

**FIRST AMENDMENT TO THE YAHARA HILLS GOLF COURSE GROUND AND
MAINTENANCE FACILITY LEASES**

This First Amendment to the Yahara Hills Golf Course Ground and Maintenance Facility Leases (the “Amendment”) is made and entered into by and between the County of Dane, a Wisconsin quasi-municipal corporation (hereinafter “County” or “Lessor”) and City of Madison, a Wisconsin municipal corporation (hereinafter “City” or “Lessee”).

WITNESSETH:

WHEREAS, on February 27, 2023, consistent with the terms of the Sustainability Campus and Landfill Development Agreement entered into between the City and the County (the “Parties”), the County purchased 231.28 acres of real estate from the City. The property in question, which has the addresses of 7103 Millpond Rd. and 4402 Brandt Rd. in the City of Madison (hereinafter “the Property”), was a portion of the City’s Yahara Hills Golf Course (the “Course”); and,

WHEREAS, as a condition of the sale of the Property, the Parties entered into two leases, the “Ground Lease-Yahara Hills Golf Course” (the “Ground Lease”) and the “Lease-Yahara Hills Golf Course Maintenance Facility” (the “Maintenance Facility Lease”), under which the City would be authorized to maintain certain golf course operations on the Property for a specified period of time, subject to the terms and conditions of the respective leases; and,

WHEREAS, the County has an additional need for certain easements from the City over the City’s remaining lands used for the Course to accommodate certain improvements required for the development and operation of the landfill; and,

WHEREAS, given the development progress of the future landfill, compost site and sustainable business park (the “Sustainability Campus”) on the Property, and the needs of the City and the County, the Parties are agreeable to making certain amendments to the Ground Lease and the Maintenance Facility Lease (collectively, the “Leases”), as set forth in this Amendment, along with the granting of future easements, that will be determined at a later date.

NOW THEREFORE, in consideration of the above premises and covenants hereinafter expressed, the sufficiency of which is acknowledged by each party, Lessor and Lessee do agree as follows:

1. Purpose. The Purpose of this Amendment is to set forth the agreement of the Parties as it relates to amendments to the Leases. Because the issues overlap, the amendments are being combined into one agreement. In addition, this Amendment establishes the intent of the Parties to address the easement needs of the County necessary for the future landfill.
2. Section 1 of the Ground Lease is amended as follows:
 - “1. Leased Premises. The Lessor hereby demises and Leases the Leased Premises to Lessee, for Lessee’s use for the purpose of the continued operation of the Course on the Property, together with all other rights, privileges, easements, and appurtenances. The Leased Premises shall be as follows:

- a. From November 1, 2022 through October 31, 2025 or the start of construction on the Sustainability Campus, the Leased Premises shall be the entire extents of the Property to operate 36 holes of golf for the Course, as depicted on Exhibit B.
- b. If the County commences construction on the Sustainability Campus prior to October 31, 2025, the Leased Premises shall be that portion of the Property needed by Lessee to operate 27 holes of golf for the Course, as depicted on Exhibit C.
- c. On or after November 1, 2025, or the start of construction on the Sustainability Campus, whichever is later, the Leased Premises shall be that portion of the Property needed by Lessee to operate 18 holes of golf for the Course, as depicted on Exhibit D.

During the term of this Lease, the Lessor and Lessee may agree to modify the Leased Premises, provided that Lessee has at least the minimum number of holes for the Course identified herein. In addition, at its own discretion, Lessor, through the Director of Dane County Department of Waste & Renewables, may allow Lessee to use portions of the Property for Course purposes beyond these time limits, which permission may be conditioned on certain requirements.

Lessor shall give the Lessee 30 days' notice before the start of construction on the Sustainability Campus so that Lessee may prepare to reduce the playing holes consistent with this Section.”

3. Section 4 of the Ground Lease is amended as follows:

- “4. Right to Construct Improvements. During the Lease Term, Lessee shall have the right to construct improvements reasonably associated with the operation of the Course, subject to Lessor approval. Lessee shall be responsible for all costs of construction. Upon Lessor request, any improvements constructed by Lessee shall be removed by Lessee at the end of the Lease Term. Lessee shall also have the right to operate, maintain, repair and store all materials, tools, consumables, equipment or other items reasonably associated with the operation of the Course. Lessee shall specifically be authorized to construct a new irrigation pipe across a portion of the Leased Premises to connect the City's irrigation well with the golf course, provided that the pipe and any associated work is outside the limits of construction of the landfill and its location is approved by the County.
- a. Any and all costs related to the Lessee's irrigation system, which include relocation, removal and well drilling, are the full responsibility of the Lessee.

In addition, during the Lease Term, Lessor shall be authorized to construct a perimeter berm and fencing around the landfill facility, as required by State law, provided that such improvements will not impede upon the playable portions of the Course. Once the fencing is installed, those portions of the Leased Premises within

the landfill perimeter fencing shall no longer be considered part of the Leased Premises.”

