

**CONTRACT FOR THE DONATION AND CONSTRUCTION OF PUBLIC IMPROVEMENTS
TO BE ACCEPTED BY THE CITY OF MADISON
LAKEFRONT PORCH IMPROVEMENTS TO CROWLEY STATION**

MADISON, WISCONSIN

THIS CONTRACT for the Donation and Construction of Public Improvements to be Accepted by the City (hereafter “Contract” or “Agreement”) is made and entered into by Madison Parks Foundation, a 501(c)3 corporation located in Madison, WI (“Foundation”), and the City of Madison, (“City”), a Wisconsin municipal corporation located in Dane County, Wisconsin. This Agreement is effective as of the date signed by the Mayor on behalf of the City.

RECITALS

1. WHEREAS, contemporaneously with this Agreement, the City and the Foundation entered into the Lakefront Porch Donation and Improvement Agreement (the “Donation Agreement”). Under the Donation Agreement, the Foundation agreed to secure the donation of plans and the construction of improvements to the surface of the Madison Water Utility well and reservoir on E. Wilson St. at 201 S. Hancock St. (Well #17, also known as “Crowley Station”), to improve the public open space and community amenities provided by the facility by developing a “Lakefront Porch”.
2. WHEREAS, under the Donation Agreement, Foundation will secure the donation of plans to the City for the Lakefront Porch improvements (the “Plans”), which Plans, once approved by the City, will set forth the public improvements to be made to Crowley Station (the “Improvements”).
3. WHEREAS, under the Donation Agreement, Foundation is authorized to exercise control over Crowley Station in order to make privately funded improvements to the facility, which improvements are to be donated to the City upon completion.
4. WHEREAS, also contemporaneously with the authorization of this Agreement, the Madison Common Council has declared that the Crowley Station surface is a City park under the management and control of the Parks Division, and subject a Memorandum of Understanding between the Parks Division and the Water Utility regarding each agency’s responsibility for the surface and the underlying well and reservoir facility.
5. WHEREAS, the Foundation proposes to make the Improvements set forth in the Plans to serve the public and improve and activate the community space at Crowley Station.
6. WHEREAS, the Foundation, through the financial and in-kind donations of private parties, will provide professional design, consulting, and construction administration services for the project.
7. WHEREAS, the Foundation will oversee and implement the construction of the Lakefront Porch improvements at Crowley Station.
8. WHEREAS, upon satisfactory completion of the improvements, Foundation shall donate the improvements to the City as provided for under Wis. Stat Sec. 62.15(1e).

NOW, THEREFORE, the Foundation and the City hereby agree as follows:

SECTION I - GENERAL CONDITIONS

A. Prequalification of Contractors

1. Normally, entities that perform work that will become a public improvement are required to be qualified for such work by the City Engineer as described in MGO 33.07(7). However, this Agreement is not a contract for public construction under Wis. Stat. § 62.15 because the Lakefront Porch improvements to Crowley Station are to be donated to the City after completion of construction, under Wis. Stat. § 62.15(1e), and further that the materials for the project are to be donated or the labor for such the project is to be provided by volunteers, under Wis. Stat. § 62.15(1). Accordingly, the Parties acknowledge that this prequalification requirement does not apply to this Agreement under MGO Sec. 33.07(7)(a).

B. Nondiscrimination and Affirmative Action

(The term “Contractor” used in this paragraph shall be synonymous with the term “Foundation” used in the remainder of this Agreement, and the term “Contract” shall be synonymous with the term “Agreement.”)

1. Nondiscrimination.

In the performance of work under this Contract, the Contractor agrees not to discriminate against any employee or applicant for employment 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. Contractor further agrees not to discriminate against any subcontractor or person who offers to subcontract on this Contract because of race, religion, color, age, disability, sex, sexual orientation, gender identity or national origin.

2. The following section applies to all contractors employing fifteen (15) or more employees: (MGO 39.02(9)(c).)

The Contractor agrees that, within thirty (30) days after the effective date of this contract, Contractor will provide to the City of Madison Department of Civil Rights (the “Department”), certain workforce utilization statistics, using a form provided by the City.

If the contract is still in effect, or if the City enters into a new agreement with the Contractor, within one year after the date on which the form was required to be provided, the Contractor will provide updated workforce information using a second form, also to be furnished by the City. The second form will be submitted to the Department no later than one year after the date on which the first form was required to be provided.

