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LEASE AGREEMENT  
BETWEEN  
MILWAUKEE COUNTY  
AND  
THE SOUTH SHORE YACHT CLUB

THIS LEASE AGREEMENT ("Agreement") is made this 21<sup>st</sup> day of JULY, 2003, by and between MILWAUKEE COUNTY, a municipal corporation ("County") and THE SOUTH SHORE YACHT CLUB ("Club"), a Wisconsin not for profit corporation. Together the County (being the Lessor) and the Club (being the Lessee) are the "Parties".

WHEREAS, the Club has been a continuous tenant at the current site since 1935 and the most recent Lease called for renegotiation of compensation after thirty years and negotiations have been ongoing; and the Parties recognized that sufficient changes were needed in order reflect current lease conventions and conditions that it was mutually agreed that a new lease document would be preferable to an amendment to the most recent lease.

WITNESSETH

IT IS AGREED by and between the parties, each in consideration of the covenants and Agreements of the other:

ARTICLE I  
THE LEASED PREMISES

Section 1.01. Fee Title. It is understood and agreed that the County has fee title to the demised premises and all improvements and appurtenances, including but not limited to the building, docks, piers, and bulkheads now existing or hereafter constructed by the Club subject to any existing easements or reservations which the City of Milwaukee or its successors in interest may have in the property. If not already executed, the Club shall execute a quitclaim deed to the County conveying the Club's interest, if any, in the demised premises and improvements to the demised premises.

42 Section 1.02. The Leased Premises ("Premises"). The County hereby leases  
43 to Club and Club leases from County the real estate, including the building  
44 which are known as the South Shore Yacht Club which is located at 2300  
45 East Nock Street, Milwaukee, Wisconsin, 53207, also know as 43 Degrees  
46 00 Minutes North Latitude, 87 Degrees 53 Minutes West Longitude, and is  
47 more specifically described as follows:

48

49 That part of the Northwest One-quarter (1/4) of Section Ten  
50 (10), in Township Six (6) North, Range Twenty-two (22)  
51 East, in the City of Milwaukee, County of Milwaukee, State  
52 of Wisconsin, bounded and described as follows:

53 Commencing at the point of intersection of the center line of  
54 South Shore Drive with the center line of East Nock Street;  
55 thence North 51° 27' 10" East along the center line of East  
56 Nock Street and said center line extended, 565.0 feet to a  
57 point; thence North 38° 39' 05" West, 24.5 feet to a point on  
58 the timber cribbing, said point being the point of beginning of  
59 the land to be described; thence South 74° 55' 03" West along  
60 the existing fence line, 66.55 feet to a point; thence North 38°  
61 39' 05" West along the existing fence line and parallel with  
62 the Easterly line of South Shore Drive, 290.5 feet to a point;  
63 thence North 5° 21' 24" East along the existing fence line,  
64 38.86 feet to a point of the timber cribbing; thence  
65 Northeasterly along the timber cribbing 238 feet more or less  
66 to a point; thence Southeasterly along the timber cribbing 168  
67 feet more or less to a point; thence Southwesterly along the  
68 timber cribbing 205 feet more or less to the point of  
69 beginning, containing 1.426 Acres of land more or less.

70

71 Included in the Agreement are land (approximately 1.426 Acres; See  
72 Exhibit A), improvements (including the 6,732 square foot building),  
73 covenants, appurtenances, hereditaments, fixtures, rights and privileges  
74 thereto belonging, or in any way appertaining and subject to any restrictions,  
75 easements, encroachments, and zoning and governmental regulations now or  
76 hereafter in effect. Miscellaneous minor equipment which is not attached is  
77 not included unless otherwise provided by the Parties in writing, or as  
78 otherwise provided in this Lease. Miscellaneous minor equipment is limited  
79 to items which are not attached and include, by way of guidelines and  
80 examples: free standing tables and chairs; china, glassware, silver wear,  
81 pots, pans, skillets, serving dishes and crock pots; free standing fans, free

82 standing stoves, free standing refrigerators, free standing dishwashers, free  
83 standing cash registers, free standing file cabinets, free standing desks and  
84 other free standing office furniture, including free standing safes; curtains  
85 (but not shades or blinds), pictures, photographs and the like which are hung  
86 on walls (but not those which are attached or not removable, unless  
87 specifically excluded),

88

89 Items which are to be considered as a part of the premises and owned by the  
90 County include items which are normally considered to be a part of the  
91 premises and include by way of example: (a) built in kitchen equipment such  
92 as stoves, walk in freezers, walk-in refrigerators, and dish washers; duct  
93 work, vents, plumbing, grease traps, pumps, kitchen fans (except free  
94 standing fans); (b) heating and air conditioning; (c) drawings, paintings and  
95 renderings which were done on the walls, floors or ceilings; (d) built in  
96 safes, bar and back bar; doors, windows, screens; (e) alarm systems , (except  
97 strictly plug in type units or unless the alarm system is a part of a leased or  
98 rented service and the vendor owns the alarm system and will remove the  
99 system and repair all damage); (f) ceiling fans, lights, fixtures, electrical  
100 wiring and electrical work, any connected backup or standby electrical  
101 system such as a generator or uninterruptible power supply (excluding  
102 strictly plug in types which are not hard wired, of the type used for small  
103 computers), phone wiring, intercom wiring and intercom systems if built in;  
104 (g) the actual building, docks, piers, bulkheads, cranes (if attached); and (h)  
105 elevators, stairs, escalators, ramps, walls, ceilings, ceiling tiles, flooring  
106 (except non-attached rugs), light posts, fences, gates, asphalt and concrete  
107 work, storage buildings, the lift station and sewer and water laterals. The  
108 Parties agree to work in good faith to determine the ownership of any items  
109 whose ownership and/or removal is disputed. However, if a dispute of  
110 removal cannot be resolved in good faith and the item is not specifically  
111 listed in the examples above, or if the item is not specifically covered by a  
112 separate Letter of Understanding on ownership or noted on plan reviews  
113 which are required to be reviewed by the County, the ownership of the item  
114 shall rest with the County if the Club has excluded the item from its listing  
115 of taxable personal property which is filed with the City. If the Club has  
116 been listing the item as their property and been paying the City personal  
117 property taxes on the item on a regular and continuous basis, the item will be  
118 considered owned by the Club if the Club wishes to remove the item unless  
119 the item is included in the examples of County ownership or otherwise  
120 agreed or documented to be County property.

121

122 Section 1.03. Previous Agreements. This Agreement replaces and  
123 cancels all previous leases and agreements between the Club and the  
124 County, including the Lease executed June 1, 1972 and the Amendment to  
125 that Lease executed March 24<sup>th</sup> 1982.

126  
127 Section 1.04. Acceptance of Premises. The Club accepts the  
128 Premises in their present condition and state of repair. The Club agrees to  
129 make any necessary improvements to bring the Premises into full  
130 compliance with applicable building codes, regardless of any "grandfather  
131 provisions", and accessibility as provided under the Americans With  
132 Disabilities Act ("ADA") by June 1, 2011, or sooner if, when and as so  
133 ordered by the City of Milwaukee.

