

**LICENSE AGREEMENT BETWEEN  
THE CITY OF LA CROSSE  
AND  
LA CROSSE QUEEN, LLC**

***THIS LICENSE AGREEMENT*** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2018, intended to be effective January 1, 2019, by and between ***City of La Crosse***, a municipal corporation and body politic of State of Wisconsin (hereinafter referred to as the “Licensor”), and ***La Crosse Queen, LLC***, a Wisconsin Corporation (hereinafter referred to as the “Licensee”).

1. Licensed Premises. The Licensor hereby agrees to license to Licensee those certain Premises in the City of La Crosse, County of La Crosse, State of Wisconsin, more particularly described as:

*A legal description and map for said premises is attached hereto as Exhibit “A”, which is made part of this License and incorporated herein by this reference.*

2. Licensed Area.

A. Licensee accepts the Licensed Premises “as is” and acknowledges that it has inspected the Licensed Premises and determined it to be suitable for Licensee's use. Licensee agrees that it is not relying on any oral or written representations of Licensor concerning the Licensed Premises (including but not limited to dimensions, soil conditions, environmental conditions, municipal restrictions, or uses by adjoining or third parties). There is no warranty or representation given by the Licensor as to the condition of the Licensed Premises.

B. The Licensee acknowledges and admits that the Licensed Premises is at risk of flooding on an annual basis and as such has been designated by the State of Wisconsin and the United States government as floodway, flood fringe or flood plain. These areas are subject to extensive rules and regulations related to the use of the same which the Licensee agrees to be in full compliance during the entire term of this License Agreement and any renewal of the same.

3. Allowed Operations and Uses within the Licensed Premises.

A. For and in consideration of the covenants, conditions and agreements hereinafter contained, Licensor hereby grants permission to Licensee to use the Licensed Premises for the docking and operation of the La Crosse Queen excursion boat, loading barge, and office/gift shop located on the Licensed Premises. Food and beverage catering is permitted on the La Crosse Queen excursion boat. Licensor understands and agrees that the excursion boat, two loading ramps from shoreline, and office/gift shop barge are personal property of the Licensee. No gasoline or oil shall be sold or provided to any third party on said docking areas or the Licensed Premises. Licensee may use gasoline

and oil solely to fuel its excursion boat provided such materials are kept in appropriate and fire-rated containers.

B. No other businesses, activities, or uses may take place on the Licensed Premises on either a permanent or temporary basis without the advance written consent and agreement of any additional terms and conditions set forth by the Licensor, which shall include both the City Council and the Park Board.

C. In conducting any of the above operations or uses, the Licensee and any sub-licensee must be in full compliance with all of the codes, ordinances, statutes, rules and regulations of the City of La Crosse, County of La Crosse, State of Wisconsin and the United States Government and any of their committees, boards, agencies or commissions.

4. Term.

A. The commencement date for this License shall be January 1, 2019 with the Initial Term expiring on December 31, 2019. Upon mutual agreement of Licensor and Licensee, the License may be renewed for one year periods for a total of five additional years.

B. The anniversary date of the License shall be the first day of January of each year.

5. Fees and Accounting.

A. Fee Payment.

1. For the License year commencing January 1, 2019, and each License year thereafter, the Licensee agrees to pay to the Licensor as a fee a sum equal to two percent (2%) of any and all gross income derived or originated from the Licensed Premises, regardless of the source of the same, or Twelve Thousand and 00/100 Dollars (\$12,000), whichever is greater.

2. The fee shall be paid in two equal installments of Six Thousand and 00/100 Dollars (\$6,000) with the first payment due on July 1<sup>st</sup> and the second payment due on November 15<sup>th</sup> of each year of the License Agreement.

3. Each fee installment shall be paid, without demand, at the Office of the Treasurer, 400 La Crosse Street, 2<sup>nd</sup> Floor, La Crosse, WI 54601. If any and all fees due under this License are not made within five (5) days of the original due date, a late payment penalty of ten percent (10%) of the amount due will be assessed and added to the amount due. In addition, any and all fees required from Licensee to Licensor shall accrue interest at the rate of eighteen percent (18%) annum from and after their due date until paid. Fee payments will be deposited in the Riverside Park Improvement Fund.

B. Definition of Gross Income. The term “Gross Income” as used in this License shall mean the gross amount received or derived from any source whatsoever on the Licensed Premises, by either cash, credit or trade (whether payment is actually received for sales credit or not) from all sales or merchandise, services and from income from all other sources derived from business conducted on the Licensed Premises, including orders received on the Licensed Premises but filled elsewhere.

