

March 13, 2012

RESOLUTION NO. 2011-127

RESOLUTION BY THE EXECUTIVE COMMITTEE AND THE PUBLIC WORKS, PARKS & FACILITIES COMMITTEE AUTHORIZING RACINE COUNTY TO ACQUIRE FROM THE YOUNG WOMEN’S CHRISTIAN ASSOCIATION OF RACINE, WISCONSIN CERTAIN PROPERTY KNOWN AS RIVER BEND NATURE CENTER AND TO ENTER INTO A LEASE, OPERATION AND MANAGEMENT AGREEMENT WITH RIVER BEND NATURE CENTER, INC.

To the Honorable Members of the Racine County Board of Supervisors:

BE IT RESOLVED that the Racine County Board of Supervisors hereby authorizes and approves the agreements necessary for Racine County to purchase, from the Young Women’s Christian Association of Racine, Wisconsin (YWCA), the property generally known as River Bend Nature Center, located at 3600 North Green Bay Road in the Village of Caledonia, under the general terms and conditions set out in “Exhibit A” that is attached hereto and incorporated herein.

BE IT FURTHER RESOLVED by the Racine County Board of Supervisors that the County is authorized to enter into a Lease, Operation and Management Agreement with River Bend Nature Center, Inc., a Wisconsin non-stock corporation, for the purposes of occupying, managing, maintaining and renovating the facilities, and conducting programming, at River Bend Nature Center, under the general terms and conditions set out in “Exhibit B” that is attached hereto and incorporated herein.

BE IT FURTHER RESOLVED by the Racine County Board of Supervisors that all agreements shall incorporate such terms and conditions as the Corporation Counsel and the Finance Director deem necessary and appropriate.

BE IT FURTHER RESOLVED by the Racine County Board of Supervisors that any two of the County Clerk, the County Executive and/or the County Board Chairman are authorized to execute any contracts, agreements or other documents necessary to carry out the intent of this resolution.

Respectfully submitted,

EXECUTIVE COMMITTEE

1st Reading _____

2nd Reading _____

BOARD ACTION

Adopted _____

For _____

Against _____

Absent _____

Peter L. Hansen, Chairman

Russell A. Clark, Vice-Chairman

Robert N. Miller, Secretary

VOTE REQUIRED: 2/3 M.E.

Prepared by:
Corporation Counsel

Mike Dawson

Robert D. Grove

Jeff Halbach

Q. A. Shakoor, II

Daniel F. Sharkozy

Pamela Zenner-Richards

**PUBLIC WORKS, PARKS & FACILITIES
COMMITTEE**

Jeff Halbach, Chairman

Kay Buske, Vice-Chairman

Mike Dawson, Secretary

Kenneth Hall

James C. Rooney

Daniel F. Sharkozy

Donnie Snow

**The foregoing legislation adopted by the County Board of Supervisors of
Racine County, Wisconsin, is hereby:**

Approved: _____

Vetoed: _____

Date: _____,

James A. Ladwig, County Executive

FOR INFORMATION ONLY

WHEREAS, for decades, the YWCA of Racine has operated the River Bend Nature Center, located on the Root River in Caledonia, as a publicly accessible environmental, educational, and recreational resource for all of Racine County; and

WHEREAS, in recent years, the YWCA of Racine has recognized that operation of River Bend is not a part of its fundamental mission, but the YWCA of Racine nonetheless desires to see River Bend continue to be a unique community asset, available to all Racine County residents and visitors; and

WHEREAS, Racine County has available to it Federal Land and Water Conservation Program (LAWCON) funds, which are not derived from county property taxes, and may only be used for the acquisition of property for public recreational purposes; and

WHEREAS, Racine County has targeted its use of LAWCON funds at properties along the Fox and Root Rivers, and the Wisconsin Department of Natural Resources (DNR) has authorized Racine County to use LAWCON funds to acquire River Bend; and

WHEREAS, although Racine County is able to purchase River Bend without expending property tax levy funds, the costs of necessary repairs and improvements to, and ongoing maintenance of, River Bend facilities, as well as the costs of management, operations, and programming, would have to be defrayed by property tax levy funds; and

WHEREAS, Racine County is unable to commit any use of property tax levy funds for facilities repairs, improvements, or maintenance, or for management, operations or programming; and

WHEREAS, in order to ensure that River Bend remains available to all Racine County residents and visitors, but without tax levy subsidy, it is desirable for Racine County to contract with a non-profit organization that is willing and able, at no cost to county taxpayers, to repair, improve, and maintain the facilities and to manage, operate and conduct programming; and

WHEREAS, River Bend Nature Center, Inc., a Wisconsin non-stock corporation, has expressed a willingness to operate River Bend as a publicly accessible facility and to carry out all the responsibilities associated therewith and has demonstrated both the capability to do so and the support of a wide range of community organizations interested in environmental, educational, and recreational matters.

Resolution No. 2011-127
Exhibit "A"

State Bar of Wisconsin

Approved by the Wisconsin Department of Regulation and Licensing
4-1-00 (Optional Use Date)
9-1-00 (Mandatory Use Date)

DRAFT

WB-15 COMMERCIAL OFFER TO PURCHASE

Page 1 of 5, WB-15

1 BROKER DRAFTING THIS OFFER ON _____ [DATE] IS (AGENT OF SELLER) (AGENT OF BUYER) (DUAL AGENT) **STRIKE TWO**

2 **GENERAL PROVISIONS** The Buyer, Racine County,

3 offers to purchase the Property known as [Street Address] 3600 North Green Bay Road in the

4 Village of Caledonia, County of Racine, Wisconsin, (Insert additional

5 description, if any, at lines 293 - 297 or attach as an addendum per line 298), on the following terms:

6 ■ PURCHASE PRICE: Four-hundred thousand and 1/100

7 _____ Dollars (\$ 400,000.00).

8 ■ EARNEST MONEY of \$ NA accompanies this Offer and earnest money of \$ _____

9 will be paid within _____ days of acceptance.

10 ■ THE BALANCE OF PURCHASE PRICE will be paid in cash or equivalent at closing unless otherwise provided below.

11 ■ ADDITIONAL ITEMS INCLUDED IN PURCHASE PRICE: Seller shall include in the purchase price and transfer, free and clear of encum-

12 brances, all fixtures, as defined at lines 117 - 120 and as may be on the Property on the date of this Offer, unless excluded at lines 15 - 16, and

13 the following additional items: NA

14 _____

15 ■ ITEMS NOT INCLUDED IN THE PURCHASE PRICE: *CAUTION: Address rented fixtures or trade fixtures owned by tenants, if*

16 *applicable.* NA

17 All personal property included in purchase price will be transferred by bill of sale or _____.

18 **ACCEPTANCE** Acceptance occurs when all Buyers and Sellers have signed an identical copy of the Offer, including signatures on separate

19 but identical copies of the Offer. *CAUTION: Deadlines in the Offer are commonly calculated from acceptance. Consider whether short term*

20 *deadlines running from acceptance provide adequate time for both binding acceptance and performance.*

21 **BINDING ACCEPTANCE** This Offer is binding upon both Parties only if a copy of the accepted Offer is delivered to Buyer on or before

22 _____, *CAUTION: This Offer may be withdrawn prior to delivery of the accepted Offer.*

23 **DELIVERY OF DOCUMENTS AND WRITTEN NOTICES** Unless otherwise stated in this Offer, delivery of documents and written notices

24 to a Party shall be effective only when accomplished by one of the methods specified at lines 25 - 34.

25 (1) By depositing the document or written notice postage or fees prepaid in the U.S. Mail or fees prepaid or charged to an account with a com-

26 mercial delivery service, addressed either to the Party, or to the Party's recipient for delivery designated at lines 28 or 30 (if any), for delivery to

27 the Party's delivery address at lines 29 or 31.

28 Seller's recipient for delivery (optional): _____

29 Seller's delivery address: _____

30 Buyer's recipient for delivery (optional): Office of Corporation Counsel

31 Buyer's delivery address: 730 Wisconsin Ave., Racine, WI 53403

32 (2) By giving the document or written notice personally to the Party or the Party's recipient for delivery if an individual is designated at lines 28 or 30.

33 (3) By fax transmission of the document or written notice to the following telephone number:

34 Buyer: (262) 636-3549 Seller: (_____) _____

35 **LEASED PROPERTY** If Property is currently leased and lease(s) extends beyond closing, Seller shall assign Seller's rights under said lease(s)

36 and transfer all security deposits and prepaid rents thereunder to Buyer at closing. The terms of the (written)(oral) **STRIKE ONE** lease(s), if any,

37 are NA

38 **RENTAL WEATHERIZATION** This transaction (is) (is not) **STRIKE ONE** exempt from State of Wisconsin Rental Weatherization Standards

39 (Wisconsin Administrative Code, Comm 67). If not exempt, (Buyer) (Seller) **STRIKE ONE** will be responsible for compliance, including all costs.

40 If Seller is responsible for compliance, Seller shall provide a Certificate of Compliance at closing.

41 **PLACE OF CLOSING** This transaction is to be closed at the place designated by Buyer's mortgagee or Office of Corporation Counsel

42 _____ no later than _____, unless another date or place is agreed to in writing.

