

RIGHT OF FIRST REFUSAL

BY THIS INSTRUMENT, City of Madison, hereinafter referred to as “Grantor”, does hereby give and grant unto the **County of Dane**, hereinafter referred to as “Grantee” for good and valuable consideration a Right of First Refusal to purchase certain lands located in the City of Madison.

WHEREAS, in 2022 Grantor conveyed property to Grantee for use as a Sustainability Campus, to include a future landfill, composting site and sustainable business park for diverting waste and creating local circular economies, which development is subject to a Development Agreement, Intergovernmental Agreement and Solid Waste Agreement entered into between the Parties, and which agreements are incorporated herein by reference;

WHEREAS, within said Agreements, Grantor and Grantee have agreed to develop measurable metrics to determine the success of the Sustainability Campus and possible future expansion of the landfill site.

Return to:
Dane County
Real Estate Coordinator
5201 Fen Oak Dr., #208
Madison, WI 53718

PIN:

251-0710-254-0099-7
251-0710-361-0099-0

Therefore, Grantor, for good and valuable consideration, does hereby give and grant to Grantee a Right of First Refusal to purchase the following described real estate, hereinafter referred to as the “Property” OR “Option Property”, located in the City of Madison, Dane County, State of Wisconsin, and more particularly described on the attached Exhibit A, and depicted on the attached Exhibit B, made a part herein. In doing so, the Grantor agrees that it shall not alter the Property’s current use from golf or parkland, or develop, sell, bequeath, subdivide or otherwise transfer the Property, without first offering the Property to the Grantee as provided in this agreement.

Grantor grants this Right of First Refusal to Grantee subject to the following conditions:

1. At no time shall this agreement be considered a commitment requiring the Grantee to purchase the Property. Any offer to purchase by Grantee shall be conditioned on subsequent approvals of the Dane County Board of Supervisors and the Dane County Executive.
2. If the Grantee has not been issued a WDNR approved plan of operation for landfill development for the new landfill by December 31, 2030 or until such time as the current Rodefeld landfill is no longer accepting waste, whichever occurs later, then this agreement shall be considered null and void.
3. This Right of First Refusal shall expire upon the closure of the future landfill to be sited on the adjacent lands, or January 1, 2060, whichever occurs first.
4. This Right of First Refusal is not assignable and the rights granted hereunder are appurtenant to the Grantee’s ownership of the adjoining property and future landfill. If this property or the future landfill is sold by Grantee, this Right of First Refusal shall expire.

SECTION 1. SALE AT GRANTOR’S REQUEST: In the event that Grantor desires to offer the described real estate or any part thereof for sale, or change its use from golf or parkland, Grantor shall notify Grantee in writing of Grantor’s intention to sell or alter the use of the real estate. If the Grantor offers the described real estate or any part thereof for sale, or changes the use of the described real estate from golf or parkland without notifying the Grantee, the Grantee may notify the Grantor of its intent to invoke the Right of First Refusal.

Within 30 days of the receipt of said notices, Grantee shall inform Grantor of its intent to pursue purchase of the real estate by written notice in the form of a Letter of Intent to Purchase. Grantee shall then commission

an appraisal to be provided to Grantor with an Offer to Purchase within sixty (60) days of receipt of said notices.

Upon receipt of Grantee's offer, Grantor may elect to sell the real estate to the Grantee at the price offered, or if said price is not acceptable to Grantor, Grantor shall, within ninety (90) days of receipt of Grantee's offer, obtain an appraisal of the real estate at Grantor's expense and provide a copy to Grantee for review. Grantor and Grantee shall, within thirty (30) days from the date of delivery of said second appraisal to Grantee, attempt to agree on a purchase price for the real estate. The Parties shall negotiate in good faith towards a mutually acceptable price for the Property. If the Parties are unable to agree on a mutually acceptable price the Grantor cannot change the use unless Grantee waives the Right of First Refusal.

SECTION 2. SALE TO MATCH OFFER: In the event that the Grantor receives a bona-fide Offer to Purchase the Property or any part thereof, the Grantor shall notify the Grantee in writing, and include a copy of the bona-fide offer with the notice. After receipt of this notice, the Grantee shall have sixty (60) days in which to exercise its right to purchase such property, except that if the Offer to Purchase by the third party follows an attempt to sell the property to the Grantee under Section 1, then the Grantee shall have thirty (30) days to tender a matching offer or to decline purchase.

The Grantee's determination to exercise its Right-of-First-Refusal to purchase the Grantor's property shall be evidenced by written notice in the form of an Offer to Purchase, which Offer to Purchase shall provide the same terms and conditions as set forth in the third party Offer to Purchase previously obtained by the Grantor, provided that if the third party Offer to Purchase contains limitations on land usage or conditions unacceptable to the Grantee, the Grantee may exercise its right to purchase by an Offer to Purchase without such land use restrictions at the price of the third party Offer to Purchase. Said Offer to Purchase presented by the Grantee shall have the same standing as the third party offer, though said Grantee Offer to Purchase would contain the required Grantee approval provisions stipulated in Clause 1 of this document as well as the required timeline to gain such approvals and close the transaction.

This is a right of first offer to purchase and is not a conveyance per s. 77.21(1), Stats. and is not subject to transfer return or fee per Tax 15.01, Wis. Adm. Code.

IN WITNESS WHEREOF, the undersigned have duly executed, acknowledged, and delivered this instrument this _____ day of _____, 2022.

GRANTOR:

CITY OF MADISON, a Wisconsin municipal corporation

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 _____, 2022.

Doran Viste, Assistant City Attorney
Member of the Wisconsin Bar

SIGNATURES CONTINUE ON NEXT PAGE

Grantee:
COUNTY OF DANE

Joseph T. Parisi, Dane Grantee Executive

State of Wisconsin)
)ss.
Grantee of Dane)

Personally came before me this _____ day of _____, 2021, the above-named Joseph T. Parisi known to me to be the person who executed the foregoing instrument and acknowledged the same.

Print name: _____

Notary Public, State of Wisconsin
My commission: _____

Exhibit A
Legal Description of Option Property

Exhibit B
Map of Property