

COOPERATIVE AGREEMENT

Between Madison LakeWay Partners Inc. and the City of Madison

THIS AGREEMENT, entered into by and between Madison LakeWay Partners Inc., a 501(c)3 non-stock corporation organized under the laws of the State of Wisconsin (the “Partners”), and the City of Madison, a Wisconsin municipal corporation (“City”), is effective as of the date by which all parties have signed hereunder.

WITNESSETH:

WHEREAS, beginning in the 1890’s and the establishment of the Madison Parks and Pleasure Drive Association (“MPPDA”), the City has been fortunate to enjoy widespread community support and funding from the community to acquire and develop the City’s valuable park and open space system; and,

WHEREAS, the Madison Parks Division (“Madison Parks”) took over authority of the City’s parks from the MPPDA in 1938, and has grown and developed the City’s current park system. However, a need still exists for private sector involvement in supporting parks and open space in Madison through planning, fundraising, community outreach, and public involvement in the continued development and maintenance of the City’s park system; and,

WHEREAS, the City owns the area known as the Madison LakeWay, which includes 1.7 miles of Lake Monona shoreline and 17 acres of lakefront property, extending from S. Blair Street on the north, counterclockwise along the Lake Monona shoreline to E. Lakeside Street on the south, and consists of all or portions of Law Park, the John Nolen Drive Causeway, and Olin Park; and,

WHEREAS, in early 2022, Madison Parks launched the Lake Monona Waterfront Design Challenge—a competition to create a visionary, inclusive, and environmentally focused master plan for the Madison LakeWay, the City’s foremost public lakefront; and,

WHEREAS, in April 2024, the City approved the Design Challenge winner’s master plan for the Madison LakeWay (the Lake Monona Waterfront Master Plan) and directed Madison Parks to pursue outside funding resources to the extent possible to realize the vision set by the Plan; and,

WHEREAS, Madison LakeWay Partners, Inc., f/n/a the Friends of Nolen Waterfront, Inc., was formed in 2018 as a non-profit charitable corporation to advocate for, aid and support the redevelopment of the Madison LakeWay. Prior to and during the Design Challenge, the Partners and its members provided input and assistance to the City, and the Partners provided the City with half of the funding (\$112,500) for the final three design teams selected during the challenge; and,

WHEREAS, as the City begins looking to implement the Master Plan for the Madison LakeWay (the “Madison LakeWay Project” or “Project”), the City and the Partners desire to enter an agreement that will establish a strong cooperative foundation moving forward, recognizing that the relationship will change and grow over time as the community’s vision for the Madison LakeWay begins to take shape.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, the Parties agree as follows:

1. Purpose. The purpose of this Cooperative Agreement (“Agreement”) is to define the relationship and responsibilities of the Partners and the City (the “Parties”) with respect to the Madison LakeWay and the Madison LakeWay Project, and to outline the Parties’ roles and responsibilities with respect to each other. This Agreement may be amended in the future as the Madison LakeWay Project proceeds, and the needs and capabilities of the Partners grows.
2. Term; Termination.
 - a. Term. This Agreement shall remain effective through December 31, 2030. Either party may renew this Agreement, through December 31, 2035, by providing written notice to the other party on or before December 31, 2030. For avoidance of doubt, the Trademark License entered into contemporaneously with this Agreement is not subject to the term of the Agreement and is governed by Section 5 of the License Agreement.
 - b. Termination. Notwithstanding the foregoing, and in addition to the rights of either party under Section 12 in the event of default, either party may, with at least 6 months advance written notice, declare its intention to terminate this Agreement, in which case this Agreement shall terminate on the stated date. For avoidance of doubt, the Trademark License entered into contemporaneously with this Agreement does not automatically terminate when the Agreement terminates and shall instead terminate pursuant to Section 6 of the License Agreement.
3. Relationship of Parties. The Partners shall be the City’s official non-profit collaborator as it relates to the Madison LakeWay Project. The Partners is a legal entity separate from the City, and no partnership, agency, or other legal relationship other than the contractual relationship as set forth herein is created by this Agreement. The Partners shall retain sole authority over its own operations, and may make its own decisions regarding the use of its funds, subject to any limitations contained in this Agreement, and consistent with its own articles of incorporation and by-laws, copies of which shall be made available on request to the City’s Finance Director. The Partners is an Affiliated Organization (AO) for the City of Madison, and as such is governed by Madison General Ordinances Sec. 4.29. The Board of Park Commissioners, acting through the President, shall appoint one person, for a three (3) year term, to the Madison LakeWay Partners Board. In addition, the Madison LakeWay Partners Board shall include the Parks Superintendent or Designee as a non-voting Director and the Mayor or Designee as a non-voting Director
4. Partners’ Obligations. The Partners will work with the Madison Parks on the overall vision, direction, planning, design and capital development of the Madison LakeWay by, among other things, providing advice to the City on the design and implementation of the Project, collaborating with the City on the pursuit of state and federal grants, raising private

