

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (“Agreement”) is entered into as of the ____ day of _____, 2024, by and between the **City of Madison**, a Wisconsin municipal corporation (“Buyer”) and **The Salvation Army**, an Illinois corporation (“Seller”).

In consideration of the covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Buyer and the Seller (together, the “Parties”) hereto covenant and agree as follows:

1. The Property. The Seller is the owner of the real property legally described in Exhibit A, located at 3030 Darbo Drive in the City of Madison, Wisconsin (the “Property”). At Closing, the Buyer shall purchase and the Seller shall sell and convey by Special Warranty Deed (“Deed”) fee simple ownership of Seller’s interest in the Property, together with all rights, easements and appurtenances pertaining thereto and all improvements, trees, bushes, landscaping, and foliage.
2. Effective Date. The “Effective Date” shall be the date first stated above.
3. Purchase Price. The total purchase price of the Property (“Purchase Price”) shall be Three Million and no/100 (\$3,000,000.00) which amount shall be payable in cash at Closing, as defined herein, subject to the adjustments and prorations herein provided.
4. Personal Property. The transaction contemplated by this Agreement will not include any personal property.
5. Delivery of Documents.
 - a. The Seller shall, within (10) business days after the Seller’s execution of this Agreement, provide the Buyer with complete copies of all documents in the Seller’s actual possession or control relating to the physical and environmental condition of the Property. Seller has previously provided to the City copies of appraisals received by Seller regarding the Property.

- b. Within five (5) business days after the Seller's execution of this Agreement, the Seller shall order a title insurance commitment ("Title Commitment") from the First American Title Company ("Title Company") with a policy amount of not less than the Purchase Price. The commitment shall include all supporting documents including, but not limited to, recorded declarations, use restrictions and annexation agreements. If the Title Commitment discloses any conditions, restrictions, liens, encumbrances, easements or covenants which in the Buyer's reasonable opinion would adversely affect the Buyer's intended use, Buyer shall notify the Seller in writing within prior to the expiration of the Due Diligence Period (as defined below) of such matters ("Title Objection Notice"), and the Seller shall have thirty (30) days from the date it receives the Title Objection Notice (the "Cure Period") to (i) cure those defects that it elects to cure, provided Seller shall have no obligation to cure any matters objected to in the Title Objection Notice except for monetary liens, which the Seller shall satisfy at or before Closing, and (ii) cause the Title Company to furnish an updated Title Commitment showing such defects cured or removed. If all defects set forth in the Title Objection Notice are not cured within the Cure Period, the Parties may either agree to extend the initial thirty (30) day Cure Period, or the Buyer may, at its option, within ten (10) business days following the initial thirty-day Cure Period terminate this Agreement by written notice to the Seller.
6. Limited Representations and Warranties; AS-IS Condition. Except as otherwise provided in this Agreement, the Buyer shall purchase the Property in "AS-IS, WHERE-IS" condition and "with all faults," and shall agree that it relied upon no warranties, representations or statements by the Seller, its agents or employees, in entering into this Agreement or in closing the transaction described therein. The Buyer's Closing on the acquisition of the Property shall constitute conclusive evidence that the Buyer is satisfied with the condition of and title to the Property.
7. Due Diligence Period.
 - a. The Buyer shall have thirty (60) days after execution of this Agreement by the Parties ("Due Diligence Period") to review, test and inspect all aspects of the Property, at its sole cost and expense, subject to the provisions of this Section 7. In the event said review, inspections or tests disclose matters which would make the Property unsuitable for the Buyer's intended use, the Buyer may terminate this Agreement by written notice to the Seller prior to the expiration of the Due Diligence Period. If the Buyer does not provide written notice terminating this Agreement on or prior to the sixtieth (60th) day of the Due Diligence Period, this Agreement shall remain in full force and effect, the Buyer shall accept the Property as-is, and the Parties shall proceed to Closing.
 - b. Notwithstanding the foregoing, the Buyer may not perform any Phase 2 Environmental Site Assessment or any testing of the air, soil or water at the Property without the prior written consent of the Seller, which consent may be withheld in Seller's sole discretion.

- c. Should the Buyer desire to waive its contingencies under this Agreement and close prior to the end of the Due Diligence Period, the Buyer may provide the Seller with written notice of its intent to do so. The provision of such notice by the Buyer shall not affect the covenants and Closing requirements contemplated in this Agreement, except that the Closing shall occur on or before fifteen (15) days from the date the Seller receives such notice, unless the Parties agree in writing to another date.
 - d. The Due Diligence Period in this Agreement may be extended only upon written agreement of the Parties.
8. Access to the Property.
- a. The Buyer and the Buyer's authorized agents, contractors, and engineers shall be permitted access to the Property for the purpose of conducting inspections and testing, including but not limited to, including a Phase 1 or 2 Environmental Site Assessment report ("ESA") and related testing, soils testing and any other inspections or testing deemed necessary by the Buyer and approved by Seller as set forth in Paragraph 7(b). Access shall be at reasonable times with at least forty-eight (48) hours advance notice to the Seller.
 - b. In the event Buyer's Phase 1 ESA recommends a Phase 2 ESA, and the Seller consents as set forth in Paragraph 7(b), the Buyer may notify the Seller in writing of its desire to extend the Due Diligence Period if necessary to conduct such investigation. If the Parties are unable to agree on an extension of the Due Diligence Period, the Buyer may declare this Agreement null and void by providing written notice of termination to the Seller prior to the expiration of the Due Diligence Period. In no event shall the Seller be required to cure any matter to which the Buyer objects relating to the condition of the Property or any improvements located thereon. The Buyer shall repair, at its sole cost and expense, all damages caused by any of its assessments and inspections so that the condition of the Property is returned to as good or better condition as existed prior to the assessment(s) and inspections, which obligation shall survive any termination of this Agreement.
 - c. Seller may have one or more representatives present during any period of access by the Buyer or the Buyer's agents. The Buyer and the Buyer's agents shall follow the Seller's reasonable safety and welfare rules during any period of access to the Property.
9. Title Insurance. Seller shall order a Title Commitment from the Title Company as set forth in Paragraph 5(b) of this Agreement, and any objections to matters shown on the Title Commitment shall be addressed as set forth in Paragraph 5(b).
10. Survey. Any survey of the Property including, but not limited to, an ALTA/NSPS Land Title Survey that meets the Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys effective February 23, 2021 that is required to eliminate all survey related exceptions to the title insurance policy, certified as of a current date in favor of the Buyer