The Contractor further agrees that, for at least twelve (12) months after the effective date of this contract, it will notify the Department of each of its job openings at facilities in Dane County for which applicants not already employees of the Contractor are to be considered. The notice will include a job description, classification, qualifications, and application procedures and deadlines. The Contractor agrees to interview and consider candidates referred by the Department if the candidate meets the minimum qualification standards established by the Contractor, and if the referral is timely. A referral is timely if it is received by the Contractor on or before the date stated in the notice.

The Department will determine if a contractor is exempt from the above requirements (Sec. I.B.2) at the time the Request for Exemption in I.B.3 is made.

3. Articles of Agreement, Request for Exemption, and Release of Payment:

The “ARTICLES OF AGREEMENT” beginning on the following page, apply to all contractors, unless determined to be exempt under the following table and procedures:

NUMBER OF EMPLOYEES	LESS THAN \$50,000 Aggregate Annual Business with the City*	\$50,000 OR MORE Aggregate Annual Business with the City*
14 or less	Exempt**	Exempt**
15 or more	Exempt**	Not Exempt

*As determined by the Finance Director

**As determined by the Department of Civil Rights

(1) Exempt Status: In this section, “Exempt” means the Contractor is exempt from the Articles of Agreement in section 13.B.(5) of this Contract and from filing an Affirmative Action plan as required by Section IV of the Articles of Agreement. The Department of Civil Rights (“Department”) makes the final determination as to whether a contractor is exempt. If the Contractor is not exempt, sec. 13.B.(5) shall apply and Contractor shall select option A. or B. under Article IV therein and file an Affirmative Action Plan.

(2) Request for Exemption – Fewer Than 15 Employees: (MGO 39.02(9)(a)2.) Contractors who believe they are exempt based on number of employees shall submit a Request for Exemption on a form provided by the Department within thirty (30) days of the effective date of this Contract.

(3) Exemption – Annual Aggregate Business: (MGO 39.02(9)(a)c.): The Department will determine, at the time this Contract is presented for signature, if the Contractor is exempt because it will have less than \$50,000 in annual aggregate business with the City for the calendar year in which the contract is in effect. **CONTRACTORS WITH 15 OR MORE EMPLOYEES WILL LOSE THIS EXEMPTION AND BECOME SUBJECT TO SEC. 13.B.(5) UPON REACHING \$50,000 OR MORE ANNUAL AGGREGATE BUSINESS WITH THE CITY WITHIN THE CALENDAR YEAR, BEGINNING IN 2019.**

(4) Release of Payment: (MGO 39.02(9)(e)1.b.) All non-exempt contractors must have an approved Affirmative Action plan meeting the requirements of Article IV below on file with the Department within thirty (30) days of the effective date of this Contract and prior to release of payment by the City. Contractors that are exempt based on number of employees agree to file a Request for Exemption with the Department within thirty (30) days of the effective date and prior to release of payment by the City.

(5) Articles of Agreement:

Article I

The Contractor shall take affirmative action in accordance with the provisions of this Contract to insure that applicants are employed, and that employees are treated during employment without regard to race, religion, color, age, marital status, disability, sex, sexual orientation, gender identity or national origin and that the employer shall provide harassment-free work environment for the realization of the potential of each employee. 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 insofar as it is within the control of the Contractor. The Contractor agrees to post in conspicuous places available to employees and applicants notices to be provided by the City setting out the provisions of the nondiscrimination clauses in this Contract.

Article II

The Contractor shall in all solicitations or advertisements for employees placed by or on behalf of the Contractors state that all qualified or qualifiable applicants will be employed

without regard to race, religion, color, age, marital status, disability, sex, sexual orientation, gender identity or national origin.

Article III

The contractor shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice to be provided by the City advising the labor union or workers representative of the contractor's equal employment opportunity and affirmative action commitments. Such notices shall be posted in conspicuous places available to employees and applicants for employment.

Article IV

(This article applies only to non-public works contracts).

