# Dane County Contract Cover Sheet

Revised 01/2025

Res 239
significant

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|---|---|
| **Dept./Division** | Henry Vilas Zoo |
| **Vendor Name** | Henry Vilas Zoo Foundation — **MUNIS #** |
| **Brief Contract Title/Description** | Agreement between Henry Vilas Zoo Foundation, INC. and Dane County for the Benefit and Support of the Henry Vilas Zoo |
| **Contract Term** | 5 year term (2026-2031) |
| **Contract Amount** | $500,000 |

| **Contract #** Admin will assign | 16003 |
|---|---|
| **Type of Contract** | |
| ☐ | **Dane County Contract** |
| ☐ | **Intergovernmental** |
| ☐ | **County Lessee** |
| ☐ | **County Lessor** |
| ☐ | **Purchase of Property** |
| ☐ | **Property Sale** |
| ☐ | **Grant** |
| ☐ | **Other** |

| **Department Contact Information** | |
|---|---|
| **Name** | Joseph Darcangelo |
| **Phone #** | 608-224-1294 |
| **Email** | Darcangelo.joseph@henryvilaszoo.com |
| **Purchasing Officer** | Pete P. |

| **Vendor Contact Information** | |
|---|---|
| **Name** | Sarah Justus |
| **Phone #** | 608-297-0129 |
| **Email** | sarahjustus315@gmail.com |

| **Purchasing Authority** | |
|---|---|
| ☐ | **$13,000 or under – Best Judgment** (1 quote required) |
| ☐ | **Between $13,000 – $45,000 ($0 – $25,000 Public Works)** (3 quotes required) |
| ☐ | **Over $45,000 ($25,000 Public Works)** (Formal RFB/RFP required) **RFB/RFP #** |
| ☐ | **Bid Waiver – $45,000 or under** ($25,000 or under Public Works) |
| ☐ | **Bid Waiver – Over $45,000** (N/A to Public Works) |
| ☐ | **Cooperative Contract** **Contract Name & #** |
| ☒ | **N/A - Grants, Leases, Intergovernmental, Property Purchase/Sale, Other** |

| **MUNIS Req.** | | | | |
|---|---|---|---|---|
| **Req #** | **Org:** HVZ | **Obj:** Rev (?) | **Proj:** | **$** 500,000.00 |
| | **Org:** HVZ | **Obj:** Exp (?) | **Proj:** | **$** 500,000.00 |
| **Year** | **Org:** | **Obj:** | **Proj:** | **$** |

**Budget Amendment**

☒ A Budget Amendment has been requested via a Funds Transfer or Resolution. Upon addendum approval and budget amendment completion, the department shall update the requisition in MUNIS accordingly.

| **Resolution** Required if contract exceeds $100,000 | | |
|---|---|---|
| ☐ Contract does not exceed $100,000 | | |
| ☒ Contract exceeds $100,000 – resolution required. | **Res #** | 239 |
| ☒ A copy of the Resolution is attached to the contract cover sheet. | **Year** | 2025 |

**CONTRACT MODIFICATIONS – Standard Terms and Conditions**

☐ No modifications. ☒ Modifications and reviewed by: Carlos Pabellon ☐ Non-standard Contract

| **APPROVAL** |
|---|
| **Dept. Head / Authorized Designee** |
| Darcangelo, Joseph — Digitally signed by Darcangelo, Joseph Date: 2025.11.13 08:58:42 -06'00' |

| **APPROVAL – Contracts Exceeding $100,000** | |
|---|---|
| **Director of Administration** | **Corporation Counsel** |
| Greg Brockmeyer | Carlos Pabellon |

**APPROVAL – Internal Contract Review – Routed Electronically – Approvals Will Be Attached**

| **DOA:** | **Date In:** 11/13/25 **Date Out:** ______ | ☒ Controller, Purchasing, Corp Counsel, Risk Management |
|---|---|---|

## Goldade, Michelle

| | |
|---|---|
| **From:** | Goldade, Michelle |
| **Sent:** | Friday, November 14, 2025 4:21 PM |
| **To:** | Hicklin, Charles; Patten, Peter; Pabellon, Carlos; Cotillier, Joshua |
| **Cc:** | Stavn, Stephanie; Oby, Joe |
| **Subject:** | Contract #16003 |
| **Attachments:** | 16003.pdf |

**Tracking:**

| Recipient | Read | Response |
|---|---|---|
| Hicklin, Charles | Read: 11/17/2025 8:58 AM | Approve: 11/17/2025 8:59 AM |
| Patten, Peter | | |
| Pabellon, Carlos | | Approve: 11/17/2025 8:52 AM |
| Cotillier, Joshua | | |
| Stavn, Stephanie | Read: 11/17/2025 9:15 AM | |
| Oby, Joe | | |

Please review the contract and indicate using the vote button above if you approve or disapprove of this contract.

Contract #16003
Department: Zoo
Vendor: Henry Vilas Zoo Foundation
Contract Description: Agreement for the benefit and support of the Henry Vilas Zoo (Res 239)
Contract Term: 1/1/26 – 12/31/2031
Contract Amount: $500,000.00

*Michelle Goldade*
Administrative Manager
Dane County Department of Administration
Room 425, City-County Building
210 Martin Luther King, Jr. Boulevard
Madison, WI 53703
PH: 608/266-4941
Fax: 608/266-4425
TDD: Call WI Relay 711

Please Note: I currently have a modified work schedule…I am in the office Mondays and Wednesdays and working remotely Tuesdays, Thursdays and Fridays.

## Goldade, Michelle

**From:** Cotillier, Joshua
**Sent:** Monday, November 17, 2025 7:32 AM
**To:** Goldade, Michelle
**Subject:** Approve: Contract #16003

## Goldade, Michelle

**From:** Patten, Peter
**Sent:** Monday, November 17, 2025 8:08 AM
**To:** Goldade, Michelle
**Subject:** Approve: Contract #16003

2025 RES-239

**AUTHROZING THE AGREEMENT BETWEEN HENRY VILAS ZOO FOUNDATION, INC. AND DANE COUNTY FOR THE BENEFIT AND SUPPORT OF THE HENRY VILAS ZOO**

The County desires to partner with the Henry Vilas Zoo Foundation, INC. (HVZF) to support the Henry Vilas Zoo through capital campaign fundraising. The Foundation wishes to provide the Henry Vilas Zoo this support by soliciting gifts, donations and bequests for a variety of capital campaigns to assure the continued success and prosperous growth of the Zoo.

The Licenses and Term of this agreement are outlined in the attached agreement in sections (1.0 -1.4) between the Foundation and Dane County. These provisions include Capital Fundraising Activities, Trademark Agreement, and use of specific spaces throughout the Henry Vilas Zoo for the sole purpose of engaging in Capital Fundraising Activities.

The obligations of the Henry Vilas Zoo Foundation and of the County are outlined in the attached agreement in sections (2.0 -2.5) – (3.0 – 3.4). These obligations ensure the Foundation function as a private, nonstock corporation organized under chapter 181 of Wisconsin Statue with tax-exempt status under section 501 (c) (3) of the Internal Revenue Code, independent and separate from County while adhering to its articles of incorporation and approved bylaws. The Foundation will remain a separate entity, and be responsible for its own human resource services. County will operate and maintain all aspect of the Zoo in accordance with the policies and directives established by the Dane County Board of Supervisors and the Dane County Executive. Furthermore, the County will have sole authority and responsibility for the determination and management of appropriate capital improvements, educational and conservation programing, animal welfare practices and policies, visitor policies and experiences, food and souvenir sales, volunteer recruitment and management, and all other aspects of the operations of the Zoo.

