

## **THREE BRIDGES PARK - PROGRAMMING AGREEMENT**

## **TABLE OF CONTENTS**

	<b><u>Page</u></b>
1. RECITALS .....	
2. Park Advisory Representatives Committee.....	
A. Park Advisory Representatives Committee.....	
B. Committee Purpose .....	
C. Chairperson .....	
D. Secretary .....	
E. No Compensation .....	
F. Annual Year-End Meeting; Annual Report .....	
G. Special Meetings .....	
H. Notice of Meetings .....	
I. Open Meetings, Open Records.....	
J. Voting, Quorum; Telephonic Participations .....	
K. Particular Representative.....	
3. UEC Full-Time Land Steward .....	
4. Endowment.....	
5. Acceptance of Chart Duties.....	
6. UEC Community Garden .....	
7. Donor Wall and Plaques .....	
8. Programming; License.....	
A. Subject to Matters of Record.....	
B. Not a Conveyance of Real Estate Interest .....	
C. License .....	
D. Stewardship Pavilion.....	
E. RACM Retained Rights.....	
F. Compliance with Law .....	
G. Special Events Permit.....	
9. SWA Precautions.....	

10.	Non-Exclusive .....	
11.	Sole-Risk .....	
12.	Insurance.....	
13.	Recreational Immunity .....	
14.	Improvements; Alterations .....	
15.	RACM Termination Right.....	
16.	RACM Rules and Regulations .....	
17.	RAP or CAP .....	
18.	Notices .....	
19.	Amendment .....	
20.	Counterparts .....	
21.	Assignment .....	

## EXHIBITS

- UEC Inlet, Sheet 84
- City DPW Inlet, Sheet 85
- City DPW Inlet, Sheet 86

### **THREE BRIDGES PARK - PROGRAMMING AGREEMENT**

THIS PARK PROGRAMMING AGREEMENT (the “**Agreement**”) is made and dated as of \_\_\_\_\_, **2015**, is for good and valuable consideration, receipt and sufficiency of which are acknowledged, and is by and among the REDEVELOPMENT AUTHORITY OF THE CITY OF MILWAUKEE (“**RACM**”), the CITY OF MILWAUKEE (“**City**”), the STATE OF WISCONSIN, by its DEPARTMENT OF NATURAL RESOURCES (“**DNR**”), UEC/MVP PROJECT, INC. (“**UEC/MVP**”), MENOMONEE VALLEY PARTNERS, INC. (“**MVP**”), and the URBAN ECOLOGY CENTER, INC. (“**UEC**”).

#### **RECITALS**

A. RACM, the City, DNR and the State of Wisconsin Department of Transportation (“**DOT**”) are parties to that certain AIRLINE YARDS, MASTER AGREEMENT (the “**Master Agreement**”), dated as of February 8, 2012. Capitalized terms not defined herein have the meanings ascribed to them in the Master Agreement.

B. RACM owns the land that, in the Master Agreement, is called “**Airline Yards**.” In this Agreement, Airline Yards is called “**Three Bridges Park**” because, after the date of the Master Agreement, City, RACM, DNR, UEC/MVP, UEC and MVP entered into a July 12, 2013 “**Park Naming Agreement**” (Master Agreement ¶ 16, Common Council Resolution File No. 130129, RACM Resolution File No. 10434), agreeing to the name “**Three Bridges Park**” for Airline Yards and the park thereat.

C. Also after the date of the Master Agreement, Certified Survey Map 8541 (“**CSM 8541**”) was approved by City Common Council Resolution File No. 130236 (passed June 11, 2013), and CSM 8541 was recorded with the Milwaukee County Register of Deeds on July 30, 2013 as Document No. 10276514. Due to CSM 8541, certain addresses and tax key numbers changed.

D. Three Bridges Park is Lot 3 of CSM 8541, with an address of 400 South Layton Blvd. (T.I.N. 424-0333-000), which is depicted on **EXHIBIT J** attached hereto. (Page 1 of **EXHIBIT J** is from the Master Agreement, Page 2 of **EXHIBIT J** is from CSM 8541 data about Lot 3). Three Bridges Park was zoned to Parks classification by Council File 121771, passed June 11, 2013, creating MCO 295-901.0005.

E. Under the Master Agreement, a **Project** was constructed that includes: the **33<sup>rd</sup> Court Bridge** over the Menomonee River (DOT State Project No. 1693-38-71, Structure B-40-761); **Three Bridges Park** and pedestrian and bicycle trails, that are part of the State of Wisconsin Hank Aaron State Trail (“**HAST**”) (DOT State Project No. 2984-43-70); and the **Rail Bridge** over the

CP-owned Rail Corridor, which Rail Bridge connects Mitchell Park and Three Bridges Park (DOT State Project No. 2984-43-71, Structure B-40-762). The HAST trails that are part of the Project: (i) are part of the HAST-trail system, including the HAST segments referred to in, and contemplated by, that certain Valley Passage Easement, recorded in the Milwaukee County Register of Deeds Office on March 16, 2010, as Document No. 09854735, as amended, and (ii) to the south, connect to pedestrian trails owned by Milwaukee County (the “County”) in Mitchell Park.

F. The following is a direct quote from Master Agreement ¶15:

**“15. UEC and MVP.**

A. *RACM and DNR will cooperate regarding establishment of a separate agreement or agreements with Urban Ecology Center (“UEC”) concerning programming and activities at Airline Yards – including UEC’s community garden program and educational programs, and UEC maintenance and stewardship activities – and what DNR’s role will be concerning UEC. UEC will soon be constructing a building addition, and establishing a presence at, **Lot 1 of CSM 8371** (recorded with the Register of Deeds on August 2, 2011, as Document No. 10019260) (see **Amendment to Valley Passage Easement – UEC**, recorded with the Register of Deeds on November 28, 2011, as Document No. 10057698). Any UEC programming or activities must be in compliance with, to the extent applicable, applicable federal, state, and local law and regulations, be an activity allowed under Wisconsin’s recreational immunity statute, Wis. Stat. §895.52, and, with the exception of the gardening, be on a non-exclusive basis – the intent being that members of the public be able to use and enjoy the park and HAST, without UEC interference. RACM may, by notice to DNR and UEC, terminate any UEC programming or activities that interfere with public use and enjoyment, or that are illegal, or that jeopardize human health, safety or welfare, and RACM may impose reasonable rules and regulations. No gardening activity may take place in any area deemed by the DNR to be hazardous to health. No UEC activity may interfere with the RAP or cap. Any agreement with UEC regarding UEC presence or activity at Airline Yards is subject to RACM’s prior written approval.*

B. *RACM and DNR will cooperate regarding establishment of a separate agreement or agreements with the Menomonee Valley Partners (“MVP”) concerning MVP activities at Airline Yards – including MVP stewardship, landscaping, planting, maintenance and programming activities. Any MVP activity must be in compliance with, to the extent applicable, applicable federal, state, and local law and regulations, be an activity allowed under Wisconsin’s recreational immunity statute, Wis. Stat. §895.52, and, be*

*conducted on Airline Yards on a non-exclusive basis – the intent being that members of the public be able to use and enjoy the park and HAST at Airline Yards, without MVP interference. RACM may, by notice to DNR and MVP, terminate MVP activities that interfere with public use and enjoyment, or that are illegal, or that jeopardize human health, safety or welfare, and RACM may impose reasonable rules and regulations. No MVP activity may interfere with the RAP or cap. Any agreement with MVP regarding MVP presence or activity at Airline Yards is subject to RACM’s prior written approval. RACM understands that MVP and DNR plan on MVP raising funds for stewardship of Airline Yards and the HAST.*

*C. Neither UEC nor MVP may construct improvements upon, or alter, Airline Yards without RACM’s prior written approval. The parties hereto understand that UEC and MVP ability to provide resources toward Airline Yards after construction of the Project by DOT is subject to their fundraising success.”*

G. Master Agreement ¶2, entitled “Chart Duties,” referred to the Chart attached to the Master Agreement as EXHIBIT B, outlining respective duties of the parties (the “**Chart**”). The first two columns below are directly quoted from Master Agreement EXHIBIT B, and the third column below incorporates updates to reflect status and agreement as of the date hereof.