134  
135 Section 1.05. Americans With Disabilities Act. The Club will  
136 preserve the privileges of disabled persons as required by the Wisconsin  
137 Statutes and the Americans with Disabilities Act of 1990 as it may be  
138 amended from time to time, when and as applicable.

139  
140 Section 1.05. Contingencies. This Agreement is contingent on and  
141 subject to any and all applicable easements and deed restrictions of record.

142

143

## ARTICLE II

144

### TERM

145

146 Section 2.01. Term of Agreement. The term of this agreement shall  
147 be forty (40) years, retroactive to June 1, 2002 and ending May 31, 2042.  
148 Rent for the first fifteen (15) years shall be as stated in this Agreement. Rent  
149 for the remaining twenty five (25) years is subject to renegotiation as  
150 provided in Section 2.02.

151

152 Section 2.02. Renegotiation of Rent. The County and the Club  
153 shall continue this Agreement past the first fifteen (15) years subject to  
154 renegotiation of rent based on the fair market value at that time, provided  
155 however, that the Club and County may renegotiate this Agreement at any  
156 time based upon mutual Agreement provided the Club is not in default and is  
157 in good standing with respect to the terms and conditions of this Agreement.  
158 In the event that the Parties cannot agree upon the rent, then a mutually  
159 agreed upon third Party shall determine the fair market value of the rent and  
160 such third party finding shall be binding upon the Parties. However, if the  
161 Club for any reason will not agree to the third party rent determination then

162 this Agreement shall be deemed terminated as of the expiration of the initial  
163 fifteen (15) years. However, the Club shall have the right of first refusal for  
164 rental of the premises if the premises are offered to be rented out to another  
165 third party under the terms and conditions of that third party rental. The  
166 Parties agree to act in good faith to renegotiate the rent on a timely basis so  
167 that such renegotiations can be completed by May 31, 2017.

168

169

### ARTICLE III

170

#### RENT

171

172 Section 3.01. Rent shall consist of three items as follows:

173

174 1. A flat annual rent of Thirty Five Thousand Dollars (\$35,000)  
175 beginning in the second year (2003) of the Agreement and  
176 increasing by two percent (2%) per year, compounded, due  
177 upon execution of the Agreement in 2003 and due quarterly  
178 thereafter in four equal payments beginning on June 1, 2004,  
179 and payable within thirty (30) days of the due date.

180

181 2. Two percent (2%) of annual sales and services which are  
182 taxable for Wisconsin State Sales Tax purposes beginning in  
183 the third year (2004) of the Agreement. However, the items  
184 which are included in this calculation as of the inception of  
185 this Agreement shall continue to be included in the  
186 calculation of the rent amount even if the items are  
187 subsequently excluded by the State from taxation either by  
188 exemption or cessation of the State Sales Tax itself. The  
189 Club also agrees to act in good faith and not shift charges for  
190 fees and services to avoid payment of the two percent rent. If  
191 for any reason items which are charged for are shifted and  
192 either become non-taxable or the charge is eliminated but the  
193 service, product or benefit is still provided (and not taxed for  
194 any reason), the two percent amount will be applied to the  
195 value that that was shifted to be non-taxable. The Parties  
196 specifically agree that any special assessment on the Club  
197 Membership for remodeling, major repairs or response to an  
198 incident (such as costs associated with a major storm, even if  
199 those costs are not directly used for repairs, but are  
200 nevertheless costs directly caused by such storm or other  
201 major incident that must be paid by the Club) will not be

202 included in the two percent rent base even if the State  
203 imposes State Sales Tax on that special assessment. The  
204 Club will provide the County with a copy of all such notices  
205 of special assessments to Club Members as soon as practical  
206 under the circumstances, and also provide a listing of the  
207 amount of special assessments actually collected during each  
208 applicable quarterly rent period and make a notation that  
209 states whether or not the special assessment(s) was (were)  
210 subject to State Sales Tax and (if subject to State Sales Tax)  
211 that the applicable amount was deducted from calculation of  
212 rent as provided in this Section. The calculation of this  
213 portion of the rent shall be based on the State Sales Tax  
214 Statements filled with the State, with appropriate adjustments  
215 as provided above in this Section. This rent is due as  
216 follows: Payable quarterly based on the prior three months  
217 sales and within thirty (30) days after the end of the quarter.  
218

- 219 3. A flat sum of Fifty Five Thousand Dollars (\$55,000) shall be  
220 paid by the Club to the County as additional rent to  
221 compensate for the phase-in of the above flat and percentage  
222 rent amounts and recognize that the Club had agreed to make  
223 rent payments retroactive to June of 2002. These rent  
224 amounts shall be made in five (5) equal yearly payments of  
225 Eleven Thousand Dollars (\$11,000) each beginning in the  
226 third year (2004) of the Agreement and ending in the  
227 Agreement Year beginning in 2008. This rent is due at the  
228 beginning of each Agreement Year, payable within thirty  
229 (30) days of the beginning of the Agreement Year.  
230

231  
232 All rents as provided above are due and payable the County postage prepaid  
233 (regular postage will suffice) addressed to Milwaukee County Parks  
234 Department, 9480 Watertown Plank Road, Wauwatosa, Wisconsin 53226,  
235 Attention: Accounting Division. Checks shall be made payable to the  
236 Milwaukee County Treasurer. Checks shall also include a notation as to the  
237 purpose of the rent check. County is not responsible for invoicing Club for  
238 these rent payments. However, the County may, at its option invoice the  
239 Club for rent payments.  
240

241 Section 3.05. Non-Payment of Rent When Due. Non-payment  
242 of rent within the 30 day payable period will subject the payment to late  
243 charges as follows: Interest charges of 1% per month, or fraction thereof, on  
244 the unpaid amount Pursuant to Wisconsin State Statute Subsection 74.80(1);  
245 and Penalty charges of 0.5% per month, or fraction thereof, on the unpaid  
246 amount Pursuant to Milwaukee County Ordinance Subsection 6.06(1) and  
247 Wisconsin State Statute Subsection 74.80(2). Non-payment of rent when  
248 due is cause for termination of this Agreement by County upon Sixty (60)  
249 Days written notice by County to Club. The Club may cure termination, but  
250 not applicable interest and penalties as provided herein, by payment to the  
251 County of the full amount due (including interest and penalties) within the  
252 Sixty (60) Days written notice period.