The contractor agrees that it will comply with all provisions of the Affirmative Action Ordinance of the City of Madison (MGO Sec. 39.02) including the contract compliance requirements. The contractor warrants and certifies that one of the following paragraphs is true (check one):

- A. It has prepared and has on file an affirmative action plan that meets the format requirements of Federal Revised Order No. 4, 41 CFR part 60-2, as established by 43 FR 51400 November 3, 1978, including appendices required by City of Madison Ordinances or it has prepared and has on file a model affirmative action plan approved by the Madison Common Council.
- B. Within thirty (30) days after the effective date of this contract, it will complete an affirmative action plan that meets the format requirements of Federal Revised order No. 4, 41 CFR Part 60-2, as established by 43 FR 51400, November 3, 1978, including appendices required by City of Madison ordinance or within thirty (30) days after the effective date of this contract, it will complete a model affirmative action plan approved by the Madison Common Council.
- C. Contractor believes it is exempt from filing an affirmative action plan because it has fewer than fifteen (15) employees and has filed, or will file within thirty (30) days after the effective date of this Contract, a form required by the City to confirm exempt status based on number of employees. If the City determines that Contractor is not exempt, the Articles of Agreement will apply.
- D. Contractor believes it is exempt from filing an affirmative action plan because its annual aggregate business with the City for the calendar year in which the contract takes effect is less than fifty thousand dollars (\$50,000), or for another reason listed in MGO 39.02(9)(a)2. If the City determines that Contractor is not exempt, the Articles of Agreement will apply.

Article V

(This article applies only to public works contracts).

The contractor agrees that it will comply with all provisions of the Affirmative Action Ordinance of the City, including the contract compliance requirements. The contractor agrees to submit the model affirmative action plan for public works contractors in a form approved by the Director of Affirmative Action.

Article VI

The contractor will maintain records as required by Section 39.02(9)(f) of the Madison General Ordinances and will provide the City's Department of Affirmative Action with access to such records and to persons who have relevant and necessary information, as provided in Section 39.02(9)(f). The City agrees to keep all such records confidential, except to the extent that public inspection is required by law.

Article VII

In the event of the contractor's or subcontractor's failure to comply with the Equal Employment Opportunity and Affirmative Action Provisions of this contract or Sections 39.03 and 39.02 of the Madison General Ordinances, it is agreed that the City at its option may do any or all of the following:

1. Cancel, terminate or suspend this contract in whole or in part.
2. Declare the contractor ineligible for further City contracts until the Affirmative Action requirements are met.
3. Recover on behalf of the City from the prime contractor 0.5 percent of the contract award price for each week that such party fails or refuses to comply, in the nature of liquidated damages, but not to exceed a total of five percent (5%) of the contract price, or ten thousand dollars (\$10,000), whichever is less. Under public works contracts, if a subcontractor is in noncompliance, the City may recover liquidated damages from the prime contractor in the manner described above. The preceding sentence shall not be construed to prohibit a prime contractor from recovering the amount of such damage from the noncomplying subcontractor.

Article VIII

(This article applies only to public works contracts).

The contractor shall include the above provisions of this contract in every subcontract so that such provisions will be binding upon each subcontractor. The contractor shall take such action with respect to any subcontractor as necessary to enforce such provisions, including sanctions provided for noncompliance.

Article IX

The contractor shall allow the maximum feasible opportunity to small business enterprises to compete for any subcontracts entered into pursuant to this contract. (In federally funded contracts the terms "DBE, MBE and WBE" shall be substituted for the term "small business" in this article).

C. Preconstruction Meeting

The Foundation further agrees to coordinate a preconstruction meeting with City Parks and Water Utility staff and any other necessary parties, prior to the start of work for this project.

D. Master Plan

The City and the Foundation agree that the Plans shall dictate the improvements to be made to Crowley Station. Any meaningful changes to the Plans shall be approved by the City. The anticipated Plans were approved by the Urban Design Committee on June 14, 2023 (Legistar File No. 78200).

E. City Approval of Starting Dates

The Foundation further agrees that no work shall be scheduled for the above-mentioned improvements without the City Parks Superintendent approval of starting date and schedule.

F. Notification of Work

The Foundation further agrees to notify the City Parks Superintendent and the Water Utility Chief Engineer two (2) working days prior to beginning work or resuming work at Crowley Station.

G. Change Order to Work

The Foundation further agrees that the City shall not be responsible for any costs or changes related to this project except those specifically enumerated and agreed in this or other written agreements between the City and the Foundation.

H. Donation of Improvements and Acceptance of Work

Upon completion of work, Foundation shall donate the improvements to the City as provided for under Wis. Stat Sec. 62.15(1e). The Foundation further agrees that the acceptance of public improvements is conditioned on completion of the following:

1. That all outstanding parks, engineering and inspection charges indicated herein have been paid in full.
2. That affidavits and lien waivers are received by the City indicating that the Contractor has been paid in full for all work and materials furnished under this contract.
3. That a breakdown of costs incurred by the Foundation for the public improvements to Crowley Station is provided to the City.