<b>MATTER/ITEM</b>	<b><u>RESPONSIBLE PARTY</u></b>	<b><u>CURRENT STATUS</u></b>
<b>Main Trail/Path</b> (HAST) – primary run length (no secondary paths or trails) – asphalt paved, aggregate shoulder and bump outs. Per Benesch, the grades along HAST will not require use of railings.	<b>DNR</b> will maintain the surface and six inches below grade, including perforated drain pipe under trail.	Construction complete in 2013 by virtue of DOT construction project.
<b>Secondary Paths/Side Trails</b> Layout confirmed, includes two trail loops. Materials to be crushed gravel or granite.	<b>DNR</b> will do maintenance including trash pick-up, surface raking, periodic weeding of gravel, etc. as needed. DNR’s maintenance responsibility is limited to the natural surface of these secondary paths and side trails. No mountain biking will be permitted off the main and secondary paths and trails.	Construction complete in 2013 by virtue of DOT construction project.  Subject to DNR fund availability, DNR to provide and install additional gravel as needed for secondary paths/side trails.

<b>MATTER/ITEM</b>	<b><u>RESPONSIBLE PARTY</u></b>	<b><u>CURRENT STATUS</u></b>
<p><b>River Cuts</b></p> <p>Project Plan includes two river cuts, which include measures to stabilize the banks and prevent erosion. Design reflects COIR block lifts with a stone rip rap toe of slope stabilization.</p>	<p><b>DNR</b> to perform day-to-day light maintenance (trash and weed eating) as needed.</p>	<p>Construction of structures and installation of initial vegetation by virtue of DOT construction project complete in 2013.</p> <p>DOT contractor retains vegetation maintenance responsibilities for at least two and up to four growing seasons (referred to as “a plant <b>Establishment Period</b>” in construction documents). As of the date hereof, the Establishment Period will last through fall 2015. DOT may authorize an extension of the Establishment Period though fall 2017.</p>
<p><b>Community Gardens</b></p> <p>Beds will be established during landscape restoration phases. The design addresses ADA accessibility.</p>	<p><b>UEC (Urban Ecology Center).</b> Subject to acceptable agreement being approved and signed under ¶15 Master Agreement, UEC will operate and manage the gardens, modeled after their program at Riverside Park (where a small fee is charged to those who rent garden boxes / plots, with UEC performing basic upkeep to maintain garden boxes and providing water for gardeners.)</p> <p>Terraces on which they’re located are part of initial construction.</p>	<p>Community gardens are not yet fully constructed as of the date hereof. Construction by MVP of a portion of the gardens is underway.</p> <p>Construction is being paid for with funds raised by UEC/MVP.</p> <p>Provision of water is still being discussed.</p> <p>See ¶ 6 below.</p>

<b>MATTER/ITEM</b>	<b><u>RESPONSIBLE PARTY</u></b>	<b><u>CURRENT STATUS</u></b>
	Construction of <b>gardening boxes</b> – will occur after the DOT construction of Project. Subject to acceptable agreement being approved and signed under ¶15 Master Agreement, MVP will lead construction of community garden area as a landscape enhancement effort, with UEC overseeing effort.	
<b>Rain Garden/Bio-retention swale and water conveyances</b>	<p><b>Vegetation</b> – DNR will assist with funds provided by MVP to pay for DNR labor.</p> <p><b><u>Structures</u></b> – Subject to ¶23 of Master Agreement, City to be responsible for <b>infrastructure</b> associated with bio-retention swale....but only if City can access the drainage structures and City responsibility does <b>not</b> extend to plantings, landscaping, or mowing. See ¶23 Master Agreement.</p> <p><b><u>Inspection, Clean-out</u></b> - See Master Agreement ¶23.</p> <p>Subject to acceptable agreement being approved and signed under ¶15 Master Agreement - DNR will work with UEC, which has expressed a willingness to have staff assist with inspection and clean-out of stormwater structures.</p>	<p>Construction of structures and installation of initial vegetation by virtue of DOT construction project complete in 2013.</p> <p><b><u>Vegetation.</u></b> DOT contractor retains vegetation maintenance responsibilities for at least two and up to four growing seasons (referred to as “a plant <b>Establishment Period</b>” in construction documents). As of the date hereof, the Establishment Period will last through fall 2015. DOT may authorize an extension of the Establishment Period though fall 2017.</p> <p><b><u>Vegetation.</u></b> UEC/MVP will assist with funding for vegetation (including planting, maintenance, care and replacement), subject to availability of UEC/MVP funding (including Endowment funds).</p>



<b>MATTER/ITEM</b>	<b><u>RESPONSIBLE PARTY</u></b>	<b><u>CURRENT STATUS</u></b>
		<p><b><u>Inspection, Clean-Out.</u></b> For inspection, clean-out obligations, per Master Agreement ¶23, (i) UEC shall periodically (as needed) inspect and clean drainage-structure grates and inlets 1, 2, 3, and 4 shown on Sheet 84 <b>attached</b>, and keep same free of obstruction and debris (City is not able to access same with currently available City vehicles); and (ii) City shall periodically (as needed) inspect and clean drainage-structure grates and inlets shown on Sheets 85 and 86 <b>attached</b>, and keep same free of obstruction and debris.</p> <p>UEC and DNR shall provide to the Committee at least 15 days prior to each Annual Committee Meeting a report about this to be included in the Annual Report.</p>
<p><b>River Access Path (West)</b> Project Plan calls for concrete path to river with signs to exclude bike use. Limestone block is at the areas that interface with the river.</p>	<p><b>DNR</b> will provide routine maintenance as needed.</p>	<p>Construction complete in 2013 by virtue of DOT construction project.</p>
<p><b>Viewing Platform</b>  Per Project Plan, water and rot-resistant platform at the end of a concrete path.</p>	<p><b>DOT</b> is responsible for installation  <b>DNR</b> responsible for routine maintenance.</p>	<p>Construction complete in 2013 by virtue of DOT construction project.</p>
<p><b>Turnout/overlook and railing</b> east of 27<sup>th</sup> Street Viaduct, north of the Rail Bridge (a/k/a the Mitchell Domes bridge)</p>	<p><b>City</b> responsible, subject to funding availability, for the overlook/plaza. This includes railings, and pavement but does</p>	<p>Construction complete in 2013 by virtue of DOT construction project.</p>

