

**OPERATING AGREEMENT
FOR
MONONA GOLF COURSE
BETWEEN
THE CITY OF MADISON
AND
RJM Pro Golf, Inc.**

THIS AGREEMENT, executed in triplicate, made and entered on the date of the Mayor's signature, by and between the CITY OF MADISON, WISCONSIN, acting through the MADISON PARKS COMMISSION, hereinafter called the "CITY", whose address for the purpose of this lease is, 210 Martin Luther King, Jr. Blvd., Room 104, Madison, Wisconsin, and RJM Pro Golf, Inc., whose address is 2 Wichita Court, Madison, Wisconsin 53719.

WITNESSETH:

WHEREAS, the City is engaged in the operation and maintenance of the public facility called Monona Golf Course and desires to engage a competent and qualified golf professional to operate, manage, and provide certain services at Monona Golf Course; and

WHEREAS, the Golf Pro desires to procure from the City the right to operate and provide the services, and is a competent and qualified golf professional willing and able to manage the said golf course and is qualified to provide the requisite services associated therewith; and,

WHEREAS, the public interest and welfare will be served and Monona Golf Course materially enhanced by the granting of an agreement to a reputable party who will provide certain services to the public patronizing the golf course.

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements hereinafter set forth, it is agreed by and between the parties hereto as follows:

I. **Terms and Conditions.**

- A. **Obligations.** The City grants the Golf Pro, for a period beginning January 1, 2008 and ending December 31, 2012, the exclusive privilege and obligation to operate the Monona Golf Course. The Parks Superintendent and the Golf Pro shall cooperate each with the other to promote the

efficient use of the golf course and the Golf Pro shall possess the following exclusive rights, privileges and obligations:

1. To operate concession rights at the pro shop, clubhouse and golf course;
2. To teach and give golf lessons for compensation;
3. To rent and operate golf carts and equipment;
4. To sell golf clothing and golf equipment (including balls);
5. To sell food and beverages from March 1 to December 15 of each year of this Agreement, in accordance with the requirements of Chapter 38 of the Madison General Ordinances, including the acquisition of all required permits and licenses;
6. The Golf Pro shall have the "Lost Ball" concession and shall retain all revenues therefrom. The Golf Pro may enter into a "Lost Ball" contract with professional ball retainers.
7. During non-golf seasons, the Golf Pro shall have a limited right to enter the clubhouse to do repair work on golf equipment, prepare for the upcoming season, and hold recreational classes on golf and pro shop operations, subject to prior approval of the Parks Superintendent. The City shall have the right to prohibit the use or restrict the use of the building to reduce or eliminate utility expenses. It is further recommended that all non-City property be removed from the building during the non-golfing season.

- B. Concessions. The concession building at the course is provided to the Golf Pro for his/her use in operating the concessions. The City will furnish the buildings with all existing built-in fixtures and shelves and provide and pay the cost of all utilities and existing telephone service upon a year-around basis. Toll calls by the Golf Pro shall be at his/her expense by credit card. The Golf Pro further agrees to provide all janitorial supplies for clubhouse including towels during the term of this Agreement. In the event of damage to the facility including City owned equipment caused by misuse, by the Pro of his/her employees, that cost will be covered by the Golf Pro.

- C. Violation of Agreement. The Parks Superintendent shall be responsible for seeing that the Golf Pro does not violate the provisions of this Agreement. If the Golf Pro violates any term of this Agreement or permits any play without payment of established fees except for Class "A" PGA, LPGA, G.C.S.A.A. Class A, and PGA Apprentice Program Professionals, the Parks Superintendent, in his discretion, may terminate this Agreement upon fourteen (14) days written notice to the Golf Pro. The decision of the Parks Superintendent shall be final. The Golf Pro may terminate this Agreement for violation of the Agreement by the City upon thirty (30) days written notice, delivered personally to the Parks Superintendent.
- D. Termination. In the event of termination or non-renewal of this Agreement by either party, it is mutually understood and specifically agreed that any and all permits or licenses issued by the City for operations at the course shall be canceled without further notice or hearing.

