

Draft as of 1-6-14-11

DOCUMENT NO.

**PUBLIC ACCESS
MANAGEMENT AGREEMENT**

RETURN TO
Michael S. Green
Michael Best & Friedrich LLP
PO Box 1806
Madison, WI 53701-1806

See Exhibit A
(Parcel Identification Number)

THIS PUBLIC ACCESS MANAGEMENT AGREEMENT (this “Agreement”) is made and entered into as of _____, 2010, by and between the **CITY OF MADISON, WISCONSIN**, a municipal corporation (the “City”), and **EDGEWATER HOTEL COMPANY LLC**, a Wisconsin limited liability company (“Manager”).

RECITALS:

WHEREAS, the Manager is the owner of that certain real property and improvements commonly known as the Edgewater Hotel, 666 Wisconsin Avenue, Madison, Wisconsin, and legally described on Exhibit A attached hereto and made a part hereof (the “Real Property”);

WHEREAS, Landmark X, LLC, a Wisconsin limited liability company (“Landmark”) has been granted necessary approvals by the City pursuant to a Planned Unit Development Ordinance adopted by the City and recorded _____, 2010 as Document No. _____ for the redevelopment of the Real Property (the “PUD Ordinance”);

WHEREAS, Landmark has assigned its rights to redevelop the Real Property pursuant to the PUD Ordinance to the Manager;

WHEREAS, as a part of the redevelopment of the Real Property the Manager will designate certain areas of the Real Property to be accessible and open to the general public which shall include a series of walkways, public plazas and open spaces as further described herein (the “Public Access Areas”);

WHEREAS, the City shall be granted rights in the Public Access Areas, to be managed,

governed and operated by the Manager pursuant to this Agreement, as a beneficiary of right of easement and public access in and to the Public Access Areas;

WHEREAS, the public shall be granted certain rights to the Public Access Areas as provided in those certain public access easements listed at Exhibit B attached hereto and made a part hereof (the “Public Access Easements”);

WHEREAS, the Manager shall construct certain improvements defined herein as the Public Access Components to create amenities for enjoyment by the general public, as further described and herein and governed hereby;

WHEREAS, concurrent with the execution hereof, Landmark has directed the Manager to grant the Public Access Easements to the City as part of the redevelopment of the Real Property pursuant to the PUD Ordinance;

WHEREAS, the City had previously reserved certain rights of access to certain areas of the Real Property, and imposed certain restrictions on the Real Property, pursuant to that certain Ordinance of the City No. 1761 adopted on January 28, 1965 and recoded with the Dane County Register of Deeds on February 1, 1965 as Document No. 1123724, as amended November 10, 1966, September 28, 1967, November 9, 1971, and May 18, 2010 (collectively, the “1965 Ordinance”);

WHEREAS, the City and the Manager desire that this Agreement, that certain Declaration of Conservation Easement dated as of _____, 2011 by Midwest Realty and Investment Corporation for the benefit of the City and recorded with the Dane County Register of Deeds on _____, 2011 as Document No. _____ (the “Conservation Easement”), and the Public Access Easements, are intended to amend and clarify the areas and locations of public access and restate the rights of access and restrictions imposed upon the Real Property by the 1965 Ordinance;

WHEREAS, as part of the granting of the Public Access Easements to the City and the redevelopment of the Real Property, the Manager has agreed that it shall operate, manage and maintain, at no cost to the City, the Public Access Components pursuant to the terms and conditions of each of (i) the Public Access Easements and (ii) the provisions of this Agreement.

NOW, THEREFORE, in consideration of the foregoing and of the terms and conditions hereinafter set forth, the parties hereto agree as follows:

1. Defined Terms. The capitalized terms set forth in this Agreement shall have the meanings set forth below:

“1965 Ordinance” shall mean that certain Ordinance of the City No. 1761 adopted on January 28, 1965 and recoded with the Dane County Register of Deeds on February 1, 1965 as Document No. 1123724, as amended November 10, 1966, September 28, 1967, November 9, 1971, and May 18, 2010

“Agreement” shall mean this certain Public Access Management Agreement dated as of _____ by and between the City and the Manager.

“Circuit Court” shall mean Dane County Circuit Court.

“City” shall mean the City of Madison, Wisconsin, a municipal corporation.

“City Agreements” shall mean certain agreements between the Manager and the City with respect to the occupancy and use of a portion of Wisconsin Avenue right-of-way.

“City Attorney” shall mean the City of Madison, Wisconsin City Attorney.

“City Site” shall mean that portion of the Project located on approximately .38 acres of land which is a portion of Wisconsin Avenue right-of-way which the Manager occupies pursuant to the City Agreements and is legally described Exhibit C attached hereto and made a part hereof.

“Community Events” shall mean Events that are booked by, or for the benefit of, a non-profit or community-based organization.

“Conservation Easement” shall mean that certain Declaration of Conservation Easement dated as of _____, 2011 by Midwest Realty and Investment Corporation for the benefit of the City and recorded with the Dane County Register of Deeds on _____, 2011 as Document No. _____.

“Events” shall mean public and/or private events, which may include food and beverage service, scheduled, organized or hosted by the Manager or the Hotel Operator and held within the Public Access Components.

“General Events” shall mean Events that may occur on a year-round basis.

“General Events Areas” shall mean areas designated on Exhibit D attached hereto and made a part hereof.

“Hotel” shall mean the hotel (and related facilities ancillary thereto) of the Project.

“Hotel Operator” shall mean the operator or manager of the Hotel.

“Hours of Operation” shall mean 7:00 am to 11:00 pm, 365 days per year.

“Landmark” shall mean Landmark X, LLC, a Wisconsin limited liability company.

“Legal Requirements” shall mean applicable requirements under all laws, ordinances, orders, rules and regulations of governmental authorities having jurisdiction over the Real Property.

“Manager” shall mean Edgewater Hotel Company, LLC, a Wisconsin limited liability company.

“Mediation” shall mean non-binding mediation with an accredited, independent, third-party mediator.

“Mediation Notice” shall mean written notice of Mediation issued pursuant to Section 21 herein.

“Mediator” shall mean an accredited, independent, third-party mediator mutually acceptable to the City and the Manager.

“Project” shall mean shall mean the renovation and expansion of the existing hotel located on the Real Property to include not less than 190 hotel rooms; 2 levels of condominiums units and/or additional hotel rooms, restaurants, ballrooms, meetings space, spa and fitness facilities, administrative offices, existing parking on the Real Property and the City Site and/or other uses approved as part of the PUD Ordinance.

“Public Access Areas” shall mean certain areas of the Real Property specified in the Public Access Easements to be accessible and open to the general public.

“Public Access Components” shall mean certain (i) public outdoor terraces along the Lake Mendota shoreline, (ii) stairway or path to the Lake Mendota shoreline, (iii) accessible path to the Lake Mendota shoreline for purposes of the Americans with Disability Act, (vi) path adjacent the Lake Mendota shoreline, and (vii) public restrooms, all as located on the Public Access Areas and the City Site and as depicted on Exhibit B-1 and Exhibit B-2 of this Agreement and in the Public Access Easements.

“Public Access Easements” shall mean those certain easements listed at Exhibit B attached hereto and made a part hereof.

“PUD Ordinance” shall mean that certain Planned Unit Development Ordinance adopted by the City and recorded _____, 2010 as Document No. _____ for the redevelopment of the Real Property

“Real Property” shall mean real property legally described on Exhibit A attached hereto and made a part hereof.

“Special Events” shall mean Events which may occur from time to time in the Public Access Components and are of a size and nature which may require the Manager or the Hotel Operator to close or restrict access to the Public Access Components.

“Substituted Manager” shall mean an assignee or transferee of the Manager coinciding with a transfer by Manager of the Real Property.

In the event capitalized terms are defined elsewhere in this Agreement it is for convenience purposes only and the meanings set forth in this Section 1 shall govern in the case of any conflict.

