

ZILLI PROPOSED TERMS:

General Concepts

The purpose of this proposal is to settle all current disputes relating to O'Donnell and the Domes, with the goal of creating a win – win scenario and to strengthen the partnership between Zilli and the County. The purpose is not to develop or promote any particular positions or arguments. Moreover, a great deal of time and effort was spent by Zilli to develop a proposal that did not necessitate the outlay of any cash by the County other than its ongoing obligations under the agreements and in the event of an early termination of the Domes.

I. Annex:

A. Term:

- i. Initial Term: 10 years from execution of a new operating agreement.
- ii. Extension Options: Two 5 year extension options exercisable by Zilli upon 12 months' prior written notice. Provided that Zilli is in compliance under the applicable operating agreements, the County will not have the right to refuse to extend.
- iii. No County Early Termination Right: Except for standard default provisions, no right in the County to terminate prior to end of Term, including during any extensions.

B. Capital Improvements: The Annex requires capital improvements, e.g. HVAC unit and any other necessary improvements. Zilli is researching what may be required. Zilli is willing to advance between \$100,000 -\$200,000 in capital improvement costs provided the County will match Zilli's contribution dollar for dollar. Zilli's capital improvement costs will be amortized over the initial 10-year term. If the agreement between Zilli and the County is terminated during the initial term by no fault of nor at the request of Zilli, the County will pay Zilli Zilli's unamortized costs of capital improvements. Because the Annex requires these capital improvements, Zilli cannot move forward without the County's commitment to timely fund its share.

C. Key Terms:

- i. Maintenance and Repair: County will agree to keep the venue in good operating and safe condition and repair during the entire term. Zilli agrees to establish a maintenance fund based upon the lifecycle of the HVAC unit for maintenance and replacement purposes.¹ The HVAC for the Annex will be separately metered and Zilli agrees to pay the HVAC utility

¹ An arrangement on funding has been agreed to in principle, but requires further discussion.

charges for Zilli hosted events. The County agrees to pay the HVAC utility charges for County hosted events.

- ii. Casualty: If there is a closure or other interruption in Zilli's ability to use the venue due to casualty, then the County will agree to repair unless the damage is over an agreed upon percentage or other agreed upon benchmark. Once the venue is again being used for Zilli events, then there will be a reduced rent schedule based on the length of the interruption and until operations have recovered from the closure/interruption. If the casualty is so significant that the venue will not be repaired and the applicable agreement is terminated, then the County will pay Zilli any of its unamortized costs of capital improvements.
- iii. Non-Casualty Closures: If there is a temporary closure or other interruption, reduced hours or other limitations for events arising from the condition of the venue (excluding only casualty and Zilli's willful misconduct or breach), then the County will undertake reasonable efforts to repair the damage. Once the venue is again being used for Zilli events, then there will be an abated/reduced rent schedule based on the length of the interruption and until operations have recovered from the closure (the abatement/reduction will be more generous than for a casualty as in the event of a casualty there may be some insurance proceeds available to Zilli to compensate for the loss of business from a casualty).

D. Rent (inclusive of the Domes):

- i. Percentage Rent: Zilli is willing to agree to pay seven percent (7%) of gross sales (food and beverage) to the County for sales between \$0 - \$600,000 each contract year. Zilli is further willing to agree to pay ten percent (10%) of gross sales (food and beverage) for sales in excess of \$600,000 each contract year.
- ii. Room Revenue from Catering Events: In return for having control of venue/room rentals for events with catering opportunities, Zilli is willing to pay the County the first \$50,000 in room revenue each contract year.² Any room revenue in excess of \$50,000 in a contract year will be split 50/50 between Zilli and the County.
- iii. Revenue from Non-catering Events. The County will retain all rental revenue from events without catering opportunities for which it rents the Annex and the Domes. These events may include, but are not limited to, ceremony-only weddings, approximately 22 winter markets, urban rummage sales, County town hall meetings, Friends of the Domes events and meetings, and Department of Parks, Recreation and Culture events

² Subject to reduction if/when the Domes close (for whatever reason).

and meetings. This non-revenue event revenue will not be included in the calculations of Section I.D.ii. Room Revenue above.

