

Dane County Contract Cover Sheet

Dept./Division	Zoo
Vendor Name	Centerplate
Vendor MUNIS #	10652
Brief Contract Title/Description	Operate concessins at the Zoo
Contract Term	3 years plus one two year extension
Total Contract Amount	\$ approximately \$400,000

Contract #	Admin will assign	
Addendum	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Type of Contract		
<input checked="" type="checkbox"/>	Dane County Contract	
<input type="checkbox"/>	Grant	
<input type="checkbox"/>	County Lessee	
<input type="checkbox"/>	County Lessor	
<input type="checkbox"/>	Intergovernmental	
<input type="checkbox"/>	Purchase of Property	
<input type="checkbox"/>	Property Sale	
<input type="checkbox"/>	Other	

Purchasing Authority	<input type="checkbox"/> \$10,000 or under – Best Judgment (1 quote required)	
	<input type="checkbox"/> Between \$10,000 – \$36,000 (\$0 – \$25,000 Public Works) (3 quotes required)	
	<input type="checkbox"/> Over \$36,000 (\$25,000 Public Works) (Formal RFB/RFP required)	RFB/RFP #
	<input type="checkbox"/> Bid Waiver – \$36,000 or under (\$25,000 or under Public Works)	
	<input checked="" type="checkbox"/> Bid Waiver – Over \$36,000 (N/A to Public Works)	
	<input type="checkbox"/> N/A – Grants, Leases, Intergovernmental, Property Purchase/Sale, Other	

MUNIS Req.	Org Code	NA	Obj Code	Amount	\$
Req #	NA				
Year					

Resolution	A resolution is required if the contract exceeds \$100,000 (\$40,000 Public Works). A copy of the Resolution must be attached to the contract cover sheet.				
	<input type="checkbox"/> Contract does not exceed \$100,000 (\$40,000 Public Works) – a resolution is not required.				
	<input type="checkbox"/> Contract exceeds \$100,000 (\$40,000 Public Works) – resolution required.	Res #	629		
	<input checked="" type="checkbox"/> A copy of the Resolution is attached to the contract cover sheet.	Year	2018		

Contract Review/Approvals				
Initials	Dept.	Date In	Date Out	Comments
	Received by DOA			
<i>CH</i>	Controller		3/29/19	
<i>CH</i>	Purchasing		3/29/19	
<i>CH</i>	Corporation Counsel			
	Risk Management			
	County Executive			

Dane County Dept. Contact Info		Vendor Contact Info	
Name	Chuck Hicklin	Name	
Phone #	266-4109	Phone #	
Email		Email	
Address		Address	

CONCESSION AGREEMENT

THIS AGREEMENT (the "Agreement") is made and entered into as of April 11, 2019, by and between County of Dane ("County"), and Service America Corporation, d/b/a Centerplate, a Delaware corporation ("Centerplate").

WITNESSETH:

WHEREAS, Client has the exclusive right and privilege to maintain and operate all approved concession operations at the Henry Vilas Zoo (the "Zoo") in located at 702 S. Randall Avenue in Madison, Wisconsin for the benefit of Zoo visitors, including, but not limited to, food and refreshment sales, catering, beer sales, souvenir sales, vending machine operations, trams and/or other transportation systems and the sale of merchandise and rental of miscellaneous items.

WHEREAS, Client desires to engage the services of Centerplate to provide food and beverage concession, catering services, vending, train, carousel, and merchandise services at the Zoo, including the operation of fixed and mobile concession stands, merchandise stands, on an exclusive basis, cater food and beverage to meetings, banquets, special functions and the sale of alcoholic beverage (the "Services"); and

WHEREAS, Centerplate desires to provide the food and beverage concession, catering services and merchandise services for all events held at the Zoo for the Client;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged by Client and Centerplate, the parties agree as follows:

1. Grant of Exclusive Services

1.1 Client hereby appoints Centerplate as the operator of all food and beverage concession, catering services and merchandise services and hereby grants to Centerplate the exclusive right to provide the Services.

2. Centerplate's Operating Responsibilities

2.1 Centerplate shall conduct the Services in such areas of the Zoo so that all persons at the Zoo shall have a reasonable opportunity to purchase the products sold by Centerplate at all events held at the Zoo. Centerplate shall provide Services for each and every patron at the Zoo unless otherwise agreed by both parties and for each and every other event held at the Zoo upon seven (7) days prior notice to Centerplate.

2.2 Centerplate shall provide Services such that the reasonable needs of the patrons of the Zoo are satisfied. All food, beverages, candy and other products sold by Centerplate at the concessions shall be appropriately prepared and appropriately served. All such products and services shall conform to the requirements of all applicable federal, state, county and municipal laws and ordinances.

2.3 The menus, brands, and prices of all products sold by Centerplate shall be determined by

Centerplate, and Client, in advance. Centerplate shall not sell nor permit any subcontractor to sell chewing gum and tobacco products or other products prohibited by the Client. Any subsequent changes in menu, brands or prices must be consented to by Client in advance.

2.4 Unless otherwise agreed between the parties, Centerplate shall procure and maintain, as Direct Operating Expenses, during the Term of this Agreement all appropriate licenses and permits which may be required for the operation of the Services, provided, however, that Client shall provide Centerplate with such assistance as Centerplate shall reasonably request in connection with any application by Centerplate for any such license or permit or the renewal thereof.