This resolution authorizes the County to transfer $500,000 from the County’s Madison Community Foundation’s (MCF) Zoo Donations Fund to Henry Vilas Zoo Foundation, INC to support its initial operations’ start. These unrestricted funds are comprised of donations aimed at supporting the Henry Vilas Zoo. Financial considerations, annual budget process and audit are detailed in the attached agreement in sections (4.0 - 4.14).

NOW, THEREFORE, BE IT RESOLVED that the Dane County Board of Supervisors hereby approve this one-time money transfer and authorize the agreement between Henry Vilas Zoo Foundation, INC., and Dane County for the benefit and support of the Henry Vilas Zoo.

BE IT FURTHER RESOLVED that expenditure account ZOO NEW “HVZF Investment” be created with a budget amount of $500,000 and revenue account ZOO NEW “MCF Revenue” be created with a budget amount of $500,000.

BE IT FURTHER RESOLVED that the Dane County Controller is authorized to transfer $500,000 from the County’s Madison Community Foundation’s Zoo Donations Fund to the Henry Vilas Zoo Foundation, INC.

BE IT FINALLY RESOLVED that the County Executive is hereby authorized to execute the agreement between Henry Vilas Zoo Foundation, INC. and Dane County for the benefit and support of the Henry Vilas Zoo on behalf of the County of Dane.

**AGREEMENT BETWEEN HENRY VILAS ZOO FOUNDATION, INC. AND DANE COUNTY FOR THE BENEFIT AND SUPPORT OF THE HENRY VILAS ZOO**

THIS AGREEMENT, is made and entered into, by and between the County of Dane (hereafter referred to as "County") and the Henry Vilas Zoo Foundation, Inc. (hereafter, "Foundation"), effective as of the date by which all parties hereto have affixed their respective signatures, as indicated on the signature pages below.

RECITALS

WHEREAS, County, whose address is City-County Building, Room 425, 210 Martin Luther King, Jr. Blvd, Madison, WI 53703, operates and manages the facility known as the Henry Vilas Zoo ("the Zoo") located at 702 South Randall Avenue, Madison, Wisconsin 53715; and

WHEREAS, Foundation, whose address shall be c/o Chairperson, Henry Vilas Zoo Foundation, Inc. 606 South Randall Avenue, Madison, Wisconsin 53715, is a private, non-profit corporation, organized under Chapter 181 of Wisconsin Statutes with tax exempt status under section 501(c)(3) of the Internal Revenue Code, independent and separate from County that exists to raise funds for the purposes of providing support to the Henry Vilas Zoo;

WHEREAS, County desires to partner with Foundation to support the Henry Vilas Zoo through capital campaign fundraising on the terms and conditions set forth herein; and

WHEREAS, Foundation wishes to support the Henry Vilas Zoo by soliciting gifts, donations and bequests for a variety of capital campaigns to assure the continued success and prosperous growth of the Zoo;

NOW, THEREFORE, in consideration of the above premises and the mutual covenants of the parties hereinafter set forth, and for valuable consideration, the receipt and sufficiency of which is acknowledged by each party for itself, County and Foundation do agree as follows:

**1.0 LICENSES AND TERM.**

**1.1** Subject to the provisions of this Agreement, County grants to Foundation the right to act as a fundraising organization for the Zoo's capital campaigns and for certain associated expenses, by identifying, cultivating and soliciting potential donors, whether individual, corporate or institutional and by soliciting donations, gifts, grants, and bequests from any lawful source provided that such donations, gifts, grants, and bequests are used for any approved Zoo capital campaign, and for any associated expenses, including without limitation Foundation's approved operating expenses ("Capital Fundraising Activities").

**1.2** County grants Foundation a non-exclusive license to use certain County trademarks pursuant to the Trademark License Agreement attached as Exhibit A (the "Trademark Agreement").

**1.3** County further grants Foundation a license during the term of this Agreement to occupy and use the following spaces for the sole purpose of engaging in Capital Fundraising Activities:

> Office space located on First Floor of the Henry Vilas Zoo Visitor Center, which consists of approximately 130 square feet plus the non-exclusive use of certain common spaces in such building located at 606 South Randall Avenue, Madison, Wisconsin 53715 to the extent reasonably necessary for Foundation's performance of such Capital Fundraising Activities ("Premises").

Foundation shall have no right of access to any other buildings or facilities at the Zoo, except as expressly provided in this Agreement. Foundation agrees that this Agreement grants Foundation only a license to use the Premises, and that the Agreement does not constitute a lease.

**1.4** The term of this Agreement is for five (5) years (“Term”), and shall commence as of the date by which all parties hereto have executed this Agreement.

## 2.0 OBLIGATIONS OF THE HENRY VILAS ZOO FOUNDATION

**2.1** Foundation will maintain its existence as a separate private Wisconsin nonstock corporation and will obtain and maintain 501(c)(3) tax-exempt status. Foundation shall continue to function as a private, nonstock corporation organized under chapter 181 of Wisconsin Statutes with tax-exempt status under section 501(c)(3) of the Internal Revenue Code, independent and separate from County.

**2.2** Foundation will adhere to its articles of incorporation and approved bylaws and all applicable laws and regulations, and will adopt and enforce appropriate policies addressing conflicts of interest, private inurement, non-discrimination, and other corporate conduct policies.

**2.3** Foundation may employ or otherwise secure the services of one or more personnel with the necessary skill and experience for the conduct of the Capital Fundraising Activities. During such time as it employs a development director, or other management level employee, Foundation will seek the advice of County as to the selection and performance evaluation of such employee. County and Foundation agree to take all reasonable actions to maintain the confidentiality of any personnel matters.

**2.4** As a separate entity, Foundation will be responsible for providing its own human resource services to its employees as needed including but not limited to payroll, benefit management, and conflict resolution.

**2.5** Foundation will establish and enforce appropriate internal controls and enterprise risk management practices.

## 3.0 OBLIGATIONS OF COUNTY

**3.1** County shall provide to Foundation the Premises, inclusive of utilities, custodial and maintenance services.

**3.2** County has the exclusive right and obligation to operate and maintain all aspects of the Zoo in accordance with the policies and directives established by the Dane County Board of Supervisors and the Dane County Executive.

**3.3** County will have sole authority and responsibility for the determination and management of appropriate capital improvements, educational and conservation programming, animal welfare practices and policies, visitor policies and experiences, food and souvenir sales, volunteer recruitment and management, and all other aspects of the operations of the Zoo. County will solicit the input and consider the advice of Foundation’s development personnel as part of its decision-making process regarding capital improvements to the Zoo.

**3.4** County shall develop a five-year plan for the Zoo that includes the Zoo’s facility master plan, its growth strategy and capital funding needs (“Zoo Plan”). County will share its Zoo Plan with Foundation upon executing this Agreement, and shall provide annual updates to its Zoo Plan.

