

**HOLIDAY LIGHTS AGREEMENT BETWEEN
MILWAUKEE COUNTY ZOO
AND
RWS ENTERTAINMENT GROUP**

This Agreement ("Agreement") is made and entered into effect as of July 22, 2021 (the "Effective Date"), by and between MILWAUKEE COUNTY ZOO (as the "County") and RWS ENTERTAINMENT GROUP (the "Vendor"). Referenced together, the County and the Vendor are the "Parties" to this Agreement.

WITNESSETH:

WHEREAS, due to the specific requirements of the required show, the Parties wish to enter into this Agreement governing the display, operation and management of a holiday lights show at the Milwaukee County Zoo.

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

PROVISIONS:

1. **Order of Precedence:** The Agreement includes the following documents, incorporated by reference, in the following order of precedence, which will be followed in resolving any inconsistencies between the terms of the Agreement and the terms of any Exhibits, Attachments, or Amendments to the Agreement:
 - a. This Holiday Lights Agreement;
 - b. Milwaukee County's Request for Proposal #98210017 (the "RFP");
 - c. Contractor's Proposal dated June 18, 2021 (the "Proposal").
2. **Scope of Services:** Contractor shall specifically perform the services identified in the RFP and Proposal.
3. **Term:** This Agreement shall commence on the date signed, and terminate on February 28, 2022 (such period, the "Initial Term"). The Parties may mutually agree to extend the Term of the Agreement for two (2) one (1)-year extension terms (each such period, an "Extension Term"). The Initial Term and any Extension Term then in effect shall be referred to herein as the Term.
4. **Payment:**
 - 4.1. **Fees and Payments:** The total compensation to Vendor for services performed under the Agreement will not exceed One Hundred Fifty Thousand Dollars (\$150,000) unless agreed to by the County in writing. Such fees will be inclusive of all expenses, including without limitation travel expenses.
 - 4.2. **Invoices:** Vendor shall submit invoices to the County which include the following information:
 - i. A reference to this Agreement, including the Effective Date;
 - ii. The name and address of the Vendor;
 - iii. An invoice number and invoice date;
 - iv. Remittance name and address;
 - v. Name, title, and phone number of Contractor's contact for notification in the event of a defective or inaccurate invoice;

- vi. The date due; and
- vii. The amount billed.

Invoices must be submitted to:

Milwaukee County Zoo
 ATTN: Emily Salentine
 10001 W. Bluemound Rd.
 Milwaukee, WI 53226
 Emily.Salentine@milwaukeecountywi.gov

The County reserves the right to use a purchasing card to pay invoices.

5. Legal Compliance: Vendor shall, at Vendor's expense, promptly comply with all laws, rules, and regulations made by any governmental authority having jurisdiction over Vendor's use of the premises, including but not limited to OSHA. Vendor shall obtain and pay for all necessary permits and licensing for the operation of the operation. Vendor shall comply with all applicable federal, state and municipal laws and regulations. Vendor shall pay all fees and taxes required to carry out the provisions of this Agreement.
6. Disruptive Event: In the case of a Disruptive Event (as hereinafter defined), the County shall have the right to terminate the Agreement without fault upon written notice to Vendor.

A "Disruptive Event" is defined as: (i) an Act of God that damages the Premises such that they cannot be utilized by the Vendor for a period exceeding consecutive ten (10) days; or governmental regulation or advisory (including, without limitation, Milwaukee County Administrative Order), recognized health threats as determined by the World Health Organization, the Centers for Disease Control, or local government authority or health agencies (including but not limited to the health threats of COVID-19, H1N1, or similar infectious diseases), curtailment of transportation facilities, or other similar occurrence, where any of those factors, circumstances, situations, or conditions or similar ones prevent, dissuade, or unreasonably delay Zoo attendance, or where any of them make it illegal, impossible, inadvisable, or commercially impracticable to fully perform the terms of the Agreement. In case a Disruptive Event should permanently damage the Premises beyond a point where the Milwaukee County Zoo chooses not to reopen the facilities or close the Zoo beyond a point where the Zoo will likely opt not to reopen the Zoo throughout the Term, the Milwaukee County Zoo shall have the right to terminate the Agreement five (5) days after such a decision is made, and the Vendor will liable for a pro rata payment to the Zoo reflecting the percentage of days during which the Vendor performed the services throughout the Term.