2.5 Centerplate shall procure and maintain, as Direct Operating Expenses, throughout the term of this Agreement an on-site liquor license for the Zoo. Client shall not take, and shall use its reasonable best efforts not to permit any other person, firm or entity to take, any action that is inconsistent with, or would constitute a violation of, any of the terms and conditions of Centerplate's on-site liquor license for the Zoo, or any other license or permit obtained by Centerplate in connection with the provision of Services. Upon the expiration or sooner termination of this Agreement, as Direct Operating Expenses Centerplate shall transfer such on-site liquor license to the Client, at Client's sole expense, assuming such a transfer is permitted by applicable law.

2.6 As Direct Operating Expenses, Centerplate shall charge and collect all required taxes and pay and discharge when due all sales, use, excise and other taxes imposed on Centerplate's sales of all products and services at the Zoo and Centerplate's inventory and equipment.

2.7 As Direct Operating Expenses, Centerplate shall hire all employees reasonably necessary to provide the Services and meet the needs of Zoo patrons. Centerplate will use reasonable efforts to comply with Sections 5 and 6 of the Agreement. Upon being hired, such Centerplate employees shall be subject to any and all required health examinations as the appropriate governmental authority may require in connection with their employment with Centerplate. All persons hired by Centerplate shall be employees of Centerplate and not employees of Client. Centerplate shall implement and enforce appropriate rules and regulations to ensure that its employees conform at all times to the service standards hereunder. Centerplate shall comply with all applicable federal, state, county, and municipal laws and ordinances pertaining to wages and hours of employment for all its employees at the Zoo and shall comply with all other applicable federal, state and local laws governing employment practices. Centerplate will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex. Centerplate will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

Centerplate agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the public agency compliance officer setting forth provisions of this nondiscrimination clause. Centerplate will, in all solicitations or advertisements for employees placed by or on behalf of Centerplate, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex.

2.8 As Direct Operating Expenses, Centerplate shall, at all times, maintain the Service Areas (as defined in the Agreement) in a neat, clean and sanitary condition. Trash and garbage resulting from the Services shall be placed by employees of Centerplate in suitable containers at a central trash disposal station provided by Client for removal from the Zoo at no cost or expense to Centerplate. Client shall have access at all reasonable times to the Service Areas for the purpose of inspection.

2.9 As Direct Operating Expenses, Centerplate shall be responsible for repairing and maintaining all food service equipment as well as interiors to all Service Areas. As Direct Operating Expenses, Centerplate shall also be responsible for providing all uniforms for its employees and food, beverage and cleaning supplies necessary to provide the Services.

2.10 As Direct Operating Expenses, Centerplate shall provide sufficient managerial and customer service personnel to, at all times, provide first class products and services with respect to the provision of the Services.

2.11 As Direct Operating Expenses, all records relating to the provision of Services shall be kept on file by Centerplate during the term of this Agreement. Centerplate shall maintain suitable books of account, showing top line sales, unit sales by category and all Direct Operating Expenses to the Client hereunder, at the Zoo, and such books shall be available for inspection by Client upon reasonable notice and during regular business hours; provided, however, that such inspection shall not interfere with Centerplate's operation of the Services. In the event Client is not satisfied with the available records or the monthly statements provided pursuant to Section 4, Client, at its sole expense, shall have the right to make a special audit of Centerplate's books and records, by an auditor selected by Client.

2.12 As Direct Operating Expenses, Centerplate agrees that its employees and agents will comply with and observe all applicable rules and regulations concerning conduct of its employees at the Zoo which Client may from time to time reasonably impose upon Client's employees and agents at the Zoo subject to restrictions imposed upon Centerplate by any federal, state or local statute, law, code or regulation or by any collective bargaining agreement or other contract affecting such employee or agent; provided, however, that Client hereby acknowledges and agrees that Centerplate shall not be deemed to be in breach or default hereunder in the event that, despite Centerplate's reasonable best efforts to insure compliance, one or more of its employees or agents fails to comply with any such rules and regulations.

2.13 As Direct Operating Expenses, Centerplate shall implement an alcohol awareness program with respect to the sale of alcoholic beverages at the Zoo and shall require all of its employees who will be engaged in the sale of alcoholic beverages to participate in the program. Alcoholic beverages shall be available for special or catering events only. Centerplate will not sell alcoholic beverages at retail outlets.

2.14 As Direct Operating Expenses, Centerplate's policy is to comply strictly and absolutely with all state and federal laws governing the alcoholic beverage industry. In the event Client sells advertising and/or participates in other promotional arrangements with a manufacturer, distributor or wholesaler of alcoholic beverages, such advertising or promotional arrangement cannot be dependent upon, in any way conditioned upon, or intended to induce Centerplate from purchasing alcoholic beverages from such third party. As part of the sale of advertising or promotional services, Client cannot require or expect Centerplate to purchase any specific alcoholic beverage products for resale to consumers. Centerplate must retain full and independent discretion to determine what alcoholic beverage it will purchase and may determine, in its sole discretion the brewer, vintner or wholesaler from whom to purchase same.

3. Client's Responsibilities

3.1 Client shall, at no expense to Centerplate, provide Centerplate with the necessary space and access thereto to conduct the Services in the Service Areas designated on Exhibit A to the Agreement ("Service Areas"), including, without limitation, storage space, offices, a check in/out cash handling area, loading areas and up to four parking spaces for Centerplate's permanent employees.