43 **CLOSING PRORATIONS** The following items shall be prorated at closing: real estate taxes, rents, water and sewer use charges, garbage pick-

44 up and other private and municipal charges, property owner's association assessments, fuel, payments under governmental agricultural programs

45 and none. Any income, taxes or expenses shall accrue to Seller and be prorated through

46 the day prior to closing. Net general real estate taxes shall be prorated based on (the net general real estate taxes for the current year, if known,

47 otherwise on the net general real estate taxes for the preceding year) (_____)

48 _____). **STRIKE AND COMPLETE AS APPLICABLE** *CAUTION: If Property has not been fully assessed for*

49 *tax purposes (for example, recent land division or completed/pending reassessment) or if proration on the basis of net general real*

50 *estate taxes is not acceptable (for example, changing mill rate), insert estimated annual tax or other basis for proration.*

51 **PROPERTY CONDITION PROVISIONS**

52 ■ **PROPERTY CONDITION REPRESENTATIONS:** Seller represents to Buyer that as of the date of acceptance Seller has no notice or

53 knowledge of conditions affecting the Property or transaction other than those identified in Seller's Real Estate Condition Report

54 dated NA, which was received by Buyer prior to Buyer signing this Offer and which is made a part of this Offer by reference

55 **COMPLETE DATE OR STRIKE AS APPLICABLE** and NA

56 _____ **INSERT CONDITIONS NOT ALREADY INCLUDED IN THE CONDITION REPORT**

- 57 ■ A "condition affecting the Property or transaction" is defined as follows:
- 58 (a) planned or commenced public improvements which may result in special assessments or otherwise materially affect the Property or the
59 present use of the Property;
- 60 (b) government agency or court order requiring repair, alteration or correction of any existing condition;
- 61 (c) completed or pending reassessment of the Property for property tax purposes;
- 62 (d) structural inadequacies which if not repaired will significantly shorten the expected normal life of the Property;
- 63 (e) any land division involving the Property, for which required state or local approvals were not obtained;
- 64 (f) construction or remodeling on the Property for which required state or local approvals were not obtained;
- 65 (g) any portion of the Property being in a 100 year floodplain, a wetland or shoreland zoning area under local, state or federal regulations;
- 66 (h) that a structure on the Property is designated as a historic building or that any part of the Property is in a historic district;
- 67 (i) material violations of environmental laws or other laws or agreements regulating the use of the Property;
- 68 (j) conditions constituting a significant health or safety hazard for occupants of the Property;
- 69 (k) underground or aboveground storage tanks for storage of flammable, combustible or hazardous materials including but not limited to gasoline
70 and heating oil, which are currently or which were previously located on the Property, *NOTE: The Wisconsin Administrative Code contains*
71 *registration and operation rules for such underground storage tanks.*
- 72 (l) high voltage electric (100 KV or greater) or steel natural gas transmission lines located on but not directly serving the Property;
- 73 (m) material levels of hazardous substances located on Property or previous storage of material amounts of hazardous substances on Property;
- 74 (n) other conditions or occurrences which would significantly reduce the value of the Property to a reasonable person with knowledge of the
75 nature and scope of the condition or occurrence.
- 76 ■ **PROPERTY DIMENSIONS AND SURVEYS:** Buyer and Seller acknowledge that any Property, building or room dimensions, or total acreage
77 or building square footage figures, provided to Buyer or Seller may be approximate because of rounding or other reasons, unless verified by
78 survey or other means. Buyer also acknowledges that there are various formulas used to calculate total square footage of buildings and that total
79 square footage figures will vary dependent upon the formula used. *CAUTION: Buyer should verify total square footage formula, Property,*
80 *building or room dimensions, and total acreage or square footage figures, if material to Buyer's decision to purchase.*
- 81 ■ **INSPECTIONS:** Seller agrees to allow Buyer's inspectors reasonable access to the Property upon reasonable notice if the inspections are
82 reasonably necessary to satisfy the contingencies in this Offer. Buyer agrees to promptly provide copies of all such inspection reports to Seller, and
83 to listing broker if Property is listed. Furthermore, Buyer agrees to promptly restore the Property to its original condition after Buyer's inspections are
84 completed, unless otherwise agreed with Seller. An "inspection" is defined as an observation of the Property which does not include testing of the
85 Property, other than testing for leaking carbon monoxide, or testing for leaking LP gas or natural gas used as a fuel source, which are hereby authorized.
- 86 ■ **TESTING:** Except as otherwise provided, Seller's authorization for inspections does not authorize Buyer to conduct testing of the Property. A
87 "test" is defined as the taking of samples of materials such as soils, water, air or building materials from the Property and the laboratory or other
88 analysis of these materials. If Buyer requires testing, testing contingencies must be specifically provided for at lines 293 - 297 or in an addendum
89 per line 298. Note: Any contingency authorizing such tests should specify the areas of the Property to be tested, the purpose of the test, (e.g., to
90 determine if environmental contamination is present), any limitations on Buyer's testing and any other material terms of the contingency (e.g.,
91 Buyer's obligation to return the Property to its original condition). Seller acknowledges that certain inspections or tests may detect environmental
92 pollution which may be required to be reported to the Wisconsin Department of Natural Resources.
- 93 ■ **PRE-CLOSING INSPECTION:** At a reasonable time, pre-approved by Seller or Seller's agent, within 3 days before closing, Buyer shall have the
94 right to inspect the Property to determine that there has been no significant change in the condition of the Property, except for ordinary wear and
95 tear and changes approved by Buyer, and that any defects Seller has elected to cure have been repaired in a good and workmanlike manner.
- 96 ■ **ENVIRONMENTAL SITE ASSESSMENT:** An "environmental site assessment" (also known as a "Phase I Site Assessment") (see lines 279 to
97 283) may include, but is not limited to: (1) an inspection of the Property; (2) a review of the ownership and use history of the Property, including a
98 search of title records showing private ownership of the Property for a period of 80 years prior to the visual inspection; (3) a review of historic and
99 recent aerial photographs of the Property, if available; (4) a review of environmental licenses, permits or orders issued with respect to the Property;
100 (5) an evaluation of results of any environmental sampling and analysis that has been conducted on the Property; and (6) a review to determine
101 if the Property is listed in any of the written compilations of sites or facilities considered to pose a threat to human health or the environment includ-
102 ing the National Priorities List, the Department of Natural Resources' (DNR) registry of Abandoned Landfills, the DNR's Registry of Leaking
103 Underground Storage Tanks, the DNR's most recent remedial response site evaluation report (including the Inventory of Sites and Facilities Which
104 May Cause or Threaten to Cause Environmental Pollution). Any "environmental site assessment" performed under this Offer shall comply with
105 generally recognized industry standards (e.g. current American Society of Testing and Materials "Standards for Environmental Site Assessments for
106 Commercial Real Estate"), and state and federal guidelines, as applicable. *CAUTION: Unless otherwise agreed an*
107 *"environmental site assessment" does not include subsurface testing of the soil or groundwater or other testing of the Property for*
108 *environmental pollution.*
- 109 ■ **PROPERTY DAMAGE BETWEEN ACCEPTANCE AND CLOSING:** Seller shall maintain the Property until the earlier of closing or occupancy
110 of Buyer in materially the same condition as of the date of acceptance of this Offer, except for ordinary wear and tear. If, prior to closing, the
111 Property is damaged in an amount of not more than five per cent (5%) of the selling price, Seller shall be obligated to repair the Property and
112 restore it to the same condition that it was on the day of this Offer. If the damage shall exceed such sum, Seller shall promptly notify Buyer in writ-
113 ing of the damage and this Offer may be canceled at the option of Buyer. Should Buyer elect to carry out this Offer despite such damage, Buyer
114 shall be entitled to the insurance proceeds relating to the damage to the Property, plus a credit towards the purchase price equal to the amount of
115 Seller's deductible on such policy. However, if this sale is financed by a land contract or a mortgage to Seller, the insurance proceeds shall be
116 held in trust for the sole purpose of restoring the Property.
- 117 ■ **FIXTURES** A "Fixture" is an item of property which is physically attached to or so closely associated with land and improvements so as to be
118 treated as part of the real estate, including, without limitation, physically attached items not easily removable without damage to the Property, items
119 specifically adapted to the Property, and items customarily treated as fixtures. A "fixture" does not include trade fixtures owned by tenants of the
120 Property. See Lines 11 to 17.
- 121 ■ **OCCUPANCY** Occupancy of the entire Property shall be given to Buyer at time of closing unless otherwise provided in this Offer at lines 293 -
122 297 or in an addendum per line 298. Occupancy shall be given subject to tenant's rights, if any.
- 123 ■ **SPECIAL ASSESSMENTS** Special assessments, if any, for work actually commenced or levied prior to date of this Offer shall be paid by Seller
124 no later than closing. All other special assessments shall be paid by Buyer. *CAUTION: Consider a special agreement if area assessments, prop-*
125 *erty owner's association assessments or other expenses are contemplated. "Other expenses" are one-time charges or ongoing use fees for pub-*
126 *lic improvements (other than those resulting in special assessments) relating to curb, gutter, street, sidewalk, sanitary and stormwater and storm*
127 *sewer (including all sewer mains and hook-up and interceptor charges), parks, street lighting and street trees, and impact fees for other public*
128 *facilities, as defined in Wis. Stat. § 66.55(1)(c) & (f).*

129 PROPERTY ADDRESS: 3600 North Green Bay Road, Caledonia, WI 53402 [page 3 of 5, WB-15]

130 OPTIONAL FINANCING CONTINGENCY: THE CONTINGENCY AT LINES 132 THROUGH 160 IS A PART OF THIS OFFER IF MARKED, SUCH

131 AS WITH AN "X," AT LINE 132. IT IS NOT PART OF THIS OFFER IF IT IS MARKED N/A OR LEFT BLANK.

132 NA FINANCING CONTINGENCY: This Offer is contingent upon Buyer being able to obtain: **CHECK APPLICABLE FINANCING BELOW**

133 land contract financing from Seller at closing as further described at lines 136 to 153 and 161 to 168.

