

LEASE AGREEMENT
BETWEEN
MILWAUKEE COUNTY PARKS DEPARTMENT
AND
CREAM CITY RED ARROW, LLC d.b.a. BIGGBY COFFEE

This Lease Agreement ("Lease") is made and entered into effective _____, (the "Effective Date") by and between the MILWAUKEE COUNTY PARKS DEPARTMENT (the "County" or "Landlord") and CREAM CITY RED ARROW, LLC, d.b.a. BIGGBY COFFEE ("Biggby Coffee" or "Tenant"), as represented by: Curtis Grace and Keith Washington. Referenced together, the Landlord and the Tenant are "Parties" to this Lease.

WHEREAS, in 2023, Milwaukee County issued a competitive Request for Proposals (RFP-2023-059) to solicit proposals for a concessionaire to provide year-round activity at Red Arrow Park, located at 920 North Water Street, Milwaukee WI 53202, in the City of Milwaukee; and

WHEREAS, on December 18, 2023, the County issued an intent to award letter to Cream City Ventures LLC, dba Biggby Coffee, which has since changed its name to Cream City Red Arrow, LLC, dba Biggby Coffee, for the Red Arrow Park concession operation; and

WHEREAS, Biggby Coffee seeks to provide food and beverage services to patrons of Red Arrow Park; and

WHEREAS, the Milwaukee County Board of Supervisors, by virtue of adopting Resolution _____ on _____, has authorized the Milwaukee County Parks Department to enter into this Lease with the Biggby Coffee for and on behalf of Milwaukee County; and

WHEREAS, Milwaukee County is a municipal body corporate in the State of Wisconsin, and it is the Milwaukee County Parks Department's mission is to steward a thriving parks system that positively impacts every Milwaukee County Parks visitor.

NOW, THEREFORE, recognizing that a year-round concession service at Red Arrow Park is advantageous to both Parties, the Parties do herewith, in consideration of mutual promises and other good and valuable consideration, agree as follows:

1. **BUILDING AND PREMISES:** Tenant shall lease the specified 969 square foot concession space within the Red Arrow Park Pavilion located at 920 North Water Street, Milwaukee, Wisconsin ("Premises"). The Premises is further defined in Exhibit A.
2. **CONDITION OF THE PREMISES:** County makes no representation or warranty that the Premises, including but not limited to the land, electrical and other mechanical systems: (a) meet and comply with all federal, state, and local laws, ordinances, and regulations; and (b) are in workable and sanitary order and state of repair at the time of delivery to Tenant. Tenant acknowledges that it has been made aware by County that Tenant may use the Premises on an "as-is" basis which may or may not prove to be suitable for all purposes contemplated by Tenant, either now or in the future.
3. **TERM:** This Lease shall be for an initial term ("Initial Term") of five (5) years commencing on the Effective Date, unless sooner terminated as provided herein.
4. **RENEWAL:** After the Initial Term of the Lease, the Parties may mutually agree in writing to extend the term of the Lease for up to three (3) additional consecutive five-year (5-

year) periods (each a "Renewal Term"). Such option shall be exercised by written notice to Landlord given at least 180 (one hundred eighty) days prior to the expiration of the Initial Term or the applicable Renewal Term and Landlord agreeing to accept such additional Renewal Term. The Parties agree that further negotiation regarding the terms and conditions, including rent, may be appropriate at the time each renewal is exercised. If the Parties exercise this option to negotiate the terms and conditions when a Renewal Term is requested, any negotiated changes must be agreed to between the Parties and executed by both Parties in writing at least thirty (30) days prior to the start of the Renewal Term.

5. RENT: The Rent shall be \$2,250 per month in rent for the Initial Term. Checks shall be made payable to the Milwaukee County Treasurer and mailed or delivered to: Milwaukee County Parks, 9480 Watertown Plank Road, Wauwatosa, Wisconsin 53226, Attn: Accounting.
6. CLOSURES: Biggby Coffee understands and accepts that County may close Red Arrow Park due to weather or conditions that may pose a public hazard. The County may close the ice rink for extended periods if the rink needs repair. Biggby Coffee also understands and accepts that the County seeks to improve downtown parks, and Red Arrow Park may be closed for indefinite periods of time due to reconstruction or renovation work. Biggby Coffee also understands that it is responsible for planning for closures that may be instituted by municipal authorities for conventions, public works projects or other events. The Parties will make good faith efforts to notify each other of any pending planned or emergency closings with at least two (2) weeks' notice for planned closings and at least twenty-four (24) hour notice for emergency closures.
 - a. RENT OFFSET: In the event of closures of Red Arrow Park due to events outside of the control of Milwaukee County Parks, the monthly rent may be pro-rated as agreed to in writing by Biggby Coffee and the Parks Executive Director or designee. In the event of closures of Red Arrow Park due to events outside the control of Milwaukee County Parks, the monthly utility costs shall not be waived.
7. UTILITIES: Biggby Coffee shall pay to the County the actual Utilities costs per month for the Premises. The County shall invoice Biggby Coffee for such Utilities costs on a monthly basis. Invoices shall be paid within thirty (30) days of issuance. "Utilities" shall include, but are not limited to, sewer, water, gas, electric, steam, streetlights ("City Fee"). Any costs related to the installation, service, and maintenance of Utilities, including, but not limited to, the installation of any electrical outlet(s) necessary for the operation of Biggby Coffee, shall be the sole responsibility of Biggby Coffee
8. PERMITTED USE/FOOD & BEVERAGES: Biggby Coffee shall have use of the Leased Premises for activities related to providing high quality coffee shop services, including beverages, breakfast and lunch sales to the public. Tenant is also permitted to sell food and beverages, including alcoholic beverages served under a Class B tavern license, at the food and beverage stands on the Premises. The concession is scheduled to be open as specified in Section 9 below. Tenant shall not dispense or distribute alcohol after 9:00 p.m.
 - a. ALCOHOLIC BEVERAGES: If Tenant offers alcoholic beverages, it shall be the sole responsibility of Tenant to manage the distribution of alcohol, and Tenant is solely responsible for any incidents involving alcohol sold by Tenant at the Premises. Tenant shall monitor the service of alcoholic beverages, make sure no

one under the age of twenty-one (21) is drinking alcohol, and refuse service to people who appear to be intoxicated or using poor judgment in their drinking.

