

LEASE AGREEMENT  
BETWEEN  
MILWAUKEE COUNTY PARKS  
AND  
CCH MANAGEMENT, LLC

This Lease Agreement (“Lease”) is made and entered into effective \_\_\_\_\_, 2019, by and between the MILWAUKEE COUNTY PARKS (the “County” or “Landlord”) and the CCH MANAGEMENT, LLC (“Tenant”), 782 Busse Highway, Park Ridge, IL 60068. Referenced together, the Landlord and the Tenant are “Parties” to this Lease.

WHEREAS, on February 1, 2019, Milwaukee County issued a competitive Request for Proposals to solicit proposals for the Management and Operation of Food, Beverage, and Recreation Services at Bradford Beach (the “RFP”) and through that process, CCH Management, LLC, was awarded the proposal based on its response submitted to County on March 4, 2019, (the “RFP Response”); and

WHEREAS, the Tenant wishes to occupy the Bradford Beach Pavilion and adjacent areas to provide food and beverage sales; and

WHEREAS, recognizing that providing such services in a public park is advantageous to both Parties, the Parties do herewith, in consideration of mutual promises and other good and valuable consideration, agree as follows:

1. **BUILDING AND PREMISES:** Tenant shall lease, develop and manage certain portions of the Bradford Beach House, located at 2400 North Lincoln Memorial Drive in Milwaukee, Wisconsin (the “Building”) and agreed upon adjacent areas (“Premises”) as more fully described in Attachments A-4 and A-5 to the RFP. The Premises shall include all areas dedicated to the sale of food and beverage, the upper and lower decks, north storage area on the second floor, room 101 (first aid room), room 202 (utility storage room) and certain designated areas on the beach for the placement of semi-permanent concession kiosks, and vending stations. **Tenant agrees to make a good faith effort to provide space for the volleyball vendor in the Building, if possible.** The remaining portion of the Building shall be used and operated by the County to provide lifeguard and other services for Bradford Beach and its environs.
2. **TERM:** Unless earlier terminated as provided herein, this Lease shall be for an initial term of five (5) years commencing on April 1, 2019 and expiring five years thereafter (the “Initial Term”).
3. **RENEWAL:** After the Initial Term of the Lease, the Parties may mutually agree in writing to extend the term of the Lease for three (3) additional one (1) year periods (each such period, a “Renewal Term”). Such options shall be exercised by Tenant’s

written notice to Landlord given at least nine (9) months' prior to the expiration of the Initial Term or the applicable Renewal Term and Landlord written agreement to accept such Renewal Term; provided, however, that Tenant continues using the Premises only for the Permitted Use set forth in Section 5 and for no other purposes. The Parties agree that further negotiation regarding the terms and conditions may be appropriate at the time each Renewal Term is executed by the Parties. The Initial Term and all Renewal Terms shall be collectively referred to as the "Term" herein.

4. PAYMENTS TO COUNTY: Tenant shall pay to Landlord, without demand, offset or delay, when due, the following amounts.

a. RENT: Tenant shall pay County \$5,000 at the close of each June, July, August, and September during the Term. County shall invoice Vendor for the above-referenced amounts, and Vendor shall pay County within thirty (30) days of receipt of invoice.

b. SALES REVENUE: Tenant shall pay to County a commission of five percent (5%) of gross sales on all alcoholic beverage sales, food, and non-alcoholic beverage sales, above \$400,000 for years 2019 to 2023 and five and one-half percent (5.5%) for years 2024 and 2025. "Gross Sales" is defined as the sale of all products, less sales tax only, sold at the Building, Premises, as well as any temporary or semi-permanent structures located on the beach or surrounding environs, and any "push-carts" authorized by the Parks Director or designee.

Monthly commission payments shall be made to the County no later than the 15th of each succeeding month. A detailed sales report, in a format to be agreed upon, shall accompany the commission check. Within thirty days of the annual seasonal closing of the Bradford Beach facility, Lessee agrees to provide to the County a detailed summary report of all sales activities, a financial reconciliation of all commissions owed and paid, and remit to the County any additional amounts as may be required.

Checks shall be made payable to the Milwaukee County Treasurer and mailed or delivered to: Milwaukee County Parks, 9480 Watertown Plank Road, Wauwatosa, Wisconsin 53226, Attn: Joe Mrozinski.

c. UTILITIES: Tenant shall pay to the County the actual utility costs per month for the Premises. The County shall invoice the Tenant for such Utilities costs on a monthly basis. Invoices shall be paid within thirty (30) days of issuance. "Utilities" shall include sewer, water, gas, telephone and electric. Any costs related to the installation, service, and maintenance of Utilities, including, but

not limited to, the installation of any electrical outlet(s) necessary for the operation of the Tenant, shall be the sole responsibility of the Tenant.