and the Title Company providing the title insurance described in Paragraph 9 shall be at the sole cost and expense of the Buyer. Any objections by the Buyer to matters shown in any such survey shall be delivered by the Buyer to the Seller in a written notice on or before the expiration of the Due Diligence Period, provided the Seller shall have no obligation to cure any such objections.

11. Commissions. The Seller represents that it has not entered into any contracts with any brokers or finders nor has the Seller obligated itself to pay any real estate commissions or finders' fees on account of the execution of this Agreement or the close of the transaction contemplated therein. The Buyer represents that it has not entered into any contracts with any brokers or finders nor has the Buyer obligated itself to pay any real estate commissions or finders' fees on account of the execution of this Agreement or the close of the transaction contemplated therein. The provisions of this Paragraph 11 shall survive any expiration or termination of this Agreement and shall not merge into any deed delivered and accepted upon the closing of the transaction therein contemplated.

12. Closing.
 - a. Subject to the outside date set forth in Paragraph 13(d)(4), closing ("Closing" or the "Closing Date") shall occur on or before fifteen (15) days from; (a) the expiration of the Due Diligence Period; or (b) the date of the Seller's receipt of notice from the Buyer requesting an earlier date of Closing; or (c) such other date agreed to in writing by the Parties, either in escrow or at the office of the Title Company issuing the commitment for title insurance, unless the Parties agree in writing to an alternate Closing location.

 - b. The Seller agrees to execute and deliver to the Buyer at or before Closing the Deed, conveying the Property to the Buyer free and clear from all liens and encumbrances, excepting the following: Municipal and zoning ordinances and agreements entered under them; recorded easements for the distribution of utility, municipal services; and other encumbrances agreed to by the Buyer.

 - c. The Buyer shall pay all recording/filing fees except that the Seller shall pay the recording/filing fees for such documents as are required to be recorded/filed in order to cause title to the Property to be in the condition called for by this Agreement.

 - d. Real estate taxes, if applicable, in the year of Closing shall be prorated between the Buyer and the Seller as of the date of Closing based upon the latest known assessment and latest known mill rate.

 - e. The Seller shall be responsible for the payment of any existing special or area assessments, sewer interceptor charges, or any other charges payable to any municipality or utility with regard to the Property as of the date of Closing.

 - f. The Seller shall pay any fees related to the Wisconsin Real Estate Transfer fee.

- g. The Title Company shall prepare and deliver at Closing the Wisconsin Transfer Return due in connection with conveyance of the Property.
 - h. All costs charged by the Title Company to facilitate Closing shall be prorated between the Parties.
 - i. Prior to Closing, the Buyer shall obtain authorization from the City of Madison Common Council for the approval and execution of this Agreement by the Buyer.
13. Representations, Covenants, and Conditions. The City hereby acknowledges Seller's desire to remain in occupation of the Property following Closing on substantially the same terms described in Exhibit B (the "Post-Closing Lease").
- a. Seller Representations. Seller represents and warrants to Buyer as follows:
 - i) No Prior Right to Purchase. No other party has any option, right of first refusal agreement with respect to the purchase or sale of the Property.
 - ii) No Adverse Possessors. There are no parties in possession of any portion of the Property as tenants at sufferance or trespassers.
 - iii) No Lessees. The Seller represents that the Property is not leased or occupied by any third party and the Seller agrees that it shall not enter into any lease or rental agreement for the Property, or any portion thereof, during the Buyer's Due Diligence Period, as described in Paragraph 7, and through the date of Closing, without the prior written consent of the Buyer.
 - iv) The Seller has not received any uncured notice that the Property is currently in violation of any applicable statutes, ordinances, codes, and rules and regulations of any governmental authority having jurisdiction over the Property.
 - v) There are no actions, suits, proceedings or claims pending or, to the best of Seller's knowledge, threatened with respect to or in any manner affecting any of the Property or the ability of the Seller to consummate the transaction contemplated by this Agreement.
 - vi) There are no threatened condemnation or similar proceedings affecting any of the Property and, to the best of Seller's knowledge, no such proceeding is contemplated by any governmental authority.
 - vii) The entering into and consummation of the transactions contemplated hereby will not conflict with or, with or without notice or the passage of time or both, constitute a default under, any contract, lease or other agreement, including, without limitation, the contracts to which Seller is a party or by which Seller may be bound or any law, rule, license, regulation, judgment, order or decree governing or affecting Seller or the Property.

- b. Operation of the Property. Until the earlier of the Closing or the termination of this Agreement, Seller shall:
- i) Not do anything, or permit anything to be done, that would impair or modify the status of title as shown on the Title Commitment other than releasing liens and curing any title matters that the Seller elects to cure under Paragraph 5(b); provided the foregoing shall not prevent the Seller from granting any new easement or other title matter required by any governmental authority or organization that has condemnation authority.
 - ii) Maintain the Property in the same manner as immediately prior to the Effective Date, reasonable wear and tear excepted.
 - iii) Not enter into any contract that, following Closing, will be binding upon Buyer or the Property without, in each instance, obtaining the prior written approval of Buyer.
 - iv) Not cause or permit transfer, conveyance, sale, grant of easement, assignment, pledge, mortgage, or encumbrance of any of the Property.
- c. Advise Buyer. Until the earlier of the Closing or the termination of this Agreement, Seller shall notify City in writing promptly upon learning or receiving notice of:
- i) Any violation of any law, ordinance, regulation or law that would or might materially affect any of the Property.
 - ii) Any pending or threatened litigation that affects any of the Property or that could affect the transaction contemplated hereby.
- d. Conditions. City shall not be obligated to close the transaction contemplated hereunder unless each of the following conditions shall be satisfied on the Closing Date.
- i) The Title Company shall issue (or commit unconditionally to issue) to the Buyer an owner's policy of title insurance in the condition called for in this Agreement.
 - ii) The representations and warranties of Seller in this Agreement shall be true and correct in all material respects on and as of the Closing Date with the same force and effect as though such representations and warranties had been made on and as of the Closing Date.
 - iii) Seller shall have performed all covenants and obligations and complied with all conditions required by this Agreement to be performed or complied with by Seller on or before the Closing Date.