3.2 Client shall, at no expense to Centerplate, provide Centerplate with the necessary leasehold improvements and other facilities to conduct the Services including, without limitation, such leasehold improvements and other facilities associated with the storage, preparation and sale of food and beverages, candy, and other products at the Zoo. Title to such leasehold improvements and other facilities shall at all times remain vested in the Client.

3.3 Client shall, at no expense to Centerplate, furnish utilities, (except telephone and alarm systems), refuse disposal and utility distribution systems necessary to conduct the Services. Client shall maintain, repair and replace the roofs and all exterior walls of the Service Areas unless such repair is necessitated by the negligent acts of Centerplate or its employees/agents.

3.4 Except to the extent purchased with the Capital Investment, the Client shall, at no expense to Centerplate, provide Centerplate with the necessary equipment and facilities in food order and repair, to conduct the Services including, without limitation, such equipment and facilities associated with the storage, preparation and sale of food, beverage, merchandise and other products at the Zoo. Title to such equipment and facilities shall at all times remain vested in the Client. Attached hereto as Exhibit B is a list of equipment and facilities by this Section. Client represents and warrants that all such equipment and facilities will comply with all applicable laws and regulations, including the Americans with Disability Act as of the date the same are provided to Centerplate. Client shall, at no expense to Centerplate, furnish refuse disposal and utility distribution systems, necessary to operate the Services. Client shall maintain, repair and replace the roofs and all exterior walls of the Service Areas.

3.5 At all times during the term of this Agreement, Client shall maintain the Zoo in full compliance with all applicable federal, state, and local laws, regulations and governmental orders applicable to the Zoo and Client's operations therein.

3.6 The Client shall use best commercial efforts to cause the County of the Dane to hold various County sponsored catering functions at the Zoo, from time to time.

3.7 Client shall obtain the prior written approval of Centerplate if Client plans to enter into any agreement or other arrangement with a third-party subcontractor which has the potential to negatively affect Centerplate's business at the Zoo.

3.8 Client shall use its best efforts to communicate to Centerplate the pertinent business information, including, without limitation, projected attendance, special group sales, security procedures, special requests, door opening and the like to ensure the best possible customer experience.

4. Financial Arrangements

4.1 For all purposes of this Agreement, the term "Gross Receipts" shall refer to the total amount of money and service charges received by Centerplate from all sales, cash or credit, made as a

result of the exclusive rights granted under the Agreement, excluding applicable sales tax. Gross Receipts will include any amounts received by Centerplate from third party subcontractors and not the gross revenues generated by the subcontractors.

4.2 Centerplate shall receive a Base Management Fee in an amount equal to Fifty Thousand Dollars (\$50,000.00), during a Contract Year collected during the term of this Agreement (the "Base Management Fee"). Base Management Fee shall be increased annually at the beginning of each Contract Year by a percentage equal to the change published in the general local metropolitan Consumer Price Index ("CPI"). The Base Management Fee shall be payable from the Gross Receipts in equal monthly installments during the Contract Year and shall be considered Direct Operating Expenses. Such monthly accounting period (a "Monthly Accounting Period") will be determined in accordance with Centerplate's accounting calendar, which is on a calendar basis.

Performance Incentive Fee. For each Contract Year during the Term, Centerplate shall receive a Performance Incentive Fee in an amount equal to fifteen percent (15%) of Net Operating Profits in excess of One Hundred Thousand Dollars (\$100,000.00). The first One Hundred Thousand Dollars (\$100,000.00) in Net Operating Profits during a Contract Year shall be for the benefit of the Client.

Direct Operating Expenses. "Direct Operating Expenses" shall mean all costs, charges and expenses incurred in connection with Centerplate's Services under this Agreement including, but not limited to, Base Management Fee, the invoiced amounts of food, good, merchandise, and products, on-site payroll and labor, fringe benefits, bonuses, payroll taxes, amortization and depreciation of the Capital Investment, other direct expenses, such as repair and maintenance, cleaning, credit/debit card fees, office supplies, insurance, promotional and marketing expenses, smallwares expenses and replacement, staff recruiting costs, staff retention expenses, training program, rental expense, tent rentals, royalties due to branded products, travel, professional services, utilities, communications, operating supplies, taxes (except sales and use tax), cash handling costs, printing costs, workers' compensation, telephone, laundry, security, parking, licenses, permits, annual maintenance and supports fees and expenses associated with point of sale system, the Annual Bonus and other costs reasonable and necessary to perform the Services under this Agreement. Direct Operating Expenses, shall be net of any rebates or discounts associated with external vendors contracted by Centerplate solely on behalf of or for the benefit of the Client and governed by vendor contracts under which Centerplate can track such rebates/discounts, excluding prompt payments discounts or rebates attributable to early payment agreements. Direct Operating Expenses shall not include the costs of Centerplate's regional and corporate staff members.

Emergency Expenditures. Notwithstanding anything to the contrary set forth in this Agreement, if Centerplate at any time becomes aware of any condition that jeopardizes the structural soundness or operational capability of or the public safety in or around the areas of the Zoo used by Centerplate for its Services, Centerplate shall promptly so advise the Client in writing. Client shall promptly approve or disapprove expenditure of funds necessary to correct the condition. Any funds so expended with the Client's written approval shall be allowed as Direct Operating Expenses.

