

**EXHIBIT "A"**

**2008 AGREEMENT**

**AGREEMENT BETWEEN THE CITY OF LA CROSSE ("CITY")  
AND  
MYRICK HIXON ECOPARK, INC. ("MHEP")**

This Agreement is made this 10<sup>th</sup> day of January, 2008 by and between the City of La Crosse, Wisconsin, a municipal corporation and its Board of Park Commissioners, (hereinafter singularly or, if the context requires, collectively referred to as "City"), and Myrick Hixon EcoPark, Inc., a Wisconsin non-profit corporation, (hereinafter referred to as "MHEP").

**RECITALS**

WHEREAS, the City owns a zoo located at Myrick Park, and it would be beneficial for the City and community to provide for the operation and management of the zoo as well as improvements to the zoo, including modifications to the grounds and establishment of a nature center, and

WHEREAS, the Myrick Hixon EcoPark, Inc., formerly Friends of Hixon Forest Nature Center, Inc., and Coulee Region Area Rotary Clubs have initiated fundraising efforts in order to provide for such zoo operation, management, and improvements, and

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth and for other good and valuable consideration, the City and MHEP agree as follows:

**ARTICLE I: GENERAL STATEMENT OF AGREEMENT**

**1.01 General Intent.**

The City is the owner of the Myrick Park Zoo, (hereinafter "zoo"), which consists of approximately seven (7) acres of land located at 2000 La Crosse Street, La Crosse, Wisconsin, and which is more particularly depicted in the attached Exhibit A. The zoo currently consists of animals, grounds, buildings, exhibits, and equipment. It is the intent of the parties to enter into an agreement for MHEP to operate and manage the zoo and provide for improvements to the zoo, including modifications to the grounds, establishment of a nature center, and creation of exhibits of animals indigenous to North America, in accordance with the proposed zoo site plan and vision attached as Exhibit B. The zoo and nature center will be operated together as an "EcoPark", and are collectively referred to in this Agreement as "zoo."

**1.02 Quality of Operation.**

It is the intent of the parties that a quality zoo be constructed, maintained, and operated in the City for the recreational enjoyment of the general public. In addition, it is the intent of the parties that the zoo will appeal to and attract a

broad audience from the greater Coulee Region, including individuals and groups interested in education, animal interaction, conservation, environmental awareness, local culture and history, and outdoor sports and recreation.

## ARTICLE II: ZOO OPERATION AND MANAGEMENT

The parties shall have the following rights, duties, and responsibilities relating to zoo operation and management:

- 2.01 General Operating Control. MHEP shall have general operating control of the zoo for the term and under the conditions of this Agreement. For purposes of this Agreement, general operating control means the authority to administer, control, and manage the zoo in all respects and in such a manner as will benefit and serve the interests of the zoo.
- 2.02 Exhibits and Programs. MHEP shall manage, administer and control zoo exhibits. MHEP shall conduct education programs and other public programs relating to zoo exhibits, topics, issues, and concerns.
- 2.03 Events. MHEP shall have the authority to schedule and arrange for events by individuals and groups. The City shall have the right to schedule City-sponsored events at the zoo in cooperation with MHEP, and MHEP shall not unreasonably refuse to schedule such events. MHEP, with the consent of the Board of Park Commissioners, may lease a portion of the zoo, including the nature center, on a short-term or temporary basis, for events. In advance of the event, MHEP shall request consent from the Board of Park Commissioners and such request shall include information as to the name of the event holder, the date of the event, the purpose of the event, and a description of the event. Under no circumstances shall any lease by MHEP exceed the term of this Agreement. The Board of Park Commissioners may grant MHEP approval for certain classes of events, such as birthday parties or business meetings, and the Board of Park Commissioners may determine that such classes of events do not require individual event approval. The Board of Park Commissioners may rescind any such class approval as it determines.
- 2.04 Employees and Volunteers. MHEP has the right to obtain employees and volunteers to provide services for the operation of the zoo. MHEP shall provide insurance coverage relating to such services with the City named as an additional insured. Zoo personnel shall be trained to discharge duties relating to general zoo operation and maintenance, including animal care. Zoo personnel and volunteers shall be trained to interact and communicate with the public in a courteous and helpful manner. Any employees or volunteers shall be solely the employees and volunteers of MHEP. Any compensation, benefits, and conditions of employment shall be solely the responsibility of MHEP.