- d. CONTRIBUTION TO PARK IMPROVEMENT FUND: Tenant shall establish a Park Improvement Fund of \$45,000 in 2019, an additional \$25,000 in 2020, and an additional one percent (1%) of Net Sales in each year of 2021 to 2025, for the purposes of maintaining and enhancing the Building, Bradford Beach, the parking lot, or any area having a direct positive impact on the operation of Bradford Beach and/or the beach environs. The fund shall be jointly controlled by the Tenant and the County. Deposits to the fund shall be made by the Tenant on the first (1st) day of each month of the Term. All withdrawals from the fund for maintenance and/or improvements shall require joint signatures of the Parks Director and the Tenant. All interest generated by the fund shall accumulate to the fund total and shall not offset against the minimum monthly required deposit. Upon termination of the Lease for any reason, all funds in the account, including all accumulated interest, shall become the sole property of the County.
5. PERMITTED USE: Consistent with County ordinances and other applicable laws, Tenant shall have the use of the Premises for its continuing business and administrative activities as specified: food and beverage sales and special events.
- a. FOOD AND BEVERAGE SALES: Tenant is permitted to sell food and beverages, including alcoholic beverages served under a Class B tavern license, at the food and beverage stands on the Premises. The concession is scheduled to be open daily from 10 a.m. to 10 pm., weather permitting. Tenant shall not dispense or distribute alcohol after 9:00 p.m. The times of operation may be modified upon the written approval of the Parks Director or his/her designee.

Tenant agrees to comply with the County's prohibitions including the sale of gum and glass bottles. No glass or glassware is allowed in the beach area. The Parks Department has an exclusive contract for non-alcoholic beverages in the County Parks. Tenant must purchase these products from the local distributor and sell the products from the exclusive parks provider. Pepsi Cola is currently under contract through March 15, 2020. Additionally, tenant understands that County has the exclusive right to provide ATM services to the Building and Premises

It is the responsibility of Tenant to manage the distribution of alcohol, and Tenant is solely responsible for any incidents involving alcohol sold by Tenant at the Premises. Tenant shall monitor the service of alcoholic beverages, make sure no one under the age of twenty-one (21) is drinking

alcohol, and refuse service to people who appear to be intoxicated or using poor judgment in their drinking.

- b. **SPECIAL EVENTS:** All special events to be held on the Premises require the written permission of the County and Tenant shall obtain and pay for a Special Event Permit at the standard County fee in effect at the time of the Special Event from all governmental authorities having jurisdiction over the Premises.
- c. **SIGNAGE:** Tenant may display appropriate signage relating to the use of and/or public access to the Premises with County's prior written consent, which may not be unreasonably withheld (the "Signage"). Tenant hereby covenants and agrees that Tenant shall, at its own cost and expense: (i) be responsible for ensuring that the Signage is in compliance with all applicable codes, ordinances, statutes, rules and regulations, including any action or rule of any landmark commission having jurisdiction; (ii) obtain and comply with all consents, approvals and permits necessary from all governmental and quasi-governmental authorities and landmark commissions having jurisdiction over the Signage; (iii) ensure the Signage as part of its property and shall also carry liability and property damage insurance with respect to the Signage; (iv) ensure that the Signage retains an attractive appearance at all times; and (v) pay all costs associated with creating, designing, manufacturing, installing, cleaning, maintaining, repairing and replacing (if necessary) the Signage.
- d. **PUBLIC ACCESS AND USE OF THE PREMISES:** The Parties recognize that during the Term of this Lease the Premises is operating as a business entity and that public use of the Premises is mutually desirable. The Premises shall remain open and available to the public during regular hours the Park remains open.
- e. **SOUND/AMPLIFIED MUSIC RESTRICTION:** Amplified music shall be limited to acoustic and vocal reinforcement to provide background music throughout the Premises and environs. Events or performances with concert style amplification must be approved in writing by the Parks Director or his/her designee. All amplified music approved by the Parks Director or his/her designee, as well as ambient music, shall comply with the appropriate City of Milwaukee and Milwaukee County noise ordinances.
- f. **COUNTY APPROVAL OF ITEMS TO BE SOLD:** Tenant shall provide County with a list and pricing information for the products it intends to sell to the public for approval. The Parks Director or his/her designee maintains the right to prohibit the sale or rental of any item that he/she deems to be inappropriate or otherwise within the Milwaukee County Parks System.

