

GROUND LEASE
YAHARA HILLS GOLF COURSE

This Lease (the “Lease”) is made and entered into by and between the County of Dane, a Wisconsin quasi-municipal corporation (hereinafter, “Lessor”) and City of Madison, a Wisconsin municipal corporation (hereinafter “Lessee”).

WITNESSETH:

WHEREAS, Lessor has purchased a portion of the Yahara Hills Golf Course from Lessee, which is located at 7101 US Highway 12 & 18 in the City of Madison (hereinafter “the Property”); and

WHEREAS, Lessor intends to redevelop the Property as a Sustainable Campus, which is expected to include a new landfill, a compost site, and a sustainable business park. Lessor does not have the immediate need to use all of the Property for these purposes; and

WHEREAS, Lessee has operated a municipal golf course on the Property since 1968, and intends to continue operating the existing golf course (hereinafter “the Course”) that is partially on the Property and is more particularly described on the attached Exhibit A and depicted on the attached as Exhibit B (hereinafter referred to as the “Leased Premises”) made a part herein; and

WHEREAS, as a condition of the land sale and development of the Property, Lessor and Lessee have agreed that Lessee can continue operating 36 holes of golf on the Property through October 31, 2024, and continue operating 27 holes of golf on the Property through October 31, 2025, and 18 holes of golf on the Property through at least October 31, 2042.

NOW THEREFORE, in consideration of the above premises and covenants hereinafter expressed, the sufficiency of which is acknowledged by each party, Lessor and Lessee do agree as follows:

1. Leased Premises. The Lessor hereby demises and Leases the Leased Premises to Lessee, for Lessee’s use for the purpose of the continued operation of the Course on the Property, together with all other rights, privileges, easements, and appurtenances. The Leased Premises shall be as follows:

- a. From November 1, 2022 through October 31, 2024, the Leased Premises shall be the entire extents of the Property to operate 36 holes of golf for the Course, as depicted on Exhibit B.
- b. From November 1, 2024 through October 31, 2025, the Leased Premises shall be that portion of the Property needed by Lessee to operate 27 holes of golf for the Course, as depicted on Exhibit C.

- c. On or after November 1, 2025, the Leased Premises shall be that portion of the Property needed by Lessee to operate 18 holes of golf for the Course, as depicted on Exhibit D.

During the term of this Lease, the Lessor and Lessee may agree to modify the Leased Premises, provided that Lessee has at least the minimum number of holes for the Course identified herein. In addition, at its own discretion, Lessor may allow Lessee to use portions of the Property for Course purposes beyond these time limits.

2. Lease Term; Renewal. This Lease shall commence upon the later of Lessee's sale of the Property to the Lessor, or November 1, 2022. The initial term shall expire on October 31, 2032. This lease shall automatically renew for an additional 10-year term to run from November 1, 2032 through October 31, 2042. Thereafter, this Lease shall automatically renew on a year-to-year basis unless terminated by Lessor. Lessor shall give written notice of termination by July 1st, preceding the next golf season. This Lease may be terminated for any reason by Lessee.

3. Rent. In consideration of the rights granted hereunder and as part of the sale and development of the Property, Lessee shall pay Lessor annual rent of \$1.00, payable on the first business day of each year during the Lease Term.

4. Right to Construct Improvements. During the Lease Term, Lessee shall have the right to construct improvements reasonably associated with the operation of the Course, subject to Lessor approval. Lessee shall be responsible for all costs of construction. Upon Lessor request, any improvements constructed by Lessee shall be removed by Lessee at the end of the Lease Term. Lessee shall also have the right to operate, maintain, repair and store all materials, tools, consumables, equipment or other items reasonably associated with the operation of the Course.

- a. Any and all costs related to the Lessee's irrigation system, which include relocation, removal and well drilling, are the full responsibility of the Lessee.

5. No Unauthorized Use. The Leased Premises may not be used by Lessee in any manner except as authorized in this Lease, except as authorized in writing by the Lessor.

