

LEASE AGREEMENT
BETWEEN
MILWAUKEE COUNTY DEPARTMENT OF PARKS, RECREATION AND CULTURE
AND
THE ROCK SPORTS COMPLEX, LLC

This Lease Agreement (the "Agreement") is made and entered into effective this ____ day of _____, 2017 (the "Effective Date"), by and between MILWAUKEE COUNTY, through its Department of Parks, Recreation and Culture ("County"), and the THE ROCK SPORTS COMPLEX LLC or its assigns ("Operator"). Referenced together, the County and the Operator are the "Parties" to this Agreement.

WITNESSETH:

WHEREAS, the County is the owner of the former Crystal Ridge Ski Hill ("Ski Hill"), located on a portion of the Taxkey #6519988002 in the Village of Greendale, Wisconsin ; and

WHEREAS, the Ski Hill was formerly managed under a "Sports Park Maintenance and Operations Services Agreement" between the Parties dated September 24, 2012; and

WHEREAS, pursuant to County Board File _____ the Sports Park Maintenance and Operations Services Agreement was terminated on _____; and

WHEREAS, the Parties have a shared mutual interest in operating the Ski Hill under substantially the same the terms and conditions of the original agreement.

NOW, THEREFORE, the Parties do herewith, in consideration of mutual promises and other good and valuable consideration, agree as follows:

PROVISIONS:

1. PREMISES:

Operator shall lease the Ski Hill and its improvements located at Taxkey #6519988002 in Greendale, Wisconsin and agreed upon adjacent areas ("Premises"). The Premises are more fully described in Exhibit A and depicted on Exhibit A-1.

2. TERM:

This Agreement shall commence on the Effective Date and continue for a period of twenty (20) years ("Initial Term") with automatic successive twenty (20) year extensions ("Renewal Terms") so long as Operator's affiliate, BPC County Land LLC, is under a continuing obligation to monitor, maintain and replace landfill infrastructure as part of the operation of the adjacent landfill. The Initial Term and any then-existing Renewal Term shall be referred to as the "Term" herein.

3. CONDITION OF THE PREMISES:

The County makes no representation or warranty that, as of the Effective Date of this Agreement, all parts of the Premises: (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 the Operator. The Operator acknowledges that it has been made aware by the County that the Premises are hereby offered on an "as-is" basis and may or may not prove to be suitable for all purposes contemplated by the Operator, either now or in the future. The Operator further acknowledges that it has freely inspected the Premises and is aware of their general overall condition.

4. UTILITIES:

Operator shall pay for any and all of the Utilities consumed by Operator at and serving the Premises. Utilities shall be billed directly to Operator. "Utilities" shall include electricity, gas, telephone, internet, water and sewer. Any costs related to the installation, service, and maintenance of Utilities, including, but not limited to, the installation of any electrical outlet(s) that are necessary, shall be the sole responsibility of the Operator.

5. PERMITTED USE OF THE PREMISES:

- a. Use. Consistent with County ordinances and other applicable laws, the Operator shall have the use of the Premises for the purposes of mountain biking, cross country and downhill skiing, snowboarding and tubing, outdoor haunted hikes, a zipline, and related outdoor recreational activities and for no other purposes except additional recreational uses that may be approved by County, pursuant to County Board approval.
- b. Operating Hours. The Operator shall operate the Ski Hill on days and hours consistent with similar recreational sports parks at other similar locations in Wisconsin, subject to closure due to inclement weather. The hours of operation of the Ski Hill shall now allow any event to begin later than 9:00 pm on any night. The County has the authority to adjust the hours of operation of County parks, including the Ski Hill, in the County's reasonable discretion, and nothing in this Agreement is intended to limit or abrogate such authority.
- c. Noise and Light. The Operator and the Premises shall be subject to the noise and light addendum attached hereto as Exhibit D.
- d. Continuous Operation. The Operator agrees to cause the Ski Hill to be continuously operated as weather and seasons permit throughout the term. The Operator shall have the right to temporarily cease operations for repairs, maintenance, construction, replacements and other construction related activities.
- e. Public Rentals. The Operator is permitted to implement a rental program allowing the public to rent certain areas in the Premises according to the Operator's policies and pricing. The County shall have the right to reserve usage through the Operator.