Net Operating Profits and Net Operating Loss. Centerplate shall disburse to the Client monthly the amount of the Net Operating Profits (calculated by subtracting the Direct Operating Expenses from total Gross Receipts) less the Performance Incentive Fee attributable to the preceding month. For illustration purposes the calculation of Net Operating Profits is shown as an example on Exhibit C attached hereto. If there is a Net Operating Loss (an amount equal to the

excess during a Monthly Accounting Period of Direct Operating Expenses over the sum of Gross Receipts) in any Monthly Accounting Period, the amount of the Net Operating Loss shall be carried forward and applied against future Net Operating Profits. If during any Monthly Accounting Period, there are no Net Operating Profits, (the deficit, if any, of Gross Receipts less the Direct Operating Expenses), Centerplate shall accrue any such deficit until the next Monthly Accounting Period when sufficient Net Operating Profits are available to pay Centerplate any amounts due. However, at the conclusion of each Contract Year, any such deficit (Net Operating Loss) shall be reimbursed to Centerplate, payable within thirty (30) days.

Right of Offset. At any time when the Client is over thirty (30) days past due on any obligation to Centerplate, Centerplate shall have the right to offset, from any Net Operating Profits from the Services, or from any other sums owed by Centerplate to the Client, all or any portion of such outstanding receivables and obligations.

Working Capital. Centerplate shall furnish its own working capital sufficient to cover the inventory, petty cash, accounts receivable, start-up expenses and tills adequate to serve the patrons at the Zoo and is entitled to reimbursement of (but not advances against) Direct Operating Expenses only when actually paid.

Operating Budget. Within fifteen (15) days of the date of the Effective Date, Centerplate shall submit to the Client for its approval the initial operating budget for the first Contract Year. At least sixty (60) days before the beginning of each anniversary thereafter, Centerplate shall prepare and submit to the Client for the Client's review and approval a proposed, good faith annual operating budget for the upcoming Contract Year, listing all projected Gross Receipts and Direct Operating Expenses by category. Centerplate may at any time submit to the Client for its approval amendments to the annual operating budget to reflect unanticipated revenues, expenses or other changes. The Client shall not unreasonably condition, delay or withhold its approval.

4.3 Centerplate shall collect all proceeds from the operation of the Services under this Agreement and maintain accurate records and reports with respect to such proceeds (categorized into such categories as Centerplate may reasonably require) and deposit such proceeds on a daily basis into such account(s) as Centerplate may require. In so doing, Centerplate shall institute such security, inventory, and control procedures customary in the industry. Within twenty (20) days after the end of each of Centerplate's Monthly Accounting Period, Centerplate shall transmit to the Client the Net Operating Profits for the preceding Monthly Accounting Period. Notwithstanding the foregoing, the Client acknowledges and agrees that Centerplate shall be entitled to off-set the Client's outstanding accounts receivable, if any, from the Net Operating Profits otherwise due the Client under Section 4 until such time as the total outstanding accounts receivable is paid in full.

4.4 Centerplate will invest up to Sixty Thousand Dollars (\$60,000.00) toward foodservice equipment, back office equipment and start-up expenses ("Capital Investment"). Title to all items included in the Capital Investment shall be vested and remain in Centerplate and the Capital Investment shall be amortized on a straight-line basis over a three (3) year period, each such period to commence on the later of (i) the date Centerplate incurs the expense, and (ii) the Effective Date. If the Agreement expires or terminates for any reason whatsoever, prior to Centerplate's complete amortization of the Capital Investment, the unamortized portion of the Capital Investment will be reimbursed to Centerplate by the Client prior to Centerplate vacating the Zoo.

5. Indemnification: Insurance

5.1 Indemnification

(a) Centerplate agrees to indemnify and hold the County (and their respective directors, officers, employees and agents) harmless from any and all third party claims for personal injury, death, or property damage and any other losses, damages and expenses, including reasonable attorneys' fees, which arise out of, in connection with, or by reason of the use of the Zoo by Centerplate, its employees or agents; provided, however, that nothing contained herein shall require Centerplate to defend or indemnify the County (or their directors, officers, employees, contractors, licensees and agents) for losses, damages, injuries or death arising out of any act, error or omission of the County, or its directors, officers, employees or agents. In no event shall Centerplate be responsible for those liabilities resulting from the negligence of the County, its agents or employees.

(b) In no event shall either Party be liable for consequential, indirect or incidental damages (including punitive damages and lost profits), even if such Party has been advised of the possibility of such damages in advance.

(c) Centerplate's total aggregate liability for claims asserted by the Client and the County under or in connection with this Agreement, regardless of the form of action or theory of recovery, whether in contract or tort (including breach of warranty, negligence and strict liability), shall not in any event exceed Centerplate's insurance amounts required under Section 5.2. .

5.2 Centerplate shall procure and maintain the following insurance:

(a) Worker's Compensation coverage with the statutory limits of liability as provided by Wisconsin law, including not less than \$500,000 employer's liability applicable to employees, agents, volunteers and assigns of Centerplate;

(b) Commercial General Liability coverage including Bodily Injury, Personal Injury Liability, Property Damage, Contractual Liability, and Products coverage with limits of \$1,000,000 per occurrence and \$2,000,000 in the aggregate;

(c) Liquor Liability coverage in an amount not less than \$ 1,000,000 per occurrence;

(d) Umbrella Policy with coverage of \$5,000,000 in the form of an umbrella policy (and not in the form of an excess policy) endorsed to be excess of the required Commercial General Liability coverage provided herein.