- b. Outdoor Seating: If such seating is permitted by the local authorities, Tenant may provide outdoor seating for its customers on property owned by Landlord adjacent to the Premises. Tenant, at its cost, shall comply with all relevant state, municipal or local laws, regulations, rules, or ordinances with respect to outdoor seating, and obtain all necessary permits or licenses for the same. Tenant shall maintain the outdoor seating area serving its customers in a reasonably clean and neat fashion.
9. HOURS OF OPERATION: Biggby Coffee shall operate as a year-round concession operation. Hours may vary, dependent on the season, but are typically 6:00 AM to 9:00 PM Monday through Wednesday, 6:00 AM to 10:00 PM Thursday through Saturday and 7:00 AM to 9:00 PM Sundays. **Biggby Coffee shall be open during the operating hours of the ice rink.** The Parties acknowledge that the hours of operation may change depending on Parks events such as Slice of Ice and as required seasonally. The times of operation may be modified upon the written approval of the Parks Executive Director (the "Director") or his/her designee. No political activities may be conducted on the Leased Premises.
 10. PARKING: There is no parking designed for the Tenant or its employees. No vehicle traffic is allowed within Red Arrow Park
 11. EXCLUSIVITY. The County agrees that it will not lease space in Red Arrow Park to any retail business in which coffee-based beverages constitute at least 5% (five percent) or more of the sales of the business.
 12. SPECIAL EVENTS: To be held on the Premises, require the written permission of the County and Tenant shall obtain and may be required to pay for a Special Event Permit at the standard County fee in effect at the time of the Special Event from all governmental authorities having jurisdiction over the Premises.
 13. SIGNAGE: Tenant may display appropriate signage relating to its use with County's prior written consent, which may not be unreasonably withheld (the "Signage"). Tenant hereby covenants and agrees that Tenant shall, at its own cost and expense: (i) be responsible for ensuring that the Signage is in compliance with all applicable codes, ordinances, statutes, rules and regulations, including any action or rule of any landmark commission having jurisdiction; (ii) obtain and comply with all consents, approvals and permits necessary from all governmental and quasi-governmental authorities and landmark commissions having jurisdiction over the Signage; (iii) insure the Signage as part of its property and shall also carry liability and property damage insurance with respect to the Signage; (iv) ensure that the Signage retains an attractive appearance at all times; and (v) pay all costs associated with creating, designing, manufacturing, installing, cleaning, maintaining, repairing and replacing (if necessary) the Signage.
 14. PUBLIC ACCES AND USE OF THE PREMISES: The Parties recognize that during the Term of this Lease the Premises is operating as a business entity and that public use of the Premises is mutually desirable. The buildings will be open to the public, during regular business hours of Tenant or contracted providers. "Common Areas" shall mean all portions of the Building and Property (excluding the Premises) including, but not limited to, landscaped areas, parking lots, sidewalks, skating rink, and ancillary uses of the building such as the warming hut, skate rental area, and skate repair area. Tenant

and its employees, customers and invitees shall have the reasonable non-exclusive right to use, in common with Landlord and its respective employees, customers and invitees and all others to whom Landlord has or may hereafter grant rights to use the same, the public portion of the Common Areas. Landlord shall have the right to close any or all portions of the Common Areas to an extent as may, in Landlord's opinion, be necessary to prevent a dedication thereof or the accrual of any rights to any person or the public therein. Landlord shall always have full control, management and direction of the Common Areas. Tenant shall not cause or allow any storage of materials or equipment outside of the Premises on any of the Common Areas. Landlord reserves the right at any time and from time to time to reduce, increase, enclose or otherwise change the size, number, location, layout and nature of its Common Areas; to create additional rentable areas through use and/or enclosure of Common Areas; to close portions of the Common Areas for security reasons, to perform maintenance, repairs, replacement and alterations; to place signs in the Common Areas; and to perform any other acts as Landlord in the exercise of its good business judgment shall determine to be necessary or appropriate for the Property and/or Building.

15. **NAMING RIGHTS:** Tenant shall not allow or issue naming rights to any portion of the Premises without County's written consent. If approval is granted, no agreements entered into by Tenant with any third party relating to naming rights shall extend beyond the term of the new Lease.
16. **SOUND/AMPLIFIED MUSIC RESTRICTION:** Amplified music shall be limited to acoustic and vocal reinforcement to provide background music throughout the Premises and environs. Events or performances with concert style amplification must be approved in writing by the Parks Director or his/her designee. All amplified music approved by the Parks Director or his/her designee, as well as ambient music, shall comply with the appropriate municipal and Milwaukee County noise ordinances.
17. **COUNTY APPROVAL OF ITEMS TO BE SOLD:** Tenant shall provide County with a list and pricing information for the products it intends to sell to the public for approval. The Parks Director or his/her designee maintains the right to prohibit the sale or rental of any item that he/she deems to be inappropriate or otherwise within the Milwaukee County Parks System. Parks acknowledges Biggby Coffee offers branded retail items, but such items on sale cannot conflict with County prohibitions including the use of single-use plastic products and the sale of gum and glass bottles. Biggby Coffee shall provide County with a list and pricing information for the products it intends to sell to the public for Parks review. The Parks Director maintains the right to prohibit the sale or rental of any item that they deem inconsistent with the Milwaukee County Parks System. If Tenant chooses to sell soft drinks, bottled water or isotonic beverages, Tenant is required to operate subject to the Milwaukee County Parks System's exclusive non-alcoholic beverage contract, currently Pepsi America's and obtained from the local Pepsi distributor in line with Milwaukee County Parks exclusive contract with Pepsi Americas. Milwaukee County reserves the right to change distributors and suppliers during the course of the contract.
18. **CLEANLINESS, GARBAGE:** Tenant is responsible for maintaining the Premises, and the restrooms, as outlined Exhibit A, in a state of cleanliness and repair to prevent injury to the public, which includes daily removal of litter. Biggby Coffee is responsible for the collection and disposal of all municipal solid waste (trash) and recycling associated with its activities, including at outdoor seating, if any. County will be responsible for collection and disposal of litter and garbage outside the Premises. Biggby Coffee shall be

responsible for any litter and garbage cleanup associated with any Special Events permitted to Tenant. Tenant is strongly encouraged to establish a recycling program to reduce landfill waste. Tenant may contract with a commercial waste service and, upon coordination with County, place municipal solid waste and recycling containers in the designated corral adjacent to an accessible from East State Street.

19. RESTROOMS: Tenant shall provide thorough and hourly maintenance and cleaning of the public restrooms and permit public access to the restrooms during all hours of operations. Tenant shall thoroughly clean the restrooms and shall provide all restroom supplies and cleaners as needed. Tenant shall post public signage at restrooms indicating that the Tenant is responsible for maintaining the restrooms. If Tenant fails to maintain the restrooms for which it is obligated within one day after County's notice (email shall be acceptable notice), then the County shall have the right to provide the maintenance with its own staff or contract with a third party for the cleaning and charge all reasonable costs to Tenant (including salary and benefits if done with County's own staff). If notice is given by County to Tenant more than four (4) times in any month that the restrooms are not being maintained, County shall have the right to contract with a third party for the cleaning and charge all reasonable costs to Tenant or require Tenant to contract with a third party for the cleaning, for the remainder of the Term

20. DISPOSAL OF FATS, OILS AND GREASE:

- a. Prevention of FOG Build-up: Tenant shall keep leftover grease and food scraps from going down the drains. Fats, oils, and grease ("FOG") poured down drains can build up in pipes and sewers and cause sewage backups, which can lead to raw sewage overflows. Large amounts of FOG should be collected and stored in drums or barrels for recycling. Small amounts can be poured into a sealed container and thrown away. Tenant should scrape or wipe FOG from dishware and cookware and put it in the trash.
- b. GCD Installation: Tenant shall have a grease control device ("GCD") meeting all applicable requirements of Wisconsin Administrative Code NR 113 and State of Wisconsin Department of Commerce 82.34 standards. The GCD shall be installed by a plumber licensed in the State of Wisconsin prior to the Tenant's occupancy of the Premises. The GCD shall be installed and connected so that it may be readily accessible for inspection, cleaning and removal of FOG at any time.
- c. Maintenance: The GCD shall be maintained at the Tenant's sole expense. Maintenance shall include the complete removal of all contents, including floating material, wastewater and settled solids. The GCD shall be cleaned no less frequently than once every six (6) months. Grease interceptors shall be pumped out completely when the total accumulation of FOG, including floating solids and settled solids, reaches twenty-five percent (25%) of the overall liquid volume. Frequency of cleaning will depend upon the type of food prepared and how well grease is managed in the kitchen.
- d. Waste Disposal: FOG removed from a grease interceptor shall be disposed of in a solid waste disposal system or by a certified grease hauler. FOG removed from a grease interceptor shall be disposed of at a facility permitted to receive such wastes. No FOG shall be returned, decanted or discharged to any grease

interceptor or into any portion of any private or County sanitary sewer system or water treatment facility.

