

Milwaukee County
Department of Administration – Facilities Management
901 N 9th Street, Room G1 Milwaukee WI 53233
(414) 278-4971

Request for Proposals/Bid for a
Parking Lot Operations Lease at
601 West State Street, Milwaukee WI
RFP # 938001

January 31, 2013

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II. Introduction

The Department of Administrative Services - Facilities Management Division is seeking bids from qualified individuals, corporations or business entities, whether for-profit or non-profit (hereinafter "Bidder") **to lease, operate, manage and maintain a parking lot located within the City of Milwaukee, adjacent to State Street, between 6th and 7th Streets.** The lot is located near MATC, Milwaukee Theater, Milwaukee Museum, Milwaukee Theater and BMO Bradley Center.

The term of a lease issued to a selected bidder will be for a minimum of three (3) years, with options to extend, at the discretion of Milwaukee County, for two (2) additional one (1) year periods for a potential total of five (5) years.

A minimum bid for the initial three (3) year term, plus minimum bid for the additional years and a percentage of revenue in excess a stated threshold, pursuant to Section IV.C. of this RFP, has been established.

A. Bid Process

Bidder Qualifications and Mandated Items

All bidders must meet the criteria set forth in Section IV.A. below to submit a bid for evaluation. The items and information required in Section IV.B. must be presented to Milwaukee County along with each bid. Section VII, **Attachment A** - Bid Submission Form - must also be submitted with each bid for consideration. A bid without this information and these items will not be considered and will be rejected.

Site Visits

A scheduled Site Visit prior to bid submission is optional, although all vendors are required to visit site prior to bid submission. A scheduled site visit will be held at the Premises on February 7, 2013 at 10:00 a.m. All bids shall be deemed to have been made with full knowledge and understanding of the existing conditions of the Premises.

Questions during the Bidding Period

All bidder questions must be submitted in writing. Written questions must be received by Wednesday, February 11, 2013 by 5:00 p.m., and directed to:

Department of Administrative Services - Procurement
E-mail address: mcprocurement@milwcnty.com

To ensure fair public notice to all prospective Proposers, Procurement staff will reply to all inquiries in writing on the Milwaukee Procurement Web site shortly after the bidder question deadline.

<http://county.milwaukee.gov/PendingBidsQuotesand7951.htm/>

No answers to substantive questions will be provided in person or by telephone.

Presentations and Interviews

Following a review of the submitted mandated items and bids that are timely and otherwise properly submitted, the Department of Administrative Services - Facilities Management Division may conduct interviews with the top scoring bidder(s). Interview(s) may be held by teleconference (via phone and/or internet) but in person is preferred. The purpose of any interview will be to clarify bid and evaluate the qualities, expertise and operational concepts of the Bidder's bid. No additional bid material will be accepted at interview.

Bidding and Evaluation of Bids

Bids received will be evaluated by Department of Administrative Services - Facilities Management Division staff. When the successful bidder has been chosen, a recommendation to the Department of Administrative Services - Facilities Management Director will be made. Upon approval of the recommendation the apparent winning bid/bidder will be notified. Any deposits, certificates of insurance, and letter of credit will be due to the Department of Administrative Services - Facilities Management Division within ten (10) business days after an announcement of the apparent winning bid/bidder. A Notice of Award will be issued once all required documents and deposits are received. Should the winning bidder fail to meet the requirements of the RFP or any other related Department of Administrative Services,- Facilities Management Division requirements, including Milwaukee County's due diligence, the Department of Administrative Services - Facilities Management Division may make an award to the next available bidder or withdraw the opportunity altogether. Notice of the winning bid will be posted on the Milwaukee County Procurement website. The resulting lease agreement will require county board approval.

The Department of Administrative Services - Facilities Management Division reserves the right to accept or reject any or all bids or any part or parts thereof; to waive any defects, informalities and minor irregularities, reject any and all bids, and to award the contract in the best interests of Milwaukee County. No costs of responding to this RFP or any addenda or other documents or attendance at meetings in connection with this RFP shall be reimbursed by Milwaukee County.

RFP Bidding Schedule

Bidders are encouraged to frequently check the Milwaukee County Procurement website for this RFP to be apprised of amendments and any changes to the bid documents or this schedule.	
Pre-Bid Site Visit	February 07, 2013
Written questions via email must be received by	February 11, 2013
Answers to written questions posted (Estimated)	February 13, 2013
Responses to RFP are due	February 21, 2013 2:00 PM
Notice to apparent winning bidder (Estimated)	February 27, 2013

Correcting, Modifying or Withdrawing Bids

Bid documents may be corrected, modified or withdrawn at any time **prior to the RFP due date** when the RFP packages will be opened. Modifications should be submitted in writing, sealed and marked in the same manner as the original bid package.

Mandatory Terms and Conditions; Permit Issuance

To commence operations, the lessees must acknowledge and accept award notice. Thereafter, the Department of Administrative Services - Facilities Management Division will draft and the parties will execute a lease agreement, based on the Draft Lease Agreement attached to this RFP document as **Attachment C**.

Due Diligence

Execution of the Lease Agreement and the obligations of Milwaukee County and the Lessee shall be contingent upon Lessee successfully meeting the Milwaukee County "Due Diligence" requirements, contained in **Attachment D**.

III. Description of the Premises & Applicable Information

The successful Bidder shall, at a minimum, provide an accountable, organized, efficient, safe, clean, professionally-staffed and well-maintained parking lot. Further, the successful Bidder will provide public year round, monthly, daily, evening and weekend as well as seasonal and event parking lot operations for use by the general public.

The parking lot is located at 601 North State Street, Milwaukee WI, adjacent to State Street, between 6th Street and N. James Lovell Street; near MATC, Milwaukee Theater, Milwaukee Museum and Bradley Center. The lot includes approximately one hundred eighty more or less (180+/-) lined parking spaces and hereinafter known as the "Premises."

Special Rate Agreements

Lessee may establish rates and method of operation for leased property as a parking facility.

The Department of Administrative Services - Facilities Management Division reserves the right to require for a period of twelve (12) months, at the beginning of the lease, that all then current monthly named contract holders, approximately fifty five (55) individuals, continue at the current established rate of Eighty dollars (\$80.00). Contract rates for any new customers after the inception of the lease, may be established by lessee.