2. Term of Agreement. The term of this Agreement shall commence as of the date hereof and shall continue until the (a) the loss, destruction or condemnation of the Public Access

Components, (b) the termination of all of the Public Access Easements, or (c) mutual termination by the City and the then current owner of the Real Property.

3. Intent; Purpose of Agreement.

(a) Statement of Intent. The City and the Manager each acknowledge and agree that the Project is located on privately owned property and has been or will be developed pursuant to the PUD Ordinance or other approvals of governing authorities, including the City of Madison, and that the Public Access Components are areas by which the general public has been granted certain rights of access and use by the Public Access Easements but (excepting the City Site) the Project and the Real Property otherwise remain private property and shall be regulated as such. Notwithstanding anything herein or in the Public Access Easements to the contrary, and except for (i) the rights of the City in the City Site as a portion of the right-of-way of Wisconsin Avenue, (ii) rights of the City as specifically provided in the Public Access Easements, or (iii) rights of the City as specifically provided in this Agreement, the City and the general public shall have no greater rights in and to the Project or the Real Property than what is otherwise allowed by law and, subject to all laws and regulations, the use and enjoyment of the Project by its owners, guests, and invitees shall not otherwise be prohibited, limited or restricted in any manner, nor shall the sole fact that the general public has certain rights to the Public Access Components, as provided herein, subject the Manager to any additional Legal Requirements beyond what would be required of the Property or the Manager without the Public Access Components and the rights of the general public thereto.

(b) Purpose of Agreement. The City and the Manager each acknowledge and agree that the sole purpose of this Agreement is to govern the operations and management of the Public Access Components, and activities and events within Public Access Components. The Project and its operation has been approved pursuant to, and remains subject to, the PUD Ordinance and all other ordinances, statutes, and regulations of governing authorities, including the City of Madison and, except as specifically provided herein with respect to the Public Access Components, this Agreement is not for the purpose of amending or otherwise governing the design, construction or operation of the Project. By way of example and without limitation, certain aspects of the design, construction or operation of the Project will be governed outside of this Agreement such as the following:

(i) Lighting of the Project will be subject to, among other laws and regulations, Chapter 10 of the Madison General Ordinances and more specifically Section 10.085 thereof,;

(ii) Noise regarding the Project will be subject to, among other laws and regulations, Chapter 24 of the Madison General Ordinances, and more specifically Section 24.08 thereof;

(iii) Signage will be subject to, among other laws and regulations, Chapter 31 of the Madison General Ordinances; and

(iv) Piers will be subject to, among other laws and regulations, Section 30.13, of the Wisconsin Statutes and Chapter NR 326 of the Wisconsin Administrative Code.

4. Project to be Developed; Public Access Components; Public Access. The Manager has or will cause the Real Property to be redeveloped in such a manner to include the following:

(a) The Project. The Project shall include, without limitation, the renovation and expansion of the existing hotel to include not less than 190 hotel rooms; 2 levels of condominiums units and/or additional hotel rooms, restaurants, ballrooms, meetings space, spa and fitness facilities, administrative offices, existing parking on the Real Property and the City Site and/or other uses approved as part of the PUD Ordinance.

(b) Location of the Public Access Components. The Public Access Components are to be constructed, maintained and operated on the Public Access Areas and the City Site.

(c) Public Access Components of the Project. As part of the Project, the City desires to have created by the Manager the Public Access Components to provide publicly accessible and improved spaces along the Lake Mendota waterfront that will serve as an amenity to the City residents and visitors located on the Public Access Areas and the City Site. The Public Access Components shall include only certain (i) outdoor terraces along the Lake Mendota shoreline, (ii) stairway or path to the Lake Mendota shoreline, (iii) accessible path to the Lake Mendota shoreline for purposes of the Americans with Disability Act, (vi) path adjacent the Lake Mendota shoreline, and (vii) public restrooms, all as located on the Public Access Areas and the City Site and as depicted on Exhibit B-1 and Exhibit B-2 of this Agreement and in the Public Access Easements.. All other areas of the Project are specifically excluded from the Public Access Components.

(d) Amendment and Restatement of All Public Access; Priority of this Agreement. The Public Access Easements, the Conservation Easement and this Agreement are intended to amend and clarify the areas and locations of public access and restate the rights of access and restrictions imposed upon the Real Property by the 1965 Ordinance, and provide for all other rights of access reserved by or granted to the City with respect to the Real Property. It is the intent of the parties that all rights, obligations and responsibilities of the Manager, as the owner of the Real Property, and the City, with respect to access to the Public Access Components by the general public, shall be governed by the Public Access Easements and this Agreement. This Agreement shall govern the management and operations of all areas of public access granted by the Public Access Easements and in the case of any conflict between the terms and provisions of the 1965 Ordinance, the Public Access Easements, and this Agreement, the terms and conditions of this Agreement shall govern.

5. Rights of Manager.

(a) Rights and Obligations of Manager. Subject to the limitations and conditions set forth in this Agreement, the City acknowledges and agrees that the Manager has the sole and exclusive right and obligation to operate, manage and maintain the Public Access Components and Manager hereby agrees that it will operate, manage and maintain the Public Access Components as part of its operation of the Project pursuant to this Agreement and the City Agreements. Relative to the foregoing and subject to the limitations contained in this Agreement, Manager shall have the sole and exclusive right to determine operating policy, standards of operation, quality of service and any other matters affecting the operation, management and maintenance of the Public Access Components. The City agrees that it will reasonably cooperate with the Manager's efforts to permit and assist Manager to carry out its duties hereunder.

(b) Hotel Operator. The Manager shall have the right to contract with or assign or delegate to the Hotel Operator, or other third parties, some or all of the responsibilities of the Manager under this Agreement (excluding the provisions of Insurance of Section 14 and the provisions of Indemnification of Section 15 herein), and any of those parties may sub-contract their respective duties with respect to their management and operation responsibilities. The Manager shall provide written notice to the City of any contractual assignment of its rights or obligations hereunder. The Hotel Operator shall be a contractor, subsidiary, or affiliate of the Manager and shall be responsible for the management and operation of the Hotel and the Project.

6. Public Access and Use of Public Access Components.

(a) Access to the Public Access Components. Public access shall be maintained by the Manager on the Public Access Components during the Hours of Operation subject to (i) the Events provisions outlined herein, (ii) temporary obstruction or closure due to weather, snow/ice conditions, public safety, maintenance, construction and other circumstances or events beyond the reasonable control of the Manager, (iii) the Manager's responsibilities to conduct maintenance and operation as provided in Section 8 herein, (iv) responsibilities for security as provided in Section 8 herein and (v) the operating policies, rules and regulations of the Hotel as then in effect. The public shall have the right to use the Public Access Components for any lawful purpose during the Hours of Operation, *provided, however*, such use by the public shall not in any manner, at the sole, reasonable discretion of the Manager, be disruptive to the on-going operations of the Hotel, restaurants, other businesses, activities or events associated with, or held at, the Project or within the Public Access Components. The Manager may, in the sole, reasonable discretion of the Manager, maintain safety or orderly operation and maintenance of the Public Access Components, the Hotel and the Project, or so as to comply with all codes and ordinances which affect the Public Access Components, the Hotel and the Project, restrict and prohibit access to the Public Access Components, require any person(s) to leave the Public Access Components and cause the lawful removal of person(s) therefrom, or cause the Public Access Components to be evacuated in whole or in part.

(b) Hours of Operation. Subject to the terms of this Agreement, the Public Access Components shall be open to the public from 7:00 am to 11:00 pm, 365 days per year. Subject to (i) improvements, maintenance and repairs being made in and around the Public

Access Components, (ii) weather and other circumstances or conditions beyond the reasonable control of the Manager, and (iii) the provisions of this Agreement, the Manager shall provide continuous access to the Public Access Components during the Hours of Operation.

