

## Term Sheet

### Urban Ecology Center – Washington Park Project

The purpose of this Term Sheet is to outline critical factors that will be included in an (1) Option to Purchase and (2) Lease Agreement for the Property, that is, the land on which the Boathouse is located and the New Building will be located, as identified in **Exhibit A** (“Property”) by Milwaukee County (“County” or “Landlord”) to the Urban Ecology Center (“UEC” or “Tenant”). The Term Sheet will be used to (a) produce the report, resolution and other information needed to report to the County Board for action; and (b) produce the final Option and Lease for execution by the parties, and consequently the final closing documents if the Option is executed.

#### Option to Purchase the Boathouse and Construction of New Building

1. **Option** - UEC will enter into an Option to Purchase Agreement for the Boathouse from Milwaukee County. The Boathouse will be transferred in fee simple to UEC, free and clear of all liens and encumbrances. UEC will hold fee title to the New Building as well. Milwaukee County will continue to own the Property subject to the Ground Lease.
2. **Purchase price** - It is important that the public receive fair value for transferring the Boathouse to the UEC. The County has an appraisal of fair value of the Boathouse, without consideration of ongoing operating costs or environmental liability. The primary liability of the site going forward is related to operational costs and capital replacement costs, consequently the Purchase Price shall be the appraised value of \$595,000 less the accumulated Operational and Capital Costs of the Boathouse and area within the Ground Lease that are currently the liability of the County. These expenses are currently estimated at \$1,836,000, after applying this credit the purchase price is \$1.
3. **Capital Improvements** – UEC intends to purchase the Boathouse from Milwaukee County in order to construct a New Building. Milwaukee County has been, and will continue to be, a key partner in the planning of the design of the New Building. In addition to the New Building, there will be capital improvements that are needed to Washington Park (the “Park”). The extent and type of capital improvements may change over the term of the Option to Purchase Agreement based on mutual agreement of the parties. For purposes of this Term Sheet, the term Capital Improvements shall mean :
  - a. The construction of a new parking lot to replace the existing parking lot on N. 40<sup>th</sup> St.
  - b. The construction of new access road and sidewalks that connect the New Building to the parking lot.
  - c. The construction of new site lighting that connects the New Building to the parking lot.
  - d. One-time repair of the pedestrian bridges.

The costs of the Capital Improvements will be fully covered by the Joint Campaign defined in Paragraph 6 below. The costs of a study of, and design for, a one-time repair of the lagoon will also be covered by the Joint Campaign.

4. **Option Structure** – UEC will be granted one twelve (12) month Option to Purchase with two 6-month extensions for conducting due diligence. Consistent with this time frame, the Parties will, if necessary, extend the term of the current Washington Park Lease to the date of closing of the purchase of the Boathouse and the effective date of the new Ground Lease (see Paragraph 12). UEC will be provided a right of entry permit to complete any due diligence. An Option fee of \$2,000 will be nonrefundable.