<b>MATTER/ITEM</b>	<b><u>RESPONSIBLE PARTY</u></b>	<b><u>CURRENT STATUS</u></b>
	<p>not extend to benches, artwork, or other similar amenities. If there is any art work, like a mural, City will have <b><u>limited</u></b> graffiti removal duties (consistent with valley passage phase I mural agreement). City will use good faith effort at graffiti removal on city structures.</p> <p>DNR responsible for interpretive panels, public art, benches, and similar amenities.</p>	
<p><b>Rail Bridge (a/k/a Mitchell Domes Bridge)</b> Approx. 270 foot span.</p> <p><b>33<sup>rd</sup> Court Bridge over Menomonee River</b> Approx. 175 foot span.</p> <p><b>Wing Walls (Retaining Walls) associated with Bridges</b></p>	<p>City responsible, subject to funding availability, for Rail Bridge and 33<sup>rd</sup> Court Bridge. City will, subject to funding availability, inspect, maintain, repair and replace the bridge including the wing walls and bridge railing and bridge decks as necessary as per City DPW determination.</p>	<p>Construction complete in 2013 by virtue of DOT construction project.</p>
<b>33<sup>rd</sup> Court Bridge Sidewalk Connection</b>	<p>City will own and maintain as City ROW</p>	<p>Construction complete in 2013 by virtue of DOT construction project.</p>
<p><b>33<sup>rd</sup> Court – Rexnord/Falk Retaining Walls</b> Rexnord/Falk replaces their retaining wall.</p>	<p>Rexnord/Falk to do construction and maintain wall.</p>	<p>Construction complete in 2013 by Rexnord.</p>
<p><b>Bridge Approach</b> (south of Rail Bridge)</p>	<p>City subject to funding availability.</p> <p>City agreement is predicated upon keeping this open and easy to maintain.</p>	<p>Construction complete in 2013 by virtue of DOT construction project.</p>
<b>Mitchell Domes Sidewalk</b>	<b>Milwaukee County</b>	<p>Construction complete in 2013</p>

<b>MATTER/ITEM</b>	<b><u>RESPONSIBLE PARTY</u></b>	<b><u>CURRENT STATUS</u></b>
<b>Connection</b>		by virtue of DOT construction project.
<b>Utility Relocation</b>	See Master Agreement ¶¶ 14 and 17.	Complete.
<b>Capping Project</b> (environmental per RAP)	See Master Agreement, including ¶ 11.	<p>Installation of cap is complete. Case closure and a cap maintenance plan has not yet been submitted as of the date hereof.</p> <p>To monitor the Capping Project, RACM shall periodically (as required by the DNR) inspect the cap and its vegetative cover.</p> <p>RACM shall provide to the Committee at least 15 days prior to each Annual Committee Meeting the most recent Cap Monitoring Report that RACM provided to the DNR, and any outstanding requirements made by DNR of RACM regarding the cap.</p> <p>See ¶17 below.</p>
<b>Fence</b>	<p><b>DOT</b> to install.</p> <p>See Master Agreement ¶5.</p>	<p>Construction complete in 2013 by virtue of DOT construction project.</p> <p>Subject to DNR and RACM funding availability, DNR and RACM are responsible for fencing repair/replacement. If DNR/RACM funding is problematic, UEC/MVP may make Endowment funds available for this.</p>
<b>River Bank Responsibility</b>	See Master Agreement, including ¶12.	

MATTER/ITEM	<u>RESPONSIBLE PARTY</u>	<u>CURRENT STATUS</u>
Vegetation	<p>DOT to do initial seeding and planting for erosion control.</p> <p>DNR to arrange for County providing monthly mowing of vegetation along shoulders of the main trail.</p> <p>Subject to acceptable agreement being approved and signed under ¶15 Master Agreement – DNR to have UEC have full-time land steward dedicated to Menomonee Valley branch, including Airline Yards, and DNR will have MVP do Landscape Restoration Plan, which includes at least 5 years of planting plans and stewardship and maintenance.</p>	<p>DOT contractor retains vegetation maintenance responsibilities for at least two and up to four growing seasons (referred to as “a plant <b>Establishment Period</b>” in construction documents). As of the date hereof, the Establishment Period will last through fall 2015. DOT may authorize an extension of the Establishment Period though fall 2017.</p> <p><b><u>Mowing.</u></b> DNR continues to pursue periodic mowing at no cost to the other parties hereto, and shall keep the Committee apprised. In any event, DNR shall periodically mow vegetation along shoulders of main trail so as to avoid any order to mow by City DNS or building inspectors.</p> <p><b><u>UEC Steward.</u></b> UEC to have full-time equivalent land steward through 2016 and beyond (subject to UEC funding availability). See ¶3 below.</p> <p><b><u>Landscape Restoration Plan.</u></b> A June, 2012 “Airline Yards Habitat Restoration and Land Management Plan” (the “<b>2012 Landscape Restoration Plan</b>”) was completed, and a copy was provided to all parties hereto. It included at least 5 years of planting plans and stewardship and maintenance, as well as recommendations for</p>

<b>MATTER/ITEM</b>	<b><u>RESPONSIBLE PARTY</u></b>	<b><u>CURRENT STATUS</u></b>
		on-going land management actions, monitoring and activities.
<b>Long-Term Stewardship</b>	Subject to acceptable agreement being approved and signed under ¶15 Master Agreement – DNR to have <b>MVP and UEC and UEC/MVP Project Inc.</b> , a non-profit organization established specifically for this purpose create, a \$1.5 million endowment to be used exclusively for stewardship of Airline Yards land and native landscape, and, subject to fund availability, to supplement Chart duties hereunder.	<p><b><u>Endowment.</u></b> UEC/MVP Project Inc. has successfully secured pledges that, if fully realized, will be sufficient to establish the endowment at the \$1.5 million level, however, it is not fully funded to that level as of the date hereof. See ¶4 below. UEC/MVP will undertake reasonable efforts to collect the pledges in question.</p> <p>This endowment does not relieve any of the parties of their specific, respective duties set forth in this Agreement. However, as per the middle column to the left, the endowment shall continue “to be used exclusively for stewardship of Airline Yards land and native landscape, and, subject to fund availability, to supplement Chart duties hereunder.”</p>
<b>Monitoring / Public Safety</b>	Subject to applicable federal, state, and local law and law-enforcement, including, typically provided City police practice.	

H. RACM also owns certain lands generally depicted on **EXHIBIT J** attached as the “SWA” – the stormwater area. The SWA is part of Lot 2, CSM 8541. Lot 2, CSM 8541 has an address of 500 S. 33<sup>rd</sup> Court, TIN 424-0332-000.

I. MVP was established in 1999 after the City's adoption of the 1998 Valley Land Use Plan (Common Council File No. 980698), which called for collaborative partnerships to redevelop the Menomonee Valley industrial corridor. Construction of the Project exemplifies collaboration and redevelopment.

J. UEC owns and operates a building at 3700 W. Pierce Street, Milwaukee as one of its three UEC branches (the "**Menomonee Valley UEC Branch**"). The other two UEC branches are in Riverside Park at 1500 E. Park Place, Milwaukee, and in Washington Park at 1859 N. 40<sup>th</sup> Street, Milwaukee. UEC will operate the Menomonee Valley UEC Branch in a manner consistent with its Washington Park and Riverside Park Branches. That operation includes use of outdoor space for "**UEC Programming**" - UEC-run "recreational activities" under Wis. Stat. § 895.52 (1)(g) of, among other activities, environmental viewing and studying, stewardship, nature hikes, science programs, and educational and recreational programs. UEC wants to use Three Bridges Park and the SWA for UEC Programming.

K. UEC/MVP Project, Inc. was formed as a joint undertaking of UEC and MVP to raise funds for and implement a series of projects in and adjacent to the Menomonee Valley in an effort to improve job accessibility, science education, environmental and public health, and neighborhood vitality. The Valley Passage, Three Bridges Park, and Menomonee Valley UEC Branch are projects supported, in part, by funds raised by UEC/MVP. UEC/MVP was incorporated in Wisconsin on January 19, 2010 and received its designation as a 501(c)(3) charitable organization from the Internal Revenue Service on June 22, 2011.

L. The Master Agreement and Project were approved by the City, by Common Council Resolution File No. 111127 (adopted January 5, 2012), and by RACM by RACM Board Resolution File No. 10330 (adopted December 15, 2011). The Land Disposition Report that was part of those two files says "The Master Agreement contemplates that future agreements will be entered into with UEC and MVP for park stewardship and programming purposes, which future agreements will be subject to *future* Authority review and *future* Authority Board approval." This is that agreement, as contemplated by Master Agreement ¶15, the Chart attached to the Master Agreement, and the Land Disposition Report.