- iv) Notwithstanding any extension of the Due Diligence Period or the fifteen (15) day period set forth in Paragraph 12(a), Closing must occur on or before December 23, 2024. If Closing does not occur on or before said date, then the City may choose to exercise any of its options outlined in Subparagraph 13(f), and the City's obligation to Close shall be conditioned upon the City of Madison Common Council authorizing a budget amendment allowing for the City's purchase of the Property.
- e. Notwithstanding anything to the contrary set forth elsewhere herein, each Party's obligation to proceed with the closing of the transaction contemplated by this Agreement is conditioned upon the simultaneous execution of the Post-Closing Lease.
- f. If any condition specified herein is not satisfied on or before the Closing, then at Buyer's option, (a) Buyer may waive such condition either at the time originally established for Closing or at any time thereafter, or (b) Buyer may terminate this Agreement by written notice thereof to Seller, either at the time originally established for Closing.

14. Miscellaneous.

- a. No Obligations to Third Parties. Except as otherwise expressly provided herein, the execution and delivery of this Agreement shall not be deemed to confer any rights upon, nor obligate any of the Parties hereto, to any person or entity other than the Parties.
- b. Benefit and Burden. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, personal representatives, successors, and assigns.
- c. Entire Agreement. This Agreement contains the entire agreement between the Parties and any modification, alteration or addendum to this Agreement shall be valid only when written and executed by the Parties.
- d. Counterparts and Transmittal of Signatures. This Agreement may be executed in one or more counterparts, and all such executed counterparts shall constitute the same Agreement. A signed copy of this Agreement transmitted by facsimile electronic scanned copy (.pdf) or similar technology and shall be as valid as original. 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, email or similar technology and upon receipt will be deemed original and binding upon the Parties, whether or not a hard copy is also delivered. Copies of this Agreement, fully executed, shall be as valid as an original.

- e. Severability. If any non-material part, paragraph, or article of this Agreement is determined to be invalid, or otherwise unenforceable, the validity of all the remaining parts, paragraphs, and articles shall not be affected thereby. Any such non-material parts, paragraphs, or articles shall be deemed severable.
 - f. Choice of Law, Venue, and Forum Selection. This Agreement shall be governed by and construed, interpreted, and enforced in accordance with the laws of the State of Wisconsin, without regard to conflict of law principles. For any claim or suit or other dispute relating to this Contract that cannot be mutually resolved informally, the venue shall be Dane County, Wisconsin, and the parties agree to submit themselves to the jurisdiction of a court of competent jurisdiction in said venue, to the exclusion of any other forum that may have jurisdiction over such a dispute according to any law.
 - g. Headings. The headings in this Agreement will be for reference purpose only and shall not in any way affect the meaning or interpretation herein.
15. Seller Contingency. Seller's obligation to conclude the transaction contemplated by this Agreement shall be contingent upon obtaining the approval of the Board of Directors, The Salvation Army, Territorial Headquarters, Hoffman Estates, Illinois. If Seller does not terminate this Agreement within twenty-one (21) days after the Effective Date by Seller sending written notice to Buyer within such period, then this contingency shall be deemed waived and satisfied. If Seller terminates this Agreement within the time period provided, then this Agreement shall be deemed null and void and neither party shall have any further obligations to the other hereunder.

[Signature pages to follow]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date first above written.

BUYER: CITY OF MADISON

By: _____ Date: _____

Name: Satya Rhodes-Conway
Title: Mayor

By: _____ Date: _____

Name: Maribeth Witzel-Behl
Title: City Clerk

Approved:

David Schmiedicke, Finance Director Date

Approved:

Eric Veum, Risk Manager 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-24-_____, File I.D. No. _____, adopted by the Common Council of the City of Madison on the _____ day of _____ 2024.

Drafted by the City of Madison Office of Real Estate Services

Project No. 10379

Signatures continue on the following page

SELLER: The Salvation Army

By: _____ Date: _____
(Signature)

By: _____
(Print name and title)

By: _____ Date: _____
(Signature)

By: _____
(Print name and title)

State of Illinois)
) ss.
County of Cook)

Personally came before me this _____ day of _____, 2024, the above named
_____ (name), _____ (title) and
_____ (name), _____ (title), each acting in said
capacity and known by me to be the person(s) who executed the foregoing instrument and
acknowledged the same.

Notary Public, State of Illinois

(print or type name)

My Commission expires: _____

EXHIBIT A
Legal Description of the Property

LOT 2 OF CERTIFIED SURVEY MAP 7652, RECORDED NOVEMBER 15, 1994 IN VOLUME 40, PAGES 47-49 AS DOCUMENT NO. 2645258 AND BEING CORRECTED BY AFFIDAVIT RECORDED JUNE 10, 1996 IN VOLUME 33141, PAGE 73 AS DOCUMENT NO. 2799665, BEING LOCATED IN THE NORTHEAST ¼ AND NORTHWEST ¼ OF THE NORTHWEST ¼ OF SECTION 5, TOWNSHIP 7 NORTH, RANGE 10 EAST, CITY OF MADISON, DANE COUNTY, WISCONSIN, BEING OUTLOT A, LOTS 1-4 AND 9-19 EXCEPT THE NORTHERLY 5 FEET OF LOTS 16-19, ALL IN DARBO'S ADDITION.

