

# Agenda Item Report



**Winnebago County**  
*The Wave of the Future*

DATE: August 22, 2022  
FROM: Parks and Expo Director  
RE: Winnebago County 4H Sunnyview Exposition Center Policy Statement

**General Description:** The Parks Department has been working with the Winnebago County 4H program and UW-Extension to update the Sunnyview Exposition Center Policy Statement.

**Requested Action:**

The Parks Department and Winnebago County 4H Program recommends that the Parks and Recreation Committee approves the Winnebago County 4H Sunnyview Exposition Center Policy Statement

**Procedural Steps:**

Parks and Recreation Committee	Meeting date: 8/22/22
Action taken:	Vote:
Personnel and Finance Committee	Meeting Date: 9/1/22
Action Taken	Vote:
County Board	Meeting Date: 9/20/22
Action Taken	Vote:

**Background:**

In January of 2009, the Parks and Recreation Committee approved an updated policy statement between the Parks Department and the Winnebago County 4H program. This policy defines the booking policies, types of events, and the cost of the events that the 4H program hosts at the Sunnyview Exposition Center. Parks Department staff have been reviewing this policy and we feel that it needs further clarification and an update. Some of the programs listed are no longer offer by the Winnebago County 4H program. Also, the fee for the 4H program's May horse project is not defined in this agreement.

**Justification:**

A policy statement between the Parks Department and Winnebago County 4H is a good practice to maintain to ensure that both parties understand the booking policy and any associated fees.

**Attachments:**

- Winnebago County 4H Sunnyview Exposition Center Policy Statement
- Resolution to Approve the Winnebago County 4H Sunnyview Exposition Center Policy Statement

# **Sunnyview Exposition Center Policy Statement**

## **Winnebago County 4H Reservations**

The Winnebago County 4-H Program has been granted use of the Sunnyview Exposition Center at no cost and discounted rates for specific events. The Winnebago County Parks Department, UW-Extension and appropriate 4-H Committee will coordinate contracts for these events. Policies governing this use are outlined below.

### **All events/usage:**

1. The Winnebago County 4H Program is interested in utilizing the Sunnyview Exposition Center for their educational events, Pizza Making fundraiser, and 4H Horse Shows. The following guidelines will be set for the scheduling and fees assessed for these events.
2. All events must be scheduled with the Expo Manager and keys must be picked up at the Expo Manager's office prior to the event via appointment. Other key pick-up options may be available upon consent of the Expo Manager or Parks Director.
3. Equipment within the Expo Building, including the P.A. system, is available upon request if not currently rented by a paying customer and must be checked out from the Expo Manager.
4. All 4H events must thoroughly clean up after themselves and leave the building as they found it. Minimal Parks Department staff resources will be provided. If clean up charges or damages are incurred a fine will be levied to the 4H Leaders Association. Dumpster rental and tipping charge will apply for 8-yard dumpsters that are used for garbage. There is no charge for recycling dumpster rental or tipping.
5. All livestock events will be charged for animal refuse dumpster rental and tipping fees when using any of the barns and/or manure pit areas.
6. Damages to the property will be charged if necessary to the Winnebago County 4H Program
7. All other regulations regarding use of the building apply, including recycling ordinances.

### **Pizza Making:**

1. The Winnebago County 4H Pizza Making may reserve one Friday and Saturday during the months of March/April and October/November in the Center Hall and Kitchen with the addition of the West Wing if it is available. These reservation dates include tables, chairs, hall and kitchen rental and utilities at no charge. Dumpster rental and tipping charge will apply for 8-yard dumpsters that are used for garbage. There is no charge for recycling dumpster rental or tipping. When necessary, Expo staff will plow access to all 4H garage doors as well as remove snow near east door of garage the Thursday prior to the event.

### **Other Educational Events:**

1. The Winnebago County 4H Program can utilize the Sunnyview Exposition Grounds at any time during a calendar year for the purposes of hosting an educational event.
2. Event days and times shall be discussed and scheduled with the Expo Manager to ensure that there is facility availability and to avoid other paid events. Paid events will take priority. Events shall be entered into the calendar no sooner than 12 months prior to the event date.

## Horse Project:

1. The 4H Horse Project Tack Sale may reserve a Saturday and Sunday during the month of March in the South Wing, including the Center Hall and kitchen if available. This reservation date includes tables, chairs, hall rental, and utilities at no charge. Dumpster rental and tipping charge will apply for 8-yard dumpsters used for garbage. There is no charge for recycling dumpster rental or tipping. Expo staff will plow all access doors to 4H garage prior to event if necessary.
2. The Winnebago 4H Horse and Pony Project may use the premises at no charge for 3 scheduled shows (6 days total). Dumpster and manure hauling fees will be charged for all shows. All other shows over and above the scheduled 3 shows will be charged at the reduced rental rate. The reduced rental rate shall be the standard rental rates assigned by the County Board in Chapter 19 with a 25% discount applied.
3. No Charge Shows Include:
  - i) The 3<sup>rd</sup> Saturday and Sunday in May
  - ii) the 4<sup>th</sup> Saturday and Sunday in July
  - iii) The 4<sup>th</sup> Saturday and Sunday in September
4. The dates included in section 3 and 4 include the rental of the following.
  - Covered Arena, the Covered Arena Registration and Support rooms, Covered Arena announcer's stand, the Outdoor Arena, the toilet shower building, the food court, Barns C & D and utilities.
  - The use of the water wagon and drag are included.
  - Campers for these shows will use Parking Lot #2 and #4.
5. The 4H Horse and Pony Project Agrees to the following rules.
  - All other rules and regulations regarding use of the facilities apply including recycling ordinances.
  - Stalls must be raked to the gravel floor upon completion of the event.
  - All garbage must be emptied into separate 8-yard dumpsters with animal refuse deposited in the manure pit for loading into separate 30-yard dumpsters provided by the Parks Department and post-billed to the Winnebago County 4H Horse and Pony Project. Dumpster rental and tipping charges will apply for 8-yard dumpsters used for garbage. There is no charge for recycling dumpster rental or tipping fees.
  - The facilities is to be left in the same condition of cleanliness as they were found at the start of the event.
6. The Winnebago County 4H Horse and Pony Project may schedule Clinics in the Covered Arena 2 weekday evenings per month during the months of May through August at no charge. This reservation includes the Covered Arena, Covered Arena Support and Registration rooms, the Announcer Stand, the PA System and utilities. This use is subject to availability and the schedule of other paid events. The Winnebago County 4H Horse and Pony Project will coordinate these days and times with the Expo Manager.

April 2006 revised November 2008

Approved by Committee 01/5/09

Revised and Approved by Parks and Recreation Committee 8/22/2022

Approved by Finance Committee 9/1/2022

Approved by County Board 9/20/2022

1  
2  
3 **RESOLUTION: Request Authority to Adopt a Booking a Fee Policy between the**  
4 **Winnebago County 4H Program and the Winnebago County Parks**  
5 **Department**  
6  
7

8 **TO THE WINNEBAGO COUNTY BOARD OF SUPERVISORS:**

9 **WHEREAS**, Winnebago County Parks Department and Winnebago County 4H Program want to adopt a policy  
10 statement and fee structure in order to schedule events and programs at the Sunnyview Exposition Center; and

11 **WHEREAS**, Winnebago County recognizes the importance of the Winnebago County 4H Program and the  
12 benefit it provides to the residents and youth of Winnebago County; and

13 **WHEREAS**, this partnership is mutually beneficial for both parties.