- 2.05 Animals. MHEP shall have custody and control over any animals at the zoo for the purpose of operating the zoo. MHEP shall have the authority to sell or trade animals for the sole purpose of improving the exhibits at the zoo. MHEP shall have the authority to obtain additional animals for the zoo. The intent and understanding of the parties is that the zoo will contain animals that are indigenous to North America. MHEP shall properly keep, treat, and care for the animals at its expense. MHEP shall provide to the City a written inventory of the animals at the zoo by July 1 of each year, beginning in 2008.
- 2.06 Zoo Admission and Prices. The initial charge or fee to enter the zoo will be \$3.00 per adult and \$1.00 per child, except MHEP may charge a reduced fee or no fee during construction periods in 2008 and possibly 2009. MHEP may increase this fee every other year by no more than 50 cents per person without obtaining further Common Council approval. For example, in year 2010, the child entrance fee may be increased to \$3.50 per adult and \$1.50 per child.

Residents of the City of La Crosse shall be given the opportunity to purchase an annual pass at a reduced rate. This rate shall be determined by the Board of Park Commissioners and MHEP. The annual passes may be obtained by City residents from the MHEP. Purchasers of an annual pass shall not be required to also purchase a membership and/or become a member of MHEP. Funds collected from zoo admissions, including annual passes, shall be used exclusively for the benefit of zoo operations, maintenance, and capital improvements.

- 2.07 Concession. MHEP may operate a concession facility on the zoo grounds, subject to compliance with applicable federal, state, and local laws and regulations. Funds collected from such operation shall be used exclusively for the benefit of zoo operations, maintenance, and capital improvements.

### **ARTICLE III: REAL ESTATE, IMPROVEMENTS AND MAINTENANCE**

The parties shall have the following rights, duties, and responsibilities relating to zoo real estate, improvements, and maintenance:

- 3.01 Management and Control of Buildings and Land. MHEP shall have management and control over buildings and land as described and set forth in Exhibits A and B. This includes those buildings and land that currently exist and will be utilized for the zoo prior to construction of any new facilities. This management and control includes the public sidewalks and parkway panels located within the zoo.
- 3.02 Title. The City shall retain legal title to any and all zoo land and real estate. The City shall also retain ownership of any and all existing buildings as well as any and all buildings or improvements constructed. MHEP shall not place any liens or encumbrances on City-owned real estate or buildings without the permission

of the City.

- 3.03 Capital Improvement Projects. MHEP may implement capital improvement projects that are included in the City's Capital Improvement Plan ("CIP") without further approval of the City, except the plans shall be subject to approval by the Board of Park Commissioners. In addition, capital improvement projects the cost of which is estimated to be less than the amount requiring public bidding under §62.15, Wis. Stat., shall not require prior approval of the City except the plans shall be subject to approval by the Board of Park Commissioners.
- Capital improvement projects that require public bidding under §62.15, Wis. Stat., and are not included in the City's CIP shall be subject to the City's prior approval. The City shall promptly initiate review of capital improvement projects requested by MHEP. Capital improvement projects requiring the City's prior approval shall be submitted in writing to the City of La Crosse Common Council through the City Clerk, with a copy to the Director of Parks and Recreation, and referred to the proper committee or commission for review. The City agrees that its consent for a capital improvement project will not be unreasonably withheld. MHEP further agrees to comply with applicable public bidding requirements. The appropriate City officials will work with MHEP in order to effectuate compliance with the applicable public bidding requirements.
- 3.04 Maintenance. MHEP shall be responsible for maintenance of the grounds and facilities, including interiors of buildings, of the zoo area and within the zoo boundaries as described and set forth in Exhibit A. This maintenance includes grass cutting and watering, flower planting and watering, snow plowing, salting and sanding, trash removal, and janitorial services. The City shall be responsible for snow and ice control for the parking lot and general public areas which are located outside of the zoo boundaries as described and set forth in Exhibit A.
- 3.05 Utilities. MHEP shall be responsible for the expense and payment of all utilities, including, but not limited to, electric, gas, water, sanitary sewer, and telephone services.
- 3.06 Infrastructure. The City shall be responsible for the cost of closing any streets, removing the pavement in the existing lot, paving of the parking lot, surfacing or establishment of a recreational and access path, and providing potable water. The City may assist in sewer connection to the new buildings along with storm water drainage for the parking area provided, however, that the cost is included as part of any capital improvement plan or budget by the Common Council. The recreation path between the zoo and the marsh shall be open to bicycles, pedestrians, service vehicles, and for emergency use, but shall not be open for public motor vehicle use.
- 3.07 MHEP Access Prior to Commencement of Agreement. MHEP may have access