7. Signage/Advertising: All proposed banners, signage and advertising on or within the Premises and environs, whether temporary or permanent, must be pre-approved in writing by the Zoo Director or his/her designee. Vendor agrees to allow the Milwaukee County Zoo to video tape, film and/or photograph the lighting for advertising and agreed-upon promotions.
8. Marketing; Logo: Vendor is responsible for all marketing and advertising to promote its activities and for the solicitation of sponsorships to promote its activities; provided, however, that the Zoo Director or his/her designee maintains the right to prohibit any advertisement, marketing or sponsor acknowledgement that he/she deems to be inappropriate, inaccurate or otherwise. Sponsors must be pre-approved in writing by the Zoo Director or his/her designee. Vendor 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.

9. Staff; Customer Service: Vendor shall conduct its operation in a first-class manner, and all service shall be prompt, clean and efficient. Vendor shall employ a sufficient number of qualified staff to properly operate the venue. Vendor shall provide employees who are professional, friendly and courteous to other associates of the Milwaukee County Zoo, customers and the general public. Employees shall maintain a neat appearance, exercise good public communication skills, respond to customer complaints and questions, and conduct themselves in a high standard acceptable to County. Vendor and staff shall wear appropriate attire which, in the sole determination of the Milwaukee County Zoo, clearly distinguishes Vendor's staff from County staff. The Zoo Director or his/her designee shall have the right, at all times, to notify the Vendor, in writing, of any reasonable objections to the conduct of Vendor's personnel, and to require that his/her objections be remedied within a reasonable period of time.
10. Cleaning: Vendor shall maintain its working areas in a state of cleanliness and repair to prevent injury to the public and shall ensure such areas are clean, orderly and inviting at all times, to the reasonable satisfaction of the Zoo Director or his/her designee. Contractor shall make arrangements to dispose of any and all waste from the work being performed. All areas of display must be kept clean and free from any debris, e.g., zip ties, tape, etc. after assembly and removal of decorations.
11. Deliveries: Vendor shall not allow deliveries to interrupt basic Zoo operations and will make every effort to ensure that deliveries cause as little disturbance as possible. Vendor shall provide a list of delivery schedules to the Milwaukee County Zoo. Delivery vehicles shall park in designated areas which have been approved by the Zoo Director or his/her designee. All deliveries for the Vendor should occur at regularly scheduled times mutually agreed upon by both parties. Vendor agrees to provide staff to timely unload and transport all supplies delivered.
12. Removal of Equipment and Supplies: Vendor is responsible for the removal of lights and sculptures by a date to be mutually agreed upon by the Zoo and the Contractor, but not later than February 1. Upon such removal, Vendor shall restore the Zoo to its prior condition, satisfactory to the Zoo Director or his/her designee. Damage caused to the Zoo by any removal of lights and sculptures will be repaired by the Vendor. If for any reason Vendor does not comply in a timely manner with its obligations under this paragraph, then the County may remove such property as the County sees fit. It is mutually agreed that the County may recover from the Vendor any and all reasonable costs, as determined by the County, related to this Section.
13. Amplified Noise Restriction/Sound System: Amplified noise shall be limited to acoustic and vocal reinforcement to provide background music throughout the Premises and environs. Concert-style amplification must be approved in writing by the Zoo Director or his/her designee. All amplified noise approved by the Zoo Director or his/her designee, as well as ambient music, shall comply with the appropriate City of Milwaukee and Milwaukee County noise ordinances.
14. 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 reasonable 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

Section 34.09 (Audit) and Section 34.095 (Investigations concerning fraud, waste, and abuse) of the Milwaukee County Code of General Ordinances.