- f. Parking. Vehicles will park only in designated parking areas within or adjacent to the Premises. The Operator is responsible for enforcing this policy with its staff and visitors.
- g. Compliance with Laws. The Operator shall, at the Operator's expense, promptly comply with all laws, rules, and regulations made by any governmental authority having jurisdiction over the Operator's use of the Premises.
- h. Naming Rights. Operator shall not allow or issue naming rights to any portion of the Premises without the prior written consent of Milwaukee County, which consent shall not be unreasonably withheld.
- i. Cleanliness, Garbage: Operator is responsible for maintaining the Premises in a state of cleanliness and repair to prevent injury to the public. Operator is also responsible for the collection and disposal of all trash, litter and garbage associated with its activities.
- j. County Parks Logo. As is reasonable and appropriate, the Operator shall endeavor to acknowledge the County Parks Department and include the Parks logo in promotional materials, print or digital, controlled by the Operator and distributed to the general public regarding the Operator's activities and programming in the Premises.
- k. Public Access and Use of the Premises. The Parties recognize that the Ski Hill is a public park and that public use of the Premises is mutually desirable. The Premises shall remain open and available to the public on a daily basis.
- l. Annual Reports. Within ninety (90) days after the conclusion of each annual commencement anniversary date, the Operator shall submit a written report to the County listing a description of the activities provided at the Ski Hill within the preceding year; the approximate number of participants served by each of the activities; and if applicable, the focus and types of any new activities planned for the upcoming calendar year.

6. IMPROVEMENTS:

- a. General. The Operator is committed to making improvements and renovations to the Premises during the Term. Such renovations and improvements shall be mutually and reasonably agreed upon between the Parties prior to commencement of any renovations or improvements and will become the property of the County upon termination of the Agreement. Other than uninhabited structures ancillary to recreational uses (such as ski lifts or zipline poles), no structures may be installed on the Premises without the consent of the Milwaukee County Board.
- b. Periodic Planning Meetings. The Parties shall meet at least annually during the Term of this Agreement to: (a) review the Operator's use of the Premises, (b) discuss contemplated improvements of the Premises, (c) discuss contemplated

signage for the Premises, and (d) discuss other topics of interest related to the Premises.

- c. Prior Approval. Any renovations or improvements to the Premises shall require prior written approval of the Wisconsin Department of Natural Resources if necessary, the County Parks Director, design and construction approvals from the Milwaukee County Division of Architecture and Engineering Services, and evidence the Operator has obtained the necessary funds in an amount not less than one hundred percent (100%) of the estimated cost of the proposed renovations or improvements before commencing any construction activities on the Premises. The County's approval of the Operator's renovations or improvements shall not be unreasonably withheld. The County shall not levy any fee or charge against the Operator for the use of any County employee or agent in its review, approval and oversight of the Operator's renovations and improvements.
- d. Lien Waivers. The Operator shall not permit any mechanic's or materialman's liens to be levied upon the Premises at any time for any labor or materials furnished to the Operator or to its agents or contractors. Within thirty (30) days of the completion of any renovation, remodeling, or improvements by Operator's contractor, subcontractors, or suppliers, the Operator shall obtain the appropriate lien waiver from such contractor, subcontractor, or supplier and shall file one (1) copy with the County. If any such lien is filed, the Operator shall immediately cause the same to be discharged or released, or shall upon request provide adequate and acceptable security or bond to protect County's interest.
- e. Licensed Tradespersons. The Operator agrees that when hiring tradespersons to perform renovations and improvements, it shall hire fully licensed tradespersons who shall utilize industry standard supplies, equipment, and construction methods in the performance of their duties.
- f. Renovation Documents. The Operator agrees that within thirty (30) days after the conclusion of each renovation, remodeling, or improvement project, the Operator shall provide to the County to the extent available a complete set of construction documents to include as a minimum, where applicable: (a) as-built drawings; (b) a copy of all work orders and change orders; (c) a copy of all lien-waivers; (d) operation manuals and/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) Village of Greendale final occupancy permits, if applicable.
- g. Ownership of Improvements. Upon termination of the Agreement for any reason, all renovations, improvements, or alterations, including generic signage affixed to the Premises, shall become the property of the County, at no cost to the County.