- g. **CLEANLINESS, GARBAGE:** Tenant is responsible for maintaining the Premises, and surrounding areas in a state of cleanliness and repair to prevent injury to the public. Tenant is also responsible for the collection and disposal of all municipal solid waste (trash) and recycling associated with its activities. Tenant is strongly encouraged to establish a recycling program to reduce landfill waste. Tenant may contract with a commercial waste service and, upon coordination with County, place municipal solid waste and recycling containers in a designated area of the parking lot. Tenant shall ensure that the Premises are clean, orderly and inviting at all times, to the reasonable satisfaction of the Director or his/her designee. Tenant is responsible for continuous cleaning of the Premises. Tenant shall provide thorough and hourly maintenance and cleaning of the public restrooms and permit public access to the restrooms during all hours of operations. Tenant shall thoroughly clean the restrooms, and County shall provide all restroom supplies and cleaners as needed. **Tenant agrees that it will make a good faith effort to coordinate garbage disposal with volleyball vendor.**
- h. **DISPOSAL OF FATS, OILS AND GREASE:**
- i. **Prevention of FOG Build-up:** Tenant shall keep leftover grease and food scraps from going down the drains. Fats, oils, and grease (“FOG”) poured down drains can build up in pipes and sewers and cause sewage backups, which can lead to raw sewage overflows. Large amounts of FOG should be collected and stored in drums or barrels for recycling. Small amounts can be poured into a sealed container and thrown away. Tenant should scrape or wipe FOG from dishware and cookware and put it in the trash.
  - ii. **GCD Installation:** Tenant shall have a grease control device (“GCD”) meeting all applicable requirements of Wisconsin Administrative Code NR 113 and State of Wisconsin Department of Commerce 82.34 standards. The GCD shall be installed by a plumber licensed in the State of Wisconsin prior to the Tenant’s occupancy of the Premises. The GCD shall be installed and connected so that it may be readily accessible for inspection, cleaning and removal of FOG at any time.
  - iii. **Maintenance:** The GCD shall be maintained at the Tenant’s sole expense. Maintenance shall include the complete removal of all contents, including floating material, wastewater and settled solids. The GCD shall be cleaned no less frequently than once every six (6) months. Grease interceptors shall be pumped out completely when the total accumulation of FOG, including floating solids and settled solids, reaches twenty-five percent (25%) of the overall liquid volume. Frequency of cleaning will depend upon the type of food prepared and how well grease is managed in the kitchen.

- iv. Waste Disposal: FOG removed from a grease interceptor shall be disposed of in a solid waste disposal system or by a certified grease hauler. FOG removed from a grease interceptor shall be disposed of at a facility permitted to receive such wastes. No FOG shall be returned, decanted or discharged to any grease interceptor or into any portion of any private or County sanitary sewer system or water treatment facility.
- v. Posting of Signage: The Tenant shall post County signage provided to the Tenant regarding FOG disposal in a clear and prominent place in the kitchen at the Premises. County signage shall be posted above the sink at the Premises if such posting is possible and if such posting would not obscure the signage.
- vi. Inspection: County shall have the right of entry into the Premises at any time to make inspections, observation, measurements, sampling, testing, or records review of the GCD to ensure that the Tenant is in compliance with this Section pertaining to disposal of FOG. Operational changes, maintenance and repairs requested by the County shall be implemented by Tenant at Tenant's sole expense.
- vii. Record Keeping: Tenant shall retain and make available for County's inspection and request all records of all cleaning and/or maintenance pertaining to the GCD during the Term. Cleaning and/or maintenance records shall include, at a minimum: (a) the dates of cleaning/maintenance; (b) the names and business addresses of each company or person performing the cleaning/maintenance; (c) the volume of waste removed in each cleaning/maintenance; (d) information regarding each FOG disposal, including location of the waste disposal site and a copy of the original manifest from the hauler, if applicable; and (e) description of any repairs needed to the GCD, date repairs performed and name of repairer. The rights and obligations set forth under this provision shall survive the termination of the Lease for a period of three (3) years.

6. MAINTENANCE AND REPAIRS:

- a. Tenant's Obligations for Maintenance: Tenant shall maintain the Premises in good order, including interior and exterior cleaning and janitorial services to the Premises and any environs utilized by Tenant. This includes the pickup and disposal of litter and garbage within fifty (50) feet of the Premises, including beneath the overhang and upper level and around the tiki huts. For cleaning obligations pursuant to this Lease, the Premises shall include the area twenty-five (25) feet South of the South Tiki and twenty-five (25) feet North of the North Tiki, from street to shore, but shall not include the volleyball courts during volleyball play.
- b. Restrooms: Tenant shall provide thorough and hourly maintenance and cleaning of the public restrooms and permit public access to the restrooms during all hours of operations. Tenant shall thoroughly clean the restrooms by

the end of the day so they are ready to be opened by 6:30 a.m. by County. County shall unlock the restrooms, weather permitting, and lock the restrooms during the season. Tenant shall post public signage at restrooms indicating: (a) that the Tenant is responsible for maintaining the restrooms, (b) Tenant contact information, and (c) emergency contact information, including where patrons can go for help. County shall provide all restroom supplies and cleaners as needed.

- c. Tenant's Obligations for Repairs:
  - i. "Minor Repairs": Tenant shall make all "Minor Repairs" to the Premises during the Term; provided, however, that Tenant is not responsible to make Minor Repairs to the restrooms. A "Minor Repair" is defined as any singular repair or replacement whose cost is Five Hundred Dollars (\$500.00) or less for each instance.
  - ii. "Major Repairs": Tenant shall be obligated to maintain and provide for three types of "Major Repairs" to the Premises. A "Major Repair" is defined as any singular repair or replacement whose cost is more than Five Hundred Dollars (\$500.00) for each instance.
    - A. Tenant shall maintain in good order and provide Major Repairs to any plumbing, HVAC, electrical and lighting, door latches and locks, windows and plate glass/plastic, signage, and structural elements whose repair or replacement are necessitated by the negligence or willful misconduct of Tenant, its employees, invited guests, or patrons.
    - B. Tenant shall maintain and provide all Major Repairs to any improvement or item that it has provided or caused to be installed or improved upon the Premises.
    - C. Tenant shall maintain and provide all Major Repairs to any equipment provided by the County provided for the operation of food and beverage service under this Lease.
    - D. All replacements shall be made in-kind with Milwaukee County Parks ("Department")-approved materials and standards. All repairs shall be done by licensed tradespersons, with oversight by the County's trades personnel. Tenant may contract with the County for repairs on a time and materials basis.
- d. County's Obligations for Major Repairs: County shall maintain in good order and provide for all major repairs to all structural components of the Premises, the roof and roof systems (gutters and downspouts), foundation, exterior walls, interior structural walls, door latches and locks, windows and plate glass/plastic, and all utility systems, including plumbing, HVAC, and electrical, except to the extent that Tenant is otherwise required maintain or provide Major Repairs for any such components.
- e. Timeliness of Repairs: Each Party shall perform its obligations under Sections (a), (b), (c), and (d) hereunder promptly after learning of the need for such repairs, but in any event within thirty (30) days of the occurrence or notice