## 4.0 FINANCIAL CONSIDERATIONS, ANNUAL BUDGET PROCESS AND AUDIT

**4.1** County agrees to authorize the transfer of $500,000 from County's Madison Community Foundation's Zoo Donation Fund to Foundation to support its operations ("Initial Funding"). Such transfer shall occur within thirty (30) days after execution of this Agreement.

**4.2** Foundation and County shall collaborate to set an annual budget for Foundation's capital fundraising goals, the costs associated with any capital campaign and the Foundation's annual operating expenses ("Annual Budget Process"). During the Annual Budget Process, both Foundation and County will agree upon both revenue goals and expense investments and allocations for any approved capital campaigns. Foundation's budget will be documented and presented in writing for review by both parties. The proposed budget will set forth the revenue goals and roles of both Foundation and the Zoo to accomplish those goals. At the conclusion of the Annual Budget Process and no later than May 31 in any calendar year, Foundation shall provide to County a final draft budget plan for County review and approval.

**4.3** Foundation will be authorized by County to use a portion of unrestricted funds it raises from donors to pay for the costs of any agreed upon capital campaign and for its reasonable operating expenses, including compensation for any employees, independent contractors, and consultants needed to conduct Foundation's operations. The parties agree that the costs for any capital campaign shall not exceed 10% of the campaign's target goal.

**4.4** In addition to, and separate from, the limitation on capital campaign costs set forth in paragraph 4.3, Foundation's operating expenses shall not exceed $300,000 in any year of the Term ("Operating Expenses Limit").The Operating Expenses Limit shall be adjusted annually on the anniversary of the effective date of this Agreement based on the change in the Consumer Price Index-United States All Urban Consumers – All Items- Midwest Regions, as published by the U.S. Bureau of Labor Statistics ("CPI"). This adjustment shall be calculated as Adjusted Operating Expenses Limit = Operating Expenses Limit x (CPI Current/CPI Base). For the purposes of this Agreement, CPI Current shall mean the CPI published as of the anniversary of the effective date of the Agreement and CPI Base shall mean the CPI published as of the effective date of the Agreement. Any increase shall not exceed 3% per year unless mutually agreed upon by both parties.

**4.5** Foundation shall also be authorized to use a portion of restricted funds towards Foundation operating expenses with the written prior approval of a donor. Any use of restricted funds in this manner will be presented to County for approval during the Annual Budget Process or part of a larger multi-year campaign effort.

**4.6** Foundation agrees that its operations will be managed by a development director, and other necessary personnel shall report to that position. The executive director of the Zoo (the "Zoo Director")shall work with the Foundation's development director and provide feedback on the position's performance to the Foundation's Board.

**4.7** With the exception of the Initial Funding, Foundation understands and agrees that it shall not be entitled to any compensation or reimbursement from County pursuant to this Agreement, that it will look solely to revenues raised by Foundation to cover Foundation's expenses and County will not make nor be obligated to make any payments to Foundation for any services Foundation may render under or pursuant to this Agreement.

**4.8** Foundation agrees to make such reports as are required in paragraphs 4.8 through 4.10, inclusive. With respect to such reports, it is expressly understood that time is of the essence and that the failure of Foundation to comply with the time limits set forth in paragraphs 4.8 through 4.10, inclusive, may result in the termination of this Agreement by County in accordance with the termination provisions of Section 13.0 below. As used in this Agreement, "fiscal year" refers to Foundation's fiscal year and "fiscal quarter" refers to the Foundation's fiscal quarter.

**4.9** On or before the 28th day of the first month following the end of each fiscal quarter during the term of this Agreement, Foundation shall submit an interim quarterly financial report reflecting all income and expense activity for the preceding fiscal quarter. Such statement shall be in such form as to separately disclose, receipts, expenditures and changes for the preceding fiscal quarter.

**4.10** Foundation shall submit unaudited fiscal year-end financial statements to County no later than March 31, following the end of the fiscal year. Such statements shall contain at a minimum a balance sheet and a statement of receipts, expenditures and changes for the preceding fiscal year, including a breakdown of salaries or salary ranges for all paid full-time staff.

**4.11** Foundation shall submit an audited annual report of the prior fiscal year's operations to the County no later than April 30 following the end of the fiscal year. In addition, Foundation shall submit the public disclosure copy of the Foundation's IRS Form 990 of the most current year to the County within 30 days after filing with the IRS.

**4.12** Reports, audits, IRS forms and statements required by paragraphs 4.8 through 4.10, inclusive, shall be submitted to the County's Controller's Office, c/o Controller, City County Building, Room 425, 201 Martin Luther King Jr., Blvd, Madison, WI 53703 with a copy to the Zoo Director.

**4.13** Foundation shall arrange for an annual audit by an independent certified public accountant. The auditor shall publish an audit report which expresses an opinion on the financial statements contained therein and systems of internal control used by Foundation. All financial books and records shall be made available for review by County at any reasonable time, subject to applicable privacy laws and maintenance of confidentiality regarding contributions by donors who have requested that their gifts not be publicized and personnel matters.

**4.14** In the event this Agreement is terminated or expires, all Net Revenue then held by Foundation or thereafter received by Foundation for the benefit of the Zoo shall, within ninety (90) days after Foundation's receipt of written instructions from County, be distributed to the Madison Community Foundation or another tax-exempt organization selected by County and shall be used in accordance with any donor restrictions or for the exclusive benefit of the Zoo. For the purposes of this agreement, "Net Revenue" shall be defined as all money, whether received or receivable by Foundation as a result of the Capital Fundraising Activities, together with all revenues from any other donations, gifts, and bequests during the Term of the Agreement, less Foundation's operating expenses. Net Revenue does not include sales taxes collections. During the above-referenced ninety (90) day period, Foundation shall pay or otherwise fulfill its outstanding obligations, terminate its existing agreements with third parties, and otherwise wind up its affairs. The obligations of the Foundation under this paragraph shall survive the expiration or termination of this Agreement.

## 5.0 FUNDRAISING ACTIVITIES

**5.1** Foundation will seek to generate contributed revenue through Capital Fundraising Activities for County approved campaigns and as defined by the County's Zoo Plan. Foundation will only seek, solicit, or secure contributed gifts for County approved capital campaigns, including any associated campaign costs and for its annual operating expenses.

**5.2** Foundation agrees that any donors wishing to provide donations, gifts, grants, and bequests that are designated for uses or purposes that do not conform to County's approved capital campaigns or related needs shall be subject to an approval process set forth in the parties' mutually approved gift acceptance policy attached hereto as Exhibit B ("Gift Policy").

**5.3** Foundation will identify and nurture relationships with potential donors and other sources of support on behalf of the Zoo, solicit cash, in-kind donations and other support in accordance with the Gift Policy, and acknowledge and maintain custody (or arrange for appropriate custodianship) of such donations in accordance with donor intent and applicable fiduciary responsibilities.

**5.4** Any proposed donation to benefit the Zoo that includes restrictions or contingencies, including but not limited to donor recognition requests must be approved by the Zoo Director prior to acceptance.

**5.5** The parties agree that funds raised by Foundation must be used in a timely and effective manner, in accordance with donor intent and for the benefit of the Zoo.