EXCEPTING THEREFROM THAT PORTION OF LAND CONVEYED IN WARRANTY DEED RECORDED IN DOCUMENT NO. 4229987 AND FURTHER EXCEPTING THEREFROM THAT PORTION OF LAND CONVEYED IN INSTRUMENT RECORDED IN DOCUMENT NO. 5424962.

Tax Parcel Number: 251/0710-052-1005-1

Address: 3030 Darbo Drive

EXHIBIT B
Form of Post-Closing Lease

(starts on following page)

31784054.4

LEASE

(This document is a lease of less than 99 years and not a conveyance subject to Transfer Return and fee per Sec. 77.21(1) Wis. Stats.)

This Lease is entered into on this _____ day of _____, 2024 (“Effective Date”), by and between the **City of Madison**, a Wisconsin municipal corporation, (“City”), and **The Salvation Army**, an Illinois corporation (“Lessee”).

WITNESSETH:

WHEREAS, the City is the owner of the property at 3030 Darbo Drive, located in the City of Madison, Dane County, Wisconsin, which is legally described on attached Exhibit A and depicted on attached Exhibit B (“Property”); and

WHEREAS, the Lessee was the prior owner of the Property, and City and the Lessee (together, the “Parties”) agreed that upon conveying the Property to the City, the Lessee could continue to occupy the Property, pursuant to this Lease, for the continued operation of their business during Lessee’s construction of replacement shelter and office facilities on the property owned by Lessee and located at 630 East Washington Avenue in Madison, Wisconsin (the “Project”); and

NOW, THEREFORE, the Parties mutually agree as follows:

1. Leased Premises. The City hereby leases to the Lessee the Property, also referred to as the “Leased Premises” in this Lease.
2. As Is, Where Is. The City leases the Leased Premises to the Lessee in "as is", "where is" condition with all faults and City makes no representations or warranties, either express or implied, as to the condition of the property or any improvements thereon, as to the suitability or fitness of the property or any improvements thereon, as to any law, or any other matter affecting the use, value, occupancy, or enjoyment of the property, or, except as set forth elsewhere herein, as to any other matter whatsoever.
3. Term. This Lease shall commence on the Effective Date and expire on December 31, 2026 (“Initial Term”), subject to extension and Early Termination pursuant to the terms of this Lease.

The Lease shall automatically terminate prior to the expiration of the Initial Term or any subsequent Renewal Option, 60 days following the Project receiving a final certificate of occupancy permit and all other required approvals from the City necessary for Lessee’s occupancy and use of the Project (“Early Termination”).

Return to: City of Madison
Economic Development Division
Office of Real Estate Services
P.O. Box 2983
Madison, WI 53701-2983

Tax Parcel No.: 251/0710-052-1005-1

4. Option to Renew. Lessee shall have two (2) successive options to extend this Lease (each defined as a "Renewal Option"; collectively the "Renewal Options") for additional terms of one (1) year each, under the same terms and conditions provided in the original term of this Lease. If the Lessee desires to renew this Lease, the Lessee must give notice in writing to the City a minimum of one hundred twenty (120) days prior to the expiration of the Initial Term or any Renewal Term, pursuant to the notice provisions set forth in Paragraph 23. In addition, City shall have the right to declare Lessee's exercise of a Renewal Option null and void if Lessee is in default under the terms of this Lease beyond any applicable notice and cure periods on the date Lessee exercises a Renewal Option or at any time thereafter until the commencement of the applicable Renewal Term for which the Renewal Option was exercised. Except as otherwise provided for in this Paragraph, any applicable Renewal Options shall expire or terminate under the same terms and conditions as the Initial Term.
5. Rent. "Base Rent" shall be One Dollar (\$1.00) per year, or any portion thereof. All payments are to be made payable to the City Treasurer, and sent or personally delivered to the Economic Development Division at the address specified in Paragraph 23, or to the address of a property manager, as designated by the City.
6. Use. The Lessee shall use the Leased Premises solely for the purpose of operating The Salvation Army and activities related thereto, which may include use of the Leased Premises by other community organizations provided such use does involve leasing or subleasing any portion of the Property and does not otherwise conflict with the terms of this Lease, and for no other purposes whatsoever without the City's prior written consent. The City may withhold such consent in its sole discretion.
7. Utilities. The Lessee shall be responsible for and promptly pay all charges for heat, gas, electric, sewer, storm sewer, water service and any other utility used upon or furnished to the Leased Premises. The Lessee shall also be responsible for arranging the stoppage of any internet, television, cable and telephone service furnished to the Leased Premises, and all costs related thereto, upon the termination or expiration of this Lease.
8. Assignment and Subletting. The Lessee shall not assign this Lease nor sublet the Leased Premises, or any portion thereof, without the prior written consent of the City.
9. Alterations and Construction. Except as authorized by this Paragraph 9 or as may be required to satisfy Lessee's obligations under Paragraph 10, no construction, modification, improvement, alteration, redecoration, or remodeling of the Leased Premises shall be undertaken without prior written approval from the Director of the City Economic Development Division, which approval shall not be unreasonably withheld, conditioned or delayed. Any such construction, modification, improvement, alteration, redecoration, or remodeling shall be at the expense of the Lessee and remain for the benefit of the City, unless otherwise provided in such written approval. In all cases, the Lessee is responsible for following all applicable ordinances, codes, statutes, and laws, and obtaining all permits required for any construction activity.

At the Lessee's sole cost, from and after the execution of this Lease by the Parties, the Lessee may replace and/or repair the finished flooring surface, paint walls, replace and/or repair lighting fixtures throughout the Leased Premises without the City's prior written approval.