(c) Food and Non-Alcoholic Beverages. The public shall be allowed to carry in or bring food and non-alcoholic beverages for their own individual consumption to the Public Access Components ~~consistent with the operating policies, rules and regulations of the Hotel as in effect at the time.~~ Notwithstanding the foregoing and as enforced by the Manager in its sole and absolute discretion, the transport and consumption of food and beverages shall be limited to reasonable personal and individual use and shall not be allowed for group or multi-person consumption, shall be consistent with the operating policies, rules and regulations of the Hotel as in effect at the time (provided such operating policies, rules and regulations shall not conflict with the provisions of this Agreement), and the use of grills, steamers, coolers, vending equipment or similar apparatus by the public are specifically prohibited on the Public Access Components.

(d) Alcoholic Beverages. Carry in of alcoholic beverages by the public shall be prohibited.

(e) Smoking Prohibited. The Public Access Components shall be designated as non-smoking areas.

(f) Outdoor Seating Areas. The Manager shall provide outdoor seating in the Public Access Components which shall include, at a minimum, tables, chairs, benches and other seating generally provided in the Public Access Components. Notwithstanding the foregoing, the Manager shall not be required to provide outdoor seating as described in this Section 6(f) to the extent that the City or other governmental entity, agency, department or commission with jurisdiction over the Public Access Components restricts the outdoor seating in such areas.

(g) Demonstrations Prohibited. Unless sponsored by or coordinated through the Manager and/or the Hotel Operator as an Event as provided in Section 9 herein, all of which shall be subject to the operating policies, rules and regulations of the Hotel in effect at such time, the Public Access Components shall not be used for public or political rallies, protests or demonstrations of any kind at any time.

(h) Operating Policies, Rules and Regulations of the Hotel and the Project. The Manager shall have the right to state and enforce operating policies, rules and regulations which govern the day-to-day use and occupancy of the Hotel, the Project and the Public Access Components, provided, however, such operating policies, rules and regulations shall not conflict with the provisions of this Agreement.

7. Activities by Manager or Hotel Operator in the Public Access Components.

(a) General Activities. At its option, the Manager and/or the Hotel Operator shall have the right to plan, operate, organize, sponsor and promote activities and/or install temporary improvements on the Public Access Components, subject to applicable City ordinances, for the enjoyment of the general public under the terms of this Agreement. These activities may include, but are not limited to, the serving or sale of food and beverages, the

installation of temporary structures and event equipment, including, but not limited to, an ice skating rink on the terrace during certain months of the year. Notwithstanding the foregoing, the Manager and/or the Hotel Operator shall have the right to restrict access to, or remove people or property from, the Public Access Components which, in the sole, reasonable discretion of the Manager and/or the Hotel Operator, block, restrict, obstruct, cause a nuisance or otherwise impede or impair activities of the Manager or Hotel Operator, or activities related to the operation of the Hotel or the Project.

(b) Sale of Goods and Services. The Manager, the Hotel Operator, or their assigns, shall have the sole and exclusive right to sell goods, services, and food and beverage on and around the Project (which includes all areas of the Public Access Components), including the exclusive right to cater Events or provide food and beverage or other services to the Public Access Components. No solicitation of goods, food and beverage, or services, including, without limitation, commercial photography or similar services, shall be allowed on the Public Access Components without the prior written consent of the Manager or the Hotel Operator.

8. Maintenance and Security of Public Access Components.

(a) Maintenance of Public Access Components. The Manager shall, at no cost to the City, be responsible for all daily and long term maintenance, cleaning, repairs, appearance and safety of the Public Access Components, such that the Public Access Components shall be operated and maintained in an orderly manner that is consistent with the standards of operation for the Hotel and other components of the Project. Specifically, Manager shall make or cause to be made all repairs, corrections and maintenance as shall be required in the normal and ordinary course of operation of the Public Access Components in order to maintain such in good order and in a safe condition, in compliance with all laws and ordinances and in keeping with the first-class standard consistent with the Hotel and other components of the Project. The responsibilities of maintenance and repair of Manager shall include, without limitation, maintenance and repair of irrigation equipment and landscaping, maintenance and repair of hardscape, maintenance and repair of fixtures and improvements, maintenance, repair and replacement of furnishings and equipment, removal of snow and ice, and removal of garbage and debris, all as on or related to the Public Access Components. All maintenance and repair responsibilities of Manager hereunder shall be performed at times and to the extent necessary and reasonable as determined by the Manager, in its sole and absolute discretion, provided Manager shall not allow, unless in the case of emergency circumstances, cleaning, repair, or set up and tear down of Events between the hours of 12:30 am and 6:00 am. Manager will conduct routine inspections of the Public Access Components as are reasonably necessary to determine that the Public Access Components are in good order or repair, but not less frequently than one (1) time per year.

(b) Security of the Public Access Components. The Manager shall, at no cost to the City and in its sole and absolute discretion, be responsible for all security and safety of the Public Access Components, such that the Public Access Components shall be operated and secured in an orderly manner that is consistent with the standards of operation for the Hotel and other components of the Project. The Manager shall have the right to close, restrict access to and use of, and/or secure the Public Access Components between the hours of 11:00 pm and 7:00 am; provided, however, if a City designated path is constructed along the lakeshore adjacent to

the Project to connect to either James Madison Park or Carroll Street, the hours of public access along such path shall be determined by the City, provided that any access to such lakeshore path through the Project shall be upon agreement of the City and the Manager. Notwithstanding the closing of the Public Access Components, the Manager shall have no restrictions on its use of the Public Access Components as necessary to maintain a reasonable pathway for person(s) to enter and exit the Hotel, the Project or any components thereof (e.g. guest rooms, restaurants, spa, banquet facilities, et al.) at all times either through the Project or through the Public Access Components. At any time, the Manager or the Hotel Operator, or any of their respective designees, in their sole and absolute discretion, shall have the right to require any person(s) to leave the Public Access Components and cause the lawful removal of such person(s) if that person(s) is in violation of the provisions outlined in this Agreement, is negatively impacting the protection, use and enjoyment of visitors to the Public Access Components and/or Project, is in violation of the rules and regulations of the Hotel or the Project; and/or is in violation of ordinances, rules, regulations, or statutes of any governmental entity, including, but not limited to the Madison General Ordinances, as then currently in effect.

(c) Right for Temporary Closure of the Public Access Components. Manager shall have the right, in the sole and reasonable discretion of the Manager, to temporarily close or restrict access to all or certain portions of the Public Access Components to satisfy the maintenance and security responsibilities of Manager under this Section 8. The right of Manager to temporarily close or restrict access to the Public Access Components shall include the right to do so for extended periods of time of a reasonable duration, if, in the reasonable discretion of the Manager, it is necessary to do so while actively conducting its maintenance and security responsibilities, taking into account the specific circumstances surrounding an event, weather or other conditions beyond the reasonable control of the Manager.

9. Events. The Manager, the Hotel Operator, or their respective assigns shall have the exclusive right to schedule, organize, host and cater public and/or private Events on the Public Access Components, including the right to charge for such Events. Events may occur on one or more of the areas identified in this Section 9 and may include the serving or sale of food and beverage. The Manager shall have sole and absolute discretion in determining the Events to be held on the Public Access Components, the schedule of said Events, the manner and type of food and beverage to be served, the amount to charge and collect (if any) for hosting Events, or admission or attendance at Events, and the terms and conditions under which Events shall be held shall be subject to the following conditions:

(a) General Events. General Events may occur on a year-round basis under the terms and conditions below:

(i) General Events shall occur in the areas designated on the attached Exhibit D (the "General Events Areas"). The Manager may close, secure, restrict access and prohibit the general public from occupying and accessing all or portions of the General Events Areas during General Events (and during the preparation or set-up and removal or tear-down thereof), *provided, however*, the Manager shall maintain access to all other areas of the Public Access Components for the use and enjoyment of the general public at all times subject to the other provisions of this Agreement;

(ii) General Events in the Public Access Components shall be limited to the hours between 8:00 am and 11:00 pm; ~~and~~

(iii) Temporary structures, furniture and fixtures such as tents, tables/chairs, staging, audio-visual equipment, kiosks, etc. shall be allowed to be constructed and/or placed in the General Events Areas by the Manager or the Hotel Operator or event promoter to support events provided that such structures shall be constructed and removed in a timely manner, as determined by the Manager in its sole, reasonable discretion, so as to minimize the disruption to public access and public use of the Public Access Components during non-Event periods: and

(iv) The Manager and/or the Hotel Operator shall have the right to restrict access to, or remove people or property from, the Public Access Components which, in the sole, reasonable discretion of the Manager and/or the Hotel Operator, block, restrict, obstruct, cause a nuisance or otherwise impede or impair Events held in, on or around the Public Access Components pursuant to this Section 9(a).