7. MAINTENANCE AND REPAIRS:

Throughout the Term of this Agreement, the Operator, at its sole cost and expense, shall take good care of the Premises, including, without limitation, all improvements now existing or hereafter erected thereon (including, without limitation, the Operator's improvements and all infrastructure, building systems, sidewalks and paved areas, exterior lighting, street fixtures, utility lines and facilities, drainage lines and facilities, and all other equipment and appurtenances used in the functioning of the Premises or any portion thereof), and shall keep the same in good order, condition and repair.

8. REMOVAL OF EQUIPMENT AND SUPPLIES:

Upon expiration or termination of this Agreement, Operator shall remove, at its costs, all of its equipment, supplies, and related items from the Premises within thirty (30) days of the expiration or termination date, and shall restore the Premises to a parklike condition (subject to any improvements performed by Operator), satisfactory to the Parks 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 Operator. If for any reason Operator does not comply in a timely manner with its obligations under this paragraph (which shall mean completion within sixty (60) days unless otherwise authorized in writing by the Parks Director), 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 Operator any and all reasonable costs, as determined by the County, related to this Section. Operator agrees to surrender the Premises in good condition, subject to ordinary wear and tear and casualty.

9. STORMWATER MANAGEMENT:

Allowing pollutants to directly or indirectly enter the storm sewer system or the Root River is prohibited. The Operator shall take all measures necessary to prevent pollutants from entering watercourses and shall be responsible for the maintenance of any watercourses within the Premises.

10. TARGETED BUSINESS ENTERPRISE UTILIZATION:

The Operator shall use reasonable efforts to cause its construction contractors to establish Targeted Business Enterprise (TBE) participation goals, consistent with Milwaukee County TBE 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 those goals. The Milwaukee County Community Business Development Partners may assist the Operator in soliciting potential TBE vendors for the improvements and monitor such goal attainment. The Operator's contact regarding TBE participation is: Rick Norris, Director, CBDP, Rick.Norris@Milwaukeecountywi.gov, (414) 278-4608.

11. TERMINATION OF AGREEMENT:

The Agreement may be terminated by either Party, for cause, upon ninety (90) days' written notice to the other. However, prior to termination for cause, either Party shall be afforded ninety (90) days in which to cure the alleged breach after having been notified of such. The Agreement may be terminated by Operator for convenience upon one hundred eighty (180) days prior written notice.

12. DEFAULTS & REMEDIES:

- a. Operator's Defaults. Operator agrees that any one or more of the following events shall be considered events of default as said term is used herein:
 - i. Operator 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 Operator; or
 - ii. Operator's failure to perform any other covenant or condition of this Agreement 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 Operator'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:
 - i. County may terminate this Agreement by giving to Operator notice of County's election to do so, in which event the Term of this Agreement shall end, and all right, title and interest of Operator hereunder shall expire, on the date stated in such notice;
 - ii. County may enforce the provisions of this Agreement 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 Operator under any of the provisions of this Agreement.
- c. County's Defaults. County agrees that the following shall be considered an event of default as said term is used herein:
 - i. County's failure to perform any other covenant or condition of this Agreement 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. Operator's Remedies. Upon the occurrence of any event of default by County, Operator shall have any remedy available at law or equity.

13. INDEMNIFICATION:

- a. General. The Operator agrees to the fullest extent permitted by law, to indemnify, defend and hold harmless, the County and 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 act or omission of the Operator or its agents which may arise out of or are connected with the activities covered by this Agreement. The Operator shall not be responsible for any wrongful, intentional, or negligent act or

omission of the County, or its agents, which may arise out of, or is connected with, the activities covered by this Agreement.