C. Deductions from Gross Income. There shall be excepted from the Licensee’s gross income, as such term is used herein, the amount of all sales tax receipts which are required to be accounted for by Licensee to any government or governmental agency.

D. Accounting.

1. The Licensee shall keep, or cause to be kept, full, complete and proper books, records and accounts of the gross sales and credits of such separate department, sub-licensee or division at any time operated in or on the demised Licensed Premises; such books, records and accounts, including any sales tax reports that the Licensee may be required to furnish to any governmental agency, shall, at all reasonable times, be open to the inspection of the Licensor, Licensor’s auditor or other authorized representative or agent at no cost to Licensor or Licensor’s agents. If the Licensee fails to supply any and all records when asked or attempts to charge a fee or cost of any kind for inspection, reproduction, review or duplication of these records, it will be an immediate monetary default under the terms and conditions of this License.

2. All books shall be maintained on an accrual accounting basis.

3. Records.

a. On or before April 30<sup>th</sup> of each year, the Licensee shall furnish the Licensor with a balance sheet and income statement, reviewed and approved by an accountant chosen by the Licensee, certifying all income and expenses from all operations in or on the Licensed Premises, divided by each department or operation. These records shall clearly set forth the gross income made in or from the demised Licensed Premises during the License year just concluded and the authorized deductions, if any, therefrom.

b. On or before April 30<sup>th</sup> of each year, the Licensee shall provide the Licensor signed copies of all state and federal tax returns and all sales tax reports for the prior year for the Licensee and for all business which derived income from, in or on the Licensed Premises. In the event that Licensee obtains an extension on filing its tax returns and/or sales tax reports, such tax returns and/or report shall be provided to Licensor as required in this provision by June 30<sup>th</sup> of said year.

c. Licensor and Licensee agree that confidential, financial, and trade secret records provided by Licensee pursuant to this section shall not be disclosed to any third party without the consent of Licensee except as required by law or ordered by a court.

E. Year-End Adjustment.

1. On or before April 30<sup>th</sup> of each year, a final adjustment and accounting for the preceding License year shall be had to determine the gross income of the preceding License year and the amount of percentage fee due the Licensor for the preceding License year. This accounting shall be forwarded to the Licensor in a written format, in form and substance satisfactory to the Licensor.

2. In the event the amounts of percentage rent due for said year is more than what was actually paid by the Licensee then a payment representing the balance due shall be made with the accounting set forth above.

6. Audit of Books and Records.

A. The Licensor may, at Licensor's expense, audit the books and records of the Licensee and/or Sub-licensee to determine compliance with the obligations of this License Agreement. The Licensee agrees to assist and comply with all instructions related to the same.

B. If there is a determination by the auditor of an error in the books and records of the Licensee or Sub-licensee which would result in a payment to the Licensor of Five Hundred and 00/100 Dollars (\$500.00) or more, the costs of the audit shall be borne by the Licensee. Licensor and Licensee have the right to dispute the findings of the auditor if additional information is available that contradicts the auditor's findings.

7. Security Deposit.

A. The Licensee shall pay a security deposit to Licensor equal to the sum of Twelve Thousand and 00/100 Dollars (\$12,000.00). Said security deposit shall be paid in five (5) installments of Two Thousand and Four Hundred and 00/100 Dollars (\$2,400.00) each paid annually commencing on or before July 1, 2011, and on July 1 each and every year until the deposit has been paid in full.

B. These funds may only be drawn by the Licensor to cover defaults in fee payments, water and sewer bills, utilities, and any amounts due under this License and/or to refund deposits collected by Licensee in the event of default and termination of this License. If there is no default, the deposit, less any deductions, will be released within sixty (60) days of surrender of the Licensed Premises to the Licensor. If there is a default, the deposit will not be released until the final computation all damages and deductions are made by the Licensor.

8. Compliance with all Laws.

A. Licensee shall, at its own cost and expense, be responsible to promptly comply and conform with all present and future laws, ordinances, rules, requirements and regulations of the federal, state, county and city governments and of any and all other governmental authorities or agencies affecting the Licensed Premises or its use, and Licensee shall, at its own cost and expense, make all additions, alterations or changes to the Licensed Premises or any portion thereof as may be required by any governmental authority or agency.