(e) Any other insurance required by any applicable federal, state, county or municipal law appropriate to Centerplate's operations hereunder and security and privacy liability insurance (a/k/a cyber liability) in the minimum amount of One Million Dollars (\$1,000,000) in the aggregate.

Such insurance may be carried under a blanket policy and shall be obtained from insurance companies duly authorized to conduct insurance business in Wisconsin. All policies of insurance shall name the County as an additional insured. Certificates of Insurance shall be filed with Client prior to the Effective Date of any operations at the Zoo, and renewal certificates shall be provided to Client throughout the Term of this Agreement so that the required coverages are shown to be continuous during the Term of this Agreement. All such policies shall provide that Client and the County shall be given thirty (30)

days prior written notice before cancellation or change in the coverage, scope or amount of any policy if any such change would cause the insurance coverages provided to be less than those required by this Section 5.2.

6. Non-Solicitation

Client agrees not to hire or otherwise engage the services of Centerplate's management-level employees during the Term of this Agreement, and for a period of one year following termination of this Agreement. Client agrees that such employees have acquired special knowledge, skills and contacts as a result of being trained by Centerplate. This Section will survive the termination of this Agreement.

7. Commencement and Termination

7.1 The term of this Agreement shall commence upon execution by both parties to this Agreement ("Effective Date") and shall continue for a period of three (3) years from the Effective Date, subject to earlier termination as provided in this Agreement (the "Initial Term"). The Initial Term shall be extended for a period equal to any period in excess of thirty (30) consecutive days during which Centerplate's ability to provide the Services is suspended by the Client for any reason. The Initial Term of this Agreement may be extended for one (1) additional two-year period (the "Renewal Term"), at mutual agreement of the parties, upon written notice at least ninety (90) days prior to the expiration of the Initial Term (the Initial Term and Renewal Term, if any, shall be referred to, collectively, as the "Term").

Each period of twelve (12) consecutive calendar months during the term, beginning on the Effective Date, shall be referred to as a "Contract Year".

7.2 If a representation or warranty of either party in this Agreement is false or misleading in any material respect, or if either party breaches a material provision of this Agreement ("Cause"), the non-breaching party shall give the other party written notice of such Cause. If such Cause is not remedied with ten (10) days after receipt of such notice, in the case of failure to make any payment due, or thirty (30) days after receipt of such notice, in the case of any other Cause (unless, with respect to those Causes which cannot be reasonably corrected or remedied within such thirty (30) day period, the breaching party shall have commenced to correct or remedy the same within such thirty (30) day period and thereafter shall proceed with all due diligence to correct or remedy same), the party giving notice shall have the right to terminate this Agreement upon expiration of such ten- or thirty-day period.

7.3 Upon the expiration or sooner termination of this Agreement, Centerplate shall, as soon as reasonably practicable, vacate all parts of the Zoo occupied by it and return the Zoo to Client.

8. Independent Contractor Relationship

It is understood and agreed by the parties that an independent contractor relationship is established under the terms and conditions of this Agreement and that employees of Centerplate are not nor shall they be deemed to be employees of Client or the County, and that employees of Client are not nor shall they be deemed to be employees of Centerplate. Neither Centerplate, Client or the County has the authority to bind or obligate the other except with the express written consent of the other party first had and obtained.

9. Excused Performance

In case the performance of any of the terms or provisions of this Agreement (other than the payment of monies) shall be frustrated, delayed or prevented because of compliance with any law, decree or order of any governmental agency or authority, or because of riots, war, public disturbances, strikes, lockouts, differences with workmen, fires, floods, acts of God, or any reason set forth in the Agreement, or any other reason whatsoever which is not within the control of the party whose performance is interfered with and which, by the exercise of reasonable diligence said party is unable to prevent, the party whose performance is interfered with may at its option, suspend the performance of its obligations hereunder (other than the payment of monies) during the period such interference continues and for no longer.

10. Representations and Warranties

The parties hereto represent and warrant each to the other that they have the respective right and authority to enter into this Agreement and perform the obligations set forth herein. The parties acknowledge that this Agreement constitutes a legal, valid, and binding obligation in accordance with its terms. Centerplate further represents that it has been organized and is in good standing in the State of Delaware and is authorized to do business and is in good standing in the State of Wisconsin.

11. Notices

Any notice given under or with respect to this Agreement shall be given by certified or registered mail, return receipt requested, postage prepaid, or by overnight courier, to such party at the address given below or such other address as such party may from time to time designate in writing to the other party in accordance with these provisions. Any such notice sent by registered or certified mail in accordance with this Paragraph shall be deemed given upon receipt or, in the event of overnight courier, such notice shall be deemed delivered on the next day following the delivery party's deposit of each notice with such overnight courier, with all delivery charges prepaid.

If to Client:
Henry Vilas Zoo
702 S. Randell Avenue
Madison, WI 53715
Attn: Joseph Darcangelo, Deputy Director

If to County:
Corporation Counsel
210 Martin Luther King, Jr. Blvd., Rm. 419
Madison, Wisconsin 53703

If to Centerplate:
Centerplate, Inc.
One Landmark Square – 18th Floor
Stamford, CT 06901
Attn: Legal Department

Copy to:

Centerplate, Inc.
1 Washington Blvd
Detroit, Michigan 48226
Attn: Jason Hougard

12. Confidentiality

Both parties agree to treat the terms and conditions of this Agreement as confidential and neither party shall reveal the terms and conditions to any third party, without the prior written consent of the other, except as required by law and except as to their respective counsel and accountants.