### **AGREED**

1. **Recitals.** The recitals above are hereby acknowledged and agreed to.
2. **Park Advisory Representatives Committee - PARC.**

**A. Park Advisory Representatives Committee.** There shall be a group consisting of 5 individuals to be known as the Park Advisory Representatives Committee (the “**Committee**”). UEC, MVP, DNR, RACM and City shall each have and appoint one representative member to the Committee. UEC’s representative (the “**UEC Representative**”) shall be appointed by UEC’s Executive Director. MVP’s representative (the “**MVP Representative**”) shall be appointed by MVP’s Executive Director. The City’s representative (the “**City Representative**”) shall be appointed by the DPW Commissioner. RACM’s representative (the “**RACM Representative**”) shall be appointed by RACM’s Executive Director. DNR’s representative (the “**DNR Representative**”) shall be appointed by the DNR’s Director of the Bureau of Parks. There shall be no separate UEC/MVP representative because each of MVP and UEC has a representative, and UEC and MVP are each members of UEC/MVP. At all times while this Agreement remains in effect, the Committee shall exist and operate in accordance herewith.

**B. Committee Purpose.** The Committee is a collection of representatives but not a separate partnership or a separate entity. The Committee’s purpose is (i) to create and approve an Annual Park Use and Improvement Report (“**Annual Report**”) (see ¶2.F.), which report shall be provided to each of the parties hereto, and (ii) to otherwise carry out its responsibilities set forth herein. The Committee does not, however, replace or stand in the stead of any party hereto – for example, any consent or approval needed from any party hereunder or from any party under the Master Agreement cannot be provided by the Committee, and must still be obtained by that respective party, unless expressly provided to the contrary in this Agreement.

**C. Chairperson.** The Committee shall be chaired by a Chairperson. The Chairperson shall be the RACM Representative. The Chairperson shall be responsible for calling and coordinating regular and special meetings of the Committee, for noticing meetings, for conducting meetings, for keeping and being custodian of Committee records, and for performing all duties incident to the office of Chairperson.

**D. Secretary.** The Committee Secretary shall be selected by the Committee from its members. The Secretary shall be a person other than the Chairperson, and shall be responsible for sending notices of Committee meetings to Committee members, for keeping and distributing minutes of meetings to Committee members, and for performing all duties incident to the office of Secretary.

**E. No Compensation.** Committee members shall not receive compensation for serving as members.

**F. Annual Year-End Meeting; Annual Report.** The Committee shall hold an annual year-end, regular, meeting in November of each year that this Agreement is in place. At the annual year-end meeting, the Committee shall approve the Annual Report (see ¶2.B.). The Annual Report shall have a section dealing with the past year (“**Past Section**”), and a section dealing with the upcoming year or years (“**Future Section**”).

The Past Section shall detail the past year's activities at Three Bridges Park and at the SWA, including programming, usage, observations regarding the park, and repairs and improvements made in the past year, including cost of same and source of funds. The Past Section shall contain information about inspection and maintenance of drainage structures per Master Agreement ¶23 and the Chart. The Past section shall contain the Annual Endowment Report detailed in ¶4 below. The Past section shall contain the Cap Monitoring Report detailed in ¶17 below. The Past Section shall contain information about adherence to, and re-examination of, the Land Restoration Plan (per the Chart) including erosion issues. And the Past Section shall confirm that insurance required hereunder is in place as detailed in ¶12 below.

The Future Section shall detail repairs and improvements (if any) then contemplated or needed in the following year (or years), a budget for the following year including source of funds, and anticipated usage and programming. The Future Section shall contain information about future land restoration, and future matters that may need attention per the 2012 Land Restoration Plan (per the Chart) including erosion issues. The Future Section shall detail repairs and improvements (if any) required by the DNR per the Cap Monitoring Report.

The Annual Report approved by the Committee at the Annual Committee Meeting shall be distributed to each party hereto. If a matter in the Annual Report (including in the Future Section) requires approval by a respective party hereto, the respective Committee representative shall present same to the respective party and inform the Committee as to status. See also ¶14 below.

**G. Special Meetings.** Special meetings of the Committee may be held at any reasonable time and any reasonable place on call of the Chairperson, or on call of the Secretary upon written request of any 2 Committee members, providing, however, that any special meeting requires at least 48 hours advance notice to all Committee members – unless, in case of emergency (as determined by the Chairperson in his/her reasonable discretion) in which case at least 8 hours advance notice is required.

**H. Notice of Meetings.** At least 72 hours prior to a regular meeting and at least 48 hours prior to a special meeting (except emergency special meetings where the notice time shall be at least 8 hours), written notice of the date, time and place of the Committee meeting shall be given by email, facsimile, or personal service, provided to Committee members per the respective contact information provided by members to the Secretary. Notwithstanding anything to the contrary contained herein, notices shall also comply with Wis. Stat. Ch. 19, Subch. V, including Wis. Stat. § 19.84. Advance written notice of any special or regular meeting of the Committee shall also be provided to each of the parties hereto at their respective notice address provided below (either by facsimile or e-mail). Reasonable meeting times at reasonable locations shall be established by the Chairperson or Secretary.

**I. Open Meetings, Open Records.** The Committee agrees to follow and comply with Wisconsin's Open Meetings Law (Wis. Stat. Ch. 19, Subchapter V) and with Wisconsin's



Open Records Law (Wis. Stat. Ch. 19, Subch. II). Per Wis. Stat. §19.36 (3), records produced or collected under this Agreement by others are or may be subject to Wisconsin's Open Records Law. The Secretary of the Committee shall keep accurate, full and complete records and books concerning this Agreement and the Committee's duties hereunder. The Committee and the parties hereto agree to cooperate with one another should any receive a request under Wisconsin's Open Records Law for any record relating to, or produced or collected under, this Agreement.

**J. Voting, Quorum; Telephonic Participation.** A quorum of at least 4 Committee members is needed at a regular or special meeting to make a Committee decision. Committee decisions shall (subject to ¶K below) be made by majority vote at a meeting at which a quorum is present. A Committee member may participate by telephone or by video conference at any regular or special meeting so long as the meeting (including phone and/or video conferencing) is conducted in accordance with Wisconsin's Open Meetings Law.

**K. Particular Representative.** Notwithstanding anything to the contrary contained herein, including, voting and quorum provisions above, in those instances where this Agreement calls for approval by a particular Committee member (such as the DNR Representative or the RACM Representative), such person's approval is required and must be obtained as called for, even if majority vote of the Committee may have otherwise been obtained.

**3. UEC Full-Time Land Steward.** UEC agrees to have a full-time equivalent land steward (the "**UEC Steward**") for Three Bridges Park funded through calendar year 2016. UEC anticipates having a UEC Steward in future years beyond 2016, subject, to UEC funding availability and UEC Board approval. Within 5 days of executing this Agreement, UEC will provide the name, phone number and email address of the UEC Steward to the Committee members, and UEC will update the Committee members promptly upon any change in identity of or contact information for the UEC Steward. The UEC Steward shall be a UEC employee or under the supervision of a UEC employee, with responsibility regarding stewardship of Three Bridges Park (including planting, invasive species control, plant propagation, coordination of volunteers, and pertinent UEC and UEC Steward Chart Duties).

**4. Endowment.**

A. Within 15 days of signing this Agreement, UEC/MVP will deposit at least \$100,000 to establish an endowment fund named the **Three Bridges Park Fund** (the "**Endowment**") at the Greater Milwaukee Foundation ("**GMF**"). The parties hereby acknowledge that UEC/MVP has provided a true, correct and complete copy of the fully executed November 6, 2014 **Endowment Agreement** to the parties hereto, creating that fund.