to the zoo prior to the commencement date of this Agreement in order to conduct preliminary construction work. MHEP shall notify the City of preliminary construction work performed on the zoo grounds prior to the commencement of this Agreement.

#### ARTICLE IV: BOARD OF DIRECTORS OF MHEP

- 4.01 Board of Directors of MHEP: The Board of Directors of MHEP shall consist of no greater than twenty-one (21) members. The membership of the Board of Directors of MHEP shall include the following:
- a) One (1) member appointed by the Mayor of the City of La Crosse, subject to confirmation by the Common Council for a term of two years. In case of a vacancy, the Mayor shall appoint another member for the remainder of the unexpired term.
  - b) The Chairperson of the City's Board of Park Commissioners.
  - c) Two (2) members of the City's Board of Park Commissioners as appointed by the Chairperson of said Board for terms of two years. In the case of a vacancy, the Chairperson shall appoint another member of the Board for the remainder of the unexpired term.
  - d) Three (3) members appointed by the local Rotary Clubs.

#### ARTICLE V: FINANCING AND FUNDING

- 5.01 Nature Center Funding. To fund the construction of a nature center, including the nocturnal/aquatic animal display area, the City will provide \$250,000 from its 2007 Capital Improvement Budget and an additional \$250,000 from its 2008 Capital Improvement Budget. MHEP shall provide the remaining funding for the nature center, the total cost of which is expected to be \$1,800,000. If MHEP fails to provide for the remaining funding of the nature center, the City shall not be required to provide its funding for the nature center.
- 5.02 Operating and Maintenance Costs. The City agrees to provide up to \$132,000 per year during the term of this Agreement, and such funds shall be used solely for reimbursement of the following zoo expenses: personnel costs, grounds maintenance, facility maintenance, animal supplies and food, veterinary services, and utilities. To receive reimbursement of such expenses, MHEP shall provide an itemized invoice on a monthly basis to the City, and then the City shall pay such eligible expenses within forty-five (45) days of receipt of the same. Under no circumstances will the City provide more than \$132,000 annually for such expenses.

- 5.03 Payments. Payments by the City to MHEP shall be made to the Treasurer of MHEP at an address or to a depository furnished in writing by MHEP to the City Finance Director.