10. Lessee's Maintenance Responsibilities. The Lessee shall, at its own expense, keep and maintain the Leased Premises and every part thereof, and any fixtures, facilities or equipment contained therein, including exterior and interior signs; paving; general repairs; removal of garbage and debris; snow removal; landscape upkeep; parking enforcement; light fixtures, including replacement of light bulbs and ballasts; all plumbing fixtures and accessories; sinks and drains, including unclogging; interior walls including drywall, plaster, and other wall surfaces that may be present; and finish flooring materials and surfaces, in substantially the same condition and repair as exists on the Effective Date, ordinary wear and tear excepted, and in a presentable condition consistent with good business practice and in a manner consistent with the preservation and protection of the general appearance and value of other premises in the immediate vicinity. In the event any of the items listed in this Paragraph 10 need to be replaced, whether at the time the Lessee takes occupancy of the Leased Premises or at any time while this Lease is in effect, such replacement(s) shall be at the Lessee's sole expense.

11. Liens and Title.
 - a. The Lessee shall not suffer or permit any construction or mechanics' lien to be filed, or if filed, to remain uncontested, against the fee of the Leased Premises, nor against the Lessee's leasehold interest in the Leased Premises, by reason of work, labor, services or materials supplied or claimed to have been supplied to the Lessee or anyone holding the Leased Premises or any part thereof through or under the Lessee; and nothing contained herein shall be deemed or construed in any way as constituting the consent or request of the City, express or implied, by inference or otherwise, to any contractor, subcontractor, laborer or materialman for the performance of any labor or the furnishing of any materials for any specific improvement, alteration or repair of or to the Leased Premises or any part thereof, nor as giving the Lessee any right, power or authority to contract for or permit the rendering of any services or the furnishing of any materials that would give rise to the filing of any construction or mechanics' lien against the fee of the Leased Premises. If any such lien is filed, the Lessee shall immediately cause the same to be discharged or released or shall upon request provide adequate and acceptable security or bond to protect the City's interest.

 - b. If any such construction or mechanics' lien shall at any time be filed against the Leased Premises, the Lessee covenants that it will promptly take and diligently prosecute appropriate action to have the same discharged by payment, bonding or otherwise, and that it will hold the City free and harmless of and from any and all liability to any contractor, subcontractor, materialman, laborer or any other person relating to or arising because of any improvements or alterations on or to the Leased Premises, and that it will also defend on behalf of the City, at the Lessee's sole cost and expense, any action, suit or proceeding which may be brought for the enforcement of any such lien, and that it will pay any damages and discharge any judgments entered therein. Upon the Lessee's failure to do any of the foregoing things, the City may take such action as may be reasonably necessary to protect the City's interest, in addition to any other right or remedy which it may have; and any amount paid by the City in connection with such action shall be repaid by the Lessee to the City upon demand.

 - c. The Lessee shall in no way encumber, or allow to be encumbered, the City's title to the Leased Premises.

12. Taxes and Assessments. The City and the Lessee are a tax-exempt entities. Should any City of Madison Ordinance or State of Wisconsin Statute after the Effective Date require that the Property be subject to real estate taxes or assessments, the Lessee shall be liable for all such real estate taxes and assessments in relation to the Property during the term of this Lease. The Lessee shall be responsible for all personal property tax on its personal property.
13. Indemnification. The Lessee shall be liable to and agrees to indemnify, defend and hold harmless the City, 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 upon the City or its officers, officials, agents or employees for damages because of bodily injury, including death at any time 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 acts or omissions of the Lessee or its officers, officials, members, agents, employees, assigns, guests, invitees, sublessees or subcontractors, in the performance of this Lease, whether caused by or contributed to by the negligence of the City, its officers, officials, agents, or employees. This paragraph shall survive termination and assignment or transfer of this Lease.
14. Hazardous Substances; Indemnification. The Lessee represents and warrants that its use of the Leased Premises will not generate any hazardous substance, and it will not store or dispose on the Leased Premises nor transport to or over the Leased Premises any hazardous substance in violation of any applicable federal, state or local law, regulation or rule. The Lessee further agrees to hold the City harmless from and indemnify the City against any release of such hazardous substance occurring on or after the Effective Date and any damage, loss, or expense or liability resulting from such release including all attorneys' fees, costs and penalties incurred as a result thereof. "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. This paragraph shall survive termination and assignment or transfer of this Lease.
15. Insurance.
 - a. The Lessee shall carry commercial general liability insurance covering as insured the Lessee and naming the City, its officers, officials, agents and employees as additional insureds, with a minimum limit of \$1,000,000 minimum per occurrence as may be adjusted occasionally by the City of Madison's Risk Manager, but in no event shall the minimum limit exceed \$2,000,000 minimum per occurrence. This policy shall also be endorsed for contractual liability in the same amount, apply on a primary and noncontributory basis, and provide the City thirty (30) days advance written notice of cancellation, non-renewal or material changes to the policy during the term of this Lease. As evidence of this coverage, the Lessee shall furnish the City with a certificate of insurance on a form approved by the City, such approval not to be unreasonably withheld, and, if requested by the City Risk Manager, the Lessee shall also provide copies of additional insured endorsements or policy. If the coverage required above expires while

this Lease is in effect, the Lessee shall provide a renewal certificate to the City for approval.

- b. The Lessee shall be solely responsible for carrying property insurance sufficient to cover loss of all stock-in-trade, trade fixtures, furniture, furnishings, equipment or personal property on the Leased Premises. The City shall not be liable for any damage to, or loss of property of the Lessee or others located on the Leased Premises. In addition, the Lessee agrees to provide a waiver of subrogation in favor of the City.
- c. Throughout the term of this Lease, the City will, at the City's expense, carry property insurance on the Leased Premises. Such property insurance will be the same as what is carried on other City-owned properties.