Upon completion of the work, Foundation shall inform the City. Acceptance of the work requires inspection by the City Engineer, the Water Utility Chief Engineer, and the Parks Superintendent. Once the improvements are donated to and accepted by the City, the maintenance of the improvements shall become the responsibility of the City.

I. Time of Completion

All work specified herein shall be completed by December 31, 2024.

J. Indemnification and Insurance

The Foundation shall be liable to and hereby agrees to indemnify, defend and hold harmless the City of Madison, and its officers, officials, agents, and employees against all loss or expense (including liability costs and attorney's fees) by reason of any claim or suit, or of liability imposed by law against the City or its officers, officials, agents or employees for damages because of bodily injury, including death resulting therefrom, sustained by any person or persons or on account of damages to property, including loss of use thereof, arising from, in connection with, caused by or resulting from the Foundation's and its Contractor's, Subcontractor's and volunteer's acts or omissions in the performance of this agreement. Negligence on the part of the City or its officers, officials, agents or employees shall not eliminate the Contractor's obligations stated in the preceding sentence. This paragraph only applies to claims, suits or liabilities arising from acts or omissions occurring during the course of the performance of this agreement and before the City accepts the planned work as completed.

It is not the intent of the Parties 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.

Foundation represents and warrants that its use of Crowley Station will not generate any hazardous substance, and it will not store or dispose on Crowley Station nor transport to or over Crowley Station any hazardous substance in violation of any applicable federal, state or local law, regulation or rule. Foundation further agrees to hold the City harmless from and indemnify the City against

any release of such hazardous substance and any damage, loss, or expense or liability resulting from such release including all attorneys' fees, costs and penalties incurred as a result thereof except any release caused by the sole negligence or intentional acts of the City, its employees or agents. "Hazardous substance" shall be interpreted broadly to mean any substance or material defined or designated as hazardous or toxic waste, hazardous or toxic material, hazardous or toxic radioactive substance, or other similar term by any federal, state or local environmental law, regulation or rule presently in effect or promulgated in the future, as such laws, regulations or rules may be amended from time to time; and it shall be interpreted to include, but not be limited to, any substance which after release into the environment will or may reasonably be anticipated to cause sickness, death or disease or damage to or loss of use of real or personal property.

In any and all claims against the City, its officials, officers, agents, employees or consultants, by any employee of the Foundation, its Contractor, Volunteers, or any person or organization directly or indirectly employed by any of them to perform or furnish any of the work or anyone for whose acts any of them may be liable, the indemnification obligation hereunder shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor, Volunteer or other person or organization under workers' compensation, disability benefit, or other employee benefit acts, statutes or laws.


The obligations of the Foundation under this paragraph J. shall not extend to the liability of the City's consultants or consultants' agents or employees arising out of the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, and designs or specifications.

If the Foundation secures a Contractor to perform work under this Agreement, the Contractor shall procure and maintain during the life of this contract, Commercial General Liability insurance including, but not limited to, bodily injury, property damage, personal injury, and products and completed operations (unless determined to be inapplicable by the Risk Manager) in an amount not less than \$1,000,000 per occurrence. This policy shall also provide contractual liability in the same amount. Foundation's Contractor's coverage shall be primary and list the Foundation and the City of Madison, its officers, officials, agents and employees as additional insureds. Foundation's Contractor shall also procure and maintain Umbrella Liability coverage at least as broad as the underlying Commercial General Liability with minimum limits of \$2,000,000 per occurrence and aggregate. Such insurance is to be placed with insurers who have an A.M. Best rating of no less than A- (A minus) and a Financial Category rating of no less than VII.

Proof of Insurance, Approval. The Foundation shall provide the City with certificate(s) of insurance showing the type, amount, effective dates, and expiration dates of required policies prior to commencing work under this Contract. Foundation shall provide the certificate(s) to the City's representative upon execution of the Contract, or sooner, for approval by the City Risk Manager. If any of the policies required above expire while this Contract is in effect, Foundation shall provide renewal certificate(s) to the City for approval. Certificate Holder language should be listed as follows:

City of Madison
ATTN: Risk Management, Room 406
210 Martin Luther King, Jr. Blvd.
Madison, WI 53703

The Foundation shall provide copies of additional insured endorsements or insurance policies, if requested by the City Risk Manager. The Foundation and/or Insurer shall give the City thirty (30) days advance written notice of cancellation, non-renewal or material changes to any of the above-required policies during the term of this Contract.