13. General

This Agreement shall be governed and construed and enforced in accordance with the laws of the State of Wisconsin. This Agreement sets forth the entire agreement and understanding of the parties in respect to the transactions contemplated hereby and supersedes all prior agreements, arrangements and understandings relating to the subject matter hereof. All the terms and conditions of this Agreement shall be binding upon, and inure to the benefit of and be enforceable by the parties and their respective successors. This Agreement and the rights and obligations hereunder may not be assigned by either party without the express written permission of the other first had and obtained. The failure of any party at any time or times to require performance of any provisions hereof shall in no manner affect the right at a later time to enforce the same. No waiver by any party of any condition or of the breach of any term contained in this Agreement, whether by conduct or otherwise in any one or more instances, shall be deemed to be construed as a further or continuing waiver of any such condition or breach of any such term or waiver of any other condition or breach of any other term of this Agreement.

Food and Beverage and Merchandise Inventory. Exhibit D attached hereto lists all food and beverage inventory and fit and merchantable merchandise inventory as of the Effective Date (collectively, the "Inventory"). Inventory shall be purchased by Centerplate and shall be utilized in connection with Centerplate's Services at the Zoo.

Inventory Upon Termination. Upon termination or expiration of the agreement, the Client shall purchase, in the amount of Centerplate's cost, inclusive of freight, Centerplate's food and beverage and merchandise inventory.

Trade Secrets and Proprietary Information. During the term of this Agreement, Centerplate may grant to the Client a nonexclusive right to access certain proprietary materials of Centerplate, including, menus, recipes, signage, food service survey and studies, management guidelines and procedures, operating manuals, software (both owned by and licensed by Centerplate) and similar compilations regularly used in Centerplate's business operations. The Client shall not disclose any of Centerplate's trade secrets or other confidential information, directly or indirectly, during or after the term of this Agreement. The Client shall not photocopy or otherwise duplicate any such material without the prior written consent of Centerplate. All trade secrets and other confidential information shall remain the exclusive property of Centerplate and shall be returned to Centerplate immediately upon termination or expiration of the Agreement. Without limiting the foregoing, the Client specifically agrees that all software associated with the operation of the Services, including without limitation, menu systems, food production systems, accounting systems, and other software, are owned by or licensed to

Centerplate and not the Client. Furthermore, the Client's access or use of such software shall not create any right, title interest, or copyright in such software, and the Client shall not retain such software beyond the termination or expiration of the Agreement. Any signage or trademark proprietary to Centerplate shall remain the exclusive property of Centerplate and shall be returned to Centerplate immediately upon termination or expiration of the Agreement. In the event of any breach of this provision, Centerplate shall be entitled to equitable relief, including an injunction or specific performance, in addition to all other remedies otherwise available. This provision shall survive termination of the Agreement.

If a request is made for disclosure of any information designated as a trade secret, Centerplate agrees to fully defend and indemnify the County from all costs, damages and expenses, including reasonable attorney's fees, related to honoring any such designation. The entire burden of maintaining and defending the trade secret designation shall be upon Centerplate. Centerplate acknowledges and agrees that if Centerplate shall fail to defend the trade secret designation or be unsuccessful in its defense of that designation, the County shall be obligated to and will release the information.

Subcontracting. Centerplate will not hire subcontractors or use temporary agencies hereunder unless advance written approval is obtained from the Client, which approval may not be unreasonably withheld or delayed.

Competing Vendors. In order to (a) control the quality of the products and services at the Zoo, (b) ensure the safety of the patrons and (c) protect Centerplate's exercise of its exclusive rights hereunder, the Client agrees to prohibit other vendors from selling and food, beverage and merchandise products anywhere at the Zoo and to use its best commercial efforts to prevent and prohibit patrons from bringing any food, beverages, food containers or beverage containers into the Zoo.

Accounting Systems. As Direct Operating Expenses, Centerplate will, with respect to the business it does at the Zoo, keep true and accurate accounts, records, books and other pertinent data, which will, among other things, show all reports of sales made and services performed for cash, on credit or otherwise (without regard to whether paid for or not) and also the Gross Receipts derived by it from the operation of its business at the Zoo and Direct Operating Expenses.

POS/Cash Registers. The Client shall provide, at its expenses, a dedicated network segment with necessary to support all applicable Services that utilize point-of-sale systems ("POSS"), technologies, including but not limited to, POS equipment, kiosks, an unattended self-checkout devices and terminals. Centerplate will cooperate with the Client and a mutually agreed provider of point of sale system to timely transition to the new POSS environment on the date selected by the parties upon their mutual agreements, acting in good faith, which is currently anticipated to be on or about May 1, 2019 ("Go Live Date"). Client shall provide Centerplate with access to POSS for Centerplate to process patron transaction. In addition, the Client shall provide Centerplate with a suitable and appropriate environment and utility service (e.g. heat, air conditioning, etc.) as reasonably required for the operation of POSS. Centerplate will obtain, store, utilize, process and transmit data processed through the Client provided POSS in accordance with applicable laws and Payment Card Industry Data Security Standards ("PCI Standards"). The Client shall allow Centerplate and its internal auditors to access Client's information technology network and technical resources to the extent required to comply with the applicable PCI Standards and to validate such compliance in accordance with the guidelines set forth by Centerplate's acquiring bank.

