

GOLF COURSES USE AGREEMENT
Between the City of Madison and Champions4Kids, Inc.
For 2025-2029

THIS COURSES USE AGREEMENT (the “Agreement”), entered into by and between Champions4Kids, Inc. (f/n/a Madison Metro Youth Golf Initiative, Inc.), a Wisconsin nonprofit corporation, doing business as First Tee - South Central Wisconsin (the “Chapter”), and the City of Madison, a municipal corporation (the “City”), is effective as of the date by which all parties have signed hereunder.

WITNESSETH:

WHEREAS, the City is the owner of the golf facilities at Monona Golf Course, located at 111 E. Dean Ave., The Glen Golf Park located at 3747 Speedway Rd., Odana Hills Golf Course located at 4635 Odana Rd., Madison, and Yahara Hills Golf Course located at 7051 Millpond Rd, in the City of Madison, Dane County, Wisconsin (the “Courses”); and,

WHEREAS, the Chapter is a licensee of PGA Tour First Tee Foundation Inc. (“The First Tee”), pursuant to which the Chapter is responsible for introducing the game of golf to young people in Madison, Wisconsin and the surrounding area by combining affordable access to golf together with The First Tee Life Skills Education Program (the “First Tee Program” or the “Program”) brand of curriculum which emphasizes golf’s unique ability to instill and develop essential values such as honesty, integrity, sportsmanship, self-discipline, respect and a solid work ethic, and to give those young people the confidence and skills to pursue broader goals in life; and,

WHEREAS, since 2011, and based upon prior Use Agreements entered into with the City, the Chapter has had the use of the City’s Courses to establish and operate its First Tee Program. The Program provides affordable access and instruction to youth golf that promotes and aligns with the vision and mission of the Madison Parks Golf Enterprise Program. However, the prior agreements have since expired; and,

WHEREAS, the Chapter desires to continue providing the First Tee Program at the Courses, and the City is willing to continue providing the Chapter access to and use of its Courses for the Program in accordance with the terms and provisions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein below, the receipt and sufficiency of which is hereby acknowledged, the City and the Chapter agree and covenant as follows:

NOW, THEREFORE, in consideration of the promises and mutual covenants of the parties hereto, the Parties agree as follows:

1. Purpose. The purpose of this Agreement is to establish the terms and conditions upon which Chapter shall be entitled to the use of the City’s Courses to offer the First Tee Program.

2. Term; Renewal. This Agreement shall run for three-years and expire on December 31, 2027. It may be renewed for two additional one-year terms, for the 2028 and 2029 calendar years, upon the mutual agreement of the Parties as set forth herein, with each additional period running from January 1 through the December 31 the following year. Chapter shall notify City of its desire to renew the agreement prior to the end of the term, and the City shall respond within ten-days of said request.
3. Grant of Authority.
 - a. Course Access by Chapter. City agrees to permit access to and use of the Courses to the Chapter in order that the Chapter may:
 - (1) Provide a minimum of 250 hours annually of programming at the Courses;
 - (2) Organize the scheduling of all programming for Program Participants;
 - (3) Coordinate the certification process for all interested Participants;
 - (4) Prepare youth participants for The First Tee's National Life Skills Academy or other Participant opportunities, as applicable;
 - (5) Coordinate all documentation for Participants eligible for college scholarships; and,
 - (6) Coordinate all necessary transportation for Participants, if required.
 - b. Course Access by Program Participants. City agrees to provide the Chapter access to and use of the Courses for The First Tee Program participants ("Program Participants" or "Participants") in accordance with the minimum access and program use requirements set forth by The First Tee. In particular, the Chapter's use of the Courses shall include, but not be limited to the following:
 - (1) Up to sixteen (16) rounds of golf at the golf course for each qualified Program Participant wishing to obtain certification under the Program (rounds of golf will be defined as either nine or eighteen holes of golf depending on the level of certification being sought by the Participant); and,
 - (2) Green fees for the golf course for rounds played by Program Participants at an appropriate discounted price and time of day as agreed to by the City and the Chapter.
4. Special Conditions of Use. In entering into this Agreement, City and Chapter (the "Parties") agree to the following special terms and conditions regarding the Chapter's use of the Courses:
 - a. Course Related Fees. Green fees and range ball fees will be paid by Program Participants before play or otherwise will be subsidized by the Chapter or by a third party. Such green fees and range ball fees shall not be the property of the Chapter.

The City agrees to set a fee for greens fees that will not exceed the rate in effect for High School Golf Programs. All fees subsidized by the Chapter shall be paid in full at the end of the golf season.