#### ARTICLE VI: TERM AND TERMINATION

- 6.01 Term and Renewal. This Agreement is for a five-year term from May 1, 2008 through April 30, 2013. At least six (6) months prior to the expiration of this Agreement, MHEP may request renewal of this Agreement. Once notice is provided of intent to renew, both parties agree to work diligently and in good faith to renew the Agreement subject to mutually agreed terms.
- 6.02 Termination Due to Public Necessity. The City may terminate this Agreement if necessary for reason of public necessity. MHEP will cooperate with the City should public necessity require termination of the Agreement.
- 6.03 Termination Due to Breach. The City or MHEP may terminate this Agreement based on a material breach of any of the terms and conditions of the Agreement. Such termination shall be effective thirty (30) days after a written termination notice is provided. The termination notice shall state the alleged breach of the Agreement and provide that unless the violation is corrected within the thirty (30) day period, the Agreement will terminate at the end of such period.
- 6.04 Effect of Termination and Expiration of Agreement. Upon termination or expiration of the Agreement, all control of the zoo shall be immediately returned to the City. MHEP shall have a reasonable time within which to remove any equipment and other items of personal property that it owns. All equipment, supplies, animals, and exhibits in the possession of MHEP and owned by the City shall be returned to the City. It is further agreed that upon termination or expiration of the Agreement, all capital improvements at the zoo whether constructed at MHEP's expense or at the City's expense, shall become the property of the City.
- 6.05 Suspension. The City reserves the right to suspend MHEP's rights under this Agreement to operate and manage the zoo if it determines that an emergency exists involving the health, welfare, or safety of the public or the zoo animals. Such suspension shall be on such terms and conditions as may be prescribed by the Mayor of the City of La Crosse and shall be of such duration as to protect and secure the health, welfare, or safety of the public or the zoo animals.

#### ARTICLE VII: OVERSIGHT, FINANCIAL REPORT, AND AUDIT

- 7.01 Oversight and Approval. Authority retained by the City under this Agreement shall be exercised by the Board of Park Commissioners and its successors.

Unless otherwise provided in this agreement, the Board of Park Commissioners shall review and approve all major issues concerning the zoo, including:

- a) Annual operating budget and any modifications thereto; and,
- b) Capital improvements; and,
- c) Change in species of animals.

- 7.02 Financial Report. MHEP shall submit an annual financial report to the City by July 1 of each year, with such report being for the preceding year.
- 7.03 Books and Records. MHEP agrees that the City Finance Director and/or Board of Park Commissioners may inspect the books and records of MHEP relating to the zoo and may audit or cause to be audited these books and records at any time with reasonable prior notice. In addition, MHEP shall provide, as requested by the City Finance Director and/or Board of Park Commissioners, statistical records relating to the use and activities of the zoo.

#### ARTICLE VIII: ACCESS

- 8.01 City Access. Authorized City staff and/or officials shall at all times have access without restriction to all areas of the zoo with reasonable notice to MHEP and subject to USDA guidelines relative to access to areas containing dangerous or quarantined animals.
- 8.02 Public Access and Rules. MHEP shall keep the zoo open to the general public during the term of this Agreement on a regular basis at such times as shall afford the general public an opportunity to have reasonable access thereto. MHEP is authorized to make and enforce rules and regulations affecting public use of the zoo as may be necessary to insure an orderly operation and in the interest of the health, welfare and safety of the public and zoo animals. MHEP shall submit a current list of these rules and regulations to the City by July 1 of each year.

#### ARTICLE IX: INSURANCE AND INDEMNIFICATION

- 9.01 Insurance. The City shall provide insurance coverage for the buildings during the term of this Agreement. MHEP shall maintain liability insurance coverage during the term of this Agreement, with limits not less than \$1,000,000 per occurrence for bodily injury, personal injury and property damage. In addition, MHEP shall maintain umbrella liability insurance coverage during the term of the Agreement, with limits not less than \$5,000,000. The City shall be listed as an additional insured under this insurance coverage. The City shall receive 30-day notice of any material change, non-renewal or termination of insurance.
- 9.02 Indemnification. MHEP shall protect, defend, indemnify, and hold harmless the City, its elected and appointed officials, agencies, officers, employees, agents, or



authorized representatives or volunteers, from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, interest, attorney's fees, costs and expenses of whatsoever kind or character arising out of bodily injury (including death) or property damage, that occur as a result of wrongful, intentional, or negligent act or omission which may arise out of or is connected with the activities covered by this Agreement. MHEP's indemnity and hold harmless agreement does not apply to any claim, lawsuit, or liability caused by the wrongful, intentional or negligent act or omission of the City, its elected and appointed officials, agencies, officers, employees, agents, or authorized representatives or volunteers. This provision shall not be construed to waive the City's limitation of liability and/or immunities as a Wisconsin municipality as set forth in the applicable Wisconsin Statutes or other applicable law.