5. **Environmental Conditions of the Purchase** - The purchase will be “as-is” related to the physical condition of the Boathouse. UEC will provide full indemnification to County from UEC’s activities. In addition, UEC will indemnify County for: (a) remediation or investigation (“Corrective Action”) required as a result of any new releases that occur after closing, and (b) claims related to managing and properly disposing of any materials excavated during construction of the New Building. If UEC discovers any materials prior to closing that it is unwilling to assume this liability for, UEC’s sole remedy shall be to not exercise the Option. Final indemnification language in the Option must be approved by County’s Corporation Counsel.
6. **Joint Campaign** - UEC and the County, pursuant to a separate Memorandum of Understanding to be drafted and signed by UEC and the County, will work together to raise funds for the cost of construction of the New Building and the cost of construction of the Capital Improvements. This cooperative effort shall hereafter be referred to as the Joint Campaign.
7. **Repair to Boathouse and New Building** - Once UEC closes on the purchase of the Boathouse from Milwaukee County, UEC will assume responsibility for all repairs and maintenance for the Boathouse. UEC will be responsible for all repairs and maintenance for the New Building.
8. **Restrooms** - UEC agrees that the New Building will include restrooms accessible to the public and that those restrooms will remain open during the hours UEC is open to the public. UEC will provide for the routine cleaning of the restrooms.
9. **County Approval of New Owner** - The Ground Lease will provide that, if after the parties sign the Ground Lease, UEC decides to, or is forced to, sell the Boathouse or the New Building, Milwaukee County will have a right to approve the buyer of the New Building and the assignment of the Ground Lease to the new buyer. UEC may only sell the New Building and assign the Ground Lease to an entity that provides a similar recreational and/or educational mission and that otherwise does not violate the Deed Restriction or allowable uses under “PK” Parks zoning.
10. **Targeted Business Goals** - UEC will use reasonable efforts to cause its contractors performing services for the construction of the New Building to establish Targeted Business Enterprise (“TBE”) participation goals of twenty-five percent (25%) for construction and seventeen (17%) for professional services and to use good faith efforts to achieve these goals. The Milwaukee County Community Business Development Partners (“CBDP”) shall assist UEC in soliciting potential TBE vendors, and monitor such goal attainment.
11. **Construction** - Prior to commencing construction on the New Building, UEC shall have obtained or have readily available through a line of credit, financing, or fundraising commitments or otherwise an amount of not less than one hundred percent (100%) of the estimated cost of demolition of the existing Boathouse and construction of the New Building and Capital Improvements. All costs associated with the demolition, construction and operation of the new New Building, including hookup of utilities and any and all utility charges, are the responsibility of UEC and will be covered by the Joint Campaign.
  - a. Prior to the start of any demolition or construction activities, including any subsequent alterations, renovations or improvements to the Park requiring County approval, UEC shall submit all detailed demolition or construction plans and specifications, and any revisions thereto, to County and to the Architecture and Engineering Division of the Milwaukee County Department Of Administrative Services, together with the name of UEC’s proposed contractor(s), for review and approval, which approval shall not be unreasonably delayed or withheld. It is expressly understood that County or the Architecture and Engineering Division cannot and will not approve any revisions that, in their reasonable opinion, are not consistent with UEC’s purposes or not consistent with

the conceptual design, plans and specifications submitted by UEC. Through the Joint Campaign, UEC shall reimburse County for the cost of a Milwaukee County Project Manager during the construction phases of the project, including any subsequent construction, alterations or improvements, in an amount not to exceed seven thousand five hundred dollars (\$7,500.00) within thirty (30) days after receipt of an invoice therefor. It is understood by the Parties that the Capital Improvements to the Park may proceed in phases. The County, through its Parks Department, and UEC shall meet at least annually during the Term of the Ground Lease to review the UEC's use of the Property and to discuss new construction projects in the Park contemplated by either or both Parties.

- b. Conditions for approval shall include, but not be limited to provision that: (1) UEC shall obtain, prior to commencing any demolition, alterations, additions and improvements, all necessary permits and licenses from the appropriate governmental authorities; and (2) UEC shall commence demolition or construction of said improvements described in the approved plans and specifications as soon as reasonably practicable following County Parks' approval and shall have a period of thirty-six (36) months or other period of time mutually agreed upon by UEC and County Parks, thereafter to complete the New Building (subject to extension by reason of force majeure delay).
- c. UEC shall, at all times, obtain a Right-of-Entry ("ROE") Permit from County Parks before performing any ground disturbing activities in any part of the Park. UEC's application for an ROE shall be reviewed and approved by County Parks prior to commencing any ground disturbing activities. The ROE can be obtained at the Milwaukee County Dept. of Parks, Recreation and Culture, 9480 Watertown Plank Rd. Wauwatosa, WI 53226. County Parks' approval of the ROE shall not be unreasonably withheld or delayed.
- d. Milwaukee County will provide all applicable permits and waivers needed from the County for UEC to build the New Building, including those needed for utility services (for example electrical, telephone, internet and data, water, and gas), and will cooperate with UEC as required for on time and on budget completion of construction.

