

2021 WISCONSIN AVENUE PARKING LOT LEASE

ABM

(CAO 275845, GH 8-9-2021)

This Lease: is by and between the REDEVELOPMENT AUTHORITY OF THE CITY OF MILWAUKEE (“RACM”), as landlord, and ABM ONSITE SERVICES – MIDWEST, INC. (“ABM” or “Tenant”), as tenant; is dated as of **June 1, 2021** (the “Effective Date”); and is for good and valuable consideration, receipt and sufficiency of which are agreed to.

RECITALS

A. RACM owns 401-441 W. Wisconsin Avenue, Milwaukee, Wisconsin, Tax Key No. 361-0726-110 (the “Parcel”). A map showing the Parcel (the “Map”) is attached hereto as **EXHIBIT A**.

B. RACM was leasing the Parcel to ABM per the following documents (herein collectively called the “Old Lease”):

- Wisconsin Avenue Parking Lot Lease, ABM, dated November 1, 2013
- ABM Lease Amendment No. 1, dated October 15, 2015
- ABM Lease Amendment No. 2, dated October 1, 2016.

C. RACM and ABM agree that the Old Lease, in all respects, is hereby terminated, and superseded and replaced by this Lease.

AGREEMENT

1. **Recitals.** The recitals above are hereby accepted and agreed to.

2. **RACM Lease to ABM of Parcel.**

A. **AS IS.** RACM, as landlord, hereby leases to ABM, as tenant, the **premises** (a/k/a the Parcel), on an AS IS basis.

B. **Entire Parcel.** The leased premises constitute the entire Parcel (243 striped stalls).

3. **Rent.**

A. **Past Rent.** RACM received from ABM Rent under the Old Lease through April 2020. RACM and ABM acknowledge that the COVID pandemic reduced parking and economic activity in the area of the Parcel. On 8-4-2021, RACM received from ABM agreed upon (compromised) Rent in the amount of \$180,000 to cover the months of May 2020 through May 2021 under the Old Lease.

B. **2021 Monthly Rent Starting June 1.** Commencing on June 1, 2021, monthly Rent for

the Parcel that ABM shall pay to RACM is \$20,000 per month.

C. **2022 Monthly Rent.** Commencing on January 1, 2022, monthly Rent for the Parcel that ABM shall pay to RACM is \$28,087.73 per month.

D. **2% Annual Escalator.** Commencing on January 1, 2023, and on each January 1 thereafter, Rent shall increase by 2% per year such that monthly rent in that year is 2% higher than the monthly rent in the preceding year. For example, for Year 2023, monthly Rent shall equal \$28,649.48, and for Year 2024, monthly Rent shall equal \$29,222.47.

E. **Paying Rent.** Rent payments are due on the 1st day of each month, and must be received by RACM no later than the 5th day of the month. Rent shall be paid by check or money order (with name and address), in good funds, payable to the REDEVELOPMENT AUTHORITY OF THE CITY OF MILWAUKEE, and shall be mailed or hand-delivered to:

Redevelopment Authority, Attn: Property Manager
809 North Broadway – 2nd Floor
Milwaukee, WI 53202-3617.

4. **Use; Compliance with Laws; Taxes/PILOT.** ABM may only use the leased premises for the following ABM-conducted commercial purpose ONLY: operation of a surface parking lot for vehicular parking on an hourly and daily parking basis (all subject to this Lease).

ABM must, at its expense, comply with all federal, state and local laws and regulations, and obtain and comply with requisite governmental permits and licenses concerning occupancy and activities at, and use of, the premises.

For periods during ABM tenancy hereunder, ABM shall pay the PILOT (payment in lieu of tax) amounts due under Wis. Stat. 66.1333 (12) relating to the Parcel.

5. **5-Year Term.** Subject to the termination provisions herein, this is a 5-year lease from the Effective Date to **May 31, 2026**.

6. **Utilities; Pay Stations; Booth.** Currently, the only utility at the Parcel is electrical service for lighting of the surface parking lot, for the pay stations, and for the employee shelter/booth at the Parcel (the “**Booth**”). ABM may not have any other utility service added or provided without RACM’s prior written consent, and on terms and conditions acceptable to RACM.

ABM is responsible for utility expense at the premises.

If ABM wants to add new pay stations to, or a new Booth at, the Parcel, ABM is responsible for such at ABM’s expense, and ABM must provide advance written notice of such to RACM, and obtain RACM’s prior written approval.