- b. Chapter Operations. The Chapter shall provide all operational funds necessary for all Chapter activities, except as provided herein. The Chapter will use ongoing best efforts to secure donations of golf equipment, office equipment, and volunteers to assist with golf instruction, mentoring, fundraising events and other necessary tasks volunteers can complete. The Chapter may also provide and administer The First Tee Life Skills curriculum at other locations in Madison and South Central Wisconsin to reach out to young people living near other golf courses.
- c. Scheduling. Chapter and City will work cooperatively to schedule the Program hours of operation at the Courses. In determining reasonable access to and use of the Courses, the parties will consider, among other things, the Program's desire to fully integrate Chapter Participants into the rhythm of play of the other patrons at the Courses.
- d. City Operations. City shall pay all maintenance and management costs associated with operating the Courses, including utility costs. City may assist the Chapter with applying for grants from funding sources or conducting fundraising events to help offset the financial responsibilities of the Chapter.
- e. Advertising and Signage. Chapter may display such Chapter logos and marks at the Courses in recognition of the Courses as The First Tee Facilities and to comply with all requirements imposed upon the Chapter by The First Tee, provided that the City retains approval authority for the display of such logos and marks, which approval shall not be unreasonably withheld, conditioned or delayed. The use of such logos and marks is carefully circumscribed in the Chapter License Agreement between the Chapter and The First Tee. The City may promote and market the Courses as First Tee facilities in coordination with Chapter.
- f. No Exclusivity. The Parties recognize that this Agreement does not exclude other golf instruction providers or programs from using the Courses to conduct golf lessons or operate golf programs. The City may enter into agreements or arrangements with other lesson providers or golf programs. In entering into such agreements or arrangements, the City will avoid granting any approvals that unreasonably interfere with Chapter's ability to operate.
- g. Weapons Prohibition. Chapter shall prohibit, and shall require its subcontractors to prohibit, its employees from carrying weapons, including concealed weapons, in the course of performance of work under this Agreement, other than while at the Chapter's or subcontractor's own business premises. This requirement shall apply to vehicles used at any City work site and vehicles used to perform any work under this Agreement, except vehicles that are an employee's "own motor vehicle" pursuant to Wis. Stat. sec. 175.60(15m).

5. Fees. In recognition of the community benefits provided by the Chapter through the First Tee Program, and the alignment of its objectives with those of the Golf Enterprise, the Chapter shall pay the City an annual usage fee of \$1.00.
6. Assignment and Subcontracting. Chapter shall not assign this Agreement or any interest therein, nor subcontract the use of Courses or the Storage Areas, without the prior written approval of the City.
7. Indemnification and Insurance.
 - a. Indemnification. Chapter shall be liable to and hereby agrees to indemnify, defend and hold harmless the City of Madison, and its officers, officials, agents, and employees against all loss or expense (including liability costs and attorney's fees) by reason of any claim or suit, or of liability imposed by law 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 Chapter's acts or omissions in the performance of this Agreement, whether caused by or contributed to by the negligence of the City, its officers, officials, agents, or its employees.
 - b. Hazardous Substances; Indemnification. Chapter represents and warrants that its use of the Courses will not generate any hazardous substance, and it will not store or dispose on the Courses nor transport to or over the Courses any hazardous substance in violation of any applicable federal, state or local law, regulation or rule. Chapter further agrees to hold the City harmless from and indemnify the City against any release of such hazardous substance and any damage, loss, or expense or liability resulting from such release including all attorneys' fees, costs and penalties incurred as a result thereof except any release caused by the sole negligence or intentional acts of the City, its employees or agents. "Hazardous substance" shall be interpreted broadly to mean any substance or material defined or designated as hazardous or toxic waste, hazardous or toxic material, hazardous or toxic radioactive substance, or other similar term by any federal, state or local environmental law, regulation or rule presently in effect or promulgated in the future, as such laws, regulations or rules may be amended from time to time; and it shall be interpreted to include, but not be limited to, any substance which after release into the environment will or may reasonably be anticipated to cause sickness, death or disease or damage to or loss of use of real or personal property.
 - c. Insurance.
 - (1) Required Insurance. Chapter will insure, and will require each subcontractor to insure, as indicated, against the following risks to the extent stated below. Chapter shall not commence work under this Agreement, nor shall Chapter allow any Subcontractor to commence work on its Subcontract, until the insurance required below has been obtained and

corresponding certificate(s) of insurance have been approved by the City Risk Manager.