253  
254 ARTICLE IV  
255 IMPROVEMENTS  
256

257 Section 4.01. Improvements and Donations. Excluded  
258 from this Section are removable items of equipment which are  
259 owned by the Club (see Section 1.01). The County shall review and  
260 approve the various plans related to Club donated (to the County)  
261 items and may make changes to protect trees and infrastructure  
262 (examples: move the location of a proposed parking lot to protect  
263 trees or relocate a transformer away from an environmentally  
264 sensitive area) or other changes if the proposed items are not in  
265 keeping with the function, purpose, design and or intended use of the  
266 Premises. No underground cabling or trenching is permitted without  
267 prior written approval of County. The County retains sole discretion  
268 in approving improvements, new construction, modification,  
269 upgrading and/or changes to the premises proposed by the Club.  
270 The authority to approve these items is vested in the Director of  
271 Parks, Recreation and Culture (“Director”) and must be provided in  
272 writing to the Club by the Director to be valid. In addition, in all  
273 cases a Letter of Understanding shall be developed for all  
274 improvements that addresses issues of ownership and maintenance  
275 of improvements, that there be no liens on improvements unless  
276 approved by the County Executive and County Board, any site  
277 restoration requirements and other issues that are related to the  
278 proposed improvement and such letter(s) of understanding shall be  
279 signed by and be binding on the Parties. If for any reason  
280 whatsoever an improvement occurs without approval of the County

281 through intention by the Club, acquiescence by the County or any  
282 other reason, the County shall, at the County's sole option, have the  
283 right either accept title and ownership to the improvement or order  
284 the improvement removed and the premises to be restored by the  
285 Club at the Club's sole cost to the premises' existing condition  
286 immediately before the improvement.

287  
288 In addition to the above requirements, Club will also provide to County the  
289 final "AS BUILT PLANS" for any items permanently installed which are  
290 donated to the County and accepted by the County. Easements, other leases,  
291 land use Agreements and the like may be entered into by the County with  
292 any other party at the County's sole discretion so long as such easements,  
293 leases, land use Agreements and the like do not unduly interfere with the  
294 maintenance, repair, and operation of the Premises. This means that the  
295 County may install, cause to install or allow to have installed items such as  
296 underground cables and utilities, other utility and/or communications  
297 equipment, and similar items so long as the items do not materially interfere  
298 with the operation of the Premises.

299  
300 Club agrees that the installation of any new facilities shall be performed in a  
301 manner consistent with the County's standards, policies and procedures for  
302 Minority or Disadvantaged Business participation, including level of  
303 participation, use of a valid M/DBE vendor list from a governmental unit,  
304 consultation with the County's DBE Office when valid circumstances might  
305 preclude the desired level of participation and an annual report to the County  
306 on the level of participation.

307  
308 The County may require proof of financial viability prior to the  
309 commencement of any capital improvement project or other work covered  
310 by this section. Such proof may consist of a performance bond, letter of  
311 credit or other instrument approved by the County Controller and  
312 Corporation Counsel, which approval shall be in writing.

313  
314 ARTICLE V  
315 UTILITIES AND MAINTENANCE

316  
317 Section 5.01. Utilities. Club assumes full responsibility for  
318 payment of any and all utility bills including but not limited to natural gas,  
319 electricity, water, sewer, storm water utility fee (if any), telephone and cable



320 charges which are consumed by or on the Premises or which are for any  
321 reason billed to the Premises directly or indirectly.

322

323           Section 5.02.       Maintenance of Grounds. Club assumes full  
324 responsibility for normal maintenance of the grounds and to maintain the  
325 grounds in good repair and appearance including but not limited to cutting of  
326 grass, litter cleanup, fertilizing the various areas and fields, sod replacement,  
327 mulching or removing leaves as needed, minor maintenance of trees and  
328 shrubs, plowing and otherwise removing snow, ice and other debris from  
329 roads and walkways, herbicide and pesticide treatments and applications  
330 (which must be applied by a State of Wisconsin Licensed/Certified  
331 applicator, and which must also be reported to the County in advance of the  
332 application and which must also be approved in writing by the County in  
333 advance), filling of holes in the ground, filling of pot holes in drives, walks  
334 and parking lots, seal coating of asphalt walks, drives and parking lots as  
335 needed, but at least once every four years, any striping of walks, roads and  
336 parking lots, repairs to the piers and slips, signs and other exterior structures  
337 including water lines, sprinklers, any water fountains, and sewer lines.

338

339           Section 5.03.       Maintenance of the Building(s). The Club is  
340 responsible for normal maintenance, repairs, preventative maintenance and  
341 cleaning of the building(s) and to maintain the building(s) in good repair and  
342 maintenance. Repairs include all repairs, without exclusions and also  
343 include the flooring throughout (without limitation as to cost as to the floor  
344 and/or flooring); cleaning of floors, walls and fixtures, office space, service  
345 areas, restrooms, showers, storage areas, concessions and restaurant areas,  
346 vestibules, and other areas, including but not limited to washing as needed,  
347 trash, litter and garbage removal, removal of graffiti and all other activities  
348 necessary to comply to health, safety and fire codes and keep the building(s)  
349 in a presentable manner. The Club will be responsible for repair and  
350 maintenance of sewer and water laterals and the lift station.

351

352           Section 5.04.       Major Maintenance of Building(s). The County  
353 will not be responsible for major repairs. The Club shall be responsible for  
354 all repairs, both major and minor and will maintain the premises in good  
355 repair and appearance. The County shall have the right to inspect the  
356 Premises without limitation or restriction to fulfill its obligations as owner  
357 and also has the right to determine the need of any repair of any damage,  
358 defect and/or code violation that is discovered, the nature of the repair and a  
359 reasonable timetable for the Club to implement the repair. Except in the

360 case of an emergency, the County will make inspections during normal  
361 business hours of the Club. The County will not be liable for any cost  
362 related to business interruption to the Club or any other third party as a result  
363 of the County performing a needed repair. However, the County agrees to  
364 cooperate with the Club to the extent reasonably possible to minimize any  
365 interruption of operations, programming, activities and/or rentals and events  
366 as a result of conducting repairs when establishing the timetable for repairs.

367

368 Section 5.05. Signage. Club agrees not to erect, affix or display any  
369 new signs, including but not limited to advertising or placards unrelated to  
370 the Club activities, on the exterior of the Premises without obtaining the  
371 prior written approval of the County. It is clarified that existing signage  
372 does not require this approval.

373

374

ARTICLE VI  
USE OF THE LEASED PREMISES

375

376

377 Section 6.01. Use of the Premises. The Club is authorized to  
378 utilize the Premises for the normal conduct of business and activities  
379 associated with the operation of a Yacht Club including holding events,  
380 conducting meets, seminars and clinics, providing parking on the public lot  
381 adjacent to the Club (provided that any damage specifically caused by the  
382 Club's use shall be repaired by the Club at the Club's cost; the County shall  
383 bear normal responsibility for maintenance and repairs of the public parking  
384 lot the same as any other public County parking lot), staging, holding and  
385 conducting other events consistent with the limitations of the Premises  
386 including dances, facility and party rentals, other boating activities,  
387 operation of a restaurant (subject to any and all Federal, State and Local  
388 governmental restrictions on such usage) and sales and other activities for  
389 which a fee may be charged for the privilege of use or participation. Such  
390 activities shall be subject to all applicable zoning, use and other permits and  
391 shall be consistent with the nature of the Premises. Guidelines which the  
392 County may use for determining compliance of the activity or activities are  
393 consistent with the nature of the Premises are significant complaints of merit  
394 from the public, local police and fire officials. The County may halt any  
395 activity or activities based upon any legal and binding order by a  
396 governmental agency or Court with jurisdiction and the County will not be  
397 held liable by the Club or any other third party for complying with such an  
398 order. In the event that any fine, penalty or judgement is levied or imposed  
399 upon the County or the Premises for activities of the Club, their guests,

400 agents, employees or any other third party having a contractual arrangement  
401 with the Club, the Club will indemnify and hold the County harmless. This  
402 is in addition to the general clause on indemnification. A failure by the Club  
403 to comply with this requirement to hold the County harmless from such  
404 fines, penalties and/or judgements is grounds for immediate termination of  
405 this Agreement by the County with no appeal or recourse by the Club  
406 whatsoever. However, the County agrees that it will not be arbitrary in the  
407 application of this special termination provision and will only apply such a  
408 remedy after good faith efforts have been made to resolve the situation with  
409 the Club and such efforts have failed. This termination clause is strictly for  
410 the protection of the County and its interests and in no way should be  
411 interpreted to anticipate such a situation or eventuality.