provided by one Party to the other. If County fails to make such repairs within thirty (30) days after Tenant's notice (except when the repairs require more than thirty (30) days for performance and County commences the repair within thirty (30) days and diligently pursues the repair to completion), Tenant may, at its option, undertake such repairs and deduct the reasonable cost thereof from the commissions next falling due. If Tenant fails to make such repairs for which it is obligated within thirty (30) days after County's notice (except when the repairs require more than thirty (30) days for performance and Tenant commences the repair within thirty (30) days and diligently pursues the repair to completion), then the County shall have the right to make the repair with its own staff or contract with a third party to make the repair, and charge all reasonable costs associated with making the repair to Tenant (including salary and benefits if done with County's own staff).

7. IMPROVEMENTS:

- a. County Approval: Prior to the start of any construction or renovation of the Premises, including any subsequent alterations or renovations, Tenant shall submit detailed construction plans and specifications to the Department and to the Architecture and Engineering Section of the Milwaukee County Department of Administrative Services, together with the name of Tenant's proposed contractor(s), for review and approval. Submittals shall include, but not limited to, shop drawings containing product information and materials and products shall be approved by County. Tenant shall reimburse County for the cost of a Milwaukee County Project Manager (including salary and benefits) during the construction phases of the project, including any subsequent construction, alterations or improvements, in an amount not to exceed Two Hundred Fifty Dollars (\$250.00) per hour, or Seven Thousand Five Hundred Dollars (\$7,500) total for the project. All costs for the Milwaukee County Project Manager work provided over this amount shall be charged to the Department's operating budget. Conditions for approval shall include, but not be limited to provision that Tenant shall obtain and comply with, prior to commencing any alterations, additions and improvements, all necessary permits and licenses from the appropriate governmental authorities.
- b. Construction Standards: All development and landscaping shall be completed in a first-class manner and consistent with the standards established for other work in Milwaukee County Parks. Any and all alterations, additions and improvements shall be made in compliance with all statutes, laws, ordinances, rules, and regulations of any governmental authority having jurisdiction over the Premises. Tenant shall also indemnify and hold County harmless from and against all statutory liens or claims of liens of any contractor, subcontractor, laborer or any other party which may arise in connection with any alteration, addition or improvement to the Premises undertaken by or on behalf of Tenant. Any structures, alterations, additions or improvements installed on the Premises by Tenant (including generic signage permanently affixed to the Premises) shall become the property of County upon the expiration or termination of this Lease. In no event shall Tenant make any alterations or additions to the Premises without the prior written consent of County, except in the event of an emergency, when such consent shall not be required, provided that notice shall be given as soon as reasonably possible thereafter.



Routine instances of maintenance, painting, repair and like-kind replacement of materials needing repair or replacement do not constitute alterations or additions requiring such approval, providing they do not individually exceed Five Thousand Dollars (\$5,000) in cost per year.

- c. **Builder's Risk:** Tenant or its general contractor shall provide Builder's Risk insurance coverage on a completed value form insuring for special perils, with Milwaukee County as additional insured and loss payee on the insurance certificate. Coverage is during construction period and is intended to terminate when the work has been completed and the Premises are ready for occupancy. Prior to construction, Tenant shall supply the Parks Director with written evidence of Builder's Risk insurance. Tenant shall not commence construction activities without written approval from the Parks Director and his/her designee. The Parks Director shall provide a written response to the Tenant within thirty (30) days of receiving written evidence of the Tenant's Builder's Risk insurance documents.
- d. **Construction Escrow:** Tenant agrees to provide evidence satisfactory to the County that the total amount of funds necessary to construct the proposed renovations to the Premises are immediately available and dedicated to such purpose and documentation is in place to provide for the orderly disbursement of such funds during the course of construction to pay for all permits, material, labor, supplies, and any other miscellaneous items used or necessary for the construction of the renovations. Tenant shall deliver to County evidence reasonably acceptable to the County that the total amount of such funds are immediately available and dedicated for the above purpose prior to any construction activities taking place on the Premises. Any such evidence of the Tenant's financial capacity shall also include a letter from the Tenant's banking institution stating that the Tenant has secured a line of credit that is immediately available to Tenant for such purposes in an amount sufficient to cover 100% the costs thereof.
- e. **Licensed Tradespersons:** Tenant agrees that all renovations and improvements shall be performed by fully licensed contractors and subcontractors who shall utilize industry standard supplies, equipment, and construction methods in the performance of their duties. Tenant shall require its contractors and subcontractors to obtain and maintain adequate insurance coverages with liability limits not less than that required of Tenant by County. Tenant shall have responsibility to enforce compliance with these insurance requirements and provide evidence of insurance for any contractor or subcontractor as acceptable to the County.
- f. **Construction Documents:** Tenant agrees that within sixty (60) days after the conclusion of each construction project, renovation or improvement project, Tenant shall provide to County a complete set of construction documents to be included as a minimum: (a) as-built drawings; (b) a copy of all work orders and change orders; (c) a copy of all lien-waivers; (d) operation manuals or cut sheet drawings of any mechanical fixtures or equipment which was installed; (e) manufacturer's warranties or extended warranties; (f) a copy of all