(b) Special Events. The Manager, the Hotel Operator, or their respective assigns shall have the right to close and/or secure all or any portion of the Public Access Components for Special Events which may occur from time to time in the Public Access Components and which require the Manager or the Hotel Operator to monitor the occupancy and/or provide additional services and/or management of the Public Access Components while said event is occurring. The Manager may close, secure, restrict access and prohibit the general public from occupying and accessing the Public Access Components during Special Events (and during the preparation or set-up and removal or tear-down thereof). Special Events may occur in the Public Access Components under the following conditions:

(i) Special Events shall not occur more than fifteen (15) days per year; *provided, however,* that of the fifteen (15) days, no more than ten (10) of such days shall be on weekend days between the dates of May 1 and September 30 of each full calendar year of this Agreement;

(ii) Special Events in the Public Access Components shall be limited to the hours between 8:00 am and 11:00 pm; ~~and~~

(iii) Temporary structures, furniture and fixtures such as tents, tables/chairs, staging, audio-visual equipment, kiosks, etc. shall be allowed to be constructed and/or placed on the Public Access Areas by the Manager or the Hotel Operator or event promoter to support events provided that such structures shall be constructed and removed in a timely manner, as determined by the Manager in its sole, reasonable discretion, so as to minimize the disruption to public access and public use of the Public Access Components during non-Event periods: and

(iv) The Manager and/or the Hotel Operator shall have the right to restrict access to, or remove people or property from, the Public Access Components which, in the sole, reasonable discretion of the Manager and/or the Hotel Operator, block, restrict, obstruct, cause a nuisance or otherwise impede or impair Events held in, on or around the Public Access Components pursuant to this Section 9(b).

(c) Community Events. Community Events shall be events that are booked by, or for the benefit of, a non-profit or community-based organization. The Manager will reserve space within the General Events Area and will waive the space rental fee for not less than eight (8) Community Events per year, five (5) of which shall be held during the months of May through September. Notwithstanding the waiver by Manager of the space rental fee, Manager or Hotel Operator shall have the ability to charge the organization sponsoring any Community Event (or its attendees) for all food and beverage, services provided and all costs incurred by or on behalf of the Manager or Hotel Operator as a result of any Community Event. The scheduling of Community Events shall be determined by the Manager. If necessary, rain dates for Community Events will be scheduled subject to the availability of the General Events Areas. Notwithstanding the foregoing, it shall not be considered a default by the Manager if non-profit or community based organizations do not reserve space for Community Events under the terms and conditions outlined in this Section 9(c). Community Events may occur in the Public Access Components under the following conditions:

(i) Community Events in the Public Access Components shall be limited to the hours between 8:00 am and 11:00 pm.

(ii) Temporary structures, furniture and fixtures such as tents, tables/chairs, staging, audio-visual equipment, kiosks, etc. shall be allowed to be constructed and/or placed on the Public Access Areas by the Manager or the Hotel Operator or event promoter to support events provided that such structures shall be constructed and removed in a timely manner, as determined by the Manager in its sole, reasonable discretion, so as to minimize the disruption to public access and public use of the Public Access Components during non-Event periods: and

(iii) The Manager and/or the Hotel Operator shall have the right to restrict access to, or remove people or property from, the Public Access Components which, in the sole, reasonable discretion of the Manager and/or the Hotel Operator, block, restrict, obstruct, cause a nuisance or otherwise impede or impair Events held in, on or around the Public Access Components pursuant to this Section 9(c).

10. Expense of Operation, Management and Maintenance of the Public Access Components. Manager shall bear all costs with respect to the operation, management and maintenance of the Public Access Components as required hereunder.

11. Manager's Control. Except as may otherwise be provided in this Agreement, Manager shall have uninterrupted control, and responsibility for management, security, operating

policies and procedures, and overall operation of the Public Access Components. Accordingly, Manager, subject to the terms of this Agreement, shall determine the terms of operation, management, maintenance, security of the Public Access Components.

12. Permits and Compliance with Legal Requirements. During the Term of this Agreement, the Manager shall obtain and keep in full force and effect all necessary registrations, licenses and permits, including, without limitation, such occupational, sign and other licenses, as may be required for the operation of the Public Access Components. Manager shall comply with all Legal Requirements. In the event any alterations, additions or improvements, structural or non-structural, shall be required in order that the Public Access Components be in compliance with applicable Legal Requirements, the same shall be the responsibility of and shall be performed at the expense of the Manager. The City acknowledges, however, that the Manager or the Hotel Operator is permitted to hold and operate Events and conduct daily activities and operations (all of which may include the serving of food and beverage) in, on and around the Public Access Components as provided in Sections 7 and 9 above consistent with the terms of this Agreement.

13. Survival. All representations, warranties, agreements, obligations and indemnities of the parties hereto arising prior to the termination of this Agreement or resulting from the termination hereof shall survive the termination of this Agreement.

14. Insurance. Manager shall obtain, at Manager's expense, beginning on the date hereof, and shall maintain through the termination of this Agreement, the following insurance coverage:

(a) Commercial General Liability. A policy of commercial general liability insurance naming Manager, Hotel Operator, and the City and any other party designated by Manager as the insured, to insure against liability for personal injury, bodily injury, death and property damage, with respect to the Public Access Components and all operations and activities related thereto, with limits of One Million Dollars (\$1,000,000) per occurrence, Two Million Dollars (\$2,000,000) general aggregate.

(b) Business Automobile Liability. A policy of business automobile liability insurance naming Manager, Hotel Operator, and the City and any other party designated by Manager as the insured, with limits of One Million Dollars (\$1,000,000) per occurrence.

(c) Insurance Policies. Insurance required of Manager under this Section 14 shall be written by companies duly qualified to do business in the State of Wisconsin, with a general policyholder's rating of at least "A" and a financial rating of at least Class XI, as rated in the latest edition of Best's Insurance Guide. Manager shall deliver to the other copies of such policies or certificates evidencing the existence and amounts of such insurance with loss payable clauses satisfactory to the City.

15. Indemnification. Except in the case of the negligence or intentional actions of the City, its agents, contractors or employees, Manager shall indemnify, defend and hold harmless the City from and against any and all claims arising from Manager's use, operation or management of the Public Access Components, or from the conduct of Manager's business or from any activity,

work or things done, permitted or suffered by Manager in or about the Public Access Components or elsewhere and shall further indemnify, defend and hold harmless the City from and against any and all claims arising from any breach or default in the performance of any obligation on Manager's part to be performed under the terms of this Agreement, or arising from any gross negligence or willful misconduct of Manager, or any of Manager's agents, contractors, or employees, and from and against all costs, reasonable attorneys' fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon; and in case any action or proceeding be brought against the City by reason of any such claim, Manager, upon notice from the City, shall defend the same at Manager's expense.

16. Eminent Domain. If the Public Access Components, the Real Property or the improvements located thereon or a substantial part thereof shall be taken or condemned by any competent authority for any public or quasi-public use or purpose, then the Manager shall have the right to terminate this Agreement.