412

413 Section 6.02. Usage Discussed and Expanded. The Club shall use the  
414 Premises as a yacht club and for the purpose of promoting community  
415 interest as outlined in the Club's Charter. The Premises shall be utilized to  
416 provide a meeting place and facilities for the members of the Club and to the  
417 extent that the premises permit and as reasonably designated by the Club  
418 from time to time shall be made available to groups interested in the practice  
419 of yachting, dissemination of nautical knowledge, etc., such as the United  
420 States Power Squadron, the United States Coast Guard Auxiliary, Sea  
421 Scouts, Mariners, University Sailing Clubs, etc., which own and operate or  
422 use small boats and which do not possess their own facilities, all subject to  
423 reasonable rules and regulations promulgated by the Club. All charges for  
424 services and use of the facilities and premises available to the public shall be  
425 uniform and upon an equal basis. However, a discount may be granted to  
426 Club Members and as otherwise provided in Section 12.04. However, this  
427 provision notwithstanding, it is specifically agreed that gasoline sales are  
428 excluded from any provision for uniformity between Club Members and the  
429 Public (although the Club must comply with any applicable Federal, State or  
430 Local laws governing gasoline sales).

431

432 Section 6.03. The County and the City of Milwaukee shall have the  
433 right and privilege of entry by land or water at all times for the purposes of  
434 policing and assuring good order.

435

436

437

438

439

ARTICLE VII  
DAMAGE OR DISTRUCTION

Section 7.01. Damage or destruction by Fire or Other Casualty.

440

441 If the Premises are damaged or destroyed in whole or in part by fire or other  
442 casualty, Club shall rebuild or repair the same if amounts received from  
443 insurance companies are sufficient to fully cover the cost thereof, in which  
444 case Club will restore the Premises to substantially the condition that  
445 prevailed prior to the damage or destruction. Notwithstanding the foregoing,  
446 in the event that the Premises are materially damaged or destroyed, Club  
447 shall have the right to terminate this Agreement by written notice to County  
448 within six (6) months after the occurrence of such damage or destruction. In  
449 the event that the Club does not rebuild and elects to terminate this  
450 Agreement, then insurance proceeds, except for that portion that covers the  
451 Club's personal property, shall belong to the County and may be used to  
452 rebuild the Premises or for any other purpose. Refer to Article X,  
453 INSURANCE.

454

455

456

ARTICLE VIII  
CONDEMNATION

457

458

459 Section 8.01. Rights of the Club and the County Upon  
460 Condemnation. If the entire Premises or any of the Premises are taken by  
461 any public authority under power of condemnation or sold to any public  
462 authority in lieu of condemnation, then this Agreement shall terminate as of  
463 the date possession is taken by the acquiring authority and rent shall be  
464 apportioned as of that date. If (i) a portion of the Premises is taken or sold  
465 and said taking or sale directly affects the operations on the Premises and  
466 results in making the Premises unsuitable for use by the Club, or (ii) the  
467 taking results in a permanent deprivation of access for vehicular ingress and  
468 egress to the Premises, then the Club, at its option, may terminate and cancel  
469 this Agreement as of the date of taking. In the event this Agreement is not  
470 terminated as aforesaid, then this Agreement shall continue in full force and  
471 effect. The County and the Club agree that the award or proceeds of sale  
472 may be used for any restoration performed by the Club, except that the  
473 County shall receive the full value of its land, facilities and buildings first.

474

475 Section 8.02. Award. The County and the Club shall participate  
476 in all damages awarded upon a total or partial taking of the Premises based  
477 on their respective investments in the Premises and the value of the Premises  
478 hereby created as if this Agreement would have expired at the end of the  
479 Term. The Club shall receive so much of any award as is necessary to

480 compensate it for the entire value of the facilities and other improvements  
481 installed on the Premises by the Club, the value of its estate and the damages  
482 which it may sustain as a result of the termination of this Agreement prior to  
483 the end of its Term, except that the County shall receive the full value of its  
484 land, facilities and buildings first, out of such award. Notwithstanding the  
485 foregoing, nothing contained herein shall be construed to preclude the Club  
486 from prosecuting any claim directly against the condemning authority in  
487 such condemnation proceedings for loss of business, depreciation, damage to  
488 or the cost of relocating or removing the Club's fixtures equipment and any  
489 other property belonging to the Club, and any other claim available to the  
490 Club.

491  
492 ARTICLE IX  
493 COUNTY'S RIGHTS ON THE LEASED PREMISES  
494

495 Section 9.01. County Activities Around the Premises. The  
496 County may engage in any activities around the Premises so long as such  
497 activities do not unreasonably interfere with or disrupt the operation,  
498 programming and maintenance of the Premises by the Club.  
499

500 Section 9.02. Selected areas of the Premises shall be open to the  
501 general public as the County, the Wisconsin Department of Natural  
502 Resources ("WDNR") (or their successor, if any) and/or any Court of Law  
503 with jurisdiction shall from time to time require based upon requirements of  
504 the Public Trust Doctrine and laws, rules, regulations and conventions  
505 related to the Premises being located on submerged lands. Exceptions may  
506 be made based upon construction and/or repair work and public safety  
507 considerations as agreed to in writing by the County and then only to the  
508 extent of the specific written agreement, waiver or exception, and then also  
509 subject to the review and approval of such County exception(s) by the  
510 Wisconsin Department of Natural Resources (or their successor, if any)  
511 and/or any Court of Law with jurisdiction, if any. The County shall from  
512 time to time promulgate rules and regulations regarding public access or  
513 may rely on agreements between the Club and the WDNR or any applicable  
514 legal order. The Club agrees to take all reasonable steps to comply with the  
515 Public Trust Doctrine and laws, rules, regulations and conventions related to  
516 the Premises being located on submerged lands. The County agrees to be  
517 reasonable in the application of such requirements to the extent possible and  
518 work with interested parties to resolve any disputes related to this issue.  
519 However, good will notwithstanding, the Club and the County agree that

520 legal requirements shall prevail when voluntary agreement cannot be  
521 reached.