In accordance with the Agreement, Centerplate shall serve as merchant of record ("MOR") for all payment card transactions initiated by Centerplate for its Services at the Zoo.

The Client represents and warrants that it shall provide sufficient numbers of POSS at the Zoo for Centerplate to provide its Services to the patrons at the Zoo as per the Agreement. The Client and Centerplate shall mutually agree to isolate the POSS transaction data from other traffic on the Client's network, including the infrastructure hardware (e.g. firewall, switches, etc.) to create a virtual Local Area Network. At no cost to Centerplate, the Client shall provide the information technology network infrastructure necessary to operate the POSS that is effective and customary in the foodservice industry and similar venues. The Client and Centerplate acting in good faith and using reasonable commercial efforts shall make their subject matter experts available as needed, to work with the installation and implementation of the POSS and with the on-going maintenance and correction of any technical issues with the POSS. The POSS and any integrated forms of order entry shall adhere to industry standards and the Client acting in good faith shall seek and adhere to Centerplate's reasonable input, insight and direction regarding the POSS.

In the event of an incident or breach (alleged or otherwise) caused by the Client (by act or omissions), the Client shall take the steps reasonably necessary to investigate and rectify the incident, including but not limited to indemnify, defend, and hold harmless Centerplate as set forth in this Agreement. In the event the Client does not take sufficient steps to rectify any incident, Centerplate shall have the right to step in and take any appropriate actions to ensure all cyber and payment processing environment is in compliance with PCI Standards. Any reasonable expenses incurred by Centerplate to remediate the POSS shall be billed to the Client for payment.

The Client shall defend, indemnify and hold Centerplate harmless for any amount sought, demanded, or taken directly or indirectly from or by payment card brands (e.g. Visa, MasterCard, American Express, etc.), acquiring banks, issuing banks, and/or any payment card processor for assessment, fees, fines, penalties, operational reimbursement losses, card reissuance costs, or other amounts demanded as damages, compensation, or any other form of losses allegedly arising out of a data security or privacy incident.

Accounting Principles. Books and records of account will be maintained on such uniform basis as may be reasonably approved by the Client and in accordance with generally acceptable accounting principles. Accounting forms and statements will be submitted to the Client for approval, which approval will not be unreasonably withheld or delayed.

In furtherance, but not in limitation of the above, as Direct Operating Expenses. Centerplate will:

- (i) furnish the Client with daily statements of Gross Receipts.
- (ii) Centerplate will submit to the Client an annual certified statement of revenues and profits that will be prepared and certified by Centerplate's Chief Financial Officer.

Severability. It is agreed that each and every clause, sentence, paragraph, section or part of this Agreement will be automatically modified to conform with governing law to preserve its validity; and it is further agreed that if any clause, sentence, paragraph, section or part of this Agreement is

Exhibit A
Service Areas

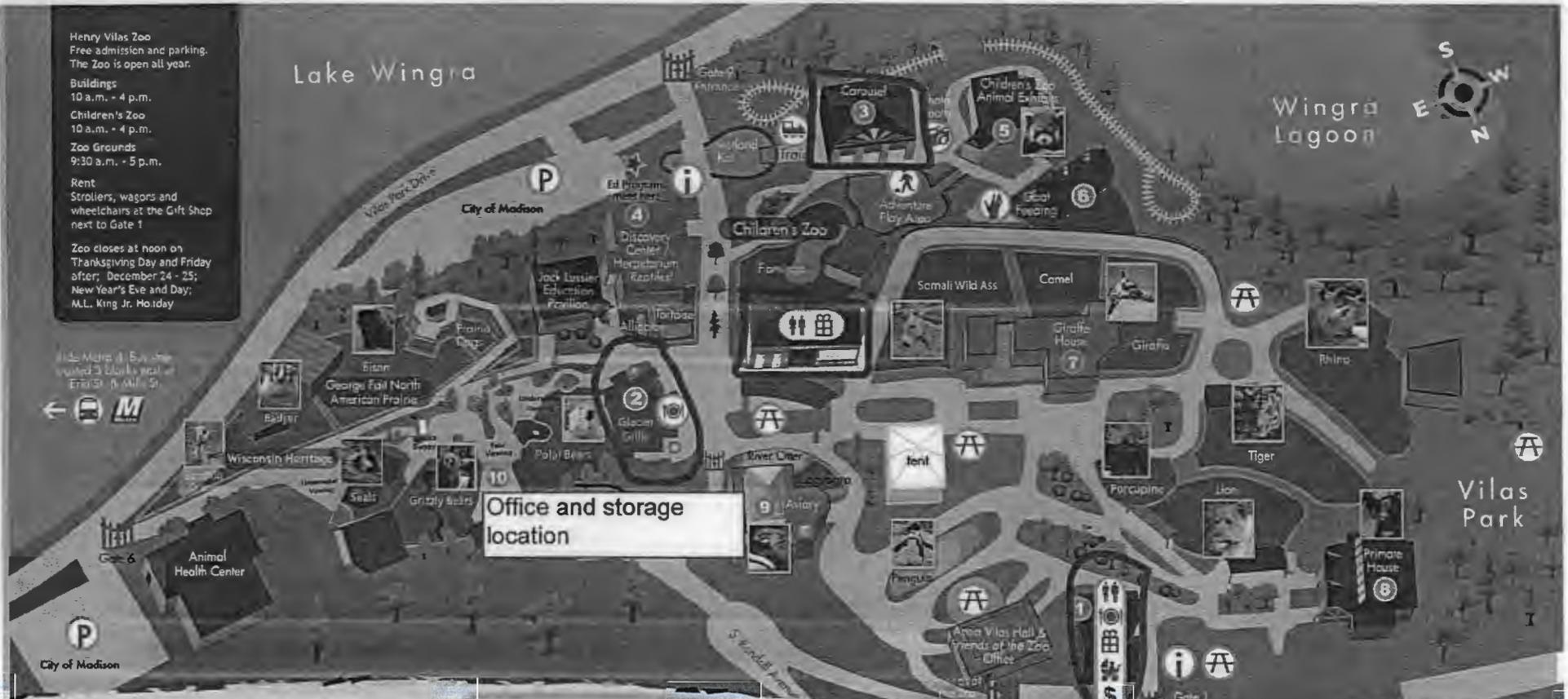
Henry Vilas Zoo
Free admission and parking.
The Zoo is open all year.