17. Damage or Destruction by Casualty. If the Public Access Components or any part of the improvements thereon shall be damaged by fire or other casualty and if such damage or casualty renders all or a substantial portion of the Public Access Components or the improvements thereon incapable of being repaired such that they cannot be used for the intended purpose, the Manager shall have the right to (a) terminate its responsibilities for maintenance of such affected areas of the Public Access Components, and/or (b) terminate this Agreement.

18. Notices. All notices or other communications provided for in this Agreement shall be in writing and shall be personally delivered or sent by reputable private commercial courier service or sent by United States registered or certified mail, postage prepaid, return receipt requested or by facsimile with proof of transmission with a copy of such notice being forwarded by regular U.S. postal mail to the parties at the following addresses, until such time as written notice, as provided herein, of a change of address with a new address to be used thereafter is delivered to the other party:

City:

City of Madison
Room 103, City-County Building
210 Marin Luther King Jr. Blvd.
Madison, WI 53703
Attn: City Clerk

With a copy to:

City Attorney Office
Room 401, City-County Building
210 Marin Luther King Jr. Blvd.
Madison, WI 53703
Attn: City Attorney

Manager:

Edgewater Hotel Company LLC
22 East Mifflin Street, Suite 800
Madison, WI 53703
Attn: Robert P. Dunn

With a copy to:

Michael Best & Friedrich LLP
One South Pinckney Street, Suite 700
P.O. Box 1806
Madison, WI 53703
Attn: Michael S. Green, Esq.

Any such notice personally delivered, delivered by courier service or transmitted by facsimile shall be deemed to be given, delivered, made or transmitted upon receipt of the same by the party to whom the same is to be given, delivered, made or transmitted. Any such notice sent by certified or registered mail shall be deemed to be given, delivered or made two (2) business days after deposit thereof in the United States mail.

19. Relationship of Parties. Nothing in this Agreement shall be deemed to create any joint venture or partnership between the parties. Neither the City nor Manager shall have the power to bind or obligate the other, except as and to the extent expressly set forth in this Agreement.

20. Further Actions. The City and Manager agree to promptly do, execute, acknowledge and deliver all contracts, agreements and other documents and to take all actions necessary or desirable to comply with the provisions of this Agreement and the intent thereof.

21. Disputes and Default; Dispute Resolution.

(a) In General. The Manager and the City each acknowledge that disputes may arise between them with respect to their respective rights, responsibilities, obligations, and liabilities under this Agreement. In each instance, the Manager and the City each will attempt to resolve the dispute in good faith. If the Manager or the City believes the other is in default of its obligations or responsibilities under this Agreement, the parties shall adhere to the procedures outlined in this Section 21. For purposes of disputes with respect to this Agreement, the City Attorney shall be the designated representative of the City for purposes of coordinating amongst City staff, boards, committees, commissions and council to resolve such disputes.

(b) Default by Manager. Manager shall be deemed to be in default under this Agreement in the event that Manager shall fail to keep, observe or perform any material covenant, agreement, term or provision of this Agreement to be kept, observed or performed by Manager, and such default shall continue for a period of sixty (60) days after written notice thereof by the City Attorney to Manager (or ten (10) days in the case of health or safety concerns of an exigent nature); *provided, however*, that if such default cannot be cured within such sixty (60) day period (or ten (10) day period, as applicable), then the time for cure shall be extended for such additional as may be necessary, if Manager (i) is capable of curing such default, (ii) has commenced cure of such default within the initial sixty (60) period (or ten (10) day period, as applicable) provided for above, and (iii) thereafter diligently prosecutes the cure to completion.

(c) Default by City. The City shall be deemed to be in default hereunder in the event the City shall fail to keep, observe or perform any material covenant, agreement, term or provision of this Agreement to be kept, observed or performed by the City and such default shall continue for a period of sixty (60) days after written notice thereof by Manager to the City

Attorney (or ten (10) days in the case of health or safety concerns of an exigent nature); *provided, however*, that if such default cannot be cured within such sixty (60) day period (or ten (10) day period, as applicable), then the time for cure shall be extended for such additional as may be necessary, if the City (i) is capable of curing such default, (ii) has commenced cure of such default within the initial sixty (60) period (or ten (10) day period, as applicable) provided for above, and (iii) thereafter diligently prosecutes the cure to completion..

(d) **Mediation.** In the event that either party has not cured any default properly noticed and claimed as provided in Sections 21(b) and (c) above or that any dispute as to the rights, obligations and responsibilities of the parties under this Agreement remains after the notice and cure periods outlined in Sections 21(b) and (c) above, then either the Manager or the City may submit the issue to non-binding Mediation with an independent, third-party Mediator (the “Mediation”) by giving written Mediation Notice to the other party not later than thirty (30) days following the expiration of the periods outlined in cured any default properly noticed and claimed as provided in Sections 21(b) and (c) above. The Manager and the City Attorney agree to act in good faith to participate in the Mediation, to identify a mutually acceptable Mediator, and to resolve the dispute at the Mediation. If a Mediator cannot be agreed upon by the Manager and the City Attorney, each of the Manager and the City Attorney shall designate a mediator and those mediators shall select a third mediator who shall act as the neutral Mediator, assisting the parties in attempting to reach a resolution. If submitted to Mediation, the Mediator shall determine the procedure, location, and time for the Mediation, provided that the Mediation shall be in Madison, Wisconsin on a date no earlier than thirty (30) days, and no later than sixty (60) days, following the date of the Mediation Notice. All costs of the Mediation shall be shared equally by the City and the Manager.

(e) **Enforcement of Agreement following Mediation.** In the event the parties have not resolved any dispute or if any allegations of default under this Agreement remain following adherence to the procedures provided in Sections 21(a), (b), (c) and (d) above, either party may file an action in Circuit Court for enforcement of this Agreement. No party may file an action with the Circuit Court regarding enforcement of this Agreement without first submitting for mediation with the City Attorney as provided in Section 21(d) above. Except in the case of exigent or emergency circumstances as determined by the Circuit Court, neither party may be entitled to a restraining order, preliminary injunction or other interim equitable relief prior to final adjudication by the Circuit Court.

22. Governing Law. This Agreement shall be governed by the laws of the State of Wisconsin. In the event any court or appropriate judicial authority shall hold or declare that the law of another jurisdiction is applicable, this Agreement shall remain enforceable under the laws of that jurisdiction.

23. Assignment; Covenants Running with Land. If the Real Property is transferred by the Manager, the transferee shall be a Substituted Manager whom shall succeed to the rights, liabilities, duties and obligations of Manager hereunder without requiring the consent of the City. Upon such substitution, Substituted Manager shall succeed to all of the rights, liabilities, duties and obligations of Manager accrued hereunder and Manager shall be released of all such rights, liabilities, duties and obligations. All of the terms, conditions, covenants and agreements set forth herein shall run with the land and shall inure to the benefit of and be binding upon the

parties hereto, and their heirs, successors, transferees and assigns.

24. No Third Party Beneficiaries. This Agreement is for the sole and exclusive benefit of the parties hereto and their respective successors and assigns, and no third party is intended to or shall have any rights hereunder.

25. Successors and Assigns. This Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and assigns.

26. Formalities. Any change to or modification of this Agreement must be in writing signed by both parties hereto. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The captions for each section of this Agreement are intended for convenience only and shall not be deemed to construe or limit in any manner whatsoever this Agreement. This Agreement is separate and independent of any other document, agreement or understanding of the parties hereto.

27. Severability. If any term, covenant or condition hereof, or the application thereof to any person or circumstance, shall, to any extent be invalid or unenforceable, the remainder or the application of such term, covenant or condition to persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby and each remaining term, covenant or condition hereof shall be valid and shall be enforced to the fullest extent provided by law.