construction permits and signed drawings; (g) City of Milwaukee final occupancy permits, if applicable.

8. **MARKETING; LOGO:** Tenant is responsible for all marketing and advertising to promote its activities; provided, however, that the Director or his/her designee maintains the right to prohibit any advertisement or marketing that he/she deems to be inappropriate, inaccurate or otherwise. Tenant shall acknowledge the Department and include the Department's logo in all local promotional materials, whether print or digital, directly related to its activities pursuant to this Lease. Tenant shall notify the Department's Marketing Manager or his/her designee as soon as it is aware of any television, radio, print, electronic or other media interviews or reports to be prepared regarding, at or concerning the Premises. Tenant may not enter into any sponsorships or other promotional arrangements with outside contractors at the Premises without the prior written consent of the Director or his/her designee. Advertisement of Tenant's sponsorships are restricted to the Premises. **Tenant agrees that it will make a good faith effort to coordinate sponsorships with the volleyball vendor.**
9. **STAFF; CUSTOMER SERVICE:** Tenant shall conduct its operation in a first-class manner, and all service shall be prompt, clean, and efficient. Tenant shall maintain customer service as a top priority. Tenant shall employ a sufficient number of qualified staff to properly operate the Premises. Tenant shall provide employees who are professional, friendly, and courteous to customers and the general public. Employees shall maintain a neat appearance, exercise good public relations skills, respond to customer complaints and questions, and conduct themselves in a high standard acceptable to County. Tenant and staff shall wear appropriate attire which, in the sole determination of County, clearly distinguishes Premises staff from County staff. The Director or his/her designee shall have the right, at all times, to notify Tenant, in writing, of any reasonable objections to the quality of services rendered at the Premises, and to require that his/her objections be remedied within a reasonable period of time
10. **REMOVAL OF EQUIPMENT AND SUPPLIES:** Upon expiration or termination of this Lease, Tenant shall remove, at its costs, all of its supplies, displays, and related items from the Premises within thirty (30) days of the expiration or termination date, and shall restore the Premises to its prior condition, 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 the Tenant. If for any reason Tenant does not comply in a timely manner with its obligations under this paragraph, then the County may make such repairs or remove, dispose of, or retain such property as the County sees fit. It is mutually agreed that the County may recover from the Tenant any and all reasonable costs, as determined by the County, related to this Section. It is mutually agreed that the County may recover from the Tenant any and all reasonable costs, as determined by the County, related to this Section. The Tenant agrees to surrender the Premises in broom-clean condition, subject to ordinary wear and tear and casualty.
11. **RIGHTS RESERVED TO COUNTY:** County reserves the right to award a contract with one (1) or more additional vendors to provide other concessionable items in other areas of the Park. County further reserves the right to operate its own concession area during any and all events held in its Parks.

12. PERMITS, LICENSES, AND OTHER COSTS: Tenant shall procure, maintain, and pay the fees for all appropriate federal, state, and local licenses and permits required for its activities.

13. COMPLIANCE WITH LAWS – NONDISCRIMINATION, AFFIRMATIVE ACTION AND TBE GOALS:

- a. Generally: There shall be no discrimination against or segregation of any person, or group of persons, on account of gender, age, race, color, religion, creed, national origin or ancestry in the use of the Premises, and Tenant (or any person claiming under or through Tenant) shall not establish or permit any such practice or practices of discrimination or segregation with reference to the Premises.
- b. Non-Discrimination: Tenant certifies that it will not discriminate against any employee or applicant for employment because of race, color, national origin, age, sex or handicap which includes, but is not limited to, the following: employment, upgrading, demotion or transfer, recruitment, or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship. Tenant will post in conspicuous places, available for employment, notices setting forth the provisions of the non-discriminatory clause.
- c. Affirmative Action Program: Tenant 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. Tenant 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: Tenant 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, 9<sup>th</sup> Floor, Milwaukee, WI, 53203.
- e. Non-Segregated Facilities: Tenant certifies that it does not and will not maintain or provide segregated facilities for its employees, and that it does not permit its employees to perform their services at any location under its control where segregated facilities are maintained.
- f. Reporting Requirement: When applicable, Tenant certifies that it will comply with all reporting requirements and procedures established in Title 41 Code of Federal Regulations, Chapter 60.