donations, and leading public advocacy for the development of the Madison LakeWay. In this capacity, the Partners shall use funds it raises for the benefit of the Madison LakeWay Project and to support its own operations, including funding its own operational, marketing, and administrative expenses. The Partners acknowledge that final determinations regarding the development of the Madison LakeWay will remain with the City.

5. Office Space.

- a. City Contribution of Office Space. In recognition of the Partners' commitment to the development of the Madison LakeWay, and the increasing capacity of the Partners, which will bring with it increased costs, the City agrees that, during the term of this Agreement, and as long as requested by the Partners, the City shall provide the Partners with restricted access office space of not less than 80 square feet for office and storage purposes at the Madison Parks offices located at 330 E. Lakeside Street, as well as related utilities, shared conference and meeting space available for reservation, telephone and internet service, limited information technology services, basic office supplies, a mailbox, and the use of office equipment (i.e. printer/copier).

Madison Parks shall accommodate the Partners to the extent possible in its request for office space, equipment and storage (within the parameters of its budget and contingent upon available space), and the Partners agrees to abide by any restrictions set forth by the Superintendent and the City upon the specific use of office space and supplies for Partners purposes. Any information technology services provided under this provision shall be subject to approval by the City's Information Technology Department and City policies. The City shall provide the Partners Chief Executive Office and such Partners Board members as are approved by the Parks Superintendent with key/access cards to enter the building and the office space. After-hours access may be restricted by the Parks Division.

The value of the City's In-Kind Contribution is anticipated to be approximately \$15,000 per year. Upon request, the City shall provide documentation to support this in-kind contribution valuation. The Partners, at its own expense, shall be permitted to decorate the interior of its dedicated office space, although any messaging shall be limited to items consistent with the Partners' obligations under Section 4.

- b. Partners Supplies. Partners shall provide for all other business needs it may have, including:
- (1) Information technology equipment and software, including, but not limited to, computer/monitor, software licenses and separate data storage from the City network, as well as website design and hosting;
 - (2) Any furniture for the Partners' City-provided office; and,
 - (3) Any other items necessary for its operations not otherwise provided by Madison Parks under Subsection a.