The intent is, and UEC/MVP represents (and UEC/MVP has explained to the GMF), that the entire Endowment shall be used, on a fiduciary basis, solely for Three Bridges Park and stewardship of same (including land and landscape, vegetation post-plant Establishment Period, and application toward applicable Chart duties), which is consistent with charitable needs of the community and with the charitable purpose of UEC/MVP.

Under the Endowment, UEC/MVP has control over deposits and expenditures from the Endowment.

If UEC/MVP deposits the Endowment at an institution or with another foundation other than GMF, or if the Endowment Agreement between UEC/MVP and GMF is terminated or amended, then UEC/MVP shall provide prompt written notice of such deposit, termination or amendment to the parties hereto. Any change in location of deposit, or termination or amendment of the Endowment Agreement, however, shall not alter the aforereferenced arrangement and intent concerning the Endowment.

The Endowment will be funded through proceeds of a capital campaign organized by UEC/MVP. UEC/MVP has successfully secured pledges that, if fully realized, will be sufficient to establish the Endowment at the \$1.5 million level. UEC/MVP will undertake reasonable efforts to collect the pledges in question. UEC/MVP continues to anticipate that the Endowment will eventually be funded to the \$1.5 million level as further pledge payments and donations are received.

UEC/MVP maintains the responsibility to follow and comply with, as applicable, donor restrictions placed on use of certain Endowment funds, IRS non-profit rules, and generally accepted accounting principles (GAAP).

In the event this Programming Agreement is terminated, the benefits of the Endowment will be allocated and applied to other projects as determined by UEC/MVP consistent with the spirit and intent of the terms and conditions originally establishing said Endowment.

B. On an annual basis, at least 15 days prior to each annual year-end meeting of the Committee, UEC/MVP shall provide an **Annual Endowment Report** to all parties hereto and to the Secretary of the Committee of the then-current balance of the Endowment and of the prior year's expenses and income, deposits and withdrawals, associated with the Endowment – including donor restrictions where applicable.

C. The parties hereto have their respective duties hereunder, and the existence of the Endowment does not relieve any specific party from a specific duty hereunder.

5. **Acceptance of Chart Duties.** By inclusion of a third column, the Chart Duties have been updated and clarified to reflect subsequent events and current conditions, including elements of the Project that have been substantially completed subsequent to signing the Master Agreement. The parties acknowledge these updates to and clarifications of the Chart Duties as referenced in Recital G above and acknowledge, affirm, and agree to abide by their respective Chart Duties, in good faith, subject to and including the updates and clarifications.

6. **UEC Community Garden.**

A. UEC shall, as part of UEC Programming, operate per-plot garden space at Three Bridges Park, modeled after UEC's garden program at Riverside Park, with individual plots consisting of garden-box space to be made available, for a seasonal fee, by UEC to members of the public for personal (non-commercial, non-business) gardening. If in any year there are more plots than demand by personal gardeners, UEC may make plots available for small-scale business gardeners. UEC shall maintain the garden boxes and manage the gardening program and individual lot use. DNR shall oversee and supervise UEC's gardening operation, with input from the Committee.

B. The location and design of the garden space and individual plots, and the possible future manner of providing water to gardeners, must be approved by the Committee (which must include approval by each of the RACM Representative and the DNR Representative), and the garden space and plots may not be in an area deemed by the DNR to be hazardous to health. In the Spring 2014 planting season, MVP commenced construction of a portion of the garden area and plots at its expense and/or through a third-party funding arrangement (under MVP's supervision and control, which arrangement did not give independent rights hereunder to the third-party).

C. Individual gardeners may not use tractors or other power tools or implements not commonly used by individual community gardeners.

D. DNR and UEC shall impose limitations and restrictions on chemicals, pesticides and fertilizers in a manner to protect human health, safety and welfare, the environment, and Three Bridges Park.

E. Agreements governing per plat use and seasonal fees shall be between UEC and the gardener, shall be structured as limited sublicenses and not as leases, and shall be subject to this Agreement and to reasonable rules and regulations as the Committee or the RACM Representative or DNR Representative may impose. As this is a DNR supervised and UEC run program, DNR and UEC shall be responsible for preparing the standard plot sublicenses and the initial rules and regulations (which shall be subject to Committee prior approval, which must include the RACM Representative's approval and the DNR Representative's approval).

F. Any net income from plot licenses shall be deposited into the Endowment.

**7. Donor Wall and Plaques; Identity Signs.**

A. MVP, at its expense or through a third-party funding arrangement (under MVP's supervision and control, which arrangement does not give independent rights hereunder to the third-party), in accordance with a design and plans and specifications, and at locations, approved by the Committee (which must include approval by the RACM Representative and by the DNR Representative) may, under the license granted by RACM to MVP hereunder, install: (i) one donor wall at Three Bridges Park to recognize entities and donors who contributed toward construction or improvement of Three Bridges Park; (ii) donor plaques at Three Bridges Park to recognize entities and donors who contributed toward construction or improvement of Three Bridges Park; and (iii) a park-identity sign at, on or near each of (a) the Rail Bridge, (b) the 33<sup>rd</sup> Court Bridge, and (c) the pedestrian bridge north of the UEC building at 3700 W. Pierce (this particular bridge is, in the "Valley Passage Easement" that was recorded on March 16, 2010 as Document No. 09854735, and herein, called the "River Bridge"). All wording, graphics and depictions, on the wall and plaques and park-identity signs must be approved by the Committee which must include approval by the RACM Representative and by the DNR Representative. The donor wall and park-identity signs shall contain RACM Representative and DNR Representative approved language acknowledging City, RACM, DNR, MVP and UEC involvement.

B. RACM may require removal of the donor wall or any or all of the donor plaques and associated restoration at the sooner of (i) termination of this Agreement or (ii) the thirty-year anniversary of this Agreement.

C. The donor wall and donor plaques and park-identity signs shall not be a method to name or rename Three Bridges Park, or regions, sub-parts, improvements or features of the park.

D. Wording on the donor wall and donor plaques shall be reasonably limited to recognizing that funding or services for park improvement or for an improvement or feature was provided by an individual or entity, and shall be crafted so as not to name, or to imply naming of, the park or a particular improvement, feature, region or sub-part of the park. RACM (by the RACM Representative) may set reasonable limits on the total number of plaques.

E. MVP shall, at its expense or through a third-party funding arrangement (under MVP's supervision and control, which arrangement does not give independent rights hereunder to the third-party), be responsible for maintenance, repair and replacement of the donor wall and donor plaques, and shall keep same in good and safe condition and repair, free from graffiti. As of the date hereof, Three Bridges Park, within the Menomonee Valley Business Improvement District #26, is a site eligible for the Retail Area Graffiti Removal Program of the City of Milwaukee Department of Neighborhood Service. MVP may seek support for graffiti removal through this program – providing, however, that this does not obligate City or RACM to remove graffiti.

F. The donor wall and donor plaques shall be owned by MVP.

G. The park-identity signs shall be owned by RACM. RACM shall, at its expense, subject to funding availability, or through a third-party funding arrangement (under RACM's supervision and control, which arrangement does not give independent rights hereunder to the third-party), be responsible for maintenance, repair and replacement of the park-identity signs, and shall keep same in good and safe condition and repair, free from graffiti. As of the date hereof, Three Bridges Park, within the Menomonee Valley Business Improvement District #26, is a site eligible for the Retail Area Graffiti Removal Program of the City of Milwaukee Department of Neighborhood Service. RACM may seek support for graffiti removal through this program – providing, however, that this does not obligate City to remove graffiti.