**5.6** County will coordinate any of its own fundraising initiatives with Foundation, and will cooperate with Foundation to identify, cultivate, and steward potential donors, including individual, corporate, and institutional donors.

**5.7** Zoo on-ground donation boxes revenue will remain under County authority as it is not associated with any specific individual donor, and does not serve as an active tool in donor identification, cultivation, solicitation or stewardship. Notwithstanding the foregoing, the parties agree that Foundation, with the prior approval of County, may install additional on-ground donation boxes that provide visitors an opportunity to donate to a specific capital project. Revenue from these additional donation boxes shall be remitted to the Foundation and shall be considered to be revenue generated by the Foundation.

**5.8 Appeals.** Foundation shall notify and share the content of any fundraising appeal or other written solicitation with the Zoo Director at least thirty (30) days (or, if sooner, such time as the Zoo Director has approved such material) prior to disseminating the appeal or other written solicitation to the public. Zoo Director shall have the authority to correct any misstatements or other errors contained in the appeal or other written solicitation.

**5.9 Grants.** Foundation shall provide written notification to the Zoo Director of any grant opportunity Foundation wishes to pursue that will support the Zoo's mission. Prior to applying for any such grant, Foundation shall request timely written confirmation from the Zoo Director that the opportunity would be of benefit to the Zoo, and that the Zoo will cooperate in the Foundation's activities in connection with such grant. If Zoo Director declines to do so, Foundation shall not pursue the grant.

- 5.9.1 Foundation shall track and provide a status report of grants that were accepted or declined to the Zoo Director.
- 5.9.2 Foundation shall provide Zoo Director with a copy of awarded grant agreements which outline the terms and/or restrictions of the grant.
- 5.9.3 County shall be responsible for pursuing and managing all governmental grants.

**5.10 Special Events.** For purposes of this Agreement, "Zoo Events" shall mean an event where the primary purpose is generating awareness and revenue from ticket sales and in-Zoo purchases, and "Fundraising Events" shall mean events where the primary message to event attendees is around "supporting the Zoo through contributions/fundraising." Foundation is authorized to organize Fundraising Events, with the prior approval of Zoo Director. Determinations as to whether proposed events are in direct competition shall rest solely with the Zoo Director, who may deny approval on that basis.

## 6.0 CAPITAL PROJECTS

**6.1** Capital projects at the Zoo require the approval of County, and Foundation may not solicit funds for any such project without prior written approval from the Zoo Director.

**7.0 EDUCATION PROGRAMMING**

**7.1** County shall be responsible for the development, maintenance, operation and oversight of all educational programming available at the Zoo. Educational programming includes, but is not limited to Spring, Summer, and Winter camps, “sleepover” events, and school related field trips. Any program fees or similar revenue generated from such educational programming shall be directly received and managed by the County.

**7.2** Foundation shall cooperate and collaborate with County in promoting the educational programming at the Zoo. If Foundation utilizes any aspect of the educational programming as part of its Capital Fundraising Activities, it must comply with the conditions set forth in paragraphs 5.2 & 5.8. All marketing related materials and media must be preapproved by the Zoo Director or their designee.

**8.0 CONSERVATION PROGRAMMING**

**8.1** County shall be responsible for the development, maintenance, operation and oversight of all conservation programming at the Zoo. Conservation programming includes, but is not limited to speaker series, conservation days, and conservation talks by Zoo staff. County shall meet with Foundation during the fourth quarter of each year to discuss the Zoo’s plan to undertake conservation activities. The Zoo Director shall provide regular updates to Foundation on conservation projects.

**8.2** Foundation shall cooperate and collaborate with County in promoting the conservation programming at the Zoo. If Foundation utilizes any aspect of the conservation programming as part of its Fundraising Activities, it must comply with the conditions set forth in paragraphs 5.2 & 5.8. All marketing related materials and media must be preapproved by the Zoo Director or their designee.

**9.0 WELFARE STANDARDS**

**9.1** County shall operate the Zoo on four core principles: (1) animal welfare and conservation; (2) safety; (3) visitor engagement and (4) remaining a free zoo. Further, animal welfare is the underlying foundation on which the Zoo operates. The Zoo Director shall thoroughly assess and correct all reasonable concerns regarding the welfare of individual animals or groups, regardless of any other commitment set forth in this Agreement.

**9.2** The Zoo Director is responsible to ensure the highest standard of animal care and welfare for the animals at the Zoo. Foundation agrees that any decisions regarding the Zoo’s animals must be made by the Zoo Director, or other Zoo staff who are specifically trained to handle the animals.

**10.0 MARKETING, PUBLICITY AND COMMUNICATIONS**

**10.1** Any press releases, media advisories, media events or other publicity regarding the Zoo shall be subject to the prior written approval of the Zoo Director.

**10.2** Foundation shall work with County on the creation of any media created, including but not limited to logos, photographs, or copy, and seek the County’s written approval prior to use.

**10.3** Foundation publications, advertisements, merchandise, graphics, donor recognition materials, electronic media and other items with text or images referencing or depicting the Zoo are subject to the Zoo Director approval prior to publication, installation or distribution.

**10.4** Unless otherwise agreed to in writing, the intellectual property rights in that portion of any writings, works of authorship, technology, inventions, discoveries, ideas and other work product of any nature whatsoever created by the Foundation in support of the Capital Fundraising Activities and that contain or are derived from the Licensed Marks (as defined in the Trademark Agreement) shall be the property of County. Unless otherwise agreed to in writing, the intellectual property rights in that portion of any writings, works of authorship, technology, inventions, discoveries, ideas and other work product of any nature whatsoever created by the Foundation in support of the Capital Fundraising Activities that do not contain and are not derived from the Licensed Mark shall be the property of Foundation..

**11.0 INDEMNIFICATION AND INSURANCE**

**11.1** Foundation shall indemnify, hold harmless and defend County, its boards, commissions, agencies, officers, employees and representatives against any and all liability, loss (including, but not limited to, property damage, bodily injury and loss of life), damages, costs or expenses which County, its officers, employees, agencies, boards, commissions and representatives may sustain, incur or be required to pay, caused by or resulting from the acts or omissions of Foundation provided, however, that the provisions of this paragraph shall not apply to liabilities, losses, charges, costs, or expenses caused by or resulting from the acts or omissions of County, its agencies, boards, commissions, officers, employees or representatives. The obligations of Foundation under this paragraph shall survive the expiration or termination of this Agreement.

**11.2** Promptly after receipt by the County of any claim by a third party for which the County seeks to be indemnified by the Foundation, the County shall notify the Foundation of such claim in writing. Within fifteen (15) business days following receipt of such written notice, but no later than ten (10) days before the date on which any response to a complaint, summons or other legal pleading is due, the Foundation shall notify the County in writing, if the Indemnifying Party elects to assume control of the defense and settlement of the claim (a "Notice of Election"). If the Foundation timely delivers a Notice of Election relating to any claim within the required notice period, the Foundation shall be entitled to have sole control over the defense and settlement of such claim; provided that the County shall be entitled, at its own cost, to participate in the defense of such claim and to employ counsel to assist in the handling of such claim; and the Foundation shall obtain the prior written approval of the County before entering into any settlement of such claim or ceasing to defend against such claim, unless the proposed settlement releases the County from any and all liability with respect to such claim.

