ITEM 2

**TERM SHEET**

**BETWEEN**

**MILWAUKEE COUNTY**

**AND**

**MILWAUKEE PUBLIC MUSEUM, INC.**

1. PURPOSE and BACKGROUND:

The purpose of this Term Sheet is to establish the parameters for a collaborative, working relationship between Milwaukee County (the “COUNTY”) and Milwaukee Public Museum, Inc. (“MPM”), collectively the Parties.

WHEREAS, the COUNTY and MPM seek to establish the parameters for a COUNTY investment in the development and construction of a new museum facility (“NewBuild”), known as (the “PROJECT”), with the understanding that the County will have no ownership stake in NewBuild; and

WHEREAS, the COUNTY and MPM seek to continue the relationship with one another in a manner similar to the existing Lease and Management Agreement dated August 15, 2013, as amended (the “LMA”), as it applies to the leasing and care of all of the artifacts, specimens, and other items and materials of historical or scientific value or significance owned or held by the County and used or intended to be used for exhibition, display, education, or research in connection with the activities and operations of the museum (the “Collections”); and

WHEREAS, the County and MPM will seek to end their existing Lease and Management Agreement as it relates to the Site, Building, Improvements and Personal Property, and MPM’s maintenance, upkeep, utilities, and any other associated matters, upon movement to the NewBuild; and

WHEREAS, the County and MPM desire to set forth their understanding of the future relationship between the two parties as it relates to the new museum facility and ownership structure, including board representation, public museum requirements under State Statute and any other matters necessary for the County to continue its public relationship.

In reference to Milwaukee County Board File No. 21-1086, COUNTY and Milwaukee Public Museum (“MPM”), its successors and assigns, have engaged in discussions regarding the potential relocation of the Milwaukee Public Museum from its current location, which is owned by the County, to a new facility, which will be owned by the museum. This new arrangement will result in the need for a new lease, funding and management agreement (“FMA”). The terms of the proposed FMA are as presented herein.

1. ORGANIZATIONAL DEFINITIONS:
2. Betty Brinn Children’s Museum (“BBCM”) – A nonprofit with the mission to inspire all children to wonder and explore their world through play and innovative, hands-on learning experiences.
3. Milwaukee Public Museum (“MPM”) – A Wisconsin Nonstock Corporation organized under Ch. 181, Wis. Stats., and recognized as exempt under 501(c)(3), with the mission to inspire curiosity, excite minds, and increase desire to preserve and protect our world's natural and cultural diversity through exhibitions, educational programs, collections, and research.
4. Wisconsin Museum of Nature and Culture (“WMNC”) – A Wisconsin Nonstock Corporation organized under Ch. 181, Wis. Stats., and recognized as exempt under 501(c)(3), WMNC is the legal entity that will operate the new Milwaukee Public Museum in the new facility (NewBuild).
5. Historic Haymarket Milwaukee, LLC (“HHM”) – A Wisconsin Nonstock Corporation organized under Ch. 181, Wis. Stats., and recognized as exempt under 501(c)(3) that will serve as developer and financier of the project. The mission of the entity will be as the financing and fundraising entity for NewBuild.
6. NewBuild – The approximately 220,000 square feet new building to be constructed to house WMNC and BBCM.
7. Museum – MPM and/or its successor, WMNC.
8. Collections – All items, which are owned by the County and leased to, managed and cared for by MPM, which may be displayed or used for research in the NewBuild, means at any point in time, the Collections, plus all additional artifacts of historical or scientific value or significance hereafter acquired or held by the County or the MPM to be used for exhibition, display, education, or research in connection with or as part of the activities and operations of MPM, or WMNC, less any of the foregoing which shall be sold, transferred or otherwise disposed of in accordance with the a new lease and funding and management agreement, and less any loaned artifacts.
9. Off-Site Storage – The site to house Collections that are not on display, on loan or being researched, which shall be separate building funded as part of the County contribution.
10. OVERVIEW OF THE PROJECT:
    1. Several years ago, MPM identified a need for a new building and has since been working diligently on moving the vision for NewBuild. MPM has begun preparing for a capital campaign, lobbying and new building construction.
    2. In 2020, HHM was founded as an LLC and currently operates as a Chapter 181 Wisconsin nonstock corporation recognized as being exempt under Section 501(c)(3) of the Internal Revenue Service Code. HHM currently has purchased parcels of land that will become the site of the NewBuild. Upon the completion of NewBuild, HHM will turn over ownership of the building to WMNC.
    3. WMNC will own and operate the museum and BBCM will be a tenant.
11. TIMELINE OF THE PROJECT:
12. A/E, Construction Management,
13. and Exhibit Designer Selection: January 2021
14. Conceptual Design Completion: March 2022
15. Construction Bid Date: December 2022
16. Construction Start: 2023
17. Substantial Completion: 2025
18. Final Completion: Spring 2026