## **8. Programming; License.**

A. **Subject to Matters of Record.** This Agreement is subject to matters of record, including but not limited to the following easements recorded against title and the rights of the parties under those easements: Permanent Overhead Bridge Easement (Doc. No. 10094553); Milwaukee County Permanent Limited Easement (Doc. No. 10094552); Permanent Limited Easement for Stormwater Management, Grading and Drainage

Purposes (Doc. No. 10094555); RACM Permanent Limited Easement (Doc. No. 10094550); and Re-Grant Easement Interests (Doc. No. 10094551). This Agreement is in addition to those documents, and does not alter or amend them.

**B. Not a Conveyance of Real Estate Interest.** This Agreement does not convey any interest in real property. On the terms and conditions contained herein, this Agreement grants certain contractual licenses to enter and use portions of Three Bridges Park and the SWA, but it does not convey any easement, leasehold or other real property interest in that or any real estate.

**C. License.** On the terms and conditions contained herein, RACM grants a continuing and (subject to RACM's rights hereunder, including its termination rights, and the applicable notice and cure provisions, set forth in Section 15 below) license to City, UEC, MVP, DNR, and UEC/MVP to use Three Bridges Park and the SWA, and the RACM-owned Stewardship Pavilion building in the SWA (the "**Stewardship Pavilion**"), to carry out their respective rights and duties hereunder (including carrying out respective Chart duties, as updated and clarified hereunder), on a non-exclusive basis (with the exception that UEC community gardening is on a limited exclusivity basis pursuant to the "per plat limited licenses" referred to in ¶16 above). Other uses may be permitted by the Committee, (i) so long as such Committee approval includes approval by the RACM Representative, and if the RACM Representative deems it required in such representative's reasonable judgment, by the RACM Board; and (ii) if any of the "other uses" would involve any closure of the HAST, then the Committee approval also requires the RACM approval under sub (i) and approval by the DNR Representative. In accordance with applicable federal, state and local law, including Milwaukee Code of Ordinances, additional approval and permits may be required for special events organized by UEC, MVP, DNR, UEC/MVP, or entities not party to this agreement. See ¶18G below.

The license granted UEC hereunder includes use of Three Bridges Park and the SWA and the Stewardship Pavilion for UEC Programming, which includes but is not limited to, UEC's community garden program and educational programs, and UEC maintenance and stewardship activities, as the same may be implemented with employees, students and volunteer assistance. Other uses may be permitted by the Committee, so long as such Committee approval includes approval by the RACM Representative, and if the RACM Representative deems it required in such representative's reasonable judgment, by the RACM Board. RACM consent will not be unreasonably withheld, conditioned or delayed, and shall be upon terms and conditions reasonably approved by RACM.

**D. Stewardship Pavilion.** UEC, DNR, MVP and RACM have keys to the RACM-owned Stewardship Pavilion building. The building shall be kept secured and locked when not in use. UEC agrees to perform minor, day-to-day maintenance of the Stewardship Pavilion, subject to UEC funding availability. RACM is responsible for repairs that UEC, despite good faith efforts, is not able to perform; providing, however, that **(i)** if the need for repair is due to UEC negligence or intentional act or omission, UEC shall be responsible for repair, and **(ii)** in the event of the need for material repair or material expense (as reasonably determined by RACM), RACM, by its RACM Board, retains discretion as to course of action to take, including, whether to repair, extent of repair, and, if necessary, discontinued use, demolition or removal. Prior to any discontinued use, demolition or removal, the RACM Representative shall consult with the Committee.

**E. RACM Retained Rights.** RACM as owner of Three Bridges Park and the SWA retains and has right to enter and to allow others to enter, provided that entry by RACM and others permitted by RACM is undertaken in a fashion so as not to unreasonably interfere with the rights granted herein.

**F. Compliance with Law.** Any DNR, UEC, MVP, RACM, or UEC/MVP use or activities in or on Three Bridges Park or the SWA (including UEC Programming and UEC gardening, and MVP installation of the donor wall and donor plaques), or under the license hereby granted, must be in compliance with applicable federal, state and local laws and regulations, including applicable governmental permitting requirements.

**G. Special Events Permit.** Special events at Three Bridges Park and at the SWA may be permitted by the RACM Representative, and if the RACM Representative deems it required in such representative's reasonable judgment, by the RACM Board. The RACM Representative and/or the RACM Board, as the case may be, may impose conditions regarding any special event, including but not limited to: (i) separate written agreement with event sponsor regarding terms and conditions of use and event, (ii) special insurance and indemnity requirements, (iii) clean-up and preparation requirements, and (iv) public health, safety and welfare requirements. The RACM Representative shall provide the Committee written notice of any approved event no later than 15 days prior to the event. The special event may not, however, provide an exclusive use of the HAST and the entirety of the Park.

If any special event would involve any closure of the HAST, then the permission for such event also requires the RACM approval (immediately above) and approval by the DNR Representative.

Any special event shall be: conducted in accordance with applicable federal, state and local laws and regulations, including applicable governmental permitting requirements; and undertaken so as to minimize interference with rights granted hereunder or under any easement previously recorded against title.

9. **SWA Precautions.** Because the SWA is designed to hold and treat stormwater, MVP, UEC, UEC/MVP, RACM, and DNR (i) will use particular care concerning entry onto and activity at the SWA, and (ii) will not interfere with the maintenance and care of stormwater management facilities at the SWA. The parties acknowledge receipt of the “Menomonee Valley Industrial Center Drainage Easement and Stormwater Management Facility Maintenance Agreement” dated August 8, 2014 and recorded in the Milwaukee County Register of Deeds Office on August 20, 2014 as Document No. 10387427.

10. **Non-Exclusive.** Any UEC Programming (with the exception of UEC gardening), and any UEC, MVP, UEC/MVP, RACM or DNR use or activities, in or on Three Bridges Park or the SWA, or under the license herein granted, is on a non-exclusive basis and shall be conducted in a manner to be in harmony with and not obstructive of rightful use by others, including, on Three Bridges Park, rights of the public. The intent being that members of the public be able to use and enjoy the park and HAST, without interference (or with minimal interference in the case of special events), as per the RACM Easement recorded at Doc. No. 10094550.

11. **Sole-Risk.**

A. Any entry by DNR, UEC, MVP, or UEC/MVP hereunder (or by anyone entering by, through, or under any of such entities) in or on Three Bridges Park or the SWA (including the Stewardship Pavilion which is on and part of the SWA), or under the license herein granted, is at that respective entity’s sole risk.

B. Each of, DNR, UEC, MVP and UEC/MVP is responsible for its own respective supervision of those entering by, through, or under them. DNR, UEC, MVP and UEC/MVP each releases RACM and the City from liability, claim and damage concerning or related to entry onto or use of Three Bridges Park or the SWA by them, or by those entering by, through or under them, except as the same may be caused by the negligent or willful acts or omissions of employees, agents, contractors, invitees or representatives of RACM or City, but in any event subject to the provisions of Subsection 12.C. below.



C. Subject to the provisions of Subsection 12.C. below, each of, DNR, UEC, MVP and UEC/MVP is responsible for loss, damage, and expense attributable to wrongful, intentional, or negligent act or omission of their respective employees, agents, contractors, invitees and representatives (i) that may arise at Three Bridges Park or SWA, or (ii) that pertain to entry, activities or duties hereunder.

## **12. Insurance.**

A. Neither RACM, City nor DNR has any duty hereunder to procure or maintain in place insurance regarding Three Bridges Park, the SWA, or activities, duties, use, or programming hereunder.