II. **Golf Pro Duties.** The Responsibilities of the Golf Pro shall be to:

- A. Operate Course. Supervise and operate the Monona Golf Course in a clean, efficient and creditable manner;
- B. Attendants. Employ attendants to sell and collect green fees, resident and non-resident annual passports and other established player promotional devices, renewals, and take and process reservations. Attendants are required to be on duty continuously during golfing hours on all weekdays, weekends and holidays during the golfing season;
- C. Licenses and Permits. Obtain the necessary licenses to operate and maintain on the premises a concession operation for the sale of beverages, confections and food, consistent with Madison General Ordinances, Wisconsin Statutes, and the regulations of the Madison Park Commission. The concession operation shall be open and available to the public at reasonable times and hour each day during the golfing season; evening closing shall be no later than 11:00 p.m., unless the premises are reserved for special events with the prior written approval of the Parks Superintendent. The Golf Pro shall handle a general line of beverages, food, etc., such as is commonly found available at golf courses.

- D. **Promotion of Golf to the Public.** The Golf Pro will conduct a minimum of six (6) free clinics each season between May and August open to the general public in an effort to attract new players to the game of golf. The Pro shall notify the Parks Superintendent, in advance, of each planned clinic. Participation at events on behalf of the City such as golf expos and the like will be counted as one of the six (6) required clinics. Furthermore, the Golf Pro agrees to contribute \$1000 annual to a fund to be matched by the City to execute a formal marketing plan for our golf program. The Golf Pro agrees to participate in the creation of this marketing plan. This payment shall be made by March 15 each year of this Agreement.
- E. **Motorized Carts.** Provide a sufficient number of motorized golf carts to meet the needs of the public, and keep them in a clean and good operating condition. In addition thereto:
1. No permit shall be required for such carts.
 2. The Golf Pro shall not rent any motorized golf cart to any person under 18 years of age.
 3. The City shall furnish storage space for the golf carts at no additional charge to the Golf Pro. The Golf Pro shall maintain such space during the season of play, and shall be solely responsible for moving the carts into the storage area and shall be responsible for any alarm system utilized for the security of the golf cars or other equipment stored outside.
 4. The Golf Pro shall not permit more than two (2) persons to occupy a golf cart, nor allow the carrying of any beverage "cooler" in the cart, except for medical reasons.
 5. The Golf Pro shall prominently display and enforce rules pertaining to the operation of motorized golf carts on the golf course, and shall require each renter to sign a liability release form, approved in advance by the City Risk Manager and kept by the Golf Pro.
 6. The Golf Pro shall inform the City of all fees charged for the rental of motorized golf carts.

7. The Golf Pro shall keep rental pull carts and golf clubs in clean and good condition. The Golf Pro shall weekly remit to the City fifteen (15%) percent of the gross receipts from pull cart rental, driving range and golf club rental, and eleven (11%) percent of the gross receipts from all food and beverage concessions. The Golf Pro shall retain all revenue generated by the rental of riding carts.
- F. Collect Fees and Employee Passes. The Golf Pro shall collect for the City all green fees, locker fees, player promotional pass fees, and tournament fees, and remit the same to the City in accordance with policies adopted by the City. The Golf Pro shall be entitled to non-transferable unlimited golf season passes for each employee, that may be used by employees of the Golf Pro only and only at Monona.
- G. Accounting of Fees. The Golf Pro shall make a true and accurate accounting of all player and facility use fees collected, including but not limited to, renewal fees, range fees, rental clubs, pull carts, and motorized cart fees, if any, and shall account for all tickets, passes, etc., issued to him/her for sale, on a weekly basis. The Golf Pro expressly agrees to provide a place of safety to keep and lock up any money collected for the City. The Golf Pro will hold the City of Madison harmless and will indemnify it for the loss of any money collected and of any property belonging to the City on account of the failure of the Golf Pro, or his employees, to fully, truly and accurately account for all the money collected for the City. The Golf Pro shall also be liable and account for all golf tickets, season passes, etc., issued to him/her for sale at the golf course.
- H. Grounds and Buildings. The Golf Pro agrees that he will conduct the concessions in a clean and creditable manner. He/she shall cooperate with City employees to keep the premises (which shall be understood to include the area used by the Golf Pro, corridors and hallways adjacent thereto) and the area adjacent to the buildings, up to 25 yards, in a tidy and presentable condition at all times; and the Golf Pro shall be responsible for all cleaning of the clubhouse buildings, including flooring,