#### **ARTICLE X: SEVERABILITY, ENTIRE AGREEMENT, AND DOCUMENTS**

- 10.01 Severability. In the event that any part, term, portion or provision or the application thereof to any person or circumstances be in conflict with any federal or state law, or otherwise rendered unenforceable, it shall be deemed severable and shall affect the remaining provision, provided that such remaining provisions can be construed in substance to continue to constitute the agreement that the parties intended to enter into in the first instance.
- 10.02 Entire Agreement. This Agreement contains the entire understanding between the parties with respect to the subject matter herein. There are no representations, agreements or understandings (whether oral or written) between or among the parties relating to the subject matter of this Agreement which are not fully expressed herein. This Agreement may not be amended or modified, except pursuant to a written instrument which has been duly authorized and executed by both parties to this Agreement. This Agreement replaces and supersedes any previous agreements by the parties.
- 10.03 Documents. All documents, exhibits, including Exhibits A and B, and addendums referenced and incorporated into this Agreement are expressly made a part of this Agreement as though completely herein, and all references to this Agreement herein shall be deemed to refer and include all such documents.

#### **ARTICLE XI: MISCELLANEOUS**

- 11.01 Licenses and Permits. MHEP is responsible for obtaining and maintaining any licenses and permits concerning its rights and responsibilities under this Agreement, including those relating to zoo operation, management, construction, improvement, and maintenance. The City will waive fees for City building permits, as the buildings will be City owned.

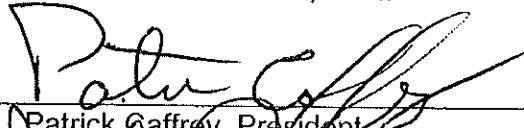
- 11.02 Compliance with Law. MHEP shall comply in all material respects with any and all applicable federal, state, and municipal laws and regulations.
- 11.03 Independent Contractors. MHEP, its employees, agents, volunteers, and representatives shall in no way be deemed as a result of this Agreement to be the employees of the City. MHEP, its employees, agents, volunteers, and representatives are not entitled to any of the benefits that the City provides for its employees.
- 11.04 Discrimination. MHEP agrees that its operation of the zoo will not discriminate or permit discrimination against any person or group of persons in any manner prohibited by Title VII of the Civil Rights Act of 1964 or amendments thereto, or Section 7.03(J) of the Municipal Code of the City of La Crosse.
- 11.05 Notices. All notices under this Agreement shall be sent in writing to the parties as follows:
- For the City:           City Clerk (and a copy to the City Attorney)  
                                  City of La Crosse  
                                  400 La Crosse Street  
                                  La Crosse, WI 54601
- For MHEP:               Myrick Hixon EcoPark, Inc.  
                                  2702 Quarry Road  
                                  La Crosse, WI 54601
- 11.06 Assignment. MHEP is prohibited from assigning this Agreement or any portion thereof to any third persons without the prior written consent of the City.
- 11.07 Captions. The captions in this Agreement are for the convenience of reference only and shall not define or limit any of the terms and conditions set forth herein.
- 11.08 Nonwaiver of Rights. No failure by a party to insist upon the strict performance of any term in this Agreement, or to exercise any right, power, or remedy consequent upon a breach thereof, shall constitute a waiver of any such term or breach. No waiver of any breach shall affect or alter this Agreement, which shall continue in full force and effect with respect to any other then existing or subsequent breach.
- 11.09 Choice of Law. This Agreement is and shall be governed by the laws of the State of Wisconsin. Any judicial action relating to the construction, interpretation, or enforcement of this Agreement shall be brought and venued in La Crosse County Circuit Court in La Crosse, Wisconsin. The parties hereby consent to personal jurisdiction in those Wisconsin courts, and waive any defenses that they might otherwise have relating thereto.