- e. Posting of Signage: The Tenant shall post County signage provided to the Tenant regarding FOG disposal in a clear and prominent place in the kitchen at the Premises. County signage shall be posted above the sink at the Premises if such posting is possible and if such posting would not obscure the signage.
- f. Inspection: County shall have the right of entry into the Premises at any time to make inspections, observation, measurements, sampling, testing, or records review of the GCD to ensure that the Tenant is in compliance with this Section 20. Operational changes, maintenance and repairs requested by the County shall be implemented by Tenant at Tenant's sole expense.
- g. Record Keeping: Tenant shall retain and make available for County's inspection and request all records of all cleaning and/or maintenance pertaining to the GCD during the Term. Cleaning and/or maintenance records shall include, at a minimum: (a) the dates of cleaning/maintenance; (b) the names and business addresses of each company or person performing the cleaning/maintenance; (c) the volume of waste removed in each cleaning/maintenance; (d) information regarding each FOG disposal, including location of the waste disposal site and a copy of the original manifest from the hauler, if applicable; and (e) description of any repairs needed to the GCD, date repairs performed and name of repairer. The rights and obligations set forth under this provision shall survive the termination of the Lease for a period of three (3) years.

21. MAINTENANCE AND REPAIRS:

- a. During the Term of this Lease, Milwaukee County will be responsible for repairing, maintaining, and plowing/shoveling Red Arrow Park, and repairing and maintaining all outdoor lighting, and the ice rink. Biggby Coffee shall be responsible for the maintenance and repair of the Premises, including repairing vandalism, routine cleaning, janitorial services and all repairs and preventive maintenance of plumbing, HVAC, electrical lightings, and all equipment serving the Premises. Biggby Coffee shall be responsible for maintaining, repairing and replacing exterior signage or outlets installed by Biggby Coffee. Milwaukee County shall be responsible for any structural repairs, restroom repairs, and for the maintenance, repair and replacement of any utility systems that serve Red Arrow Park, excluding the Premises, unless such damage is attributed to the activities of the Tenant, its customers, or its agents.
- b. Timeliness of Repairs:
 - 1. Tenant shall perform its obligations promptly after learning of the need for such repairs, but in any event within thirty (30) days of the occurrence or notice provided by the County. If Tenant fails to make such repairs for which it is obligated within thirty (30) days after County's notice, then the County shall have the right to make the repair with its own staff or contract with a third party to make the repair, and charge all reasonable costs associated with making the repair to Tenant (including salary and benefits if done with County's own staff).

2. If a needed repair constitutes a health or safety hazard to the public or has the potential to cause further damage to the Premises, County shall notify Tenant and Tenant shall immediately take steps to mitigate the risk and make such repairs. If Tenant fails to take such steps within 24 hours of County's notice, County shall have the right to make the repair with its own staff or contract with a third party to make the repair, and charge all reasonable costs associated with making the repair to Tenant (including salary and benefits if done with County's own staff).

22. IMPROVEMENTS:

- a. Tenant's future plans to renovate, improve, or alter any structure on the Premises hereunder are contingent upon Tenant obtaining an amount of not less than one hundred percent (100%) of the estimated cost of the construction and renovation to the Premises. All costs associated with the construction and renovation of the Premises, including disconnection and/or hookup of Utilities in conjunction with such construction or renovation, shall be the responsibility of the Tenant. The County will not incur any costs, pay any expenses, or issue any debt associated with the Premises, improvements and renovations to the Premises or equipment used on the Premises during the Term.
- b. Prior to the start of any renovation or construction activities, including any subsequent alterations, renovations or improvements to the Park requiring County approval, Biggby Coffee shall submit all detailed renovation or construction plans and specifications, and any revisions thereto, to the County together with the name of Biggby Coffee's proposed contractor(s), for review and approval, which approval shall not be unreasonably delayed or withheld. It is expressly understood that the County cannot and will not approve any revisions that, in their reasonable opinion, are not consistent with Biggby Coffee's purposes or not consistent with the conceptual design, plans and specifications submitted by Biggby Coffee. It is understood by the Parties that the construction of improvements may proceed in phases.
- c. Conditions for approval shall include, but not be limited to provision that: (1) Biggby Coffee shall obtain, prior to commencing any alterations, additions and improvements, all necessary permits and licenses from the appropriate governmental authorities; and (2) Biggby Coffee shall commence construction of said improvements described in the approved plans and specifications as soon as reasonably practicable following County Parks' approval which shall not be unreasonably withheld or delayed, and shall have a period of six (6) months or other period of time mutually agreed upon by Biggby Coffee and County Parks, thereafter to occupy and begin concession services (subject to extension by reason of force majeure delay). The ROE can be obtained at the Milwaukee County Dept. of Parks, Recreation and Culture, 9480 Watertown Plank Rd. Wauwatosa, WI 53226. County Parks' approval of the ROE shall not be unreasonably withheld or delayed.
- d. Construction Escrow: Tenant agrees to provide evidence reasonably satisfactory to the County, with copy to the County Comptroller, that the total amount of funds necessary to construct the proposed renovations to the Premises are immediately available and dedicated to such purpose and documentation is in place to provide for the orderly disbursement of such funds during the course of construction to pay for all permits, material, labor, supplies, and any other

miscellaneous items used or necessary for the construction of the renovations. Tenant shall deliver to County evidence reasonably acceptable to the County that the total amount of such funds are immediately available and dedicated for the above purpose prior to any construction activities taking place on the Premises.