walls, fixtures, and windows on an as needed basis. The Golf Pro will use his best efforts to prohibit any unlawful or disorderly conduct on the premises, and he will assist the City in the enforcement of all of the rules and regulations of City Building Inspection, Fire, and Health Departments. In addition, the City shall provide and maintain an alarm system for the clubhouse building.

- I. Books and Records. The Golf Pro shall keep accurate books and records of the operation of the golf pro shop, the giving of golf lessons, the concession rooms, motorized cart rentals and club house rentals. The Golf Pro shall make all books and banking records relating to the conduct of the business under this Agreement available at reasonable hours and upon notice for inspection and audit by the City. Not later than April 16th of each year of this Agreement, the Golf Pro shall make available to the Parks Superintendent a certified copy of the Golf Pro's Federal Income Tax Schedule C or corporate equivalent for any tax year(s) of this Agreement. This request shall be made as a condition precedent to any subsequent Agreement or extension of Agreement. It is understood by the parties that the Golf Pro's income tax return is privileged information and shall not be of public record nor disclosed by the Parks Superintendent to any third party except for the purposes of this contract and with the written permission of the Golf Pro.
- J. Taxes/Assessments. The Golf Pro agrees to timely pay all taxes, assessments, or other public charges levied or assessed by lawful authority (but reasonably preserving the Golf Pro's right of appeal) against the personal property of the Golf Pro on the premises during the term of this Agreement. In addition, the Golf Pro agrees to pay any and all sales tax that may be levied on any of the services of this Agreement.

III. **Nature of Relationship.**

- A. The relationship between the City and the Golf Pro shall be one of an independent contractor and not one of employer and employee. As such, it is expressly understood and agreed that this Agreement is not a lease or a conveyance of realty, but merely a granting of the right to conduct certain

activities and provide certain services for the benefit and convenience of the public.

- B. Compensation. It is agreed that the compensation of the Golf Pro shall be as follows:
1. The base contract payment, starting January 1, 2008, shall be \$30,000 for 2008 and 2009 four equal payments will be made on March 1, June 1, September 1 and November 1, of each year. The City agrees to review the compensation package for the Golf Pro for the period beginning August, 2009 for reconsideration of the payment level for the final three years of this agreement. Payments in subsequent years shall be on the same calendar days.
- C. All income from concessions, sale of merchandise at the pro shop, golf instruction, pull cart driving range and golf club rental, except for a return each week to the City of fifteen (15%) percent of the gross receipts of pull cart and golf club rental, and eleven (11%) percent of the restaurant concession.
- D. The Golf Pro shall assume the responsibility for selling resident and non-resident annual passports and other established player promotional devices. A chronological listing of all sales, including the purchasers' names, shall be maintained and turned over to the City upon request. The receipts from such sales shall be incorporated into the Daily Report and said receipts shall be provided to the City in the customary weekly fashion.
- E. The Golf Pro hereby acknowledges that he has been notified that he may have responsibility to make estimated tax returns, file tax returns, pay income taxes and make Social Security tax payments on the amounts received under this Agreement and that no amount for these purposes will be withheld from payments made to him by the City. The Golf Pro further acknowledges that he may be subject to civil and/or criminal penalties if he fails properly to report income and pay income taxes and Social Security taxes on the amount received under this Agreement; further. In addition, the Golf Pro shall supply his Taxpayer Identification number or

Social Security number to the Parks Superintendent before commencing any work under this Agreement.