- iv. Calendar: County and Zilli would need to agree upon a calendar that allows the County to have its events, but that also guarantees a generous number of marketable venue dates to Zilli at both the Domes and the Annex.
- v. Termination Right. If the Dome Agreement is terminated, Zilli shall have the right upon 9 months prior written notice to terminate the Annex agreement.

II. Domes:

A. Term: From execution of a new operating agreement and coterminous with the Annex unless and then until the earlier of (i) County Board of Supervisors taking legislative action deciding to either permanently close the Domes or to institute major repairs or renovation of the Domes within the next 18 months after such action and the delivery of the lesser of (A) 18 months written notice to Zilli terminating the Domes operating agreement or (B) after written notice to Zilli, the date that is one business day after the last venue booking on Zilli's books for the Domes, or (ii) the permanent closure of the Domes because the venue is no longer safe for the public.

B. Future of the Domes:

i. If the County Board decides to rebuild the Domes or to construct a new facility (if the new facility allows for event hosting (at the sole discretion of County)), then the County and Zilli will negotiate reasonably, with due diligence and in good faith terms and conditions of a new operating agreement whereby Zilli will be able to operate in the facility on terms as close as possible to the terms of the Domes agreement. The new operating agreement will require approval by the Milwaukee County Comptroller and the County's bond counsel to ensure that any necessary bond issuance for the rebuilding and/or reconstruction of the Domes will be tax exempt. To the extent practicable (and as approved by the Comptroller and bond counsel), the new operating agreement term will run concurrently to the Annex.

1. If Zilli and the County (with the approval of the Comptroller and bond counsel) are able to work out a new operating agreement, the term of the new agreement (and the Annex agreement) will be extended for the same amount of time the Domes were closed for rebuilding and/or reconstruction.

2. The County will be afforded five (5) years to complete the rebuilding and/or reconstruction.

- ii. If the Domes permanently close for whatever reason, or if Zilli and the County cannot agree on a new operating agreement (see Section II.B.i.1.) within a reasonable time, or if the County decides to not rebuild the Domes or not reconstruct another facility capable of hosting events, then the County will buy out the Domes agreement pursuant to the following schedule determined based on the calendar year in which the County gives Zilli notice under Section II.A.(i)(A) or (B), as applicable, or the calendar year the Domes is closed under Section II.A.(ii), whichever first occurs:

2019	2020	2021	2022	2023	2024	2025
\$396,000	\$330,000	\$264,000	\$198,000	\$132,000	\$66,000	\$0.00

If the County Board of Supervisors took legislative action deciding to institute major repairs or renovation of the Domes within the next 18 months after such action and the County has not instituted such repairs or renovations within such time period, then Zilli can at any time after 18 months from such legislative action elect to receive payment as if the Domes had permanently closed as of the date of such action.

- C. Capital Improvements: Existing amortization schedule stays in place and is payable to Zilli based on the remaining amortization for the calendar year in which the County gives Zilli notice under Section II.A.(i)(A) or (B), as applicable, or the calendar year the Domes is closed under Section II.A.(ii) or is deemed closed under B. above or the Domes agreement otherwise terminates as provided therein, whichever first occurs.
- D. Rent, Room Revenue and Calendar: See Section I.D. above.
- E. Maintenance and Repair, Casualty, and Non Casualty: Same as 1.C. above subject to the County’s rights under this Article II

III. Other Venues:

- A. Boerner:
 - i. Initial Term: The current agreement expires December 31, 2023.
 - ii. Extension Term: The current 5 year extension option, which may be exercised if mutually agreed to, will be modified to be exercisable by Zilli upon 18 months’ prior written notice. Provided that Zilli is in compliance under the applicable operating agreements, the County will not have the right to refuse to extend.

- iii. No County Early Termination Right: Except for standard default provisions, no right in the County to terminate prior to end of Term, including during any extensions.
- iv. Square Footage: The space within which Zilli operates at Boerner will be clearly defined in the attached map and cannot exceed the square footage or enter into other areas of the facility.
- v. Second Option. If the Domes is permanently closed prior to 2023, Zilli will be granted a second 5 year extension term to be exercisable by Zilli upon 18 months' prior written notice. Provided that Zilli is in compliance under the applicable operating agreements, the County will not have the right to refuse to extend.