28. Additional City Requirements.

(a) Workforce Utilization. Unless otherwise exempt pursuant to Section 39.02(9)(c), Madison General Ordinances, Manager agrees that, within thirty (30) days after the effective date of this Agreement, it will provide to the City of Madison Affirmative Action Division certain workforce utilization statistics, using a form to be furnished by the City. If the Agreement is still in effect, or if Manager enters into a new Agreement with the City within one year after the date on which the form was required to be provided, Manager will provide updated workforce information using a second form, also to be furnished by the City. The second form will be submitted to the City Affirmative Action Division no later than one year after the date on which the first form was required to be provided. Manager further agrees that, for at least twelve (12) months after the effective date of the Agreement, it will notify the City of Madison Affirmative Action Division of each of its job openings at facilities in Dane County for which applicants not already employees of Manager are to be considered. The notice will include a job description, classification, qualifications, and application procedures and deadlines. Manager agrees to interview and consider candidates referred by the Affirmative Action Division if the candidate meets the minimum qualification standards established by Manager, and if the referral is timely. A referral is timely if it is received by Manager on or before the date stated in the notice.

(b) Affirmative Action. Unless otherwise exempt under Section 39.02(9)(a)2, Madison General Ordinances, Manager shall comply with the following provisions. For

purposes of this Section 28(b), the word “Contractor” shall mean Manager, its contractors and subcontractors.

(i) Contractor shall take affirmative action in accordance with the provisions of this Agreement to insure that applicants are employed, and that employees are treated during employment without regard to race, religion, color, age, marital status, disability, sex or national origin and that the employer shall provide harassment-free work environment for the realization of the potential of each employee. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training including apprenticeship insofar as it is within the control of the contractor. Contractor agrees to post in conspicuous places available to employees and applicants notices to be provided by the City setting out the provisions of the nondiscrimination clauses in this contract.

(ii) Contractor shall in all solicitations or advertisements for employees placed by or on behalf of the Contractor state that all qualified or qualifiable applicants will be employed without regard to race, religion, color, age, marital status, disability, sex or national origin.

(iii) Contractor shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice to be provided by the City advising the labor union or workers representative of the Contractor's equal employment opportunity and affirmative action commitments. Such notices shall be posted in conspicuous places available to employees and applicants for employment.

(iv) Contractor agrees that it will comply with all provisions of the Affirmative Action Ordinance of the City of Madison including the contract compliance requirements. Contractor warrants and certifies that, of the following two paragraphs, paragraph A or B is true (check one):

1) It has prepared and has on file an affirmative action plan that meets the format requirements of Federal Revised Order No, 4, 41 CFR part 60-2, as established by 43 CFR 51400 November 3, 1978, including appendices required by City of Madison ordinances or it has prepared and has on file a model affirmative action plan approved by the Madison Common Council _____.

2) Within thirty (30) days after the effective date of this Loan Agreement, it will complete an affirmative action plan that meets the format requirements of Federal Revised Order No. 4, 41 CFR Part 60-2, as established by 43 CFR 51400, November 3, 1978, including appendices required by City of Madison ordinance or within thirty (30) days after the effective date of this contract, it will complete a model affirmative action

plan approved by the Madison Common Council
_____.

(v) Contractor will maintain records as required by Section 39.05(9)(f) of the Madison General Ordinances and will provide the City's Affirmative Action Officer with access to such records and to persons who have relevant and necessary information, as provided in Section 39.05(9)(f). The City shall keep all such records confidential, except to the extent that public inspection is required by law.

(vi) In the event of Contractor's or subcontractor's failure to comply with the Equal Employment Opportunity and Affirmative Action provisions of this contract or Sections 39.02 and 39.05 of the Madison General Ordinances, it is agreed that the Issuer at its option may do any or all of the following:

- 1) Cancel, terminate or suspend the Agreement in whole or in part.
- 2) Declare the Contractor ineligible for further City contracts until the Affirmative Action requirements are met.
- 3) Recover on behalf of the City from the prime contractor 0.5 percent of the contract award price for each week that such party fails or refuses to comply, in the nature of liquidated damages, but not to exceed a total of five percent (5%) of the contract price, or five thousand dollars (\$5,000), whichever is less. Under public works contracts, if a subcontractor is in noncompliance, the City may recover liquidated damages from the prime contractor in the manner described above. The preceding sentence shall not be construed to prohibit a prime contractor from recovering the amount of such damage from the noncomplying subcontractor.

(vii) Contractor shall allow the maximum feasible opportunity to small business enterprises to compete for any subcontracts entered into pursuant to this Agreement. (In federally funded contracts the terms "DBE, MBE, and WBE" shall be substituted for the term "small business" in this Article.)

(c) Nondiscrimination. In the performance of its obligations under the Agreement, Manager 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, political beliefs, or student status. Manager further agrees not to discriminate against any subcontractor or person who offers to subcontract on the Agreement because of race, religion, color, age, disability, sex or national origin.

29. Entire Agreement. This Agreement contains the entire agreement and understanding between the parties in respect of the subject matter hereof and supersedes any

prior understandings and agreements between the parties regarding the subject matter of this Agreement.

DRAFT

IN WITNESS WHEREOF, the parties hereto have caused this Management Agreement to be executed and delivered as of the day and year first above written.

MANAGER:

EDGEWATER HOTEL COMPANY LLC,
a Wisconsin limited liability company

By: _____
Name: _____
Title: _____

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

Personally came before me this ____ day of _____, 2011 the above named _____, who acknowledged himself/herself to be the _____ of Edgewater Hotel Company, LLC, and to me known to be the person who executed the foregoing instrument as such officer of such entity, by its authority, and acknowledged the same.

Name: _____
Notary Public, State of Wisconsin
My Commission: _____

CITY:

CITY OF MADISON, WISCONSIN,
a municipal corporation

By: _____
David J. Cieslewicz
Mayor

By: _____
Maribeth Witzel-Behl
City Clerk

COUNTERSIGNED:

APPROVED AS TO FORM:

Dean Brassler, City Comptroller

Michael P. May, City Attorney

AUTHENTICATION

Signatures of David J. Cieslewicz and Maribeth Witzel-Behl, Mayor and City Clerk, respectively, and Dean Brassler and Michael P. May, the Comptroller and City Attorney, all of the City of Madison, authenticated this _____ day of _____, 2011.

Anne Zellhoefer
Member, State Bar of Wisconsin

THIS DOCUMENT PREPARED BY:
Michael S. Green, Esq.
Michael Best & Friedrich LLP
One South Pinckney Street, Suite 700
P.O. Box 1806
Madison, WI 53701-1806
(608) 257 - 3501

EXHIBIT A
REAL PROPERTY

PARCEL 1:

All that part of Lot Five (5), lying Northwest of the Southeast 126 feet thereof, in Block Seventy-eight (78), Madison, according to the recorded plat thereof, in the City of Madison, Dane County, Wisconsin.

PARCEL 2:

All of that portion of vacated Wisconsin Avenue, in the City of Madison, Dane County, Wisconsin, lying Northwesterly of a line parallel to the Northwesterly line of Langdon Street extended Northeasterly and 126 feet Northwesterly from such extended line of Langdon Street.

PARCEL 3:

Part of Block Two Hundred Sixty-three (263), Madison, according to the recorded plat thereof, in the City of Madison, Dane County, Wisconsin, described as follows: Beginning at the most southerly corner of Block 94, said point being the point of intersection of the Northwest line of East Gilman Street with the Northeast line of Wisconsin Avenue; thence Northwesterly along said Northeasterly line of Wisconsin Avenue 383.6 feet to the point of beginning of this description; thence Northeasterly at right angles to last described line 45.0 feet; thence Northwesterly parallel with the Northeast line of Wisconsin Avenue (now vacated) 186.4 feet to an iron stake, on a meander line, which is 36.0 feet more or less Southeasterly from the low water mark of Lake Mendota; thence Southwesterly along said meander line 45.0 feet to an iron stake on the Northeast line of Wisconsin Avenue which is 48.6 feet Southeasterly from the low water mark of Lake Mendota and also 186.4 feet Northwesterly from the point of beginning; thence Southeasterly along said line 186.4 feet to the point of beginning. Also, all land lying Northwesterly of above described meander line to the low water mark of Lake Mendota.