Historical Revenue and Operations

Premises is currently operated on a gated cash only basis (less contract parking) and prepaid at time of entry.

Historical Revenue

Year	Daily	Special Event	Contract	Total Revenue
2010	\$ 179,363	\$ 139,218	\$ 36,885	\$ 355,466
2011	\$ 164,120	\$ 93,458	\$ 40,785	\$ 298,363
2012	\$ 135,418	\$ 103,588	\$ 46,045	\$ 285,051

Reserved Areas

No less than twenty-five percent (25%) of existing parking spaces should be available to the general public at all times.

Electricity Source, Small Repairs/Maintenance, Equipment, Improvements

The successful bidder shall be responsible for installation and all costs related to lighting, communications and electricity expenses for the Premises. The successful bidder will also be responsible for non-structural, non-major maintenance to the Premises.

The lessee shall, at its own expense, furnish materials, labor and equipment for crack sealing and seal coating the parking area at the commencement of the lease (See Article IV of Draft lease).

Upon expiration of the term of the lease all improvements to the Premises will become the property of the County at no cost to the County.

IV. Submission Requirements for Bids

All bids shall be in writing, in a legible format, as described in Section VII, and shall present in clear and sufficient detail the information requested in the following sections of this RFP:

- A. Qualification Information;
- B. Mandates;
- C. Compensation to Milwaukee County;
- D. Description of Entity and Related Experience;
- E. Description of Property Use; and
- F. Financial, Rate and Budget Information.

A. Qualification Information

The following information must be presented by all Bidders. Failure to provide this information will disqualify review of bids from unqualified bidders.

1. Bidder must show that it has operated or managed parking facilities for five (5) or more years within the last five (5) years.
2. Bidder must show that it already has access to or will be able to give and maintain either:

- a. An irrevocable, non-transferable Letter of Credit in the amount of One Hundred Thousand Dollars (\$100,000), available for the entire term of the lease and any extended periods; or
 - b. A performance bond or other assurance of performance in an amount and form satisfactory to Department of Administrative Services - Facilities Management Division and in a sufficient amount for the entire term of the permit and any extended period(s).
3. Bidder must show it has sufficient equipment and contracts to obtain equipment to run a modern parking system. A modern parking system would allow customers to pay by several means (cash, credit card, monthly, via a pay and display, plate or space method, or system of staffed and/or electronic/computerized kiosks, magnetized pass pads, etc.). The system must also include a problem resolution system to resolve lot and customer problems. The system must be auditable, tied to bidder's reporting, accounting, and cash management system(s), and reliable in any weather.
 4. A detailed list, a representative sampling, of any current or past contracts for or related to parking services or management with any private, municipal or state entity within the last five (5) years. Please include years, basic contact information, and estimated contract value.
 5. Bidder must list any lawsuits, administrative hearings, or other legal proceedings for or related to parking services or management in which bidder has been either a party or participant within the last five (5) years.

Any of the above information that is personally identifiable, confidential or proprietary information should be clearly marked as such and separated if possible.

B. Mandates

Failure to remit the following items in this section will result in the Department of Administrative Services - Facilities Management Division immediate rejection of a bid:

1. A letter from an insurance company or properly licensed broker, on its letterhead, duly licensed to conduct business within the state, specifying that the Bidder is qualified to meet and obtain the insurance requirements specified in **Attachment C** (the Draft Lease).
2. Bidder must provide at least three (3) written business references with whom the Bidder has had in the present or within the last five (5) years, contractual obligations to provide or related to parking management services or site lease. Said references must be from businesses with whom Bidder has provided such services or leased property in a similar fashion to this RFP. References must include contact information. References may be contacted and further references may be requested. These references should be in addition to any other references required elsewhere in this RFP (insurance, etc.).

C. Compensation to Milwaukee County

Failure to remit the following items in this section will result in the Department of Administrative Services - Facilities Management Division immediate rejection of a bid:

A minimum bid of Nine Hundred Thousand Dollars (\$900,000.00) (or \$300,000.00 per year) for the initial three (3) year term, plus a minimum bid of Three Hundred Thousand Dollars (\$300, 000.00) per year for any extended terms.

In addition to the annual lease payment an additional fixed fee of Ten Percent (10%) of sales revenue in excess of \$350,000 per lease year will be required; payable annually, thirty (30) days after the end of each lease year.

Monthly reporting to Milwaukee County of sales revenue will be required of lessee.

Should there be one or more qualified bidders, Milwaukee County reserves the right to request second round of 'price bid' only, as 'best and final offer' from each offeror in the competitive range.

Use **Attachment A** for required for submission.

Bidders should provide all of the following information in sub-sections D, E and F, to maximize points to be awarded as listed in Section V – Rule for Award and Evaluation Criteria. Bidders will be evaluated on the quality of the information provided in the following sections:

D. Description of Entity and Related Experience

1. A Complete written description and history of the business entity. Include bidder's company experience with this type of operation.
2. Resumes of all principals and managers. Department of Administrative Services - Facilities Management Division is looking for principals and managers that have demonstrated proof of experience of at least two (2) years in the operation and management of parking operations.
3. A list of the names and addresses of all principals who have more than a one percent (1%) financial interest in the business entity.
4. An "organizational chart," preferably in "tree" form, detailing the chain of command of the management and operating personnel of the company and the proposed operation at the Premises.
5. Bidder must provide a list and explanation of job descriptions for all anticipated operating personnel; a list of proposed staff at this location; and include experience and history of staff with the company. No names of actual staff are required.

E. Description of Property Use

1. Complete written description of the property use including but not limited to:
 - a. A description of a modern, dependable, and flexible pay system for patrons that considers convenience, safety, and speed for customers in obtaining tickets, paying fees, and obtaining immediate service in the event of a malfunction in any part of the system or other problems. A modern parking system would allow customers to pay by several means (cash, credit card, monthly, via a pay-and-display, plate or space method, or system of staffed and/or electronic/computerized kiosks, magnetized pass

- pads, etc.). Any proposed system must also include a problem resolution method to resolve lot and customer problems. The system must be auditable, tied to bidder's reporting, accounting, and cash management system(s), and reliable in any weather.
- b. Maintenance, general operations, staffing, training, and financial management plans including:
 - 1) The proposed use of the Premises using sketches or diagrams and including any structural additions, layout changes, signage, and cleaning plans.
 - 2) A description of equipment or contracts for equipment to operate the lot and any proposed parking system.
 - 3) Safety and security plans for the Premises, patrons and staff.
 - c. Any other aspects of Bidder's services including any customer service plan, emergency procedures, and policies and procedures.