B. Licensee shall, during the entire term of this License, comply with all applicable federal, state, and local environmental laws, ordinances and amendments thereto and rules and regulations implementing the same, together with all common law requirements, which relate to discharge, emission, waste, nuisance, pollution control, hazardous or toxic substances and other environmental matters as the same shall be in existence during the term hereof. All of the foregoing laws, regulations and requirements are hereinafter referred to as Environmental Laws. Licensee shall obtain all environmental licenses, permits, approvals, authorizations, exemption, classifications, certificates and registrations (hereinafter collectively referred to as Permits) and make all applicable filings required of Licensee under the Environmental Laws to operate at the Licensed Premises. The Permits and required filings shall be made available for inspection and copying by Licensor at Licensee's offices upon reasonable notice and during business hours. Licensee shall not cause or permit any flammable explosive, oil, contaminant, radioactive material, hazardous waste or material, toxic waste or material or any similar substance (hereinafter collectively referred to as Hazardous Substances) to be brought upon, kept or used in or about the Licensed Premises except for small quantities of such substances as is necessary for the business conducted upon the Licensed Premises provided that Licensee shall handle, store, use and dispose of any such Hazardous Substance in compliance with all applicable laws and in a manner which is safe and does not contaminate the Licensed Premises.

C. If any lender or governmental agency shall ever require testing to ascertain whether or not there has been any release of any Hazardous Substance on or about the Licensed Premises by any occupant of the Licensed Premises during the License term, then the reasonable costs thereof shall be reimbursed by Licensee to Licensor upon demand. Licensee shall deliver to Licensor Material Safety Data Sheets describing all Hazardous Substances stored, used or disposed of on the Licensed Premises. Licensee shall also, from time to time, at Licensor's request, execute such other affidavits, representations and the like concerning Licensee's best knowledge and belief regarding the presence of Hazardous Substances on the Licensed Premises. Licensee agrees to indemnify and hold Licensor harmless from any liability, claim or injury, including attorney fees and the cost any required or necessary repair, clean-up, remediation or detoxification, arising out of (i) the use, manufacture, handling, storage, disposal or release of any Hazardous Substances by Licensee, its agents and employees and any sub-licensee and its agents and employees on, under or about the Licensed Premises, or (ii) an actual or alleged violation of Environmental Laws in connection with the occupancy of

the Licensed Premises by Licensee or any occupant of the Licensed Premises or the operation of Licensee's business on the Licensed Premises during the term of the License. The foregoing indemnification shall survive the expiration or earlier termination of this License. It is agreed that Licensor shall also indemnify Licensee for any payment Licensee is required to make with regard to necessary testing, repair, cleanup, remediation, or detoxification with regard to any environmental damage which existed prior to Licensee's occupancy of the Licensed Premises. Licensor shall also hold Licensee harmless for any liability Licensee may have to any third party as a result of any environmental claim or condition prior to Licensee's occupancy of the Licensed Premises.

9. Signage. Licensee's previously approved signs located on the Licensed Premises may continue. In the event that Licensee seeks to modify, alter, or add signs on the Licensed Premises, such signs must comply with all codes and ordinances of the City of La Crosse and be approved in advance by the Park Board. Licensee is responsible for all costs and expenses associated with signs, including but not limited to the installation, maintenance, and removal of signs.
10. Ownership and Control of Licensee.
  - A. Licensee states that as of the date of signing of this License, all persons and entities with interest in the Licensee's corporation are disclosed on the attached Exhibit "B" which is incorporated herein by this reference as if set forth in full.
  - B. If there is a change in the number of shares or the number of Members by fifty percent (50%) or more, then such transfer must be approved in advance, in writing, by the Licensor and the Park Board. This approval may not be unreasonable withheld.
  - C. On an annual basis, on or before February 15<sup>th</sup> of each year, a disclosure signed and authenticated by the Members of the corporation setting forth the current Officers, Directors and Members of the Licensee, along with the percentage of ownership of each Member shall be provided to the Licensor.
11. Licensor's Right of Entry and Inspection.
  - A. Licensor shall have the right to enter the Licensed Premises upon twenty-four (24) hours notice, for the purpose of verifying compliance with the terms and conditions of this License. Licensor shall have the right to enter the Licensed Premises without notice in the case of emergency.
  - B. Licensor may also request any and all records from Licensee pertinent to this License, at no cost, upon ten (10) days advance notice for the purpose of verifying compliance with the terms and conditions of this License.
  - C. Licensee understands and acknowledges that Licensor is subject to the Public Records Law of the State of Wisconsin. As such, Licensee agrees to retain all records as

defined by Wisconsin Statute § 19.32(2) applicable to this License for a period of not less than seven (7) years after the termination or expiration of this License. Licensee agrees to assist Licensor in complying with any public records requests that Licensor receives pertaining to this License. Additionally, Licensee agrees to indemnify and hold harmless Licensor, its elected and appointed officials, officers, employees, and authorized representatives for any liability, including without limitation, attorney fees related to or in any way arising from Licensee's actions or omissions which contribute to Licensor's inability to comply with the Public Records Law. In the event that Licensee decides not to retain its records for a period of seven (7) years, then it shall provide written notice to Licensor whereupon Licensor shall take custody of said records assuming such records are not already maintained by Licensor. This provision shall survive the termination this License.