- e. Construction Standards: All development and landscaping shall be completed in a first-class manner and consistent with the standards established for other work in Milwaukee County. All alterations, additions, and improvements shall be made in compliance with all statutes, laws, ordinances, rules, and regulations of any governmental authority having jurisdiction over the Premises. Tenant shall also indemnify and hold County harmless from and against all statutory liens or claims of liens of any contractor, subcontractor, laborer or any other party for work or materials which may arise in connection with any alteration, addition or improvement to the Premises undertaken by or on behalf of Tenant. In no event shall Tenant make any alterations or additions to the Premises without the prior written consent of County.
 - f. Builder's Risk: Tenant or its general contractor shall provide Builder's Risk insurance coverage on a completed value form insuring for special perils, with Milwaukee County as additional insured and loss payee on the insurance certificate. Coverage is during construction period and is intended to terminate when the work has been completed and the Premises are ready for occupancy. Prior to construction, Tenant shall supply County with written evidence of Builder's Risk insurance. Tenant shall not commence construction activities without written approval from the Parks Director and his/her designee, which approval shall not be unreasonably withheld, conditioned or delayed. The County shall provide a written response to the Tenant within ten (10) days of receiving written evidence of the Tenant's Builder's Risk insurance documents.
 - g. Licensed Tradespersons: Tenant agrees that all renovations and improvements shall be performed by fully licensed contractors and subcontractors who shall utilize industry standard supplies, equipment, and construction methods in the performance of their duties. Tenant shall require its contractors and subcontractors to obtain and maintain adequate insurance coverages with liability limits not less than that required of Tenant by County. Tenant shall have responsibility to enforce compliance with these insurance requirements and provide evidence of insurance for any contractor or subcontractor as acceptable to the County.
 - h. Construction Documents: Tenant agrees that within sixty (60) days after the conclusion of each construction project, renovation or improvement project, Tenant shall provide to County a complete set of construction documents to be included at a minimum: (a) as-built drawings; (b) a copy of all work orders and change orders; (c) a copy of all lien-waivers; (d) operation manuals or cut sheet drawings of any mechanical fixtures or equipment which was installed; (e) manufacturer's warranties or extended warranties; (f) a copy of all construction permits and signed drawings; (g) final occupancy permits, if applicable.
23. PARKS LOGO: Tenant is responsible for all marketing and advertising to promote its activities. Tenant shall acknowledge the Parks Department and include the Parks logo, to be approved by Parks Department, in all promotional materials, whether print or digital, directly related to its activities covered under this Lease.

24. PERMITS, LICENSES, AND OTHER COSTS: Tenant shall procure, maintain, and pay the fees for all appropriate federal, state, and local licenses and permits required for its activities.
25. COMPLIANCE WITH LAWS: The Tenant agrees to comply with all applicable federal, state, and local statutes, laws, rules, regulations, ordinances, and all policies, procedures, standards, and regulations of any accreditation agencies or bodies. The Tenant agrees to hold the County harmless from any loss, damage, or liability resulting from a violation on the part of the Tenant of any such laws, rules, regulations, policies, procedures, standards, or ordinances.
26. COMPLIANCE WITH LAWS – NONDISCRIMINATION, AFFIRMATIVE ACTION AND TARGETED BUSINESS ENTERPRISE GOALS:
- a. Generally. There shall be no discrimination against or segregation of any person, or group of persons, on account of gender, age, race, color, religion, creed, national origin or ancestry in the use of the Premises, and Tenant (or any person claiming under or through Tenant) shall not establish or permit any such practice or practices of discrimination or segregation with reference to the Premises.
 - b. Non-Discrimination. Tenant certifies that it will not discriminate against any employee or applicant for employment because of race, color, national origin, age, sex or handicap which includes, but is not limited to, the following: employment, upgrading, demotion or transfer, recruitment, or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship. Tenant will post in conspicuous places, available for employment, notices setting forth the provisions of the non-discriminatory clause.
 - c. Non-Segregated Facilities. Tenant 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.
 - d. Compliance. Tenant 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.
 - e. Targeted Business Enterprise Goals. For the construction of Significant Improvements, Tenant shall use reasonable efforts to cause its contractors to establish Targeted Business Enterprise ("TE") participation goals, consistent with Milwaukee County TE goals of twenty-five percent (25%) for construction and seventeen percent (17%) for goods and services, purchases, and subcontracts, and to use good faith efforts to achieve those goals. The Milwaukee County Office on Economic Inclusion shall assist Tenant in soliciting potential TE vendors for the improvements and monitor such goal attainment.
27. COMPLIANCE WITH LAWS – ADA: Tenant shall, at Tenant's expense, promptly comply with all laws, rules, and regulations made by any governmental authority having jurisdiction over Tenant's use of the Premises pertaining to: (a) accessibility, ensuring that the Premises and environs are fully accessible pursuant to the American with Disabilities Act of 1990 and the Architectural Barriers Act of 1968 and such accessibility is approved

by the Milwaukee County Office of Persons with Disabilities; and (b) Tenant's activities on the Premises.

28. INDEMNIFICATION: To the fullest extent permitted by law, Tenant shall indemnify the County for, and hold it harmless from all liability, claims and demands on account of personal injuries, property damage and loss of any kind whatsoever, including workers' compensation claims, which arise out of or are in any manner connected to the Premises, based on any injury, damage or loss being caused by any wrongful, intentional, or negligent acts or omissions of the Tenant, its agents, or employees. Tenant shall, at its own expense, investigate all claims and demands, attend to their settlement or disposition, defend all actions based thereon and pay all charges of attorneys and other costs and expenses arising from any such injury, damage or loss, claim, demand or action.
29. ENVIRONMENTAL INDEMNIFICATION: Tenant shall, to the fullest extent provided for under any environmental laws, rules and regulations, be responsible for any required repair, cleanup, remediation or detoxification arising out of any Hazardous Materials brought onto or introduced into the Premises or surrounding areas by Tenant, or its agents. Tenant hereby agrees to indemnify, defend and hold County harmless from and against any and all liabilities, costs, expenses (including attorney fees), damages (including but not limited to clean-up, remediation or detoxification of) or any other losses caused by its introduction of any such Hazardous Materials into or onto the Premises and any Hazardous Materials brought onto or introduced into the Premises as described below.
- a. "Hazardous Materials" as the term is used herein shall mean any substance: (i) the presence of which requires investigation or remediation under any federal, state or local statute, regulation, ordinance, order, action, or policy; or (ii) which is or becomes defined as a "hazardous waste" or "hazardous substance" under any federal, state, or local statute, regulation, ordinance, or amendments thereto, including without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9601 et seq.), or the Resource Conservation and Recovery Act (42 U.S.C. §6901, et seq.); or (iii) which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous and is or becomes regulated by any governmental authority, agency, department, commission, board, agency or instrumentality of the United States, the State of Wisconsin, or any political subdivision thereof; or (iv) the presence of which on lands within the Project Area causes or threatens to cause a nuisance upon the Project Area or surrounding area or poses or threatens to pose a hazard to the Project Area or surrounding areas or to the health or safety of persons on or about the Project Area; or (v) which contains gasoline, diesel fuel, or other petroleum hydrocarbons; or (vi) which contains polychlorinated biphenyls (PCBs), asbestos, or urea formaldehyde foam insulation; or (vii) which causes notification of release and required actions in accordance with Chapter 292 Wisconsin Statutes.
30. INSURANCE: Tenant, and every contractor and all parties furnishing services or product to Milwaukee County (County) or any of its subsidiary companies must provide County with evidence of the following minimum insurance requirements. In no way do these

minimum requirements limit the liability assumed elsewhere in the contract. All parties shall, at their sole expense, maintain the insurance limits as attached in Exhibit B.

31. INSPECTION BY COUNTY: County shall at all reasonable times have the right to enter the Premises to inspect the condition thereof, and to improve or repair the Premises, and to make such repairs, alterations, improvements or additions as County may deem necessary or desirable; provided, however, such entry shall be done in such a manner that it does not unreasonably interfere with the conduct of Tenant's use of the Premises.

