

**FIRST AMENDMENT TO THE
OPERATING AGREEMENT FOR BRITTINGHAM BEACH HOUSE**
Between the City of Madison and Brittingham Boats, LLC.

THIS AGREEMENT is entered into by and between the City of Madison, a municipal corporation (hereinafter referred to as “City”), and Brittingham Boats, LLC, a Wisconsin limited liability company (hereinafter referred to as “Permittee”) is effective as of the date by which all parties have signed hereunder.

WITNESSETH:

WHEREAS, on December 9, 2020, the City and the Permittee entered into the Operating Agreement for Brittingham Beach House (the “Agreement”) which Agreement set forth the terms and conditions for the Permittee’s use of the Brittingham Beach House and surrounding areas in Brittingham Park (the “Premises”) for rental, instructional and concession activities, from 2021-2035; and,

WHEREAS, under the Agreement, the Permittee is authorized to make improvements repairs and upgrades to the Premises (“Improvements”), with Improvements over \$5,000 required to be approved by the Board of Parks Commissioners; and,

WHEREAS, the City and the Permittee desire to increase the threshold for Board of Parks Commissioners approval, and provide the Parks Division with more authority over minor Improvements to the Premises.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, the Parties agree as follows:

1. Purpose. The purpose of this First Amendment to the Operating Agreement for Brittingham Beach House (“First Amendment”) is to update the Improvement approval process, by raising the threshold for Board of Parks Commissioner approval and giving the Parks Division additional authority over minor Improvements.
2. Section 4.d. of the Agreement is amended as follows:

“Plans and approval. Prior to making any Improvement, Permittee must notify the Parks Superintendent, or representative, in writing of the anticipated Improvement. ~~Except for Improvements or repairs under \$5,000, Improvements may be approved by the Parks Division, except that the following types of Improvements require the approval of the Board of Parks Commissioners:~~ 1) any Improvements of \$10,000 or more (other than for electrical, plumbing, or other utility service to the Premises); 2) Improvements that change the use of the facility, as determined by the Parks Division, and; 3) any other Improvement as determined by the Parks Division. When Board of Parks Commissioners approval is required, Permittee shall ~~then~~ present the plans for the Improvements to the Board of Parks Commissioners, who

shall either approve the Improvement, or reject the Improvement. If rejected, Permittee has no appeal rights, but may present a modified plan to the Board for reconsideration at a later date. Depending on the nature of the proposed Improvement, the Board of Parks Commissioners may require, before approving or rejecting the Improvement, an advisory opinion from the Board of Public Works.”

IN WITNESS WHEREOF, the parties hereto have set their hands at Madison, Wisconsin.

BRITTINGHAM BOATS, LLC.

Tyler Leeper, President

Date

CITY OF MADISON

Satya Rhodes-Conway, Mayor

Date

Maribeth Witzel-Behl, City Clerk

Date

Countersigned:

Approved as to form:

David P. Schmiedicke, Finance Director

Date

Michael Haas, City Attorney

Date

Execution of this First Amendment by the City is authorized by Resolution Enactment No. RES-20-00623, ID No.61601, adopted by the Common Council of the City of Madison on Sept. 1, 2020, and the Board of Parks Commissioners approvals granted on Aug. 12, 2020 and _____, 2024 (ID No. _____).