6. Zoning. Lessor and Lessee acknowledge their understanding that continued operation of the existing golf course will be permissible on the Leased Premises.

7. Quiet Enjoyment. Lessor represents and warrants that it is the owner in fee simple of land, and that it alone has full right to lease the Leased Premises. Lessor further states that on payment of the rent and performance of the covenants and agreements herein and the Development Agreement, Lessee shall peaceably have and enjoy the Leased Premises and the rights granted herein without any hindrance, molestation or ejection by Lessor.

8. Access to Premises. Lessor and Lessor's agents shall have the right to enter upon the Leased Premises at any time with or without notice for the purpose of making any inspection it may deem expedient to the proper enforcement of the covenants or conditions of this Lease, or the future development of the Sustainability Campus, provided that such inspection shall not unreasonably interfere with Lessee's business. To avoid conflicts with golf operations and golf customers, when possible, Lessor shall provide reasonable notice to Lessee of the need for access, and the Parties shall attempt to find a mutually agreeable time and place for access.

9. Conditions of Premises. Lessee accepts the Leased Premises in its condition on the effective date of the Lease. Lessor makes no representations or warranties concerning the Leased Premises except as expressly stated herein.

10. Maintenance. Lessee shall at its sole cost and expense keep the Leased Premises and Lessee's improvements thereon in clean and orderly condition and good repair. Should Lessee fail or neglect to keep the Leased Premises in clean and orderly condition and good repair as reasonably required to preserve and protect the general appearance and value of the Leased Premises, Lessor may enter the Leased Premises and reasonably remedy such failure or neglect, provided Lessor has given Lessee not less than thirty (30) days prior written notice of such failure or neglect, specifying in reasonable detail such items of failure or neglect, and or opportunity to cure said failure or neglect. Prior written notice is not needed in the case of an emergency.

11. Operating Expenses and Utilities. Lessee shall be responsible for payment of all operating and maintenance expenses relating to its use of the Leased Premises, including but not limited to liability insurance, utilities and related services, garbage removal, snow removal, lawn maintenance and pest control.

- a. Direct utilities related to use of the Leased Premises which may include but are not limited to gas, electric, and water shall remain in the Lessee's name during the term of the Lease and shall be the responsibility of the Lessee.
- b. Any and all utilities and special charges billed to the property which may include but are not limited to stormwater charges and urban forestry charges, shall be apportioned to each party by the percentage of square footage occupied by Lessor and by Lessee as determined by this Lease.
 - i. Upon receipt of said charges, Lessor shall calculate the amount due by each party and notify Lessee of its portion due.

12. Construction Liens. Lessee shall pay when due all claims for labor or materials furnished or alleged to have been furnished to Lessee for use on the Leased Premises, which claims are or may be secured by any construction lien against the Leased Premises or any interest therein. The Lessee shall not permit any construction lien or Leasehold mortgage, or similar, to be filed, or if filed, to remain uncontested, against the fee of the Leased Premises, by reason of work, labor, services, or materials supplied or claimed to have been supplied to the Lessee and shall remove any liens before the end of the Lease Term, as applicable. Nothing in this Lease shall be construed in any way as constituting the consent or request of Lessor to any contractor, subcontractor, laborer, or materialman for the performance of any labor or the furnishing of any materials for any alteration, addition, improvement or repair to the Leased Premises or any part of the Property, nor as giving Lessee any right, power or authority to contract for or permit the rendering of services or the furnishing of materials that would give rise to the filing of a construction lien against the Leased Premises.

13. Nondiscrimination. Lessee agrees to abide by its own respective affirmative action plan and in doing so agrees not to discriminate, in violation of any state or federal law, against any employee or applicant because of race, religion, marital status, age, color, sex, handicap, national origin or ancestry, income level or source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, gender identity, political beliefs, or student status. Lessee further agrees not to discriminate, in violation of any state or federal law, against any subcontractor or person who offers to subcontract on the Leased Premises because of race, religion, color, age, disability, sex, sexual orientation, gender identity or national origin.