PARCEL 4:

Part of Block Two Hundred Sixty-three (263), Madison, according to the recorded plat thereof, in the City of Madison, Dane County, Wisconsin, described as follows: Beginning at the most southerly corner of Block 94, said point being the point of intersection of the Northwest line of East Gilman Street with the Northeast line of Wisconsin Avenue; thence Northwesterly along said Northeasterly line of Wisconsin Avenue 383.6 feet to the point of beginning of this description; thence N44°22'39"E, 45.32 feet; thence N44°12'40"W, 234.4 feet more or less to the shore of Lake Mendota; thence Northeasterly, 65 feet more or less, along the shore of Lake Mendota; thence S44°12'40"E, 263.8' feet more or less; thence S45°47'23"W, 105.00 feet; thence N44°32'43"W, 53.52 feet along said Northeasterly line of Wisconsin Avenue to the point of beginning.

EXHIBIT B

PUBLIC ACCESS EASEMENTS

1. Declaration of ADA Access Easement made _____, 2011 by Edgewater Hotel Company, LLC, a Wisconsin Limited Liability Company for the benefit of the City of Madison, a Wisconsin municipal corporation, and recorded with the Dane County Register of Deeds on _____, 2011, as Document No. _____.

2. Declaration of Public Pedestrian Pathway to Shoreline Easement made _____, 2011 by Edgewater Hotel Company, LLC, a Wisconsin Limited Liability Company for the benefit of the City of Madison, a Wisconsin municipal corporation, and recorded with the Dane County Register of Deeds on _____, 2011, as Document No. _____.

3. Declaration of Public Pedestrian Shoreline Walkway Easement made _____, 2011 by Edgewater Hotel Company, LLC, a Wisconsin limited liability company for the benefit of the City of Madison, a Wisconsin municipal corporation, and recorded with the Dane County Register of Deeds on _____, 2011, as Document No. _____.

4. Declaration of Public Areas Easement made _____, 2011 by Edgewater Hotel Company, LLC, a Wisconsin limited liability company for the benefit of the City of Madison, a Wisconsin municipal corporation, and recorded with the Dane County Register of Deeds on _____, 2011, as Document No. _____.

5. Declaration of Public Restroom Access Easement made _____, 2011 by Edgewater Hotel Company, LLC, a Wisconsin limited liability company for the benefit of the City of Madison, a Wisconsin municipal corporation, and recorded with the Dane County Register of Deeds on _____, 2011, as Document No. _____.

EXHIBIT B-1

PUBLIC ACCESS COMPONENTS

Public Access Components to be included on the upper terrace.

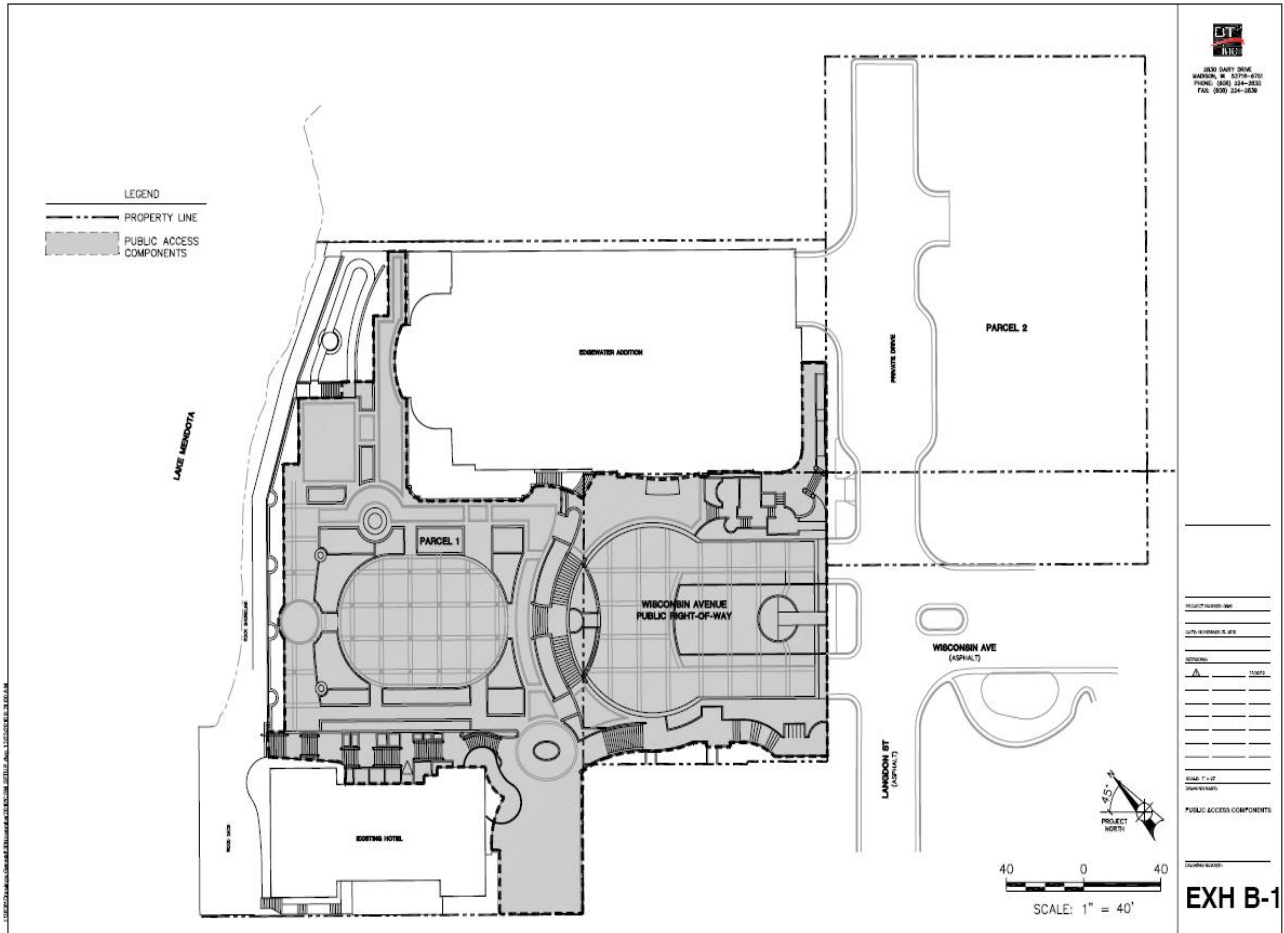


EXHIBIT B-2

PUBLIC ACCESS COMPONENTS

Public Access Components to be included along the waterfront.