- b. Environmental. The Operator shall, to the fullest extent provided for under any environmental laws, rules, or regulations, be responsible for any required repair, cleanup, remediation or detoxification arising out of (i) any Hazardous Materials brought onto or introduced into the Premises or surrounding areas by the Operator or its agents at any time and/or (ii) Hazardous Materials whose presence pre-exists the commencement of any of the Operator's improvements, located in the Premises, that are disturbed or exacerbated as a result of the Operator's activities on, at or near the Premises at any time. The Operator shall indemnify, defend and hold the County harmless from any liability, cost, damage, claim or injury (including reasonable attorney fees) arising therefrom. "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, order, action or policy.

14. INSURANCE:

During the term of this Agreement, Operator will keep in full force and effect a policies of insurance covering its liability and protecting Milwaukee County, its employees, agents, or officers, from any and all claims for personal injuries or death or property damage which may arise out of or in connection with the use and occupancy of the property, or of any improvement or installations, in or upon the same, or the performance of any work or operations by Operator or its contractors or subcontractors, or anyone directly or indirectly employed by any of them, as more explicitly defined in Exhibit B. Coverages shall be placed with an insurance company approved by the State of Wisconsin and rated "A" per Best's Key Rating Guide. Operator will submit a certificate indicating the coverages defined in Exhibit B for review and approval by the County for each successive period of coverage for the duration of this Agreement.

15. 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 Operator upon the commencement of the Term. County shall be under no obligation to restore any Alterations to the Premises made by Operator 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 Operator shall repair and restore its merchandise, furnishings, furniture, equipment and all alterations, additions and leasehold improvements made by or for Operator to at least a condition equal to that before its damage. Despite the foregoing, if any destruction or damage to the Premises (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 the proceeds of insurance are not sufficient or available to fully pay the cost of the repair or restoration, then Operator may terminate this Lease effective as of the date of the damage by written notice to the County, with notice to be given within ninety (90) days after the occurrence of the damage or destruction.

16. INSPECTION BY COUNTY:

The County shall have the right at any time upon reasonable advance written notice to Operator to enter the Premises for any purpose that the County may deem reasonably necessary or desirable with proper identification. If the Operator has failed, after notice and an opportunity to cure that is reasonable under the circumstances, to perform its duties under Para. 8 hereof, the County may enter the Premises in order to perform the required repair or maintenance and the cost thereof shall be reimbursed by the Operator to County with 30 days of receipt of invoice thereof.

17. COMPLIANCE WITH LAWS – NONDISCRIMINATION, AND AFFIRMATIVE ACTION:

- 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 Operator (or any person claiming under or through Operator) shall not establish or permit any such practice or practices of discrimination or segregation with reference to the Premises.
- b. Non-Discrimination: Operator 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. Operator will post in conspicuous places, available for employment, notices setting forth the provisions of the non-discriminatory clause. Attached hereto as Exhibit C is an Equal Opportunity Certificate that shall be executed and delivered by Operator simultaneously with the execution and delivery of the Agreement.
- c. Affirmative Action Program: Operator certifies that it will strive to implement the principles of equal employment opportunity through an effective affirmative action program which shall have as its objective to increase the utilization of women, minorities and handicapped persons and other protected groups, at all levels of employment in all divisions of its work force, where these groups may have been previously under-utilized and under-represented. Operator also agrees that in the event of any disputes as to compliance with the aforementioned requirements, it shall be its responsibility to show that it has exercised good faith efforts to meet all requirements.
- d. Affirmative Action Plan: Operator certifies that if it has fifty (50) or more employees, it has filed or will develop and submit a written Affirmative Action

Plan. Current Affirmative Action Plan, if required, must be filed with any of the following: The Office of Federal Contract Compliance Programs, the State of Wisconsin, or the Milwaukee County Comptroller's Audit Services Division, 633 W. Wisconsin Ave, 9th Floor, Milwaukee, WI, 53203.

- e. Non-Segregated Facilities: Operator 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.
- f. Reporting Requirement: When applicable, Operator certifies that it will comply with all reporting requirements and procedures established in Title 41 Code of Federal Regulations, Chapter 60.
- g. Compliance: Operator 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.

18. COMPLIANCE WITH LAWS – ADA:

Operator shall, at Operator's expense, promptly comply with all laws, rules, and regulations made by any governmental authority having jurisdiction over Operator'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) Operator's business activities on the Premises.