134 a _____ **INSERT LOAN PROGRAM** (fixed) (adjustable) **STRIKE ONE** rate first mort-

135 gage loan commitment as further described at lines 136 to 149 and 154 to 178, within _____ days of acceptance of this Offer.

136 The financing selected shall be in an amount of not less than \$ _____ for a term of not less than _____ years, amortized

137 over not less than _____ years. If the purchase price under this Offer is modified, the financed amount, unless otherwise provided, shall be

138 adjusted to the same percentage of the purchase price as in this contingency and the monthly payments shall be adjusted as necessary to main

139 tain the term and amortization stated above.

140 IF FINANCING IS FIXED RATE the annual rate of interest shall not exceed _____ % and monthly payments of principal and interest shall

141 not exceed \$ _____.

142 IF FINANCING IS ADJUSTABLE RATE the initial annual interest rate shall not exceed _____ %. The initial interest rate shall be fixed for

143 _____ months, at which time the interest rate may be increased not more than _____ % per year. The maximum interest rate during the

144 mortgage term shall not exceed _____ %. Initial monthly payments of principal and interest shall not exceed \$ _____. Monthly

145 payments of principal and interest may be adjusted to reflect interest changes.

146 MONTHLY PAYMENTS MAY ALSO INCLUDE 1/12th of the estimated net annual real estate taxes, hazard insurance premiums, and private

147 mortgage insurance premiums. The mortgage may not include a prepayment premium. Buyer agrees to pay a loan fee in an amount not

148 to exceed _____ % of the loan. (Loan fee refers to discount points and/or loan origination fee, but DOES NOT include Buyer's other closing

149 costs.) Note: Unless otherwise agreed, Buyer's delivery of any document labeled a loan commitment will satisfy this contingency.

150 IF FINANCING IS BY LAND CONTRACT \$ _____ shall be paid at closing (in addition to earnest money), interest rate following payment

151 default shall be _____ %, the default period shall be _____ days for payments and _____ days for performance of any other

152 obligations. Interest shall be calculated on a prepaid basis. Any amount may be prepaid on principal without penalty at any time. Buyer under-

153 stands that if the term of the land contract is shorter than the amortization period a balloon payment will be due at the end of the term.

154 LOAN COMMITMENT: Buyer agrees to pay all customary financing costs (including closing fees), to apply for financing promptly, and to provide

155 evidence of application promptly upon request by Seller. If Buyer qualifies for the financing described in this Offer or other financing acceptable

156 to Buyer, Buyer agrees to deliver to Seller a copy of the written loan commitment no later than the deadline for loan commitment at line 135.

157 Buyer's delivery of a copy of any written loan commitment (even if subject to conditions) shall satisfy the Buyer's financing contingency

158 unless accompanied by a notice of unacceptability. CAUTION: BUYER, BUYER'S LENDER AND AGENTS OF BUYER OR SELLER

159 SHOULD NOT DELIVER A LOAN COMMITMENT TO SELLER WITHOUT BUYER'S PRIOR APPROVAL OR UNLESS ACCOMPANIED BY A

160 NOTICE OF UNACCEPTABILITY.

161 LAND CONTRACT: If this Offer provides for a land contract both Parties agree to execute a State Bar of Wisconsin Form 11 Land Contract, the

162 terms of which are incorporated into this Offer by reference. Prior to execution of the land contract Seller shall provide the same evidence of mer-

163 chantable title as required above and written proof, at or before execution, that the total underlying indebtedness, if any, is not in excess of the pro-

164 posed balance of the land contract, that the payments on the land contract are sufficient to meet all of the obligations of Seller on the underlying

165 indebtedness, and that all creditors whose consent is required have consented to the land contract sale. Seller may terminate this Offer if creditor

166 approval cannot be obtained. Seller may terminate this Offer if Buyer does not provide a written credit report which indicates that Buyer is credit

167 worthy based upon reasonable underwriting standards within 15 days of acceptance. Buyer shall pay all costs of obtaining creditor approval and

168 the credit report. Seller shall be responsible for preparation and the expense of preparation of all closing documentation, including the land contract.

169 FINANCING UNAVAILABILITY: If financing is not available on the terms stated in this Offer (and Buyer has not already delivered an acceptable

170 loan commitment for other financing to Seller), Buyer shall promptly deliver written notice to Seller of same including copies of lender(s)' rejection

171 letter(s) or other evidence of unavailability. Unless a specific loan source is named in the financing contingency, Seller shall then have 10 days to

172 give Buyer written notice of Seller's decision to finance this transaction on the same terms set forth in the financing contingency, and this Offer

173 shall remain in full force and effect, with the time for closing extended accordingly. If Seller's notice is not timely given, this Offer shall be null and

174 void. Buyer authorizes Seller to obtain any credit information reasonably appropriate to determine Buyer's credit worthiness for Seller financing.

175 SELLER TERMINATION RIGHTS: If Buyer does not make timely delivery of the loan commitment, Seller may terminate this Offer provided that

176 Seller delivers a written notice of termination to Buyer prior to Seller's actual receipt of a copy of Buyer's written loan commitment.

177 NOTE: IF PURCHASE IS CONDITIONED ON BUYER OBTAINING FINANCING FOR OPERATIONS OR DEVELOPMENT CONSIDER ADDING

178 A CONTINGENCY FOR THAT PURPOSE.

179 TITLE EVIDENCE

180 CONVEYANCE OF TITLE: Upon payment of the purchase price, Seller shall convey the Property by warranty deed (or other conveyance as

181 provided herein) free and clear of all liens and encumbrances, except: municipal and zoning ordinances and agreements entered under them,

182 recorded easements for the distribution of utility and municipal services, recorded building and use restrictions and covenants, general taxes levied

183 in the year of closing and none

184 _____ (provided none of the

185 foregoing prohibit present use of the Property), which constitutes merchantable title for purposes of this transaction. Seller further agrees to com-

186 plete and execute the documents necessary to record the conveyance. WARNING: If Buyer contemplates improving or developing Property,

187 or a change in use, Buyer may need to address municipal and zoning ordinances, recorded building and use restrictions, covenants

188 and easements which may prohibit some improvements or uses. The need for building permits, zoning variances, environmental audits,

189 etc., may need to be investigated to determine feasibility of improvements, development or use changes for Property. Contingencies
190 for investigation of these issues may be added to this Offer. See lines 293 to 298.

191 ■ **FORM OF TITLE EVIDENCE:** Seller shall give evidence of title in the form of an owner's policy of title insurance in the amount of the purchase
192 price on a current ALTA form issued by an insurer licensed to write title insurance in Wisconsin. **CAUTION: IF TITLE EVIDENCE WILL BE GIVEN**
193 **BY ABSTRACT, STRIKE TITLE INSURANCE PROVISIONS AND INSERT ABSTRACT PROVISIONS.**

194 ■ **PROVISION OF MERCHANTABLE TITLE:** Seller shall pay all costs of providing title evidence. For purposes of closing, title evidence shall be
195 acceptable if the commitment for the required title insurance is delivered to Buyer's attorney or Buyer not less than 3 business days before clos-
196 ing, showing title to the Property as of a date no more than 15 days before delivery of such title evidence to be merchantable, subject only to liens
197 which will be paid out of the proceeds of closing and standard abstract certificate limitations or standard title insurance requirements and excep-
198 tions, as appropriate. **CAUTION: BUYER SHOULD CONSIDER UPDATING THE EFFECTIVE DATE OF THE TITLE COMMITMENT PRIOR TO**
199 **CLOSING, A "GAP ENDORSEMENT" TO THE TITLE COMMITMENT OR AN ESCROW CLOSING.**

200 ■ **TITLE ACCEPTABLE FOR CLOSING:** If title is not acceptable for closing, Buyer shall notify Seller in writing of objections to title by the time set for
201 closing. In such event, Seller shall have a reasonable time, but not exceeding 15 days, to remove the objections, and the time for closing shall be extend-
202 ed as necessary for this purpose. In the event that Seller is unable to remove the objections, Buyer shall have 5 days from receipt of notice thereof, to
203 deliver written notice waiving the objections, and the time for closing shall be extended accordingly. If Buyer does not waive the objections, this Offer
204 shall be null and void. Providing title evidence acceptable for closing does not extinguish Seller's obligations to give merchantable title to Buyer.