16. Defaults, Remedies, and Termination.

- a. Defaults: The occurrence of any of the following events shall constitute a default and breach of this Lease by the Lessee:
 - (1) The abandonment by the Lessee of the Leased Premises;
 - (2) The use of the Leased Premises for an illegal purpose;
 - (3) In the event the Lessee ceases its business operations at the Leased Premises.
 - (4) In the event the Lessee defaults in the performance of any other term or condition of this Lease.
- b. City's Remedies. If any default by the Lessee shall continue uncured after thirty (30) days written notice of default from City to the Lessee, the City has the following remedies, in addition to all other rights and remedies provided by law or equity, to which the City may resort cumulatively or in the alternative.
 - (1) Termination of Lease. The City may at the City's election terminate this Lease by giving the Lessee notice of termination while such default remains uncured. On the giving of the notice, all further obligations of City under this Lease shall terminate, the Lessee shall surrender and vacate the Leased Premises in a broom clean and sanitized condition, and the City may take possession of the Leased Premises and eject all parties in possession or eject some and not others or eject none. Termination under this paragraph shall not relieve the Lessee from the payment of any sum then due to the City or from any claim for damages previously accrued or then accruing against the Lessee.
 - (2) Diligent Efforts. Notwithstanding anything to the contrary in this Paragraph, in the event of the Lessee's default under Paragraph 16.a.(4), if such default is not a health or safety violation and cannot, because of the nature of the default, be cured within the thirty (30) days after City's notice thereof, then the Lessee shall be deemed to be complying with such notice if, promptly upon receipt of such notice, the Lessee immediately takes steps to cure the default as soon as reasonably possible and

proceeds thereafter continuously with due diligence to cure the default within a period of time which, under all prevailing circumstances, shall be reasonable.

- (3) City May Perform. City shall have the right at any time, after ten (10) days notice to the Lessee (or in case of emergency or a hazardous condition or in case any fine, penalty, interest or cost may otherwise be imposed or incurred), to make any payment or perform any act required of the Lessee under any provision in this Lease, and in exercising such right, to incur necessary and incidental costs and expenses, including reasonable attorneys' fees. Nothing herein shall obligate City to make any payment or perform any act required of the Lessee, and this exercise of the right to so do shall not constitute a release of any obligation or a waiver of any default. All payments made and all costs and expenses incurred in connection with any exercise of such right shall be reimbursed to the City by the Lessee.

c. Lessee's Remedies. If any default by the City shall continue uncured after thirty (30) days written notice of default from Lessee to City, Lessee has the following remedies, in addition to all other rights and remedies provided by law or equity, to which Lessee may resort cumulatively or in the alternative:

- (1) The Lessee may terminate this Lease by giving the City notice of termination. On the giving of the notice, all further obligations of under this Lease shall terminate, Lessee shall surrender and vacate the Leased Premises in a broom clean and sanitized condition, and the City may take possession of the Leased Premises and eject all parties in possession or eject some and not others or eject none.
- (2) Lessee may take any actions necessary to cure a default by making repairs or replacements required by City under this Lease and offset such expenses by reducing Lessee's rent.

If the City shall fail to perform any covenant, term or condition of this Lease to be performed by City, if any, and if as a consequence of such default, the Lessee shall recover a money judgment against City, such judgment shall be satisfied only out of the proceeds of sale received upon execution of such judgment and levied thereon against the right, title and interest of City in the Leased Premises and out of income from such property receivable by City, or out of the consideration received by City from the sale or other disposition of all or any part of City's right, title and interest in the Leased Premises, and City shall not be personally liable for any deficiency.

17. Compliance. The Lessee shall observe and promptly and effectively comply with all applicable statutes, rules, orders, ordinances, requirements and regulations of the City, the County, the State of Wisconsin, the federal government and any other governmental authority having jurisdiction over the Leased Premises. The Lessee may, if in good faith and on reasonable grounds, dispute the validity of any charge, complaint or action taken pursuant to or under color of any statute, rule, order, ordinance, requirement or regulation, defend against the same, and in good faith diligently conduct any necessary proceedings to prevent and avoid any adverse consequence of the same. The Lessee agrees that any such contest shall be prosecuted to a final conclusion as soon as possible and that it will hold the City harmless with respect to any actions taken by any lawful governmental authority with respect thereto.

18. City Right of Entry. For the purposes of maintaining the Leased Premises, the City or its representatives reserve the right to enter and access the Leased Premises 24 hours per day, 7 days per week, with 48-hour notice to the Lessee, for the following non-emergency purposes:
 - a. To make any necessary repairs/replacements to the Leased Premises for which the City is responsible under the terms of this Lease.
 - b. To conduct any periodic inspections of the Lessee's maintenance obligations herein, that it may deem expedient to the proper enforcement of any term or condition of this Lease or in the exercise of its municipal powers.

For the purposes of remedying an emergency situation, the City may enter the Leased Premises 24 hours per day, 7 days per week, without notice to the Lessee.

19. Rights upon Expiration or Termination; Removal and Disposal of Personal Property. Upon the expiration or termination of this Lease for any cause, the Lessee's rights in the Leased Premises shall cease, and the Lessee shall immediately surrender the Leased Premises. Prior to such expiration or termination, the City and the Lessee shall discuss and determine which of the Lessee's furniture, fixtures, equipment and personal property shall remain at the Leased Premises following such expiration or termination. The Lessee shall remove all personal property from the Leased Premises that the Parties agree that the Lessee is required to remove and leave the Leased Premises in a broom clean and sanitized condition. If any personal property is abandoned on the Leased Premises, the City shall have the right to dispose of said property, without liability, thirty (30) days after the Lessee vacates or abandons the Leased Premises.
20. Hold Over. In the event the Lessee shall continue to occupy or use the Leased Premises after the expiration of this Lease or any extension thereof, such holding over shall be deemed to constitute a tenancy from month to month, upon the same terms and conditions as herein provided, however, in no event shall the tenancy be deemed to be year to year.
21. Definition of City and Lessee. The terms "City" and "Lessee" when used herein shall mean either singular or plural, as the case may be, and the provisions of this Lease shall bind the Parties mutually, their heirs, personal representatives, successors and assigns.
22. Authorized Agent. The City's Economic Development Division Director or the Director's designee is hereby designated as the official representative of the City for the enforcement of all provisions of this Lease, with authority to administer this Lease lawfully on behalf of the City.
23. Notices. All notices to be given under the terms of this Lease shall be signed by the person sending the same and shall be sent by either electronic mail or certified mail, return receipt requested and postage prepaid, to the address of the Parties specified below. If electing to use electronic mail, said emails shall be sent to the email addresses provided below with an active read receipt and shall include a statement that the electronic mail constitutes notice under the terms of this Lease.