15. Insurance: Vendor shall strictly comply with the insurance requirements set forth on Exhibit A.
16. Indemnification: To the fullest extent permitted by law, Vendor 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 Vendor's acts or omissions pursuant to this Agreement or based on any injury, damage or loss being caused by any acts or omissions of the Vendor or its agents, guests or employees. Vendor 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. County shall indemnify Vendor for and hold Vendor 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 County's acts or omissions pursuant to this Agreement. Nothing contained within this agreement is intended to be a waiver or estoppel of Milwaukee County or its insurer to rely upon the limitations, defenses, and immunities available under Wisconsin, Federal, and common law, including, without limitation, those contained in the Wisconsin Constitution and Wisconsin Statutes 893.80, 895.52, and 345.05. To the extent that indemnification is available and enforceable, the municipality or its insurer shall not be liable in indemnity or contribution for an amount greater than the limits of liability for municipal claims established by Wisconsin Law.
17. Environmental Indemnification: Vendor shall, to the fullest extent provided for under any environmental laws, rules and regulations, be responsible for any required repair, clean-up, remediation or detoxification arising out of: (a) any Hazardous Materials brought onto or introduced into the Premises or surrounding areas by Vendor or its agents, or (b) Hazardous Materials located in the Premises or environs, that are discovered or disturbed as a result of the Vendor's activities on, at or near the Premises or environs. Vendor shall indemnify, defend and hold the County harmless from any liability, cost, damage, claim or injury (including reasonable attorney fees) arising therefrom. Moreover, Vendor shall remediate and restore any affected area to at least the minimum standards as required by the WDNR or other applicable regulatory agencies. "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.
18. Assignment and Subcontracting: Vendor may not assign this Agreement, in whole or in part without the prior written approval of the Zoo Director. Assignment of any portion of the work by subcontract must have the prior written approval of County.
19. Termination for Default: County may terminate this Agreement if Vendor fails to comply with any provision in this Agreement, and such failure continues for thirty (30) days after a written notice from County setting forth in reasonable detail the nature of such default.
20. Termination for Bankruptcy: County may terminate this Agreement if Vendor 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 Vendor's assets or interest in this Agreement.

21. Independent Contractor: Nothing contained in this Agreement shall constitute or be construed to create a partnership or joint venture between County or its successors or assigns and Vendor or its successors or assigns. In entering into this Agreement, and in acting in compliance herewith, Vendor is at all times acting and performing as an independent contractor, duly authorized to perform the acts required of it hereunder.
22. Prohibited Practices:
- 22.1. Vendor during the period of this Agreement shall not hire, retain or utilize for compensation any member, officer or employee of County or any person who, to the knowledge of Vendor, has a conflict of interest.
- 22.2. Vendor 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."
23. Public Records: Both Parties understand that the County is bound by the public records law, and as such, all of the terms of this Agreement are subject to and conditioned on the provisions of Wis. Stat. § 19.21, et seq. Vendor 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 Vendor 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 Agreement.
24. Notices: All notices with respect to this Agreement 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 after posting via US Mail, to the party addressed as follows:
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|----------------------------|-------------------------|
| To Vendor: | To County: |
| RWS Entertainment Group | Milwaukee County Zoo |
| Attn: Kevin Kreczko | Attn: Zoo Director |
| 34-01 38th Ave., Ste. 302 | 10001 W. Bluemound Road |
| Long Island City, NY 11101 | Milwaukee, WI 53226 |
- Either party may designate a new address for purposes of this Agreement by written notice to the other party.
25. Waiver: No delay or omission by a party in exercising any right under this Agreement shall operate as a waiver of that or any other right. A waiver or consent given by a party on any one occasion shall be effective only in that instance and shall not be construed as a bar or waiver of any right on any other occasion.
26. Severability: The Parties agree that if any provision of this Agreement is determined to be unenforceable for any reason, such provision shall be deemed separate and severable and the unenforceability of any such provision shall not invalidate or render unenforceable any of the remaining provisions hereof.

27. Paragraph Headings: The paragraph headings contained herein are for convenience in reference and are not intended to specifically define or limit the scope of any provision of this Agreement.
28. Miscellaneous: This Agreement 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 Agreement constitutes the entire understanding between the Parties and is not subject to amendment unless agreed upon in writing by both Parties hereto. The Vendor acknowledges and agrees that it will perform its obligations hereunder in compliance with all applicable state, local or federal laws, rules, 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 Agreement.
29. Affirmative Action, Nondiscrimination and Equal Opportunity: Vendor hereby certifies that it is in compliance with the equal opportunity policy and standards of Milwaukee County, and Federal rules and regulations regarding nondiscrimination in employment and service delivery. Vendor certifies that in the performance of work or execution of this agreement, it shall not discriminate against any employee or applicant for employment because of race, color, national origin, or ancestry, age, sex, sexual orientation, gender identity and gender expression, disability, marital status, family status, lawful source of income, or status as a victim of domestic abuse, sexual assault or stalking, which shall include but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeships. Vendor will post in conspicuous places, available to its employees and applicants for employment, notices to be provided by the County setting forth the provisions of the non-discriminatory clause. A violation of these provisions shall be sufficient cause for the County to terminate the Agreement without liability for the uncompleted portion or for any materials or services purchased or paid for by the Vendor for use in completing the Agreement. Vendor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity or national origin.
- 29.1. Affirmative Action Program (41 CFR 60-1.40): Vendor certifies that it will strive to implement the principles of equal employment opportunity through an effective affirmative action program (and will so certify prior to the award of the Agreement), which shall have as its objective to increase the utilization of women, minorities, and disabled persons and other protected groups, at all levels of employment in all divisions of the Vendor's work force, where these groups may have been previously underutilized and underrepresented. Vendor also agrees that in the event of any dispute as to compliance with the preceding requirements, it shall be its responsibility to show that all requirements are met.
- 29.2. Non-Segregated Facilities (41 CFR 60-1.8): Vendor certifies that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not permit its employees to perform their services at any location under its control, where segregated facilities are maintained.
- 29.3. Subcontractors: Vendor certifies that it has obtained or will obtain certifications regarding non-discrimination, an affirmative action program and non-segregated facilities from proposed subcontractors that are directly related to any agreements with Milwaukee County before the award of any subcontracts, and that it will retain such certifications in its files.
- 29.4. Reporting Requirement: Where applicable, Vendor certifies that it will comply with all reporting requirements and procedures established in 41 CFR 60.