7. **RACM Rules.** ABM must comply with written RACM rules that RACM may, from time to time, establish for the premises. Initial RACM rules are:

A. No *storage* of vehicles (boats, cars, trailers, RV's, etc.) is allowed – only parking.

B. No hazardous or dangerous chemicals or materials.

C. No long-term overnight parking so as to amount to “storage” (see A above).

8. **Maintenance; Repair.**

A. ABM, at its expense, is responsible for all maintenance and repair at the Parcel – providing, however, that RACM's prior written consent is needed for any repair or other matter requiring any excavation, restriping, repaving or resurfacing, any repair or other matter that would involve new, reconfigured or relocated light poles, any repair or other matter that would involve a new or reconfigured Booth, and any repair exceeding \$5,000. Any maintenance or repair must be done with required permits obtained by ABM at its expense. ABM is responsible for all graffiti removal, all trash pickup, for any pavement maintenance and restriping maintenance.

Under Wis. Stat. 704.07 (1), in a commercial, nonresidential lease, landlord and tenant may agree to provisions other than in 704.07.

B. ABM shall keep striping of parking stalls visible. Tenant shall not alter striping lines or stall layout without RACM's prior written consent.

C. ABM, at its expense, shall keep the premises, and all *public sidewalks immediately abutting the entire Parcel*, free from snow and ice. So, ABM must shovel public walks abutting the entire Parcel.

D. ABM, at its expense, is responsible for care and maintenance of landscaping and vegetation in the premises and in the public right-of-way area between the sidewalk and the premises.

9. **Damage.** ABM is responsible for damage to the premises caused by, or attributable to, willful or negligent acts or omissions by ABM, or anyone claiming by, through, or under ABM, including invitees and ABM customers.

10. **Alterations; Improvements.**

A. ABM may not alter or improve the premises without RACM's prior written consent. Any such alteration or improvement must be in accordance with plans and specifications approved by RACM.

B. **\$100,000 ABM Improvement.** By **October 31, 2022**, ABM shall improve the Parcel by spending at least \$100,000 for surface repairs, new signage, new landscaping, and new LED lights. All of the work must be: at ABM's sole expense; done in accordance with applicable federal, state and local law and with requisite permits and governmental approvals; and must be done per a Work Plan approved by RACM prior to the commencement of the work. After completion of the work,

ABM must submit documentation to RACM to substantiate its spending on the work and to demonstrate that it spent at least \$100,000 in materials and labor.

11. Insurance. ABM, at its expense, must maintain in place during this Lease insurance meeting RACM's prior approval, and meeting the requirements and minimum coverages outlined in **EXHIBIT B** attached. ABM must provide RACM with evidence of insurance in the form of a certificate of insurance, meeting the **EXHIBIT B** requirements. The certificate must show ABM as the insured, and RACM and the City of Milwaukee as certificate holders and additional insureds. RACM must be afforded prior written notice prior to cancellation or change in coverage or nonrenewal. To the extent triggered, coverage shall include a waiver of subrogation in favor of RACM.

12. Indemnity; Hold Harmless. ABM shall indemnify and hold RACM and City harmless from and against claim, expense, damage, or liability to the extent caused by or attributable to the willful or negligent acts or omissions of ABM, its employees, agents or contractors.

13. RACM Access, Inspections. RACM may enter the premises to inspect same, and to show the premises to potential buyers and/or other third parties. As this is a surface parking lot, no advance notice is required. RACM shall not during such entries, interfere with ABM's use and occupancy. Without altering any ABM duty hereunder, RACM also reserves the right to enter in case of threat or danger to human safety and if RACM believes entry is necessary to preserve or protect the premises. Wis. Stat. 704.05(2). See Section 25 below regarding the Booth.

14. No Assignment; No Subletting. ABM may not convey, transfer, assign or sublet this Lease, any right of ABM hereunder, or any interest in and to the premises without RACM's prior written approval – providing however that ABM may charge vehicular parkers on an hourly and/or daily basis for the right to park in stalls at the premises (subject to this Lease).

15. Breach. ABM is in breach if ABM fails to perform ABM's obligations under this Lease as required, or if ABM commits waste. Without affecting any RACM termination right, in the event of ABM breach, RACM may provide written notice of breach to ABM demanding cure and compliance with this Lease.

16. Termination.

A. Notwithstanding the term of this Lease, or anything else to the contrary contained herein, RACM or ABM may terminate this Lease for *any reason* upon 90 days' advance written notice provided to the other.

B. RACM reserves the right to terminate on less than 90-days advance written notice as allowed by Wis. Stat. Ch. 704.

C. RACM may, per Wis. Stat. 704.17, terminate on less than 28 days' notice for ABM failure to pay rent, or ABM breach of Lease, or if ABM commits waste, or per 704.19 (2)(a)2, if ABM surrenders the premises. If ABM fails to conduct parking business operations at the premises for 10

consecutive days without written notice of such absence or inactivity to RACM and without RACM approval, RACM may, in its discretion, deem that ABM has surrendered and abandoned the premises. And, under Wis. Stat. 704.19 (2)(a)1, the parties agree that RACM may terminate this Lease on less than 28 days' notice if RACM determines the premises are unsafe for occupants.