19. PERMITS, LICENSES, AND OTHER COSTS:

During the term, Operator shall procure, maintain, and pay all expenditures relating to compliance with statutes, laws, codes, rules and regulations for all appropriate federal, state, and local licenses and permits required for its business activities including any special assessments levied against the premises.

20. MISCELLANEOUS:

- a. This Agreement contains all the terms and conditions agreed upon by the Parties hereto, and no other agreement, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the Parties hereto, or to vary any of the terms contained herein. Any amendments or revisions of this Agreement shall be made in writing and executed by the Parties.
- b. The County and Operator 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.

- c. All the provisions of this Agreement and any amendment thereto shall extend to and be binding upon and inure to the benefit of the Parties and the successors of the respective Parties. This Agreement, or any provision hereof or any right or obligation arising hereunder, is not assignable by either Party in whole or in part, without the express written consent of the other Party. Operator may not sublease any part of the Premises without the prior written approval of the Parks Director or his designee.
- d. The failure of a Party to enforce a particular provision of this Agreement shall not constitute a waiver of any other right or obligation set forth in this Agreement by either Party.
- e. Nothing contained within this Agreement is intended to be a waiver by the County or the Operator of their right and opportunity to rely upon the limitations and immunities contained within Wisconsin law, including those contained in Wis. Stat. § 893.80.

21. RIGHT TO AUDIT:

Operator shall allow the County, the Milwaukee County Comptroller's Audit Services Division, or any other party the County may name, when and as they demand, to audit, examine, access and make copies of, excerpts or transcripts from any records, books, files, or other information related to the Premises. Operator shall maintain and make available to the County the above described information for no less than three years after conclusion of the obligations and responsibilities of the Operator described herein and required by this Agreement. These requirements shall apply to any and all contractors and subcontractors to the Operator under this Agreement.

22. OFFICIAL NOTICES:

All notices with respect to this Agreement (including submittals with regard to review of improvements) shall be in writing. Except as otherwise expressly provided in this Agreement, a notice shall be deemed duly given and received upon delivery, if delivered by hand, or three days after posting via US Mail, to the party addressed as follows:

To the Operator:
The Rock Sports Complex, LLC
Attn: Michael Zimmerman, Manager
510 West Kilbourn Avenue, 2nd Floor
Milwaukee, WI 53202

To the County:
Milwaukee County Dept. of Parks
John Dargle, Jr., CPRP Parks Director
9480 Watertown Plank Road
Wauwatosa, WI 53226

with copy to:
Office of Corporation Counsel
901 North 9th Street, Room 303
Milwaukee, WI 53233

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

23. AUTHORITY:

The County has executed this Agreement pursuant to action taken by its Board of Supervisors on _____, Resolution File No. _____.

SIGNATURE PAGES FOLLOW:

IN WITNESS WHEREOF, the Parties hereto have set their hands as follows:

The Rock Sports Complex, LLC

By: _____ Date: _____
Michael Zimmerman, Manager

Milwaukee County Dept. of Parks, Recreation & Culture

By: _____ Date: _____
John Dargle, Jr., CPRP Parks Director

[Signature Page 1 of 2]

Approved with regards to County Ordinance Chapter 42:

By: _____ Date: _____
Community Business Development Partners

Reviewed:

By: _____ Date: _____
County Risk Management

Approved for execution:

By: _____ Date: _____
County Corporation Counsel

Approved:

By: _____ Date: _____
County Executive Chris Abele

Approved as to funds available per Wisconsin Statutes Section 59.255(2)(e):

By: _____ Date: _____
Comptroller Scott B. Manske

Approved as compliant under Sec. 59.42(2)(b)5, Stats.:

By: _____ Date: _____
County Corporation Counsel

[Signature Page 2 of 2]

EXHIBIT A
Legal Description of the Premises

[TBD]

EXHIBIT A-1
Depiction of the Premises

EXHIBIT B
Insurance Requirements

The Operator agrees to maintain policies of insurance and proof of financial responsibility to cover costs as may arise from claims for damages to property of and/or claims which may arise out of result from Operator's activities, by whomever performed, in such coverage amounts as required and approved by the County. Operator shall cause any sublessees, contractors, consultants, subcontractors, vendors, and other operators to have and maintain one more insurance policies with at least the following coverage and limits:

<u>Type of Coverage</u>	<u>Minimum Limits</u>
Wisconsin Workers' Compensation and Employers Liability & Disease	Statutory / Waiver of Subrogation \$100,000/\$500,000/100,000
General Liability Bodily Injury and Property Damage to include: Personal Injury, Fire Legal, Liquor, Products & Completed Operations	\$1,000,000 Per Occurrence \$2,000,000 General Aggregate
Umbrella Liability (Over General Liability, Employer's Liability, and Automobile Liability)	\$5,000,000 General Aggregate
Automobile Liability – Bodily Injury & Property Damage All Autos Uninsured Motorist	\$1,000,000 per Accident Per Wisconsin Requirements
*Contractor's Pollution Liability	\$5,000,000 Per Occurrence \$5,000,000 General Aggregate
Professional Liability	\$1,000,000 Per Occurrence \$1,000,000 General Aggregate

Milwaukee County will be named as an additional insured for the Contractor's Pollution Liability, General Liability, Employer's Liability, Automobile Liability and Umbrella Liability. A waiver of subrogation for the Contractor's Pollution Liability, General Liability, Employer's Liability, Automobile Liability, Umbrella Liability, and Workers' Compensation by endorsement in favor of Milwaukee County shall be provided. A thirty (30) day written notice of cancellation or non-renewal shall be afforded to Milwaukee County.

The Operator is required to evidence Contractor's Pollution Liability insurance for any and all site development, construction and improvement activities related to any work done at, or in relation to the Landfill. Contractor's Pollution Liability shall be obtained on an occurrence based policy to include 10-year completed operations coverage. The definition of pollution on the Contractor's Pollution Liability policy shall include, and not be limited to, methane gas and leachate. The

concussive / explosive effects of pollutants and/or methane gas shall be a covered event. The Operator and all contractors and all subcontractors shall be Named Insureds on the Contractor's Pollution Liability policy.

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 each successive period of coverage 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.

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

* This requirement shall not be mandated as to sublessees, contractors, consultants, subcontractors, vendors, unless the vendor, contractor or subcontractor is conducting work on or affecting the municipal solid waste pursuant to Solid Waste Facility License No. 00881 ("Landfill") issued by the Wisconsin Department of Natural Resources.

EXHIBIT C
Equal Opportunity Certificate

EXHIBIT D
Noise and Light Addendum

EXHIBIT D

NOISE AND LIGHT ADDENDUM

The Rock Sports Complex and Ballpark Commons project is a multi-use facility developed for a multi-use sports and entertainment complex (“Project”) encompassing the boundaries set forth in Exhibit D.1 (“Abatement Boundaries”). Residents in the communities of Franklin and Greendale have expressed concerns regarding noise and light levels at and beyond the Project Boundaries, originating from activities associated with the Project. This Noise and Light Addendum shall be incorporated into Project documents¹ and consists of three components:

- 1) 2017/2018 Noise and Light Mitigation Plan;
- 2) Noise and Light Standards and Development Plan;
- 3) Noise and Light Compliance Plan.

As specified further herein, BPC County Land, LLC, The Rock Sports Complex LLC, and/or any subsequent or related owner, user, operator, sub-lessee, etc. shall comply with the following:

1. 2017/2018 Noise and Light Mitigation Plan

Attached as Exhibit D.2² are:

- To mitigate unintended light trespass and glare visible from nearby residential areas:
 - This Mitigation Plan details current conditions and identifies 67 lights for new improved glare reduction and control over unintended light trespass (“Gold Standard Visors”) and 11 existing lights for retrofitting with Gold Standard Visors. These new visors and retrofits will be installed on or before the beginning of the Spring 2018 baseball season. All 223 existing fixtures will be adjusted as part of the retrofit effort.
 - New fixtures for lighting outdoor facilities shall meet or exceed the performance of the retrofit fixtures with respect to glare and unintended light trespass.
- To mitigate noise and measure compliance:
 - Past compliance has been measured through handheld monitoring devices. This Mitigation Plan details the installation of permanent monitoring devices at the Abatement Boundaries in three locations. The monitoring devices will trigger a notification in the event of an exceedance and record continuous performance data. Since the monitors require permanent electrical connections, the installation needs to coincide with utility installations, commencing in Spring, 2018 and completed during the outdoor concert season in 2018 (no later than November 1, 2018) generally at the locations shown in the Mitigation Plan.

