



**TWO
RIVERS**
WISCONSIN

BUSINESS AND INDUSTRIAL DEVELOPMENT COMMITTEE - COMMUNITY DEVELOPMENT AUTHORITY MEETING

Tuesday, March 01, 2022 at 5:15 PM

Council Chambers - City Hall, 3rd Floor
1717 E. Park Street, Two Rivers, WI 54241

AGENDA

1. CALL TO ORDER

2. ROLL CALL

BIDC Members: Gregory Coenen, Donald Karman, Dick Klinkner, Elizabeth Bittner, Keith Lyons, Daniel Wettstein, Tracy Yaggie, Curt Andrews, Tracey Koach

CDA Members: Elizabeth Bittner, Gregory Coenen, Donald Karman, Dick Klinkner, Tracy Yaggie, Curt Andrews, Tracey Koach

**3. REVIEW AND APPROVAL OF UPDATED LEASE TO NEW TENANT WEST TWIN PINES LLC
DBA FLAVOR HUT AT 1459B WENTKER COURT, TWO RIVERS**

A. 1459B WENTKER COURT LEASE

**4. CONSIDERATION AND ACTION TO GRANT CITY MANAGER THE AUTHORITY TO SIGN
LEASE AGREEMENT FOR CITY OWNED BUILDINGS**

**5. AUTHORIZATION FOR CITY MANAGER TO SIGN DEEDS, CLOSING STATEMENTS AND
OTHER DOCUMENTS ON RELATED TO LOT SALES AT THE SANDY BAY HIGHLANDS
SUBDIVISION AND WOODLAND INDUSTRIAL PARK ON BEHALF OF THE COMMUNITY
DEVELOPMENT AUTHORITY**

6. ADJOURNMENT

Please note, upon reasonable notice, efforts will be made to accommodate the needs to disabled individuals through appropriate aids and services. For additional information or to request this service, please contact the Office of the City Manager by calling 793-5532.

It is possible that members of and possibly a quorum of governmental bodies of the municipality may be in attendance at the above stated meeting to gather information; no other action will be taken by any governmental body at the above-stated meeting other than the governmental body specifically referred to above in this notice.



THIS AGREEMENT is made and entered into this ____ day of March, 2022, by and between the Community Development Authority of the City of Two Rivers and the City of Two Rivers, hereinafter designated as "Landlord" and West Twin Pines LLC, a Wisconsin Limited Liability Corporation, doing business as Flavor Hut, hereinafter designated as "Tenant".

RECITALS

Landlord is the owner of certain premises located in the City of Two Rivers, County of Manitowoc, State of Wisconsin and desires to lease to tenant upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, the parties do hereby agree as follows:

1. **Leased Premises.** Landlord hereby leases unto Tenant and Tenant hereby leases from Landlord a 4,992 square foot building (the "Building") and land located at 1429 B Wentker Court, Two Rivers, Wisconsin, identified as Building B in Exhibit A attached hereto, hereinafter designated as the "Premises."
2. **Term.** The term of this Lease shall commence on March ____, 2022, and shall terminate at 11:59 P.M. on February 29, 2024, subject to the terms and conditions herein. This Lease is, however, subject to early termination as provided in subsequent sections of this Lease. Further, the Tenant shall have the right to terminate this Lease without cause on three (3) months written notice to the Landlord exercisable at any time during the term hereof. Tenant may take occupancy of Premises before March 1, 2022 but shall be responsible for charges associated with Tenant's use of utilities upon occupancy.
3. **Rental.** Rent shall be due and payable, commencing on March 1, 2022 and on the first day of month thereafter. Tenant agrees to pay to Landlord as rent the amount of \$1,350.00 (about \$0.27 per square foot) Rent shall be paid at such place as Landlord may direct. Each partial month shall be prorated.
4. **Security Deposit Provision.** Tenant herewith deposits with Landlord, as security for the payment of amounts due hereunder, the sum of \$1,600.00, which deposit need not be held in trust and can be commingled with other funds of Landlord. Said deposit shall be refunded to Tenant in the event the Premises are left in the condition called for by this Building Lease and in the event that all monies due to Landlord pursuant to this Building Lease are paid. Provided, however, that Landlord shall retain said security deposit as partial compensation for its payment towards building improvements as listed in item 6 of this lease, should Tenant not occupy the building, or in the event Tenant terminates this Lease within the first twelve months of its term. In no event shall such security deposit be applied toward any rent due or to become due without the written consent of the Landlord. Landlord shall return so much of said security deposit as is properly refundable within thirty (30) days after surrender of the