D. Nothing contained herein affects RACM's other rights under law, or City of Milwaukee rights under law, including, but not limited to: City building-inspection rights; rights under MCO 200-11-5 and 200-12.5 to placard and order the closing and discontinuation of occupancy of unsafe structures and units; the right to terminate under Wis. Stat. 704.17 (1)(c) after notice from law enforcement of an 823.113 nuisance regarding controlled substances or criminal gangs; RACM rights under Wis. Stat. 704.27 to recover against ABM if ABM remains in possession without RACM's consent after Lease expiration or termination; and RACM rights under Wis. Stat. 799.40 regarding past due rent and eviction.

17. Departure At Termination; Key Return; Personal Property. Upon Lease expiration or termination, ABM must: vacate the premises; remove all ABM personal property and ABM parking-related fixtures such as pay-stations and Booths; remove all vehicles from the premises; repair any damage attributable to ABM, occupants, ABM customers or invitees, or ABM occupancy or departure; and leave the premises in broom-clean condition. Unless agreed to in writing by RACM, ABM shall not remove any other fixtures or attached equipment, including, but not limited to, lighting fixtures.

Per Wis. Stat. 704.05 (5)(bf), this is notice to ABM that RACM does not intend to store personal property left behind by ABM. Per Wis. Stat. 704.05 (5)(a)1, if ABM removes from the premises and leaves personal property, RACM may presume that ABM abandoned the personal property and RACM may dispose of same in any manner that RACM, in its sole discretion, determines appropriate. Wis. Stat. 704.05. If ABM leaves behind a "manufactured home," a "mobile home," or a "titled vehicle" as defined in Wis. Stat. 704.05 (b)1, prior to disposing of same, RACM will give notice of intent to dispose per Wis. Stat. 704.05 (b)(2).

18. Wisconsin Law; 893.80. Wisconsin law applies. RACM reserves all rights at law and in equity, including, but not limited to, all rights under Wis. Stat. 893.80.

19. Smoke & Carbon-Monoxide Detectors; Fire Suppression. ABM agrees that the premises are not, and do not contain, a "residential building"¹ as defined in either Wis. Stat. 101.145 or 101.149. ABM shall supply and maintain, and be responsible for, properly functioning smoke and carbon monoxide detectors in the Booth, and fire suppression as required by law at the Booth, including a fire extinguisher in the Booth. ABM agrees to test all detectors at least monthly. ABM shall abide by all required fire inspections.

20. Lead-Based Paint Risk. Structures built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust, may pose health hazards if not properly managed. Exposure to

¹ "Residential building" under 101.145 (1)(a) is "any public building which is used for sleeping or lodging purposes and includes any apartment house, rooming house, hotel, children's home, community-based residential facility or dormitory but does not include a hospital or nursing home." Under 101.149 (1)(b) it is "a tourist rooming house, a bed and breakfast establishment, or any public building that is used for sleeping or lodging purposes" but does not include a hospital or nursing home.

lead may be harmful – especially to children and pregnant women. The Booth was constructed by ABM.

21. Notices. Notices required or desired to be given by one party to another party under this Lease shall be in writing and shall be: (i) delivered personally; (ii) sent by e-mail, provided any e-mail is sent successfully (for example, no error or inability to send message is generated as a result of any such e-mail sent); (iii) sent by commercial overnight courier service, prepaid; or (iv) sent by United States mail, postage prepaid; and, notices shall be addressed and given as follows, provided that recipient address information (such as change in e-mail address, or contact person) may, from time to time, be changed by notice duly sent hereunder:

<u>If to RACM:</u>	<u>If to ABM:</u>
<p>Dan Casanova Department of City Development 809 North Broadway, 2nd Floor Milwaukee, WI 53202 Telephone: (414) 286-5921 Email: dcasan@milwaukee.gov</p> <p>With a copy to:</p> <p>Gregg Hagopian City Attorney’s Office 841 N. Broadway – 7th Floor Milwaukee, WI 53202 Telephone: (414) 286-2620 Email: ghagop@milwaukee.gov</p>	<p>Brian Bush ABM Parking Services, Vice President 1459 Hamilton Ave. Cleveland, Ohio 44114 Telephone: (216) 367-7906 E-mail: brian.bush@abm.com</p> <p>With a copy to:</p> <p>Matt Andrews ABM Parking Services, Branch Manager 180 N. LaSalle Street, #1700 Chicago, Illinois 60601 Telephone: (312) 342-6979 Email: matt.andrews@abm.com</p>

22. RACM Executive Director. When RACM approval or consent is required hereunder it shall be sought from the RACM Executive Director.