205 **DELIVERY/RECEIPT** Unless otherwise stated in this Offer, any signed document transmitted by facsimile machine (fax) shall be treated in all man-
206 ner and respects as an original document and the signature of any Party upon a document transmitted by fax shall be considered an original sig-
207 nature. Personal delivery to, or actual receipt by, any named Buyer or Seller constitutes personal delivery to, or actual receipt by Buyer or Seller.
208 Once received, a notice cannot be withdrawn by the Party delivering the notice without the consent of the Party receiving the notice. A Party may
209 not unilaterally reinstate a contingency after a notice of a contingency waiver has been received by the other Party. The delivery/receipt provi-
210 sions in this Offer may be modified when appropriate (e.g., when mail delivery is not desirable (see lines 25 - 31)). Buyer and Seller author-
211 ize the agents of Buyer and Seller to distribute copies of the Offer to Buyer's lender, appraisers, title insurance companies and any other settle-
212 ment service providers for the transaction.

213 **DATES AND DEADLINES** Deadlines expressed as a number of "days" from an event, such as acceptance, are calculated by excluding the day the
214 event occurred and by counting subsequent calendar days. The deadline expires at midnight on the last day. Deadlines expressed as a specific num-
215 ber of "business days" exclude Saturdays, Sundays, any legal public holiday under Wisconsin or Federal law, and other day designated by the President
216 such that the postal service does not receive registered mail or make regular deliveries on that day. Deadlines expressed as a specific number of "hours"
217 from the occurrence of an event, such as receipt of a notice, are calculated from the exact time of the event, and by counting 24 hours per calendar day.
218 Deadlines expressed as a specific day of the calendar year or as the day of a specific event, such as closing, expire at midnight of that day.

219 **DEFAULT** Seller and Buyer each have the legal duty to use good faith and due diligence in completing the terms and conditions of this Offer. A material
220 failure to perform any obligation under this Offer is a default which may subject the defaulting party to liability for damages or other legal remedies.

221 If Buyer defaults, Seller may:

- 222 (1) sue for specific performance and request the earnest money as partial payment of the purchase price; or
223 (2) terminate the Offer and have the option to: (a) request the earnest money as liquidated damages; or (b) direct Broker to return the
224 earnest money and have the option to sue for actual damages.

225 If Seller defaults, Buyer may:

- 226 (1) sue for specific performance; or
227 (2) terminate the Offer and request the return of the earnest money, sue for actual damages, or both.

228 In addition, the Parties may seek any other remedies available in law or equity.

229 The Parties understand that the availability of any judicial remedy will depend upon the circumstances of the situation and the discretion of the courts.
230 If either Party defaults, the Parties may renegotiate the Offer or seek nonjudicial dispute resolution instead of the remedies outlined above. By agreeing
231 to binding arbitration, the Parties may lose the right to litigate in a court of law those disputes covered by the arbitration agreement. **NOTE: IF**
232 **ACCEPTED, THIS OFFER CAN CREATE A LEGALLY ENFORCEABLE CONTRACT. BOTH PARTIES SHOULD READ THIS DOCUMENT**
233 **CAREFULLY. BROKERS MAY PROVIDE A GENERAL EXPLANATION OF THE PROVISIONS OF THE OFFER. BUT ARE PROHIBITED BY LAW**
234 **FROM GIVING ADVICE OR OPINIONS CONCERNING YOUR LEGAL RIGHTS UNDER THIS OFFER OR HOW TITLE SHOULD BE TAKEN AT**
235 **CLOSING. AN ATTORNEY SHOULD BE CONSULTED IF LEGAL ADVICE IS NEEDED.**

236 **EARNEST MONEY**

237 ■ **HELD BY:** Unless otherwise agreed, earnest money shall be paid to and held in the trust account of the listing broker (buyer's agent if Property
238 is not listed or seller if no broker is involved), until applied to purchase price or otherwise disbursed as provided in the Offer. **CAUTION: Should**
239 **persons other than a broker hold earnest money, an escrow agreement should be drafted by the Parties or an attorney. If someone other**
240 **than Buyer makes payment of earnest money, consider a special disbursement agreement.**

241 ■ **DISBURSEMENT:** If negotiations do not result in an accepted offer, the earnest money shall be promptly disbursed (after clearance from payor's
242 depository institution if earnest money is paid by check) to the person(s) who paid the earnest money. At closing, earnest money shall be disbursed
243 according to the closing statement. If this Offer does not close, the earnest money shall be disbursed according to a written disbursement
244 agreement signed by all Parties to this Offer (Note: Wis. Adm. Code § RL 18.09(1)(b) provides that an offer to purchase is not a written disbursement
245 agreement pursuant to which the broker may disburse). If the disbursement agreement has not been delivered to broker within 60 days after the date
246 set for closing, broker may disburse the earnest money: (1) as directed by an attorney who has reviewed the transaction and does not represent Buyer
247 or Seller; (2) into a court hearing a lawsuit involving the earnest money and all Parties to this Offer; (3) as directed by court order; or (4) any other
248 disbursement required or allowed by law. Broker may retain legal services to direct disbursement per (1) or to file an interpleader action per (2) and
249 broker may deduct from the earnest money any costs and reasonable attorneys fees, not to exceed \$250, prior to disbursement.

250 ■ **LEGAL RIGHTS/ACTION:** Broker's disbursement of earnest money does not determine the legal rights of the Parties in relation to this Offer.
251 Buyer's or Seller's legal right to earnest money cannot be determined by broker. At least 30 days prior to disbursement per (1) or (4) above, broker
252 shall send Buyer and Seller notice of the disbursement by certified mail. If Buyer or Seller disagree with broker's proposed disbursement, a lawsuit
253 may be filed to obtain a court order regarding disbursement. Small Claims Court has jurisdiction over all earnest money disputes arising out of the
254 sale of residential property with 1-4 dwelling units and certain other earnest money disputes. The Buyer and Seller should consider consulting attor-
255 neys regarding their legal rights under this Offer in case of a dispute. Both Parties agree to hold the broker harmless from any liability for good faith
256 disbursement of earnest money in accordance with this Offer or applicable Department of Regulation and Licensing regulations concerning earnest
257 money. See Wis. Adm. Code Ch. RL 18. **NOTE: WISCONSIN LICENSE LAW PROHIBITS A BROKER FROM GIVING ADVICE OR OPINIONS CON-**
258 **CERNING THE LEGAL RIGHTS OR OBLIGATIONS OF PARTIES TO A TRANSACTION OR THE LEGAL EFFECT OF A SPECIFIC CONTRACT OR**
259 **CONVEYANCE. AN ATTORNEY SHOULD BE CONSULTED IF LEGAL ADVICE IS REQUIRED.**

260 PROPERTY ADDRESS: 3600 North Green Bay Road, Caledonia, WI 53402 [page 5 of 5, WB- 15]

261 TIME IS OF THE ESSENCE "TIME IS OF THE ESSENCE" as to: (1) earnest money payment(s); (2) binding acceptance; (3) occupancy;
262 (4) date of closing; (5) contingency deadlines STRIKE AS APPLICABLE and all other dates and deadlines in this Offer except
263 none. If "Time is of the Essence"
264 applies to a date or deadline, failure to perform by the exact date or deadline is a breach of contract. If "Time is of the Essence" does not apply;
265 to a date or deadline, then performance within a reasonable time of the date or deadline is allowed before a breach occurs.

266 NA DOCUMENT REVIEW CONTINGENCY: This Offer is contingent upon Seller delivering the following documents to Buyer within
267 days of acceptance: CHECK THOSE THAT APPLY
268 Documents evidencing that the sale of the Property has been properly authorized, if Seller is a business entity.
269 A complete inventory of all furniture, fixtures and equipment included in this transaction which is consistent with
270 representations made prior to and in this Offer.
271 Uniform Commercial Code lien search as to the personal property included in the purchase price, showing the Property
272 to be free and clear of all liens, other than liens to be released prior to or at closing.
273 Other _____
274

275 This contingency shall be deemed satisfied unless Buyer, within _____ days of the earlier of receipt of the final record to be delivered or the dead-
276 line for delivery of the documents, delivers to Seller a written notice indicating that this contingency has not been satisfied. The notice shall iden-
277 tify which document(s) have not been timely delivered or do not meet the standard set forth for the document(s).

278 x ENVIRONMENTAL EVALUATION/INSPECTION CONTINGENCY: This Offer is contingent upon: CHECK THOSE THAT APPLY
279 A qualified independent environmental consultant of Buyer's choice conducting an environmental site assessment of the Property (see
280 lines 96 to 108), at (Buyer's)(Seller's) expense STRIKE ONE, which discloses no defects. A defect is defined as a material violation of
281 environmental laws, a material contingent liability affecting the Property arising under any environmental laws, the presence of an
282 underground storage tank(s) or material levels of hazardous substances either on the Property or presenting a significant risk of contaminating the
283 Property due to future migration from other properties.
284 A qualified independent inspector of Buyer's choice conducting an inspection of the Property and _____
285 _____, at (Buyer's)(Seller's) expense STRIKE ONE, which discloses no defects.
286 A defect is defined as a structural, mechanical or other condition that would have a significant adverse effect on the value of the Property; that
287 would significantly impair the health and safety of future occupants of the Property; or that if not repaired, removed or replaced would
288 significantly shorten or have a significantly adverse effect on the expected normal life of the Property.