32. INTEREST AND PENALTIES:

- a. Interest: Unless waived by County Board of Supervisors, Tenant may be responsible for payment of interest on amounts not remitted in accordance with this Lease. The rate of interest shall be the statutory rate in effect for delinquent County property taxes (one-percent (1%) per month or fraction of a month) as described in Wisconsin statutes section 74.47(1). The obligation for payment and calculation thereof shall commence upon the day following the due dates established herein.
- b. Penalty: In addition to the interest described above, Tenant may be responsible for payment of penalty on amounts not remitted in accordance with this Lease, as may be determined by County. The penalty shall be the statutory rate in effect for delinquent County property taxes (.5% per month, or fraction of a month) as described in Milwaukee County ordinance section 6.06(1) and Wisconsin statutes section 74.47(2). The obligation for payment and calculation thereof shall commence upon the day following the due dates established herein.
- c. Audit Results: If, as a result of an audit, additional amounts are disclosed to be due and owing to the County, interest and penalty shall be calculated thereon in accordance with the above method. Tenant shall remit to the County any additional amounts identified due and owing for the audit including interest and penalty thereon within thirty (30) days following receipt of the audit report by the County.
- d. Nonexclusivity: This provision permitting collection of interest and penalty by the County on delinquent payments is not to be considered the County's exclusive remedy for Tenant's default or breach with respect to delinquent payment. The exercise of this remedy is not a waiver by the County of any other remedy permitted under this Lease, including but not limited to termination of this Lease.

33. COUNTY RIGHTS OF ACCESS AND AUDIT: The Tenant, or other party to the Lease, its officers, directors, agents, partners and employees shall allow the County Audit Services Division and department contract administrators (collectively referred to as Designated Personnel) and any other party the Designated Personnel may name, with or without notice, to audit, examine and make copies of any and all records of the Tenant, or other party to the Lease, related to the terms and performance of the Lease for a period of up to three years following the date of last payment, the end date of this Lease, or activity under this Lease, whichever is later. Any subcontractors or other parties performing work on this Lease will be bound by the same terms and responsibilities as the Tenant. All subcontracts or other agreements for work performed on this Lease will include written notice that the subcontractors or other parties understand and will comply with the terms and responsibilities. The Tenant, or other

party to the Lease, and any subcontractors understand and will abide by the requirements of Section 34.09 (Audit) and Section 34.095 (Investigations concerning fraud, waste, and abuse) of the Milwaukee County Code of General Ordinances.

34. ASSIGNMENT AND SUBLETTING: Tenant may not assign this Lease, in whole or in part, or sublease any part of the Premises without the prior written approval of the Parks Executive Director or his/her designee, and the County Comptroller.
35. RELATIONSHIP OF PARTIES: Nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership, or of joint venture by the parties hereto, it being understood and agreed that no provision contained in this Lease nor any acts of the parties hereto shall be deemed to create any relationship other than the relationship of Landlord and Tenant.
36. TERMINATION: Other than as described in Section 4 above, County may terminate this Lease: (a) upon a Default by Tenant (as hereinafter defined); (b) if Tenant ceases to do business as a going concern, ceases to pay its debts as they become due, or admits in writing that it is unable to pay its debts as they become due, or becomes subject to any proceeding under any federal or state bankruptcy law, or a custodian or trustee is appointed to take possession of, or an attachment, execution or other judicial seizure is made with respect to, substantially all of Tenant's assets or Tenant's interest in this Lease; or (c) in the event that County, upon twelve (12) months' prior written notice to Tenant, elects to close or otherwise repurpose the Premises during the Term. If the County terminates the Lease within the Initial Term pursuant to this subsection (c), County agrees to buy out one hundred percent (100%) of Tenant's documented capital expenditure investment in the Premises on a straight-line depreciation over 5 (five) years. Tenant may terminate this Lease upon default by County.
37. SURRENDER AT TERMINATION: Upon expiration or termination of this Lease, Tenant shall remove, at its costs, all of its supplies, displays, and related items from the Premises within thirty (30) days of the termination date or by the date of expiration, and shall restore the Premises to its prior condition, satisfactory to the Director or his/her designee. Damage caused to the Premises by any removal of personal property or improvements to the Premises will be repaired by the Tenant. If for any reason Tenant does not comply in a timely manner with its obligations under this paragraph, then the County may make such repairs or remove, dispose of, or retain such property as the County sees fit. It is mutually agreed that the County may recover from the Tenant any and all reasonable costs, as determined by the County, related to this Section. The Tenant agrees to surrender the Premises in broom-clean condition, subject to ordinary wear and tear and casualty.
38. DEFAULTS & REMEDIES:
 - a. Tenant's Defaults. Tenant agrees that any one or more of the following events shall be considered events of default as said term is used herein:
 - a. Tenant shall fail to contest the validity of any lien or claimed lien and give security to County to insure payment thereof, or having commenced to contest the same and having given such security, shall fail to prosecute such contest with diligence, or shall fail to have the same released and satisfy any judgment rendered thereon, and such default continues for sixty (60) days after notice thereof to Tenant; or

- b. Tenant's failure to perform any other covenant or condition of this Lease within forty-five (45) days after notice and demand, unless the failure is of such a character as to require more than forty-five (45) days to cure, in which event Tenant's failure to proceed diligently to cure such failure shall constitute an event of default.
- b. County's Remedies. If a Default occurs, County shall have the rights and remedies hereinafter set forth, which shall be distinct, separate and cumulative and shall not operate to exclude or deprive County of any other right or remedy allowed it by law:
 - a. County may terminate this Lease by giving to Tenant notice of County's election to do so, in which event the Term of this Lease shall end, and all right, title and interest of Tenant hereunder shall expire, on the date stated in such notice;
 - b. County may enforce the provisions of this Lease and may enforce and protect the rights of County hereunder by a suit or suits in equity or at law for the specific performance of any covenant or agreement contained herein, or for the enforcement of any other appropriate legal or equitable remedy, including recovery of all moneys due or to become due from Tenant under any of the provisions of this Lease.
- c. County's Defaults. County agrees that the following shall be considered an event of default as said term is used herein:
 - a. County's failure to perform any other covenant or condition of this Lease within forty-five (45) days after notice and demand, unless the failure is of such a character as to require more than forty-five (45) days to cure, in which event County's failure to proceed diligently to cure such failure shall constitute an event of default.
- d. Tenant's Remedies. Upon the occurrence of any event of default by County, Tenant shall have any remedy available at law or equity.

39. **FORCE MAJEURE:** Notwithstanding anything to the contrary contained in this Agreement, neither Tenant nor the County shall be considered in breach or default of its obligations with respect to the construction of the Project (including Commencement Date, Construction Stoppage or Completion Date) or the construction of any items of the infrastructure, as the case may be, in the event that a delay in the performance of such obligations is due to causes which were beyond its reasonable control, such as adverse weather conditions, strikes, acts of God, acts of a public enemy, acts of any governmental authorities (including the County in the case of the Tenant), fire, flood, epidemics, embargoes or shortages of material from all reasonable sources, which shall not in any event include any economic hardship or delay due to the condition of the economy or real estate market ("Force Majeure Delay"). In the event of a Force Majeure Delay, the time for performance of the affected obligation shall be extended for the period of the Force Majeure Delay; provided, however, the delayed party shall, within fifteen (15) business days after the occurrence of the event causing the Force Majeure Delay, deliver written notice to the other party of the cause thereof. Failure to deliver written notice of such delay, with back up documentation if appropriate, shall constitute a

waiver of the delayed party's right to claim an extension of its time period because of the Force Majeure Delay.