- g. Compliance: Tenant certifies that it is not currently in receipt of any outstanding letters of deficiencies, show cause, probable cause, or other such notification of noncompliance with EEO regulations.
  - h. While this Lease does not have a specific participation goal established by Community Business Development Partners, Tenant is directed to use active and aggressive efforts to assist County in participation of Targeted Business Enterprise (TBE) firms on County contracts. The directory of certified firms, and further assistance with this initiative, can be obtained by contacting the Community Business Development Partners Department of Milwaukee County (CBDP) at (414) 278-4747, or [cbdp@milwaukeecountywi.gov](mailto:cbdp@milwaukeecountywi.gov). The directory of TBE firms currently certified in the State of Wisconsin can be found at: <http://wisconsin.gov/Pages/doing-bus/civil-rights/dbe/certified-firms.aspx>
14. COMPLIANCE WITH LAWS – ADA: Tenant shall, at Tenant’s expense, promptly comply with all laws, rules, and regulations made by any governmental authority having jurisdiction over Tenant’s use of the Premises pertaining to: (a) accessibility, ensuring that the Premises and environs are fully accessible pursuant to the American with Disabilities Act of 1990 and the Architectural Barriers Act of 1968 and such accessibility is approved by the Milwaukee County Office of Persons with Disabilities; and (b) Tenant’s activities on the Premises.
15. INDEMNIFICATION: To the fullest extent permitted by law, Tenant shall indemnify the County for, and hold it harmless from all liability, claims and demands on account of personal injuries, property damage and loss of any kind whatsoever, including workers’ compensation claims, which arise out of or are in any manner connected to the Premises, based on any injury, damage or loss being caused by any wrongful, intentional, or negligent acts or omissions of the Tenant, its agents, or employees. Tenant shall, at its own expense, investigate all claims and demands, attend to their settlement or disposition, defend all actions based thereon and pay all reasonable charges of attorneys and other costs and expenses arising from any such injury, damage or loss, claim, demand or action.
16. ENVIRONMENTAL INDEMNIFICATION: Tenant shall, to the fullest extent provided for under any environmental laws, rules and regulations, be responsible for any required repair, cleanup, remediation or detoxification arising out of any Hazardous Materials brought onto or introduced into the Premises or surrounding areas by Tenant, or its agents. Tenant hereby agrees to indemnify, defend and hold County harmless from and against any and all liabilities, costs, expenses (including reasonable attorney fees), damages (including but not limited to clean-up, remediation or detoxification of) or any other losses caused by its introduction of any such Hazardous Materials into or onto the Premises and any Hazardous Materials brought onto or introduced into the Premises as described below.
- a. “Hazardous Materials” as the term is used herein shall mean any substance: (i) the presence of which requires investigation or remediation under any federal, state or local statute, regulation, ordinance, order, action, or policy; or (ii) which is or becomes defined as a “hazardous waste” or “hazardous substance”

under any federal, state, or local statute, regulation, ordinance, or amendments thereto, including without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9601 et seq.), or the Resource Conservation and Recovery Act (42 U.S.C. §6901, et seq.); or (iii) which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous and is or becomes regulated by any governmental authority, agency, department, commission, board, agency or instrumentality of the United States, the State of Wisconsin, or any political subdivision thereof; or (iv) the presence of which on lands within the Project Area causes or threatens to cause a nuisance upon the Project Area or surrounding area or poses or threatens to pose a hazard to the Project Area or surrounding areas or to the health or safety of persons on or about the Project Area; or (v) which contains gasoline, diesel fuel, or other petroleum hydrocarbons; or (vi) which contains polychlorinated biphenyls (PCBs), asbestos, or urea formaldehyde foam insulation.

17. **INSURANCE:** Tenant shall strictly conform to the insurance requirements set forth on Exhibit A.
18. **SITE RESTORATION:** Both Tenant and County shall together participate in a pre-season and post-season inspection of the Premises. Tenant shall be responsible for any actual documented physical damage to the Premises caused by Tenant, its employees, agents, representatives, and guests. Within five (5) days of the discovery of any such damage, the Premises shall be restored to the satisfaction of the Parks Director or his/her designee. If damage is not restored by the Tenant after five (5) days of the discovery and the County elects to restore such damage, then the County shall have the right to restore the damage with its own staff or contract with a private company to restore the damage, and charge all reasonable costs directly associated with performing the restoration work, to the Tenant (including salary and benefits if done with the County's own staff).
19. **SECURITY:** Unarmed security personnel are permitted within the Premises for the purposes of checking identification and general observation. Tenant shall be solely responsible for and assume all risks related to Tenant's use of security personnel.
20. **INSPECTION BY COUNTY:** County shall at all reasonable times have the right to enter the Premises to inspect the condition thereof, and to improve or repair the Premises, and to make such repairs, alterations, improvements or additions as County may deem necessary or desirable; provided, however, such entry shall be done in such a manner that it does not unreasonably interfere with the conduct of Tenant's use of the Premises.
21. **INTEREST AND PENALTIES:**
  - a. **Interest:** Unless waived by County Board of Supervisors, Tenant may be responsible for payment of interest on amounts not remitted in accordance with this Lease. The rate of interest shall be the statutory rate in effect for delinquent County property taxes (one-percent (1%) per month or fraction of a month) as described in Wisconsin statutes section 74.47(1). The obligation for

payment and calculation thereof shall commence upon the day following the due dates established herein.