23. Events.

A. Events. RACM or its designee (“Designee”) may, in any calendar year, use anywhere from one striped parking space at the premises to all of the premises for up to 15 calendar days for RACM-designated purpose or for special events (in either case an “Event”), and in any case of any such Event: (i) the amount of Rent that Tenant pays hereunder shall be reduced by the number of striped-parking stalls used for each such Event for each such day (calculated using the total number of stalls then in the then-existing premises, and using the then-monthly Rent amount divided by 30 to get the daily Rent amount per stall); (ii) RACM (or its Designee) shall return that portion of the premises used for the Event to ABM after the Event in the same condition that existed prior to the Event (reasonable wear and tear only excepted), and (iii) RACM shall provide ABM with at least 15 days advance written notice prior to the Event.

The following table provides an example for illustration purposes only. The example assumes there is 1 Event in calendar year 2021, that Rent is \$20,000 per month in 2021, and that there are 243 stalls, meaning \$82.30 per stall per month, and \$2.74 per stall per day (daily rent shall be calculated assuming a month with 30 days).

1 st Event	Event lasts 4 days, using entire premises (assuming 243 stalls then in the premises).	4 days.	ABM gets a total Rent Credit for this Event as follows. 4 days x 243 stalls x \$2.74 = \$2,663.28.
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B. In case of any Event:

(1) RACM, or if RACM has a Designee then RACM’s Designee, shall be responsible for paying any utility expense used at the Event.

(2) RACM, or if RACM has a Designee then RACM’s Designee, shall be responsible for any damage caused to the premises attributable to the Event (providing same is not caused by the willful or negligent acts or omissions of ABM or ABM’s invitees, agents or employees).

(3) RACM, or if RACM has a Designee then RACM’s Designee, shall maintain that portion of the premises used for the Event during the Event.

(4) RACM (subject to its rights under Wis. Stat. 893.80), or if RACM has a Designee then RACM’s Designee, shall indemnify and hold harmless ABM against claim, expense, damage, or liability to the extent caused by or attributable to the willful or negligent acts or omissions of RACM or its employees or agents or contractors (or if RACM has a Designee then by the willful or negligent acts or omissions of Designee or its employees or agents or contractors).

(5) RACM, or if RACM has a Designee then RACM’s Designee, shall have vehicular and pedestrian access to the area designated for the Event.

(6) The Notice from RACM to ABM for the Event shall, if applicable, identify the Designee of RACM.

24. Entire Agreement; Amendments. ABM has no other interest in the premises or Parcel except as a tenant under this Lease. This Lease is the entire agreement between the parties with respect to the subject matter herein and all oral statements (and all prior lease agreements) are of no effect. This Lease may only be amended by written document signed by both RACM and ABM.

25. Keys to Booth. ABM shall provide to RACM a duplicate key for all entry locks at the premises, including to the Booth. RACM may not enter the Booth except upon 24 hours advance written notice to ABM or as allowed by law. See also Section 13.

26. **Counterparts.** This Lease may be signed in one or more counterparts, each of which, when taken together, shall be construed as one and the same document. Facsimile and/or PDF-email signatures shall be accepted as originals.

27. **Severability.** Per Wis. Stat. 704.02, the provisions of this Lease are severable such that the invalidity or unenforceability of a provision does not affect other provisions of the Lease.

28. **Sculpture.** There is currently a sculpture on the premises. It is not the property of ABM and ABM does not have to maintain or repair it (unless ABM causes damage to the sculpture). ABM consents to the sculpture remaining on the premises without any credit against or offset of Rent otherwise due. At Lease termination or expiration, ABM does not have to remove the sculpture.

IN WITNESS WHEREOF, RACM and ABM enter this Lease as of the Effective Date specified above.

<p>RACM: REDEVELOPMENT AUTHORITY OF THE CITY OF MILWAUKEE</p> <p>By: _____ Francis Hardrick, Board Chair</p> <p>And By: _____ David P. Misky, Asst. Exec. Dr./Secretary</p> <p>RACM Resolution No. _____</p> <p>City Common Council Res. No. _____</p>	<p>TENANT: ABM ONSITE SERVICES - MIDWEST, INC.</p> <p>By: _____</p> <p>Name Printed: _____</p> <p>Title: _____</p> <p>And By: _____</p> <p>Name Printed: _____</p> <p>Title: _____</p>
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EXHIBIT A
MAP OF PARCEL

EXHIBIT B
INSURANCE