289 This contingency shall be deemed satisfied unless Buyer, within 10 days of acceptance, delivers to Seller a copy of the environmental site
290 assessment/inspection report(s) and a written notice listing the defect(s) identified in the environmental site assessment/inspection report(s) to
291 which Buyer objects. Defects do not include conditions the nature and extent of which Buyer had actual knowledge or written notice before
292 signing the Offer. Buyer agrees to deliver a copy of the report and notice to listing broker, if Property is listed, promptly upon delivery to Seller.

293 ADDITIONAL PROVISIONS/CONTINGENCIES none
294 _____
295 _____
296 _____
297 _____

298 NA ADDENDA: The attached _____ is/are made part of this Offer.
299 THIS OFFER, INCLUDING ANY AMENDMENTS TO IT, CONTAINS THE ENTIRE AGREEMENT OF THE BUYER AND SELLER REGARDING
300 THE TRANSACTION. ALL PRIOR NEGOTIATIONS AND DISCUSSIONS HAVE BEEN MERGED INTO THIS OFFER. THIS AGREEMENT
301 BINDS AND INURES TO THE BENEFIT OF THE PARTIES TO THIS OFFER AND THEIR SUCCESSORS IN INTEREST.

302 This Offer was drafted on _____ [date] by [Licensee and firm] _____

303 (X) _____
304 Buyer's Signature ▲ Print Name Here: ► Social Security No. or FEIN (optional) ▲ Date ▲

305 (X) _____
306 Buyer's Signature ▲ Print Name Here: ► Social Security No. or FEIN (optional) ▲ Date ▲

307 EARNEST MONEY RECEIPT Broker acknowledges receipt of earnest money as per line 8 of the above Offer. (See Lines 236 - 259)

308 _____ Broker (By)

309 SELLER ACCEPTS THIS OFFER. THE WARRANTIES, REPRESENTATIONS AND COVENANTS MADE IN THIS OFFER SURVIVE CLOSING
310 AND THE CONVEYANCE OF THE PROPERTY. SELLER AGREES TO CONVEY THE PROPERTY ON THE TERMS AND CONDITIONS AS
311 SET FORTH HEREIN AND ACKNOWLEDGES RECEIPT OF A COPY OF THIS OFFER.

312 (X) _____
313 Seller's Signature ▲ Print Name Here: ► Social Security No. or FEIN (optional) ▲ Date ▲

314 (X) _____
315 Seller's Signature ▲ Print Name Here: ► Social Security No. or FEIN (optional) ▲ Date ▲

316 This Offer was presented to Seller by _____ on _____, at _____ a.m./p.m.

317 THIS OFFER IS REJECTED _____ THIS OFFER IS COUNTERED [See attached counter] _____
318 Seller Initials ▲ Date ▲ Seller Initials ▲ Date ▲

LEASE, OPERATION and MANAGEMENT AGREEMENT
for
RIVER BEND NATURE CENTER

This Agreement made this _____ day of _____, 2012, by and between Racine County, Wisconsin, a quasi-municipal corporation, located at 730 Wisconsin Avenue, Racine, Wisconsin 53403 (hereinafter referred to as “**COUNTY**”) and River Bend Nature Center, Inc., a Wisconsin nonstock corporation located at ******, Racine, Wisconsin 534** (hereinafter referred to as “**RBNCI**”).

1. Term of Lease, Operation & Management Agreement

The term of this proposed lease shall be for approximately ten (10) years, commencing approximately ***** 1, 2012 and ending December 31, 2021.

2. Description of Leased Premises and Equipment

This agreement covers the land and all buildings, structures, facilities, other fixtures, and equipment that compose what is known as River Bend Nature Center (hereinafter referred to as “**River Bend**”), located at 3600 North Green Bay Road, Racine, Wisconsin 53404, in the Village of Caledonia, Wisconsin. The land area consists of approximately 75.8 acres comprising the following parcels:

<u>Tax Key Number</u>	<u>Approximate Acreage</u>
104042331028000	20.0
104042331029000	5.0
104042331030000	24.5
104042331034000	26.3

COUNTY warrants that it owns, free and clear of liens or other encumbrances, the land and all buildings, structures, facilities, other fixtures, and equipment . However, the land and all buildings, structures, facilities, fixtures, and equipment are leased on an “as is” basis.

A description of all buildings, structures, facilities, and other fixtures is attached hereto as Schedule A and incorporated by reference herein. A description of all equipment is attached hereto as Schedule B and incorporated by reference herein.

3. Rent

A. The Lessee shall pay to **COUNTY** as rent for said leased premises a percentage of all

4. Use of Leased Premises and Equipment

A. **RBNCI** agrees to operate and maintain the leased premises for the purpose of operating a publicly accessible nature center that will be available for the enjoyment, education, and recreation of all Racine County residents. **RBNCI** shall have knowledge and understanding of the principles and practices of operation, management, and programming of nature centers and shall utilize such principles and practices in its operation of the leased facilities.

B. **RBNCI** shall develop and conduct a variety of nature-related programs appropriate to **River Bend**’s setting and facilities, with special emphasis on educational programs

available to school-age young people, whether in organized school groups or in other types of group educational activities. As permitted by funding, the nature and condition of usable facilities, and the availability of paid and/or volunteer staff, **RBNCI** shall seek out opportunities to initiate and expand program offerings.

- C. **RBNCI** shall operate the premises as a public facility, open and available to all persons regardless of race, color, creed, national origin, physical handicaps, and in compliance with all applicable federal, state and local discrimination laws. **RBNCI** shall also operate the premises in accordance with all applicable Racine County ordinances, including, but not limited to, Articles I and IV of Chapter 16, Racine County Code of Ordinances.
- D. **RBNCI** shall enforce applicable county ordinances on the premises. **RBNCI** may propose and enforce additional rules, provided that such rules are approved in writing by **COUNTY** prior to their posting. Said approval by **COUNTY** shall not be unreasonably withheld.
- E. Through a combination of employees, volunteers, and collaborations and partnerships with other area public and non-profit organizations interested in conservation, the environment and outdoor recreation, **RBNCI** shall ensure that there are sufficient and competent paid and volunteer individuals to adequately manage, maintain and operate the leased premises and conduct programming. **RBNCI** shall be obligated to pay all salaries for its own employees including the withholding of payroll, social security taxes, workers compensation, and other personnel costs which may be required. **RBNCI** shall be an Equal Opportunity Employer. When buildings are open, or when programming is being conducted, sufficient employees and/or volunteers shall be present to meet the requirements of the services being provided.
- F. **RBNCI** employees and volunteers shall be competent and able to deal effectively and courteously with the general public in a recreational setting. **RBNCI** and/or organizations with which it collaborates and partners shall ensure that employees or volunteers assigned to operate, repair, maintain, or upgrade facilities or equipment on the premises are adequately trained to perform such tasks in a good workmanlike manner. Employees and volunteers of **RBNCI** who use and/or direct (supervise) the use of any restricted-use pesticides, must be licensed and certified pursuant to State of Wisconsin laws and regulations.
- G. **RBNCI** shall be obligated to secure and pay for all federal, state, and local licenses and permits and pay all sales and excise taxes required for the operation of any food or beverage concession and any merchandise or equipment sale or rental.
- H. The leased premises shall not be used for any illegal purposes, or in violation of any valid regulation of any governmental body, nor in any manner to create any nuisance or trespass, nor in any manner which may invalidate the insurance coverage of the leased premises or increase the rate of insurance coverage on the leased premises. All activities must receive written approval by **COUNTY**. Said approval by **COUNTY** shall not be unreasonably withheld.

5. **Fees and Charges**

- A. **RBNCI** shall operate the leased premises as a publicly accessible nature center. **COUNTY** and **RBNCI** both desire that Racine County residents and other members of

the public be able to visit and enjoy **River Bend**, to the extent possible, at no cost. It is the intention of **RBNCI** to continue **River Bend's** tradition of free, unobstructed daytime public access. **COUNTY** and **RBNCI** both reserve the right to limit or prohibit public access on a temporary basis, when required for good cause, including, but not limited to public safety or the protection of buildings, facilities, or structures. However, neither **COUNTY** nor **RBNCI** shall charge any fee to individuals merely for access to **River Bend**.

- B. **COUNTY** recognizes that **RBNCI** will require revenue from a variety of sources in order to carry out its responsibilities for maintenance, operation, upgrade, and repair of **River Bend** facilities, as well as the conduct of programming at **River Bend**. To that end, **RBNCI** may charge fees for services it may provide to individuals or groups, including, but not limited to, rental of space, facilities, or equipment; tours, classes, demonstrations or other organized educational activities, whether conducted at **River Bend** or elsewhere; vehicle parking; or use of the area for private events, such as meetings, receptions, picnics, or family reunions. In setting fees for services, **RBNCI** may properly take into account not only direct costs (e.g., staff time, utilities costs, anticipated wear and tear on facilities and equipment), but also fixed and indirect costs associated with **RBNCI's** lease, operation, and management of **River Bend**.