**11.3** In order to protect itself and County, its officers, boards, commissions, agencies, employees and representatives under the indemnity provisions of paragraph 11.1 above, Foundation shall obtain and at all times during the term of this Agreement keep in full force and effect comprehensive general liability and auto liability insurance policies issued by a company or companies authorized to do business in the State of Wisconsin and licensed by the Wisconsin Insurance Department, with liability coverage provided for therein in the amounts of at least $1,000,000.00 CSL (Combined Single Limits). Coverage afforded shall apply as primary. County shall be given ten (10) days advance notice of cancellation or nonrenewal. Upon execution of this Agreement, Foundation shall furnish County with a certificate of insurance listing County as an additional insured and, upon request, certified copies of the required insurance policies. If Foundation's insurance is underwritten on a Claims-Made basis, the Retroactive Date shall be prior to or coincide with the date of this agreement, the Certificate of Insurance shall state that coverage is Claims-Made and indicate the Retroactive Date, Foundation shall maintain coverage for the duration of this agreement and for two years following the completion of this agreement. Foundation shall furnish County, annually on the policy renewal date, a Certificate of Insurance as evidence of coverage. It is further agreed that Foundation shall furnish the County with a 30-day notice of aggregate erosion, in advance of the Retroactive Date, cancellation, or renewal. It is also agreed that on Claims-Made policies, either Foundation or County may invoke the tail option on behalf of the other party and that the Extended Reporting Period premium shall be paid by Foundation. In the event any action, suit or other proceeding is brought against County upon any matter herein indemnified against, County shall give reasonable notice thereof to Foundation and shall cooperate with Foundation's attorneys in the defense of the action, suit or other proceeding. Foundation shall furnish evidence of adequate Worker's Compensation Insurance.

**11.4** The parties do hereby expressly agree that County, acting at its sole option and through its Risk Manager, may waive any and all requirements contained in this Section 11.0, such waiver to be in writing only. Such waiver may include or be limited to a reduction in the amount of coverage required above. The extent of waiver shall be determined solely by County's Risk Manager taking into account the nature of the work and other factors relevant to County's exposure, if any, under this Agreement.

**12.0 DISCRIMINATION**

**12.1** During the term of this Agreement, Foundation agrees not to discriminate against any person on the basis of age, race, ethnicity, religion, color, gender, disability, marital status, sexual orientation, national origin, cultural differences, ancestry, physical appearance, arrest record or conviction record, military participation or membership in the national guard, state defense force or any other reserve component of the military forces of the United States, or political beliefs, whether a recipient of services (actual or potential) or an employee or applicant for employment. Such equal opportunity shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff, termination, training, rates of pay, and any other form of compensation or level of service(s). Foundation agrees to post in conspicuous places, available to all employees, service recipients and applicants for employment and services, notices setting forth the provisions of this paragraph. The listing of prohibited bases for discrimination shall not be construed to amend in any fashion state or federal law setting forth additional bases, and exceptions shall be permitted only to the extent allowable in state or federal law.

**12.2** Foundation is subject to this paragraph only if Foundation has 20 or more employees and receives $20,000 or more in annual contracts with County. Foundation shall file an Affirmative Action Plan with the Dane County Contract Compliance Officer in accord with chapter 19 of the Dane County Code of Ordinances. Such plan must be filed within fifteen (15) days of the effective date of this Agreement and failure to do so by said date shall constitute grounds for immediate termination of this Agreement by County. Foundation shall also, during the term of this Agreement, provide copies of all announcements of employment opportunities to Foundation's Contract Compliance office, and shall report annually the number of persons, by race, ethnicity, gender, and disability, status, who apply for employment and, similarly classified, the number hired and the number rejected.

**12.3** In all solicitations for employment placed on Foundation's behalf during the term of this Agreement, Foundation shall include a statement to the effect that Foundation is an “Equal Opportunity Employer.”

**12.4** Foundation agrees to furnish all information and reports required by Foundation's Contract Compliance Officer relating to affirmative action and nondiscrimination, which may include any books, records, or accounts deemed appropriate to determine compliance with Chapter 19 of the Dane County Code of Ordinances, and the provisions of this Agreement.

**13.0 TERMINATION**

**13.1** If, through any cause, either party fails to fulfill its obligations under this Agreement or either party violates any of its covenants under this Agreement (such party being hereinafter referred to as the “Defaulting Party,” the other party may, at its discretion, declare the Defaulting Party to be in default upon thirty (30) days prior written notice to the Defaulting Party. If the Defaulting Party fails to cure such breach within thirty (30) days, the other party thereupon shall have the right to terminate this Agreement by giving a written notice to the Defaulting Party of such termination and specifying the effective date thereof. Except as provided in Section 13.4, there shall be no other termination of this Agreement, during its Term, without the prior written consent of both parties.

**13.2** Upon termination of this Agreement, Foundation shall cooperate with County to transfer all intellectual property of County created pursuant to paragraph 10.4 that is not otherwise held by County. Further, County shall be entitled to provide for the distribution of the Net Revenue as provided in paragraph 4.13.

**13.3** Upon termination of this Agreement, Foundation shall surrender the Premises within thirty (30) days. During this period, Foundation shall remove all of its personal belongings, materials and other items purchased by the Foundation. Foundation shall be responsible for all repairs necessitated by the removal of such belongings and shall be responsible for any damages resulting therefrom as may be necessary to restore Premises to good condition and repair, excepting only reasonable wear and tear. County shall consider any belonging, material or item to be abandoned if it is not removed after the thirty (30) day period.

**13.4** County shall immediately terminate this Agreement as a result of Foundation's violation of any State, Federal or local law.

**13.5** In no event shall the acceptance of any performance under this Agreement constitute or be construed as a waiver by the accepting party of any breach of the covenants of this Agreement or a waiver of any default of the other party and the acceptance of any such performance while any such default or breach shall exist shall in no way impair or prejudice the right of the non-defaulting party with respect to recovery of damages or other remedy as a result of such breach or default.

**14.0 MISCELLANEOUS**

**14.1** Notwithstanding any language in this Agreement to the contrary, the parties agree that the County, through its Zoo Director has final authority regarding zoo animals, exhibits, paid and unpaid Zoo staff, volunteers, facilities, long-range plans, concession operations, special events, conservation activities, education programming, media, publicity, signage or mailings and any other matters related to or affecting the Zoo.

**14.2** Foundation shall commence, carry on and complete its obligations under this Agreement in accordance with this Agreement and all applicable laws. In conducting its obligations under this Agreement, Foundation agrees to cooperate with the various departments, agencies, employees and officers of County.

**14.3** Foundation agrees to secure at Foundation's own expense, all personnel Foundation deems necessary, including any consultants, to carry out Foundation's obligations under this Agreement. Personnel and consultant compensation will not exceed the fair market compensation in exchange for services rendered. Such personnel shall not be deemed to be employees of County nor shall they or any of them have or be deemed to have any direct contractual relationship with County. In the performance of this Agreement, both County and Foundation will be acting in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. Agents or employees of the one shall not be construed to be agents or employees of the other. County employees shall remain employees of County notwithstanding that they may assist Foundation from time to time.