14 **NOW, THEREFORE, BE IT RESOLVED** by the Winnebago County Board of Supervisors that it hereby  
15 authorizes the Winnebago County Executive and the Winnebago County Clerk to approve the policy and fee structure for  
16 the use of the Sunnyview Exposition Center for Winnebago County 4H Programs and Events.  
17  
18

19 Fiscal Note: Currently, the Winnebago County Parks Department charges the Winnebago County 4H Program a  
20 \$480 one-time fee from a handshake agreement. The departments are proposing removing this fee. This will remove  
21 \$480 in revenue from the Parks Department budget.  
22

23 *Fiscal Impact:*

Respectfully submitted by:

**PARKS AND RECREATION COMMITTEE**

25 Committee Vote:

Respectfully submitted by:

**PERSONNEL AND FINANCE COMMITTEE**

28 Committee Vote:

29 Vote Required for Passage: **Majority of Those Present**  
30

31 Approved by the Winnebago County Executive this \_\_\_\_ day of \_\_\_\_\_, 2022.  
32

33 \_\_\_\_\_  
34 Jonathan D. Doemel  
35 Winnebago County Executive

# Agenda Item Report



**Winnebago County**  
*The Wave of the Future*

DATE: AUGUST 22, 2022  
TO: WINNEBAGO COUNTY BOARD  
FROM: DIRECTOR OF PARKS AND EXPO CENTER  
RE: GRUNDMAN BOAT LANDING IMPROVMENTS/RENOVATION – PROJECT REQUEST

**General Description:** The Winnebago County Parks Department is requesting funds to construct the Grundman Boat Landing capital project that is listed within the 2022 – 2026 Capital Improvement Plan.

**Requested Action:**

Authorize the Winnebago County Parks Department to execute the Grundman Boat Landing improvement and renovation project in the amount of \$1,791,500 with Winnebago County providing \$548,187.50 to be funded with either a transfer from the undesignated general fund balance, or with a subsequent bond issue.

**Procedural Steps:**

Parks and Recreation Committee	Meeting date: 8/22/22
Action taken:	Vote:
Personnel and Finance Committee	Meeting Date: 9/1/22
Action Taken	Vote:
County Board	Meeting Date: 9/20/22
Action Taken	Vote:

**Background:**

Beginning in December of 2020, the Parks Department began the master plan process for the Grundman Boat Landing. A community wide survey and public input session was held in 2021. Then in early 2021 the final concept and probable cost estimate was designed and finalized. The master plan and final concept plan for the Grundman Boat Landing were aimed at solving several issues. These issues are included below.

**Number of Parking Spaces and Staging Areas** – The current parking situation is insufficient. There are many days throughout the season where the parking lot is full and users are required to park on Grundman Lane or undesignated parking spots. There is also not a lot of room for staging or cleaning off your boat without being in the way of other users or blocking parking/launching spaces.

**Boat Launch Space** – Additional boating launches will be needed with the expansion of the parking area. The breakwater will be expanded to accommodate the extra launch space and floating dock.

**Safety** – The current layout makes it unsafe for users to retrieve their boat. Some parking spaces require users to back up as far as 550 feet in order to retrieve their boat from the landing. This is an unsafe maneuver.

**Security** – Improved and better lighting is needed in order to keep the area visible and safe for users and the neighboring homes. A security camera system will be considered with this project as well.

**Bathroom Facility** – Due to the amount of use at this landing, the parks department feels a bathroom facility is needed similar to the Black Wolf Boat Landing.

**Additional Improvements and Users** – This county parks property should be utilized for all users. Adding an ADA Kayak Launch, small shelter, floating dock, and enhanced walking trail will enhance this park property for all users. The goal for all of our park areas should be to increase access and to be as equitable as possible for all of Winnebago Counties residents.

In 2021, the Parks Department received a \$400,000 grant from the Fox River/Green Bay Natural Resource Trustee Council. The County Board approved \$185,000 for engineering, design, and permitting services in February of 2021. Then in August of 2022 the Parks Department was awarded an \$843,312.50 grant from the WI DNR Recreational Boating Fund grant. The goal would be to finalize designs over the next few months and release the project for public bidding in December of 2021 or January of 2022. The plan would be for construction to begin in the spring of 2022 and finish in July.

#### *Project To-Date Timeline*

- December 2020 – January 2021 – Public Input Survey was Conducted
- January 25, 2021 – Parks Department hosted a Public Input Session
- February 2021 – Finalized Master Plan and Cost Estimate for the Grundman Boat Landing
- Throughout 2021 – The Parks and Recreation Committee Discussed and Prioritized the 2022 – 2026 Capital Improvement Plan
- December 2021 – NRDA Approved a Grant for Winnebago County in the Amount of \$400,000
- February 2022 – Winnebago County Board approved \$185,000 for planning, design, and permitting of the Grundman Boat Landing.
- June 2022 – Parks Department staff submitted permitting and a grant request to the WI DNR.
- August 2022 – Parks Department was preliminarily awarded a grant from the WI DNR in the amount of \$843.312.50

#### *Proposed Project Timeline*

- October 2022 – WI State Joint Finance Committee Passive Review of Grant
- September - January 2022 - Final Engineering, Create Bid Documents, and release project for bids.
- Spring/Summer 2023 - Construction

*Project Budget*

**EXPENSE**

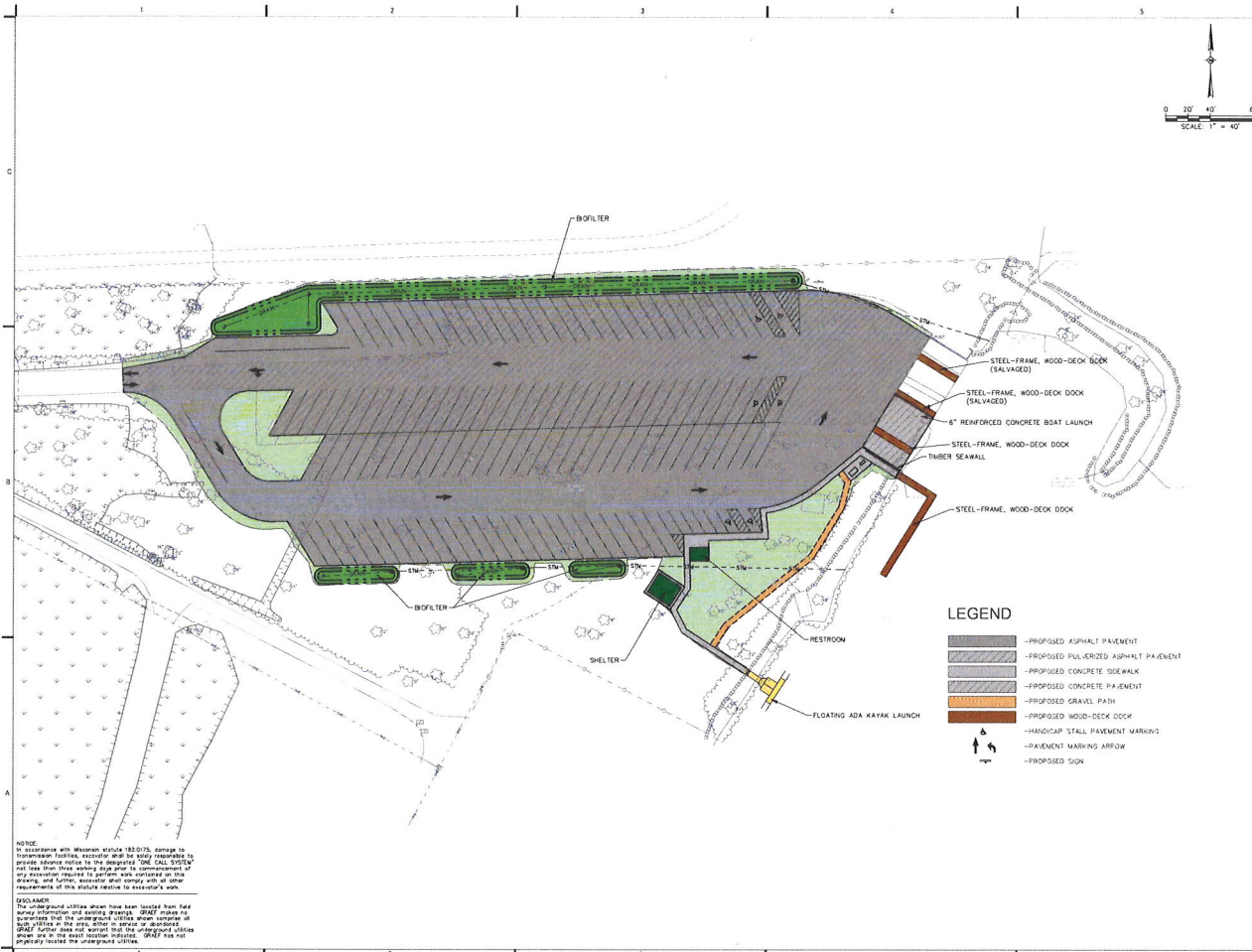
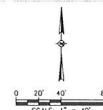
Planning, Design, and Permitting -	\$185,000 (ALREADY APPROVED FUNDS)
Construction -	\$1,791,500
<b>TOTAL -</b>	<b>\$1,976,500</b>