B. Each of MVP and UEC shall, at all times during this Agreement, maintain insurance for workers compensation at statutory limits, automobile insurance for their respectively owned or hired autos, and general liability insurance protecting against exposure associated with their respective operations at Three Bridges Park and SWA. Coverage for bodily injury and property shall be at least \$1 million per occurrence, with coverage of at least \$2 million in the aggregate. RACM may require reasonable adjustment of these minimum amounts and coverages on every 5-year anniversary of this Agreement by written notice from RACM (and/or the RACM Representative) to the other parties hereto provided at least 60 days prior to the respective anniversary date. All policies shall be endorsed to protect RACM and the City as additional insureds as their interests may appear, and shall be obtained under valid and enforceable standard form policies issued by responsible insurance companies licensed to do business in the State of Wisconsin. Certificates evidencing insurance coverage and naming RACM and City as additional insureds shall be provided to RACM. Each insurance company shall be required to provide RACM and City with 30-day written notice of any cancellation, non-renewal, or material change in the coverage required or provided hereunder.

C. Notwithstanding any provision of this Agreement to the contrary, each party hereby releases each of the other parties from any and all liability or responsibility to the other or anyone claiming through or under them by way of subrogation for any loss or damage to property caused by fire or other casualty to the extent of any and all insurance coverage and proceeds paid to the releasor with respect thereto, even if such fire or other insured casualty shall have been caused by the wrongful, intentional or negligent act or omission of another party or anyone for whom such party may be responsible. Any insurance policies relating to Three Bridges Park and the SWA, or the operations of any of the parties thereto, shall contain a clause or endorsement to the effect that any such release shall not adversely affect or impair said policies or prejudice the right of the

releaser to recover thereunder. In the event of any conflict between the provisions of this subparagraph and the provisions of any other provision of this Agreement, the provisions of this subparagraph shall control.

**13. Recreational Immunity.**

A. Any UEC, MVP, UEC/MVP or DNR use or activities (including UEC Programming and gardening), in or on Three Bridges Park or the SWA must be a “recreational activity” under Wis. Stat. § 895.52 (1)(g), and be in compliance with applicable federal, state and local laws and regulations.

B. The parties hereto intend that the protections available under Wisconsin’s recreational immunity statute, Wis. Stat. § 895.52, apply to the activities undertaken in or on Three Bridges Park or the SWA as broadly as possible.

C. Neither DNR, MVP, UEC, nor UEC/MVP may charge any admission fee for spectators for any event at Three Bridges Park or the SWA (Wis. Stat. § 895.52 (4)(a)), or conduct any special event at Three Bridges Park or the SWA – providing, however, that notwithstanding provisions in this ¶13 to the contrary, special events may take place that have been approved in accordance with ¶8.F. above.

D. Neither DNR, MVP, UEC, nor UEC/MVP may allow any organized team sport activity sponsored by any of DNR, MVP, UEC, RACM or UEC/MVP to take place at Three Bridges Park or the SWA without approval of such as a special event in accordance with ¶8.F. above. Wis. Stat. § 895.52 (1)(g).

**14. Improvements; Alterations.** Neither UEC, MVP, DNR, nor UEC/MVP may make alterations or improvements to Three Bridges Park or SWA without Committee approval, which approval requires approval by the RACM Representative, and if the RACM Representative deems necessary in such representative’s reasonable judgment, by the RACM Board. Any such alteration or improvement shall be completed in accordance with plans and specifications therefore that have likewise been so approved, and shall be conducted in accordance with applicable federal, state and local laws and regulations, including applicable governmental permitting requirements. Notwithstanding the foregoing, addition of supplemental native plantings consistent with those included in the initial Project shall not be deemed “alterations or improvements” but shall be deemed customary stewardship activities to be undertaken by MVP, UEC, and UEC/MVP per the “long-term stewardship” provisions of the Chart, and shall not be subject to approval by the Committee or any member thereof so long as installed per the Landscape Restoration Plan and at locations designated in that Landscape Restoration Plan.

The parties shall include contemplated improvements or alterations in the Future Section of the Annual Report and also activities to be undertaken in the Landscape Restoration Plan.

By entering this Agreement, the respective parties hereto agree that alterations or improvements (whether or not included in the Future Section of the Annual Report) costing above \$10,000 (per item or in the aggregate for the same item) require RACM Board approval, and those at or below \$10,000 may be approved by the Committee so long as that approval includes approval by the RACM Representative. The RACM Representative may impose reasonable terms and conditions regarding any such approval. The RACM Representative consent will not be unreasonably withheld, conditioned or delayed, and shall be upon terms and conditions reasonably approved by RACM.

By entering this Agreement, *all parties* agree to use reasonable best efforts to avoid disturbance or damage to the landscape, vegetation and improvements associated with the Project, made per approved Annual Reports, and made per the Landscape Restoration Plan. Anticipated disturbance or damage shall include a Committee-approved plan for restoration and payment for restoration.

**15. RACM Termination Right.** This Agreement may be terminated in any of the following ways.

A. Commencing at any time after January 1, **2045**, RACM, as owner of Three Bridges Park, may terminate this Agreement at any time for any reason, upon 10 years prior written notice provided by RACM to the other parties hereto provided per the notice section below.

B. RACM may upon written notice provided hereunder to the respective appropriate party terminate, in whole or in part, any license hereunder, any UEC Programming (including gardening) or other programming hereunder, and any use or activity hereunder, that unreasonably interferes with public use and enjoyment (determined by RACM in good faith), or that is illegal, or that jeopardizes human health, safety or welfare, or that amounts to a breach hereof (all of the foregoing, the “Violating Activity”), *provided, however*, that any such termination shall be effective only after RACM delivers written notice to the license holder, objecting to the Violating Activity, and such Violating Activity is not ceased or cured within 15 days after receipt of such notice; providing further however that illegal activity or activity that jeopardizes human health, safety or welfare must be ceased and cured immediately.

C. If the Three Bridges Park parcel is no longer used for public park purposes for a continuous period exceeding 180 days, then, upon 30 days advance written notice provided by RACM to the other parties hereto provided per the notice section below, RACM may terminate this Agreement.

D. All the parties hereto may jointly agree to terminate this Agreement by written document signed on behalf of all the parties.

E. RACM may terminate this Agreement on 180 days written notice provided by RACM to the other parties hereto provided per the notice section below, (i) if the Endowment is depleted and there are no alternative sources of stewardship funding at levels reasonably anticipated to be sufficient for reasonable stewardship of Three Bridges Park, or (ii) if Endowment monies are used, encumbered, or applied contrary to the requirements of this Agreement, and if, in the case of either (i) or (ii), there is no cure prior to the expiration of the 180-day period.

F. In addition to, and not in limitation of any termination or other rights set forth in this paragraph 15, if any of DNR, UEC/MVP, MVP, RACM or UEC is in material breach hereunder, and if that party fails to cure breach within 120 days after written notice of breach provided by any other party hereunder (or fails to diligently and faithfully pursue cure if the cure is not reasonably able to be achieved within such 120-day period) then that party's rights and license hereunder may be terminated, *provided, however*, that if the breaching party is RACM, this Agreement may be terminated in whole by one or more of the other parties hereto. Notwithstanding the foregoing, each of the parties shall be entitled to pursue the remedy of specific performance, or to otherwise seek enforcement of the terms and conditions of this Agreement, as an alternative to termination.

G. In the event of an eminent domain taking, or a conveyance under threat of or in lieu of eminent domain, of all or a substantial portion of Three Bridges Park such that continued park or programming purposes are, in RACM's reasonable determination, materially frustrated, or rendered unfit, not possible or infeasible, RACM may terminate this Agreement upon notice to the parties provided hereunder.

**16. RACM Rules and Regulations.** RACM may impose reasonable rules and regulations concerning Three Bridges Park, SWA, and the licenses and activities hereunder.