 The Foundation shall require all Contractors engaged in the construction of this project to maintain the insurance required by Section 107.4 of the *City of Madison Standard Specification for Public*

Works Construction, and to submit a current Certificate of Insurance with the City Engineer prior to the commencement of any work under this contract.

K. Weapons Prohibition

The Foundation shall prohibit, and shall require its contractors or subcontractors to prohibit, its employees and volunteers from carrying weapons, including concealed weapons, in the course of performance of work under this Contract, other than while at the contractor's or subcontractor's own business premises. This requirement shall apply to vehicles used at any City work site and vehicles used to perform any work under this Contract, except vehicles that are an employee's "own motor vehicle" pursuant to Wis. Stat. sec. 175.60(15m).

L. Guarantee of the Work

The Foundation agrees to guarantee all work performed and improvements made under this contract for a period of one (1) year from the date of final acceptance by the City, against defects in workmanship or materials. If any defect should appear during the guarantee period, the Foundation agrees to make required replacement or acceptable repairs if the defective work at their own expense.

M. Specifications for Improvement

The Foundation agrees to install the improvements specified in this Agreement in accordance with the Plans approved as provided for under the Donation Agreement and in accordance with the *City of Madison Standard Specifications for Public Works Construction* and the following conditions:

1. Design and Construction Services
 - a. The Foundation shall provide professional design and construction documents that will be used to construct the Improvements.
 - b. The Foundation shall ensure construction administration over the project at all times.
2. Site Control
 - a. The Foundation will only have control over the Crowley Station surface for the project. If additional portions of the Water Utility property are desired by Foundation or its Contractor, Foundation will need separate written approval from the Water Utility.
3. Interference with Site Operations
 - a. The Foundation acknowledges that the primary purpose of Crowley Station is for use as a community drinking water well and reservoir and that the facility will be operational while improvements are made to the surface. Neither Foundation nor its Contractor shall interfere with the operations of the facility for its intended purpose without the prior written approval of the Water Utility.
4. Project Specific Specifications
 - a. While the Improvements are being made, the City and the Foundation may agree upon project specific specifications. Any such specifications shall be set forth in writing, and agreed to by the Parties.
5. Grading and Erosion Control

- a. If necessary, the Foundation shall obtain an Erosion Control and Stormwater Management Permit for the erosion and runoff control as required by Chapter 37, M.G.O. prior to the grading, utility installation or other land disturbance activity. The Foundation shall adhere to conditions specified on the permit including reporting requirements.
- b. The Foundation shall clean up, topsoil, seed and mulch any public property, which is disturbed during the project. The Foundation shall provide and install any erosion control measures required on public property.
- c. Erosion Matting shall be installed in accordance with the City of Madison Standard Specifications for Public Works Construction.
 - i. Erosion Matting shall be installed correctly with correct anchorage, staple pattern, and overlap. To verify the staple pattern, the Contractor shall provide to the Engineer a manufacturer's recommended staple pattern for the type of matting installed.
 - ii. Anchorage devices for erosion control matting are required to be a product identified on the Wisconsin Department of Transportation Erosion Control Product Acceptability List (PAL) under the category of "Anchoring Devices" for Class I, Urban Erosion Mat. Anchorage devices shall be completely biodegradable. Photodegradable or metal anchorage devices shall not be allowed. Materials deemed to present a hazard from splintering or spearing shall not be approved, including solid wood devices.

6. Protection

- a. Construction fencing shall be installed to protect trees and discourage access to the active construction area by the general public during the course of this project as determined by the Parks Superintendent. This fence shall be highly visible (orange), constructed of a plastic web, and able to withstand the expected amount of use it will receive on a construction site. Minor relocation of fencing may be required as the work progresses. Construction fencing shall be International Orange color, high-density polyethylene mesh conforming to the following:
 - 1. Mesh opening: 1 inch minimum to 3 inch maximum
 - 2. Height: 4 feet
 - 3. Ultimate tensile strength: Avg. 3000lb per 4' width (ASTM D638)