12. Repairs and Improvements.

A. The Licensee, during the term of this License or any extension or renewal of this License, shall, at its expense, make all repairs as shall be reasonably necessary to keep said Licensed Premises in good condition and repair. Licensee shall be responsible for maintaining its trade fixtures, furniture and personal property, including but not limited to excursion boat, loading ramps, and barges. Licensor shall be responsible for maintaining the public access areas, including but not limited to the sidewalks, shelter and grass areas. As a municipal corporation, Licensor's maintenance is contingent upon certain approvals and funding allocations by its governing body.

B. Prior to the commencement of any work, other than standard repairs and maintenance, all improvements must be approved in advance by the Park Board and proper permits obtained.

C. The Licensee further agrees that all damage or injury done to the Licensed Premises by the Licensee, its sub-licensees, invitees and guests shall be repaired by the Licensee at its expense. The Licensee agrees, at the expiration of this License or upon the earlier termination thereof, to quit and surrender said Licensed Premises in good condition and repair, reasonable wear and tear excepted.

13. Assignment and Subletting.

A. The Licensee shall not assign this License or any interest therein, nor let or underlet the said Licensed Premises or any part thereof or any right or privilege appurtenant thereto, nor permit the occupancy or use of any part thereof by any other person without the advance written consent of the Licensor, which shall include both the City Council and its Park Board.

B. All sublicenses, assignees and sub-licensees are bound by the terms and conditions of this License, regardless of any statement to the contrary within any sublicense or assignment document.

C. Licensee grants to the Licensor the right to enforce the terms of any sublicense and further the right to enforce this License on any sub-licensee or assignee.

14. Insolvency. If any proceedings in bankruptcy or insolvency are filed against the Licensee, or if any writ of attachment or writ of execution is levied upon the interest herein of the Licensee and such proceedings or levy shall not be released or dismissed within sixty (60) days thereafter, or if any sale of the license hold interest hereby created or any part thereof should be made under any execution or other judicial process, or if the Licensee shall make any assignment for benefit or creditors or shall voluntarily institute bankruptcy or insolvency proceedings, the Licensor, at Licensor's election, may re-enter and take possession of said Licensed Premises and remove all persons therefrom and may, at Licensor's option, terminate this License.
15. Attorney Fees. In the event a suit is brought to enforce this License, the prevailing party shall be allowed to recover its costs, including reasonable attorneys fees, from the nonprevailing party.
16. Default. The occurrence of any of the following shall constitute a default by the Licensee:
  - A. Failure to timely pay any amounts due under this License if the failure continues for a period of ten (10) days after written notice has been given to the Licensee of the Default. If any payment due under this License is not made within five (5) days of the original due date, a late payment penalty of ten percent (10%) of the amount due will be assessed and added to the amount due. In addition, any payment required from Licensee to Licensor shall accrue interest at the rate of eighteen percent (18%) annum from and after its due date until paid.
  - B. Abandonment and Vacation of the Licensed Premises. Failure to occupy and operate the Licensed Premises for twenty (20) consecutive days may, at the option of the Licensor, be deemed an abandonment and vacation. Regarding the requirement to occupy and operate, Licensor understands that Licensee's active operation season for the excursion boat is from April 1 until October 31.
  - C. Failure to supply any documents or records required under this License.
  - D. Licensee's willful or malicious substantial injury to the Licensed Premises or commission of waste to the same.
  - E. Licensee's making of an assignment for the benefit of creditors, which is not approved in advance by the Licensor.
  - F. Failure to perform any other provision of this License if the failure to perform is not cured within thirty (30) days after notice has been given to the Licensee to cure the default. This time frame for curing the default may be extended in the sole discretion by



the Park Board or City Council upon a showing by Licensee of reasonable efforts to correct the same and that the cure cannot be made with the thirty (30) day notice period.