- (a) Commercial General Liability. During the life of this Agreement, the Chapter shall procure and maintain Commercial General Liability insurance including, but not limited to, bodily injury, property damage, personal injury, and products and completed operations (unless determined to be inapplicable by the City of Madison's Risk Manager) in an amount not less than \$1,000,000 per occurrence. This policy shall also provide contractual liability in the same amount. Chapter's coverage shall be primary and noncontributory, and list the City of Madison, its officers, officials, agents and employees as additional insureds. Chapter shall require all subcontractors under this Agreement (if any) to procure and maintain insurance meeting the above criteria, applying on a primary and noncontributory basis and listing the City of Madison, its officers, officials, agents and employees as additional insureds.
 - (b) Property Insurance. Chapter shall be solely responsible for carrying personal property insurance sufficient to cover loss of all personal property on the Courses. Such personnel property includes, but is not limited to, Chapter's golf instructional equipment. The City shall not be liable for any damage to or loss of property of Chapter or others located on the Courses except to the extent such damage or loss was caused by the City's sole negligence or willful act.
 - (c) Workers' Compensation. Statutory Workers' Compensation insurance as required by the State of Wisconsin. Chapter shall also carry Employers Liability limits of at least \$100,000 Each Accident, \$100,000 Disease – Each Employee, and \$500,000 Disease – Policy Limit. Chapter shall require all subcontractors under this Agreement (if any) to procure and maintain such insurance, covering each subcontractor.
- (2) Acceptability of Insurers. The above-required insurance is to be placed with insurers who have an A.M. Best rating of no less than A- (A minus) and a Financial Category rating of no less than VII.
 - (3) Proof of Insurance, Approval. Chapter shall provide the City with certificate(s) of insurance showing the type, amount, class of operations covered, effective dates, and expiration dates of required policies prior to commencing work under this Agreement. Chapter shall provide the certificate(s) to the City's representative upon execution of the Agreement, or sooner, for approval by the City Risk Manager. Chapter shall provide copies of additional insured endorsements or insurance policies, if requested by the City Risk Manager.

- (4) Notice of Change in Policy. Chapter and/or Insurer shall give the City thirty (30) days advance written notice of cancellation, non-renewal or material changes to any of the above-required policies during the term of this Agreement.
- (5) Insufficient Coverage. In the event of expiration, material change, or cancellation of insurance required by this Agreement, Chapter shall immediately cease use of the Courses and the provision of the services under this Agreement until such time as proof of the required insurance is provided to the City Risk Manager consistent with the requirements of this Section.
- (6) Risk Manager. All information required to be provided to the Risk Manager should be addressed as follows:

City of Madison
Attention: Risk Manager
210 Martin Luther King Jr. Blvd., Room 406
Madison, WI 53703-3345

8. Default and Termination.

- a. In the event Chapter shall default in any of the covenants, agreements, commitments, or conditions herein contained, or fails to fully perform and carry out any term or condition of this Agreement to the satisfaction of the City, and any such default shall continue unremedied for a period of ten (10) days after written notice thereof to Chapter, the City may, at its option and in addition to all other rights and remedies which it may have at law or in equity against Chapter, including expressly the specific enforcement hereof, forthwith have the cumulative right to immediately terminate this Agreement and all rights of Chapter under this Agreement.
- b. Notwithstanding the above, either Party may terminate this Agreement for any reason at any time by mailing written notice of termination to the other with at least ten (10) days advance notice.

9. Binding on Parties; Amendments. This Agreement shall be binding on the parties hereto, their respective heirs, devisees and successors and cannot be varied or waived by any oral representations or promise of any agent or other person of the parties hereto unless the same be in writing signed by the duly authorized agent or agents who executed Agreement, except that for terms only affecting City and Chapter, or where specifically set forth in this Agreement, only those Parties need enter into a written amendment of the terms of this Agreement for it to be effective.

10. Status of Parties. It is agreed that Chapter is an independent contractor and not an employee or representative of the City, and that any persons who Chapter utilizes and provides for services under this Agreement are employees, subcontractors or volunteers of Chapter and

are not employees, subcontractors or volunteers of the City of Madison. In addition, it is agreed that by granting Chapter the right to use the Courses for the purposes set forth herein, that the City is not granting Chapter the right to sell or distribute any City goods or services nor is there a community of interest, as that term is defined at Wis. Stat. Sec. 135.02(1), between the City and Chapter arising from this Agreement. The Parties both acknowledge that this Agreement does not create a dealership under Wis. Stat. Ch. 135.

11. Notices. All notices required to be given under the terms of this Agreement shall be personally delivered or sent, postage prepaid, by depositing the same in United States mail addressed as follows:

City: Superintendent of Parks
City of Madison Parks Division
330 E. Lakeside St
PO Box 2987
Madison, WI 53715

Chapter: Alan Steinhauer, Interim Executive Director
First Tee – South Central Wisconsin
2819 Royal Ave.
Madison, WI. 53713

12. Title to be Retained by City. City shall retain title and ownership of Courses together with all buildings, fixtures and improvements thereon without any payment whatsoever to Chapter.
13. Non-Discrimination. In the performance of the services under this Agreement Chapter agrees not to discriminate against any employee or applicant because of race, religion, marital status, age, color, sex, handicap, national origin or ancestry, income level or source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, gender identity, political beliefs, or student status. Chapter further agrees not to discriminate against any subcontractor or person who offers to subcontract on this Agreement because of race, religion, color, age, disability, sex, sexual orientation, gender identity or national origin.
14. Nondiscrimination Based on Disability. Chapter shall comply with Section 39.05, Madison General Ordinances, “Nondiscrimination Based on Disability in City-Assisted Chapters 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. Under Section 39.05(3)(b)4, “City financial assistance” includes any arrangement by which the City provides or otherwise makes available assistance in the form of the lease of, and the permission to use, City property.