522

523           Section 9.03.       Additional Rights of County. The County  
524 and the Club mutually agree that the County shall not be liable beyond  
525 prorated forgiveness of rent for any interruption, lack of use of the Premises,  
526 inconvenience or acts that the County must take as a result of lawful orders  
527 and/or compliance with Federal, State or local laws. The Club agrees that  
528 the County may enter the Premises upon reasonable notice for purposes of  
529 inspection, testing, remediation, or such maintenance or repair that the  
530 County may determine is in the public interest. The Club agrees to be liable  
531 for and pay for any and all costs arising out of intentional or unintentional  
532 environmental contamination caused by the Club now or in the future.

533

534

ARTICLE X  
INSURANCE AND INDEMINFICATION

535

536

537           Section 10.01.     Property Insurance. The Club shall, at its own cost  
538 and expenses during the Term of this Agreement, keep the Facilities insured  
539 against loss or damage by fire and such other contingencies included in an  
540 all-risk insurance policy covering the cost of the Facilities.

541

542           Section 10.02.     Waiver of Subrogation. The County and the Club  
543 hereby waive and release all right of recovery against each other by way of  
544 subrogation or otherwise for any insured or self-funded loss by fire,  
545 extended coverage or other property coverage existing for the benefit of the  
546 County or the Club with respect to the Premises. Such subrogation waivers  
547 shall apply to any property insurers and if required by insurers, notice of this  
548 waiver shall be given the insurers and said waiver obtained.

549

550           Section 10.03.     Claim Proceeds Distribution. Claim proceeds,  
551 including retentions and insurance recoveries, covering loss or damage to the  
552 Premises by fire or other property hazard, shall be payable to the Club in  
553 accordance with the provisions in this Agreement for determinations of the  
554 appropriate use of the full replacement cost funds for repair or replacement  
555 of the Facilities. Milwaukee County shall be named as an additional insured  
556 on the fire insurance policy, and listed as a loss payee. Certificates of  
557 insurance are to be attached to this agreement for review by Milwaukee  
558 County's Risk Manager.

559

560 Section 10.04. Other Insurance. The Club shall, during the  
561 entire Term of this Agreement, keep in full force and effect a policy of  
562 commercial general liability insurance with respect to the Club's activities in  
563 and around the Premises in an amount of not less than \$1,000,000.00  
564 combined single limit, such limit being subject to a periodic adjustment by  
565 the County when the County Risk Manager shall determine that a different  
566 limit is necessary, so long as that new limit is consistent with other limits  
567 being set at the time by the County and such limit is reasonable by insurance  
568 industry standards at the time. The Club shall also maintain insurance  
569 coverage for worker's compensation claims as required by the State of  
570 Wisconsin, including employer's liability. All liability insurance policies  
571 required hereunder shall be issued by a responsible insurance company or  
572 companies with a rating of "A" or better by Best's Rating Service or a  
573 comparable rating from an equivalent rating service if Best's shall cease  
574 publishing such ratings and shall name the Club as the insured and the  
575 County as an additional insured and shall contain a clause that the insurer  
576 will not cancel or change the insurance without first giving the County thirty  
577 (30) days prior written notice. The insurance shall be with an insurance  
578 company licensed to do business in Wisconsin and a copy of the paid-up  
579 policies evidencing such insurance or a certification of insurer shall be  
580 delivered to the County prior to commencement of the Term of this  
581 Agreement, and such delivery shall also be made upon renewal of such  
582 policies not less than ten (10) days prior to the expiration of such coverage.

583  
584 Section 10.05. Liability Release. To the fullest extent permitted  
585 by law, the Club and the County shall be liable for their own acts and  
586 negligence and each agrees to hold the other harmless for any losses,  
587 damages, costs, or expense including but not limited to reasonable attorneys  
588 fees and litigation expenses paid or sustained by reason of tort and/or legal  
589 liabilities of the other.

590  
591 Section 10.06. Indemnification. In furtherance hereof, the Club  
592 also hereby agrees to indemnify and completely hold harmless the County,  
593 its agents, insurers and/or employees from and against all actions, claims,  
594 demands, damages, losses, liabilities, costs and expenses, including but not  
595 limited to attorneys' fees and expenses where any or all of such actions  
596 claims, damages, losses, liabilities, costs or expenses in any way arise out of  
597 or by reason of, in whole or in part, any third party claims for actions taken  
598 by the Club, or the Club's agents, which are not specifically granted by the  
599 County to the Club under this Agreement. In the event any lawsuit is

600 commenced which names the County as a defendant therein, the County  
601 shall promptly tender the defense thereof to the Club and the Club shall  
602 promptly assume such defense with counsel selected by the Club at its sole  
603 cost and expense. The County shall promptly give notice to the Club of any  
604 claim filed against the County by such third party.

605  
606 ARTICLE XI  
607 ENVIRONMENTAL  
608

609 Section 11.01 Club Responsibility for its Actions. The  
610 Club shall be responsible for any required repair, clean-up, remediation or  
611 detoxification arising out of any Hazardous Materials brought onto or  
612 introduced into the Premises or surrounding areas by the Club, its agents or  
613 guests. The Club shall indemnify, defend and hold the County Harmless  
614 from any liability, cost, damage, claim or injury (including reasonable  
615 attorney fees) arising therefrom.

616  
617 “Hazardous Materials” means any substance: (i) the presence of which  
618 requires investigation or remediation under any Federal, State or local statute,  
619 regulation, ordinance, order, action or policy; or (ii) which is or becomes  
620 defined as a “hazardous waste” or “hazardous substance” under any Federal,  
621 State or local statute, regulation, ordinance, or amendments thereto, including  
622 without limitation, the Comprehensive Environmental Response,  
623 Compensation and Liability Act (42 U.S.C. section 9601 et seq.), and/or the  
624 Resource Conservation and Recovery Act (42 U.S.C. Section 6901, et seq.)  
625 or (iii) which is toxic, explosive, corrosive, flammable, infectious,  
626 radioactive, carcinogenic, mutagenic or otherwise hazardous and is or  
627 becomes regulated by any governmental authority, agency, department,  
628 commission, board, agency or instrumentality of the United States, the State  
629 of Wisconsin, or any political subdivision thereof; or (iv) the presence of  
630 which on the Premises or surrounding areas causes or threatens to cause a  
631 nuisance upon the Premises or surrounding area and/or poses or threatens to  
632 pose a hazard to the Premises or surrounding areas or to the health or safety  
633 of persons on or about the Premises; or (v) which contains gasoline, diesel  
634 fuel or other petroleum hydrocarbons; or (vi) which contains polychlorinated  
635 biphenols (PCBs), asbestos or urea formaldehyde foam insulation.

636  
637 “Environmental Requirements” means all applicable past present and future  
638 statutes, regulations, rules, ordinances, codes, licenses, permits, orders,  
639 approvals, plans, authorizations, concessions, franchises and similar items of



640 all governmental agencies, departments, commissions, boards, bureaus or  
641 instrumentalities of the United States the State of Wisconsin and political  
642 subdivisions thereof and all applicable judicial and administrative and  
643 regulatory decrees, judgments and orders related to the protection of human  
644 health or the environment, including, without limitation: (i) all  
645 requirements, including, but not limited to, those pertaining to reporting,  
646 licensing, permitting, investigation and remediation of emissions,  
647 discharges, releases or threatened releases of Hazardous Materials,  
648 chemicals substances, pollutants, contaminants or hazardous or toxic  
649 substances, materials, or wastes, whether solid, liquid or gaseous in nature;  
650 and (ii) all requirements pertaining to the protection of the health and safety  
651 of employees or the public.