¹ The Project documents are: 1) Development Agreement between BPC County Land, LLC and Milwaukee County (as Exhibit C); 2) Lease Agreement between BPC County Land, LLC and The Rock Sports Complex, LLC and Milwaukee County (as Exhibit D); and 3) Development Agreement between BPC County Land, LLC and City of Franklin (as Exhibit ___); 4) the Contribution and Participation Agreement between BPC County Land, LLC and Milwaukee County; and the 5) Option to Purchase (as Exhibit F).

² Exact locations for noise and light remediation tools and fixtures are subject to reasonable adjustment.

2. Noise and Light Standards and Development Plan

To ensure compliance with objective standards, the Project shall be subject to the following noise and light standards as set forth in the Franklin Ordinances (“Noise and Light Standards”):

- Section 15-3.1104 Glare;
- Division 15-5.0400 Lighting;
- Section 183-41 Noise;
- With approval by the City of Franklin, such other applicable Noise or Light standards as may apply for a particular event or specified uses within the Project Boundaries.

The point of compliance for application of the Noise and Light Standards, and all activities conducted at the Project, shall be the Abatement Boundaries.

All development within the Abatement Boundaries shall be subject to final plan approval by the City of Franklin following the specifications and process set forth in the Franklin Ordinances. A Lighting plan meeting the requirements of Section 15-5.0402 shall be submitted to the Plan Commission for the City of Franklin, with a copy provided to the Village of Greendale.

3. Noise and Light Compliance Plan

To ensure ongoing compliance, the Project operator(s) shall maintain a compliance log with the following information:

Light Compliance. The City of Franklin shall conduct a final inspection following the installation of any new permanent light emitting outdoor fixture extending or mounted more than 20 feet above ground. The City shall, within 15 days of its inspection, indicate whether any modifications are needed to comply with the plan. The operator shall visually inspect light compliance in the Spring, prior to the start of each baseball season, at or across the roadway from the Abatement Boundaries, as designated on the attached Exhibit D.2 as “visual compliance inspection locations.”

Noise Monitoring.

Annually, the operator will provide the City of Franklin with a list of concerts and special events requiring a permit, including dates and times for operations during the event. Events will be posted at the Property and through electronic media to ensure neighbors can be aware of forthcoming events. The Operator shall provide a means for receiving complaints, through a web page or equivalent electronic media, and shall preserve a record of complaints that will be provided to the City of Franklin, Village of Greendale or County upon request. These records shall be preserved for a minimum of two years.