**FUNDING SOURCES**

NRDA GRANT -	\$400,000 (SECURED FUNDING NOV 2021)
WI DNR GRANT REQUEST -	\$843,312.50
COUNTY ENGINEERING -	\$185,000 (ALREADY APPROVED FUNDS)
COUNTY CONSTRUCTION -	\$548,187.50
<b>TOTAL -</b>	<b>\$1,976,500</b>

**Attachments:**

- Concept Design for the Grundman Boat Landing
- Opinion of Probable Construction Costs – GRAEF Engineering
- \$400,000 Grant Award Notice from the NRDA
- WI DNR Grant Project Rankings



- LEGEND**
- PROPOSED ASPHALT PAVEMENT
  - PROPOSED PULVERIZED ASPHALT PAVEMENT
  - PROPOSED CONCRETE SIDEWALK
  - PROPOSED CONCRETE PAVEMENT
  - PROPOSED GRAVEL PATH
  - PROPOSED WOOD-DECK DOCK
  - HANDICAP STALL PAVEMENT MARKING
  - PAVEMENT MARKING ARROW
  - PROPOSED SIGN

**NOTE:**  
In accordance with Wisconsin statute (S.C. 115.01), damage to transportation facilities, structures and/or other responsibilities, including but not limited to, shall be the responsibility of the contractor. The contractor shall be responsible for obtaining all necessary permits and for the construction of any structures required to perform work contained on this drawing, and further, contractor shall comply with all other requirements of this contract relative to contractor's work.

**DISCLAIMER:**  
The underground utilities shown have been located from field survey information and existing records. GRAEF makes no warranty, expressed or implied, for the underground utilities shown on this drawing. The contractor shall be responsible for verifying the location and depth of all underground utilities shown on this drawing. GRAEF further does not warrant that the underground utilities shown are in the exact location indicated. GRAEF has not performed tests for underground utilities.

**PRELIMINARY - NOT FOR CONSTRUCTION**

PROJECT TITLE			
GRUNDMAN BOAT LAUNCH			
PROJECT INFORMATION			
PROJECT NUMBER 2022-2004-00			
DATE 05-21-2022			
DRAWN BY CEP			
CHECKED BY RPV			
APPROVED BY RPV			
SCALE AS NOTED			
SHEET TITLE			
OVERALL SITE LAYOUT PLAN			
SHEET NUMBER			
C300			

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5/1/2022 11:59 AM





DATE: 8/3/2022  
 BY: RPV  
 CHKD: PJS

**Grundman Boat Landing**  
 Winnebago County, WI  
**ESTIMATE OF PROBABLE CONSTRUCTION COSTS**

ITEM	UNITS	QUAN.	UNIT PRICE	TOTAL
<b>GENERAL</b>				
Mobilization/Demobilization (8%)	LS	1	\$115,400.00	\$115,400.00
			<b>Subtotal</b>	<b>\$115,400.00</b>
<b>DEMOLITION</b>				
Clearing and Grubbing	AC	1	\$5,000.00	\$5,000.00
Tracking Pad	EA	1	\$2,500.00	\$2,500.00
Perimeter Control (silt fence or erosion wattle)	LF	1,785	\$4.00	\$7,140.00
Turbidity Barrier	LF	200	\$12.50	\$2,500.00
Tree Protection	EA	15	\$200.00	\$3,000.00
Pulverize Asphaltic Pavement & Compact	SY	7,400	\$2.00	\$14,800.00
Remove Misc. Structure (kiosk, picnic shelter, conc. foundation & well shelter)	EA	4	\$1,000.00	\$4,000.00
Remove Light Pole (including base)	EA	2	\$550.00	\$1,100.00
Remove Post or Sign	EA	37	\$65.00	\$2,405.00
Remove Timber Seawall	LF	55	\$110.00	\$6,050.00
Abandon Exist Well	LS	1	\$2,000.00	\$2,000.00
			<b>Subtotal</b>	<b>\$50,495.00</b>
<b>SITE IMPROVEMENTS</b>				
Earthwork	CY	5,600	\$10.00	\$56,000.00
Base Aggregate Dense, 1.25-inch (or 3/4-inch)	TN	9,822	\$15.00	\$147,330.00
Limestone Screenings (path)	SY	114	\$30.00	\$3,420.00
Excavation Below Subgrade (EBS)	CY	1,200	\$40.00	\$48,000.00
Hot-mix Asphalt Pavement, 3LT, 2.25-inch (binder course)	TN	1,920	\$70.00	\$134,400.00
Hot-mix Asphalt Pavement, 4LT, 1.75-inch (surface course)	TN	1,490	\$80.00	\$119,200.00
Geotextile Fabric, Type SAS	SY	7,400	\$2.00	\$14,800.00
Concrete Sidewalk, 5-inch	SF	3,160	\$6.00	\$18,960.00
Pavement Striping, Paint, White, 4-inch	LF	7,150	\$3.00	\$21,450.00
Pavement Markings & Symbols	EA	15	\$250.00	\$3,750.00
Sign, Traffic & ADA (including post & fasteners)	EA	10	\$250.00	\$2,500.00
Wood Posts (Bollards)	LF	20	\$80.00	\$1,600.00
			<b>Subtotal</b>	<b>\$571,410.00</b>
<b>BOAT LAUNCH</b>				
Cofferdam	SF	5,000	\$25.00	\$125,000.00
Reinforced Concrete Pavement, 8-inch	SF	2,210	\$18.00	\$39,780.00
Reinforced Concrete Shoreline Footing	CY	6	\$1,000.00	\$6,000.00
Riprap, Light (ice protection)	CY	15	\$70.00	\$1,050.00
Timber Seawall	LF	55	\$450.00	\$24,750.00
Misc. Existing Launch Repair	SF	400	\$30.00	\$12,000.00
Dredging	CY	3,300	\$30.00	\$99,000.00
			<b>Subtotal</b>	<b>\$307,580.00</b>
<b>PIERS</b>				
Steel-frame, Wood-deck Dock System, 6-foot wide, 120-ft long (L-shaped)	FT	120	\$400.00	\$48,000.00
Steel-frame, Wood-deck Loading Dock, 6-foot wide, 40-ft long	FT	40	\$400.00	\$16,000.00
Kayak Launch, ADA (including dock, gangway & transition plate)	EA	1	\$50,000.00	\$50,000.00
			<b>Subtotal</b>	<b>\$114,000.00</b>
<b>BUILDINGS</b>				
Kiosk	LS	1	\$5,000.00	\$5,000.00
Open Air Shelter, Prefabricated	LS	1	\$71,000.00	\$71,000.00
Vault Restroom Building, Prefabricated (including foundation, vaults, delivery & install)	LS	1	\$71,400.00	\$71,400.00
Water Well Including Pump	LS	1	\$17,000.00	\$17,000.00
Septic Tank (5000 gal)	LS	1	\$13,000.00	\$13,000.00
			<b>Subtotal</b>	<b>\$177,400.00</b>
<b>ELECTRICAL PROVISIONS</b>				
Control Panel	EA	1	\$2,250.00	\$2,250.00
Service Reconnection	EA	1	\$3,000.00	\$3,000.00
Meter Socket & Pedestal	EA	1	\$1,000.00	\$1,000.00
Receptacles	EA	3	\$125.00	\$375.00
Exterior Lighting - Fixture	EA	11	\$350.00	\$3,850.00
Exterior Lighting - Pole	EA	9	\$1,350.00	\$12,150.00
Pole Concrete Base	EA	9	\$1,800.00	\$16,200.00
Conduit & Wiring, 1-inch PVC, 10 AWG (exterior)	LF	1,400	\$5.00	\$7,000.00
Conduit & Wiring, 1-inch Steel (interior)	LF	125	\$10.00	\$1,250.00
Building Lighting - Wall Pack/Strip Light (interior & exterior)	EA	5	\$300.00	\$1,500.00
Security Camera	EA	4	\$1,250.00	\$5,000.00
Automated Pay Station	EA	1	\$15,000.00	\$15,000.00
Communications Server	EA	1	\$5,000.00	\$5,000.00
			<b>Subtotal</b>	<b>\$73,875.00</b>
<b>STORMWATER MANAGEMENT</b>				
Storm Sewer, PVC, 6-inch	LF	590	\$30.00	\$17,700.00
Underdrain, PVC, 6-inch	LF	660	\$8.00	\$5,280.00
Cleanout, PVC, 6-inch	EA	7	\$500.00	\$3,500.00
HDPE or PPL Liner, Type B	SY	1,180	\$4.50	\$5,310.00
Biobasin(s) (including line grading, engineered soil, aggregate storage, & filter fabric)	SY	775	\$100.00	\$77,500.00
			<b>Subtotal</b>	<b>\$109,290.00</b>
<b>SITE RESTORATION</b>				
Erosion Mat	SY	500	\$2.00	\$1,000.00
Turf Reinforcement Mat	SY	50	\$9.00	\$450.00
Turf Restoration	SY	2,500	\$4.50	\$11,250.00
Seeding - Rain Garden Mix	SY	775	\$18.00	\$13,950.00
Plantings - Trees	EA	13	\$600.00	\$7,800.00
Plantings - Shrubs	EA	21	\$200.00	\$4,200.00
			<b>Subtotal</b>	<b>\$38,650.00</b>
<b>Subtotal Construction Costs</b>				<b>\$1,557,800.00</b>
Contingency (15%)				\$233,700.00
<b>TOTAL CONSTRUCTION COSTS</b>				<b>\$1,791,500.00</b>
Engineering/Delivery				\$137,000.00
<b>TOTAL PROJECT COST</b>				<b>\$1,928,500.00</b>