**14.4** Notices and reports required by this Agreement shall be deemed delivered ten (10) days after the date of postmark if deposited in a United States mailbox, first class postage attached, addressed to a party's address as set forth above. It shall be the duty of a party changing its address to notify the other party in writing within a reasonable time.

**14.5** Foundation warrants that it has complied with all necessary requirements to do business in the State of Wisconsin, that the persons executing this Agreement on its behalf are authorized to do so, and, if a corporation, that the name and address of Foundation's registered agent is provided to County. Foundation shall notify County immediately, in writing, of any change in its registered agent, his or her address, and Foundation's legal status.

**14.6** It is expressly understood and agreed to by the parties hereto that in the event of any disagreement or controversy between the parties, Wisconsin law shall be controlling. Venue for any legal proceedings shall be in the Dane County Circuit Court.

**14.7** This Agreement is intended to be an agreement solely between the parties hereto and for their benefit only. No part of this Agreement shall be construed to add to, supplement, amend, abridge or repeal existing duties, rights, benefits or privileges of any third party or parties, including but not limited to employees of either of the parties.

**14.8** Neither party shall assign or transfer any interest or obligation in this Agreement, whether by assignment or novation, without the prior written consent of the other party.

**14.9** In the performance of its obligations under this Agreement, Foundation shall act at all times as an independent contractor and not as an employee of County. Nothing in this Agreement shall be construed to establish a partnership, joint venture, group, pool, syndicate or agency between the parties or to allow the County to exercise discretion or control over the professional manner in which Foundation conducts the Capital Fundraising Activities. No provision contained herein shall be construed as authorizing or empowering either party to assume or create any obligation or responsibility, whatsoever, express or implied on behalf or in the name of the other party.

**14.10** The entire agreement of the parties is contained herein and this Agreement supersedes any and all oral agreements and negotiations between the parties relating to the subject matter hereof. The parties expressly agree that this Agreement shall not be amended in any fashion except in writing, executed by both parties.

**14.11** The parties may evidence their agreement to the foregoing upon one or several counterparts of this instrument, which together shall constitute a single instrument.

**IN WITNESS WHEREOF,** County and Foundation, by their respective authorized agents, have caused this Agreement to be executed, effective as of the date by which all parties hereto have affixed their respective signatures, as indicated below.

**FOR FOUNDATION:**

Date Signed: 11/10/25 Sarah Justus
SARAH JUSTUS, President

**FOR COUNTY:**

Date Signed: __________ ______________________________
MELISSA AGARD, County Executive

Date Signed: ___________________ ______________________________
SCOTT MCDONELL, County Clerk

# Trademark License Agreement

This Trademark License Agreement ("**Agreement**"), effective as of [●], 2025 ("**Effective Date**"), is by and between Dane County, a municipal corporation in Wisconsin ("**Licensor**") and Henry Vilas Zoo Foundation, a Wisconsin non-stock corporation ("**Licensee**") (collectively, the "**Parties**," or each, individually, a "**Party**").

WHEREAS, Licensor is the owner of the Licensed Mark (as defined below);

WHEREAS, Licensee is an organization formed for the purpose of raising money for the benefit of the Henry Vilas Zoo, a free public zoo owned and operated by Licensor (the "**Zoo**");

WHEREAS, Licensee wishes to obtain, and Licensor is willing to grant to Licensee, a license to use the Licensed Mark in connection with the Licensed Use (as defined below) in the Territory (as defined below) on the terms and conditions set out in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. License.

(a) Grant. Subject to this Agreement's terms and conditions, Licensor hereby grants to Licensee during the Term (as defined below) a perpetual, non-exclusive, non-transferable, sublicensable license and right to use the trademark "Henry Vilas," which is subject to United States Trademark Registration No. 5953750 (the "**Licensed Mark**"), including but not limited to use in the form of Henry Vilas Zoo and use alone or as part of a logo or other design mark, solely in connection with the promotion, advertising, and fundraising efforts of Licensee to raise money for the benefit of the Zoo ("**Licensed Use**") in the United States of America and its territories and possessions ("**Territory**"). No license or rights are granted to Licensee by implication, estoppel, or otherwise, other than as expressly granted by Licensor under this Section.

(b) Sublicensing. Licensee may grant sublicenses under the license granted in Section 1(a) to (i) any wholly owned subsidiary of Licensee; and (ii) manufacturers, distributors, and other contractors solely for the purpose of providing services to Licensee or otherwise acting on Licensee's behalf. All sublicenses must: (A) be in writing and subject to and consistent with the applicable terms and conditions of this Agreement; (B) prohibit further sublicensing or assignment to a third party; and (C) terminate automatically effective as of the termination of this Agreement under Section 9(b) or, in the case of a wholly owned subsidiary, the date the sublicensee ceases to be a wholly owned subsidiary of Licensee. Licensee shall ensure that each sublicensee complies with the applicable terms and conditions of this Agreement. Any act or omission of a sublicensee that would be a material breach of this Agreement if performed by Licensee will be deemed to be a material breach by Licensee.

2. Quality Control. Licensee acknowledges the high standard of quality associated with the Licensed Mark and agrees that all uses of the Licensed Mark shall conform to that standard. Licensor has the right to request samples of all uses of the Licensed Mark by Licensee.

3. Ownership and Protection of the Licensed Mark.

(a) Acknowledgment. Licensee acknowledges and agrees that, as between the Parties, (i) Licensor owns and will retain all right, title, and interest in and to the Licensed Mark; and (ii) all use by Licensee of the Licensed Mark under this Agreement, and all goodwill accruing therefrom, will inure solely to the benefit of Licensor. Licensee shall not dispute or challenge, or assist any person or entity in disputing or challenging, Licensor's rights in and to the Licensed Mark or the Licensed Mark's validity.

(b) Registration and Maintenance. Licensor has the sole right, in its discretion and at its expense, to file, prosecute, and maintain all applications and registrations for the Licensed Mark. Licensee shall provide, at the request of Licensor and at Licensor's expense, all necessary assistance with such filing, maintenance, and prosecution.

(c) Enforcement. Licensee shall promptly notify Licensor in writing of any actual, suspected, or threatened infringement, dilution, or other conflicting use of the Licensed Mark by any third party of which it becomes aware. Licensor has the sole right, in its discretion, to bring any action or proceeding with respect to any such infringement, dilution, or other conflict and to control the conduct of, and retain any monetary recovery resulting from, any such action or proceeding (including any settlement). Licensee shall provide Licensor with all assistance that Licensor may reasonably request, at Licensor's expense, in connection with any such action or proceeding.

5. Mutual Representations. Each Party represents and warrants to the other Party that: (i) it is duly organized, validly existing, and in good standing under the laws of the state or jurisdiction of its organization; (ii) it has the full right, power, and authority to enter into and perform its obligations under this Agreement; (iii) the execution of this Agreement by its representative whose signature is set forth at the end hereof has been duly authorized by all necessary organizational action of such Party; and (iv) when executed and delivered by such Party, this Agreement will constitute the legal, valid, and binding obligation of that Party, enforceable against that Party in accordance with its terms.