- IV. **Supervision of Play.** The Golf Pro shall be responsible for managing the speed of play on the Course and shall provide a ranger/ambassador when heavy play so requires. Ranger/Ambassadors shall be provided at all time when the speed of play exceeds 2 hours and 15 minutes per 9 holes. The Golf Pro shall consistently monitor playing times and take steps to obtain and maintain speed of play within the limit indicated above. The Golf Pro shall be responsible for efficiently starting play on the first tee so as to maximize play and revenue to the City.
- V. **Professional Status.** The City will permit the Golf Pro reasonable time for participation in golf tournaments and other professional activities, such as schools or seminars that are necessary to maintain and improve his professional status. The Golf Pro must remain a Class "A" P.G.A. member. When absent the Golf Pro shall leave the golf operations under the direction of a substitute who shall be of equal competence and authority as the Golf Pro, although the substitute need not be a Class "A" Pro.
- VI. **Golf Assistants.** The Golf Pro may hire assistants to assist in the operation the Course, concessions and collecting money due the City under this Agreement. The Golf Pro shall be responsible for the hiring and supervision of all employees necessary for the efficient operation of the clubhouse and the pro shop and further, the hiring, training, scheduling and supervision of course rangers and starters. The Golf Pro shall be responsible for the salaries, benefits, and premiums for Worker's Compensation and Social Security, all income tax deduction and any other tax or payroll deductions required by law for all of the above-mentioned employees. As part of the compensation for Golf Assistants, Golf Pro may grant each employee a nontransferable unlimited golf season pass for use exclusively by that employee and for use exclusively at Monona Golf Course.
- VII. **Utilities.** The City will furnish and pay for all public utilities incurred in the use and operation of the facilities referred to in this contract except that the Golf Pro

shall pay for all credit card toll calls, and the City shall be responsible for telephone facsimile line costs.

- VIII. **Supplies and Equipment.** The Golf Pro shall be responsible for the purchase of all supplies and equipment used in the pro shop, golf range, motorized cart concessions, and food and beverage concessions, and shall not make such purchases with nor pledge the credit of the City. The Golf Pro shall be responsible for all costs to operate a motorized cart concession, including insurances.
- IX. **No Construction.** The Golf Pro agrees not to construct, remodel, or reconstruct any part of the buildings without written permission of the City.
- X. **Subcontractors and Liens.** Neither the Golf Pro nor anyone claiming by, through or under him/her shall file or place any mechanic's lien or any other lien of any kind or character whatsoever, upon said premises, or upon any building or improvement thereof. Notice shall be given that no contractor, subcontractor or anyone else who may furnish any material, service or labor for any building improvements, alterations, repairs or any part thereof shall at any time be or become entitled to any lien thereof. And, for the further security of the City, the Golf Pro agrees to give actual notice in advance to any and all contractors and subcontractors who may furnish or agree to furnish any material, service, or labor.
- XI. **Indemnification and Insurance.**
- A. **Indemnification.** The Golf Pro shall be liable to and hereby agrees indemnify, defend and hold harmless the City, its employees, officials, officers and agents against all claims, damages, liabilities, losses, damages and expense of any kind or nature, on account of any injury, damage, or death of any person or on account of any damage to any property of any nature arising from, in connection with, caused by or resulting from the Golf Pro's tenancy, occupancy or use of the premises, covered by this Agreement.
- B. **Insurance.** The Golf Pro agrees that he will, at his own expense, procure and maintain the following insurance, with a company or companies authorized to do business in the State of Wisconsin. Each policy and

certificate shall require a thirty (30) day advance written notice of cancellation, non-renewal or material change in the policy. All coverages required shall apply as primary with the City, its employees, officials, officers and agents named as additional insured as their interest may appear. Certificates of insurance for all required insurance shall be filed with the City at or before the Golf Pro signs this Agreement.