17. Non-Waiver of Default.

A. The subsequent acceptance of a fee payment hereunder by the Licensor shall not be deemed a waiver of any preceding breach of any obligation hereunder by the Licensee other than the failure to pay the particular fee so accepted.

B. The failure by the Licensor to assert or notice a default under this License in a timely manner is not considered a waiver or acceptance of the default.

18. Insurance.

A. The Licensee hereby agrees to indemnify the Licensor against and to hold the Licensor harmless from any and all claims or demands for loss of or damage to property or for injury or death to any person from any cause whatsoever while in, upon or about the demised Licensed Premises during the term of this License or any extension hereof. The Licensee agrees to take out and maintain with a reputable insurance company, at its sole cost and expense, public liability insurance against property damage or personal injury growing out of the use of or occurring on or about the Licensed Premises, with minimum liability limits of \$1,000,000.00 property damage (adjusted annual for the changes due to increases in valuation, improvements or additions to the Licensed Premises) and \$1,000,000.00 per occurrence, \$2,000,000.00 aggregate for personal injury and liability, along with an additional \$2,000,000.00 umbrella policy to cover all incidents, accidents or occurrences on or about the Licensed Premises. The Licensor shall be named as co-insured and as loss payee on all such policies and shall be entitled to a certificate of the insurer showing said coverage to be in effect. The Licensee and insurance company shall provide an endorsement certificate to the Licensor guaranteeing the coverage and amounts of coverage set forth in this License.

B. Licensee shall, at its own cost and expense, during the License term carry insurance against fire, vandalism, malicious mischief and such other perils as are from time to time included in a standard extended coverage endorsement, insuring all trade fixtures, furnishings, equipment and all other items of Licensee's personal property located at the Licensed Premises.

C. The Licensee shall obtain from any Sub-licensees Certificates of Insurance in the amounts and terms set forth in Paragraph 18(A) and 18(B) naming the Licensor as an additional insured.

19. Utilities and Services. Licensee shall, in its own name, pay when due any and all charges for all utilities for the Licensed Premises. Under no circumstances shall Licensor be responsible for any interruption of any utility service. Licensor will provide trash receptacles for Licensee's use and Licensor will provide trash removal services.

Licensee shall cooperate with Licensor and comply with laws and regulations regarding trash disposal.

20. Destruction of Licensed Premises.

A. In the event of a total or partial destruction of the Licensed Premises, not including any structures, buildings, or personal property, during the term from any cause, the Licensor shall forthwith repair the same, provided funding is appropriated for such repairs and the repairs can be made within ninety (90) days under the laws and regulations of state, federal, county or municipal authorities.

B. Should the total or partial destruction result from causes covered by the fire and extended coverage insurance furnished by the Licensee, the insurance proceeds shall be made available to the Licensee to affect the required repairs.

C. If such repairs cannot be made within ninety (90) days, this License may be terminated at the option of either party.

21. Alterations. The Licensee shall not make, or suffer to be made, any alterations of the real property or without the written consent of the Licensor first made and obtained; and any additions to, or alterations of, the real property improvements shall become at once a part of the realty and belong to the Licensor. If written consent of the Licensor to any proposed alterations by the Licensee shall have been obtained, the Licensee agrees to advise Licensor in writing of the date upon which such alterations will commence in order to permit the Licensor to post notice of no responsibility. The Licensee shall keep the demised Licensed Premises free from any and all liens arising out of any work performed, materials furnished or obligations incurred by Licensee.

22. License Termination. For reasons other than default, the License may terminate for the following reasons:

A. A change in the laws, rules or regulations governing lands located in flood areas that make any of the operations located on these Licensed Premises illegal or require the cessation of such activities.

B. Notwithstanding any other provision contained herein, the License shall automatically terminate upon the occurrence of any of the events described below:

1. A petition by or against the License Holder under the bankruptcy laws of the United States, which petition is not dismissed within ninety (90) days from the date of such filing;

2. The assignment by License Holder of its assets for the benefit of creditors under any state insolvency laws;

3. Conduct by License Holder of its business under any trustee or other person appointed pursuant to judicial proceedings;

4. The taking by a court of jurisdiction of the License Holder and its assets pursuant to proceedings brought under the provisions of any federal or state reorganization act;

5. The appointment of a receiver of the License Holder's assets; or

6. A lapse in the insurance coverage the License Holder is required to maintain pursuant to this License Agreement.

23. Abandonment. The Licensee agrees not to vacate or abandon the Licensed Premises at any time during the demised term. Should the Licensee vacate or abandon said Licensed Premises or be dispossessed by process of law or otherwise, such abandonment, vacation or dispossession shall be a breach of this License, and in addition to any other rights which the Licensor may have, the Licensor may remove any personal property belonging to the Licensee which remains on the demised Licensed Premises and store the same, such removal and storage to be for the account of and at the expense of the Licensee. The Security Deposit of the Licensee may be used to pay any removal, transportation, cleaning and storage fees incurred by the Licensor.