### **UEC Ground Lease**

12. **Lease Term and Renewal** - At the time UEC closes on the purchase of the Boathouse from Milwaukee County, UEC and Milwaukee County will enter into a new Ground Lease in which UEC will lease from Milwaukee County the Property. The exact size, location, and description of the Property will be agreed to by the parties. The Ground Lease will be for an initial term of 25 (twenty-five) years (the "Initial Term") commencing as of the Effective Date and expiring on \_\_\_\_\_[25 years later]. Provided that UEC (i) is not then in default under the Ground Lease, (ii) is maintaining and managing the New Building as herein required, and (iii) is actively operating the New Building for its intended purposes, UEC shall have the option to extend the Initial Term of the Ground Lease for 2 (two) additional 25 (twenty-five) year periods (the "Extension Terms" and, together with the Initial Term the "Term"). UEC shall exercise these options, if at all, by giving the County written notice of its desire to extend the Ground Lease not later than 180 (one hundred eighty) days prior to the expiration of the Initial Term or, if the first 25-year option is exercised, 180 (one hundred eighty) days prior to the expiration of the first 25-year extension. After receiving written notice(s) from UEC of its decision(s) to extend the Ground Lease, the County shall, prior to the time the 25-year extension(s) take effect, submit an

agendized report to the County Board's Parks, Energy, and Environment Committee setting forth UEC's good faith compliance with the terms of the Ground Lease.

13. **Rent** - It is important that the public receive fair value for leasing Property in Washington Park to the UEC. The County has ordered an appraisal of fair value rent of the Boathouse, which is \$11,500/year or \$287,500 during the Initial Term of the Ground Lease. The ongoing operating expenses of the County for the Property during the Initial Term of the Ground Lease are estimated at \$450,000, after applying this credit the annual lease rate for the Term is \$1. If UEC chooses to pay all \$25 in rent at the time the Ground Lease is signed, Milwaukee County will acknowledge that all consideration for the Ground Lease has been received at the time of execution and the Ground Lease will be recorded against the Property with a copy of the check for the full amount of lease payments attached as an exhibit.
14. **Use** - UEC will use the Property, and other areas UEC has access to in Washington Park, for activities related to its educational, environmental, recreational, scientific, research, community, and land stewardship programs.
15. **Restoration Plan** - UEC will have access to and will be primarily responsible for restoring and maintaining designated areas of Washington Park consistent with the Restoration Plan UEC prepared and then submitted to Milwaukee County in February 2015 for the County's approval. UEC will be permitted to modify the Restoration Plan, as appropriate, during the term of the Ground Lease. UEC will submit proposed modifications of the Restoration Plan to Milwaukee County and the County will review the modifications in a timely manner and, if reasonable, timely approve the modifications. The Restoration Plan and the UEC's obligations pursuant to that Plan will be incorporated into the Ground Lease; provided, however, that any defaults under such Plan will be subject to the cure provisions of Paragraph 22 below.
16. **Access to Park** - In addition to the access granted to UEC in Paragraph 15 UEC will have access to all areas of Washington Park to carry out and expand its educational, environmental, recreational, scientific, research, community, and land stewardship programs for its members and for the general public.
17. **Access to Areas Around New Building** - In addition to the access granted to UEC in Paragraphs 15 and 16, UEC will be permitted to use designated areas and picnic tables near the Boathouse and, when constructed, the New Building, for activities consistent with UEC's educational, environmental, recreational, scientific, research, community, and land stewardship programs, including, but not limited to, planting gardens, storing canoes, and maple sugaring.
18. **Periodic Review** - UEC may from time to time propose to Milwaukee County various improvements and changes to areas of Washington Park consistent with UEC's educational, environmental, recreational, scientific, research, community, and land stewardship programs. Milwaukee County will review and respond to UEC's proposals in a timely and reasonable manner.
19. **Maintenance and Repair of Improvements** - Milwaukee County will be responsible for repairing, maintaining, and plowing/shoveling the parking lots, access roads, sidewalks, and repairing and maintaining all lighting. Milwaukee County will also be responsible for repairing and maintaining the pedestrian bridges after, as set forth in Paragraph 3, the one-time repair of the pedestrian bridges. If the County fails to perform such repair and maintenance within an agreed upon timeframe, UEC may perform such repair and maintenance. Reimbursement of the reasonable costs of performing such repair and maintenance will only be provided by the County to the UEC with prior written consent of the County Parks. UEC and County Parks will meet at least annually to discuss the condition of the Capital Improvements and the Park and proposed repair and maintenance schedules for the Capital Improvements and the Park.