**17. RAP & Cap Plan.** No programming or activity may unreasonably interfere with the DNR-approved RAP or the environmentally-engineered cap for Three Bridges Park. As of the date of this Agreement, RACM has not sought case closure pursuant to the RAP. RACM agrees

to (a) notify the other parties hereto at least 30 days prior to seeking case closure pursuant to the RAP, (b) concurrently provide such parties with a draft of the cap maintenance plan (“**Cap Plan**”) it intends to submit in connection with any such application for case closure, and (c) allow such parties a reasonable opportunity to comment on the Cap Plan, providing however that those comments are not binding upon RACM. *The Cap Plan shall not impose any independent duty under the Cap Plan upon any of the parties hereunder (other than RACM) without that party’s particular consent. DNR shall not make MVP, UEC, or UEC/MVP party to the Cap Plan.* Notwithstanding the foregoing, however, MVP, UEC and UEC/MVP remain responsible for damage or expense attributable to their willful or negligent acts or omissions.

RACM shall monitor and inspect and perform as required by the DNR-approved Cap Plan.

RACM shall, in conjunction with the Annual Report (see ¶2.F. above), provide as part of the Past section of the Report a “**Cap Monitoring Report**” that discusses the Cap Plan and RACM adherence to same, and provide in the Future section of the Annual Report actions, if any, required of RACM by the DNR concerning the Cap Plan for the following year (or years), and a budget for same, including source of funds.

**18. Notices.** Notices required or desired to be given by any party to another party with respect to this Agreement shall be in writing and shall be: (i) delivered personally; (ii) sent by e-mail or facsimile, provided any e-mail or facsimile is sent successfully (for example, no error or inability-to-send message is generated as a result of any such e-mail or facsimile sent); (iii) sent by commercial overnight courier service, prepaid; or (iv) sent by United States mail, postage prepaid; and, notices shall be addressed as herein provided and shall be given to the following:

<b>MVP or UEC/MVP</b>	<b><i>with a copy to</i></b>
Corey Zetts, Executive Director Menomonee Valley Partners, Inc. 301 W. Wisconsin Ave., Suite 400B Milwaukee, WI 53203 Ph. 414-274-4655 Fax 414-274-4640 Email: corey@renewthevalley.org	Hugh O’Halloran Foley & Lardner LLP 777 E. Wisconsin Ave. Milwaukee, WI 53202-5367 Ph. 414-297-5707 Fax 414-297-4900 Email: hohalloran@foley.com
<b>DNR</b>	<b><i>with a copy to</i></b>
Secretary Wisc. Dept. Natural Resources 101 S. Webster St. Madison, WI 53703 Ph. 608-266-2621	Dan Shuller Wisc. Dept. Natural Resources 101 S. Webster St. Madison, WI 53703 Ph. 608-266-2185

Fax 608-267-3579 Email: holly.lamers @wisconsin.gov	Fax 608-267-7474 Email: Daniel.schuller@wisconsin.gov
<b>UEC</b>	<b><i>with a copy to</i></b>
Ken Leinbach, Executive Director Urban Ecology Center 1500 E. Park Pl. Milwaukee, WI 53211 Ph. 414-431-2940 Fax 414-964-1084 Email: kleinbach@urbanecologycenter.org	Dennis Grzezinski 1845 N. Farwell Ave., Suite 202 Milwaukee, WI 53202 Ph. 414-455-0739 Fax 414-455-0744 Email: dennisglaw@gmail.com
<b>RACM</b>	<b><i>with a copy to</i></b>
Dave Misky Asst. Exec. Dr./Secretary 809 N. Broadway, 2 <sup>nd</sup> Floor Milwaukee, WI 53202 Ph. 414-286-8682 Fax 414-286-0395 Email: <a href="mailto:dmisky@milwaukee.gov">dmisky@milwaukee.gov</a>	Gregg Hagopian Asst. City Attorney 841 N. Broadway, 7 <sup>th</sup> Floor Milwaukee, WI 53202 Ph 414-286-2620 Fax 414-286-8550 Email: <a href="mailto:ghagop@milwaukee.gov">ghagop@milwaukee.gov</a>
<b>CITY</b>	<b><i>with a copy to</i></b>
Jeff Polenske City Engineer City of Milwaukee - DPW 841 N. Broadway, Room 701 Milwaukee, WI 53202 Ph. 414-286-2400 Fax 414-286-5994 Email: jpolen@milwaukee.gov	Gregg Hagopian Asst. City Attorney 841 N. Broadway, 7 <sup>th</sup> Floor Milwaukee, WI 53202 Ph 414-286-2620 Fax 414-286-8550 Email: <a href="mailto:ghagop@milwaukee.gov">ghagop@milwaukee.gov</a>

Recipient address information (such as change in facsimile number or e-mail address, or contact person) may, from time to time, be changed by notice duly sent hereunder.

**19. Amendment.** This Agreement may only be amended by written agreement signed by the parties hereto.

**20. Counterparts.** This Agreement may be signed in one or more counterparts which, when taken together, shall constitute one and the same document. Facsimile and pdf/email signatures shall be accepted as originals.

**21. Assignment.** Neither DNR, UEC, MVP nor UEC/MVP may assign any interest, right or duty hereunder without written consent of RACM, which consent shall not be unreasonably withheld, conditioned or delayed.

**IN WITNESS WHEREOF**, the parties hereto caused this Agreement to be signed and entered as of the date first written above.

<p><b>RACM: REDEVELOPMENT AUTHORITY OF THE CITY OF MILWAUKEE</b></p> <p>By: _____ William J. Schwartz, Board Chair</p> <p>And By: _____ David P. Misky, Assistant Executive Director/Secretary</p> <p><b>RACM Resolution File No. _____ and City Common Council Resolution File No. _____.</b></p> <p><b>See, also, Common Council Resolution File No. 111127 and RACM Resolution File No. 10330.</b></p>	<p><b>DNR: STATE OF WISCONSIN – DEPARTMENT OF NATURAL RESOURCES</b></p> <p>By: _____</p> <p>Name Printed: _____</p> <p>Title: _____</p> <p>And By: _____</p> <p>Name Printed: _____</p> <p>Title: _____</p>
<p><b>MVP: MENOMONEE VALLEY PARTNERS, INC.</b></p> <p>By: _____</p> <p>Name Printed: _____</p> <p>Title: _____</p> <p>And By: _____</p> <p>Name Printed: _____</p> <p>Title: _____</p>	<p><b>UEC: URBAN ECOLOGY CENTER</b></p> <p>By: _____</p> <p>Name Printed: _____</p> <p>Title: _____</p> <p>And By: _____</p> <p>Name Printed: _____</p> <p>Title: _____</p>
<p><b>UEC/MVP: UEC/MVP PROJECT, INC.</b></p>	<p><b>CITY: CITY OF MILWAUKEE</b></p>

By: \_\_\_\_\_

Name Printed: \_\_\_\_\_

Title: \_\_\_\_\_

And By: \_\_\_\_\_

Name Printed: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_  
Tom Barrett, Mayor

By: \_\_\_\_\_  
James R. Owczarski, City Clerk

COUNTERSIGNED:

By: \_\_\_\_\_  
Martin Matson, Comptroller

**RACM Resolution File No. \_\_\_\_\_  
and City Common Council Resolution File No. \_\_\_\_\_.**

**See, also, Common Council Resolution File No. 111127 and RACM Resolution File No. 10330.**

**CITY ATTORNEY APPROVAL**

The undersigned hereby approves the signatures of the above City signatories, per M.C.O. § 304-21.

By: \_\_\_\_\_

Name Printed: \_\_\_\_\_  
Assistant City Attorney

Date: \_\_\_\_\_