For the City:	Office of Real Estate Services Economic Development Division - City of Madison P. O. Box 2983 215 Martin Luther King, Jr. Blvd., 3 rd Floor
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Madison, WI 53701-2983
Email: mhermann@cityofmadison.com and
ores@cityofmadison.com

With a copy to: City Attorney's Office
Attn: Matthew Robles
City County Building, Room 401
210 Martin Luther King Jr. Blvd. Madison, WI 53703
Phone: (608) 267-4925
Email: mrobles@cityofmadison.com

For the Lessee: The Salvation Army
Attn: Tracy Habermehl, Divisional Property
Administrator
11315 W. Watertown Plank Road
Wauwatosa, WI 53226
Email: tracy.habermehl@usc.salvationarmy.org

Any party hereto may, by giving five (5) days written notice to the other party in the manner herein stated, designate any other address in substitution of the address shown above to which notices shall be given.

24. Counterparts, Electronic Signature and Delivery. This Lease may be signed in counterparts, each of which shall be taken together as a whole to comprise a single document. Signatures on this Lease may be exchanged between the Parties by facsimile, electronic scanned copy (.pdf) or similar technology and shall be as valid as original; and 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 or similar technology and upon receipt will be deemed original and binding upon the Parties, whether or not a hard copy is also delivered. Copies of this Lease, fully executed, shall be as valid as an original.
25. Non-Discrimination. In the performance of its obligations under this Lease, the Parties agree not to discriminate because of race, religion, marital status, age, color, sex, disability, 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. The Parties further agree not to discriminate against any contractor, subcontractor or person who offers to contract or subcontract for services under this Lease because of race, religion, color, age, disability, sex, sexual orientation, gender identity or national origin.
26. Accessibility. The Leased Premises shall conform where applicable to Chapter SPS 361.05 of the Wisconsin Administrative Code, Madison General Ordinances Section 39.05, and the Americans with Disabilities Act, regarding accessibility, with all costs of compliance to be paid by the Lessee.
27. Signs. Any signs on the Leased Premises shall be in conformity with the provisions of City of Madison General Ordinance Chapter 31, Sign Control Ordinance. Lessee shall pay the cost to create, install and maintain any signage.

28. Severability. If any term or provision of this Lease or the application thereof to the City or the Lessee or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such terms or provisions to the City or the Lessee or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforceable to the fullest extent permitted by law.
29. Entire Agreement. All terms and conditions with respect to this Lease are expressly contained herein, and the Parties agree that neither Party has made any representations or promises with respect to this Lease not expressly contained herein. No alteration, amendment, change, or addition to this Lease shall be binding upon the Parties unless in writing and signed by them.
30. Damage and Destruction. In the event the Leased Premises is damaged by any peril covered by standard policies of fire and extended coverage insurance to an extent which is less than fifty percent (50%) of the cost of replacement of the Leased Premises, the damage shall, except as hereinafter provided, promptly be repaired by the City, at the City's expense, but in no event shall the City be required to repair or replace the Lessee's stock-in-trade, trade fixtures, furniture, furnishings, equipment or personal property. In the event: (a) the Leased Premises is damaged to the extent of fifty percent (50%) or more of the cost of replacement of the Leased Premises; or (b) the building is damaged to the extent of fifty percent (50%) or more of the cost of replacement; or (c) any damage to the Leased Premises occurs during the last one-third (1/3) of the primary term of this Lease or at any time during any renewal term or hold over period thereof, the City may elect either to repair or rebuild the Leased Premises, as the case may be, or to terminate this Lease upon giving notice of such election in writing to the Lessee within ninety (90) days after the event causing the damage. If the casualty, repairing or rebuilding shall render the Leased Premises untenable, in whole or in part, the Lease term shall be extended for a period equal to the period of repair. If the City is required or elects to repair the Leased Premises, the Lessee shall repair or replace its stock-in-trade, trade fixtures, furniture, furnishings, equipment and personal property in a manner and to at least a condition equal to that prior to its damage or destruction, and the proceeds of all insurance carried by the Lessee shall be held in trust by the Lessee for the purpose of such repair and replacement.
31. Leased Premises Acquired by Eminent Domain. In the event the Leased Premises or any part thereof shall be needed either permanently or temporarily for any public or quasi-public use or purpose by any authority in appropriation proceedings or by any right of eminent domain, the entire compensation award therefor, including, but not limited to, all damages and compensation for diminution of value of the leasehold, reversion and fee, shall belong to the City without any deduction therefrom for any present or future estate of the Lessee, and the Lessee hereby assigns to the City all of its right, title and interest to any such award. However, the Lessee shall have the right to recover from the condemning authority such compensation as may be separately awarded to the Lessee for moving and relocation expenses.

In the event of a taking of any portion of the Leased Premises not resulting in a termination of this Lease, the City shall use so much of the proceeds of the City's award for the Leased Premises as is required therefor to restore the Leased Premises to a complete architectural unit, and this Lease shall continue in effect with respect to the balance of the Leased Premises.

32. Brokerage Costs. The Parties are not responsible for any brokerage costs in connection with the Lease.
33. Public Record. This Lease will be recorded at the office of the Dane County Register of Deeds after it is executed by the Parties.

Signatures begin on following page.