20. **Service Yard Relocation and Parking** - UEC will relocate its current use of the County service yard (parking of vehicles, nursery, storage, etc.) to a mutually agreeable location as part of the process of designing and building the New Building. UEC will be permitted to park vehicles overnight and store equipment in the service yard until this relocation is implemented. If in the future the County establishes parking fees for the parking lot constructed as part of the Capital Improvements, vehicles owned by UEC and vehicles used by UEC employees will be exempt from such parking fees.
21. **Maintenance Reserve Fund** - UEC shall establish and manage a Maintenance Reserve Fund ("Fund") for maintenance of the New Building, which shall total five hundred thousand dollars (\$500,000.00) which will be fully fundraised by the Joint Campaign. As additional consideration, UEC agrees to augment the Fund by depositing the interest accrued on any balance invested into the Fund, and hereby agrees that if the value of the Fund falls below \$50,000.00 at any time, UEC shall add to the Fund enough assets to maintain a minimum balance of \$50,000.00. Failure to maintain a balance of \$50,000.00 shall be grounds for termination of this Agreement by County, provided UEC fails to cure any such shortage within one hundred and eighty (180) days of receipt of notice from County that the shortage has occurred. The Fund is to be used as follows:
- a. Maintenance, repair and replacement to assure upkeep of the New Building and the improvements to be constructed on the New Building
  - b. Additional improvements or non-routine maintenance to the New Building.
  - c. Management of the Fund shall include the establishment of an interest-bearing account(s), changing investment strategies, monitoring account activity, and providing joint written approval from UEC and the County only in the event the balance in the Fund falls below \$100,000. Such approval shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, UEC shall have the right to make withdrawals from the Fund without County's approval, but upon notice to County, for up to \$10,000 for any item described in sections (a) and (b) above, provided that the Fund does not fall below \$50,000 as a result thereof and the aggregate amount so withdrawn from the Fund without County approval in any twelve (12) month period does not exceed \$25,000. UEC shall provide County with annual reports relating to UEC in general, including an annual report prepared by independent auditors. UEC shall also provide County with an annual report regarding Fund activities, including funds received, monies spent, and any long-term obligations. To clarify, the provisions in this section (c) apply only in the event the balance in the Fund falls below \$100,000.
22. **Termination** - The Ground Lease may be terminated only for cause. Either party may terminate for cause upon 30 days' written notice. However, prior to termination for cause, either party will be afforded 90 days in which to cure the alleged breach after having been notified of such breach; provided, however, that if the breaching party is diligently pursuing a cure, the breaching party will have such additional time as is reasonably necessary to effect a cure.
23. **Ownership of Improvements** - Upon expiration of the Ground Lease for any reason, the County also reserves the right to require the Tenant to remove the renovations, improvements, or alterations on or to the Park, including the New Building, at no cost to the County. If the County exercises this right UEC shall be allowed twenty-four (24) months to seek a new tenant for the New Building subject to the County's approval consistent with Paragraph 9 of this Term Sheet. UEC will be responsible for the maintenance of the New Building during this twenty-four month period. If after the expiration of the 24 months UEC does not secure a new tenant for the New Building, UEC shall thereafter restore the area to a safe condition and stabilize any unvegetated land with planting approved by the County. In the event UEC fails to remove the improvements

from the Park or restore the area to a condition satisfactory to the County within ninety (90) days, the County may cause its removal and charge UEC the reasonable expense thereof.