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

**22. COUNTY RIGHTS OF ACCESS AND AUDIT:** The Contractor, Lessee, or other party to the contract, its officers, directors, agents, partners and employees shall allow the County Audit Services Division and department contract administrators (collectively referred to as Designated Personnel) and any other party the Designated Personnel may name, with or without notice, to audit, examine and make copies of any and all records of the Contractor, Lessee, or other party to the contract, related to the terms and performance of the Contract for a period of up to three years following the date of last payment, the end date of this contract, or activity under this contract, whichever is later. Any subcontractors or other parties performing work on this Contract will be bound by the same terms and responsibilities as the Contractor. All subcontracts or other agreements for work performed on this Contract will include written notice that the subcontractors or other parties understand and will comply with the terms and responsibilities. The Contractor, Lessee, or other party to the contract, and any subcontractors understand and will abide by the requirements of Chapter 34 of the Milwaukee County Code of General Ordinances. Any and all County contracts and solicitations for contracts shall include a statement that the Contractor, lessee, or other party to the contract, and any subcontractors understand and will abide by the requirements of Chapter 34 of the Milwaukee County Code of General Ordinances.

**23. ASSIGNMENT AND SUBLETTING:** Tenant may not assign this Lease, in whole or in part, or sublease any part of the Premises without the prior written approval of the Parks Director or his/her designee, and the County Comptroller.

24. RELATIONSHIP OF PARTIES: Nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership, or of joint venture by the parties hereto, it being understood and agreed that no provision contained in this Lease nor any acts of the parties hereto shall be deemed to create any relationship other than the relationship of Landlord and Tenant.

25. TERMINATION: County may terminate this Lease: (a) upon a Default by Tenant (as hereinafter defined); (b) if Tenant ceases to do business as a going concern, ceases to pay its debts as they become due, or admits in writing that it is unable to pay its debts as they become due, or becomes subject to any proceeding under any federal or state bankruptcy law, or a custodian or trustee is appointed to take possession of, or an attachment, execution or other judicial seizure is made with respect to, substantially all of Tenant's assets or Tenant's interest in this Lease; or (c) in the event that County, upon twelve (12) months' prior written notice to Tenant, elects to close or otherwise repurpose the Premises from its use as a beach concession during the Term. If the County terminates the Lease within the Initial Term pursuant to this subsection (c), County agrees to buy out one hundred percent (100%) of Tenant's documented capital expenditure investment in the Premises on a straight-line depreciation over five (5) years. Tenant may terminate this Lease upon a Default by County.

26. DEFAULTS & REMEDIES:

- a. Tenant's Defaults. Tenant agrees that any one or more of the following events shall be considered a Default as said term is used herein:
  - i. Tenant shall fail to contest the validity of any lien or claimed lien and give security to County to insure payment thereof, or having commenced to contest the same and having given such security, shall fail to prosecute such contest with diligence, or shall fail to have the same released and satisfy any judgment rendered thereon, and such Default continues for sixty (60) days after notice thereof to Tenant; or
  - ii. Tenant's failure to perform any other covenant or condition of this Lease within thirty (30) days after notice and demand, unless the failure is of such a character as to require more than thirty (30) days to cure, in which event Tenant's failure to proceed diligently to cure such failure shall constitute a 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 Lease by giving to Tenant notice of County's election to do so, in which event the Term of this Lease shall end, and all right, title and interest of Tenant hereunder shall expire, on the date stated in such notice;

- ii. County may enforce the provisions of this Lease and may enforce and protect the rights of County hereunder by a suit or suits in equity or at law for the specific performance of any covenant or agreement contained herein, or for the enforcement of any other appropriate legal or equitable remedy, including recovery of all moneys due or to become due from Tenant under any of the provisions of this Lease.
  - c. County's Defaults. County agrees that the following shall be considered a Default as said term is used herein:
    - i. County's failure to perform any other covenant or condition of this Lease within thirty (30) days after notice and demand, unless the failure is of such a character as to require more than thirty(30) days to cure, in which event County's failure to proceed diligently to cure such failure shall constitute a Default.
  - d. Tenant's Remedies. Upon the occurrence of a Default by County, Tenant shall have any remedy available at law or equity.
27. CASUALTY: If the Premises or the Building is damaged or destroyed by fire or other casualty covered by insurance, then this Lease shall continue in full force and effect and County may proceed to repair or restore the Premises to the condition which County furnished to Tenant upon the commencement of the Term. County shall be under no obligation to restore any Alterations to the Premises made by Tenant unless the same is covered by County's insurance, but nothing herein shall be construed to require County to insure such property. In no event shall County be obligated to expend an amount in excess of the insurance proceeds available to County for such repair or restoration. In the event the Premises are repaired as provided herein, then Tenant shall repair and restore its merchandise, furnishings, furniture, equipment and all alterations, additions and leasehold improvements made by or for Tenant to at least a condition equal to that before its damage. If the Premises or any part of it shall be rendered un-tenantable by any destruction or damage, then a pro rata portion of the Rent based upon the number of square feet of area in the Premises which are un-tenantable shall be abated until the Premises or such part thereof shall have been put in tenantable condition. Despite the foregoing, if any destruction or damage to the Premises or to the Building (whether or not the Premises are affected) is so extensive that County, in its sole discretion, elects not to repair or restore the Premises or Building or the proceeds of insurance are not sufficient or available to fully pay the cost of the repair or restoration, then County may terminate this Lease effective as of the date of the damage by written notice to Tenant, with notice to be given within ninety (90) days after the occurrence of the damage or destruction.
28. TRANSFER BY LANDLORD: In the event of a sale or conveyance by County of the Building, the same shall operate to release County from any future liability upon any of the covenants or conditions contained in this lease, and in such event Tenant agrees to look solely to the successor in interest of County in and to this Lease. This Lease shall not be affected by any such sale or conveyance, and Tenant agrees to attorn to the purchaser or grantee, which shall be obligated on this Lease only so long as it is the owner of County's interest in and to this Lease. In the event of the sale or other