IN WITNESS WHEREOF, the Parties have entered into this Lease as of the date first set forth above.

The Salvation Army,
an Illinois corporation

By: _____

State of Illinois)
)ss.
County of Cook)

Personally came before me this ____ day of _____, 2024, the above named
_____ (name), as _____ (title)
of The Salvation Army, an Illinois corporation, known to me to be the person who executed the above
foregoing instrument, and acknowledged that they executed the foregoing instrument as such
_____ (title) as the deed of said corporation, by its authority.

Notary Public, State of Illinois

Print or Type Name
My Commission expires: _____

CITY OF MADISON

By: _____
Satya Rhodes-Conway, Mayor

By: _____
Maribeth L. Witzel-Behl, City Clerk

AUTHENTICATION

The signatures of Satya Rhodes-Conway, Mayor, and Maribeth Witzel-Behl, Clerk, on behalf of the City of Madison, are authenticated on this ___ day of _____, 2024.

Matthew Robles, Assistant City Attorney
Member of the Wisconsin Bar

Approved	Date	Approved	Date
_____ David Schmiedicke, Finance Director	_____	_____ Eric Veum, Risk Manager	_____

Approved as to Form

Michael Haas, City Attorney

Execution of this Lease by the City of Madison is authorized by Resolution Enactment No. RES-24-00____, File ID No. _____, adopted by the Common Council of the City of Madison on _____, 2024.

Drafted by the City of Madison Office of Real Estate Services Real Estate Project No. 10379

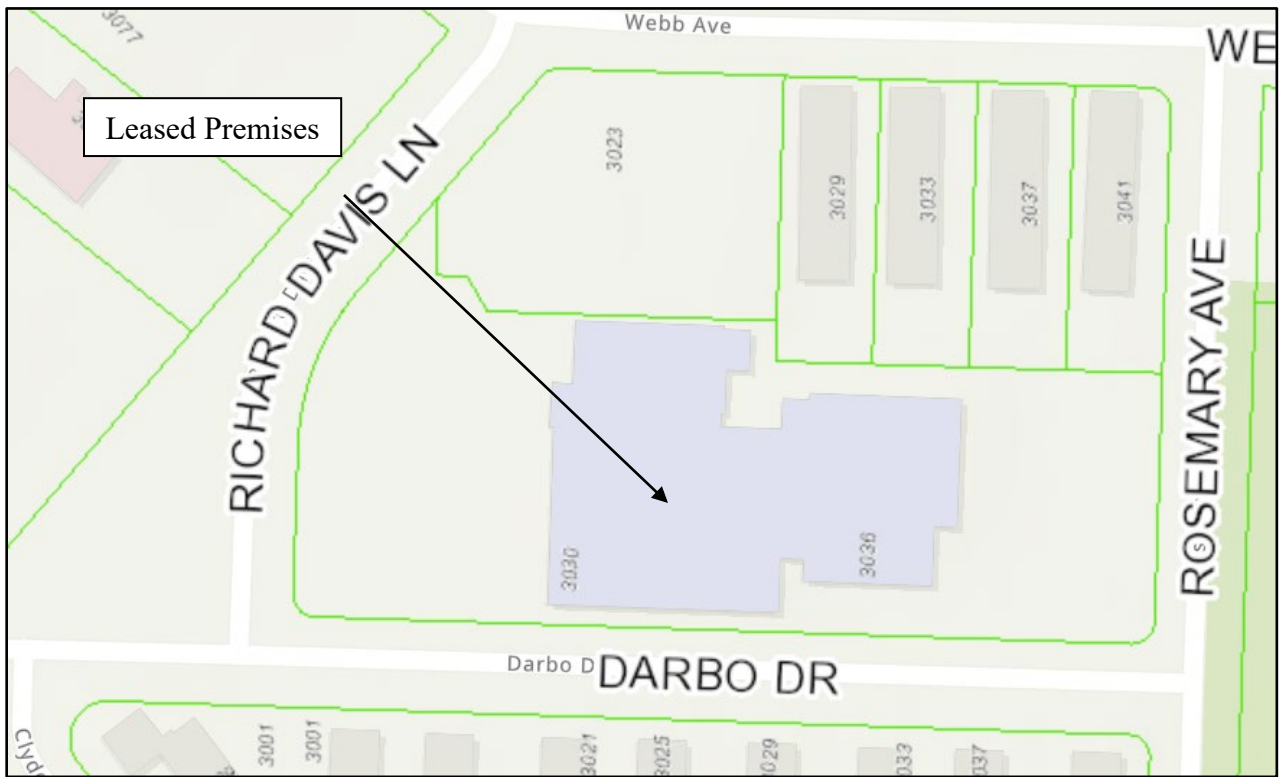
EXHIBIT A

Legal Description of the Property

LOT 2 OF CERTIFIED SURVEY MAP NO. 7652, RECORDED NOVEMBER 15, 1994 IN VOLUME 40, PAGES 47-49 AS DOCUMENT NO. 2645258 AND BEING CORRECTED BY AFFIDAVIT RECORDED JUNE 10, 1996 IN VOLUME 33141, PAGE 73 AS DOCUMENT NO. 2769665, BEING LOCATED IN THE NORTHEAST 1/4 AND NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 5, TOWNSHIP 7 NORTH, RANGE 10 EAST, CITY OF MADISON, DANE COUNTY, WISCONSIN, BEING OUTLOT A, LOTS 1-4 AND 9-19 EXCEPT THE NORTHERLY 5 FEET OF LOTS 16-19, ALL IN DARBO'S ADDITION.

EXCEPTING THEREFROM THAT PORTION OF LAND CONVEYED IN WARRANTY DEED RECORDED IN DOCUMENT NO. 4229987 AND FURTHER EXCEPTING THEREFROM THAT PORTION OF LAND CONVEYED IN INSTRUMENT RECORDED IN DOCUMENT NO. 5424962.

EXHIBIT B
Depiction of the Property/Leased Premises



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