RBNCI shall have the right to set standard fees and, as appropriate, to offer discounted fees and special rates, without the approval of **COUNTY**. However, **RBNCI** agrees to keep **COUNTY** advised of its applicable fee schedules. **RBNCI** shall have the right to set such charges relating to the sale of merchandise, food, beverages, and other similar items, as **RBNCI** sees fit. In conjunction with fund-raising efforts or events, **RBNCI** shall have the right to set special fees or prices, or suggest such levels of donations as it deems appropriate.

6. Daily Operation

River Bend shall be open daily for public access to the grounds, except when denial of access is required for good cause, including, but not limited to public safety or the protection of buildings, facilities, or structures.

7. Maintenance, Repairs, Damage, Destruction and Restoration

- A. **RBNCI** shall, throughout the term of this agreement, at its own cost, and without any expense to **COUNTY**, keep and maintain the premises, including all structures and improvements of every kind which may be a part of the facilities, including the heating, ventilating and air conditioning systems; electrical, plumbing and sewer lines; hot water heaters and water softener systems; fire suppression and exhaust systems; building security systems; emergency lighting systems and the like, in as good or better a condition than said structures and all improvements thereon were in at the beginning of the initial term of the Lease, reasonable wear and tear excepted.
- B. **RBNCI** shall, throughout the term of this agreement, at its own cost, and without any expense to **COUNTY**, keep and maintain in working order the subsurface drainage system including, but not limited to, drain tile lines, catch basins and overflow pipes.
- C. **RBNCI** agrees to keep clean and in a sanitary condition all premises used by **RBNCI**, including, but not limited to all areas for food and beverage preparation, sale, service, or

consumption. **RBNCI** is responsible for disposal of food wastes, packaging, containers, eating utensils and other wastes directly attributed food and beverage preparation, sale, service, or consumption. All refuse and waste materials shall be disposed of by **RBNCI**. All state and local health laws and regulations shall be strictly complied with.

- D. Based on good housekeeping standards, **RBNCI** shall perform all housekeeping duties such as vacuuming, carpet cleaning, floor mopping and polishing, table cleaning, emptying of waste containers and other necessary miscellaneous housekeeping duties that will keep the various facilities in a clean and sanitary condition.
- E. **COUNTY** shall be responsible for snow and ice removal on the access drive from Green Bay Road to the main buildings. **RBNCI** shall be responsible for maintaining all other **River Bend** drives, roads, walks, paths, and parking lots, including trash and debris removal and disposal as well as snow & ice removal. **RBNCI** shall also be responsible for capital improvements to, renovation of, or major repair to all drives, roads, walks, paths, and parking lots.
- F. **RBNCI** shall, at its own cost, and without any expenses to **COUNTY**, keep and maintain, consistent with best management practices, all the existing natural areas of **River Bend**. This includes the control and destruction of all non-native invasive plants and noxious weeds as identified by the Wisconsin Department of Natural Resources.
- G. **RBNCI** agrees to keep clean and in an orderly condition any and all structures and improvements of the leased premises used by **RBNCI**. All debris resulting from operation of **River Bend** shall be properly disposed of, off the leased premises, without any expense to **COUNTY**. **RBNCI** may not burn or bury debris on leased premises unless first obtaining written permission from **COUNTY** and obtaining all required permits, at its own cost, and without any expense to **COUNTY**.
- H. Representatives of both **COUNTY** and **RBNCI** have examined the premises, and both parties agree that substantial repair, renovation, and restoration work will be required on some, if not all, the buildings, structures, and other facilities. **RBNCI** shall restore and rehabilitate such buildings, structures, and other facilities at its own expense and at no cost to **COUNTY**. **RBNCI** shall consult with **COUNTY** concerning such repair, renovation, and restoration work. All such work shall be subject to the approval of **COUNTY**, but said approval by **COUNTY** shall not be unreasonably withheld.
- I. **RBNCI** shall restore and rehabilitate such buildings, structures, and other facilities that may be destroyed or damaged by vandalism, fire, or any other casualty. The damage, destruction, or partial destruction of any portion of the leased premises or any building or other improvement which is a part thereof, shall not relieve **RBNCI** from any obligation under this agreement, except as otherwise provided. In case of damage to or destruction of any such portion of the leased premises, including any such building or improvement, **RBNCI** shall at its own expense promptly repair and restore the same to a condition as good or better than that which existed prior to such damage or destruction. Without limiting such obligations of **RBNCI** by way of enumeration, it is agreed that the proceeds of any insurance covering such damage or destruction shall be made available to **COUNTY** and **RBNCI** for such repair or replacement. **COUNTY** itself shall not be obligated to make any repairs, replacements, or renewals of any kind, nature, or description, whatsoever to the leased premises or to any buildings or improvements and fixtures of the leased premises for damages caused by vandalism, fire or other casualty.

- J. The responsibility of **RBNCI** under paragraphs H and I, above, shall include, but not be limited to responsibility for major repairs; and such responsibility shall extend to major or minor repairs that are not caused by vandalism, fire or other casualty. Major repairs shall be defined as structural repairs, including, but not limited to such categories as: the building floors (excluding carpeting and tile); exterior walls and roofs; heating and air conditioning systems; water and sewer laterals as well as electrical service leading to the building. Regardless of the reason, **RBNCI** shall be responsible for all repairs or replacements at its own cost, and without any expense to **COUNTY**.
- K. Should the leased premises be so damaged by fire, casualty, acts of God, vandalism or any other cause whatsoever as to render the premises untenable or unfit for the purposes of this tenancy, the parties shall negotiate reasonably and in good faith regarding what, if any, provision of this agreement may be modified, suspended or renegotiated as a result of such damage to the premises. The parties shall meet for such negotiations within fifteen (15) days after the date of damage.
- L. **RBNCI** shall make no major alterations, additions, major repairs, permanent decorations, restorations, or improvements of the leased premises without first submitting plans and specifications therefore to **COUNTY** for its written approval. A major alteration shall be defined as any activity which changes the physical appearance or intended purpose of grounds, buildings, bridges, shelters, parking lots, drives, walks, or paths. Examples of major alterations include, but are not limited to the following: installation of any new or expansion of any existing drives, walks, or paths; any change to a building, including the floors, walls, doors, windows and roof, that would alter the building's physical structure or appearance; any modification to the building utilities including the plumbing, electrical, sewer, heating and air conditioning systems, building security system, fire suppression system, emergency lighting system and smoke detection equipment. **RBNCI** shall not install any type of equipment on the roof of any building without written permission from **COUNTY**.
- M. Any agreement to make major alterations, additions, major repairs, permanent decorations, restorations or improvements shall be submitted in advance of execution to **COUNTY** for written approval, and **RBNCI** shall furnish a copy of this agreement to any person making such major alterations, additions, major repairs, permanent decorations or improvements to the premises. Specific authority must be granted by **COUNTY**. Such authorization shall be specifically conditioned upon **RBNCI's** agreement that **RBNCI** or **RBNCI's** contractor shall supply a performance bond or letter of credit guaranteeing satisfactory completion of such construction and payment of all debts and claims arising from such construction. Any such construction permitted by **COUNTY** to be made by **RBNCI** shall become the property of **COUNTY**.
- N. At the termination of this agreement, **RBNCI** shall surrender the leased premises to **COUNTY** in the condition specified in the first paragraph of this section. **RBNCI** shall be responsible for the repair or replacement of conditions of the leased premises that are determined to be substandard.

8. Maintenance Records

RBNCI shall timely provide and comply with all service maintenance schedules for, but not limited to, the heating, ventilating and air conditioning systems; water softener systems; fire

suppression and exhaust systems; fire extinguishers and defibrillators. **RBNCI** shall provide **COUNTY** with monthly maintenance records listing all the required maintenance standards and the date(s) each standard operation was performed. The records shall list who performed the work and all materials used by product and manufacturer name. Building maintenance records and labor/material bill of sales shall be submitted to **COUNTY** on the first day of each month for work that was performed during the previous month.

9. Liens

- A. **RBNCI** shall keep all of the leased premises and all buildings and other improvements at any time located thereon free and clear of any and all mechanic's, materialmen's, and other liens for or arising out of or in connection with work or labor done, services performed, or materials of appliances used or furnished for or in connection with any operations of **RBNCI**, any alteration, improvement, or repairs or additions which **RBNCI** may make or permit or cause to be made, or any work or construction, by, for, or permitted, by **RBNCI** on or about the premises, or any obligations of any kind incurred by **RBNCI**. **RBNCI** shall at all times promptly and fully pay and discharge any and all claims on which any such lien may or could be based, and shall indemnify **COUNTY** and all of the premises and all the buildings and improvements thereon against such liens and claims of liens and suits and other proceedings pertaining thereto.