14. Indemnification. Each party shall be responsible for the consequences of its own acts, errors, or omissions and those of its employees, boards, commissions, agencies, officers, and representatives and shall be responsible for any losses, claims, and liabilities, which are attributable to such acts, errors, or omissions including providing its own defense. In situations including joint liability, each party shall be responsible for the consequences of its own acts, errors, or omissions and those of its employees, agents, boards, commissions, agencies, officers and representatives. It is not the intent of either party to waive, limit or otherwise modify the protections and limitations of liability found in Wis. Stat. 893.80 or any other protections available to the parties by law. This paragraph shall survive the termination or expiration of this agreement.

15. Taxes and Fees. Lessor agrees to pay as they become due any taxes, fees, assessments or charges of any type, levied by an entity with authority to do so, against the Leased Premises or against any improvements, activity or Property thereon. Except that any fees or assessments charge in accordance with Course operations shall be the responsibility of the Lessee.

16. Compliance with Laws and Agreements. Lessee shall comply with all laws, regulations, ordinances, codes, orders, zoning, site approvals, and permits of all federal, state or municipal authorities having jurisdiction over the Leased Premises. Lessee shall comply with the terms of the Development Agreement for the Property. Lessee shall give prompt notice to Lessor of any notice it receives of any alleged violation with respect to the Leased Premises.

17. Conflicting Terms. Lessor and Lessee will be entering into other Agreements relating to the Property contemporaneously with this Lease. In the event of any inconsistency, conflict or ambiguity as to the rights and obligations of the parties under this Lease or the related agreements, it is the intent of the Parties that the terms of this Lease shall control and supersede any such inconsistency, conflict or ambiguity as to the subject matters contained herein.

18. No Sublet, Assignment or Renewal. There shall be no sublet, assignment or automatic renewal of this Lease without written consent of the Lessor.

19. Breach and Remedies. If Lessee fails to comply with any provision of this Lease for more than thirty (30) days following notification by Lessor of the breach, Lessor shall have the right, in addition to any other rights and remedies that the Lessor may have in law and equity, to terminate the Lease, and the exercise of a right to terminate shall be without prejudice to any other rights and remedies.

20. Modification. This Lease may be modified or amended only in writing executed by the duly authorized representatives of the respective parties.

21. Notices. All notices to be given under the terms of the Lease shall be signed by the person sending the same and shall be sent by certified mail, return receipt requested and postage prepaid, to the addresses of the parties specified below:

To Lessor: Dane County Department of Waste & Renewables
Attn: Director
1919 Alliant Energy Center Way
Madison, WI 53713

To Lessee: City of Madison
Attn: Manager, Office of Real Estate Services
PO Box 2983
Madison, WI 53701-2983

22. No Third Party Beneficiaries. This Lease is intended to be for sole benefit of the parties hereto. No part of this Agreement shall be construed to add to, supplement, amend, abridge, or repeal existing duties, rights, benefits or privileges of any third party, including but not limited to employees of either party.

23. Entire Agreement. The entire agreement of the parties is contained herein and this Agreement supersedes any and all oral agreements and negotiations between the parties.

24. Controlling Law and Venue. This Lease and the performance thereof shall be governed, interpreted and construed by the laws of the State of Wisconsin and venue for any dispute shall be in the Wisconsin Circuit Court for Dane County.

25. Counterparts and Transmittal of Signatures. This Lease may be executed in one or more counterparts, and all such executed counterparts shall constitute the same Lease. A signed copy of the Lease transmitted by facsimile electronic scanned copy (.pdf) or similar technology and shall be as valid as original. This Lease may be converted into electronic format and signed or given effect with one or more electronic signature(s) if the electronic signature(s) meets all requirements of Wis. Stat. ch. 137 or other applicable Wisconsin or Federal law. Executed copies or counterparts of this Lease may be delivered by facsimile or email and upon receipt will be deemed original and binding upon the parties hereto, whether or not a hard copy is also delivered. Copies of this Lease, fully executed, shall be as valid as an original.