24. **Casualty** - The Ground Lease will allow UEC to rebuild after any event of casualty or condemnation, with all insurance proceeds on the buildings being paid to UEC for reconstruction. The Ground Lease will also contain such terms as may be reasonably requested by any mortgagee of UEC.
25. **Mortgage** - UEC will have the right to grant a mortgage encumbering UEC's leasehold interest in the Property and the New Building. Milwaukee County will execute any rider or joinder to any leasehold mortgage required by UEC's mortgagee, which rider or joinder may provide (i) additional rights of notice to mortgagee, (ii) the right to cure tenant defaults and extended periods in which to do so, (iii), consent to assignment of the Ground Lease to mortgagee or a successor in the event of a foreclosure of the mortgage, (iv) such other terms as may be reasonably required by UEC's mortgagee.
26. **Assignment** - The Ground Lease will not be assignable by either UEC or Milwaukee County in whole or in part without the written consent of the other party; provided, however, that such consent will not be unreasonably withheld. Provided that the assignment shall only be to an entity performing a similar recreational and/or educational mission to UEC and that any use of the New Building and leased area will be consistent with "PK" Parks zoning.
27. **Hours of Operation** - UEC will be permitted to continue and expand its facility rental program both for the Boathouse and for the New Building once constructed. The Parties acknowledge and understand that pursuant to Section 47.27 of the Milwaukee County Code of General Ordinances, the County has the authority to adjust the hours of operation of County parks, including Washington Park, in the County's reasonable discretion, and nothing in this Agreement is intended to limit or abrogate such authority. Persons renting the Boathouse or New Building will be permitted to be in those facilities and adjoining areas of Washington Park (for example, going to and from parking lots) until midnight. In addition, UEC staff and contractors (for example, cleaning services) will be permitted to be in the Boathouse and New Building and adjoining areas in Washington Park at all times.
28. **Public Use** - UEC and County recognize that public use of the Park and New Building is mutually desirable. UEC shall include in its programming access to all sectors of the Milwaukee County community. UEC uses and public uses in the Park shall at all times be subject to the requirements and restrictions in Milwaukee County General Ordinances Sections 47.02 and 47.16, and to all other rules, regulations, policies, and procedures applicable to properties and space owned by the County, not covered by this Term Sheet and open for general use by the public; provided, however, that UEC is permitted to hold events listed in Section 47.02 without obtaining a written permit or paying a fee as long as such events are related to UEC's use of the Property as set forth in Paragraph 14. Likewise, UEC is permitted to sell, keep and offer for sale all things listed in Section 47.04 without obtaining a permit or paying a fee as long as such activities are related to UEC's use of the Property as set forth in Paragraph 14 above. County further represents it will use its best effort to promptly respond and enforce reported violations of the above-referenced ordinances, policies, procedures, rules and regulations. UEC will continue to be permitted to use the band shell in Washington Park two times per calendar year without cost upon reasonable notice to County Parks.
29. **Non-discrimination** - UEC will certify that it will not discriminate against any employee or applicant for employment because of race, color, sexual orientation, national origin, age, sex, or handicap which includes, but is not limited to, the following: employment, upgrading, demotion

or transfer, recruitment, or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship.

30. **Signage** - UEC will continue to have the right to place external signage on the Boathouse and, once the New Building is constructed, UEC will have the right to place external signage on the New Building. In addition, UEC will have the right to place a large identifying sign(s) for the main access point(s) to the New Building at the street entrance(s). UEC will work with County Parks regarding the design of the large identifying sign(s) and potential wayfinding signs in the park. UEC shall not allow or issue naming rights to any portion of the Boathouse or New Building without County Parks' written consent. If approval is granted, no agreements entered into by UEC with any third party relating to naming rights shall extend beyond the term of the new Ground Lease. Temporary banners and signs that mark trails, promote programs, identify potential hazards, or provide facts regarding the plants, trees or wildlife in the Park will not be subject to prior approval.

**Nonbinding.**

This Term Sheet does not constitute a binding contract, and the parties do not intend to be legally bound unless and until a definitive Option to Purchase, Ground Lease and related documents have been executed by both parties. If approved by the County Board, final documents will be prepared. The Parties reserve the right to propose additional terms as negotiations progress.