F. Financial, Rate and Budget Information

1. Financial statements for the last two (2) fiscal years audited by a Certified Public Accountant, including profit and loss statements, balance sheets and cash flows or signed and filed federal and state tax returns for the last two (2) fiscal years.
2. Written evidence (i.e., letters, on letterhead) of bidders' positive and timely payment history. Said letters must reference payment histories from the last five (5) years. Said letters must be from actual payees who can be contacted.
3. If available, a Dun & Bradstreet or other credit history report or rating information.

V. Rule for Award and Evaluation Criteria

Department of Administrative Services - Facilities Management Division will select the responsive and responsible parking management bidder submitting the most advantageous bid, taking into consideration all quality requirements and comparative criteria as set forth in this RFP as well as compensation offered. The numerical point system described below will assist Department of Administrative Services - Facilities Management Division evaluators in reviewing comparative criteria among the bids.

Qualifications	Per Section IV A above	All Items Provided?
Mandates	Per Section IV B above	All Items Provided?
Other Criteria		Range of Points
Compensation to Milwaukee County	Per Section IV C above	60
Description of Entity and Related Experience	Per Section IV D above	0-20
Description of Property Use	Per Section IV E above	0-20
Financial Information	Per Section IV F above	0-20
Interviews	Per Section I above	NO POINTS
<i>Total Possible Points</i>		120

VI. Submission Location and Deadline

Bids must be delivered to the following exact mailing address:

Milwaukee County Clerk's Office
Attention: RFP # 938001
901 North 9th Street Room 105
Milwaukee, Wisconsin 53233

Bids must be received at the above address no later than, February 21, 2013 at 2:00 PM

VII. Bid Submission Format and Sequence

1. All bids shall be in writing, in a legible format and shall present in clear and sufficient detail the information requested in the RFP.
2. All items listed in the Bid Outline below must be completed, provided and or numbered in the order in which they appear below. Additional sheets may be attached where more space is required, but all responses should be referenced by an outline list number or section. Charts, diagrams and exhibits may be included. Proposal documents should be printed double-sided on 8½" x 11" paper.
3. Bidders must submit one (1) signed original and three (3) copies of their bid documents. Be sure that all copies are the same as the original, and include all required items. Be sure to include a completed Bid Submission Form (Attachment A).
4. All envelopes or containers shall be clearly labeled with "RFP # 938001, 601 North State Street Parking Lease and Parking Lot Operation" and include a return name and address on the outside of the envelope.
5. Please include a signed cover letter inside the envelope detailing: contact name, organization mailing address, telephone number (s), cellular telephone contact number(s), and email address(s). A list of contents should also be included.
6. Bids shall clearly state a bid offer in US Dollars for each year of operation. No special preference will be given to bids received early. No late entries will be considered.
7. Bidders should check the Milwaukee County Procurement website frequently prior to submitting bids for amendments, answers to questions, updates and any schedule changes.

Bid Outline and Submission Format

Submission Sequence

Cover Letter
Qualification Information
Mandates

Information Described

Section VII 5
Section IV A
Section IV B

Compensation to Milwaukee County
Description of Entity and Related Experience
Description of Property Use
Financial, Rate and Budget Information
Bid Submission Form
Acknowledgements and Conditions

Section IV C
Section IV D
Section IV E
Section IV F
Attachment A - Completed
Attachment B - Signed

Tips and Reminders:

- ☐ Bidders must submit one (1) signed original and three (3) copies of their bid documents. Be sure that all copies are the same as the original, and include all required items. Be sure to include a completed Bid Submission Form. Any information that is personally identifiable, confidential or proprietary information should be clearly marked as such and separated if possible.
- ☐ All envelopes or containers shall be clearly labeled, on the outside, with “RFP # 938001, 601 North State Street Parking Lease and Parking Lot Operation” and include a return name and address on the outside of the envelope.
- ☐ Please include a signed cover letter inside the envelope detailing: contact name, organization mailing address, telephone number (s), cellular telephone contact number(s), and email address(s). A list of contents should also be included.
- ☐ Bids shall clearly state a bid offer in US Dollars for each year of operation. Make sure all words and numbers match.
- ☐ No special preference will be given to bids received early. No late entries will be considered. Bidders should check the Milwaukee County Procurement website frequently prior to submitting bids for amendments, answers to questions, updates and any schedule changes.

ATTACHMENT A

Bid Submission Form

Milwaukee County Department of Administrative Services
Facilities Management Division
601 North State Street Parking Lease and Parking Lot Operation
RFP # 938001

TO:
Milwaukee County Clerk's Office
901 North 9th Street Room 105
Milwaukee, Wisconsin 53233

I, _____ (Bidder) acknowledge receipt of the Milwaukee County Department of Administrative Services - Facilities Management Division Request for Proposals for 601 North State Street Parking Lease and Parking Lot Operation and submit the following proposal in response thereto:

A. *Bid Format*

<i>Year</i>	<i><u>Minimum</u> bid/year</i>	<i>Additional bid amount</i>	<i>Total Bid</i>
2013	\$300,000		
2014	\$300,000		
2015	\$300,000		
2016 <i>if renewed/ extended</i>	\$300,000		
2017 <i>if renewed/ extended</i>	\$300,000		
Totals			

Plus Ten Percent (10%) sales revenue in excess of \$350,000 per lease year. Payable annually, 30 days after the end of each lease year.

B. *Site Visit Verification*

The scheduled Site Visit prior to bid submission is optional. The scheduled site visit will be held at the Premises on February 07, 2013. All Bidders though must certify that they have visited the site by providing this verification with their bid.

SITE INSPECTION VERIFICATION	
I _____, Bidder, visited the Premises site this _____ day of _____ 2013.	
_____ Name	_____ Signature
Title: _____	

C. References

Along with actual reference narrative, please fill out the chart below.