END OF CONDITIONS

IN WITNESS WHEREOF, the parties hereto have by their duly authorized representatives executed this Lease as of the dates so indicated.

LESSOR: DANE COUNTY

Joseph T. Parisi
County Executive

Date: _____

Scott McDonell
County Clerk

Date: _____

LESSEE: CITY OF MADISON

Satya Rhodes-Conway, Mayor

Date

Maribeth Witzel-Behl, City Clerk

Date

Countersigned:

David P. Schmiedicke, Finance Director

Date

Approved as to form:

Michael Haas, City Attorney

Date

Execution of this Agreement by the City of Madison is authorized by Resolution Enactment No. RES ____ - _____,
ID No. _____, adopted by the Common Council of the City of Madison on _____, 22__.

EXHIBIT A

Legal Description

Part of the Northeast Quarter of the Southeast Quarter, part of the Northwest Quarter of the Southeast Quarter, part of the Southeast Quarter of the Southeast Quarter, part of the Southwest Quarter of the Northeast Quarter, the Southwest Quarter of the Southeast Quarter of Section 25, part of the Northeast Quarter of the Northeast Quarter, the Northwest Quarter of the Northeast Quarter of Section 36, all located in Township 7 North, Range 10 East, City of Madison, Dane County, Wisconsin described as:

Beginning at the Northeast Corner of Section 36;

thence South 00°14'45" West, along the East line of the Northeast Quarter of Section 36, 886.93 feet to the Northeast corner of Certified Survey Map 6623 recorded in Volume 32 of Certified Survey Maps on Pages 272 and 273 as Document 2311328;

thence South 70°11'29" West, along the North line of said Certified Survey Map 6623, 1,408.95 feet to the Southeast Corner of the Northwest Quarter of the Northeast Quarter of said Section 36;

thence South 87°59'24" West, along the South line of said Northwest Quarter of the Northeast Quarter, 1,324.74 feet to the Southwest corner of said Northwest Quarter of the Northeast Quarter;

thence North 00°21'33" West, along the West line of said Northwest Quarter of the Northeast Quarter, 1,320.13 feet to the South Quarter Corner of said Section 25;

thence North 00°20'47" East, along the West line of the Southeast Quarter of said Section 25, 2,648.86 feet to the Center Quarter Corner of said Section 25;

thence North 00°20'12" East, along the West line of the Northeast Quarter of said Section 25, 436.32 feet to the Southerly right of way line of United States Highway 12 and 18 as described in the State of Wisconsin Transportation Project Plat 3080-01-26;

thence along said Southerly right of way line for the next 16 courses:

South 72°02'15" East, 445.53 feet;

South 65°27'59" East, 156.63 feet;

South 71°33' 05" East, 400.03 feet;

South 75°52'43" East, 318.21 feet;

South 72°02'15" East, 80.04 feet;

South 00°26'49" West, 95.01 feet;

North 88°14'23" East, 268.49 feet;

South 72°02'15" East, 396.29 feet;

South 69°45'02" East, 196.57 feet;

South 67°27'49" East, 179.16 feet;

South 61°23'44" East, 100.00 feet;

South 49°15'34" East, 100.00 feet;

South 37°07'25" East, 100.00 feet;

South 24°59'16" East, 100.00 feet;

South 12°57'08" East, 98.35 feet;

South 06°59'06" East, 75.62 feet to the West right of way line of County Highway AB;

thence South 00°24'10" West, along said West right of way line, 444.66 feet to the South line of the Northeast Quarter of the Southeast Quarter of Section 25;

thence North 88°09'25" East, along said South line, 33.02 feet to the East line of the Southeast Quarter of said Section 25;

thence South 00°24'10" West, along said East line, 1,319.38 feet to the **Point of Beginning**.

These described lands hereof, contain 10,074,391 square feet or 231.28 acres, more or less, and is subject to restrictions, reservations, rights of way and easements of records.

EXHIBIT B

Map of Leased Premises – 36 holes

EXHIBIT C

Map of Leased Premises – 27 holes

EXHIBIT D

Map of Leased Premises – 18 holes