N. Failure of Work to Progress; Restoration of Crowley Station. In the event that work on the Improvements as called for in Plans is not completed in a timely manner, or if Foundation expresses an intent to cease work on the improvements, the Foundation shall take all measures necessary to restore Crowley Station to a useable condition in the most efficient and least costly manner, as agreed to by the City's Park Superintendent and the Water Utility Chief Engineer. This could include restoring portions of Crowley Station to the condition it was in prior to construction, or finishing improvements that have been planned for. Foundation shall be responsible for these restoration costs, which shall be agreed upon by the Parties. If Foundation does not perform this work, or upon the agreement of the Parks Superintendent, the City may utilize its own workforce, or enter into a separate contract, to make these repairs to reopen Crowley Station to the public. If the City makes these repairs, Foundation shall reimburse the City for the costs actually incurred in restoring Crowley Station to a useable condition as a City park.

O. Foundation's Designated Project Coordinator

As provided for under the Donation Agreement, the Foundation will appoint a Project Coordinator within ten (10) days of execution of this Agreement, said individual who shall act as the Foundation's representative during the day-to-day construction of the improvements to the Crowley Station. Notwithstanding anything to the contrary set forth elsewhere in this Agreement, the Project Coordinator shall direct and exercise full management, control and supervision over all aspects of the design, contracting and construction of the improvements to be completed pursuant to this Agreement, subject only to the requirement that all such improvements shall be consistent with the Plans approved by the City.

P. Penalties

The Foundation further agrees that failure to comply with the provisions of this agreement shall have the following results:

1. The City's right to terminate the Donation Agreement and all subsequent project work.
2. The City may take any measures necessary to reopen Crowley Station as a public park, as provided for under Sec. N.

Q. Compliance with the Law. Foundation agrees to comply with all laws and ordinances of the United States, the State of Wisconsin, Dane County, and the City of Madison, and shall be responsible for obtaining any necessary permit or approvals to make the improvements.

R. Relationship of Parties. That Parties agree that no partnership, joint venture, or other joint relationship is created hereby. In addition, the City does not extend to Foundation or their agents any authority, of any kind, to bind the City in any respect whatsoever. It is further agreed that Foundation and their agents are not employees or representatives of the City, and that any persons who Foundation utilizes and provides for services under this Agreement are employees, representatives or agents of Foundation and are not employees of the City. In addition, it is agreed that by granting Foundation the right to use certain City properties for the purposes set forth herein and in the Donation Agreement, that the City is not granting Foundation the right to sell or distribute any City goods or services nor is there a community of interest, as that term is defined at Wis. Stat. Sec. 135.02(1), between the City and the Foundation arising from this Agreement. The Parties both acknowledge that this Agreement does not create a dealership under Wis. Stat. Ch. 135 nor is it the intent of the Parties to do so.

S. Impossibility of Performance. Neither City nor Foundation shall be obligated to or liable for the performance of any term or condition of this Agreement on its part to be performed if such performance is prevented by fire, earthquake, flood, act of God, riots or civil commotions, pandemic, or by reason of any other matter or condition beyond the control of either party.

T. Binding on Parties; Amendments. This Agreement shall be binding on the parties hereto, their respective heirs, devisees and successors and cannot be varied or waived by any oral representations or promise of any agent or other person of the parties hereto unless the same be in writing signed by the duly authorized agent or agents who executed Agreement

U. Counterparts; Electronic Delivery. This Agreement and any document executed in connection herewith may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute the same document. Signatures on this Agreement may be exchanged between the Parties by facsimile, electronic scanned copy (.pdf) or similar technology and shall be as valid as original; and this Agreement 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 Agreement 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 Agreement, fully executed, shall be as valid as an original.

**CONTRACT FOR THE DONATION AND CONSTRUCTION OF PUBLIC IMPROVEMENTS
TO BE ACCEPTED BY THE CITY OF MADISON
LAKEFRONT PORCH IMPROVEMENTS**

IN WITNESS WHEREOF, the parties hereto have set their hand(s) at Madison, Wisconsin.

FOR MADISON PARKS FOUNDATION, INC.

Ty Beck, President

Date

FOR THE 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 R. Haas, City Attorney

Date

Execution of this Agreement by Madison is authorized by Resolution Enactment No. RES 23-_____, ID No. _____, approved by the Board of Parks Commissioners on _____, 2023, the Water Utility Board on _____, 2023, and adopted by the Common Council of the City of Madison on _____.