

TEMPORARY CONSTRUCTION EASEMENT AGREEMENT

This Temporary Construction Easement Agreement (“**Easement**”) is made and entered into as of this ____ day of _____ 2026, by and between the City of Madison, Wisconsin, a Wisconsin municipal corporation (“**City**”), and Engen Construction Solutions, LLC, a Wisconsin limited liability company (“**Grantee**”). Each of the foregoing shall be referred to herein as a “**Party**” or collectively, as the “**Parties**”, as the context indicates.

RECITALS

A. The City owns certain real property located at 902 E. Washington Avenue in the City of Madison, Wisconsin, which is legally described on attached Exhibit A and depicted on attached Exhibit B (“**City Property**”).

B. The Grantee is a contractor hired for the undertaking a redevelopment project on the property located at 1 S. Paterson Street, which is across the street from the City Property and legally described on attached Exhibit A and depicted on attached Exhibit B (“**Development Property**”).

C. Construction staging is occurring on the Development Property, including the use of a tower crane, and the Grantee requests access over, across and above a portion of the City property for the to facilitate the crane swing radius that will travel outside the Development Property boundary.

The City agrees to grant this Easement for the temporary use of a portion of the air space above the City Property in consideration of the foregoing Recitals, and the Parties hereby agree to the following terms and conditions:

1. Crane Swing. The City hereby grants to Grantee this Easement for Grantee and its designees to use a portion of the air space above the City Property depicted on Exhibit B (“**Easement Area**”) for the operation of a crane swing. The Grantee shall abide by the following terms:

- a. The hook of the crane swing shall not extend over the facility
- b. The jib of the crane(s) shall be allowed to rotate relative to prevailing winds when not in operation.
- c. The lowest operating height of the jib shall be 210 ft.
- d. No picks shall be swung over the facility
- e. The crane(s) shall not be left hanging over the city right-of-way or structures in a loaded condition overnight or while crane(s) are not in active use
- f. No flags for the purpose of advertising shall be displayed from the crane(s)

2. Term of Easement. The Easement granted herein will commence on the date above (the “**Effective Date**”) which is the date of the last signature by the Parties, and expire on June 30, 2027 (“**Easement Term**”).

3. Easement Fee. The Grantee agrees to pay the City a daily fee of Twenty Five and no/100 Dollars (\$25.00) for each day of the Easement Term (“**Easement Fee**”). The Easement Fee shall be due within thirty (30) days after the expiration of the Easement Term. Check is to be made payable to the City of Madison Treasurer and mailed to the City at the address provided in Section 7.

4. Indemnification. The Grantee 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 Owner or its officers, officials, agents, employees, assigns, guests, invitees, or subcontractors, in the performance of this Easement, whether caused by or contributed to by the negligence of the City, its officers, officials, agents, or employees.

5. Insurance. During the Easement Term, the Grantee shall, at its sole cost and expense, carry commercial general liability insurance covering as insured the Grantee and naming the City, its officers, officials, agents and employees as additional insureds, with a minimum limit of \$5,000,000 per occurrence (this limit may be achieved with the use of an umbrella/excess policy). 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 Easement. On or before the Effective Date, the Grantee shall deliver to City a certificate of insurance of such policy or policies.

The Developer and his/her Contractor have permission from the City for crane operation within public right-of-ways and within the air space over public right-of-ways. The Developer shall submit a plan with the location of the crane(s) with the swing radii details. While the Developer and his/her Contractor have permission from the City for crane operation within public right-of-ways and within the air space over public right-of-ways, Developer and his/her Contractor agree that crane(s) will not be left hanging over City right-of-way or structures in a loaded condition overnight or while crane(s) are not in active use. The crane operation contractor must be pre-qualified to work in the public right-of-way. Cranes may be allowed to weather vane (swing freely with wind conditions) for safety reasons while they are not in use. The specific insurance requirements for the crane operator are as follows:

- a. Workers’ Compensation. The crane operator shall procure and maintain during the life of this Contract, statutory Workers’ Compensation Insurance as required by the State of Wisconsin and other applicable laws on employees to be engaged in work at the site of the project under this contract and, in case of any such work sublet, the crane operator shall require the subcontractor(s) similarly to provide Workers’ Compensation Insurance for all of the latter’s employees to be engaged in such work unless such employees are covered by the protection afforded by the crane operator’s Workers’ Compensation Insurance. The crane operator and subcontractor(s) shall also carry minimum Employers Liability limits of \$100,000 Each Accident, \$100,000 Disease – Each Employee, and \$500,000 Disease – Policy Limit, or those

limits necessary to meet underlying Umbrella Liability insurance requirements.