652  
653 The Club acknowledges its long tenure at the site and agrees that any  
654 existing contamination of the Premises was not caused by the County.  
655

656 ARTICLE XII  
657 PUBLIC ACCESS  
658

659 Section 12.01. Membership to be Open to the General Public.  
660 Except as otherwise provided, the Club will permit the general public to  
661 apply for membership in the Club. Membership in the Club shall not be  
662 denied on the basis of sex, race, religion, national origin or any other  
663 protected classification now or hereafter provided by law. The Club agrees  
664 to amend its By-Laws as needed to provide for equal opportunity in  
665 membership and to reflect gender neutral language.  
666

667 Section 12.02. Public Programming to be Provided. The Club  
668 and the County agree that public programming is an essential part of the  
669 operation of both the Club and the Premises and the Club pledges to provide  
670 community programming annually. The Club and the County agree and  
671 acknowledge that this public service component was taken into account  
672 when the rent was set for the initial Term of this Lease and that the rent  
673 represents less than full market value of the premises because of this public  
674 service component. The Club pledges to continue this public service  
675 component at essentially at least the same level as it has been doing as  
676 detailed in the report provided to the County. The Club shall prepare an  
677 annual report of their public service activities and submit such report to the  
678 County within ninety (90) days after the end of each calendar year, the first  
679 report being for calendar 2003 and being due by April 1, 2004. The annual

680 report shall also provide an estimate of the value being provided, the group  
681 benefiting and some detail regarding the group served. The County will take  
682 into account the annual reports and the value to the community of these  
683 services at the time of negotiation of rent for the extension period.  
684

685 Section 12.04. The Club will cooperate with School Districts,  
686 local units of government and community groups to provide services to the  
687 community to the extent possible, while recognizing that the Club must  
688 generate revenue to cover operations and that, while some services or use  
689 may be free, some services or use will be charged for or at a regular or  
690 reduced rate rather than being free.  
691

692 Section 12.05. In the event of a natural disaster or significant  
693 emergency situation, Milwaukee County Emergency Government may,  
694 without prior notice, take over the Premises to provide emergency services.  
695 In such an eventuality, Rent will be prorated to reflect the actual loss of use  
696 to the Club and, in additional, the next month's Rent will be forgiven and the  
697 County will repair any damage caused by such usage.  
698

699 ARTICLE XIII  
700 NONDISCRIMINATION  
701

702 Section 13.01. Equal Employment Opportunities. In  
703 accordance with Section 56.17 of the Milwaukee County General  
704 Ordinances and Title 41 of the Code of Federal Regulations, Chapter 60, the  
705 Club Certifies to the County as to the following:  
706

707 1) Non-Discrimination: The Club certifies that it will not  
708 discriminate against any employee or applicant for employment because of  
709 race, color, national origin, age, sex or handicap which includes, but is not  
710 limited to, the following: employment, upgrading, demotion or transfer,  
711 recruitment, or recruitment advertising; layoff or termination; rate of pay or  
712 other forms of compensation; and selection for training, including  
713 apprenticeship. The Club will post in conspicuous places, available for  
714 employment, notices setting forth the provisions of the non-discriminatory  
715 clause.  
716

717 An Equal Employment Opportunity Certificate shall be executed and  
718 delivered by the Club simultaneously with the execution and delivery of the  
719 Agreement.

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2) Affirmative Action Program: The Club 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. The Club 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.

3) Non-Segregated Facilities: The Club certifies that it does not and will not maintain or provide segregated facilities for its employees, and that it does not permit its employees to perform their services at any location under its control where segregated facilities are maintained.

4) Reporting Requirement: When applicable, the Club certifies that it will comply with all reporting requirements and procedures established in Title 41 Code of Federal Regulations, Chapter 60.

5) Affirmative Action Plan: The Club certifies that if it has 50 or more employees, it has filed or will develop and submit (within 120 days of execution of this Agreement) a written affirmative action plan. Current Affirmative Action Plan, if required, must be filed with any of the following: The Office of Federal Contract Compliance Programs or the State of Wisconsin, or the Milwaukee County Department of Audit, Room 319 Courthouse Annex, 907 North Tenth Street, Milwaukee, Wisconsin 53233.

6) Compliance: The Club 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. Minority or Disadvantaged Businesses.

ARTICLE XIV  
MISCELLANEOUS PROVISIONS

Section 14.01. Construction of any additional Facilities by the Club. The Club shall at its own cost and expense construct and/or install only such items which are approved in writing in advance by the County.

760 The Club acknowledges that it shall be the sole responsibility of the Club to  
761 secure all other easements, permits, licenses and approvals required for the  
762 construction of any such Facilities. The Club acknowledges and accepts that  
763 the County in its sole discretion may approve or disapprove any permanent  
764 Facilities that are proposed by the Club, regardless of whether the proposed  
765 Facilities would remain held in title by the Club or whether the proposed  
766 Facilities would be donated to the County. The County shall not be liable  
767 for construction costs or any other expenses related to construction of any  
768 Facilities by the Club unless otherwise authorized in writing by the County  
769 in advance.

770  
771 Section 14.02. Default. Except as otherwise provided in this  
772 Agreement, if the Club shall fail to comply with any conditions hereunder  
773 and such default shall continue for sixty (60) days after the County notifies  
774 the Club thereof (or other such reasonable time as is necessary if such  
775 default is not susceptible to cure within such sixty (60) day period and the  
776 Club, upon receipt of notice, promptly and diligently attempts to effect such  
777 cure), the County may terminate this Agreement and take possession of the  
778 Premises. Such termination shall be without prejudice to the recovery of  
779 damages against the defaulting party or parties for breach of this Agreement.  
780 Waiver by either party or parties of any default by the other shall not  
781 constitute a waiver of any other default hereunder.

782  
783 Section 14.03. Bankruptcy, Insolvency or Cessation of  
784 Operations. In the event of voluntary or involuntary bankruptcy on the part  
785 of the Club which involuntary bankruptcy is not dismissed within ninety  
786 (90) days after filing, the appointment of a receiver for the Club which is not  
787 discharged within ninety (90) days after appointment, or a voluntary  
788 assignment for creditors by the Club, or if this Agreement shall by operation  
789 of law devolve upon or pass to any person, firm, corporation or unit of  
790 government other than the Club, then the provisions of this Agreement shall  
791 pass in their entirety to the new Entity. However, if the new Entity will not  
792 accept the all of the provisions of this Agreement, then the County shall  
793 have the right to terminate this Agreement and there shall be no liability  
794 upon the County as a result of such termination. The County Executive and  
795 the County Board shall have the right of review and approval of any such  
796 voluntary assignment and any such assignment shall be strictly limited to  
797 operation of the premises as a yacht club in the manner that it has been  
798 operating and on which basis this Agreement was approved. Further, that  
799 under any no conditions or circumstances under either a voluntary

800 assignment or involuntary assignment, may the Premises be used for  
801 commercial purposes or as other than a not for profit operation by a "not for  
802 profit organization" (as evidenced by its official status with the State of  
803 Wisconsin and/or its Federal Filing Status as a 501(c) (3) organization or  
804 equivalent).