6. Financial Support and Planning for the Project; Fundraising.

- a. Financial Support for the Project. The fundamental goal of the Parties' relationship is to support the Madison LakeWay and the implementation of the Lake Monona Waterfront Master Plan through the Madison LakeWay Project. In this capacity, the Partners' primary role is one of providing financial support for the Project, through private fundraising efforts, that will be in addition to the City's use of municipal and other available funds, such as State, Federal, or County grant funds.
- b. City/Partners Coordination Meetings. On at least a quarterly basis, the Partners' chief Executive Officer and Members of the Board shall meet with a City Staff team to discuss the Project to ensure successful coordination by the Parties in their respective efforts.
- c. Joint Capital Budget Plan. To ensure coordination in the financial planning of the Project, the City and the Partners will annually develop a joint capital budget plan, for a three-year period, that outlines the commitments and financial goals of each party for capital projects that are part of the Project. The commitment for the first year will coincide with the City's approved capital budget for that year, with the following years considered for planning and goal setting purposes. Madison Parks will align its 5-year capital improvement plan with the agreed upon joint capital budget plan.
- d. Operations Funding for Partners. Recognizing that the Partners will need operating funding to succeed in its mission to raise significant capital dollars and support the Project, the City and the Partners will discuss and consider efforts to secure operating funding for the Partners.
- e. Fundraising. Partners will actively solicit private support for the Partners through membership fees and charitable contributions, and will work with the City to actively solicit federal, state or local grants or other funds to support the Project, operations, and other purposes of the Madison LakeWay. Partners will apply all funds contributed to the Partners to the operating expenses and capital improvements of the Madison LakeWay and to the administrative and operating expenses of the Partners, in accordance with this Agreement, its bylaws and articles of incorporation. If the Partners establish an endowment or trust for the benefit of the Madison LakeWay, any funds donated to this account shall be used according to the terms of such endowment or trust. To assist in these efforts, within ninety (90) days of execution of this Agreement the City will, contingent upon Common Council appropriation, contribute \$25,000 to the Partners to support its fundraising efforts for the Madison LakeWay Project.
- f. Sponsorships. Partners may attempt to secure funding for the Project by offering sponsorship opportunities to donors. Madison Parks will work with Partners on any substantial naming rights sponsorship opportunities, which may need to be separately approved by the City council. Other donor recognitions efforts, such as plaques, bricks, benches, etc., may be able to be approved administratively by

Madison Parks.

- g. Special Events; Park Fees. The Partners may organize and host various events annually throughout the course of the Agreement term for the sole purpose of benefitting the Madison LakeWay Project and the Partners. The Partners must follow established special event application processes for each public event occurring on park property, obtain all necessary permits and comply with permit conditions. Because of the Partners' status as an affiliated organization and as the official non-profit fundraising collaborator as it relates to the Madison LakeWay Project, Partners shall be exempt from all park-related fees, including application fees, reservations, temporary structure, amplification, vending and rental of Madison Parks' equipment, for up to twenty (20) events per year, and such additional events as are approved by the Parks Superintendent. However, Partners will be required to obtain, or have its contractor obtain, alcohol/liquor licenses if necessary and will be responsible for covering all other costs associated with the event, unless otherwise agreed upon in writing with the Superintendent.
7. Intellectual Property Associated with the Madison LakeWay.
- a. Intellectual Property. As part of the Partners' support for the Project, Partners have worked with Sasaki Associates, Inc., the designer of the Lake Monona Waterfront Master Plan, Z-D Studios, Inc., and Madison Parks to create branding for the Madison LakeWay. The Parties acknowledge and agree that the Partners own the names and trademarks MADISON LAKEWAY, LAKEWAY and the Turtle Design shown in Schedule A of the Trademark License attached and incorporated into this Agreement as Exhibit A.
- b. License Agreement. Contemporaneously with the execution of this Agreement, the Parties will enter into a Trademark License Agreement, attached hereto as Exhibit A, relating to the Intellectual Property, under which the City will be granted a limited, royalty-free, non-exclusive license and right to use and display the Intellectual Property.
- c. Right of First Refusal. If the Partners elects to transfer any rights in the Intellectual Property to any person other than the City (a "Third Party"), the City shall have a right of first refusal to purchase the Intellectual Property at the lesser of the price, terms and conditions offered by a Third Party or the out of pocket costs (not including in kind support) incurred by the Partners to obtain and maintain the Intellectual Property reduced by \$28,500. If the Partners (i) is dissolved, (ii) becomes insolvent, or (iii) files, or has filed against it and not dismissed within ninety (90) days, a petition for bankruptcy, the Partners shall notify the City and, should the City so request, the Partners will (subject to any necessary court approval) transfer the Intellectual Property to the City.
8. Marketing for the Madison LakeWay. Partners will be responsible for marketing the Madison LakeWay and the Project to the greater Madison community. Consistent with this obligation, the Partners will establish and maintain a website for the Madison LakeWay

and the Project, which, consistent with City policies, may be linked to and from the City's own website. Partners may make and sell merchandise to market and support the Madison LakeWay.