<i>Name/ Company</i>	<i>Contact Person and Title</i>	<i>Contact Info (telephone, e- mail)</i>	<i>Relationship/type of contract</i>	<i>Years</i>	<i>Estimated Contract Value</i>

ATTACHMENT B

Acknowledgements and Conditions

- a. The Proposer acknowledges that it has received and read the RFP and other attachments to the RFP, and the terms thereof are incorporated by reference in its Bid. The Proposer agrees that if its Bid is accepted, the Proposer will enter into a Lease Agreement with Milwaukee County.
- b. By submission of its response to this RFP, the Proposer authorizes Milwaukee County to contact any and all parties having knowledge of the Proposer's operations and financial history, and hereby authorizes all parties to communicate such knowledge or information to Milwaukee County.
- c. This Bid constitutes a firm offer and individual(s) listed below have authority to make this Bid as a firm offer. This offer shall be held firm and open for a period of three (3) months, effective beginning the date bids are opened.
- d. Proposers are advised to base their bid only upon the matters contained in this RFP and in any written clarifications (via addenda or answers to bidders' questions) issued by Milwaukee County and disseminated to all Proposers on Procurement website. Any questions about the bid must be submitted in writing prior to the scheduled deadline in the RFP as amended in any notice or on the Procurement website for this RFP. Only questions, which in Milwaukee County's sole judgment materially affect the RFP, will be clarified in writing by Milwaukee County and posted to Procurement website and/or with copies sent to all Proposers. Only such written clarifications to the RFP or the RFP document itself can be relied upon in the preparation and submittal of bids.
- e. Any costs or expenses incurred in the development of a bid in response to this RFP will be borne entirely by the Proposer.
- f. The information provided in this RFP and any subsequent addenda or related documents are provided as general information only. Milwaukee County makes no representations or warranties that the information contained herein is accurate, complete or timely. The furnishing of such information by Milwaukee County shall not create any obligation or liability whatsoever, and each Proposer expressly agrees that it has not relied upon the foregoing information and that it shall not hold Milwaukee County Liable.
- g. By submission of its bid, the Proposer acknowledges that from and after the Lease Agreement commencement date, the sole basis for the right to operate the parking lot as specified in this RFP is by award of the Lease Agreement.
- h. Milwaukee County is soliciting competitive bids that such a process best serves the interests of Milwaukee County and the general public. The Bidder acknowledges Milwaukee County's right to accept or to reject any or all bids, to withdraw or amend this RFP at any time, to initiate negotiations with one or more Bidders, to modify or amend with the consent of the Bidder any bid prior to acceptance, to waive any informality to effect any agreement otherwise, all as Milwaukee County in its sole judgment may deem to be in its best interest.

- i. **Non-Collusion Provision.** The undersigned certifies under penalties of perjury that this bid has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word “person” shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.
- j. The Bidder acknowledges that it has read, understood, and agrees to be bound by, all of the terms and conditional set forth in this RFP and any amendments, in its entirety.

Name of Business

Signature of individual submitting bid

Date

Printed Name and Title

ATTACHMENT C
Draft Lease Agreement

*THIS DRAFT LEASE CONTAINS THE BASIC MANDATORY TERMS AND CONDITIONS
REQUIRED BY MILWAUKEE COUNTY BUT MAY NOT CONTAIN ALL THE TERMS OF THE
ULTIMATE PERMIT AGREEMENT ISSUED TO THE WINNING BIDDER.*

**AGREEMENT
BETWEEN
MILWAUKEE COUNTY DEPARTMENT OF ADMINISTRATIVE SERVICES
FACILITIES MANAGEMENT DIVISION
AND**

**FOR THE
USE OF LAND LOCATED AT
601 WEST STATE STREET**

COMMENCING _____ and ENDING _____

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THIS INDENTURE, hereinafter called "AGREEMENT," made and entered into by and between MILWAUKEE COUNTY, through its DEPARTMENT OF ADMINISTRATIVE SERVICES – FACILITIES MANAGEMENT DIVISION, hereinafter called the "COUNTY" and _____, hereinafter called the "LESSEE".

WITNESSETH:

WHEREAS, the LESSEE is desirous of leasing for parking purposes, certain lands at 601 West State Street, Milwaukee WI at the said location as outlined on Exhibit "A" attached hereto and incorporated herein.

NOW, THEREFORE, in consideration of the terms and provisions contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, it is agreed as follows:

PROVISIONS:

ARTICLE I GRANT HABENDUM AND DEFINITIONS

Section 101: Grant Clause and Habendum

- (a) The COUNTY hereby grants to the LESSEE and the LESSEE hereby receives from the COUNTY for the term of this AGREEMENT and according to the terms hereof, the area described in Exhibit "A" attached hereto and incorporated herein.
- (b) The grant herein shall not include subsurface land rights and COUNTY reserves the right to use said land and the space above and below it for any purpose not inconsistent with the grant herein or with the construction, maintenance or repair of the PROPERTY.
- (c) The LESSEE under the grant herein shall lease the premises subject to the easements of record, if any.

Section 102: Definitions

- (a) The term PROPERTY as used herein means the land described in Section 101 of this AGREEMENT, subject to the limitations contained therein.
- (b) The term IMPROVEMENTS as used herein means any structures, drainage, underground and above ground conduit, water lines, paving, wheel stops, protection devices, landscaping, fencing, walks, or attendant's house, pedestal-mounted coin or token units, gates and gate arms, and such other facilities and components as may be required to control and supervise the parking, pursuant to this AGREEMENT.

ARTICLE II GENERAL

Section 201: Term

The term of this AGREEMENT shall be for a period of five (5) years commencing on the date agreed upon in Section 202 hereof. If the LESSEE holds over, the holdover shall be regarded as creating a month-to-month tenancy upon the same terms, covenants and conditions as are contained in the AGREEMENT and as are applicable during the portion of the term thereof immediately prior to the holdover.

Section 202: Covenant for rent for use of land

The LESSEE agrees to pay a monthly rental in the sum of _____ and N0/100 Dollars (\$_____.00) payable in advance to the COUNTY on

or before the 1st day of _____, 2013, and on the 1st day of each and every month during the term of the AGREEMENT.