6. Indemnification.

(a) Licensee shall indemnify, defend, and hold harmless Licensor and Licensor's affiliates, officers, directors, employees, agents, successors, and assigns (each, a "**Licensor Indemnified Party**") against all Losses arising out of or in connection with any Third-Party Claim relating to: (i) Licensee's breach of this Agreement; or (ii) the manufacture, promotion, advertising, distribution, or sale of any products or services in connection with the Licensed Use by Licensee or any sublicensee, any claim of infringement or other violation of any intellectual property rights, except to the extent any such Third-Party Claim relates to the use of any Licensed Mark by Licensee or any sublicensee in accordance with this Agreement..

(b) Indemnification Procedure. A Licensor ( "**Indemnified Party**") shall promptly notify Licensee ("**Indemnifying Party**") in writing of any Third-Party Claim for which it is entitled to indemnification under this Section. The Indemnifying Party shall control the investigation and defense of such Third-Party Claim and shall employ counsel reasonably acceptable to the Indemnified Party to handle and defend such Third-Party Claim, at the Indemnifying Party's expense. The Indemnified Party shall provide all assistance reasonably requested by the Indemnifying Party, at the Indemnifying Party's expense. The Indemnifying Party shall not settle any such Third-Party Claim in a manner that adversely affects the rights of the Indemnified Party without the Indemnified Party's prior written consent. The Indemnified Party may participate in and observe the proceedings with counsel of its choice at its own cost and expense.

7. Limitation of Liability. EXCEPT FOR A PARTY'S LIABILITY FOR INDEMNIFICATION UNDER SECTION 6 OR BREACH OF CONFIDENTIALITY UNDER **Error! Bookmark not defined.**4 OR A PARTY'S GROSSLY NEGLIGENT ACTS OR OMISSIONS OR WILLFUL MISCONDUCT, NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR ANY LOSS OF USE, REVENUE, OR PROFIT OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES RELATING TO THIS AGREEMENT OR USE OF THE LICENSED MARK HEREUNDER, WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE AND WHETHER SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

8. Termination.

(a) Term. This Agreement is effective as of the Effective Date and will continue in effect until terminated in accordance with Section 8(b) (the "**Term**").

(b) Termination.

(i) Either Party may terminate this Agreement on written notice to the other Party if the other Party materially breaches this Agreement and fails to cure such breach within thirty (30) days after receiving written notice of such breach from the non-breaching Party.

(ii) Licensor may terminate this Agreement if Licensee ceases to operate as a tax-exempt organization.

(iii) Licensee may terminate this Agreement at any time without cause, and without incurring any additional obligation, liability, or penalty, by providing at least thirty (30) days' prior written notice to Licensor.

(c) Effect of Termination. Upon the expiration or termination of this Agreement: (i) all rights and licenses granted under this Agreement will automatically and immediately terminate; and (ii) Licensee shall immediately cease all use of the Licensed Mark. Expiration or termination of this Agreement will not relieve the Parties of any obligations accruing before the effective date of expiration or termination. The parties' rights and obligations set forth in Section 3(a) (Acknowledgment), **Error! Bookmark not defined.**4 (Confidentiality), **Error! Bookmark not defined.**5 (Mutual Representations), Section 6 (Indemnification), Section 7 (Limitation of Liability), Section 8(c) (Effect of

Termination), and Section 10 (General Provisions), and any right, obligation, or required performance of the Parties under this Agreement that, by its express terms or nature and context is intended to survive termination or expiration of this Agreement, will survive any such termination or expiration.

(d) Limited License for Corporate Wind-Down or Name Change Purposes. If this Agreement is terminated pursuant to Sections 8(b)(i) or 8(b)(ii), Licensor grants Licensee a limited, non-exclusive, non-transferable license to use the Licensed Mark solely to (i) effectuate the orderly wind-down of Licensee's business, or (ii) complete a change of Licensee's corporate or trade name. This license shall terminate upon the completion of the dissolution of Licensee or upon the change of Licensee's name.

9. Assignment. Licensee may not assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations, under this Agreement, in each case whether voluntarily, involuntarily, by operation of law, or otherwise, without Licensor's prior written consent. No delegation or other transfer will relieve Licensee of any of its obligations or performance under this Agreement. Any purported assignment, delegation, or transfer in violation of this Section is void. This Agreement is binding upon and inures to the benefit of the Parties and their respective permitted successors and assigns.

10. General Provisions.

(a) Further Assurances. Each Party shall, and shall cause their respective affiliates to, upon the reasonable request, and at the sole cost and expense, of the other Party, promptly execute such documents and take such further actions as may be necessary to give full effect to the terms of this Agreement.

(b) Independent Contractors. The relationship between the Parties is that of independent contractors. Nothing contained in this Agreement creates any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the Parties, and neither Party has authority to contract for or bind the other Party in any manner whatsoever.

(c) Notices. All correspondence or notices required or permitted to be given under this Agreement must be in writing, in English, and addressed to the other Party at its address set out below (or to any other address that the receiving Party may designate from time to time). Each Party shall deliver all notices by personal delivery, nationally recognized overnight courier (with all fees prepaid), facsimile or email (with confirmation of transmission), or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a notice is effective only (i) upon receipt by the receiving Party and (ii) if the Party giving the notice has complied with the requirements of this Section. Such communications must be sent to the respective Parties at the following addresses (or at such other address for a Party as specified in a notice given in accordance with this Section):

If to Licensor: County of Dane
City County Building, Room 425,

210 Martin Luther King, Jr. Blvd.
Madison, WI 53703
Email: pabellon.carlos@danecounty.gov
Attention: Carlos Pabellón, Corporation Counsel

If to Licensee: Henry Vilas Zoo Foundation
702 South Randall Avenue,
Madison, Wisconsin 53715
Email: sarahjustus315@gmail.com
Attention: Sarah Justus, President

(d) Entire Agreement. This Agreement, including and together with any related exhibits and schedules, constitutes the sole and entire agreement of Licensor and Licensee with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, regarding such subject matter.

(e) No Third-Party Beneficiaries. Except for the right of Indemnified Parties to enforce their indemnification rights under Section 6, this Agreement solely benefits the Parties and their respective permitted successors and assigns, and nothing in this Agreement, express or implied, confers on any other person any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.

(f) Amendment; Waiver. No amendment to this Agreement will be effective unless it is in writing and signed by both Parties. No waiver by any Party of any of the provisions hereof will be effective unless explicitly set forth in writing and signed by the waiving Party. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this Agreement will operate or be construed as a waiver thereof; nor will any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

(g) Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

(h) Governing Law. This Agreement will be governed by, and construed in accordance with, the laws of the State of Wisconsin, without regard to any choice or conflict of laws provisions thereof.

(i) Counterparts. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the Effective Date by their respective officers thereunto duly authorized.

Dane County

By________________________________
Name: Melissa Agard
Title: Dane County Executive

Henry Vilas Zoo Foundation

By Sarah Justus
Name: Sarah Justus
Title: President



4898-5154-5420.5

# EXHIBIT B

## HENRY VILAS ZOO FOUNDATION

## GIFT ACCEPTANCE POLICY

### Introduction

The purpose of this gift acceptance policy is to give guidance and counsel to those individuals within the Henry Vilas Zoo Foundation (the "**Foundation**") concerned with the planning, promotion, solicitation, receipt, acceptance, management, reporting, use, and disposition of different types of gifts.