9. City's Responsibility to the Madison LakeWay. Subject to available funding and appropriation by the Common Council, the City will collaborate with the Partners to refine the overall vision as established in the Master Plan, and provide direction, planning, design and construction of the Madison LakeWay Project, and subsequent management staff and expertise for the daily operations, maintenance, and security of the park. Further, the City will provide timely updates to the Partners on milestones in the design, planning, and construction of the Project, coordinate with the Partners on marketing efforts, assist the Partners with public events when able, participate in regular meetings to share updates, and provide the Partners with opportunities to review and discuss plans, budgets, phasing, and overall strategy for the implementation of the project.
10. Invoicing. If a portion of the Project will be implemented, and funding for this work will include funds from the Partners, the Parties shall communicate on the Project timeline, including, if necessary, the anticipated billing periods. This communication is necessary to ensure that the City has access to the private funds when needed.
11. Partners' Reporting Requirements. The Partners shall provide the City with the following:
 - a. Common Council Update. Each Year, the Partners will present an update to the Madison Common Council describing its activities and progress in pursuit of its mission of supporting the Lakeway.
 - b. Parks Commission Update. Each Year, the Partners will present an update to the Madison Parks Commission describing its activities and progress in pursuit of its mission of supporting the Lakeway.
12. Default. Notwithstanding Section 2, in the event that the either party defaults in any of the terms of this Agreement, and any such default shall continue unremedied for a period of sixty (60) days after written notice thereof to the other, the non-defaulting party may, at its option and in addition to all other rights and remedies which it may have at law or in equity against the other, including expressly the specific enforcement hereof, forthwith have the cumulative right to immediately terminate this Agreement and all rights of the other under this Agreement.
13. Assignment. The roles and responsibilities of either party as set forth in this Agreement may not be assigned to any other party without the other party's prior written approval.
14. Nondiscrimination. In the performance of this Agreement, the Partners agree not to discriminate against any employee or applicant because of race, religion, marital status, age, color, sex, handicap, national origin or ancestry, income level or source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, gender identity, political beliefs, or student status. The Partners further agree not to discriminate against any subcontractor or person who offers to subcontract on

this Agreement because of race, religion, color, age, disability, sex, sexual orientation, gender identity or national origin.

15. Affirmative Action.

- a. The following language applies to all contractors employing fifteen (15) or more employees (MGO 39.02(9)(c):

The Partners (the “Contractor” in this Section) agrees that, within thirty (30) days after the effective date of this Agreement (the “Contract” in this Section), Contractor will provide to the City of Madison Department of Civil Rights (the “Department”), certain workforce utilization statistics, using a form provided by the City.

If the Contract is still in effect, or if the City enters into a new Agreement with the Contractor, within one year after the date on which the form was required to be provided, the Contractor will provide updated workforce information using a second form, also to be furnished by the City. The second form will be submitted to the Department no later than one year after the date on which the first form was required to be provided.

The Contractor further agrees that, for at least twelve (12) months after the effective date of this Contract, it will notify the Department of each of its job openings at facilities in Dane County for which applicants not already employees of the Contractor are to be considered. The notice will include a job description, classification, qualifications, and application procedures and deadlines, shall be provided to the City by the opening date of advertisement and with sufficient time for the City to notify candidates and make a timely referral. The Contractor agrees to interview and consider candidates referred by the Department, or an organization designated by the Department, if the candidate meets the minimum qualification standards established by the Contractor, and if the referral is timely. A referral is timely if it is received by the Contractor on or before the date stated in the notice.

The Department will determine if a contractor is exempt from the above requirements (Sec. 15.a) at the time the Request for Exemption in 15.b(2) is made.