Payment shall be mailed to:

Milwaukee County Facilities Management
Milwaukee County Courthouse - Room G1
901 North 9th Street
Milwaukee WI 53233

Section 203: Right of Entry

The COUNTY shall have the right to enter the PROPERTY or any improvements erected thereon during the term of this AGREEMENT for purposes of inspection or construction, for maintenance or repair, or for any other matters reasonably related to the terms of this AGREEMENT.

Section 204: Maintenance

The LESSEE shall conduct its operations as necessary to facilitate the COUNTY in maintaining the COUNTY's facilities in, on or under the PROPERTY.

The COUNTY shall provide 30-days notice to LESSEE explaining the extent and the nature of repairs, along with a proposed time schedule, in order that the area designated for repair or maintenance is vacated during the actual operations. Normal and routine maintenance to be performed by COUNTY shall be scheduled in consultation with LESSEE so as not to unreasonably disrupt LESSEE's use of the PROPERTY.

In an emergency, no advance notice will be given and COUNTY will conduct maintenance procedures at once without any prior notice. Rent shall abate on a per stall per day basis for the areas vacated under this section. The per stall rental rate shall be the rental rate for the area leased at the time of vacation divided by the stalls existing at the time of vacation.

ARTICLE III RESTRICTIONS

Section 301: Restrictions and Controls on Use

- (a) The LESSEE will not, in any manner during the term of this AGREEMENT, sublease, assign, transfer (including transfer of stock ownership), convey or encumber any of the leasehold rights received herein from the COUNTY nor any of the IMPROVEMENTS constructed within the PROPERTY without prior written approval of the COUNTY.
- (b) No storage or use on the PROPERTY of any materials or supplies deemed by the COUNTY to be a potential fire or other hazard.

- (c) The operation and maintenance of the PROPERTY will be subject to reasonable regulation by the COUNTY to protect against fire or other hazards of any nature impairing the use, safety, or appearance of the PROPERTY.
- (d) The occupancy and use of the PROPERTY shall not be such as will permit objectionable smoke, fumes, steam, vapors, or odors.
- (e) Advertising signs, displays, lighting, control and directional lights or devices will be subject to prior written approval of the COUNTY, and shall in all respects conform to federal, state, and local requirements: reserving to the COUNTY the right to restrict number, size, location and design.
- (f) The PROPERTY shall be used exclusively for the parking of operable passenger vehicles (including vans, and light trucks) and at no time shall semi-trucks or trailers be parked thereon. Any change in the authorized use of the PROPERTY is subject to prior written approval by the COUNTY. Commercial or retail uses of any kind, and servicing motor vehicles are prohibited.
- (g) At no time shall any vehicle be used as living or sleeping quarters while parked on the PROPERTY.
- (h) LESSEE will grandfather, for a period of twelve (12) months, from the beginning of the AGREEMENT, all current monthly contract holders at the current established rate. Contract rates for newly established customers at the inception of this AGREEMENT may be established by LESSEE.

ARTICLE IV IMPROVEMENTS

Section 401: Improvements

- (a) LESSEE shall not make any improvements in, on or upon the PROPERTY, and no alterations shall be made in, on, or upon the PROPERTY without written approval of the COUNTY under penalty of forfeiture of this AGREEMENT and payment of damages. Requests by LESSEE to develop, improve or alter the PROPERTY shall be in writing and accompanied by detailed plans and specifications, covering proposed development, improvement or alteration. Upon written approval by the COUNTY of all plans and specifications for any improvement or alteration, construction by LESSEE shall be in accordance with such approved plans and specifications.
- (b) Any improvements by LESSEE approved in writing by the COUNTY shall be constructed at no cost to the COUNTY and be completed within six (6) months of having received COUNTY's approval. LESSEE shall be responsible for the regular maintenance and repair of said improvements, which shall become the property of the COUNTY upon termination of this AGREEMENT at no cost to COUNTY.

- (c) The LESSEE shall make application, secure and pay for all permits, licenses or other authorizations required by authority of federal, state or local laws, ordinances, codes and other regulatory measures in connection with the conduct of the operation of parking lots and the LESSEE shall pay all fees, taxes and charges assessed under federal, state and local laws or ordinances insofar as they are applicable, including real estate taxes, if any.
- (d) LESSEE shall preserve and protect during the term of this AGREEMENT all existing appurtenances, such as downspouts, cleanout pipes, storm sewers, manholes, sewer laterals and all existing utility facilities from damage due to the use of the parking lot.
- (e) LESSEE shall in all respects conform to the federal requirements, the state and COUNTY laws and ordinances and to the ordinances and regulations of the City of Milwaukee governing the operation and maintenance of public parking lots. If a parking attendant building is desired it shall be constructed of non-combustible materials.
- (f) LESSEE shall, at their expense, fill all potholes, if any, and complete the crack filling and seal coating of the lot no later than two hundred seventy (270) days after the inception of the lease. If these improvements are not completed by above deadline the COUNTY may, at its option, either make the improvements and bill LESSEE the costs thereof or terminate this AGREEMENT. The LESSEE shall inform the COUNTY when the crack filling and seal coating is to begin. The COUNTY will inspect the work as it proceeds to insure compliance with the following specifications:

The LESSEE shall, at its expense, furnish materials, labor and equipment for crack sealing and seal coating the parking area.

MATERIAL:

- 1. Material for filling cracks shall be hot poured crack sealer CRAFCO #211 or equivalent.
- 2. The seal coat material shall be a coal tar pitch emulsion for coating bituminous pavements and shall meet the requirements of Federal Specification R-P-355d, dated April 16, 1965.

SEALING OF BITUMINOUS PAVEMENT:

Surface preparation shall include the burning off and scraping of all oil and grease spillage, sealing of treated spillage areas with a solution of one part isopropyl alcohol and one part shellac, painting over the original (not existing) yellow lines with black paint, cleaning out cracks larger than 1/8" by air blasting and then filled with hot pour joint sealant, and cleaning the entire surface with a power broom and high velocity blower.

The coal tar pitch emulsion shall be applied in two (2) coats with a minimum coverage of two (2) gallons per 100 square feet total. Silica sand shall be added to the first coat at the rate of four (4) to six (6) pounds per gallon of sealer. The material shall be applied by squeegee, brush or by approved mechanical methods.