1. Worker's Compensation. The Golf Pro agrees to provide Worker's Compensation insurance and to hold and save the City harmless from any and all claims, settlements and judgments (to include reasonable investigative fees, attorney's fees, suit and court costs) and personal injury and/or death benefits to his agents, servants and employees pursuant to the Wisconsin Worker's Compensation Act. The Golf Pro shall furnish the City with a certificate that he carries such insurance which shall be endorsed on its face that it cannot be canceled or materially altered without giving the City at least thirty (30) days written notice, by registered or certified mail, return receipt requested.
2. Builder's Risk. In the event the Golf Pro secures written permission pursuant to Paragraph IX hereof to construct, remodel or reconstruct any part of the buildings covered by this Agreement, the Golf Pro agrees to purchase and maintain a Builder's Risk insurance policy which shall insure against the perils of fire and extended coverage and shall include an endorsement for "All Risk" on a full replacement value basis. This insurance shall include the interests of the City, the Golf Pro, and any contractors or subcontractors.

The Golf Pro agrees to waive all rights against the City for damage caused by fire or other perils to the extent covered by insurance provided under the Builder's Risk and property insurance. The Golf Pro, where appropriate, shall also require waivers by all contractors or subcontractors hired by the Golf Pro against the City for damage caused by fire or other perils to the

extent required by insurance provided under the Builder's Risk and property insurance. Waivers shall be for the term of this Agreement.

3. Commercial General Liability. The Golf Pro shall maintain for the full term of this Agreement commercial general liability insurance, including contractual liability, personal injury liability, products and completed operations, with minimum limits of \$500,000.00, and \$300,000.00 per occurrence for property damage.
4. Liquor Liability. Liquor liability insurance shall be in the base amount of coverage at \$500,000.00 per occurrence. In the event that the base amount of required coverage is not available, then until such coverage can be obtained, the Golf Pro shall provide a performance bond or letter of credit in the amount of \$50,000.00. Said performance bond or letter of credit shall be maintained in force one hundred eighty (180) days after the effective date of termination, nonrenewal or expiration of this Agreement, or until the satisfaction of any claim, demand or suit against the City arising from or growing out of the dispensing of alcohol beverages by the Golf Pro or his employees, whichever shall be longest. In the event that the base liquor liability coverage is not economically available, the Golf Pro agrees to increase the performance bond under this Agreement to \$100,000.00 until such time as coverage is obtained and evidence of coverage is presented to the City.

In the event that Sec. 4 of Act 47 of the Laws of 1985 (Sections 125.035 and 125.037, Wis. Stats.) is repealed or modified by legislative act or declared unconstitutional or otherwise challenged successfully, such that these statutory sections are rendered ineffective in that they fail to achieve their essential purpose of establishing absolute immunity from such suits, claims and demands against the municipality which permits alcohol beverages to be sold and served by the Golf Pro operating in the manner as set forth in this Agreement, sales and furnishing of alcohol beverages must immediately cease pending agreement by

the parties on required insurance coverage for liquor liability. The statutes shall be deemed to be successfully challenged if a court of competent jurisdiction has made a final ruling or determination that, if unreversed or unmodified, renders the provisions of the stated sections ineffective in achieving their essential purpose.

- XII. **Personal Property.** All personal property in the premises covered by this Agreement shall be maintained at the risk of the Golf Pro only, and the City shall not be liable for any damage, either to person or property, sustained by the Golf Pro or other persons, due to the premises or any part or appurtenance thereof, or the machinery or appliance used in connection therewith, becoming out of repair or in defective condition. All repair of the services, appurtenances, machinery and appliances (except property of the Golf Pro) shall be the sole obligation of the City.
- XIII. **Bankruptcy/Insolvency.** If the Golf Pro shall becomes insolvent or is declared bankrupt, or such premises shall come into the possession of any receiver, trustee, or other officer or assignee acting under a court order, and the same not be dissolved within fifteen (15) days thereafter, then the City shall have the right to terminate this Agreement, and in the event that the City shall not exercise such right, the City may accept payment from such receiver, trustee or officer in possession thereof, for the term of such agreement, without impairing or affecting in any way the right of the City against the Golf Pro under this Agreement.
- XIV. **No Transfer of Rights.** The Golf Pro agrees not to transfer or assign this Agreement or to sublet the privileges or premises without the written consent of the City. Each and every covenant and agreement herein contained shall extend to and be binding upon the respective successors, heirs, administrators, executors, and assigns of the parties hereto. If Golf Pro is a corporation, partnership, limited partnership, limited liability company, limited liability partnership or other entity that is not an individual person, then an assignment prohibited within the meaning of this Article XIV shall be deemed to include one or more sales or transfers, by operation of law or otherwise, or creation of new stock or ownership interests, by which an aggregate of 50% or more of Golf Pro's

stock or ownership interests shall be vested in a party or parties who are not stockholders, partners, members or others who possess ownership interests in Golf Pro as of the date hereof.