4. Section 8 of the Ground Lease is amended as follows:

“8. Access to Premises. Lessor and Lessor’s agents shall have the right to enter upon the Leased Premises at any time with or without notice for the purpose of making any inspection it may deem expedient to the proper enforcement of the covenants or conditions of this Lease, or the future development of the Sustainability Campus, provided that such inspection shall not unreasonably interfere with Lessee’s business. To avoid conflicts with golf operations and golf customers, when possible, Lessor shall provide reasonable notice to Lessee of the need for access, and the Parties shall attempt to find a mutually agreeable time and place for access. Provided that a point of access and roadway exists, the Lessor shall provide the Lessee with access to the south maintenance road depicted on Exhibits B, C and D from CTH AB/Brandt Road. Lessor shall provide thirty (30) days notice to Lessee if access to the south maintenance road will be eliminated or restricted so that Lessee may prepare alternate means of access to the remaining course. Provided the road does not interfere with landfill operations, Lessee may maintain the road as necessary to maintain access. Lessor shall not be required to provide access from CTH AB/Brandt Road if a public right-of-way is created and constructed in place of the south maintenance road.”

5. Section 9 of the Ground Lease is amended as follows:

“9. Conditions of Premises. Lessee accepts the Leased Premises in its condition on the effective date of the Lease. Lessor makes no representations or warranties concerning the Leased Premises except as expressly stated herein. Lessee is responsible for any necessary restoration efforts to maintain course playability if County needs to access certain portions of the Leased Premises prior to the start of construction of the Sustainability Campus to conduct development activities associated with the project. This provision applies to those portions of the Lease Premises outside of the 27-hole area depicted on Exhibit C prior to October 31, 2025, and the area outside of the 18-hole area depicted on Exhibit D on or after October 31, 2025.”

6. Section 4 of the Maintenance Facility Lease is amended as follows:

“4. Right to Construct Improvements. During the Lease Term, Lessee shall have the right to construct improvements reasonably associated with the operation of the Leased Premises and the Course subject to Lessor approval. Lessee shall be responsible for all costs of construction. Upon Lessor request, any improvements constructed by Lessee shall be removed by Lessee at the end of the Lease Term. Lessee shall also have the right to operate, maintain, repair and store all materials, tools, consumables, equipment or other items reasonably associated with the operation of the Leased Premises.

During the Lease Term, as part of its work on the Sustainability Campus Lessor may remove the existing water well, sewer lines, and fueling station serving the maintenance facility, so long as Lessor provides, at its own cost, suitable replacements (drinking water, water tanks, holding tanks, port-a-potties, fueling station, etc.) for Lessee through the duration of the Lease to ensure that Lessee can continue to use the maintenance facility for Course operations. Lessor shall provide Lessee with at least thirty (30) days notice before removing water or sewer service or the fueling station, and replacement water and sewer services or fueling station shall be coordinated with Lessee before existing services are removed. If Lessor's work impacts the parking lot or access point serving the maintenance facility, Lessor will provide alternate parking or access to the facility.”

7. Future Easements Necessary for the Landfill. By entering into this Amendment, the Parties acknowledge that the County will have an additional need for certain easements from the City over the City's remaining lands. These easements are necessary to accommodate certain improvements required for the development and operation of the landfill, including monitoring wells, staff gauges, an air monitoring device, survey control points, and groundwater and surface water drainage improvements (including pipes, basins, and outlet structures). Contemporaneously with the execution of this Amendment, the Parties will work in good faith to ensure that the County obtains the necessary property rights it needs to operate the landfill by October 1, 2025, while also recognizing that such improvements will remain subject to the use of the remaining City lands for the Course. The Parties recognize that the City's future granting of these easement rights to the County is part of the consideration provided to secure this Amendment and that no fees or costs will be required as a condition of the easements.

8. Future Stormwater Agreement. The Parties further agree that they will continue to work in good faith to enter into a stormwater agreement pertaining to surface water drainage from the Sustainability Campus onto the Course by October 1, 2025.

9. Counterparts and Transmittal of Signatures. This Amendment may be executed in one or more counterparts, and all such executed counterparts shall constitute the same Lease. A signed copy of the Lease transmitted by facsimile electronic scanned copy (.pdf) or similar technology and shall be as valid as original. This Lease 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 Lease 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 Lease, fully executed, shall be as valid as an original.

IN WITNESS WHEREOF, the parties hereto have by their duly authorized representatives executed this Lease as of the dates so indicated.

LESSOR: DANE COUNTY

Melissa Agard, County Executive

Date

Scott McDonnell, County Clerk

Date

LESSEE: CITY OF MADISON

Satya Rhodes-Conway, Mayor

Date

Michael Haas, Acting City Clerk

Date

Countersigned:

David P. Schmiedicke, Finance Director

Date

Approved as to form:

Michael Haas, City Attorney

Date

Execution of this Agreement by the City of Madison is authorized by Resolution Enactment No. RES __ - _____,
ID No. _____, adopted by the Common Council of the City of Madison on _____, 20__.