

SECOND AMENDMENT TO LEASE AND MANAGEMENT AGREEMENT

THIS SECOND AMENDMENT TO LEASE AND MANAGEMENT AGREEMENT (this “Amendment”) is entered into this ____ day of _____, 2020 (the “Effective Date”), between MILWAUKEE PUBLIC MUSEUM, INC., a Wisconsin nonstock, nonprofit corporation (“Milwaukee Public Museum”), and MILWAUKEE COUNTY, WISCONSIN, a political subdivision of the State of Wisconsin (the “County”).

RECITALS

A. Pursuant to a Lease and Management Agreement dated as of August 15, 2013 by and between Milwaukee Public Museum and County (“Agreement”), Milwaukee Public Museum leases from the County the Building located at 800 W. Wells Street, Milwaukee, WI, 53233.

B. The Agreement contemplated a base level of funding of operations from the County to the Milwaukee Public Museum as long as certain minimum criteria were achieved. Due to the COVID-19 pandemic, the Milwaukee Public Museum has been closed to the public since March 22, 2020 and when it does open again, the expectations are that the attendance levels will be at only a fraction of normal attendance. Due to these unforeseen circumstances, the Milwaukee Public Museum will not have annual attendance in excess of 400,000 for its Fiscal Years ending August 31, 2020 and August 31, 2021.

C. In addition, due to the decreased attendance and possible decreases in donations due to the pandemic, the Milwaukee Public Museum may not have positive unrestricted operating earnings as defined by unrestricted operating income plus depreciation greater than zero for its Fiscal Years ending August 31, 2020 and August 31, 2021.

AGREEMENT

NOW, THEREFORE, for value received, the receipt and sufficiency of which is hereby acknowledged, and in consideration of the terms, covenants and conditions of this Amendment, Milwaukee Public Museum and the County agree as follows:

1. **Base Level Funding of Operations.** Section 5.3 of the Agreement is amended to read as follows:

“Section 5.3 Base Level Funding of Operations.

During the Initial Term of this Agreement, and subject to the following paragraphs in this Section, the County shall pay the Milwaukee Public Museum the following amounts as Base Level Funding for the management and operation of the Museum:

Milwaukee Public Museum Fiscal Year	Funding
2014	\$3,500,000
2015	\$3,500,000

2016	\$3,500,000
2017	\$3,500,000
2018	\$3,500,000
2019	\$3,500,000
2020	\$3,500,000
2021	\$3,200,000
2022	\$3,000,000

If the Milwaukee Public Museum has received at least \$5.0 Million in cash and donor commitments for capital spending related to the Site, Building, exhibits, or donor gifts and commitments for its Relocation Strategy (“\$5 Million Commitment”), then the Base Level Funding will increase to a total of \$3,500,000 each year from 2021 through 2022. Cash and Donor Commitments to Exhibits, in the \$5.0 million goal, is limited to \$1.0 million. “Relocation Strategy” as used herein means Milwaukee Public Museum’s efforts to develop a smaller more efficient building to make Milwaukee Public Museum more sustainable. Eligible Relocation Strategy expenses include, without limitation, consulting fees related to the feasibility of the Relocation Strategy, architectural study and design fees, and contributions related to any replacement facility. Milwaukee Public Museum will provide evidence of the \$5 Million Commitment by December 31, 2020.

The Base Level Funding is predicated on Milwaukee Public Museum meeting or exceeding certain contingencies and operating goals. The Milwaukee Public Museum's annual financial reports are based on a year end of August 31st which shall also be the date of determining compliance with the conditions. The external auditor for the Milwaukee Public Museum shall prepare a schedule showing each of these conditions, and the status as of the most recent year end date, and submit such report to the County. Any non-compliance will reduce the payment for the subsequent calendar year. In the event the Milwaukee Public Museum fails to meet or exceed any one of the following conditions, the County may reduce the Base Level Funding set forth above or in the preceding paragraph by \$250,000 for any subsequent year:

- a) Milwaukee Public Museum will obtain donor commitments for any remaining Milwaukee Public Museum bank debt, estimated to be approximately \$1,500,000, by December 15, 2015.
- b) Attendance of the Museum, its theater/planetarium and special exhibits, events and programs exceeds 400,000 during the preceding fiscal year, **except for Fiscal Years 2020 and 2021 where there will be no attendance requirements;**
- c) Milwaukee Public Museum generates positive unrestricted operating earnings as defined by unrestricted operating net income plus depreciation is greater than zero, **except for Fiscal Years 2020 and 2021 where there will be no requirements;**
- d) Total Milwaukee Public Museum Endowment net assets are a minimum of \$1,550,000 in unrestricted net assets.

- e) Milwaukee Public Museum's Total Net Assets continue to exceed the value as of fiscal year end 2013 audited results excluding gains associated with pension contribution and gift commitments for debt elimination.
- f) Any new debt, except for working capital, collateralized debt by donor pledges or personal assets, is approved by the County Executive or designee.

The base level funding in respect of each particular Milwaukee Public Museum calendar year shall be paid in equal quarterly installments due on or before the first day of each January, April, July and October. In the event any of these dates is on a non-banking day, such as a holiday or weekend, then the payment will be made on the first business day after the first of the month noted.

The Base Level Funding may be further reduced by the County for any obligations under this Agreement that the Milwaukee Public Museum fails to perform, including, but not limited to, any obligations under Article III.”

2. **Entire Agreement.** This Amendment contains the entire agreement between the parties with respect to the subject matter hereof, and any prior negotiations, correspondence, memoranda or agreements are superseded in total by the Agreement as amended by the Amendment.

3. **Counterparts.** This Amendment may be executed in counterpart, each of which shall be deemed to be an original, but all of which shall constitute one and the same document.

[SIGNATURES CONTAINED ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Milwaukee Public Museum, and the County have each caused this Agreement to be duly executed and delivered in Milwaukee, Wisconsin, as of the day, month, and year first written above.

MILWAUKEE PUBLIC MUSEUM

MILWAUKEE PUBLIC MUSEUM, INC.

By: _____
Name: _____
Title: _____

State of Wisconsin)
 : SS
Milwaukee County)

 This instrument was acknowledged before me on _____ by
_____ as _____ of
_____.

[Seal]

(_____)
Notary Public, State of Wisconsin
My commission _____

COUNTY:

MILWAUKEE COUNTY, WISCONSIN

By: _____

Name: David Crowley

Title: County Executive

State of Wisconsin)

: SS

Milwaukee County)

This instrument was acknowledged before me on _____ by
_____ as _____ of
_____.

[Seal]

(_____)

Notary Public, State of Wisconsin

My commission _____

Approved with regards to County Ordinance Chapter 42:

By: _____ Date: _____

Community Business Development Partners

Reviewed by:

By: _____ Date: _____

Risk Management

Approved for execution:

By: _____ Date: _____

Corporation Counsel

*Approved as to funds available per
Wisconsin Statutes Section 59.255(2)(e):*

By: _____ Date: _____

Comptroller

*Approved as compliant
under sec. 59.42(2)(b)5, Stats.:*

By: _____ Date: _____

Corporation Counsel