40. CASUALTY: If the Premises is damaged or destroyed by fire or other casualty covered by insurance, then this Lease shall continue in full force and effect and County may proceed to repair or restore the Premises to the condition which County furnished to Tenant upon the commencement of the Term. County shall be under no obligation to restore any Alterations to the Premises made by Tenant unless the same is covered by County's insurance, but nothing herein shall be construed to require County to insure such property. In no event shall County be obligated to expend an amount in excess of the insurance proceeds available to County for such repair or restoration. In the event the Premises are repaired as provided herein, then Tenant shall repair and restore its merchandise, furnishings, furniture, equipment and all alterations, additions and leasehold improvements made by or for Tenant to at least a condition equal to that before its damage. If the Premises or any part of it shall be rendered un-tenantable by any destruction or damage, then a pro rata portion of the Rent based upon the number of square feet of area in the Premises which are un-tenantable shall be abated until the Premises or such part thereof shall have been put in tenantable condition. Despite the foregoing, if any destruction or damage to the Premises or to the Building (whether or not the Premises are affected) is so extensive that County, in its sole discretion, elects not to repair or restore the Premises or Building or the proceeds of insurance are not sufficient or available to fully pay the cost of the repair or restoration, then County may terminate this Lease effective as of the date of the damage by written notice to Tenant, with notice to be given within ninety (90) days after the occurrence of the damage or destruction.
41. CHOICE OF LAW: This Lease shall be governed, interpreted, construed, and enforced in accordance with the internal laws of the State of Wisconsin, without regard to its conflict of laws principles. Any litigation over the enforceability of the provisions herein or to enforce any rights hereunder shall be in state court with venue in Milwaukee County.
42. SEVERABILITY: If any part of this Lease is declared invalid or unenforceable by a court of competent jurisdiction, it shall not affect the validity or enforceability of the remainder of this Lease, unless the Lease so construed fails to meet the essential business purposes of the Parties as manifested herein.
43. ENTIRE AGREEMENT: This Lease and all properly executed Statements of Work constitute the entire agreement between the Parties relating to the subject matter hereof, and supersede any and all prior agreements and negotiations, whether oral, written, or implied. No change, addition, or amendment shall be made except by written agreement signed by a duly authorized representative of each Party.
44. AUTHORITY: If Tenant is a corporation, or limited liability company or other entity, each individual executing this Lease on behalf of Tenant represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of said corporation, limited liability company or other entity, as the case may be, and that this Lease is binding upon said corporation in accordance with its terms without the joinder or approval of any other person.
45. NOTICES: All notices with respect to this Lease shall be in writing, and e-mail shall constitute writing for the purposes of the foregoing. Except as otherwise expressly

provided in this Lease, a notice shall be deemed duly given and received upon delivery, if delivered by hand or after posting via US Mail, to the party addressed as follows:

To Tenant:

Cream City Red Arrow, LLC

To County:

Milwaukee County Parks
Executive Director
9480 Watertown Plank Road
Wauwatosa, WI 53226

Either party may designate a new address for purposes of this Lease by written notice to the other party.

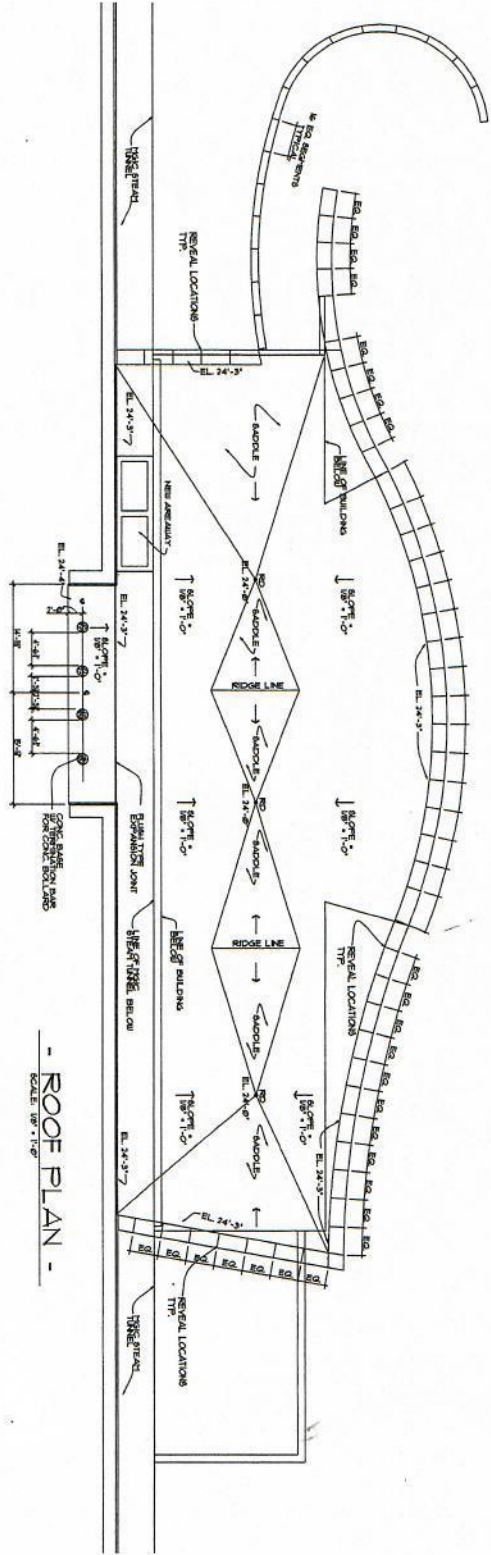
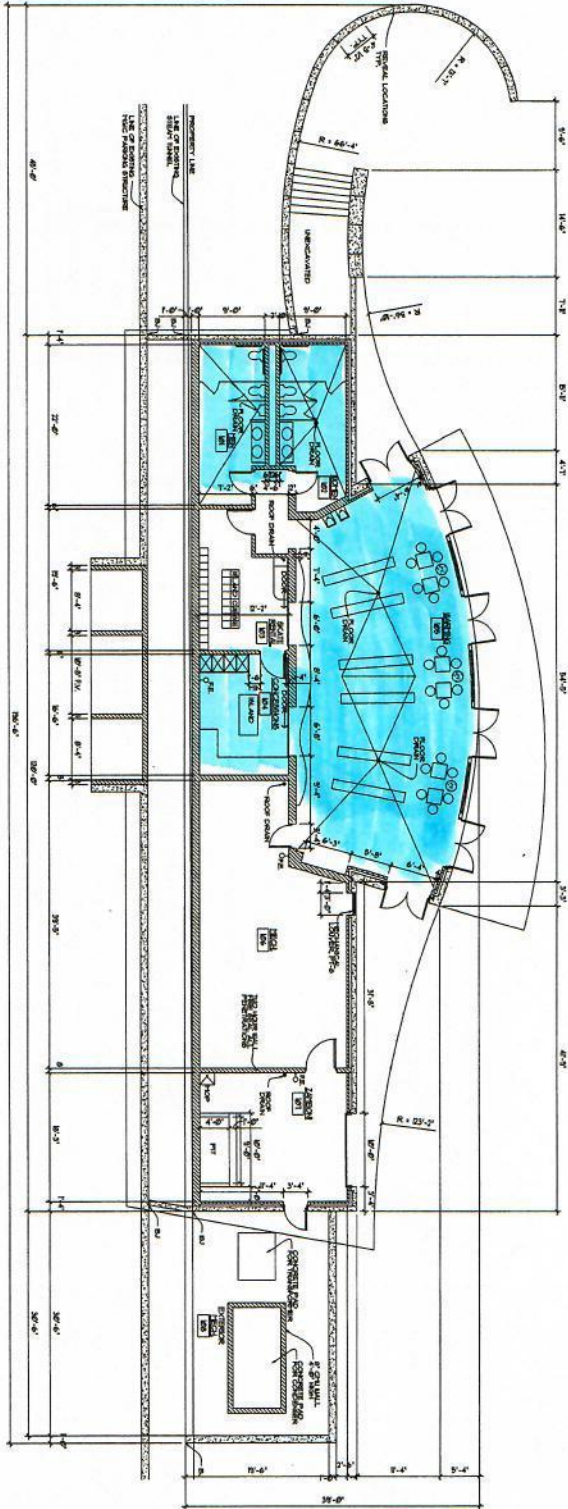
Electronic Signature Page Follows