Chapter assures that, in providing any service at the Courses, it shall not, directly or through contractual, licensing, or other arrangements, on the basis of disability:

- a. Deny a qualified person with a disability the opportunity to participate in or benefit from the aid, benefit, or service;
- b. 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;
- c. 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;
- d. 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;
- e. 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 Chapter;
- f. Deny a qualified person with a disability the opportunity to participate as a member of planning or advisory boards; or
- g. 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.

Chapter 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).

- 15. No Realty. It is expressly understood and agreed that this Agreement is not a lease or a conveyance of realty, but merely a granting to Chapter the right to use the City's Courses for the purposes set forth herein. There is, therefore, no conveyance of any riparian rights to Chapter, but only permission to make use of the riparian rights the City has as owner of the Courses.
- 16. Third Party Rights. This Agreement is intended to be solely between the parties hereto. No part of this Agreement shall be construed to add, supplement, amend, abridge or repeal existing rights, benefits or privileges of any third party or parties, including but not limited to employees of either of the parties.
- 17. Choice of Law and Forum Selection. This Agreement shall be governed by and construed, interpreted and enforced in accordance with the laws of the State of Wisconsin. The parties agree, for any claim or suit or other dispute relating to this Agreement that cannot be mutually resolved, the venue shall be a court of competent jurisdiction within Dane County, State of Wisconsin and the parties agree to submit themselves to the jurisdiction of said

court, to the exclusion of any other judicial district that may have jurisdiction over such a dispute according to any law.

18. Compliance with the Law. Chapter agrees to comply with all laws and ordinances of the United States, the State of Wisconsin, Dane County and the City of Madison, and shall obtain and keep in good standing all licenses and permits that may be necessary for its use of the Courses as set forth herein.
19. Entire Agreement. The entire agreement of the parties is contained herein and this Agreement supersedes any and all oral contracts and negotiations between the parties.
20. No Waiver. No failure to exercise, and no delay in exercising, any right, power or remedy hereunder on the part of the City or Chapter shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy. No express waiver shall affect any event or default other than the event or default specified in such waiver, and any such waiver, to be effective, must be in writing and shall be operative only for the time and to the extent expressly provided by the City or Chapter therein. A waiver of any covenant, term or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition.
21. Severability. It is mutually agreed that in case any provision of this Agreement is determined by any court of law to be unconstitutional, illegal or unenforceable, it is the intention of the parties that all other provisions of this contract remain in full force and effect.
22. Counterparts; Electronic Delivery. This Agreement and any document executed in connection herewith may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute the same document. Signatures on this Agreement may be exchanged between the Parties by facsimile, electronic scanned copy (.pdf) or similar technology and shall be as valid as original; and this Agreement may be converted into electronic format and signed or given effect with one or more electronic signature(s) if the electronic signature(s) meets all requirements of Wis. Stat. ch. 137 or other applicable Wisconsin or Federal law. Executed copies or counterparts of this Agreement may be delivered by facsimile or email and upon receipt will be deemed original and binding upon the Parties hereto, whether or not a hard copy is also delivered. Copies of this Agreement, fully executed, shall be as valid as an original.
23. Authority. Chapter represents that it has the authority to enter into this Agreement and that the person signing on behalf of Chapter represents and warrants that he or she has been duly authorized to bind Chapter and sign this Agreement on Chapter's behalf.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their proper officers on the day and year first above written.

CHAMPIONS4KIDS, INC. (d/b/a FIRST TEE - SOUTH CENTRAL WISCONSIN)

Lindsay Koth, Chair

Date

FOR THE CITY OF MADISON

Satya Rhodes-Conway, Mayor

Date

Maribeth Witzel-Behl, City Clerk

Date

Countersigned:

David P. Schmiedicke, Finance Director

Date

Eric Veum, Risk Manager

Date

Approved as to form:

Michael R. Haas, City Attorney

Date

Execution of this Agreement by City was approved by the Board of Parks Commissioners on _____, 2025 and authorized by Resolution Enactment No. RES-____-_____, ID No. _____, adopted by the Common Council of the City of Madison on _____, 2025.