- B. If **RBNCI** desires to contest any such lien, it shall notify **COUNTY** of its intention to do so within fifteen (15) days after the filing of such lien. In such case, and provided that **RBNCI** shall on demand protect **COUNTY** by good and sufficient surety bond against such lien and any cost, liability, or damage arising out of such contest, **RBNCI** shall not be in default of this Lease Agreement until thirty (30) days after the final determination of the validity of the lien. Within that thirty (30) day time period, **RBNCI** shall satisfy and discharge such lien to the extent held valid; but the satisfaction and discharge of any such lien shall not, in any case, be delayed until execution is had on any judgment rendered thereon; such delay shall be a default of **RBNCI** hereunder. In the event of any such contest, **RBNCI** shall protect and indemnify **COUNTY** against all loss, expense, and damage resulting therefrom, including attorney's fees that may be incurred in connection with said dispute.

10. Capital Improvements

- A. **COUNTY** has the right to make whatever capital improvements it deems necessary or desirable at any time without expense to the **RBNCI**. Before making any such improvements, **COUNTY** shall meet with **RBNCI** to discuss the effect of the improvement and making of such improvement upon **RBNCI**'s operation of the leased premises. **RBNCI** shall make itself available for such discussion. **COUNTY** shall make a good faith effort to minimize or limit any adverse effect of any such improvement or the making of such improvement upon **RBNCI**'s operation of the leased premises. The parties expressly understand and agree that **RBNCI** shall not be relieved of any of its obligations under the Lease Agreement, nor shall **COUNTY** be liable to **RBNCI** for any interruptions of, or costs or damages to, **RBNCI**'s operation that may result from **COUNTY**'s making any capital improvements.

- B. County agrees to give reasonable advance notice to **RBNCI** of the date and time of any

work which COUNTY intends to do on the leased premises.

11. **Easements**

This lease agreement is subject to all easements of record relating to the leased premises and the rights of COUNTY and other public utilities to go upon the premises for the purpose of installing, removing, inspecting or maintaining public utilities.

12. **Grounds Maintenance Machinery, Equipment and Tools**

- A. **RBNCI** shall be responsible for acquiring all grounds maintenance machinery, equipment and tools necessary to maintain **River Bend** in as good or better a condition as at the beginning of this agreement.
- B. **RBNCI** may from time to time, and on an occasional basis, rent at actual cost, equipment from COUNTY Public Works operation, provided that COUNTY has such equipment then available for **RBNCI's** use. However, COUNTY may require that the equipment be operated by a COUNTY employee and/or that the employee's salary be added to the rental charge.

13. **Inspection and Accounting**

- A. **RBNCI** shall submit to COUNTY an audited annual financial statement for the entire operation of **River Bend**. This statement must be submitted to COUNTY by April 1, immediately following the end of the lease year. The annual financial statement shall be prepared by a Certified Public Accountant pursuant to generally accepted accounting principles, or in any manner prescribed by the Director of Finance for COUNTY. **RBNCI** shall keep or cause to be kept such reasonable books, records, journals, accounts and ledgers as may be required to properly and accurately reflect the amounts of revenues and expenses in accordance with generally accepted accounting principles. The cost of the preparation of the annual financial statement and audit shall be borne by **RBNCI**. Said statements and audits shall be considered public documents.
- B. COUNTY shall have the right, at any and all reasonable hours, and upon reasonable notice, to have an accountant inspect and verify the books of **RBNCI** with reference to the operation of **River Bend**. COUNTY shall have the right at COUNTY's expense, at any and all reasonable hours, and upon reasonable notice, to have an audit performed upon the **RBNCI's** operation of the leased facilities, as COUNTY may deem necessary or desirable.
- D. COUNTY shall have the right of access to any and all portions of the leased premises, at any and all reasonable hours, and upon reasonable notice, for the purpose of inspecting, analyzing and/or gathering information relating to the premises itself.

14. **Statistical Records and Information**

RBNCI will provide to COUNTY appropriate statistical records regarding activity at and use of **River Bend** by the public. Any and all statistical records and information **RBNCI** provides to COUNTY shall be deemed public records.

15. **Security Deposit**

- A. **RBNCI** shall provide at execution of the Lease, a security deposit of ***** Dollars (\$*****.00). Said ***** Dollars shall be deposited in an escrow account to be invested by **COUNTY** with interest earned being added to the escrow account. This deposit shall be used by **COUNTY**, at the option and in the sole discretion of **COUNTY**, to reimburse **COUNTY** for any default of any provision(s) of this agreement. Such breach shall include, but not be limited to, the failure to maintain or restore premises, failure to maintain equipment, failure to provide adequate insurance coverage, failure to pay for utilities, failure to pay any liens that may be filed against the premises or any equipment or for any other violation of any term of this agreement. **COUNTY** shall give to **RBNCI** ten (10) days written notice of **COUNTY**'s intent to withdraw funds from the escrow account. The notice shall state the amount **COUNTY** intends to withdraw and the act of default by **RBNCI**.
- B. The total sum of ***** Dollars (\$*****.00) shall be on deposit by the **RBNCI** with **COUNTY** each year of the lease. If any amount has been expended by **COUNTY** from the original ***** Dollars (\$*****.00) security deposit for defaults, **RBNCI** shall deposit an amount equal the sum withdrawn to **COUNTY**, so that **COUNTY** has available to it the total sum of ***** Dollars (\$*****.00) as a security deposit for the renewal year of the lease agreement.
- C. Any balance remaining, without interest, on the security deposit in the escrow account shall be refunded by **COUNTY** to **RBNCI** within sixty (60) days from the date of the termination of the last year of this agreement.

16. **Insurance**

- A. **COUNTY** shall obtain Fire & Property Insurance and Boiler Insurance coverage on the structures and improvements on the leased premises in an amount equal to their replacement value (see attachment ***). **RBNCI** shall obtain at its own expense fire and extended insurance coverage equal to their replacement value on those items purchased by the **RBNCI** or **RBNCI**'s own personal property. The coverage shall be written on a replacement value basis and the interests of **COUNTY** shall be included and made payable to **COUNTY** in the event of a loss to **COUNTY**. **RBNCI** shall supply such policies, and **COUNTY** shall be named as an insured of such policies.
- B. **RBNCI** shall maintain at its own expense and provide **COUNTY** with Certificates of Insurance which provides the following coverages:
 - 1. Worker's compensation and unemployment compensation covering the statutory liability of the **RBNCI** in the operation of **River Bend**.
 - 2. General liability coverage including personal injury and contractual liability with limits of at least One Million Dollars (\$1,000,000.00) for each occurrence and Three Million Dollars (\$3,000,000.00) in the aggregate naming **COUNTY** as an additional named insured under **RBNCI**'s policy.
- C. **RBNCI** shall also provide an umbrella liability policy, with provisions acceptable to **COUNTY**, insuring all property in the care, custody and control of **RBNCI** under the

terms of this agreement, including materials, equipment, structures, improvements, and irrigation systems, insuring such property against losses by virtue of the negligent acts of **RBNCI** or its agents and employees with liability limits of One Million Dollars (\$1,000,000.00). Said policy shall name **COUNTY** as an additional named insured.

17. Indemnity Provisions

- A. **RBNCI** shall indemnify and save harmless **COUNTY** from and against any and all losses, costs (including attorney's fees), damages, expenses and liability (including statutory liability and liability under Worker's Compensation and Unemployment Compensation Laws) in connection with claims for damages as a result of injury or death of any person or property damage to any property sustained by **RBNCI**, its agents, employees, customers, invitees, contractors, subcontractors and all other persons which may arise from and in any manner grow out of any act or neglect on or about the leased premises by **RBNCI**, **RBNCI**'s agents, employees, customers, invitees, contractors, subcontractors and all other persons.
- B. **RBNCI** shall immediately notify **COUNTY** of any injury or death of any person or property damage to any property sustained by **RBNCI** or legal action taken against the **RBNCI** as a result of any injury or death of any person or property damage.

18. Utility Charges

RBNCI shall pay all charges for utilities servicing the leased premises which shall include gas, sewer, water, electric, security systems, fire suppression and exhaust systems and telephone, television and internet services for and during the terms and periods hereunder that **RBNCI** shall have the actual physical possession and control over the portion of the premises upon which such utilities are used.

19. Taxes

- A. **RBNCI** shall pay all taxes of whatever character that may be lawfully levied upon or charges against the leasehold estate in the leased premises or the structures, improvements or other property on the leased premises, or upon **RBNCI**'s operation hereunder. **RBNCI** shall pay all license or permit fees necessary or required by law for the conduct of its operation hereunder.
- B. The leased premises is owned by **COUNTY** and as such is presently exempt from real estate assessment and taxes. **RBNCI** shall in no event be liable for payment of any real estate taxes or personal property taxes levied or assessed against **COUNTY**.

20. Signs

RBNCI shall not erect or display, or permit to be erected or displayed, on the leased premises, any permanent sign or advertising matter of any kind without first obtaining the written consent of **COUNTY** and only if said sign complies with local sign ordinances.