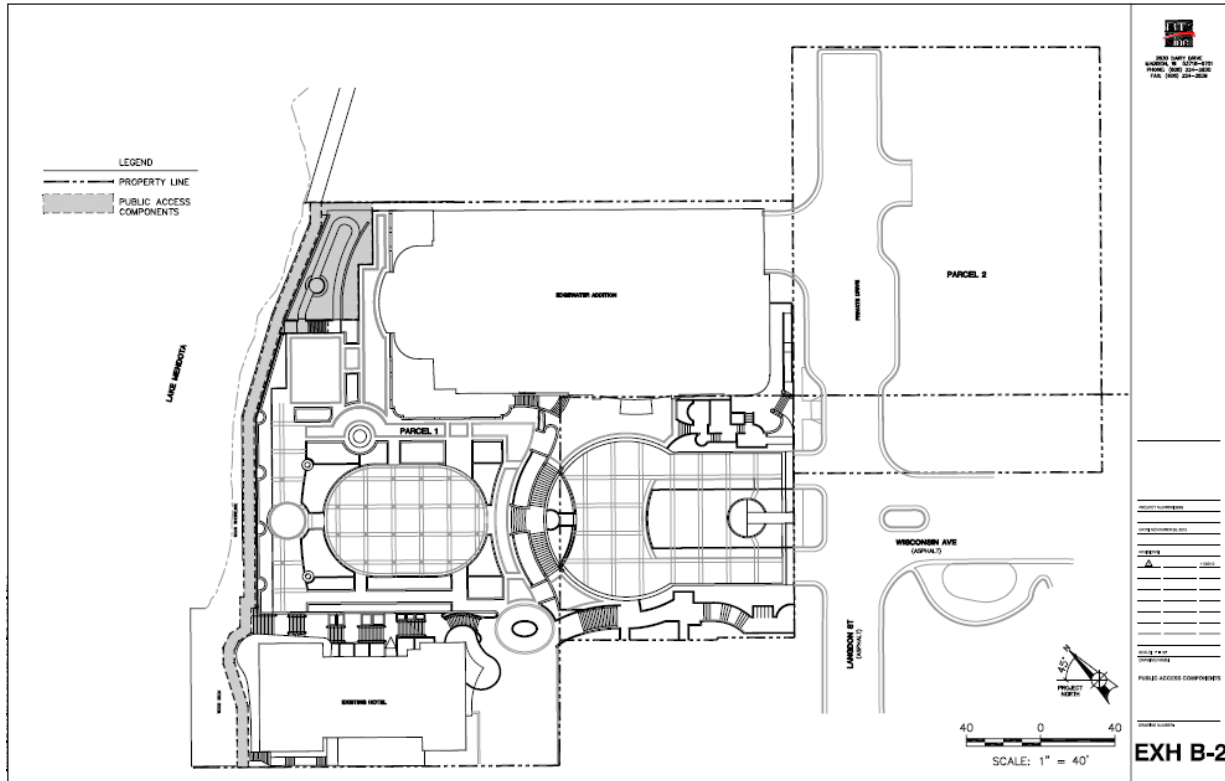


EXHIBIT C

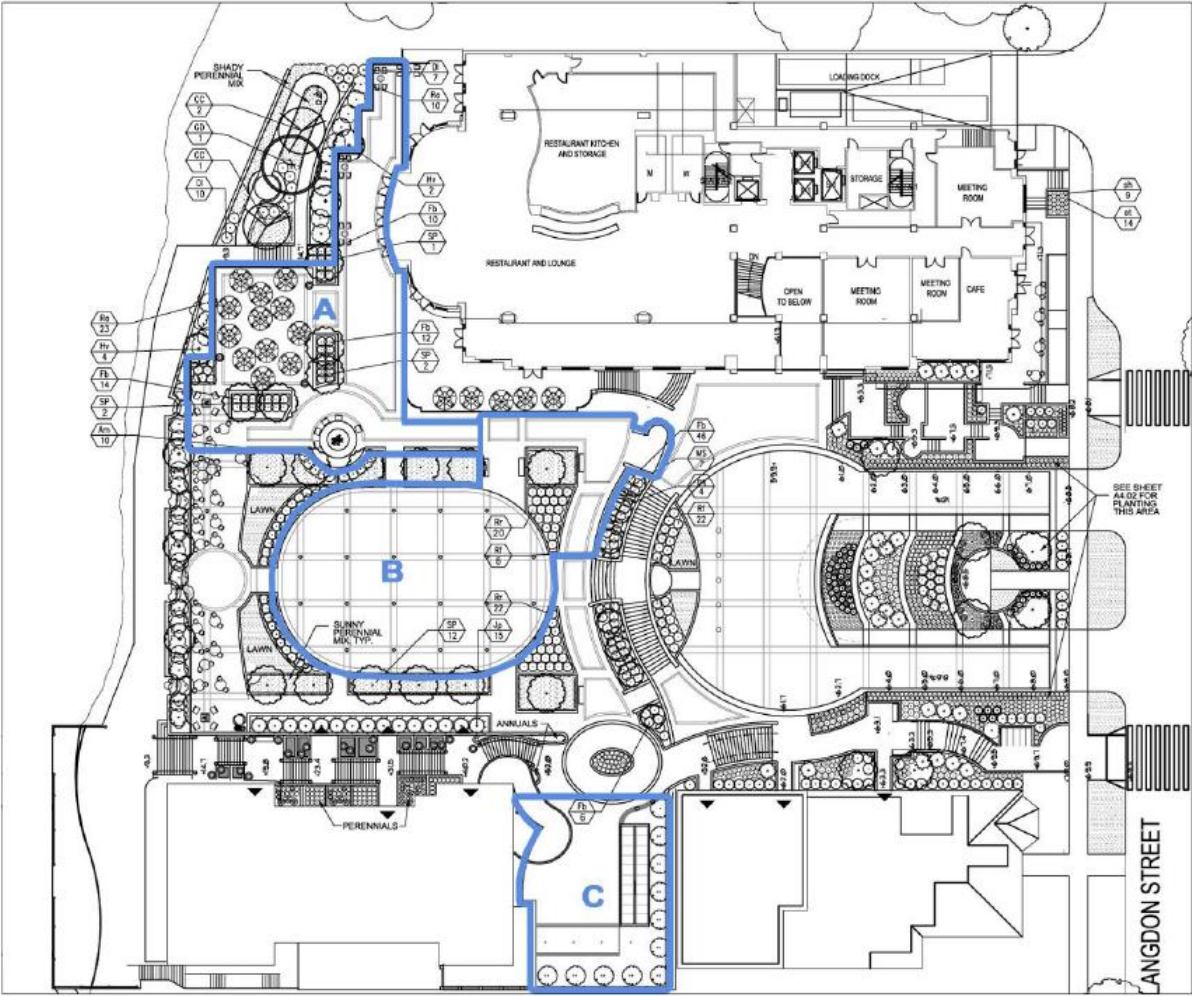
CITY SITE

BOUNDARY DESCRIPTION WISCONSIN AVENUE PUBLIC RIGHT-OF-WAY

Part of Wisconsin Avenue, according to the recorded plat thereof, in the City of Madison, Dane County, Wisconsin, described as follows: COMMENCING at the intersection of the northwesterly right-of-way line of Langdon Street with the southwesterly right-of-way line of Wisconsin Avenue being the POINT OF BEGINNING; Thence $N45^{\circ}13'54''W$, 43.00 feet along southwesterly right-of-way line of Wisconsin Avenue; Thence $S45^{\circ}00'00''W$, 1.20 feet along southwesterly right-of-way line of Wisconsin Avenue; Thence $N45^{\circ}13'54''W$, 83.00 feet along southwesterly right-of-way line of Wisconsin Avenue; Thence $N45^{\circ}00'00''E$, 132.00 feet along a line parallel with and located 126 feet northwesterly of the extended northwesterly right-of-way line of Langdon Street; Thence $S45^{\circ}13'54''E$, 126.00 feet along the northeasterly right-of-way line of Wisconsin Avenue; Thence $S45^{\circ}00'00''W$, 130.80 feet along the extended northwesterly right-of-way line of Langdon Street to the POINT OF BEGINNING. Containing 16,580 square feet or 0.38 acres, more or less.

EXHIBIT D
GENERAL EVENTS AREAS

The following attachment describes three areas (areas “A”, “B”, and “C”) on which General Events can be held in accordance with the terms and conditions of this Agreement.



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Summary Report:	
Litera Change-Pro ML WIX 6.5.0.248 Document Comparison done on 1/14/2011 11:34:15 AM	
Style Name: Default Style	
Original Filename:	
Original DMS: iw://imanager/MBF/8055214/2	
Modified Filename:	
Modified DMS: iw://imanager/MBF/8077231/1	
Changes:	
Add	15
Delete	7
Move From	1
Move To	1
Table Insert	0
Table Delete	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Total Changes:	24