- b. Articles of Agreement, Request for Exemption, and Release of Payment:

The “ARTICLES OF AGREEMENT” beginning in para (5) apply to all contractors, unless determined to be exempt under the following table and procedures:

NUMBER OF EMPLOYEES	LESS THAN \$50,000 Aggregate Annual Business with the City*	\$50,000 OR MORE Aggregate Annual Business with the City*
14 or less	Exempt**	Exempt**

NUMBER OF EMPLOYEES	LESS THAN \$50,000 Aggregate Annual Business with the City*	\$50,000 OR MORE Aggregate Annual Business with the City*
15 or more	Exempt**	Not Exempt

*As determined by the Finance Director

**As determined by the Department of Civil

Rights

- (1) Exempt Status: In this section, “Exempt” means the Contractor is exempt from the Articles of Agreement in section 15.b(5) of this Contract and from filing an Affirmative Action plan as required by Section IV of the Articles of Agreement. The Department of Civil Rights (“Department”) makes the final determination as to whether a contractor is exempt. If the Contractor is not exempt, sec. 15.b(5) shall apply and Contractor shall select option A. or B. under Article IV therein and file an Affirmative Action Plan.
- (2) Request for Exemption – Fewer Than 15 Employees: (MGO 39.02(9)(a)2.) Contractors who believe they are exempt based on number of employees shall submit a Request for Exemption on a form provided by the Department within thirty (30) days of the effective date of this Contract.
- (3) Exemption – Annual Aggregate Business: (MGO 39.02(9)(a)c.): The Department will determine, at the time this Contract is presented for signature, if the Contractor is exempt because it will have less than \$50,000 in annual aggregate business with the City for the calendar year in which the contract is in effect. CONTRACTORS WITH 15 OR MORE EMPLOYEES WILL LOSE THIS EXEMPTION AND BECOME SUBJECT TO SEC. 15.b(5) UPON REACHING \$50,000 OR MORE ANNUAL AGGREGATE BUSINESS WITH THE CITY WITHIN THE CALENDAR YEAR, BEGINNING IN 2019.
- (4) Release of Payment: (MGO 39.02(9)(e)1.b.) All non-exempt contractors must have an approved Affirmative Action plan meeting the requirements of Article IV below on file with the Department within thirty (30) days of the effective date of this Contract and prior to release of payment by the City. Contractors that are exempt based on number of employees agree to file a Request for Exemption with the Department within thirty (30) days of the effective date and prior to release of payment by the City.
- (5) Articles of Agreement:

ARTICLE I

The Contractor shall take affirmative action in accordance with the provisions of this Contract to ensure that applicants are employed, and that employees are treated during employment without regard to race, religion, color, age, marital status, disability, sex,

sexual orientation, gender identity 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. The 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.

ARTICLE II

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

ARTICLE III

The 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.

ARTICLE IV

(This Article applies to non-public works contracts.)

The Contractor agrees that it will comply with all provisions of the Affirmative Action Ordinance of the City of Madison (MGO 39.02) including the Contract compliance requirements. The Contractor warrants and certifies that one of the following paragraphs is true (**check one**):

- ☐ A. Contractor 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 FR 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.
- ☐ B. Within thirty (30) days after the effective date of this Contract, Contractor 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 FR 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.
- ☐ C. Contractor believes it is exempt from filing an affirmative action plan because it has fewer than fifteen (15) employees and has filed, or will file within thirty (30) days after the effective date of this Contract, a form required by the City to confirm exempt status based on number of employees. If the City determines that Contractor is not exempt, the Articles of Agreement will apply.
- ☐ D. Contractor believes it is exempt from filing an affirmative action plan because its annual aggregate business with the City for the calendar year in which the contract is in effect is less than fifty thousand dollars (\$50,000), or for another reason listed in MGO 39.02(9)(a)2. If the City determines that Contractor is not exempt, the Articles of Agreement will apply.