rented Premises. Tenant agrees to leave the Premises clean, to leave all fixtures and appliances in a clean and good condition, and generally to leave the Premises in a tenantable condition to the Landlord's satisfaction. In addition to other deductions from the Security Deposit, the cost of any cleaning and repair of damages caused by Tenant, normal wear and tear excepted, shall be deducted from the security deposit, and the Tenant shall remain liable for any costs incurred by Landlord in excess of the deposit if the costs of repair of damage and cleaning the Premises exceed said deposit. Landlord shall be relieved of all obligations with respect to such deposit in the event of the sale of the Premises upon furnishing to Tenant written notice of the transfer of such deposit to new owner, and assumption of this Building Lease by the new owner.

5. Limited Right to Renew. Tenant may renew this Lease for an additional two (2) year term, provided: (a) Tenant gives Landlord written notice of Tenant's desire to renew the lease not more than ninety (90) days but at least forty-five (45) days prior to the expiration of the initial term of the Lease; (b) Landlord and Tenant agree on the amount of rent to be paid during the extended term prior to the date on which the initial term expires; and (c) all other terms and provisions of the Lease will continue in full force and effect during the additional two (2) year term.
6. Use of Premises. Tenant may use the Premises for the assembly/manufacture, production, warehousing, marketing and sales, engineering of customized food products, components and parts and any other related lawful use, and for no other purpose unless Landlord has consented to such use in writing.
7. Maintenance & Repairs. Landlord shall maintain and keep in repair the walls, structure, floors, foundation and roof of the Building and the plumbing, electrical and heating, ventilation and air conditioning systems to the extent such systems exist as of the commencement date of this lease. Tenant shall not extend, add to, or modify any of such systems except with the written consent of the Landlord. If Tenant shall extend, add to, or modify any such systems pursuant to the consent of the Landlord, Tenant shall be responsible for repair of any such extension, addition or modification, at its expense, unless otherwise mutually agreed to by the parties hereto. Tenant shall, at its expense, maintain in good order, condition and repair, the remainder of the Premises and the Building leased by Tenant, and keep the same in good condition and repair, including without limitation, wiring, windows, walls, floors, ceilings, plumbing, heating and air conditioning systems, except as aforesaid. Tenant shall be responsible for all garbage and refuse removal from the Premises, and Tenant shall be responsible for removing and disposing of garbage and refuse generated as a result of the use of the Premises by the Tenant. Tenant shall be responsible for janitorial services covering the interior of the Premises, fire extinguisher maintenance and certification. Tenant shall be responsible for repair of any damages to the Premises or the Building caused by the negligent or intentional misconduct of Tenant, Tenant's employees, agents, invitees or guests. On default of the Tenant in making required repairs or replacements, Landlord may, but shall not be required to, make such repairs and replacements for the Tenant's account, and the expense thereof shall constitute and be collectible as additional rent.



8. Utilities. Tenant shall pay all charges for water, gas, electric current, heat, cable television and other utilities used or consumed in or furnished to the Premises. Landlord shall have no liability for the discontinuance or interruption of any such utilities or services unless the same is caused by the actual negligence of the Landlord, its agents, servants or employees. Tenant will provide for its own lawn mowing, snow, garbage and refuse removal.
9. Alterations. Tenant shall not make or suffer to be made any alterations, additions, or improvements in, on or to the Premises or Building or any part thereof without the prior written consent of Landlord. Any alteration, addition or improvement made by the Tenant after such consent shall have been given shall at the Landlord's option become the property of the Landlord upon the expiration or other sooner termination of this Lease; provided, however, that the Landlord shall have the right to require the Tenant to remove the same at Tenant's cost on termination of this Lease. Tenant shall not cause or permit any contractors' or mechanics' lien or other lien arising out of the making of any alteration, addition or improvement to the premises to attach to or affect the Landlord's interest in the Premises, or the Building, and shall indemnify and hold the Landlord harmless from any such lien.
10. Insurance and Indemnity.
 - A. The Landlord shall maintain fire and other casualty insurance on the Premises itself in an amount it deems to be sufficient. Tenant shall be solely responsible for any insurance covering its own property.
 - B. The Tenant shall, at its sole cost and expense, acquire and maintain fire, casualty and extended coverage insurance against fire and other casualty, vandalism, malicious mischief, and other hazards, on Tenant's personal and business property on the leased Premises, and shall be solely responsible to acquire on Tenants behalf and expense any business loss or relocation insurance Tenant desires to protect Tenant in the event fire or other casualty damages the building.
 - C. Landlord shall carry comprehensive general public liability insurance with respect to the Easement Areas, as hereinafter defined.
 - D. The policies required under this Paragraph shall name Tenant and Landlord as insureds as their respective interest may appear, shall be issued by insurers approved by the Landlord, and shall contain a clause that the insurer will not cancel or change insurance without prior written notice to both Landlord and Tenant. Tenant shall provide to Landlord copies of the paid up policies or certificates of the insurer evidencing the maintenance of such insurance policies required to be maintained by the Tenant hereunder upon landlord's request.
 - E. Whenever (i) any loss, cost, damage, or expense resulting from any peril is incurred by any party to this Lease in connection with the Premises, or any part or contents thereof and (ii) such party is then covered in whole or in part by insurance with respect to such loss, cost,