## Fox River/Green Bay Natural Resource Trustee Council

U.S. FISH AND WILDLIFE SERVICE  
2661 Scott Tower Drive  
New Franken, Wisconsin 54229-9565  
Telephone 920/866-1753  
FAX 920/866-1710

December 8, 2021

Adam Breest  
Winnebago County Parks Dept.  
625 E. County Road Y, Suite 500  
Oshkosh, WI 54901

Dear Mr. Breest:

Thank you for bringing a natural resource restoration project consistent with the 2003 Joint Restoration Plan and Environmental Assessment for the Fox River and Green Bay Area (Restoration Plan) and the 2016 Updated Restoration Plan and Environmental Assessment for the Fox River and Green Bay Area (Update) to our attention. The restoration project titled "Grundman Boat Launch Enhancements (Project #293)" has been selected by the Fox River/Green Bay Natural Resource Trustee Council (Council) for implementation. The Council has agreed to allocate up to \$400,000 towards the proposed project.

The Council has agreed to provide funds to implement the project as presented because of the specific restoration/compensation values described. If circumstances cause any change to the project, you must forward such change or substitution proposals to the Council for review and approval. Any proposed changes or substitutions must be consistent with the Restoration Plan and Update, Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), and other applicable legal authorities. Please contact me to confirm that the restoration project remains as it was proposed or to update me on any project scope changes that have been necessary.

It is the policy of the Council to assure that projects funded with natural resource damage assessment and restoration settlement funds are achieving the desired goals of the Restoration Plan and Update for the Lower Fox River/Green Bay PCB site. In order to be able to respond to agency and public inquiries on this, the Council requires the submittal of annual progress reports for all selected projects. The first progress report to the Trustees will be due on January 31, 2023. An electronic copy of the report formats will be forwarded to you by electronic mail.

In order to transfer funds for this project, a grant agreement must be put in place through the U.S. Fish and Wildlife Service. Be sure to contact us at least three months in advance of initiating project activities or needing funds in hand, as this process can take time. We will work with you throughout the process to complete the necessary steps through the online

Adam Breest  
Winnebago County Parks Dept.

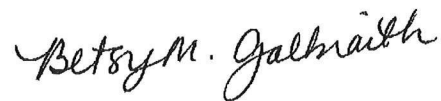
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system: GrantSolutions.gov. Once the grant agreement paperwork is completed, you will receive an official 'notice of award' letter confirming the funding transfer. There will be a separate annual report required through the grant agreement process that will be included in the notice of award letter.

The Council requests recognition of their role in support of the restoration project listed above in all written or verbal references. Any signs or plaques of acknowledgment posted at the restoration project site should include the Council. The Council will also supply a sign with the Trustee logo for posting at project sites. You may contact me for an electronic copy of the council logo if needed.

Should you have questions, or if I can be of any further assistance, please contact me at the address or telephone numbers listed above or by electronic mail at [betsy\\_galbraith@fws.gov](mailto:betsy_galbraith@fws.gov).

Sincerely,

A handwritten signature in cursive script that reads "Betsy M. Galbraith".

Betsy M. Galbraith  
Trustee Council Coordinator

**DRAFT**

**WISCONSIN WATERWAYS COMMISSION RATING/RANKING LIST**

<b>August 9, 2022</b> <b>In Person &amp; Zoom Meeting</b>
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**INLAND**

*Development Projects*

Project No	%	%	PROJECT TITLE	Launch Fee?	SPONSOR	Region	COUNTY	WATERBODY	TOTAL (31)	TOTAL PROJECT	REQUESTED	Total Approved
											COST/SHARE	
1	50%		Lake Eau Claire Launch Redevelopment	Y	Eau Claire County	WC	Eau Claire	Lake Eau Claire	21	\$ 25,000.00	\$ 12,500.00	
2	50%		Grundman Boat Landing Renov & Improve	Y	Winnebago County	NE	Winnebago	Lake Winnebago	19	\$ 1,686,625.00	\$ 843,312.50	
3	50%		Big Falls Accessible Canoe/Kayak Launch & C	N	Waupaca County	NE	Waupaca	Little Wolf River	18	\$ 52,000.00	\$ 26,000.00	
4	50%		Devils Lake Public Access-COST AMENDMEI	N	Burnett County F&P	NO	Burnett	Devils Lake	16	\$ 465,875.00	\$ 232,937.00	
5	50%		Nagawicka Lake Launch & Parking Renov	Y	Waukesha County	SE	Waukesha	Nagawicka Lake	16	\$ 392,560.85	\$ 196,280.42	
6	50%		Lower Miller Boat Launch COST AMENDMEN	Y	City of Omro	NE	Winnebago	Fox River	15	\$ 71,612.00	\$ 35,806.00	
7	50%		Town of Wheaton Boat Launch Improvements	N	Town of Wheaton	WC	Chippewa	Chippewa River	10	\$ 174,538.00	\$ 87,269.00	
										\$ 2,868,210.85	\$ 1,434,104.92	\$ -

*Channel Dredging Project*

Project No	%	%	PROJECT TITLE	Launch Fee?	SPONSOR	Region	COUNTY	WATERBODY	TOTAL (31)	TOTAL PROJECT	REQUESTED	Total Approved
											COST/SHARE	
8	50%		Lake Eau Claire Skid Row Dredging	Y	Eau Claire County	WC	Eau Claire	Lake Eau Claire	18	\$ 81,000.00	\$ 40,500.00	
9	50%		Lake Eau Claire Sediment Traps	Y	Eau Claire County	WC	Eau Claire	Lake Eau Claire	18	\$ 170,000.00	\$ 85,000.00	
10	50%		Arkdale Lake Boat Launch Dredging	N	Arkdale Lake District	WC	Adams	Arkdale Lake	10	\$ 51,340.00	\$ 25,670.00	
										\$ 302,340.00	\$ 151,170.00	\$ -

*Harvesting Equipment*

Project No	%	%	PROJECT TITLE	Launch Fee?	SPONSOR	Region	COUNTY	WATERBODY	TOTAL (31)	TOTAL	REQUESTED	Total Approved
										PROJECT COST	COST/SHARE	
										\$ -	\$ -	\$ -