ARTICLE V

(This Article applies only to public works contracts.)

ARTICLE VI

The Contractor will maintain records as required by Section 39.02(9)(f) of the Madison General Ordinances and will provide the City's Department of Affirmative Action with access to such records and to persons who have relevant and necessary information, as provided in Section 39.02(9)(f). The City agrees to keep all such records confidential, except to the extent that public inspection is required by law.

ARTICLE VII

In the event of the Contractor's or subcontractor's failure to comply with the Equal Employment Opportunity and Affirmative Action provisions of this Contract or Sections 39.03 and 39.02 of the Madison General Ordinances, it is agreed that the City at its option may do any or all of the following:

- A. Cancel, terminate or suspend this Contract in whole or in part.
- B. Declare the Contractor ineligible for further City contracts until the Affirmative Action requirements are met.
- C. 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 ten thousand dollars (\$10,000), 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.

ARTICLE VIII

(This Article applies to public works contracts only.)

ARTICLE IX

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

16. Indemnification and Insurance.

- a. Indemnification. The Partners shall be liable to and hereby agrees to indemnify, defend and hold harmless the City of Madison, and its officers, officials, agents, and employees against all loss or expense (including liability costs and attorney's fees) by reason of any claim or suit, or of liability imposed by law upon the City or its officers, officials, agents or employees for damages because of bodily injury, including death at any time resulting therefrom, sustained by any person or persons or on account of damages to property, including loss of use thereof, arising from, in connection with, caused by or resulting from the Partners and/or the Partners' contractor's or agent's acts or omissions in the performance of this agreement,

whether caused by or contributed to by the negligence of the City, its officers, officials, agents, or its employees.

b. Insurance.

- (1) Required Insurance. The Partners will insure, as indicated, against the following risks to the extent stated below. The Partners shall not commence work under this Agreement, nor shall Partners allow any Subcontractor to commence work on its Subcontract, until the insurance required below has been obtained and corresponding certificate(s) of insurance have been approved by the City Risk Manager.
 - (a) Commercial General Liability. The Partners shall procure and maintain during the life of this contract, Commercial General Liability insurance including, but not limited to bodily injury, property damage, personal injury, and products and completed operations (unless determined to be inapplicable by the Risk Manager) in an amount not less than \$1,000,000 per occurrence. This policy shall also provide contractual liability in the same amount. The Partners' coverage shall be primary and list the City of Madison, its officers, officials, agents and employees as additional insureds.
 - (b) Worker's Compensation. Statutory Workers' Compensation insurance as required by the State of Wisconsin. The Partners shall also carry Employers Liability limits of at least \$100,000 Each Accident, \$100,000 Disease – Each Employee, and \$500,000 Disease – Policy Limit. Partners shall require all subcontractors under this Agreement (if any) to procure and maintain such insurance, covering each subcontractor.
- (2) Acceptability of Insurers. The above-required insurance is to be placed with insurers who have an A.M. Best rating of no less than A- (A minus) and a Financial Category rating of no less than VII.
- (3) Proof of Insurance, Approval. The Partners shall provide the City with certificate(s) of insurance showing the type, amount, class of operations covered, effective dates, and expiration dates of required policies prior to commencing work under this Agreement. The Partners shall provide the certificate(s) to the City's representative upon execution of the contract, or sooner, for approval by the City Risk Manager. The Partners shall provide copies of additional insured endorsements or insurance policies, if requested by the City Risk Manager.

- (4) Notice of Change in Policy. Partners, its subcontractors, and/or the Insurers shall give the City thirty (30) days advance written notice of cancellation, non-renewal or material changes to any of the above-required policies during the term of this Agreement.
- (5) Risk Manager. All information required to be provided to the Risk Manager should be addressed as follows:

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

17. Notice. Any notice or offer or demand required to be sent hereunder shall be sent in writing by registered or certified United States mail, return receipt requested, at the Parties' respective addresses set forth below. Each notice shall be deemed to have been received on the earlier to occur of actual delivery or the date on which delivery is refused, or three (3) days after notice is deposited in the mail. Any party may, at any time, change its notice address by giving the other party written notice of the new address.