- (g) LESSEE shall, at its expense, comply with any applicable requirements of the American with Disabilities Act of 1990, and any subsequent revisions thereto, to protect the civil rights of the disabled.

ARTICLE V

MAINTENANCE AND REPAIR

Section 501: Maintenance

- (a) LESSEE shall at all times keep or cause to be kept in good repair, including removal of graffiti, any IMPROVEMENTS constructed on the PROPERTY. Whenever, in the judgment of the COUNTY, such repairs have not been made and it is necessary to effect the same, the COUNTY shall notify the LESSEE in writing, setting forth the nature of the repairs that are required. If the nature of the repairs so set forth is of an emergency nature, the LESSEE shall immediately undertake to make such repairs and complete the same in a time and manner satisfactory to the COUNTY. In non-emergency cases, the LESSEE shall, within thirty (30) days of receipt of the notice from the COUNTY take the remedial action required. If a condition arises which, in the judgment of the COUNTY, constitutes an immediate and serious threat to the safety of the public and the LESSEE, having been notified, shall have failed or been unable to remedy the same within a time, which, in the judgment of the COUNTY is reasonable, then, and in that event, the COUNTY shall, without the consent of the LESSEE, have the right to enter in and upon the PROPERTY and, at LESSEE's expense, make such repairs as it deems necessary, and all expenses and costs of making such repairs shall constitute charges due to the COUNTY by LESSEE which shall be due immediately upon demand.
- (b) The LESSEE shall at no expense to the COUNTY keep and maintain the PROPERTY free from pot-holes, surface cracks and irregularities, rubbish, paper, cans, trash and debris and inflammable materials of every description and at all times in an orderly, clean, safe and sanitary condition. A high standard of cleanliness, aesthetic and pleasing appearance consistent with the location will be required. LESSEE shall, at his own expense, mow and maintain grassed areas, including abutting street right-of-way and during the winter months the LESSEE shall at his own expense remove the snow and ice from the PROPERTY and abutting sidewalks.

Section 502: Changes

- (a) It is expressly provided and agreed by the parties hereto that should the COUNTY determine at its sole discretion that it is necessary to construct IMPROVEMENTS, remove any existing IMPROVEMENTS, reconstruct or extensively modify existing

IMPROVEMENTS, or require any portion of the PROPERTY for any other transportation or public use, including but not limited to selling the PROPERTY, the COUNTY may partially or completely terminate this AGREEMENT, without recourse to COUNTY upon 30-days written notice to LESSEE. In the event of such modification or termination, the provisions of Section 503 herein shall apply, unless otherwise modified in writing by the parties.

- (b) In the event of any such change or addition that results in a decrease or increase in usable property under the terms of this AGREEMENT, the COUNTY will modify, as required, the area leased and the contract rental shall be adjusted on a per stall basis. The per stall rental rate shall be the contract rental for the PROPERTY divided by the number of parking stalls existing at the time of change. The contract rental shall increase or decrease by the per stall rental rate. The PROPERTY relinquished by the LESSEE due to a decrease in the leased area or any increase in the leased area will continue to vest in the COUNTY.

Section 503: Retention of Improvements

Upon expiration of the term of this AGREEMENT, or prior termination either by mutual agreement or pursuant to the provisions hereof, all IMPROVEMENTS on the PROPERTY will become the property of the COUNTY, subject to the right of the COUNTY to require the LESSEE to remove part or all of the physical improvements above the parking lot paving at no cost to the COUNTY.

ARTICLE VI

INDEMNIFICATION AND INSURANCE

Section 601: Indemnification

- (a) To the fullest extent permitted by law, the LESSEE agrees to indemnify, defend and hold harmless the COUNTY, its agents, officers and employees, from and against all loss or expense including costs and attorney's fees by reason of liability for damages including suits at law or in equity, caused by any wrongful, intentional, or negligent acts or omissions of LESSEE, or its agents which may arise out of or care connected with the activities covered by this AGREEMENT.
- (b) LESSEE assumes liability for bodily injury and property damage resulting from falling objects, snow, ice, or salt which may or may not result from snow removal or ice control activities.

Section 602: Reimbursement in Respect of Certain Litigation

- (a) The LESSEE shall pay all costs and expenses which may be incurred by, and any monies due under any judgment or decree rendered against, the COUNTY from time to time (1) in defending any suit or proceeding brought against the COUNTY for the violation by the LESSEE, while this AGREEMENT is in effect, of any present or future law or ordinance

applicable to the PROPERTY, or (2) in defending any action or suit for damages because of any failure, neglect or default on the part of the LESSEE (except such failure or default as may be due to conditions as to which the LESSEE can exercise no effective control) in respect of any obligation, agreement, or undertaking required by this AGREEMENT to be performed or observed by the LESSEE.

- (b) The LESSEE shall also pay all costs and expenses which may be incurred by the COUNTY, in successfully enforcing compliance with the provisions of this AGREEMENT by the LESSEE, as well as any monies due under any judgment or decree rendered in favor of the COUNTY in connection therewith. If the COUNTY shall be made a party to any litigation with respect to any matter growing out of this AGREEMENT as to which the LESSEE is solely at fault, the LESSEE shall pay all judgments, decrees and costs, or expenses incurred by or imposed on the COUNTY in connection therewith. Any such costs, expenses, judgments and decrees shall, if paid by the COUNTY, be treated as amounts payable by the LESSEE to the COUNTY with interest thereon at the rate of twelve percent (12%) per annum from date the same is paid by the COUNTY to the date of payment thereof by the LESSEE. The COUNTY shall promptly notify the LESSEE in writing of the date of payment and the amount of any such cost, expenses, judgments and decrees so paid by it.

Section 603: Insurance

LESSEE agrees to evidence and maintain proof of financial responsibility to cover costs as may arise from claims of tort, statutes and benefits under Workers' Compensation laws and/or vicarious liability arising from employees. Such evidence shall include insurance coverage for Workers' Compensation claims as required by the State of Wisconsin, including Employer's Liability and insurance covering General, Garage Keepers Legal, and Automobile Liability coverage in the following minimum amounts.