- 29.5. Affirmative Action Plan: Vendor certifies that, if it has fifty (50) or more employees, that it will develop and/or update and submit (within one hundred twenty (120) days of contract award) an Affirmative Action Plan to: Mr. Paul Grant, Audit Compliance Manager, Milwaukee County Department of Audit, 633 W. Wisconsin Ave., Milwaukee, WI 53203, Telephone No.: (414) 278-4292, or other appropriate government agency. Vendor will also require its subcontractors that have fifty (50) or more employees to establish similar written affirmative action plans.
30. Targeted Business Enterprises: While this Agreement does not have a specific participation goal established by Community Business Development Partners, the Supplier is hereby directed to use active and aggressive efforts to assist Show Host in participation of Targeted Business Enterprise (TBE) firms on the County's procurements. 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. 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>
31. Security, Badging and Property Access: For daily access to the Milwaukee County Zoo, by the Vendor's staff, a Zoo issued photo I.D. is required. This I.D. is free of charge and is required for multiple access points throughout the Zoo. Vendor's staff is required to produce the I.D. during entry and upon request by security personnel. In the event a replacement badge is a required a charge of five dollars (\$5) per access card, to be paid by Vendor's staff member. Zoo security personnel are permitted within the premises for the purposes of security, emergencies, checking identification and general observation of public areas. Vendor's patrons and public guests are allowed on Zoo property during hours of operation (1.13), no public access prior to opening or after the designated closing time of the Zoo.
32. Maintenance: Contractor shall ensure at all times that lights are all on timers or continuously on to operate from 4-10pm from December 1-31, 2021. Contractor must, maintain the lights and decorations throughout the display period to ensure all lights are on and functioning. In the event of malfunctioning lights, the Zoo will reimburse the Contractor for purchase prices, but the Contractor will, at its sole expense, supply all labor required to promptly replace all non-functioning lights and décor. All malfunctioning lights that occur during the period must be repaired by the event on the evening after the Contractor has been notified of the malfunction. Contractor shall supply all lifts and other materials necessary to safely and successfully install, maintain, and remove décor. The Contractor must maintain a management presence on-site or the ability to be present at the Zoo so as to be able to replace all non-functioning décor by the event on the evening after the Contractor has been notified of the malfunction. Damage to any property by Contractor or its designees shall be the responsibility of the Contractor. Contractor shall ensure that all lighting and extension cords are covered/encased for public safety. Contractor must ensure that all safety measures are taken for all lights to avoid short outs and gaps in lighting because of faulty strands. Contractor must provide excellent quality materials to meet safe electrical standards. Contractor is responsible for compliance with all permits and electrical requirements.
33. Pandemic Preparedness. Vendor is responsible for compliance with all state, federal, and local orders, including Milwaukee County Administrative Orders, and all regulations and laws regarding the COVID-19 pandemic. Further, Vendor will follow all relevant agency guidance, specifically issued by the CDC, including, but not limited to, social distancing, hygiene, sanitation of work spaces, providing proper personal protective equipment to staff, proper staff screening methods and education of staff.

If determined applicable by the County, Vendor should have a written Pandemic Preparedness Plan that complies with all applicable laws, regulations, orders, and agency guidelines regarding COVID-19 and, at a minimum, meets the requirements in the Milwaukee County COVID-19 Response Preparedness Plan Checklist, attached to this Agreement as Exhibit 1.

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