**PROJECT TERMS**

1. FUNDING:

County shall appropriate and authorize for expenditure an aggregate of Forty-Five Million Dollars ($45,000,000) in bonds, subject to the contingencies as outlined below. The County’s appropriation shall be dedicated to bond eligible construction costs for the NewBuild and up to 100% of the build or improvement cost of the Off-Site Storage (as determined by the County Comptroller).

1. DESIGN:
   1. COUNTY shall have the right to approve functional design of the NewBuild. Such approval shall not be unreasonably withheld, conditioned, or delayed.
   2. County shall have the right to approve the functional design of the off-site storage location for the Collections. Such design shall ensure the safety and protection of the Collections that are to be leased to and managed by MPM for the County.
2. FUNDING CONTINGENCIES:

COUNTY’S maximum contribution of $45,000,000, which will be made through the issuance of bonds towards the construction of NewBuild and off-site storage, is subject to the following contingencies and conditions:

1. HHM must secure State of Wisconsin funding of at least Forty Million Dollars ($40,000,000) as approved as part of the State Legislature’s 2022 budget (“State Funding”).
2. HHM must secure sufficient project funding to substantially cover ninety percent (90%) of the capital costs, which are dedicated to the construction of the building, storage and exhibits. HHM must allow for the examination and reporting by an external auditor to the County of the donor contributions to verify both the donations received, committed, spent and available by fund raising subgoals: project, exhibits, endowment, moving and transition.
3. If it is determined that loans will be needed for cash flow purposes to build the project or the exhibits, HHM shall make available to the County such loan agreements, and any future amendments to such agreements.
4. Lease, Funding and Management agreement related to the Collections and the Off-Site Storage facility must be completed and approved by both parties.
5. A formal design of the NewBuild and Exhibits needs to be completed including cost estimates and shared with the County, with any required adjustments to donations as a result of the final design estimates.
6. MPM shall develop a contingency plan for potential project funding deficits related to under-realized donor revenue and/or project costs overruns. Such plan shall exclude additional County funding for NewBuild over and above the $45,000,000 cited within this Term Sheet. MPM shall submit the plan to the Department of Administrative Services—Economic Development Division, the Department of Strategy, Budget, and Performance and the Office of the Comptroller prior to the issuance of the County’s $45,000,000 in general obligation bonds. If the Office of the Comptroller does not deem the plan to be sufficient, then the Office of the Comptroller, in coordination with the Department of Administrative Services – Economic Development Division and the Department of Strategy, Budget and Performance, will communicate its concerns in writing to the MPM Board within thirty (30) days of the plan’s submittal. MPM shall have thirty (30) days thereafter to address the concerns and cure any deficiencies. Such deficiencies shall be corrected prior to the issuance of debt towards the contribution by COUNTY.
7. Community Benefit Goals. MPM will utilize best efforts to meet the community benefit goals of the COUNTY and shall execute a compliance plan. Design team is required to meet a minimum of twenty percent (20%) of expenditures with DBE/WBE/MBE firms. For workforce goals, forty percent (40%) of workers will qualify through Milwaukee’s Residential Preference Program, and fifty percent (50%) of workers are required to reside in Milwaukee County. MPM’s obligations shall be further detailed in the FMA.
8. Naming Opportunities. “Milwaukee” shall be featured within the naming designation for the facility. The Collections will be visibly referred to, through signage and otherwise, as the “Milwaukee County Collections” throughout the Museum and in museum materials. The design for the future facility incorporates “open” collection storage, which is visible to the public and provides significant opportunities for Milwaukee County to be named and recognized.
9. Working with all parties, COUNTY’s Bond Counsel must issue a formal opinion that COUNTY can issue the necessary debt to meet its contribution requirement.
10. CONTINUOUS OPERATION:

If for any reason, the facility that is constructed with funds from the COUNTY is not used as a museum of nature and culture in whole or in part, the MPM will reimburse the proportional remaining debt service on the County’s $45,000,000.