damage or expense, then the party so insured hereby releases the other party from any liability it may have on account of such loss, cost, damage or expense to the extent of any amount recovered by reason of such insurance and waives any right to subrogation which might otherwise exist in or accrue to any person on account thereof, provided that such release of liability and waiver of the right of subrogation shall not be operative in any case where the effect thereof is to invalidate such insurance coverage (or increase the cost thereof, unless the other party reimburses the insured for any cost increase). If either party fails to maintain in force any insurance required by this Lease to be carried by it, then for purposes of this waiver of subrogation it shall be deemed to have been fully insured and to have recovered the entire amount -of its loss.

11. Casualty. In case the Premises shall be destroyed or shall be so damaged by fire or other casualty as to become untenable as determined by the Landlord in its sole discretion, then in such event, at the sole option of the Landlord, this Lease shall terminate from the date of such damage or destruction and Tenant shall immediately surrender such Premises and all interests therein to Landlord, and Tenant shall pay rent only to the time of such surrender. Landlord shall exercise such option to terminate this Lease by notice in writing to Tenant within 45 days after such damage or destruction. In case Landlord shall not elect to terminate this Lease in such event, this Lease shall continue in full force and effect and Landlord shall repair the leased Premises with all reasonable promptness, placing the same in as good a condition as they were at the time of the damage or destruction, and for that purpose may enter the Premises, and rent shall abate in proportion to the time Tenant was unable to occupy the Premises. In either event, Tenant shall remove all rubbish, debris, merchandise, furniture, equipment and other personal property within 15 days after the request of Landlord. Tenant shall have no claim against the Landlord for consequential damages, or by reason of any inconvenience or annoyance arising from the necessity of repairing any portion of the Building or the leased Premises however the necessity may occur.
12. Public Taking. If a part or parts of the Premises shall be sold to or taken by any public authority under its power of condemnation or the threat thereof, Tenant shall have the option to terminate this Lease as of the date of such taking by delivering written notice to Landlord within thirty (30) days after the date of such taking. In the event that Tenant elects for the Lease to terminate the rental payable hereunder shall be proportioned accordingly. In the event that Tenant does not elect to terminate this Lease, rental due hereunder shall be reduced in proportion to the amount of the Premises taken. If the entire Premises are sold or taken, this Lease shall automatically terminate as of the date of such taking. In any event, all damages awarded or amounts paid by the acquiring authority for any such taking, whether for the whole or a part of the Premises, shall be divided between Landlord and Tenant according to their respective interests in the Premises, except that any amounts specifically applicable to damages incurred by Tenant, such as relocation expenses, or prepaid rent, shall be the sole property of Tenant.
13. Assignment and Subletting. Tenant may not assign or sublet the Premises or any part thereof except upon written approval by the Landlord, which shall not be unreasonably withheld.



Tenant may not assign any right granted Tenant hereunder except upon written consent by the Landlord.

14. Default. If (a) default be made in the payment of the rent or any additional charge payable hereunder by Tenant, and such default shall continue for 10 days, or (b) default be made in any of the other covenants or conditions herein contained or other obligations of Tenant executed contemporaneously herewith on the part of Tenant, and such default shall continue for 30 days after written notice thereof shall have been given to Tenant (unless within such 30 days Tenant has commenced to cure such default and diligently pursues such action to completion), or (c) if this Lease shall, by act of Tenant or by operation of law or otherwise, devolve or pass to any party other than Tenant, except with the prior written consent of Landlord, then, in any such event, Tenant shall be in breach of this Lease and Landlord shall have the rights and remedies herein referred to and/or as provided by law, including the right to declare this Lease immediately terminated, without any further notice to Tenant. In the exercise of any of its rights or remedies, Landlord shall be bound by the duty to mitigate its damages in accordance with the provisions of Wisconsin Statutes Chapter 704. Tenant shall be responsible for payment of all costs, disbursements, and attorney's fees incurred by Landlord in enforcing this Lease or in taking legal action against Tenant to enforce this Lease or collect rent or additional rent payable hereunder.