Buildings
10 a.m. - 4 p.m.
Children's Zoo
10 a.m. - 4 p.m.
Zoo Grounds
9:30 a.m. - 5 p.m.

Rent
Strollers, wagons and
wheelchairs at the Gift Shop
next to Gate 1

Zoo closes at noon on
Thanksgiving Day and Friday
after; December 24 - 25;
New Year's Eve and Day;
M.L. King Jr. Holiday

1 Mile More! Buy the
United 3 Blocks seal at
Entrance 10 Mile St.



Office and storage location

Office & storage location



Badger Bites
Fresh, healthy fare
plus snacks and
greats. By Gate 1.
Open seasonally.



Vilas Outfitters
Apparel, novelties,
sundries and hand-
crafted gifts.
9:30 a.m. - 5 p.m.



Glacier Grille
Freshly prepared
lunch entrees.
Open daily.



**Zoo Train
and
Conservation
Carousel**
10 a.m. - 4 p.m.
Open seasonally.

Zoo Exhibits & Attractions
Exhibiciones y Atracciones del Zoológico

- 1 Gate 1 Concessions Plaza
Plaza Concesiones de la Puerta 1
- 2 Glacier Grille
Glacier Grille Restaurant
- 3 Conservation Carousel & Zoo Train
Carrousel de Conservación y el Tren del Zoológico
- 4 Discovery Center / Herpetarium
Centro de Descubrimiento / Herpetario
- 5 Children's Zoo Animal Exhibits
Exhibiciones de Animales del Zoológico de los Niños
- 6 Children's Zoo Barn
Granero del Zoológico de los Niños
- 7 Giraffe House
Casa de las Jirafas
- 8 Primate House
Casa de los Primates
- 9 Aviary
Pajarera
- 10 Arctic Passage
Paseo del Ártico

- Food
Comida
- Gifts
Regalos
- Restrooms
Baños
- ATM
Cajero Automático
- Picnic Area
Área de Pícnic
- Parking
Aparcamiento
- Photo Booth
Fotografía
- Information
Información
- Playground
Parque de Recreación
- Zoo Train
Tren del Zoológico
- Goat Feeding
Alimentación de Cabra
- Wagon, Wheelchair, Stroller Rental
Alquiler de Carro, Silla de Ruedas, Paseante



Exhibit B
Dane County FF&E / Assets at Henry Vilas Zoo

This will be completed before we take over the account and agreed to by both as no current list exists.

Exhibit C
Net Operating Profits
(Illustration Purposes Only)

Henry Vilas Zoo
Net Operating Profit Calculation
(For Illustration Purposes Only)

(\$ in thousands)

Example is presented only to illustrate methodology of calculation and does not establish expectation of actual results

HIGHLY CONFIDENTIAL

	Projections	
	2019 P	%
Gross Receipts	\$ 2,315	100.0%
Product Cost	517	22.4%
Gross Margin	1,798	77.6%
Labor	835	36.1%
Other Direct Expenses	273	11.8%
Operating Profits	689	29.8%
Centerplate's Base Management Fee	[1] 50	2.2%
Centerplate's Annual Bonus	[2] 25	1.1%
Net Operating Profits	614	26.5%
Client's first \$100,000 of Net Operating Profits	[3] 100	4.3%
Net Operating Profits Available for Distribution	514	22.2%
Centerplate's Performance Incentive Fee	[4] 77	3.3%
Client's share of Net Operating Profits	\$ 437	18.9%
Return to Client:		
Client's first \$100,000 of Net Operating Profits	100	4.3%
Client's share of Net Operating Profits	437	18.9%
Total Return to Client	537	23.2%

Note:

The illustration above is intended to serve as a calculation of Net Operating Profits

[1] - Base Management Fee \$50,000, first Contract Year

[2] - Based on Centerplate meeting and exceeding KPIs

[3] - First \$100,000 in Net Operating Profits are distributed to the Client

[4] - 15% of Net Operating Profits in excess of \$100,000

Exhibit D
Food, Beverage and Merchandise Inventory

All inventory will be completed on take over date of May 1st.