1. REPORTING:
   1. If an Audit, as outlined in Section 20 below, indicates that pledge receivables plus cash and investments will not be sufficient to meet the project cash flow schedule, HHM will be required to provide a reserve of available funds or line of credit that bridges the gap in receivables and cash flow before any additional funds are allocated.
   2. It is MPM’s responsibility to verify to COUNTY the validity of pledges and funds received by MPM for the project. MPM shall engage its external auditor to prepare an audit report of all pledge receivables, cash, and investments, net of any outstanding payables or other commitments for such funds, held by MPM for the project as of its fiscal year end (“Audit Report”). The Audit Report will be prepared based on the guidelines of the American Institute of CPAs for an “Auditors Report on a Specific Element” and to be delivered to COUNTY within six (6) months of the fiscal year close annually until the project is completed.
2. CLOSURE OF EXISTING FACILITY:

MPM shall cause the Collections and all personal property to be removed from the current location. The premises shall be surrendered in a mutually acceptable condition. Any personal property left shall be disposed of at the County’s discretion. Any of the Collections left behind shall be moved immediately to the new museum or offsite storage at MPM’s sole cost and expense.

MPM shall convey, or cause to be conveyed, to the County any and all interest in any portion of the existing museum facility, including but not limited to the former Discovery World, which is or was owned by the Museum of Science, Economics and Technology.

**FUNDING AND MANAGEMENT AGREEMENT TERMS**

1. PROPOSED FUNDING:
   * 1. Until termination of the LMA, COUNTY shall continue to make its payment of Base Level Funding of Operations to MPM, subject to existing terms and conditions. MPM shall continue to submit its budget request status quo based on the LMA.
     2. Upon termination of the LMA, the COUNTY shall cease any and all payments to MPM, prorated to the date of termination, including but not limited to Base Level Funding of Operations and Capital Expenditures. Under the FMA, the COUNTY shall contribute no more than One Million Dollars ($1,000,000) annually as its portion for costs associated with maintenance and storage of the Collections.
2. DURATION of FMA:

The initial term of the FMA shall begin on the date of the last signature of the Parties and be in effect until at least 20 years. Thereafter and every five (5) years hence, the COUNTY and MPM shall review and, if necessary, negotiate provisions of the FMA prior to renewal. Notwithstanding the foregoing, there may be terms and conditions of the FMA that survive expiration or termination.

1. SERVICES:

COUNTY and MPM seek to continue the relationship with one another in a manner similar to the existing Lease and Management Agreement dated August 15, 2013, as amended (the “LMA”). Accordingly, COUNTY entrusts the Collections to MPM, which undertakes the responsibility for managing the Collections and operating the museum.

MPM may acquire additional artifacts, specimens and other items of historical or scientific value or significance it deems necessary or desirable in connection with the operation of the Museum. All such items, regardless of how funded, shall be deemed to be part of the Collections and shall be subject to the terms of the FMA. MPM may alter, rehabilitate, restore and improve the Collections in such manner as it deems necessary or desirable in the best interest of the Museum.