**Total Project Costs \$ 3,170,550.85**

<b>Total Inland</b>	<b>\$ 1,585,274.92</b>	<b>\$ -</b>
	Balance	\$ 1,848,089.56

**GREAT LAKES**

*Development Projects*

REQ'D	APP'D	PROJECT TITLE	Launch Fee?	SPONSOR	Region	COUNTY	WATERBODY	TOTAL (31)	TOTAL PROJECT COST	REQUESTED COST/SHARE	Total Approved
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Develop Sub Total	\$ -	\$ -	\$ -
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*Channel Dredging Project*

REQ'D	APP'D	PROJECT TITLE	Launch Fee?	SPONSOR	Region	COUNTY	WATERBODY	TOTAL (31)	TOTAL PROJECT COST	REQUESTED COST/SHARE	Total Approved
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Dredging Sub Total	\$ -	\$ -	\$ -
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*Harvesting Equipment*

REQ'D	APP'D	PROJECT TITLE	Launch Fee?	SPONSOR	Region	COUNTY	WATERBODY	TOTAL (31)	TOTAL PROJECT COST	REQUESTED COST/SHARE	Total Approved
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Harvester Sub Total	\$ -	\$ -	\$ -
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Total Great Lakes	\$ -	\$ -	\$ -
Balance	\$ 1,862,478.56		

	Starting Balance
Inland Available~	\$ 1,360,000.00
Great Lakes Available~	\$ 1,360,000.00
Discretionary Available~	\$ 680,000.00
Carryover SEG Funds Available~	\$ 324,957.12
Small Projects (<\$15,000 Inland) Subtracted	\$ (14,389.00)
<b>TOTAL AVAILABLE FUNDING</b>	<b>\$ 3,710,568.12</b>
~All pots divided equally	
1st Qtr. STEW Funds Available (- small projects)	\$ 2,985,611.00
1st Qtr. SEG Funds Available	\$ 724,957.12

	Great Lakes	Inland
Starting Balances~	\$ 1,862,478.56	\$ 1,848,089.56
Total Approved	\$ -	\$ -
Ending Balance	\$ 1,862,478.56	\$ 1,848,089.56

**RESOLUTION: Authorize a Capital Project for the Winnebago County Parks Department for Improvements to the Grundman Boat Landing at a Cost of \$1,791,500 with \$548,187.50 being Funded by Winnebago County with Either a Transfer from the Undesignated General Fund Balance, or an Advance from the General Fund to be Reimbursed with a Subsequent Bond Issue.**

**TO THE WINNEBAGO COUNTY BOARD OF SUPERVISORS:**

**WHEREAS**, improvements and renovations to the Grundman Boat Landing seek to address limited parking space, site safety, security and lack of amenities; and

**WHEREAS**, the Winnebago County Parks Department 2022 – 2026 Capital Improvement Plan calls for renovations and improvements to the Grundman Boat Landing in 2023; and

**WHEREAS**, the Winnebago County Parks Department requests the approval of a capital project for improvements and renovations to the Grundman Boat Landing at a cost of \$1,791,500; and

**WHEREAS**, the Winnebago County Parks Departments received grant funds in the amount of \$400,000 from the Fox River/Green Bay Natural Resource Trustee Council and \$843,312.50 from the Wisconsin Department of Natural Resources.

**NOW, THEREFORE, BE IT RESOLVED** by the Winnebago County Board of Supervisors that it hereby authorizes a Capital Project for the Winnebago County Parks Department for improvements and renovations to the Grundman Boat Landing with \$548,187.50 to be funded with either a transfer from the undesignated general fund balance, or with a subsequent bond issue.

**Fiscal Impact:** The Winnebago County Parks Department has received a \$400,000 grant from the Fox River/Green Bay Natural Resource Trustee Council and an \$843,312.50 grant from the WI Department of Natural Resources. Winnebago County would be responsible for \$548,187.50 of the project costs.

Respectfully submitted by:  
**PARKS & RECREATION COMMITTEE**

Committee Vote:

Respectfully submitted by:  
**PERSONNEL & FINANCE COMMITTEE**

Committee Vote:

Vote Required for Passage: **Three-Fourths of Membership**

Approved by the Winnebago County Executive this \_\_\_\_ day of \_\_\_\_\_, 2022

\_\_\_\_\_  
Jonathan D. Doemel  
Winnebago County Executive

1 -082022

2  
3 **RESOLUTION: Allow a public citizen member to be appointed to serve on the Parks and**  
4 **Recreation Committee**

5  
6  
7 **TO THE WINNEBAGO COUNTY BOARD OF SUPERVISORS:**

8 **WHEREAS**, Winnebago County Board Rule 23.1 (F) provides that the Parks and Recreation Committee shall  
9 consist of 5 County Board members; and

10 **WHEREAS**, adding a citizen member will foster a broader representation of the community. The citizen member  
11 would be a voting member to be appointed by the Chair of the Winnebago County Board of Supervisors.

12 **WHEREAS**, the term of the public citizen member will be two (2) years and parallel County Board  
13 Supervisors terms of office (e.g. April 2022 to April 2024 etc.).

14 **NOW, THEREFORE, BE IT RESOLVED** by the Winnebago County Board of Supervisors that it  
15 hereby amends Winnebago County Board Rule 23.1 (F) to add a citizen member to the Parks and Recreation  
16 Committee, who will be a voting member appointed by the Chair of the Winnebago County Board of Supervisors.

17  
18 Respectfully submitted by:

19 **MIKE NORTON, DISTRICT 20**

20  
21 Respectfully submitted by:

22 **PARKS AND RECREATION COMMITTEE**

23 Committee Vote: \_\_\_\_\_

24 Vote Required for Passage: **MAJORITY**

25  
26 Approved by the Winnebago County Executive this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

27  
28 \_\_\_\_\_  
29 Jonathan D. Doemel  
30 Winnebago County Executive

# Agenda Item Report



**Winnebago County**  
*The Wave of the Future*

DATE: August 22, 2022  
FROM: Parks and Expo Director  
RE: Pepsi 5 Year Contract 2022 - 2027

**General Description:** The Parks Department is interested in entering into a contract with Pepsi for exclusive rights to sell Pepsi on Park property.

**Requested Action:**

The Parks Department recommends that the Parks and Recreation Committee approves the 5-year agreement between Pepsi and the Winnebago County Parks Department.

**Procedural Steps:**

Parks and Recreation Committee	Meeting date: 8/22/22
Action taken:	Vote:
Personnel and Finance Committee	Meeting Date: 9/1/22
Action Taken	Vote:
County Board	Meeting Date: 9/20/22
Action Taken	Vote:

**Background:**

In May of 2021 the Winnebago County Board approved a contract between Pepsi and Winnebago County. Unfortunately, the agreement was never officially signed. Parks staff and Pepsi have worked to modify the agreement slightly providing more funds for the County.

**Justification:**

Entering into an agreement with Pepsi provides revenue for the Parks Department. Pepsi has worked with our promoters for many years and provides great service. Pepsi would increase their annual donation from \$1500/year to \$2000/year in years 1 and 2 and \$2500 in years 3, 4, and 5. Also, the price of their products has been decreased making it more affordable for our promoters. The only other difference from the 2021 contract is that instead of a 4% cap, there is a 5% cap for Pepsi yearly increases.

**Attachments:**

- 2022 – 2027 Agreement between Pepsi and Winnebago County
- Resolution to Approve the agree between Pepsi and Winnebago County.



**BEVERAGE SALES AGREEMENT**  
**Winnebago County Parks Department**

This sets forth the agreement (“*Agreement*”) between Bottling Group, LLC, a Delaware limited liability company, and its affiliates and/or respective subsidiaries collectively comprising **Pepsi Beverages Company** with an office located at 325 W 20<sup>th</sup> Avenue, Oshkosh, WI 54902 (“*Pepsi*”) and **Winnebago County Parks Department**, with the principal place of business at 625 E County Road Y, Suite 500, Oshkosh, WI 54901. (the “*Customer*”) relating to the purchase by the Customer from Pepsi of the Products. The support described below is in lieu of any other discounts, allowances or rebates to which the Customer might otherwise be entitled from time to time.