24. Laws and Regulations. The Licensee, at its own cost and expense, shall comply promptly with all laws, rules and orders of all federal, state and municipal governments or departments which may be applicable to the Licensed Premises, and shall likewise promptly comply with the requirements of the Board of Fire Underwriters concerning the Licensed Premises.

25. Notices. All notices to be given to the Licensor and Licensee shall be in writing, and either personally delivered or deposited in the United States mail, certified or registered, with postage prepaid, and addressed as follows:

Licensor: City of La Crosse  
Attn: City Clerk  
400 La Crosse Street  
La Crosse, WI 54601

With copy to:

City of La Crosse  
Attn: City Attorney  
400 La Crosse Street  
La Crosse, WI 54601

and

City of La Crosse

Attn: Director of Parks and Recreation  
400 La Crosse Street  
La Crosse, WI 54601

Licensee: La Crosse Queen, LLC  
Attn: Kathy Jostad  
405 Veterans Memorial Drive  
P.O. Box 1805  
La Crosse, WI 54601

With copy to:  
Attorney David F. Stickler  
Moen, Sheehan & Meyer, Ltd.  
201 Main Street, Suite 700  
La Crosse, WI 54601

Change of address by either party must be by notice given to the other in the same manner as above specified.

26. Guaranty.

A. Parties agree that in order to induce Licensor to enter into this License, the Licensor is requiring the personal guaranties of the Members of five percent (5%) or more of the outstanding and issued stock of the Licensee. The personal guaranty is attached hereto as Exhibit "C" and is made part of this License and incorporated herein by this reference as if set forth in full.

B. Should any person acquire five percent (5%) or more of interest in the Licensee, then they must also sign this personal guaranty prior to transfer of any shares to that person or entity. If this guaranty is not signed by the acquiring party, then this License is in default.

C. The Licensor is not required to accept corporate guaranties and may require that the beneficial or personal owners of any business entities sign this guaranty in their individual capacity.

27. Relationship of Parties. It is understood and agreed that the relationship of the parties hereto is strictly that of Licensor and Licensee. The Licensor is the owner of the Licensed Premises, but this License shall not be construed as a joint venture or partnership. The Licensee is not and shall not be deemed to be agent or representative of the Licensor.

28. Personal Property. The Licensor acknowledges it has no interest in any of the personal property of the Licensee until the termination of the License. Licensee will pay all personal property taxes assessed against its improvements.

29. Defense and Indemnification. Licensee shall indemnify and hold harmless said Licensor relative to any enforcement actions, remedial actions, orders of removal, fines, penalties, or any other damages that may be suffered by Licensor on account of or arising out of the Licensee's activities or course of conduct, in the event any of such are imposed upon by Licensor by any Federal, State, local or other governmental agency.

Licensee agrees to defend, hold harmless and indemnify Licensor from all claims and demands that may be made against Licensor arising out of and in connection with the Licensee's use or occupancy of the Licensed Premises. Licensee further agrees to defend, hold harmless and indemnify Licensor from against all damages, losses, costs, reasonable attorneys' fees, charges and expenses which Licensor may have sustained, incur or be liable for in connection with any such claims or demands arising out of and in connection with the Licensee's use or occupancy of the Licensed Premises, unless such damages are caused by the Licensor or its agents.

Licensor shall not be liable for damage to Licensee's property for any reason.

30. Third-Party Benefits and Assignment. This License is entered into for the sole and exclusive benefit of the parties to the License and their respective successors and assigns; no third-party is intended to receive or be entitled to any rights hereunder, except as set forth herein.
31. Choice of Law. This License shall be governed by the laws of the State of Wisconsin and any action concerning the License shall be venued in the Courts of the State of Wisconsin and the parties hereby submit to the personal jurisdiction of the Courts of Wisconsin, both Federal and State, in any action with respect to this License and agree that any State Court action shall be venued in the Circuit Court of La Crosse County, Wisconsin. Any claims against the Licensor are governed by the statutes, law and rules for claims against municipalities. The parties agree that in the event of a dispute, all parties waive the right to a trial by jury.
32. Surrender of Possession.