transfer of County interest in the Building, Tenant shall attorn to the purchaser and recognize the purchaser as Landlord under this Lease.

**29. PROHIBITED PRACTICES:**

- a. Tenant during the period of this Lease shall not hire, retain or utilize for compensation any member, officer, or employee of County or any person who, to the knowledge of Tenant, has a conflict of interest.
- b. Tenant hereby attests that it is familiar with Milwaukee County's Code of Ethics which states, in part, "No person may offer to give to any County officer or employee or his immediate family, and no County officer or employee or his immediate family, may solicit or receive anything of value pursuant to an understanding that such officer's or employee's vote, official actions or judgment would be influenced thereby."

**30. PUBLIC RECORDS:** Both Parties understand that the County is bound by the public records law, and as such, all of the terms of this Lease are subject to and conditioned on the provisions of Wis. Stat. § 19.21, et seq. Tenant hereby agrees that it shall be obligated to assist the County in retaining and timely producing records that are subject to the Wisconsin Public Records Law upon any statutory request having been made, and that any failure to do so shall constitute a material breach of this agreement, whereupon the Tenant shall then and in such event be obligated to indemnify, defend and hold the County harmless from liability under the Wisconsin Public Records Law occasioned by such breach. Except as otherwise authorized by the County in writing, records that are subject to the Wisconsin Public Records Law shall be maintained for a period of three (3) years after receipt of final payment under this Lease.

**31. AUTHORITY:** If Tenant is a corporation, or limited liability company or other entity, each individual executing this Lease on behalf of Tenant represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of said corporation, limited liability company or other entity, as the case may be, and that this Lease is binding upon said corporation in accordance with its terms without the joinder or approval of any other person.

**32. MISCELLANEOUS:** This Lease shall be construed, interpreted and enforced under the laws and jurisdiction of the State of Wisconsin without effect to its conflicts of law provisions. This Lease constitutes the entire understanding between the Parties and is not subject to amendment unless agreed upon in writing by both Parties hereto. The Tenant acknowledges and agrees that it will perform its obligations hereunder in compliance with all applicable state, local or federal law, rules and regulations and orders. The Parties expressly consent to personal jurisdiction and venue of the state and federal courts located in Milwaukee County, Wisconsin for any lawsuit that arises from or relates to this Lease.

**33. ORDER OF PRECEDENCE:** The Parties understand and agree that the RFP and RFP Response are incorporated into and made a part of this Lease by this specific reference. In the event of a conflict or disagreement among the documents, the following order of precedence shall govern:

- (i) Written amendments to the Lease;
- (ii) The Lease;
- (iii) The RFP;
- (iv) The RFP Response.

34. NOTICES: All notices with respect to this Lease shall be in writing, and e-mail shall constitute writing for the purposes of the foregoing. Except as otherwise expressly provided in this Lease, a notice shall be deemed duly given and received upon delivery, if delivered by hand or after posting via US Mail to the party addressed as follows:

To Tenant:

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CCH Management, LLC  
782 Busse Highway  
Park Ridge, IL 60068

To County:

Milwaukee County Department of Parks, Recreation and Culture  
Attn: Director  
9480 Watertown Plank: Road  
Wauwatosa, Wisconsin 53226

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

*SIGNATURE PAGE TO FOLLOW*

**IN WITNESS WHEREOF**, the undersigned authorized parties have caused this Lease to be executed as of the date first written above. The Parties **hereto have set their hands as follows:**

Tenant:

By: \_\_\_\_\_ Date: \_\_\_\_\_

Milwaukee County Parks

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Guy Smith, Director

Approved with regards to County Ordinance Chapter 42:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Community Business Development Partners

Reviewed by:

Approved as to form:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Risk Management

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Corporation Counsel

Approved as to funds per Wis. Stats. 59.255:

Approved per 59.17(2)(b)4.:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Comptroller

By: \_\_\_\_\_ Date: \_\_\_\_\_  
County Executive

Approved as compliant under Wis. Stats. § 59.42(2)(b)5, Stats.

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Corporation Counsel