805  
806 Section 14.04. Notices. Whenever in the Agreement it shall be  
807 required or permitted that notice be given by any party hereto to the other,  
808 such notice shall be given by certified or registered mail, and any notice so  
809 sent shall be deemed to have been given on the date that the same is  
810 deposited in the United States mail, postage prepaid. Notices shall be  
811 addressed to the County at Milwaukee County Department of Parks,  
812 Recreation and Culture, 9480 Watertown Plank Road, Wauwatosa,  
813 Wisconsin 53226, Attn: Director (with a copy to Corporation Counsel,  
814 Room 303, Milwaukee County Courthouse, 901 North Ninth Street,  
815 Milwaukee, Wisconsin 53233), and to the Club at the official address of the  
816 Premises, 2300 East Nock Street, Milwaukee, Wisconsin 53207, Attn:  
817 Commodore, or to such other Official of the Club or at such other address as  
818 either party may from time to time specify in writing in lieu thereof. It is  
819 further agreed that each party hereto will promptly furnish to the other party  
820 hereto a copy of any notice it may receive from any third person which may  
821 affect the rights of any party hereunder.

822  
823 Section 14.05 Prohibited Practices. During the term of this  
824 Agreement, the Club shall not hire, retain or utilize for compensation any  
825 official, officer or employee of the County or any person who, to the actual  
826 knowledge (without inquiry) of the Club, has a conflict of interest.

827  
828 Section 14.06. Code of Ethics. The Club hereby  
829 acknowledges that portion of the County's Code of Ethics, which states in  
830 part: "No person may offer to give to any County officer or employee or his  
831 immediate family, and no County officer or employee or his immediate  
832 family may solicit or receive anything of value pursuant to an understanding  
833 that such officers or employees vote, official actions or judgment would be  
834 influenced thereby."

835  
836 Section 14.07. General Provisions. (i) Surrender of  
837 Premises. The Club upon termination of the Agreement, by lapse of time or  
838 otherwise, agrees peaceably to surrender the Premises to the County; (ii)  
839 Holding Over. If the Club, with the consent or acquiescence of the County,

840 remains in possession of the Premises after the termination of the Agreement  
841 and without the execution of a new Agreement, the Club shall be deemed to  
842 be utilizing the Premises on a temporary month-to-month extended Lease,  
843 subject to all the applicable terms, conditions and covenants of the  
844 Agreement and existing Wisconsin laws; (iii) Benefit. The Agreement and  
845 all of the covenants and conditions herein contained shall be binding upon  
846 and inure to the benefit of the parties hereto and their respective successors  
847 and assigns; (iv) Provisions Severable. If any provision of the Agreement  
848 shall be held or declared to be invalid, illegal or unenforceable under any  
849 law applicable thereto, such provision shall be deemed deleted from the  
850 Agreement without impairing or prejudicing the validity, legality and  
851 enforceability of the remaining provisions hereof; (v) Governing Law. the  
852 Agreement shall be governed by the laws of the State of Wisconsin; (vi)  
853 Records and Audits. The Club shall allow the County, the Milwaukee  
854 County Department of Audit, or any other party the County may name,  
855 when and as they demand, to audit, examine and make copies of, excerpts or  
856 transcripts from any records or other information directly relating to matters  
857 under this Agreement. Any subcontracting by the Club in performing the  
858 duties described under this contract shall subject the subcontractor and/or  
859 associates to the same audit terms and conditions as the Club. In addition,  
860 the Club shall maintain such records and make such records available to the  
861 County for audit and inspection for a period of no less than three (3) years  
862 after the conclusion of this Agreement.

863

864           Section 14.08.     Mutual Agreement Freely Entered Into. The Club  
865 and County agree that, although there is public usage and public service  
866 involved, this Lease Agreement is for the operation of a Yacht Club and the  
867 normal activities associated with a Yacht Club enterprise. Further the  
868 Parties agree that the terms negotiated in this Agreement reflect the use of  
869 Public Park Land for this purpose and that the compensation, as adjusted for  
870 public service, reflects this fact.

871

872           Section 14.09.     Other Miscellaneous Provisions.

873

874 1) There is no responsibility/liability on the County except for acts by  
875 the County or agents of the County, and then only to the extent of actual cost  
876 of repair, which the County may have verified by a mutually agreed upon  
877 independent third party.

878

879 2) There is no business interruption liability on the County whatsoever,  
880 without limitation.

881

882 3) The County has no responsibility to secure for, or on behalf of the  
883 Club any building permits, zoning changes or other permits which are  
884 needed by the Club for their continued or any proposed new or changed  
885 business operation, future installations and/or maintenance unless and only  
886 to the extent that the County is the Agency that issues such building permits,  
887 zoning changes or other permits. At Agreement inception, Right of Entry  
888 Permits to Park Land are the only items of this nature that the County issues.  
889

890 4) All approvals are subject to there being no conflicts with other  
891 existing zoning regulations, laws, applicable rules or regulations, or other  
892 factors beyond the reasonable control of the Parks Department. The Club  
893 will indemnify the County for actions taken by the Club or the Club's agents  
894 in this regard.

895

896 5) The Club is to be responsible for locating and plotting utilities and  
897 other infrastructure of the County and others that may be present in the area  
898 and which may be impacted by the Club's operations, activities and rentals.  
899 The Club is also responsible for any damage to these items caused by  
900 operations, programming and rentals and also maintenance and repair work  
901 done by the Club under cover of this Agreement.

902

903 6) The County makes no representation as to the suitability of the  
904 Premises for the Club's uses. The County will not be responsible for any  
905 costs for remediation, modification or improvement to permit the Club to  
906 conduct business under this Agreement. The County will not be responsible  
907 for any costs directly or indirectly related to the Club's activities and/or  
908 operation except as otherwise specifically provided in the Agreement.  
909

910 7) It is understood and agreed that in the normal course of its business  
911 the Club grants to its members and customers the right to use the Premises.  
912 The Parties acknowledge and agree that the use of the Premises and the  
913 related access to the Premises by the Club's customers, will not constitute an  
914 assignment, license or sublease under this Section. In the event that this  
915 Agreement is transferred to another Party and the Club is no longer  
916 responsible for the Terms of this Agreement, then the Terms of this  
917 Agreement shall also transfer to that Party. In the event that that the Party to  
918 which this Agreement is transferred to refuses to abide by the Terms of this

919 Agreement, or is unable to abide by the Terms of this Agreement, then the  
920 County may, at the County's option terminate this Agreement pursuant to  
921 Section 14.02.