A. At the expiration or termination of this License, whether by lapse of time or otherwise, Licensee shall surrender the Licensed Premises including any of Licensee's alterations, additions, and improvements, but excluding Licensee's equipment, personal property and furnishings, in good condition and repair, reasonable wear and tear excepted.

B. Upon the termination of this License, Licensee shall have the right to remove from the Licensed Premises all trade fixtures, furniture or other personal property which may have been installed on the Licensed Premises by Licensee but expressly excluding ductwork and any electric installations. It is further understood that any and all signs placed on or about the Licensed Premises by Licensee shall be and remain the sole property of Licensee and may be removed by Licensee at any time. Licensee shall repair

any damages occasioned by the placement, maintenance or removal of any such property or signs. In the event that Licensee is unable to remove certain trade fixtures, furnishings, equipment or other personal property due to the river not being navigable, Licensee shall contact Licensor and advise Licensor of the same. Upon the river being navigable, Licensee shall remove such trade fixtures, furniture or other personal property.

33. Access by the Public.

A. The public shall have access to all areas of the Licensed Premises or parking areas at any time for recreational purposes, including but not limited to walking, running, biking, and fishing without a fee or charge. This does not include access to the Licensee's trade fixtures, furnishings, equipment or other personal property, except as Licensee otherwise determines.

B. The public and Licensee shall follow all Rules and Regulations of the Licensor related to the Licensed Premises and the park, including but not limited to closing due to flooding, park hours, and any other rules and regulations.

34. Miscellaneous.

A. The paragraph captions in this License are for convenience only and shall not in any way limit, define, or construe the scope of any article of this License, nor offset the provisions thereof.

B. This License shall be construed in accordance with the laws of the State of Wisconsin as a Wisconsin contract.

C. The failure of either party to exercise or to complete the exercise of any right or remedy permitted hereunder shall not be deemed a waiver of that party's right to insist upon full performance of any condition hereof in the future.

D. Licensee affirms and agrees that Licensor and its agents have made no representations or promises with respect to the Licensed Premises for the entry into of this License except as in the License expressly set forth and that no claim or liability shall be asserted by Licensee against Licensor or its agents for breach of any representations or promises not expressly stated herein.

E. None of the covenants, provisions, terms or conditions of this License to be kept or performed by Licensor or Licensee shall be in any manner modified, waived or abandoned, except by a written instrument duly signed by the parties and delivered to this Licensor and Licensee. This License contains the whole agreement of the parties.

F. If any provisions of this License or any specific application shall be invalid or unenforceable, the remainder of this License shall not be affected and each provision of this License shall be valid and enforceable to the full extent permitted by law.

G. The covenants, conditions, and terms of this License shall be binding upon the respective parties, their heirs, personal representatives, successors and assigns.

H. The officers of the Licensee who are executing and attesting to this License hereby represent and warrant that they have full power, authority and right to execute this License and said officers represent and warrant that the execution and delivery of this License has been duly authorized by the Board of Directors of the Licensee corporation, and the execution of this License by such officers is sufficient and legally binding on the Licensee.

I. Within this License, if an action or approval is required to be done by the Licensor, that reference is jointly to the City Council of the City of La Crosse and the Board of Park Commissioners (Park Board) for the City of La Crosse unless otherwise stated.

J. Licensor agrees to limit the number of separate excursion boat operations in Riverside Park during the term of this License to no more than ~~three (3)~~ operators, including the La Crosse Queen, LLC.

Commented [FJ1]: Replace with four (4)

IN WITNESS WHEREOF, the parties to this License Agreement cause this instrument to be executed by their authorized representatives on the day and year first above written.

LICENSOR:  
City of La Crosse

LICENSEE:  
La Crosse Queen, LLC

\_\_\_\_\_  
Mitch Reynolds, Mayor

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

\_\_\_\_\_  
Nikki Elsen, City Clerk

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

## EXHIBIT "A"

### LEGAL DESCRIPTION

Part of the NW 1/4 of the SE 1/4, Section 31, T16N—R7W, City of La Crosse, La Crosse County Wisconsin, described as follows:

Commencing at the northeast corner of the NE 1/4 of the SE 1/4, said section 31, thence S 81°09'40" W 1910.88 feet to the intersection of a concrete entrance walk and the back of a 2 foot wide ribbon of concrete at the back of the existing sidewalk, and the point of beginning.