<u>Type of Coverage</u>	<u>Minimum Limits</u>
Wisconsin Workers' Compensation or Proof of All State Coverage	Statutory
Employer's Liability	\$100,000/\$500,00/\$100,000
Commercial or Comprehensive General Liability	
Bodily Injury & Property Damage (Incl. Personal Injury, Fire Legal & Contractual & Products/Completed Ops	\$1,000,000 Per Occurrence \$2,000,000 General Aggregate
Garage Keepers Legal Liability	

To include coverage for Fire, Theft, Collision, etc.	\$1,000,000 Per Occurrence
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Automobile Liability

Bodily Injury & Property Damage All Autos-Owned, non-owned and/or hired Uninsured Motorists	\$1,000,000 Per Accident Per Wisconsin Requirements
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Comprehensive Crime Coverage	\$100,000 Per Accident
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To include fidelity, theft, money and securities, inside and outside to protect the COUNTY's interest in loss of funds by embezzlement, theft, fire, etc.

MILWAUKEE COUNTY, as its interests may appear, shall be named as additional insured for General, Automobile, Garage Keepers Legal, and be afforded a thirty (30) day written notice of cancellation or non-renewal. Disclosure must be made of any non-standard or restrictive additional insured endorsement, and any use of non-standard or restrictive additional insured endorsement will not be acceptable. A certificate indicating the above coverages shall be submitted for review and approval by the COUNTY for the duration of this AGREEMENT.

Coverages shall be placed with an insurance company approved by the State of Wisconsin and rated "A" per Best's Key Rating Guide. Additional information as to policy form, retroactive date, discovery provisions and applicable retentions, shall be submitted to COUNTY, if requested, to obtain approval of insurance requirements. Any deviations, including use of purchasing groups, risk retention groups, etc., or requests for waiver from the above requirements shall be submitted in writing to the COUNTY for approval prior to the commencement of activities under this AGREEMENT. No tenancy shall be deemed to exist until the certificate of insurance is filed with the COUNTY.

The insurance requirements contained within this AGREEMENT are subject to periodic review and adjustment by the County Risk Manager.

Section 604: Noncancellation Clause

All insurance agreements shall provide that they may not be canceled or terminated until at least thirty (30) days written prior notice shall have been given to the COUNTY stating the date and time that such insurance agreements are to be canceled or terminated. In the event the LESSEE shall fail to maintain the insurance coverage required by Section 603, the AGREEMENT shall automatically terminate at COUNTY's option as of the date that such insurance is no longer in force and effect.

Section 605: Insurance Does Not Waive Lessee's Obligations

No acceptance or approval by the COUNTY of any insurance agreement or agreements shall relieve or release or be construed to relieve or release the LESSEE from any liability, duty or obligation assumed or imposed upon it by the provisions of the AGREEMENT.

ARTICLE VII
RIGHTS, REMEDIES and PROCEDURES
IN THE EVENT OF BREACH

Section 701: Default in Rent

- (a) A failure of the LESSEE TO PAY ANY MONTHLY RENTAL ON OR BEFORE the due date shall constitute a default.
- (b) At any time after a default in payment as provided in subsection (a), the COUNTY may at its option terminate the AGREEMENT. The COUNTY shall give written notice of the default, and the LESSEE shall have ten (10) days in which to pay the rent due. In the event of termination, this AGREEMENT shall expire as fully and completely as if that date were the date herein expressly fixed for the expiration of the term; and the LESSEE shall thereupon quit and surrender to the COUNTY the PROPERTY and any IMPROVEMENTS.

Section 702: Other Breaches

A failure on the part of any party to this AGREEMENT to observe or perform any of the other terms, covenants or conditions for which provision is not otherwise made in this AGREEMENT or in Sections 701, 702, and 703 of this AGREEMENT, which failure persists after the expiration of thirty (30) days from the date of written notice to such party setting forth such failure (or such longer period as shall be reasonably necessary to correct the failure in question, including without limitation delays resulting from causes not due to the fault or neglect of such party) shall entitle the other party to pursue such actions and proceedings as may be necessary to compel specific performance and payment of all damages and reasonable expenses and costs and/or to terminate this agreement.

Section 703: Subsequent Defaults

Upon the occurrence of each default, the LESSEE and the COUNTY shall have the rights and remedies they are entitled to under the preceding Sections.

Section 704: Obligations and Rights and Remedies Cumulative

- (a) The respective obligations of the LESSEE and COUNTY pursuant to this AGREEMENT shall be cumulative, and the reference to any such obligation shall not be construed as a limitation on any other obligation.

- (b) The respective rights and remedies of the LESSEE and the COUNTY, whether provided by this AGREEMENT or by law, shall be cumulative, and the exercise of any one or more of such rights or remedies shall not preclude the exercise at the same or at different times, or any other such rights or remedies for the same default, or for the same failure of the LESSEE to perform or observe the covenants contained in this AGREEMENT.

Section 705: Nonaction in Respect of Failure or Defaults not to Constitute Waiver

Any failure by the LESSEE or the COUNTY to take any action with respect to any failure of the COUNTY or LESSEE, respectively, to perform or observe any of the covenants contained in this AGREEMENT or with respect to any default on the part of the LESSEE or COUNTY hereunder (whether before or after any suit or judgment has been filed or obtained against the LESSEE by the COUNTY or against the COUNTY by the LESSEE in connection therewith) shall not be construed to be a waiver of such failure or default in respect of the provision of this AGREEMENT involved or any other part of this AGREEMENT or of this AGREEMENT as an entirety.

Section 706: Bond - Letter of Credit

LESSEE shall secure or cause to be secured, for the five (5) year lease term a bond or letter of credit in the minimum amount of one month's rental covering the faithful performance of the AGREEMENT and the payment of all obligations arising thereunder with sureties authorized to transact business in the State of Wisconsin. This provision is in addition to and shall not affect other remedies and provisions of Sections 701, 702, 703, 704 and 705.

The LESSEE shall deliver the required letter of credit to the COUNTY on or before receipt of an approved executed lease agreement. No tenancy shall be deemed to exist until the required bond or letter of credit is received by the COUNTY.

**ARTICLE VIII
MISCELLANEOUS PROVISIONS**

Section 801: Modifications or Amendments

This AGREEMENT may be amended only by written document duly executed by the parties hereto, evidencing the mutual agreement of the parties hereto.