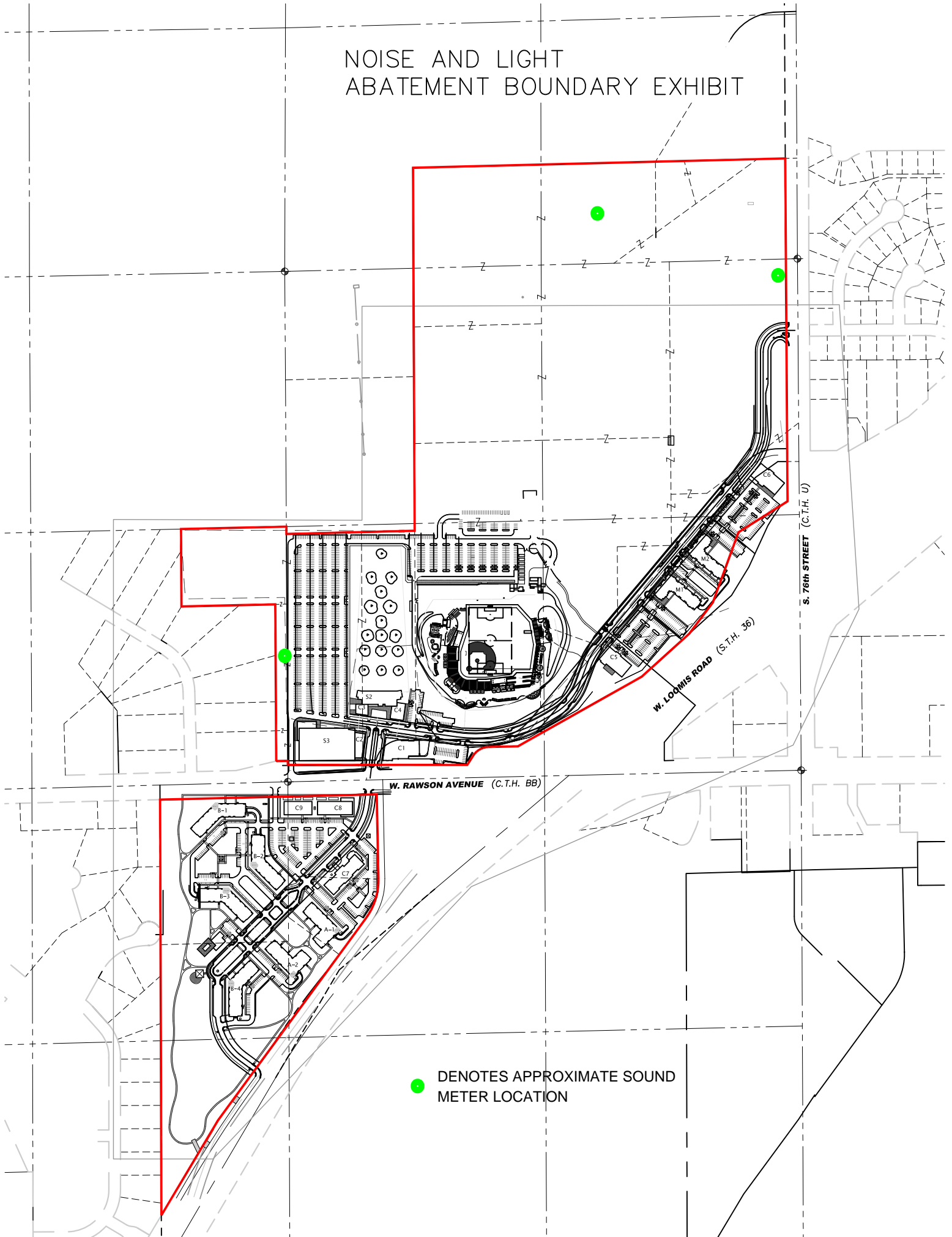
Continuous noise monitoring data shall be kept for twelve months. Upon reasonable request by the County, City of Franklin, or the Village of Greendale, noise monitoring data and reports, and a record of complaints, shall be provided to the County, City or Village, evidencing the status of compliance. A violation will be considered material if it represents a complaint filed with the operator or the City of Franklin and is evidenced in the monitoring data logs by an exceedance

("Trigger Event") that is not permitted and is not corrected and remediated within 30 minutes of the Trigger Event. The City shall have the right to enforce payment of the penalties specified in the Noise and Light Standards, which may include payment of a double permit fee for any material violation. If the operator has more than eight unpermitted material violations in a calendar year, the operator shall be subject to stepped-up enforcement measures as specified in the Noise and Light Standards. If the City declines to take enforcement action, the County, under the terms of this agreement, shall have the right to impose penalties on the operator, in the County's reasonable judgment given the severity and duration of the violation and the number of violations, which shall not exceed \$1,000 for an individual violation and \$10,000 in aggregate for a calendar year.

No provision of this addendum shall be construed to impair any common law or statutory cause of action or legal remedy or to replace the obligations more specifically set forth in the Noise and Light Standards.

EXHIBIT D.1
Abatement Boundaries

NOISE AND LIGHT ABATEMENT BOUNDARY EXHIBIT



● DENOTES APPROXIMATE SOUND
METER LOCATION

EXHIBIT D.2
Mitigation Plan