Definitions

As used in this Agreement, the following capitalized terms shall have the respective meanings assigned thereto below.

“*Beverage*” or “*Beverages*” means all carbonated and non-carbonated, non-alcoholic drinks, however dispensed, including but not limited to, (i) colas and other flavored carbonated drinks; (ii) fruit juice, fruit juice containing and fruit flavored drinks; (iii) chilled coffee drinks; (iv) chilled tea products; (v) hypertonic, isotonic and hypotonic drinks (sports drinks and fluid replacements); (vi) energy drinks, (vii) packaged carbonated or still water (including spring, mineral or purified), (viii) liquid concentrate teas (“*LCT*”), (ix) frozen carbonated and non-carbonated beverages (“*FB*”), and (x) any future categories of nonalcoholic beverage products that may be distributed by Pepsi.

“*Gallons*” shall mean the number of gallons of the Post mix Products purchased by the Customer from Pepsi.

“*Outlets*” shall mean the existing Customer facilities operated under the trademarks as listed in attached and shall include any restaurant, outlet or other facility in the Customer’s system that may be opened or acquired by the Customer under those trademarks during the Term. In the event that Customer acquires, owns or operates facilities under a different concept and/or trademark during the Term, Customer will purchase Products pursuant to the terms of this Agreement for service in such facilities, which will be considered Outlets under this Agreement. In the event that new Outlets are added during the Term of this Agreement, the parties shall create an updated addendum and attach it hereto. The Outlets shall include the parking garages or other Customer-owned/controlled/operated surrounding areas located at or within those facilities.

“*Post mix Products*” shall mean Beverages used to create and dispense fountain beverages and/or frozen carbonated and non-carbonated beverages. A current list of Pepsi’s Post mix Products is listed in attached Exhibit B which may be amended by Pepsi from time to time.

“*Products*” shall mean Post mix Products only.

“*Year*” shall mean each 12-month period during the Term commencing on the first day of the Term or an anniversary thereof.

### 1. Term

The term of this Agreement shall commence on **August 1, 2022** and expire upon the later of **July 31, 2027**, or at such time as Customer’s collective purchases of Products meets or exceeds a volume threshold (the “*Volume Threshold*”) of **8,500 cases of 20 ounce bottled products** (the “*Term*”). For the purposes of measuring the Volume Threshold only, 1 Case of Packaged Product shall be deemed equal to 1 Gallon of Post mix Product. Thus, in the event the Volume Threshold is not met on or before the date indicated above, then the Term shall automatically extend for the period of time necessary until the Volume Threshold has been met (the “*Automatic Extension*”). Except for applicable Marketing Support Funds, which may be earned during the Automatic Extension, Pepsi shall not provide any other consideration to Customer. When fully executed, this Agreement will constitute a binding obligation of both parties until expiration or termination.

### 2. Scope

#### (A) **Exclusive Pouring Rights**

During the Term of this Agreement Pepsi shall have the exclusive right to make all Beverages (including Fountain Products and Packaged Products) available for sale and distribution within the Customer’s Outlets, including at all locations located within the Outlets where Beverages are sold and catering operations for Customer or its Outlets. Accordingly, the Products shall be the only Beverages of their respective type sold, dispensed or served anywhere at the Outlets, and Customer will cause the purchasing representative for each of the Outlets to purchase all its respective requirements for such Products directly and exclusively from Pepsi.

#### (B) **Ancillary Products**

During the Term, Customer will cause the purchasing representative for each of the Outlets to purchase all its respective requirements for carbon dioxide and branded disposable cups (“*Ancillary Products*”) exclusively from Pepsi.

#### (C) **Advertising Rights**

Pepsi may advertise and promote its Products in and with respect to the Customer and its Outlets upon mutually agreed to terms and conditions.

### 3. Performance

This Agreement, including all of Pepsi’s support to the Customer as described below, is contingent upon the Customer complying with all of the following performance criteria:

- (A) **Exclusivity.** The Products shall be the exclusive Beverage of their respective types sold, dispensed or otherwise made available, or in any way advertised, displayed, represented or promoted at or in connection with the Outlets by any method or through any medium

whatsoever (including without limitation print, broadcast, direct mail, coupons, handbills, displays and signage), whether public or private. In no event shall there be served, dispensed or otherwise made available, or in any way advertised, displayed, represented or promoted, beverage products licensed by, or produced by bottlers licensed by, The Coca-Cola Company or any affiliate thereof, or any other supplier of competitive nonalcoholic Beverages.

- (B) **Product Mix.** The Customer represents that it shall purchase and shall cause its Outlets to purchase Products exclusively from Pepsi and that it shall use reasonable efforts to maintain a mix of both Postmix Products and Packaged Products at each of the Outlets throughout the Term.
- (C) **Fountain Products.** The Customer shall only use the Postmix Products for use in preparing the fountain beverage products (the “*Fountain Products*”): in accordance with the standards established by Pepsi; and (ii) only for immediate or imminent consumption and shall not resell the Postmix Products either to nonaffiliated outlets or to consumers in any form other than the Fountain Products.
- (D) **Brand ID.** The Customer shall have appropriate brand identification, as identified by Pepsi, for each Product served on all menus (including catering), menu boards and postmix dispensing valves at each of the Outlets throughout the Term.
- (E) **Changes in Outlet(s).** The Customer agrees that it shall promptly notify Pepsi, in writing, of each new Outlet which is opened or acquired during the Term, as well as of any Outlet which is closed, sold or otherwise disposed of during the Term so that the parties may promptly update **Error! Reference source not found.**
- (F) **Minimum SKU Requirement.** At all times during the Term, the Customer agrees to mandate the distribution of a minimum of the following skus of Products, as applicable, at each of the Outlets (“*Required SKUS*”). The Required SKUs shall be determined as follows:  
**20oz Bottles – Gatorade – 20oz Aquafina water and a variety of 20oz Soda and Tea**

#### 4. Consideration

In consideration of the exclusive rights granted to Pepsi by Customer over the Term of this Agreement, and provided Customer is not in breach of this Agreement, Pepsi shall provide Customer with the following:

**(A)Marketing Support Funds.** Each Year throughout the Term, Pepsi shall calculate the total number of Cases of Packaged Products and Gallons of Postmix Products purchased by each of the applicable Outlets from Pepsi pursuant to this Agreement, and shall provide the Customer with marketing support funds calculated based on applicable amounts set forth below (the “*Marketing Support Funds*”). The Marketing Support Funds, if applicable, shall be paid by Pepsi within sixty (60) days of the end of each applicable Year during the Term. In the event that any Outlet is closed during the Term of this Agreement, Pepsi agrees to provide Customer with all Marketing Support Funds accrued on behalf of that applicable Outlet as of the time of closing,

provided that such Outlet was in full compliance with the terms and conditions of this Agreement.

Marketing Support Funds Amount	Applicable Products
<i>\$3.00 per case / 24 pack</i>	<b>Gatorade and Aquafina water</b>
<i>\$3.00 per case / 24 pack</i>	<b>C.S.D., Lemonade, Brisk Tea</b>

**B. Annual Support Funds.** In each of Years one (1) through five (5), Pepsi agrees to provide Customer with annual support funds as set forth below, not to exceed five (5) consecutive payments (the “*Annual Support Funds*”). The Annual Support Funds will be paid to Customer within sixty (60) days after the commencement of each applicable Year, except that for Year One, such payment will be made within ninety (90) days of the later of (i) the first day of the Term or (ii) the signing of this Agreement by both parties.

Applicable Year	Annual Support Amount
Year 1	\$2,000
Year 2	\$2,000
Year 3	\$2,500
Year 4	\$2,500
Year 5	\$2,500

C. Pepsi will provide *100 free cases of 16.9oz water* on an annual basis, during the term of the contract. The customer must request the free product within the annual 12 month window. Any free product not requested in a 12 month period, will not accrue.