15. Notices. All notices and demands by either party to the other shall be either personally served or given in writing and sent by U.S. certified mail, postage prepaid, and addressed:

To Landlord:
Community Development Authority
Attention: City Manager, City Hall
1717 East Park Street
Two Rivers, WI 54241

To Tenant:
West Twin Pines LLC
1429 B Wentker Court
Two Rivers, WI 54241

Either party may, upon prior notice to the other, specify a different address for the giving of notice.

16. Surrender. On the date of termination of this Lease, Tenant shall peaceably and quietly surrender the Premises in good order, condition and repair, ordinary wear and tear excepted.



17. Quiet Enjoyment. Provided Tenant pays the rent required by this Lease and performs and observes all of the covenants and provisions hereof, Tenant shall have the quiet enjoyment of the premises for the term of this Lease.
18. Estoppel Certificate. Landlord and Tenant agree that at any time and from time to time upon not less than ten (10) days prior request of the other they shall execute, acknowledge and deliver to the other a statement in writing certifying (a) that this Lease is unmodified and in full force and effect (or if there have been modifications, specifying the same) and (b) the dates to which the rent and other charges have been paid, and (c) that, to the said parties' knowledge, the other party is not in default under any provisions of this Lease (or if any such default is known, specifying the same). It is intended that any such statement may be relied upon by any person proposing to acquire such parties' interest in this Lease or any prospective mortgagee of, or assignee of any mortgage upon, such interest.
19. Acceptance by Tenant. Tenant has inspected and knows the condition of the premises and, except as expressly stated herein to the contrary, accepts the same in their present condition.
20. Non-Exclusive Easement. Landlord hereby grants Tenant, Tenant's agents, employees licensees and invitees a non-exclusive easement to use the driveways and parking areas outlined on Exhibit A attached hereto (the "Easement Areas"), in combination with others. Landlord hereby covenants that 26 parking spaces will be available for Tenant's use at all times.
21. Signage. Landlord hereby grants Tenant the right to erect signage of any type or size so long as it is in conformity with local signage codes of the City of Two Rivers, on or about the Premises in connection with Tenant's business and agrees to cooperate with Tenant in obtaining any necessary sign permits.
22. Special Indemnification & Right of Early Termination. Tenant understands and acknowledges that the Premises and Building are, to the best of Landlord's knowledge, situated over land previously used as a landfill.

In the event there is an administrative determination by the state or federal government (or by any unit thereof) or in the event there is a judicial determination, either of which determination is rendered hereafter during the term of this Lease and which find that the environmental condition of the Premises poses a threat to the health or safety of the Tenant or its employees, either party to this Lease shall have the right to terminate this Lease by delivering 30 day's advance written notice to the other party

23. Miscellaneous
 - A. Whenever herein the singular number is used, the same shall include the plural, and the masculine gender shall include feminine and neuter genders.

City Owned Property - Building Lease For:
1429B Wentker Court, Two Rivers, Wisconsin



- B. The submission of this Lease for examination does not constitute a reservation of or option for the Premises and this Lease shall become effective as Lease only upon execution and delivery thereof by Landlord and Tenant.
- C. This Lease shall be governed by, and construed in accordance with, the laws of the State of Wisconsin. If any provision of this Lease or the application thereof to any persons or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease shall not be affected thereby and each provision of the Lease shall be valid and enforceable to the fullest extent permitted by law.
- D. Except as expressly otherwise provided, all of the terms, covenants and conditions thereof shall be binding upon and dispute between the parties hereto concerning their respective rights and liabilities under this lease.
- E. Landlord agrees that the existing heating system in the Building can provide continuous heating to a minimum temperature of 70° Fahrenheit. If for any reason said heating system cannot provide such minimum heat levels, the City will install additional heating equipment as may be necessary to meet this standard.

LANDLORD: City of Two Rivers

Greg Buckley, City Manager

COMMUNITY DEVELOPMENT AUTHORITY

Greg Coenen, President

TENANT: West Twin Pines LLC

Karl Krizek, President