1. SHARED RESPONSIBILITIES:
   1. Continue to work collaboratively under the LMA until such time as the LMA is terminated.
   2. Develop the FMA that sets forth the parameters for a new museum to be operated by WMNC in a manner consistent with this Term Sheet, in a facility that will not be owned by the COUNTY.
   3. Endeavor to identify cost saving measures as pertains to any storage needs of any of the Collections not on display, not being used for research, or loaned to other institutions.
   4. The Parties agree to conform to all applicable laws and regulations regarding confidentiality.
2. COLLECTIONS MANAGEMENT:
   1. MPM shall operate the Museum in a manner consistent with AAM accreditation standards to ensure the continued integrity of the Collections and accessibility to the public.
   2. NewBuild is not intended to contain sufficient storage to hold all of the Collections not being researched or displayed. MPM shall lease up to fifty thousand (50,000) square feet of offsite storage at a facility meeting museum storage criteria. MPM shall ensure that the appropriate criteria are met and that such environment is maintained at all times.
   3. WMNC and COUNTY will need to sign a new Management Agreement for the care of the Collections at a rate lower than the current Three Million Five Hundred Thousand Dollars ($3,500,000) per year. WMNC will need approximately One Million Dollars ($1,000,000) per year to care for the Collections.
   4. MPM shall secure an endowment of not less than Fifteen Million Dollars ($15,000,000) and maintain a three-year rolling average of not less than Fifteen Million Dollars ($15,000,000) for the entirety of the FMA. This provision may be modified in the event of acute market conditions. In the event that MPM shall become insolvent then such allocation from the endowment shall be used to store and secure the assets as COUNTY determines a suitable plan for future care of the Collections. The Parties agree to conform to all applicable laws and regulations regarding confidentiality.
3. MUSEUM TO BE OPERATED AS A PUBLIC MUSEUM:
   1. MPM will develop and implement a Communication and Community Engagement Plan designed to inform and welcome feedback from the community.
   2. The Museum shall be operated as a facility open to the general public, subject to such reasonable rules and regulations as the Milwaukee Public Museum may promulgate in its discretion from time to time regarding matters such as, but not limited to: admission fees; days and hours of operation; the safety of employees and the general public; the safety, protection and security of Collections; the anonymity of donors who desire anonymity; and, to the extent permitted by law, the confidentiality of employee records and business records.

MPM shall continue the following programs:

* + 1. MPM will provide free admission to Milwaukee County pre-registered public and private school group visitors any day of the week between September 1st and November 30th each year. This includes pre-registered students, teachers and chaperones.
    2. MPM will provide a discount of not less than Two Dollars ($2.00) for any non-member admission by Milwaukee County residents anytime with proof of residency.
    3. MPM will provide twelve (12) “Free Days” annually for Milwaukee County residents with proof of residency. The specific days will be determined each year by the museum and announced by January 1st.
  1. MPM shall utilize best practices to continue collaboration with employees, and their respective unions (as applicable), and shall make best efforts to pay a livable wage. Notwithstanding the foregoing, MPM shall have full and complete control and discretion in the management and operation of the Museum, including the setting (and/or determining through collective bargaining) all wages, terms and conditions for employment for its employees.

1. ACCESSION AND DEACCESSION OF COLLECTIONS:

MPM shall adopt and maintain a formal written policy regarding the accession and deaccession of Collections in compliance with Federal and State law. Upon its adoption and upon any amendment thereof, a copy of such policy or amended policy, as the case may be, shall be submitted to the County Board of Supervisors for approval, which shall not be unreasonably withheld.

MPM may implement its accession and deaccession policy with regard to particular Collections. The deaccessioning of any Collections item shall be in conformance with the museum’s collection policy as approved by the MPM Board of Directors and the County Board of Supervisors. Upon request of MPM, County shall execute and deliver such bills of sale or other instruments of transfer as MPM may reasonably deem necessary or desirable to evidence, perfect or give legal effect to any such sale, exchange or other disposition by MPM of deaccessioned Collections pursuant to this Section 17.

MPM shall maintain an inventory record of all Collections according to generally accepted museum inventory practices and shall make the inventory available to the County for inspection upon Request.

1. ACCOUNTING SYSTEM; FINANCIAL AND INSURANCE REPORTING; INSPECTIONS:

MPM shall employ a system of accounting in accordance with generally accepted accounting principles applicable to a corporation of its type and character. MPM shall close its fiscal year and shall make the following periodic filings with the County Clerk and the County Executive for retention in the County’s records:

1. Budget: In accord with the County’s schedule for its budget preparation – an operating budget for the next fiscal year;
2. Quarterly Financials: Within 60 days following the close of each fiscal quarter of MPM – unaudited statements of revenues, expense and cash flows of MPM for such quarter and a balance sheet at the end of such fiscal quarter, certified by the chief accounting officer to be true, correct and, subject to annual audit adjustments, in accordance with generally accepted accounting principles;
3. Annual Audit: Within 180 days following the close of each fiscal year of MPM – statements of revenues, expenses and cash flows of the MPM and its trust and endowment funds for such fiscal year and a balance sheet of MPM as of the close of such fiscal year prepared in accordance with generally accepted accounting principles, together with a report and opinion thereon made and given by independent certified public accountants in accordance with generally accepted auditing standards; and
4. Annual Insurance Summary: Within 120 days following the close of each fiscal year of MPM—a written summary of the insurance policies carried by the Museum, including the limits of coverage afforded thereby, the expiration dates thereof and the insurers thereon.