- b. General Liability. The crane operator shall procure and maintain during the life of this Contract, Commercial General Liability insurance including, but not limited to, products liability, completed operations, contractual liability, and explosion, collapse and underground coverage in an amount not less than \$1,000,000 per occurrence/\$2,000,000 aggregate on a per project basis. Products-completed operations coverage shall be carried for two years after completion of work. crane operator's coverage shall be primary and non-contributory, and list the City of Madison, its officers, officials, agents and employees as Additional Insureds.
- c. Umbrella Liability. The crane operator shall procure and maintain during the life of this Contract Umbrella Liability coverage at least as broad as the underlying Commercial General Liability and Employers Liability with minimum limits of \$10,000,000 per occurrence and aggregate.
- d. Subcontractor's Insurance. The crane operator shall insure the activities of his/her subcontractors in his own policy.
- e. Acceptability of Insurers. Insurance is to be placed with insurers who have an A.M. Best rating of no less than A- and a Financial Category rating of no less than VII.
- f. Certificates of Insurance. The crane operator shall furnish the City of Madison with insurance certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of policies prior to commencement of work. Such certificates shall also contain substantially the following statement: "The insurance covered by this certificate will not be canceled or materially altered, except after thirty (30) days written notice has been received by the City of Madison." The crane operator shall provide copies of additional insured endorsements or insurance policies if requested by the City.

6. Successors and Assigns; Assignment. During the Easement Term, the covenants contained herein shall run with the land and shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and permitted assigns. The Grantee shall not assign or otherwise transfer this Easement or any of its rights or obligations hereunder, in whole or in part, without the prior written consent of the City, which consent shall not be unreasonably withheld, conditioned, or delayed.

7. Notices. All notices to be given under the terms of this Easement shall be signed by the person sending the same, and shall be sent by certified mail, return receipt requested and postage prepaid, to the address of the parties specified below. If electing to utilize 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 Easement.

If to City:

City of Madison
Office of Real Estate

ServicesPO Box 2983
Madison, WI 53701-2983
mhermann@cityofmadison.c
om

With a copy to:

City of Madison Parks Division
330 E. Lakeside St
Madison, WI 53715
llaschinger@cityofmadison.com;

If to Grantee:

Engen Construction
Attn: Mike Engen
mike@engenconstruction.com

8. Counterparts, Electronic Signature and Delivery. This Easement may be signed in counterparts, each of which shall be taken together as a whole to comprise a single document. Signatures on this Easement may be exchanged between the parties by facsimile, electronic scanned copy (.pdf) or similar technology and shall be as valid as original; and this Easement 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 Easement 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 Easement, fully executed, shall be as valid as an original.

9. Amendments. This Easement may be modified or amended only by a written instrument executed by the Parties, or their respective successor and assigns.

10. Choice of Law, Venue and Forum Selection. This Easement 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 in relation to this Easement 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 law.

11. Severability. If any term of this Easement or any application thereof shall be invalid or unenforceable, the remainder of this Easement and any other application of such term shall not be affected thereby.

[Signature pages to follow]

IN WITNESS WHEREOF, the Parties have caused this Easement to be executed effective as of the day and

year first above written.

GRANTEE:

ENGEN CONSTRUCTION SOLUTIONS, LLC
a Wisconsin limited liability company

By: _____
Michael Engen

IN WITNESS WHEREOF, the Parties have caused this Easement to be executed effective as of the day and year first above written.

**CITY OF MADISON,
a Wisconsin municipal corporation**

By: _____
Satya Rhodes-Conway, Mayor

By: _____
Lydia McComas, City Clerk

AUTHENTICATION

The signatures of Satya Rhodes-Conway, as the Mayor, and Lydia McComas, as the City Clerk, on behalf of the City of Madison, are authenticated on this ____ day of _____, 2026.

Name: Doran Viste, Assistant City Attorney
Title: Member, State Bar of Wisconsin

The execution of this Easement by City officials is authorized by Common Council Enactment No. RES-26-XXXXX, File ID No. XXXXX, adopted March XX, 2026.

EXHIBIT A
Legal Descriptions

City Property:

Lot One (1), Certified Survey Map No. 14936, as recorded in the office of the Dane County Register of Deeds in Volume 105, Pages 102 of Certified Survey Maps.

Tax Parcel No. 251/0709-131-2001-3

Development Property:

Lot One (1), Certified Survey Map No. 14676 as recorded in the office of the Dane County Register of Deeds in Volume 102, Pages 60-63 of Certified Survey Maps, now known as Archipelago Village Condominium, declared and recorded as Document No. 5379644, Notation Parcel Only, assessed with all units within said condominium, See 0709-131-32.

Tax Parcel No. 251/0709-131-2108-7 (Notation Parcel)

EXHIBIT B

Easement Area