EXHIBITS

EXHIBIT A: CONCESSION PREMISES

PREMISES

- FLOOR PLAN -
SCALE: 1/8" = 1'-0"



- ROOF PLAN -
SCALE: 1/8" = 1'-0"

1630 - RED ARROW PARK PAVILION

SHEET NO. A-1	GROSS AREA (869PJ) 3560	BUILDING NAME AND ADDRESS: RED ARROW PARK PAVILION 1630 N. WATER STREET	SCALE: 1/8" = 1'-0"	DRAWN BY: AR	DESIGN FRP
FILE NO.	BUILDING (08PJ)	SHEET DESCRIPTION: FLOOR AND ROOF PLANS	DATE: 8/26/03	CHECKED BY:	

DATE	REVISIONS	DRAWN BY

MILWAUKEE COUNTY DEPARTMENT OF PUBLIC WORKS
ARCHITECTURE AND ENGINEERING DIVISION
CITY CAMPUS COMPLEX 711 WEST WELLS STREET MILWAUKEE, WISCONSIN 53208

EXHIBIT B

MINIMUM INSURANCE REQUIREMENTS

Insurance. Every contractor and all parties furnishing services or product to **Milwaukee County (County)** or any of its subsidiary companies must provide County with evidence of the following minimum insurance requirements. In no way do these minimum requirements limit the liability assumed elsewhere in the contract. All parties shall, at their sole expense, maintain the following insurance:

- (1) Commercial General Liability Insurance including contractual coverage:
The limits of this insurance for bodily injury and property damage
Combined shall be at least:

Each Occurrence Limit	\$1,000,000
General Aggregate Limit	\$2,000,000
Products-Completed Operations Limit	\$2,000,000
Personal and Advertising injury Limit	\$1,000,000
United States Longshoreman And Harbor Workers Compensation Act Coverage	If required by law

- (2) Business Automobile Liability Insurance:
Should the performance of this Agreement involve the use of automobiles, Contractor shall provide comprehensive automobile insurance covering the ownership, operation and maintenance of all owned, non-owned and hired motor vehicles. Contractor shall maintain limits of at least \$1,000,000 per accident for bodily injury and property damage combined.
- (3) Workers' Compensation Insurance:
Such insurance shall provide coverage in amounts not less than the statutory requirements in the state where the work is performed, even if such coverages are elective in that state.
- (4) Employers Liability Insurance:
Such insurance shall provide limits of not less than \$500,000 policy limit.
- (5) Excess/Umbrella Liability Insurance:
Such insurance shall provide additional limits of not less than \$5,000,000 per occurrence in excess of the limits stated in (1.), (2.), and (4.) above.

Additional Requirements:

- (6) Contractor shall require the same minimum insurance requirements, as listed above, of all its contractors, and subcontractors, and these contractors, and subcontractors shall also comply with the additional requirements listed below.

- (7) The insurance specified in (1), (2), and (5) above shall: (a) name County, including its directors, officers, employees and agents as additional insureds by endorsement to the policies, and, (b) provide that such insurance is primary coverage with respect to all insureds and additional insureds.
- (8) The above insurance coverages may be obtained through any combination of primary and excess or umbrella liability insurance. County may require higher limits or other types of insurance coverage(s) as necessary and appropriate under the applicable purchase order. Except where prohibited by law, all insurance policies shall contain provisions that the insurance companies waive the rights of recovery or subrogation, by endorsement to the insurance policies, against County, its subsidiaries, its agents, servants, invitees, employees, co-lessees, co-venturers, affiliated companies, contractors, subcontractors, and their insurers.
- (9) Contractor shall provide certificates evidencing the coverages, limits and provisions specified above on or before the execution of the Agreement and thereafter upon the renewal of any of the policies. Contractor shall require all insurers to provide County with a thirty (30) day advanced written notice of any cancellation, nonrenewal or material change in any of the policies maintained in accordance with this Agreement. Coverage must be placed with carriers with an A. M. Best rating of A- or better.

EXHIBIT C

Reducing Single-Use Plastics Products and Polystyrene Foam

POLICY

Pursuant to File 20-147¹, Milwaukee County policy is to reduce and eliminate single-use plastic products and polystyrene foam (Styrofoam™ and similar products) on property owned, operated, or supported by the County. **For contracts entered or renewed on or after January 1, 2023, Milwaukee County vendors shall make good faith efforts to choose reusable, recyclable, or compostable products.** Accordingly, vendors shall not use, distribute, or sell the following items whenever possible:

- Balloons and confetti, whether made with rubber, latex, foil, nylon, mylar, paper or other material
- Single-use plastic straws and stirrers
- Single-use plastic clamshells and to-go containers
- Single-use plastic-lined cups and bowls
- Single-use plastic-wrapped condiments, sauces, and seasonings
- Single-use plastic shopping bags
- Plastic-wrapped giveaways
- Polystyrene food service ware
- Polystyrene coolers
- Polystyrene egg cartons, and produce and meat trays

Note: Packaging and medical supplies are *excluded* from this policy.

BACKGROUND

Enacted in April 2021, File No. 20-147 affirms Milwaukee County's commitment to environmentally sustainable practices (see File No. 07-111) through the reduction or elimination of the use of single-use plastic or polystyrene foam products in County-owned and operated facilities. The legislation requests that the Sustainability Director work with the Office of Corporation Counsel to draft contract language for approval by the Milwaukee County Board of Supervisors directing Milwaukee County vendors and contractors to reduce or eliminate the use of single-use plastic or polystyrene foam products in County facilities.

Related File No's:	20-147
Associated File No's (Including Transfer Packets):	07-111
Previous Action Date(s):	None

¹ <https://milwaukeecounty.legistar.com/LegislationDetail.aspx?ID=4328769&GUID=DCE60A0E-CE24-47C1-982A-D8A1796FF954>

ALIGNMENT TO STRATEGIC PLAN

Describe how the item aligns to the objectives in the [strategic plan](#):

3A: Invest “upstream” to address root causes of health disparities

According to the United Nations Environment Programme², vulnerable communities are often disproportionately impacted by the plastic pollution. Recent research suggests that Black people are 75 percent more likely to live near plastic production facilities than the average American³. These facilities expose residents not only to toxic chemicals, but also to indirect emissions from warehouses and heavy traffic from trucks. Thus, reducing or eliminating the use of single-use plastic or polystyrene foam products in Milwaukee County facilities helps address the root causes of health disparities from this pollution.