<u>Name</u>	<u>Address</u>
The Partners	Madison LakeWay Partners Inc. 330 E. Lakeside St. Madison, WI 53715
The City	City of Madison Parks Division Attn. Parks Superintendent 330 E. Lakeside St. Madison, WI 53715

18. Construction. The Parties acknowledge that this Agreement is the product of negotiations between the Parties and that, prior to the execution hereof, each Party has had full and adequate opportunity to have this Agreement reviewed by, and to obtain the advice of, its own legal counsel with respect hereto. Nothing in this Agreement shall be construed more strictly for or against, any Party because that Party's attorney drafted this Agreement or any part hereof.
19. Final Agreement. This Agreement, together with the License Agreement, constitutes the entire agreement of the Parties and may only be modified or supplemented by an additional writing between the Parties. This Agreement shall be governed by, construed, interpreted, and enforced in accordance with the laws of the State of Wisconsin.
20. Miscellaneous.
- a. The invalidity of any provision of this Agreement shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Agreement.

- b. No third parties (including without limitation the Partners staff) are intended to benefit from this Agreement, and no third party beneficiary rights shall be implied from anything contained in this Agreement.
 - c. All addendums and exhibits attached to this Agreement shall be considered part of this Agreement and the terms and conditions in such addendums and exhibits shall be binding upon all parties.
21. Compliance with Applicable Laws. The Parties shall become familiar with, and shall at all times comply with and observe, all federal, state and local laws, ordinances and regulations which in any manner affect the services or conduct of the Parties and their agents and employees in the performance of this Agreement.
22. Authority. The Parties each represent that they have the authority to enter into this Agreement, and the person(s) signing on behalf of the City and Partners represent and warrant that they have been duly authorized to bind the City and Partners and sign this Agreement on their behalf.
23. Counterparts; Electronic Delivery. This Agreement and any document executed in connection herewith may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute the same document. Signatures on this Agreement may be exchanged between the Parties by facsimile, electronic scanned copy (.pdf) or similar technology and shall be as valid as original; and this Agreement may be converted into electronic format and signed or given effect with one or more electronic signature(s) if the electronic signature(s) meets all requirements of Wis. Stat. ch. 137 or other applicable Wisconsin or Federal law. Executed copies or counterparts of this Agreement may be delivered by facsimile or email and upon receipt will be deemed original and binding upon the Parties hereto, whether or not a hard copy is also delivered. Copies of this Agreement, fully executed, shall be as valid as an original.

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

FOR MADISON LAKEWAY PARTNERS INC.

Jayme Powers, Chief Executive Officer

Date

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 was authorized by Resolution Enactment No. RES-__ - ____, ID No. ____, adopted by the Common Council of the City of Madison on ____, 20__.

EXHIBIT A

TRADEMARK LICENSE AGREEMENT

This Trademark License Agreement (the “**License Agreement**”), entered into by and between Madison LakeWay Partners Inc., 501(c)3 non-stock corporation a Wisconsin non-stock corporation (“**Licensor**”), and the City of Madison, a Wisconsin municipal corporation (“**Licensee**”), is effective as of the date by which all parties have signed hereunder.

WHEREAS, Licensor is the owner of certain trademarks, service marks, and applications for registration thereof relating to 1.7 miles of Lake Monona shoreline and 17 acres of lakefront property extending from S. Blair Street on the north, counterclockwise along the Lake Monona shoreline to E. Lakeside Street on the south, consisting of all or portions of Law Park, the John Nolen Drive Causeway, and Olin Park, and known as the Madison LakeWay; and,