Section 802: Approvals and Notices

- (a) This AGREEMENT is subject to the approval of the County Board of Supervisors.
- (b) Whenever, under this AGREEMENT, approvals, authorizations, determinations, satisfactions, notices or waivers are authorized or required, such shall be effective and valid only when given in writing, signed by a duly authorized representative of the LESSEE or COUNTY and delivered to the principal office of the party to whom it is directed.

- (c) Any such notice or demand shall be deemed to have been given at the time it shall have been deposited in the United States mail, postpaid and registered or certified.

Section 803: Audit

Pursuant to Milwaukee County ordinance section 56.30(6)(e), LESSEE shall allow the COUNTY or any other party the COUNTY may name, when and as they demand, to audit, examine and make copies of records in any form and format, meaning any medium on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by LESSEE, including but not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), computer files, computer printouts and optical disks, and excerpts or transcripts from any such records or other information directly relating to matters under this AGREEMENT, all at no cost to the COUNTY. Any subcontracting by LESSEE in performing the duties described under this AGREEMENT shall subject the subcontractor or associates to the same audit terms and conditions as LESSEE. The LESSEE (or any subcontractor) shall maintain and make available to the COUNTY the aforementioned audit information for no less than three (3) years after the conclusion of this AGREEMENT.

Section 804: Delinquent Payments

- (a) Interest. Unless waived by the County Board of Supervisors, LESSEE shall be responsible for payment of interest on amounts not remitted in accordance with the terms of this AGREEMENT with COUNTY. The rate of interest shall be the statutory rate in effect for delinquent County property taxes (presently 1% per month or fraction of a month) as described in Subsection 74.47(1). Wis. Stats. 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, LESSEE may be responsible for payment of penalty on amounts not remitted in accordance with the terms of this AGREEMENT with COUNTY, as may be determined by the administrator of this AGREEMENT, or designee. Said penalty shall be the statutory rate in effect for delinquent County property taxes (presently .5% per month, or fraction of a month) as described in the COUNTY Ordinance Subsection 6.06(1) and Subsection 74.47(2). Wis. Stats. 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 any audit carried out by the COUNTY as permitted herein, additional amounts are disclosed to be due and owing to COUNTY, interest and penalty shall be calculated thereon in accordance with the above method. LESSEE shall remit to 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 COUNTY.

- (d) Nonexclusivity. This provision permitting collection of interest and penalty by COUNTY on delinquent payments is not to be considered the COUNTY'S exclusive remedy for LESSEE's default or breach with respect to delinquent payment. The exercise of this remedy is not a waiver by COUNTY of any other remedy permitted under the AGREEMENT, including but not limited to termination of this AGREEMENT.

Section 805: How Agreement Affected by Provisions Being Held Invalid

If any provision of this AGREEMENT is held invalid, the remainder shall not be affected thereby if such remainder would then continue to conform to the requirements of applicable State or Federal laws, rules and regulations.

Section 806: Independent Contractor

The COUNTY and LESSEE agree that, as independent and separate entities, each shall maintain a staff, management, and fiscal structure independent of the other. This AGREEMENT does not make or appoint, and nothing contained in this AGREEMENT shall be construed to appoint, either Party as an agent of the other, or to create a partnership or joint venture between the Parties. Neither Party shall act or represent itself as an agent of the other, and shall not bind or obligate the other in any manner.

Section 807: Execution of Multiple Originals

For the convenience of the parties, this AGREEMENT was executed in multiple originals, each of which and any one of which may be introduced in evidence or used for any other purpose.

Section 808: Nondiscrimination

During the performance of this AGREEMENT, the LESSEE, for itself, its successors in interest and assignees, as a part of the consideration hereof does hereby covenant and agree as a covenant running with the land that:

Section 809: Code of Ethics

No person may offer or give to any County elected official or employee, directly or indirectly, and no County elected official or employee may solicit or accept from any person, directly or indirectly, anything of value if it could reasonably be expected to influence the local public official's vote, official actions or judgment, or could reasonably be considered as a reward for any official action or inaction on the part of the local public official. This Section does not prohibit an elected official or employee from engaging in outside employment.

Section 810: Disadvantaged/Small Business Enterprise

LESSEE shall use reasonable efforts to cause its contractors to establish Disadvantaged Business Enterprise (DBE) participation goals, consistent with the COUNTY's DBE goals of 25% for construction and 17% for professional services, for the planning, development and construction of improvements and to use good faith efforts to achieve these goals.

Section 811: Affirmative Action Program

LESSEE agrees 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 the seller's work force, where these groups may have been previously under-utilized and under-represented. LESSEE also agrees that in the event of any dispute as to compliance with the aforesaid requirements, it shall be its responsibility to show that it has met all such requirements.

The said parties have hereunto set their hands and seals this _____ day of _____, 20__.

MILWAUKEE COUNTY, LESSOR

By: _____

Chris Abele
County Executive

_____, LESSEE

By: _____

Name: _____

Title: _____

Approved as to form and independent status: Reviewed by:

By: _____ Date: _____
Corporation Counsel

By: _____ Date: _____
Risk Management

Approved with regards to County Ordinance Chapter 42:

By: _____ Date: _____
Community Business Development Partners

ATTACHMENT D

Due Diligence Requirements

Milwaukee County Administrative Manual section 7.92 - Due Diligence

CHECKLIST. Prior to recommending any venture for consideration, responsible County agencies shall ensure that any of the following applicable factors have been identified:

- Letter of Full Disclosure and Cooperation
- Cash flow projections for the venture.
- Operating budget impact.
- Debt management responsibilities, schedules and procedures.
- Legal liability for all priorities.
- Financial reporting systems and controls.
- Right-to-audit provisions.
- Project feasibility studies and market analysis.
- Key factors for success/failure of the venture.
- Governance structure and procedures.
- Public policy impacts (e. g. Affirmative Action, Disadvantaged Business).
- Employee/labor relations impacts (including benefits).
- Environmental concerns.
- Tax consequences.
- Capital management (e. g. maintenance).
- Conflicts of interest/ethics.
- Performance measurements.
- Organization Chart and Mission Statement
- Name of Lending institution or Bank to determine single or combined reporting

Each relevant item noted above should be provided prior to executing the lease agreement for approval by the County Executive and County Board.