- XV. **Taxes/Assessments.** The Golf Pro agrees to timely pay all taxes, assessments, or other public charges levied or assessed by lawful authority (but reasonably preserving the Golf Pro's right of appeal) against the personal property of the Golf Pro on the premises during the term of this Agreement. In addition, the Golf Pro agrees to pay any and all sales tax that may be levied on any of the services of this Agreement.
- XVI. **Default.** The various rights, powers, options, elections and remedies of either party provided in this Agreement shall be construed as cumulative and not one of them as exclusive of the others, or exclusive of any rights, remedies, or priorities allowed either party by law, and shall in no way affect or impair the right of either party to pursue any other equitable or legal remedy to which either party may be entitled, as long as any default remains in any way unremedied, unsatisfied, or undischarged.
- XVII. **No Waiver.** None of the covenants, provisions, terms or conditions of this Agreement to be kept or performed by the City or the Golf Pro shall be in any manner modified, waived, or abandoned, except by a written instrument duly signed by the parties and delivered to the City and the Golf Pro. This Contract contains the whole agreement of the parties.
- XVIII. **Surrender of Premises.** Not later than three (3) days after the date of termination of this Agreement, the Golf Pro agrees to vacate and surrender the portion of the buildings allocated to him/her for the operation of this Agreement, remove his personal property therefrom, and deliver possession of the same to the City. The premises shall be in as good condition as said premises are now in or hereafter may be placed, unavoidable wear through careful use, and damage by fire or other casualty beyond the control of the Golf Pro excepted. All equipment and other property of the City on the premises shall remain the property of the City after the termination of the Agreement. An inventory of City properties will be performed before release.

It is expressly understood and agreed that this Agreement is not a lease or a conveyance of realty, but merely a granting of the right to conduct certain activities and provide certain services for the benefit and convenience of the public.

- XIX. **Violation of Agreement.** The Parks Superintendent shall be responsible for seeing that the Golf Pro does not violate the provisions of this Agreement. If the Golf Pro shall violate any term of this Agreement or permit any play without payment of established fees, except for Class A PGA, LPGA, G.C.S.AA Class A and PGA Apprentice Program Professionals, the Parks Superintendent, in his discretion, may terminate this Agreement upon fourteen (14) days written notice to the Golf Pro. The decision of the Parks Superintendent shall be final. The Golf Pro may terminate this Agreement for violation of the Agreement by the City upon thirty (30) days written notice to the Parks Superintendent.
- XX. **No Discrimination.** In the performance of work and business under this Agreement, the Golf Pro and any persons employed by him/her shall not discriminate against any employee or applicant for employment or person 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, political beliefs or student status. In addition, the Golf Pro agrees to abide by the provisions contained in Exhibit A, attached hereto and incorporated herein, as if fully set forth in detail. Golf Pro 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, or national origin.
- XXI. **Goodwill.** Any and all goodwill arising out of this Agreement inures solely to the City and Golf Pro waives all claims to benefit of such goodwill.
- XXII. **City Commercial Symbols.** It is understood that in the operation and conduct of this Agreement, the City does not grant Golf Pro the right to sell or distribute any goods or services provided by the City, nor does the City grant Golf Pro the right to use a City trade name, trademark, service mark, logotype, advertising or other commercial symbol.
- XXII. **Nondiscrimination Based on Disability.** Contractor shall comply with Section

39.05, Madison General Ordinances, “Nondiscrimination Based on Disability in City-Assisted Programs and Activities.” Under section 39.05(7) of the Madison General Ordinances, no City financial assistance shall be granted unless an Assurance of Compliance with Sec. 39.05 is provided by the applicant or recipient, prior to the granting of the City financial assistance.