WHEREAS, Licensee seeks to acquire the right to use certain of these trademarks and service marks as listed on the attached **Schedule A** (the “**Licensed Marks**”) pursuant to the terms and conditions of this License Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual representations, warranties, covenants and agreements set forth herein, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. License. Subject to the terms herein, Licensor hereby grants to Licensee, and Licensee hereby accepts a limited, royalty-free, non-exclusive license and right to use and display the Licensed Marks in connection with the Madison LakeWay, as developed with Sasaki Associates, Inc. and Z-D Studios, Inc.
2. Ownership. Licensee acknowledges Licensor’s ownership of the Licensed Marks. Nothing in this License shall be construed as granting or conferring, expressly or impliedly, any ownership rights in the Licensed Marks to Licensee. Except as otherwise agreed to in writing by the Licensor and Licensee, if Licensee acquires any rights in the Licensed Marks, by operation of law, or otherwise, such rights shall be deemed and are hereby irrevocably assigned to Licensor without further action by the parties. Licensee agrees not to dispute, challenge or to assist any third party in disputing or challenging, Licensor’s rights in and to the Licensed Marks.
3. Quality Control. Licensee acknowledges the high standard of quality associated with the Licensor and the Licensed Marks, and agrees that all uses of the Licensed Marks shall conform to that standard. Licensor has the right to request samples of all uses of the Licensed Marks by Licensee.
4. Form of Use. Licensee agrees to use the Licensed Marks only in the form and manner prescribed by Licensor and not to use any other trademark, service mark or other term in combination with the Licensed Marks without prior written approval of Licensor.
5. Term. This License Agreement shall be deemed to have commenced on the Effective Date and shall remain in effect until and unless the License Agreement is terminated pursuant to Section 6 herein.

6. Termination. This Agreement may be terminated by mutual agreement of the parties. Upon termination of the Agreement, except as otherwise agreed to by the parties in writing, Licensee agrees to discontinue all use of the Licensed Marks within one-hundred and eighty (180) days.
7. Nondiscrimination. In the performance of this License Agreement, the Licensor agrees not to discriminate against any employee or applicant because of race, religion, marital status, age, color, sex, handicap, national origin or ancestry, income level or source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, gender identity, political beliefs, or student status. The Licensor further agrees not to discriminate against any subcontractor or person who offers to subcontract on this Agreement because of race, religion, color, age, disability, sex, sexual orientation, gender identity or national origin.
8. Governing Law. This Agreement is made and entered into in the State of Wisconsin and shall be in all respects interpreted, enforced, and governed under the laws of the State of Wisconsin, without regard to that state's rules regarding choice of law.
9. Entire Agreement. This License Agreement, together with Section 7 of the Cooperative Agreement entered into by and between the Parties on [DATE], constitutes the full and complete agreement of the parties hereto with respect to the subject matter hereof and supersedes any and all prior understandings, whether written or oral. This Agreement shall not be modified or amended except by express written consent of the parties. This Agreement may be executed in counterpart copies and receipt by facsimile transmission of executed copies will be legally binding.
10. Counterparts; Electronic Delivery. This License Agreement and any document executed in connection herewith may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute the same document. Signatures on this License Agreement may be exchanged between the Parties by facsimile, electronic scanned copy (.pdf) or similar technology and shall be as valid as original; and this License Agreement may be converted into electronic format and signed or given effect with one or more electronic signature(s) if the electronic signature(s) meets all requirements of Wis. Stat. ch. 137 or other applicable Wisconsin or Federal law. Executed copies or counterparts of this License Agreement may be delivered by facsimile or email and upon receipt will be deemed original and binding upon the Parties hereto, whether or not a hard copy is also delivered. Copies of this License Agreement, fully executed, shall be as valid as an original.

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

FOR MADISON LAKEWAY PARTNERS INC.

Jayme Powers, Chief Executive Officer

Date

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 was authorized by Resolution Enactment No. RES-__ - ____, ID No. ____, adopted by the Common Council of the City of Madison on ____, 20__.

SCHEDULE A

MADISON LAKEWAY (App. No. 98/503825)
LAKEWAY (App. No. 98/503825)



(App. No. 98/503849)