The parties agree that Pepsi shall not accrue or pay any Marketing Support Funds for sales to Outlets that are in breach of the Performance Requirements listed in Section 3 above. Customer agrees that the Marketing Support Funds shall be used in part to help offset costs associated with mutually agreed upon marketing programs and promotions throughout the Term.

**(D)Free Equipment Loan and Service.** As further outlined in Section 5 below, Pepsi shall provide at no cost to Customer or the Outlets necessary dispensing/selling Equipment for Beverages at the Outlets (**unless prohibited by State laws**). Such Equipment shall be in sufficient quantities (in light of sales volume) as determined by Pepsi to satisfy the Outlet’s reasonable needs.

## 5. Equipment

Pepsi will loan each Outlet, at no charge, appropriate equipment for dispensing the Products during the Term (“*Equipment*”). Customer agrees that the Equipment shall be exclusively used to display and merchandise the Products, and the Customer shall not use the Equipment to display, stock, advertise, sell or maintain any other products (including on the exterior of the Equipment). Pepsi will also provide, at no charge to the Customer, service to the Equipment. Title to such Equipment will remain vested in Pepsi or its affiliate and all such Equipment will be returned to Pepsi upon expiration or earlier termination of this Agreement. Each Year during the Term or at Pepsi’s request, Customer shall provide Pepsi with a written Equipment verification list indicating the asset number, Equipment type and location of the Equipment loaned to the Customer pursuant to this Agreement. Failure to provide such verification list to Pepsi shall be deemed a material breach of this Agreement.

Pepsi will provide, at no charge to the Customer, preventative maintenance and service to the Equipment. Pepsi will also provide Customer with a telephone number to request emergency repairs and receive technical assistance related to the Equipment after business hours. Pepsi will promptly respond to each applicable Customer request, and will use reasonable efforts to remedy the related Equipment problem as soon as possible.

## 6. Pricing

Pepsi will provide Customer/Outlets a complete supply of Products during the Term of this Agreement and shall deliver such Products in a timely manner (based on mutually agreed upon delivery schedules) and in good and sanitary condition. The Products and Ancillary Products shall be purchased by the Customer from Pepsi at prices established by Pepsi. The current pricing schedule for Products is set forth on attached Exhibit B. Thereafter, the prices may be changed from time to time at Pepsi’s discretion, except that Pepsi shall provide thirty (30) days’ notice of any price increases during the Term. *Any annual price increase is to be capped at 5%.*

## 7. General Terms

(A) **Termination.** Either party may terminate this Agreement if the other commits a material breach of this Agreement; provided, however, that the terminating party has given the other party written notice of the breach and the other party has failed to remedy or cure the breach within thirty (30) days of such notice. If for any reason the Customer closes one or more of its Outlets for a period of ten (10) business days or more, then such event shall be deemed a material breach of this Agreement, and Pepsi shall have the right to immediately terminate this Agreement upon five (5) days prior written notice.

In the event of breach of this Agreement by one or more Outlet(s), the parties agree that Pepsi shall have the option, in lieu of termination of the entire Agreement, to terminate the Agreement only as it pertains to the applicable breaching Outlet(s) and to obtain an equitable reimbursement for the portions of funding and other costs attributable to such breaching Outlet(s).

(B) **Remedies.** If Pepsi terminates this Agreement as a result of default by Customer or its Outlets, or if Customer terminates this Agreement other than due to Pepsi’s failure to cure a

breach hereof, then Customer and its Outlets will surrender to Pepsi all Equipment provided by Pepsi and shall forfeit all funding not paid as of the date of termination. In addition, without prejudice to any other right or remedy available to Pepsi, Pepsi shall have the right to immediately seek reimbursement from Customer and the Outlets for the following:

- (i) An amount reflecting reimbursement for all funding previously advanced by Pepsi but not earned by the Customer pursuant to the terms of this Agreement. With regard to the Initial Support Funds, the amount of such reimbursement shall be determined by multiplying the Initial Support Funds by a fraction, the numerator of which is the number of months remaining in the Term at the time such termination occurs and the denominator of which is the higher of 60 months, (the total number of months in the Term) or the number of months expected to comprise the Term based on volume trends as of the time of termination and the Volume Threshold. With regard to the Annual Support Funds, the amount of such reimbursement shall be determined by multiplying Annual Support Funds by a fraction, the numerator of which is the number of months remaining in the Year in which the Agreement is terminated at the time such termination occurs and the denominator of which is 12 (twelve);
  - (ii) An amount reflecting reimbursement for the cost of installation, service and refurbishing of Equipment provided during the Term and the cost of removal of all Equipment that has been installed in the Outlets, if applicable; and
  - (iii) An amount as liquidated damages, for lost sales suffered by Pepsi as a result of such termination, equal to the sum of: (a) product of \$5 multiplied by the projected number of Gallons of Postmix, LCT and FB Products that Customer would have been expected to purchase during the remainder of the Term based on the Volume Threshold and the Customer's average annualized purchase rate and (b) the product of \$10 multiplied by the projected number of 24-pk case equivalents of Packaged Products that Customer would have been expected to purchase during the remainder of the Term based on the Volume Threshold and the Customer's average annualized purchase rate.
- (C) **Expiration.** Upon expiration of this Agreement, if Customer has not entered into a further agreement with Pepsi for the purchase of the Products, Customer shall surrender to Pepsi all Equipment installed in the Outlets, whether leased, loaned or otherwise made available by Pepsi.
- (D) **Right of Offset.** Pepsi reserves the right to withhold payments due hereunder as an offset against amounts not paid by Customer or its Outlets for Products ordered from and delivered by Pepsi pursuant to this Agreement.
- (E) **Non-Disclosure.** Except as may otherwise be required by law or legal process, neither party shall disclose to unrelated third parties the terms and conditions of this Agreement without the consent of the other.
- (F) **Indemnification.** Pepsi will indemnify and hold the Customer harmless from any and all suits, actions, claims, demands, losses, costs, damages, liabilities, fines, expenses and penalties

(including reasonable attorneys' fees) arising out of: (i) its breach of any term or condition of this Agreement; (ii) product liability suits resulting from the use or consumption of the Products; and/or (iii) the negligence or willful misconduct of Pepsi. The Customer will indemnify and hold Pepsi, its subsidiaries, affiliates or assigns harmless from and against any and all suits, actions, claims, demands, losses, costs, damages, liabilities, fines, expenses and penalties (including reasonable attorneys' fees) arising out of: (i) its breach of any term or condition of this Agreement; and/or (ii) the negligence or willful misconduct of the Customer.

(G) **Assignment.** In the event that a third party acquires Customer or all or a group of the Outlets, or if Customer is acquired or merges with a third party, Customer will, in connection with such transaction, cause the acquiring party/merged entity, in writing, to ratify this Agreement and assume all of the obligations of Customer hereunder. In the event that Customer does not deliver written evidence of such ratification and assumption of this Agreement by the acquiring party/merged entity within ten (10) days following the closing of the transaction, the Customer will be in breach of this Agreement and Pepsi may, at its option, terminate this Agreement effective immediately and Customer will pay to Pepsi all sums specified in Section 7(B) herein. The Agreement shall not be otherwise assignable without the express written consent of Pepsi.

(H) **Governing Law.** This Agreement shall be governed by the laws of the State of New York without regard to conflict of laws principles.

(I) **Price Discrepancy.** Any price discrepancy claim must be submitted to Pepsi within 365 days of the date of the invoice in question. If the Customer makes a price discrepancy claim within 90 days of the invoice date, the Customer must submit a written request specifying the particular Product, amount in dispute and reason for the dispute. This request should be addressed to:

Accounts Receivable  
Pepsi-Cola Customer Service Center  
P.O. Box 10  
Winston-Salem, North Carolina 27102.

If the Customer makes a price discrepancy claim from 91 to 365 days after the date of invoice, in addition to the written request as specified above, the Customer must submit to Pepsi a copy of the invoice in question, copies of any check remittances pursuant to the invoice in question and any additional supporting documentation.

(J) **Tax.** The Customer acknowledges and agrees that neither Pepsi nor its affiliates shall be responsible for any taxes payable, fees or other tax liability incurred by the Customer in connection with the consideration or any other fees payable by Pepsi under this Agreement. Pepsi shall not be assessed common area maintenance fees, taxes or other charges based on its occupation of the space allocated to its Equipment at the Outlets.