FISCAL EFFECT

The “SUP and Polystyrene Contract Language” is not expected to have a direct fiscal impact on Milwaukee County. Purchasing products made from alternative materials may increase operating costs for Milwaukee County vendors and contractors, and they may choose to raise prices, which would impact their customers (County residents and visitors). However, analysis by the Center for Sustainable Energy, an energy program administration and advisory services nonprofit, suggests that cost differences between common single-use plastic and polystyrene products and their alternatives are negligible⁴. Even if Milwaukee County contractors and vendors pass along the entire price increase to their customers, the financial impacts would likely be minimal.

TERMS

The “SUP and Polystyrene Contract Language” applies to all Milwaukee County contracts.

PREPARED BY:

Gordie Bennett, Sustainability Director, Facilities Management Division, Department of Administrative Services

ATTACHMENT:

SUP & Polystyrene Contract Language

United Nations Environment Programme. “Neglected: Environmental Justice Impacts of Plastic Pollution,” April 2021. Available at: <https://wedocs.unep.org/bitstream/handle/20.500.11822/35417/EJIPP.pdf>

³ Clark LP, Millet DB, Marshall JD (2014) “National Patterns in Environmental Injustice and Inequality: Outdoor NO₂ Air Pollution in the United States.” PLoS ONE 9(4): e94431. Available at: <https://doi.org/10.1371/journal.pone.0094431>.

⁴ Center for Sustainable Energy. “Recommendations for Reducing or Banning Foam Food Service Containers: An Analysis of Economic and Environmental Impacts of Polystyrene Policies,” March 2017. Available at: https://energycenter.org/sites/default/files/Guide_for_Polystyrene_Reduction_Policies.pdf.

ADDENDUM TO LEASE

This Addendum to Lease is entered into this _____ day of _____, 20_____, and modifies a Lease Agreement or Land License dated the same date (the lease or land license is referred to as the "Lease") entered into by _____ ("Franchise Owner") and _____ (the landlord, lessor, or licensor under the Lease is referred to as the "Landlord") for premises located at _____ (the "Premises").

1. Introduction. Franchise Owner has entered into a Franchise Agreement with Global Orange Development, LLC ("the Company"). The Franchise Agreement requires Franchise Owner's lease or land license for the Premises to contain certain provisions. In consideration of the agreement of the Company to enter into a Franchise Agreement with Franchise Owner for a BIGGBY COFFEE franchise to be located at the Premises, Landlord and Franchise Owner agree that the provisions contained in this Addendum will be applicable to the Lease notwithstanding anything to the contrary contained in the Lease.

2. Termination or Changes to Lease. Franchise Owner and Landlord agree that the lease will not be terminated, renewed, or in any way altered or amended by Franchise Owner and the Landlord without the prior written consent of the Company. Notwithstanding the foregoing, if Tenant defaults under the Lease and the default remains uncured for a period of 30 days after written notice to Tenant and the Company (as provided in Section 8 below), Landlord may exercise any and all remedies available to Landlord under the Lease, including terminating the Lease.

3. Use. The Premises must not be used for any purpose other than the operation of a BIGGBY COFFEE Store during the term of the Lease, including renewals.

4. The Company's Option. ~~Landlord and~~ Franchise Owner grant to the Company the exclusive right, exercisable at the option of the Company, to be assigned all right, title and interest of Franchise Owner in and to the Lease and the Premises on: (a) a default by Franchise Owner under the Lease; (b) the expiration or termination of the Franchise Agreement; or (c) Franchise Owner's abandonment of the BIGGBY COFFEE Store operated at the Premises or other cessation of use of the Premises for a BIGGBY COFFEE Store. The Company must give written notice of its intent to exercise this option no later than thirty (30) days after the event triggering the option. On the giving of notice of exercise by the Company, the Lease, and all right, title and interest of Franchise Owner under the lease and to the Premises will be automatically, and without need of further instrument, assigned to the Company. If the Company does not give notice of exercise to the Landlord within the thirty (30) day period, the Company will be deemed to have forfeited all its rights under this Section. If the Landlord approves of the assignment, Landlord and Franchise Owner agree to execute documents confirming this assignment in the form presented by the Company, ~~including a short form of Lease suitable for recording.~~ If the Company exercises its option and takes an assignment of the Lease, the Company will have the right to re-assign the Lease to an affiliate of the Company or to a BIGGBY COFFEE franchisee approved by the Company.

5. The Company's Access. Landlord and Franchise Owner grant to the Company the right to enter the Premises to inspect and audit the Franchise Owner's business and to make any modifications necessary to protect the Company trademarks. The Company shall make reasonable effort to inform

Landlord of its intent to inspect the Franchise Owner's business. Landlord will provide the Company entry to the Premises at the request of the Company without notice to or consent from Tenant.

6. Exclusivity. If the Premises are part of a strip mall, shopping center, large retail center, or similar location, Landlord will not lease any other space in the mall or center to any retail business in which coffee-based drinks constitute at least 5% or more of the sales of the business.

7. Notice of Default and Right to Cure. Franchise Owner shall notify the Company of any notice of breach issued by the Landlord, consistent with any agreement between the Franchise Owner and the Company.

8. Other Notices.

(a) Franchise Owner must give the Company 30 days prior written notice of: (i) the cancellation or termination of the Lease prior to the expiration date of the lease; (ii) an assignment or attempted assignment of the Lease by the Landlord or Franchise Owner; (iii) the sublease or attempted sublease of the Premises by the Franchise Owner; and (iv) any modification of the Lease.

(b) Franchise Owner must provide written notice to the Company within 15 days after (i) Franchise Owner exercises any option to extend the Lease; (ii) Landlord and Franchise Owner renew the lease; and (iii) Landlord institutes any action against Franchise Owner, including an eviction action.

(c) Within 10 days of delivery of the Premises from Landlord to Franchise Owner, Landlord and Franchise Owner will provide an executed Lease Commencement Agreement (in the form attached as Exhibit A) to the Company specifying the premises delivery date, lease commencement, and rent commencement dates.

9. Method for Providing Notices to the Company. All notices sent to the Company pursuant to this Addendum to Lease must be sent by certified or registered mail, return receipt requested, or by overnight courier, to the following address, or to such other address as to which the Company has notified the Landlord and the Franchise Owner:

Global Orange Development, LLC
Attention: John W. Gilkey, President
2501 Coolidge Road, #302
East Lansing, Michigan 48823

10. Third Party Beneficiary. Landlord and Franchise Owner agree that the Company is a third-party beneficiary of this Addendum and has the right independently of Franchise to enforce the provisions of this Addendum.

LANDLORD:

By: _____

Its: _____

FRANCHISE OWNER:

By: _____

Its: _____

THE COMPANY:

By: _____

Its: _____

Exhibit A
LEASE COMMENCEMENT AGREEMENT

Landlord: _____

Franchise Owner: _____

Date of Lease: _____

Address of Premises: _____

On this _____ day of 20__ Landlord tendered the premises to Franchise Owner with all Landlord's work complete.

Per the lease agreement, the commencement date of the lease is _____, 20__.

The initial lease term expires on _____, 20__.

Franchise Owner's obligation to pay rent will commence on _____, 20__.

Upon mutual execution, the parties agree all commencement and renewal dates shall be tied to the dates of this document.

Landlord _____ Date _____

Franchise Owner _____ Date _____