These policies must be viewed as flexible and realistic in order to accommodate unpredictable situations as well as donor expectations, as long as such situations and expectations are consistent with the Foundation's mission and policies. Flexibility must be maintained since some gift situations will be complex, and proper decisions can be made only after careful consideration of all related factors. These policies may, therefore, require that the merits of a particular gift be considered by the appropriate staff and/or committee of the Foundation's board of directors (the "**Board**") along with legal counsel and directors if necessary.

All fundraising activities and gift acceptance policies, and their day-to-day implementation, are designed and managed by the Foundation's chair in conjunction with the appropriate staff, and are subject to approval by the Board.

The Board, through the finance committee and the Foundation's chair, is responsible for the gift acceptance policy. This responsibility cannot be delegated or waived. These policies and authorizations shall be reviewed by the finance committee on an annual basis or as circumstances warrant.

### Policy Statements

**1. <u>Board Acceptance of Gifts</u>**

The Board shall exercise its fiduciary duties, as mandated by statute and the Foundation's organizational documents, in making final decisions for the acceptance of all gifts and grants and for any exception to its policies and guidelines and determining whether accepting a gift or grant aligns with the Foundation's mission and that of the Henry Vilas Zoo To determine whether any gift aligns with the mission of the Henry Vilas Zoo, the Board shall request a determination from the Zoo Director. Gifts and gift instruments may be received by the Foundation's chair but can be accepted officially only by the Board.

The Foundation shall accept only those gifts the transference and implementation of which shall be deemed consistent with the public laws and/or regulations of the United States of America and the State of Wisconsin.

**2. Gifts In Kind**

**A gift in kind may be a tangible item, good and/or service which would otherwise be purchased by the Henry Vilas Zoo. In kind donations to the Henry Vilas Zoo require formal acceptance by the Zoo Director.**

**3. Philanthropic Intent**

The Board shall determine that gifts to the Foundation are evidence of philanthropic intent and that the donor's philanthropy is in accord with the stated mission and goals of the Foundation and the Henry Vilas Zoo as set forth by the Zoo Director. The purpose is to prevent the Foundation from being an object of philanthropic intent for either designed or innocent avoidance of taxes, prejudiced purposes, or evaluation of gifts without generous, advanced, objective, experienced evaluation.

**4. Ethics**

The Board shall assure itself that all philanthropic promotions and solicitation are ethical by adopting policies that prohibit the Foundation personnel from benefiting personally by way of commissions or other devices related to gifts received.

**5. Review Legal Arrangements**

Legal counsel retained by the Foundation shall, as required, review legal documents, contracts, and all donor agreements. The Foundation shall seek the advice of legal counsel in all matters pertaining to its planned giving program. All agreements shall follow the formats of the specimen agreements to be approved by legal counsel unless counsel has agreed in writing to a change for a specific agreement.

The Foundation shall encourage donors to seek their own counsel in matters relating to their bequests, life income gifts, tax planning, and estate planning. All legally binding documents involving gifts over [$50,000] shall be prepared and/or reviewed by counsel retained by the donor, to avoid any conflict of interest or undue influence. Alternatively, a donor may sign a document prepared by the Foundation, releasing the Foundation from any liability and waiving any conflict.

**6. Professional Fees**

While the Foundation is happy to offer assistance to attorneys and other professional advisors by providing specific language to be used in charitable giving instruments, it cannot pay any attorney's or advisor's fees associated with this work.

**7. Unacceptable Gifts**

The Foundation reserves the right to refuse any gift that is not consistent with its mission, or the mission of the Henry Vilas Zoo as set forth by the Zoo Director. In addition to and without limiting the generality of, the following gifts will not be accepted by the Foundation:

1. Gifts that violate any federal, state, or local statute or ordinance

2. Gifts that contain unreasonable conditions (e.g., a lien or other encumbrance) or gifts of partial interest and property

3. Gifts that are financially unsound

4. Gifts that could expose the Foundation to liability

**8. Stewardship**

The Foundation will be responsible for good stewardship toward its donors by following these guidelines:

A. All gifts will be acknowledged within the required, or otherwise reasonable, period of time.

B. All gift acknowledgment letters/receipts will be prepared by the Foundation's chair or his or her designee.

C. Gifts to the Foundation shall be reported in a manner consistent with the standards recommended by the Association of Fundraising Professionals (AFP) or the National Council on Planned Giving (NCPG).

D. Files, records, and mailing lists regarding all donors and donor prospects are maintained and controlled by the Foundation. Maximum use will be made of information and contacts that members of the Board, various volunteer groups, or the staff have with potential donors. Written reports of interviews and solicitations will be maintained in the donor prospect file and/or computer.

E. This information is confidential and is strictly for the use of the Board and staff. Use of this information shall be restricted to organization purposes only. Donor has the right to review his or her donor fund file(s).

F. The Foundation will provide the donors of endowed scholarships with appropriate information about the recipients of scholarship assistance.

G. Should the gift be restricted, the Foundation will provide the donor with a narrative and financial report detailing the activities made possible by their support. This report will be submitted to the donor within 180 days of the completion of the underwritten activities.

H. Gifts to the Foundation and accompanying correspondence will be considered confidential information, with the exception of the publication of donor recognition societies. To the extent permitted by law, all donor requests for confidentiality will be honored.

I. Names of donors will not be provided by the Foundation to other organizations, nor will any lists be sold or given to other organizations.

## 9. Conflict of Interest

The Board will assure itself that the Foundation's personnel are circumspect in all dealings with donors in order to avoid even the appearance of any act of self dealing. The Board will consider a transaction in which the employee has a "material financial interest" with a donor an act of self-dealing. In reviewing self dealing transactions, the Board shall consider financial interest "material" to an employee if it is sufficient to create an appearance of a conflict. In each case, this will be a question of fact.

The Board will examine all acts of self-dealing including, but not limited to prohibition against personal benefit. Those individuals who normally engage in the solicitation of gifts on behalf of the Foundation shall not personally benefit by way of commission, contract fees, salary, or other benefits from any donor in the performance of their duties on behalf of the Foundation. (The definition of individuals includes each of the categories of employees of the Foundation. Individuals are further defined to include associations, partnerships, corporations, or other enterprises in which a member of the staff holds a principal ownership interest.)

## 10. Conformity to Federal and State Laws

The Board will assure itself that fundraising activities comply with local, state, and federal laws.

## 11. Gift Valuations

The Foundation shall follow accepted guidelines for the valuation of gifts such as stock, real estate, personal property, and life insurance that require specific methods of valuation for the protection of both the donor and the Foundation.

Gifts of art, furniture, books, stamps, coins, and other collections must have values assessed by properly accredited independent appraisers retained by potential donors for appropriate gift tax credit. The Foundation shall acknowledge receipt of such properties but must not verify values.

## 12. Required Reporting of Gifts to the Internal Revenue Service

Should the Foundation sell, exchange, or otherwise dispose of any gift (other than checks, cash, or publicly traded stocks or bonds), within two years after the date of the gift, the Foundation will furnish the Internal Revenue Service and the donor with a completed Form 8282.