Contractor hereby makes the following assurances: Contractor assures and certifies that it will comply with section 39.05 of the Madison General Ordinances, “Nondiscrimination Based on Disability in City Facilities and City-Assisted Programs and Activities,” and agrees to ensure that any subcontractor who performs any part of this agreement complies with sec. 39.05, where applicable. This includes but is not limited to assuring compliance by the Contractor and any subcontractor, with section 39.05(4) of the Madison General Ordinances, “Discriminatory Actions Prohibited.”

Contractor may not, in providing any aid, benefit or service, directly or through contractual, licensing or other arrangements, violate the prohibitions in Section 39.05(4), listed below:

Discriminatory Actions Prohibited: Contractor assures that, in providing any aid, benefit, or service, it shall not, directly or through contractual, licensing, or other arrangements, on the basis of disability:

1. Deny a qualified person with a disability the opportunity to participate in or benefit from the aid, benefit, or service;
2. Afford a qualified person with a disability an opportunity to participate in or benefit from the aid, benefit, or service, or the City facility, that is not equal to that afforded others;
3. Provide a qualified person with a disability with a City facility or an aid, benefit, or service that is not as effective as that provided to others;
4. Provide different or separate City facilities, or aid, benefits, or services to persons with a disability or to any class of persons with disabilities unless

such action is necessary to provide qualified persons with a disability with City facilities, aid, benefits, or services that are as effective as those provided to others;

5. Aid or perpetuate discrimination against a qualified person with a disability by providing significant assistance to any agency, organization, or person that discriminates on the basis of disability in providing any aid, benefit, or service to beneficiaries of the recipient's program;
6. Deny a qualified person with a disability the opportunity to participate as a member of planning or advisory boards; or
7. Otherwise limit a qualified person with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service from a recipient, or by others using City facilities.

Contractor shall post notices in an accessible format to applicants, beneficiaries, and other persons, describing the applicable provisions of Sec. 39.05 of the Madison General Ordinances, in the manner prescribed by section 711 of the Civil Rights Act of 1964 (42 USCA Sec 2000e-10)."

XXIII. Living Wage. (Applicable to contracts exceeding \$5,000). Unless exempt by MGO 4.20, the Contractor agrees to pay all employees employed by the Contractor in the performance of this contract, whether on a full-time or part-time basis, a base wage of not less than the City minimum hourly wage as required by Section 4.20, Madison General Ordinances.

The City recognizes that employees of Golf Pro may receive non-cash compensation, that may include but is not limited to a season golf pass, merchandise discounts, discounts on food and beverages or other non-cash compensation. Such non-cash compensation, if offered, shall be counted towards the base wage required by Section 4.20. Madison General Ordinances.

XXIV. **Notices.** Written notices to either party shall be effective when served upon the Parks Superintendent or the Golf Pro. Notice shall be deemed served when

deposited in the United States mail by registered or certified mail, properly addressed to the City or to the Golf Pro, as the case may be, at the mailing address given in this Agreement. Notices to the City shall be made to the Parks Superintendent, 215 Martin Luther King, Jr. Boulevard, Madison, Wisconsin 53703. Notices to Golf Pro shall be to RJM Pro Golf, Inc., 2 Wichita Court, Madison, WI 53719.

Signature Page

Operating Agreement
for Monona Golf Course
Between the City of Madison
and Golf Pro

IN WITNESS WHEREOF, the parties hereto set their hands and seals
this _____ day of _____, at Madison, Wisconsin.

CITY OF MADISON, WISCONSIN
a municipal corporation

David J. Cieslewicz, Mayor Date

Maribeth Witzel-Behl Date

WITNESS:

GOLF PRO
RJM Pro Golf, Inc.

RJM Pro Golf, Inc. Date

APPROVED:

APPROVED AS TO FORM:

Dean Brasser Date
City Comptroller

Michael P. May Date
City Attorney

Eric Veum Date
Risk Manager