as applicable Partner's, negligence.

Severability

If any provision of this MOU is held to be invalid, illegal, or unenforceable by a court of competent jurisdiction, the provision shall be stricken, and all other provisions of this MOU which can operate independently of such stricken provisions shall continue in full force and effect.

Entire Agreement

This MOU constitutes the entire agreement between the parties and supersedes all prior agreements, written or verbal, between the parties. No statements, promises or agreements whatsoever, in writing or verbal, in conflict with the terms of the MOU have been made by the parties which in any way modify, vary, alter, enlarge or invalidate any of the provisions and obligations herein stated. This MOU may be amended and modified only in writing signed by the parties.

Authority

The undersigned hereby represent and warrant that he/she has been duly authorized to execute this MOU, and has obtained all necessary or applicable approval to make this MOU fully binding upon such party when his/her signature is affixed hereto.

Agreed to by:

Kankakee County Convention & Visitor's Bureau, Inc.

Signature: _____

Name: _____

Title: _____

Date: _____

Sponsor: Village of Manteno

Signature: Timothy O Nugent

Name: Timothy O Nugent

Title: Mayor

Date: 3/19/2018

Zagster, Inc.

Signature: _____

Name: _____

Title: _____

Date: _____