MPM shall permit the County and its duly authorized agents to inspect the Collections, both those stored onsite in the museum and those stored off-site and to examine the books and records of MPM at any reasonable time, upon at least twenty-four (24) hours prior written notice, for the purpose of determining compliance by MPM with the provisions of this Agreement. MPM shall also cooperate with the County Departments and the County Board staff in their monitoring and review of the financial progress of the museum.

1. REPORTING:
   1. Twice annually, MPM shall provide a report during a meeting of the COUNTY Finance Committee. The report shall include current status of the Museum’s financials and a general update on operations.
   2. Twice annually, MPM shall provide a report during a meeting of the COUNTY Parks Committee. The report shall include current status of the Collections and a general update on programs.
2. COUNTY RIGHTS OF ACCESS AND AUDIT:

MPM, its officers, directors, agents, partners and employees shall allow the County Audit Services Division and department contract administrators (collectively referred to as Designated Personnel) and any other party the Designated Personnel may name, with or without notice, to audit, examine and make copies of any and all records of MPM, or other party to the contract, related to the terms and performance of the FMA for a period of up to three years following the date of last payment, the end date of this FMA, or activity under the FMA, whichever is later. Any subcontractors or other parties performing work on the FMA will be bound by the same terms and responsibilities as MPM. All subcontracts or other agreements for work performed on the FMA will include written notice that the subcontractors or other parties understand and will comply with the terms and responsibilities. MPM, or other party to the contract, and any subcontractors understand and will abide by the requirements of Section 34.09 (Audit) and Section 34.095 (Investigations concerning fraud, waste, and abuse) of the Milwaukee County Code of General Ordinances.

1. MUTUAL INDEMNIFICATION:

The parties to the FMA agree to indemnify, defend and hold harmless the other Party and their elected officials, officers, employees and agents, against any and all liability, losses, charges, fines, costs or expenses (including reasonable attorney’s fees) to the extent such damages including suits at law or in equity are caused by or resulting from any intentional misconduct or negligent acts or omissions of the indemnifying party or any of the officers, employees, agents or representatives of the indemnifying party which may arise out of or are connected with the activities covered by the FMA. COUNTY’s liability shall be limited by Wis. Stat. § 345.05(3) for automobile liability and § 893.80(3) for general liability. Nothing in the FMA shall be construed to constitute a waiver of any otherwise applicable immunity, limited immunity or limitation on liability under Wisconsin law.

1. INSURANCE:

MPM shall purchase and maintain a public liability insurance policy to afford protection with limits, for each occurrence, of not less than Five Million Dollars ($5,000,000) with respect to personal injury and death and Five Hundred Thousand Dollars ($500,000) with respect to property damage. Milwaukee County will be named as additional insured.

1. INDEPENDENT CONTRACTOR:

Nothing contained in this Term Sheet shall constitute or be construed to create a partnership between the COUNTY and MPM. In executing this Term Sheet, and in acting in compliance herewith, the Parties are at all times acting and performing independently, duly authorized to perform the acts required of them hereunder.

1. CULTURAL AWARENESS:

MPM and its Board of Directors shall portray cultural groups in any exhibit in an accurate and respectful manner and shall follow, as a matter of policy, the federal Native American Graves Protection and Repatriation Act, and all other relevant federal acts concerning artifacts, whether MPM receives federal funds or not; these conditions shall survive the expiration or termination of the FMA.

1. CORPORATE GOVERNANCE:

Two (2) directors shall be appointed, one by each the County Executive and Chair of the Board of Supervisors.

1. MISCELLANEOUS:

It is understood and agreed that this Term Sheet and respective negotiations are not a binding agreement and that neither COUNTY nor MPM shall have any obligation or liability to the other, it being understood that only the subsequent FMA, and other ancillary documentation, which is executed by COUNTY and MPM shall be legally binding. The FMA must be approved by the Milwaukee County Board of Supervisors.