922

923

924 Section 14.10. Taxes. The Club is fully responsible for any taxes  
925 which may become due and payable as a result of activities covered under  
926 this Agreement including, without limitation, State Sales Tax, Use Tax,  
927 Permits, Special Levies, Property Taxes and all other taxes that apply as a  
928 direct result of the Club's activities or only because a commercial or other  
929 use is being made of the Premises by the Club.

930

931 Section 14.11. County Expenses. The Club may request the  
932 County to perform services from time to time. Such services, if provided by  
933 the County, shall be reimbursed by the Club to the County at actual cost  
934 unless some other amount is agreed to between the Parties. However, the  
935 Club and the County may waive the written approval for amounts under  
936 \$1,000. In the event verbal approval is given for services under \$1,000 and  
937 disputed by the Club, future requests will require written approval.

938

939 Section 14.12. Liens, Encumbrances and Mortgages. The Club  
940 shall not cause or permit any Liens, Encumbrances or Mortgages to be  
941 levied against the Premises without the review and prior approval of the  
942 Director and the Office of the Milwaukee County Corporation Counsel.

943

944 Section 14.13. Trees. Except as to minor trimming and pruning  
945 of branches of trees, the Club will not cut down, remove or otherwise  
946 destroy any tree on the Premises without prior written permission from the  
947 Director.

948

949 Section 14.14. Safety and Security. The Club assumes full  
950 responsibility for safety and security of the Premises, including but not  
951 limited to adequate security and, as necessary, police services at events and  
952 activities and also electronic monitoring of the building for fire and break-  
953 ins. Such electronic monitoring shall either be direct to the police and fire  
954 department or shall be a service that has ready access to those services..

955

956 Section 14.15. Cooperation. The County and the Club agree to  
957 work together in good faith to ensure that community programming is  
958 continued and expanded and that problems and disputes are resolved.



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Section 14.16. Subleasing. Any and all subleasing of the Premises must be approved in writing by the Director in advance in writing. Subleasing means rental of some or all of the premises for a continuous period in excess of one month to a single third party. The Director retains sole authority to approve subleasing up to one year and subleasing in excess of one year shall also require approval of the County Executive and the County Board.

Section 14.17. Navigability. The County is not through this Agreement responsible to the Club for water levels, the Breakwater, removal or control of weeds or other obstructions, dredging or any other matter related to navigation, use of the docks, piers and slips or any other matter related to the lake. The Club and the County agree to work together in good faith to resolve such matters to the extent reasonably possible, but acknowledge that the County makes no fiscal commitment and is under no contractual obligation to this end by way of this Agreement. Further, the Parties acknowledge that the County may have legal, contractual or labor agreements or requirements or liability considerations that restrict the County's ability to accommodate the Club in these matters.

Section 14.18. Unrestricted Right of Termination. Either Party may terminate this Agreement. In the event that either Party shall elect to terminate this Agreement for any reason other than otherwise specified in this Agreement, such termination shall be subject to the following:

- If termination is by the Club: The Club shall provide the County prior notice of not less than six (6) months in writing as provided in the Notices Section. The Club shall surrender the Premises in good condition to the County in good condition and the Club shall be responsible for any outstanding fines, fees, forfeitures and the like levied against the Premises and shall hold the County harmless in these matters. In the event, that a mortgage or lien or any type is in place against the Premises or the Leasehold, the Club shall be solely responsible for

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satisfaction of the encumbrance(s) and there shall be no responsibility on the County. The Club shall also comply with the provisions of Section 14.07.

- If termination is by the County: The County may only terminate this Agreement, except for cause as provided elsewhere in this Agreement, by adoption of a Resolution terminating this Agreement. Such termination is subject to the following restrictions: (a) The Resolution must state the Public Purpose is served by the termination; (b) The Club must be given the opportunity to present information, evidence and other materials to the County Executive and County Board, or their successors, at a public meeting or hearing prior to the adoption of said Resolution; (c) In the event that the County in the future after such termination proposes to let out the Premises for a similar purpose, the Club shall be given a right of first refusal to rent or lease the Premises under the same terms and conditions as are offered to a selected renter or lessee; (d) The County must provide the Club a full year notice, plus the remainder of the then current boating season; (e) The Club shall continue to make rental payments according to this Agreement and those payments will be held in an escrow or trust account to be disbursed first for any repairs needed as a result of vacation of the premises, outstanding code or building violations or other encumbrances upon the Premises, and then the remainder will be split equally between the County and the Club within one year of satisfaction of the preceding and the return of the Premises to the County by the Club.

Section 14.19. Access and Parking. The Club acknowledges and agrees that parking outside the leased area is public parking and

1039 that, although the Club Members and their guests may use the  
1040 parking area, this parking is not reserved for the Club and the Club  
1041 Members and their guests are subject to the normal rules and  
1042 regulations of any member of the Public that uses the parking lot and  
1043 access road. The Club also acknowledges that during times of  
1044 maintenance to these areas or when the public safety is concerned,  
1045 the County may restrict access to these areas. However, the County  
1046 will cooperate with the Club to the extent reasonably possible to  
1047 minimize any disruption to the Club's operation.  
1048

1049 Section 14.20. Upon Termination of Agreement. Upon termination  
1050 of this Agreement through lapse of time, abandonment of premises by the  
1051 Club, through cause or for any other reason, the Club shall return the  
1052 Premises in good condition to the County, such condition shall not less than  
1053 the condition at Agreement inception and all subsequent improvements to  
1054 the Premises shall also be maintained in good condition. The Club shall be  
1055 responsible for any needed repairs to the premises, excluding normal wear  
1056 and tear. The Club agrees to remove any personal property at Agreement  
1057 end, except to the extent that the County waives such removal in writing.  
1058 Damage caused to the Premises by such removal will be repaired by the  
1059 Club. If for any reason the Club does not comply in a timely manner (which  
1060 shall be not more than sixty (60) days unless otherwise authorized in writing  
1061 by the Director), then the County may make such repairs, remove such  
1062 property and dispose of, or retain such property as the County sees fit. It is  
1063 mutually agreed that the County may recover from the Club any and all  
1064 reasonable costs related to this Section.  
1065

1066 Section 14.21. Not a Joint Venture. The Parties agree that this  
1067 Agreement is of the nature of a lease and does not constitute a partnership,  
1068 joint venture or any other relationship except as specifically laid-out,  
1069 described and/or defined in this Agreement.  
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1071 SIGNATURE PAGE FOLLOWS:  
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IN WITNESS WHEREOF, the parties hereto have set their hands and seals  
as of this 21<sup>st</sup> day of JULY, 2003.

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In Presence of:

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*[Signature]*

AUTHORIZED REPRESENTATIVE  
OF SOUTH SHORE YACHT CLUB

*Nancy E. Matten Commodore*  
Authorized Representative of South  
Shore Yacht Club

In Presence of:

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*Dorothy Bozich*

*Susan A. Balda*  
Director of Parks, Recreation  
and Culture

7/14/03

Reviewed by Corporation Counsel

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by: *Jam Schepers* 7/9/03

Reviewed by Risk Management

by: *John P. Keith*  
JUL 09 2003