(K) **Force Majeure.** Pepsi will not be responsible for any delay or lack of delivery resulting directly or indirectly from any foreign or domestic embargo, product detention, seizure, act of

God, insurrection, war and/or continuance of war, the passage or enactment of any law ordinance, regulation, ruling, or order interfering directly or indirectly with or rendering more burdensome the purchase, production, delivery or payment hereunder, including the lack of the usual means of transportation due to fire, flood, explosion, riot, strike or other acts of nature or man that are beyond the control of Pepsi or that of the suppliers to Pepsi unless such contingency is specifically excluded in another part of this Agreement. Subject to the provisions below, this Agreement will be suspended as to both Product and delivery during any of the above force majeure contingencies. Any and all suspended deliveries will resume after such contingencies cease to exist, if possible, and this Agreement will resume in accordance with its terms, unless otherwise provided for herein.

- (L) **Release, Discharge or Waiver.** No release, discharge or waiver of any provision hereof shall be enforceable against or binding upon either party hereto unless in writing and executed by both parties hereto. Neither the failure to insist upon strict performance of any of the agreements, terms, covenants or conditions hereof, nor the acceptance of monies due hereunder with knowledge of a breach of this Agreement, shall be deemed a waiver of any rights or remedies that either party hereto may have or a waiver of any subsequent breach or default in any of such agreements, terms, covenants or conditions.
- (M) **Relationship of the Parties.** The parties are independent contractors with respect to each other. Nothing contained in this Agreement will be deemed or construed as creating a joint venture partnership between the parties.
- (N) **Effect of Headings.** The headings and subheadings of the sections of this Agreement are inserted for convenience of reference only and shall not control or affect the meaning or construction of any of the agreements, terms, covenants and conditions of this Agreement in any manner.
- (O) **Construction.** This Agreement has been fully reviewed and negotiated by the parties hereto and their respective legal counsel. Accordingly, in interpreting this Agreement, no weight shall be placed upon which party hereto or its counsel drafted the provision being interpreted. Wherever this Agreement provides for one party hereto to provide authorization, agreement, approval or consent to another party hereto, or provides for mutual agreement of the parties hereto, such authorization, approval, agreement or consent shall, except as may otherwise be specified herein, be given in such party's reasonable judgment and reasonable discretion, and shall be in writing unless otherwise mutually agreed by the parties. If any term or provision of this Agreement shall be found to be void or contrary to law, such term or provision shall, but only to the extent necessary to bring this Agreement within the requirements of law, be deemed to be severable from the other terms and provisions hereof, and the remainder of this Agreement shall be given effect as if the parties had not included the severed term herein.
- (P) **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.



(Q) **Further Assurances.** Each party hereto shall execute any and all further documents or instruments and take all necessary action that either party hereto may deem reasonably necessary to carry out the proper purposes of this Agreement.

(R) **Notices.** Unless otherwise specified herein, all notices, requests, demands, consents, and other communications hereunder shall be transmitted in writing and shall be deemed to have been duly given when hand delivered, upon delivery when sent by express mail, courier, overnight mail or other recognized overnight or next day delivery service, or three (3) days following the date mailed when sent by registered or certified United States mail, postage prepaid, return receipt requested, or by facsimile, with a confirmation copy sent by recognized overnight courier, next day delivery, addressed as follows:

If to Pepsi:

Pepsi Beverages Company  
Jim Pandl  
Attn: Foodservice Associate Sales Manager

With a copy to (which shall not constitute notice):

Pepsi Beverages Company  
One Pepsi Way  
Somers, NY 10589  
Attn: Legal Department

If to Customer:

Winnebago County Parks Dept.  
625 E Cty Rd Y #500  
Oshkosh WI 54901

(S) **Limitations/Offset Rights.** Pepsi reserves the right to limit quantities, withhold or deduct funding as an offset to amounts not paid by Customer or terminate this Agreement if the Customer (i) sells Products directly or indirectly for resale outside of the Pepsi's exclusive territory where the Outlet operates, (ii) purchases Products outside Pepsi's exclusive territory where the Outlet operates and resells such Products within Pepsi's exclusive territory or (iii) does not comply with Pepsi's payment terms or makes an unauthorized deduction from amounts due.

(T) **Entire Agreement.** This Agreement contains the entire agreement between the parties hereto regarding the subject matter hereof and supersedes all other agreements between the parties. This Agreement may be amended or modified only by a writing signed by each of the parties.

(U) **Customer Representations.** Customer represents and warrants to Pepsi that the execution, delivery and performance of this Agreement by Customer will not violate any agreements

with, or rights of, third parties. The Customer and undersigned represent that the undersigned is duly authorized and empowered to bind the Customer to the terms and conditions of this Agreement for the duration of the Term.

**IN WITNESS WHEREOF**, the undersigned have caused this Agreement to be duly executed as of the date set forth below.

Bottling Group, LLC

Customer

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

Sign: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

Exhibit B  
Products and Prices

**Customer acknowledges and agrees (and shall require that any third parties or Food Service Providers purchasing Products through this Agreement agree) that Pepsi shall be entitled to pass-through any incremental fees, deposits, taxes or other governmentally imposed charges (whether local, state, federal or judicially imposed) and that the pass-through of any such governmentally imposed fees, deposits, taxes or charges on the Products shall not be deemed as a price increase subject to any pricing cap or notification restrictions that may be specified in this Agreement.**

**New Contract Pricing**

Aquafina	16.9oz 24P			\$12.00
Aquafina	20oz 24L			\$16.43
Gatorade	20oz 24L			\$32.87
CSD	20oz 24L			\$27.80
CSD_	Can 12oz 12P FM			\$12.00
Dole Lemonade	20oz 24L			\$27.80
Lipton Brisk	20oz 24L			\$27.80

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**RESOLUTION: Authorize Consecutive Beverage Pouring Rights Agreement between Winnebago County and Pepsi Bottling Group, LLC**

**TO THE WINNEBAGO COUNTY BOARD OF SUPERVISORS:**

**WHEREAS**, Pepsi Bottling Group, LLC (hereinafter referred to as “Pepsi”) desires to enter into a consecutive beverage pouring rights agreement with Winnebago County whereby Pepsi would be the official beverage of the Winnebago County Parks Department as has previously been the case since 2006 and would thereby be provided with exclusive sales and advertising rights at predetermined Parks properties; and

**WHEREAS**, pursuant to this agreement, Lessees of Parks properties would agree to sell exclusively Pepsi beverage products at events which they sponsor; and

**WHEREAS**, pursuant to this agreement, Pepsi would be granted rights allowing it to install and maintain soda vending machines at predetermined Parks properties; and

**WHEREAS**, in exchange for both its financial and material support, Winnebago County would extend to Pepsi certain promotional privileges including the right to post specified advertising related materials at predetermined Parks properties; and

**WHEREAS**, in conjunction with this agreement, Pepsi would annually pay Winnebago County a support payment of \$2,000.00, as well as a compensatory sum based upon the total amount of beverage cases sold at Parks properties, multiplied by the beverage case commission rate applicable within any given year over the term of the agreement;

**NOW, THEREFORE, BE IT RESOLVED** by the Winnebago County Board of Supervisors that it hereby authorizes the Winnebago County Executive and Winnebago County Clerk to enter into an agreement with Pepsi for beverage pouring rights at predetermined Parks properties which shall run through July 31, 2027 and shall contain those major terms described above. A copy of the aforementioned agreement is attached hereto and incorporated herein for reference.

**Fiscal note:** Estimated revenue for upcoming 5-year agreement = \$8,500 annually  
(Includes aforementioned \$2,000.00 support payment).

Respectfully Submitted by,  
**PARKS & RECREATION COMMITTEE**

Committee Vote:

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Respectfully Submitted by,

**PERSONNEL & FINANCE COMMITTEE**

Committee Vote:

Vote Requirement for Passage: **Majority**

Approved by Winnebago County Executive this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Jonathan D. Doemel  
Winnebago County Executive