thence, along said entrance walk, N 1416'25" W 61.10 feet;  
thence N 3'33'15" W 5.84 feet to the top of the river bank;  
thence 123.95 feet along the arc of a 115.00 foot radius curve concave to the southeast the chord of which bears, S 3514'08" W 118.04 feet;  
thence N 84'44'45" E 3.92 feet to the southwest corner of a concrete driveway,  
thence, along the south line of said concrete driveway, S 66'10'25" E 23.20 feet;  
thence, continuing along said south driveway line, S 60'03'28" E 22.53 feet to the back of a 1 foot ribbon of concrete;  
thence, along said 1 foot ribbon of concrete 37.67 feet on the arc of a 110.00 foot radius radius curve concave to the southeast the chord of which bears, N 25'37'27" E 37.48 feet to the south line of a concrete pad for an open air shelter;  
thence, along said south concrete line, N 76'17'28" E 11.14 feet to the back of the existing concrete sidewalk;  
thence, along the back of said concrete sidewalk 11.06 feet on the arc of a 112.00 foot radius curve concave to the southeast the chord of which bears, N 4150'27" E 11.06 feet;  
thence N 14'16'25" W 2.33 feet to the back of a 2 foot ribbon of concrete;  
thence, 6.90 feet on the arc of a 114.00 foot radius curve concave to the southeast the chord of which bears, N 47'00'25" E 6.90 feet to the point of beginning.

Subject to any easements, covenants or restrictions, implied or recorded.



**EXHIBIT "B"**  
**STATEMENT OF INFORMATION AND INTEREST**  
**FOR LIMITED LIABILITY COMPANY**

1. Limited Liability Company Name: \_\_\_\_\_.
2. Date of Organization: \_\_\_\_\_.
3. State or Place of Organization: \_\_\_\_\_.
4. Names, Addresses and Percentage of Interest for All Individual LLC Members:

LLC Member(s)	Address	City	State	Zip	Percentage of Interest

**EXHIBIT "C"**  
**CONTINUING GUARANTY**

**GUARANTY.** for value received and in order to induce **City of La Crosse** (hereinafter Licensor) to License the Licensed Premises described in this License, to **La Crosse Queen, LLC** (hereinafter Licensee). The undersigned agreed to personally and unconditionally guaranty all amounts due under the attached License Agreement for the full term and any renewals of the same, including any and all claims for damages related to a breach of this License Agreement.

The undersigned jointly and severally guarantee payment of and promise to pay or cause to be paid to Licensor or any other holder of any of the Obligations defined herein when due or, to the extent not prohibited by law, at the time any Licensee become the subject of bankruptcy or other insolvency proceedings, the amount set forth above.

No claim, including neither a claim for contribution or subrogation, which any of the undersigned may have against a co-guarantor of any of the Obligations or against any Licensee shall be enforced nor any payment acted until the Obligations set forth herein are paid in full. Any payments made hereunder are not subject to any right of recover.

**REPRESENTATIONS.** The undersigned acknowledges and agrees that the Licensor (a) has not made any representations or warranties with respect to, (b) does not assume any responsibility to the undersigned for, and (c) has no duty to provide information to the undersigned regarding, the collectability or enforceability of any of the Obligations or the financial condition of any Licensee or guarantor. The undersigned has independently determined the collectability and enforceability of the Obligations and, until the Obligations are paid in full, will, independently and without reliance on Licensor, continue to make such determinations.

**REVOCATION.** This is a continuing guaranty and shall remain in full force and effect until the time set forth above. Upon revocation by written notice or actual notice of death, this Guaranty shall continue in full force and effect as to all Obligations contracted for or incurred before revocation, and as to them the Licensor shall have the rights provided by the guaranty as if no revocation had occurred. Revocation by one of the undersigned shall not affect any of the liabilities or obligations of any of the other undersigned and this guaranty shall continue in full force and effect with respect to them.

**PERSONS BOUND.** This Guaranty benefits Licensor, its successors and assigns, and binds the undersigned, their respective heirs, personal representatives, successors and assigns.

Dated to be effective this 1st day of January, 2011.

\_\_\_\_\_  
\_\_\_\_\_, Personally,  
as Guarantor

\_\_\_\_\_  
\_\_\_\_\_, Personally,  
as Guarantor

**ACKNOWLEDGEMENT**

State of Wisconsin            )  
  ) SS.  
County of La Crosse         )

This guaranty was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_,  
2018 by \_\_\_\_\_ and \_\_\_\_\_, to me known to be the  
persons who executed the same.

\_\_\_\_\_  
Notary Public  
La Crosse County, WI.  
My Commission Expires (is): \_\_\_\_\_