21. Compliance with Laws

RBNCI shall comply with all applicable rules, regulations, laws, ordinances, statutes or orders of any governmental authority, Federal, State, or Local, lawfully exercising authority over the demised premises or over the operations carried out pursuant to this lease agreement. **RBNCI** shall take such action as may be necessary for the protection of health, safety and welfare of the public. The **RBNCI** shall comply with the Americans with Disabilities Act (ADA) (42 USCS §12183) and any applicable regulations implementing the ADA.

22. Consultation with County

RBNCI shall meet with **COUNTY**'s Director of Public Works & Development Services or his/her duly authorized representative on a regular basis to discuss the operation, maintenance, and development of the golf course facilities.

23. Default and Termination

A. Any or all of the following shall be considered events of default of this agreement:

1. By **RBNCI**:

- a. If **RBNCI** fails to perform or defaults in any of the amounts due to **COUNTY** as set forth in this lease, or in the observance or performance of any of the covenants, agreements, commitments, or conditions contained in the lease, and if any such default continues unremedied for a period of fifteen (15) days after written notice of such default or failure to perform has been mailed to **RBNCI**; or
- b. If **RBNCI** makes an assignment of its property for the benefit of creditors; or
- c. If **RBNCI** petitions any court to be adjudged a bankrupt; or
- d. If **RBNCI** is judicially determined to be insolvent; or
- e. If **RBNCI** is adjudged a bankrupt; or
- f. If a receiver or other officer is appointed to take charge of the whole or any part of **RBNCI**'s property or to wind up or liquidate its affairs; or
- g. If **RBNCI** seeks a reorganization under any of the terms of the Federal Bankruptcy Code, as amended, or under any insolvency laws; or
- h. If **RBNCI** admits in writing its inability to pay its debts as they become due; or
- i. If any final judgment is rendered against **RBNCI** and remains unsatisfied for a period of thirty (30) days from the date on which it shall become final; or
- j. If **RBNCI** abandons the golfing facilities; or
- k. If **RBNCI** uses the premises for illegal purposes.

2. By County:

If **COUNTY** fails to perform or defaults with regard to the observance or performance of any of the covenants, agreements, commitments or conditions

contained in the lease, and if such default continues unremedied for a period of fifteen (15) days after written notice of such default or failure to perform has been mailed to **COUNTY**, such failure shall be considered default of the lease. In the event of such default, **RBNCI** may, at its option and in addition to all other rights and remedies which it may have at law or in equity against **COUNTY**, including expressly the specific enforcement hereof, forthwith have the accumulative right to immediately terminate the lease and all rights of **COUNTY** hereunder.

- B. If the default is of such a nature that it cannot be rectified within said fifteen (15) day period, the **RBNCI** (or **COUNTY**) may apply in writing to **COUNTY** (or **RBNCI**) for an extension of such period and consent to such extension by **COUNTY** (or **RBNCI**) shall not be unreasonably denied.
- C. In the event of any or all such defaults by **RBNCI**, **COUNTY** may, at its option and in addition to all other rights and remedies which it may have at law or in equity against **RBNCI**, including expressly the specific enforcement hereof, forthwith have the accumulative right to immediately terminate the lease and all rights of **RBNCI** hereunder and shall require payment from the escrow account. However, receipt of payment from the escrow account and/or cancellation or waiver by **COUNTY** of the remainder of the total rental amounts payable to **COUNTY** shall not be a waiver of any damages or losses for the unexpired portion of the lease term which may be sustained by **COUNTY** on account of default, assignment, insolvency, adjudication, failure to perform or other default as provided herein above in this section, including any expenses incurred by **COUNTY** in exercising its rights under the lease.
- D. Any unforeseen circumstances, problems, dispute or disagreement regarding the role of either party in this agreement or regarding the use and operation of **River Bend** that is not addressed by the express terms of this agreement shall be subject to negotiations between the parties to reach a mutually-agreed upon resolution of the matter(s) in issue. In the event agreement cannot be reached, **RBNCI** may, upon notice to **COUNTY** on or before October 1, terminate this lease at the conclusion of the current calendar year.
- E. **RBNCI** shall vacate the premises immediately upon any termination or expiration of this agreement, and **COUNTY** shall, in the event of **RBNCI**'s failure to timely vacate the premises, remove and store **RBNCI**'s personal property with such expenses being chargeable to **RBNCI**.
- F. This agreement may be terminated at any time upon the mutual agreement of the parties.
- G. Upon termination of this agreement by **COUNTY** as provided herein, **COUNTY** shall be entitled to take immediate possession of the premises and **RBNCI** agrees to cooperate with **COUNTY** to facilitate an orderly transfer of said premises and personal property under its control so that there will be a minimal interruption of operations.

24. **Modification Amendment**

This agreement may be modified or amended upon the mutual agreement of the parties. However, such modification or amendment must be in writing, dated, and fully executed by both parties.

42. Assignment and Subleasing

- A. **RBNCI** shall not mortgage, hypothecate, pledge, sell, transfer controlling interest, or otherwise encumber or assign the leasehold herein created.
- B. **RBNCI** shall be able to sublease portions of the leased facilities only with the written consent of **COUNTY** under such conditions as set by **COUNTY**. All such subleases may be at **RBNCI**'s option and notwithstanding any other provision of this lease be for the entire lease year of each year during the term thereof. All such subleases shall provide for the sublessee to carry liability insurance naming **COUNTY** and **RBNCI** as additional named insureds in such amounts as the parties hereto determine adequate.
- C. All subleases shall terminate with the termination of the **RBNCI** lease agreement.

25. Licenses and Permits

- A. **RBNCI** may apply for all necessary licenses and permits for food and beverage sales on the leased premises. **RBNCI** must apply for such licenses in the normal manner and under normal procedures. By entering into the lease, **COUNTY** is not guaranteeing to the **RBNCI** that it will, in fact, be granted or issued any such licenses or permits. In the event that **RBNCI** desires to sell fermented malt beverages or intoxicating liquors for fund-raising or other special events, it shall consult with **COUNTY** concerning seeking a license for that purpose.
- B. If issued any such licenses or permits, **RBNCI** shall not at any time in the future transfer or attempt to transfer any such licenses to premises other than **River Bend**. At such time as **RBNCI** is no longer operating **River Bend**, **RBNCI** shall relinquish all such licenses and permits.
- C. If **RBNCI**, with the written consent of **COUNTY**, subleases to a food and beverage Concessionaire, the license may be held by said Sublessee.

26. Emergency Entry

- A. If **COUNTY** discovers any action or condition at **River Bend** that presents a danger to the general public or which would result in serious harm to said facilities, then in that event **COUNTY** shall have an absolute right to enter upon the **River Bend** facilities and enter into the structures and buildings thereon which may be affected by said condition and take remedial measures as it may deem appropriate. Said re-entry rights shall be confined to the area where the dangerous or harmful condition exists and shall be limited to such time period as is necessary to correct the condition.
- B. The Security Deposit shall be used by **COUNTY** to rectify any of the conditions and actions due to emergency entry.

27. Direct Contact and Mail Notices

- A. Direct contact regarding matters concerning the lease and/or operation of the golf course facilities, shall be made in writing.

B. All formal notices shall be sent by certified mail. If there is a change in address desired or necessary for one of the parties, it shall be the obligation of that party to arrange to formally amend the lease to reflect the correct address.

C. COUNTY's mailing address is:

Racine County Public Works & Development Services Department
14200 Washington Avenue
Sturtevant, Wisconsin 53177

RBCNI's mailing address is:

28. Letter of Credit

RBNCI shall cause to be given to **COUNTY** an irrevocable Letter of Credit in a form agreeable to **COUNTY** in the amount of Fifty Thousand and No/100 (\$50,000.00) from a financial institution acceptable to **COUNTY**. Said Letter of Credit shall be furnished at the time of the execution of the contract to guarantee faithful performance of the lease and payment of all persons performing labor and furnishing materials in connection with the lease. Said Letter of Credit shall remain in effect throughout the term of the lease and any renewal. Said Letter of Credit shall provide that **COUNTY** shall be notified immediately if said Letter of Credit is terminated or cancelled. Said Letter of Credit shall neither excuse the faithful performance by **RBNCI** nor limit the liability of **RBNCI** under said lease.

29. Miscellaneous

A. This agreement shall be binding upon the parties hereto, their respective heirs, devisees, personal representatives, administrators, successors, and assigns. It cannot be varied or waived by any oral representations or promise of any agent or other person of the parties hereto; any such variance or waiver must be in writing and signed by the duly authorized agent or agents who executed this agreement.

B. No waiver by **COUNTY** or **RBNCI** of any breach of any provision of the lease agreement shall be deemed for any purpose to be a waiver of any breach of any other provision hereof, or of any continuing or subsequent breach of the same provision.

C. Each right of the parties hereto is accumulative and is in addition to each other legal right which the party may have in the event of any default of the other.

D. In the event any covenant, condition, or provision herein contained is held to be invalid by a final judgment of any court of competent jurisdiction, the invalidity of such covenant, condition or provision shall not in any way affect any other covenant, condition or provision herein contained.

E. This agreement shall be construed and enforced in accordance with the laws of the State of Wisconsin.

FOR RACINE COUNTY:

Title: _____

Title: _____

FOR RIVER BEND NATURE CENTER, INC.:

Title: _____

Title: _____