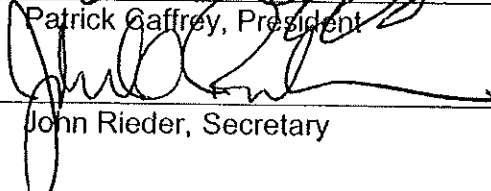
11.10 Bargaining of Agreement. This agreement shall be deemed to have been drafted by the parties of equal bargaining strength.

11.11 Political Activities Prohibited. MHEP shall not promote or permit use of the zoo, for political activities, including campaign rallies, referendum initiatives or other political activities.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed by their authorized representatives on the date and year first above written.

MYRICK HIXON ECOPARK, INC.:

BY:   
 Patrick Caffrey, President

BY:   
 John Rieder, Secretary

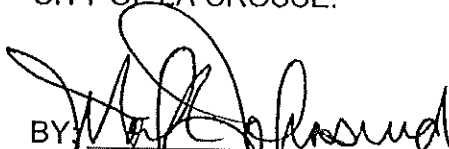
Patrick Caffrey  
 Subscribed and sworn to before  
 me this 24 day of January, 2008.

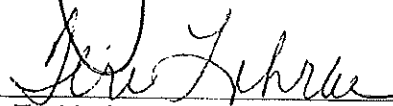
Jana M. Erickson  
 Notary Public, State of Wisconsin  
 My commission: 8-2-09

John Rieder  
 Subscribed and sworn to before  
 me this 4th day of February, 2008.

Jana M. Erickson  
 Notary Public, State of Wisconsin  
 My Commission: 8-2-09

CITY OF LA CROSSE:

BY:   
 Mark Johnsrud, Mayor

BY:   
 Teri Lehrke, City Clerk

1-7-08

Subscribed and sworn to before  
me this \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission: \_\_\_\_\_

BOARD OF PARK COMMISSIONERS:

BY: *Dorothy Leonard* Chair

BY: *Edward J. ...* Secretary

Subscribed and sworn to before  
me this \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission: \_\_\_\_\_

**EXHIBIT “B”**

**STATE OF WISCONSIN GRANT AGREEMENT**



# CITY OF LA CROSSE COUNCIL LEGISLATION

File #

**CAPTION:**

Resolution authorizing Myrick Hixon EcoPark, Inc to accept a grant from the State of Wisconsin for the EcoCenter and approving documents relating to the same.

**REFERRAL ROUTE:**

Intro. 05/13/10  
Park Board  
F&P

**ACTIONS AND DATES: (for Clerk's Office use only)**

**DRAFTED BY:**

**REQUESTED BY:**

**INTRODUCED BY:**

C. Member John Satory

## RESOLUTION

WHEREAS, Myrick Hixon EcoPark, Inc. is a not for profit corporation which raised funds and built an educational center facility located in Myrick Park, and now operates and maintains said facility under an operating agreement with the City of La Crosse; and

WHEREAS, the Wisconsin Legislature determined that it is in the public interest and is the public policy of the state to assist Myrick Hixon EcoPark, Inc. in the construction of the educational center facility and accordingly, awarded Myrick Hixon EcoPark, Inc. a grant in the amount of \$500,000; and

WHEREAS, the conditions of the grant are set forth in a Grant Agreement and Use Restriction Easement, which conditions include that the facility be used for educational purposes for a period of five (5) years; and

WHEREAS, the grant, when received, will be used by Myrick Hixon EcoPark, Inc. to reimburse construction expenses for the EcoCenter, and as a result, \$500,000 from private sources raised by Myrick Hixon EcoPark, Inc. will be used for non-EcoCenter fixed structures.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of La Crosse that Myrick Hixon EcoPark, Inc. is authorized to accept a grant from the State of Wisconsin and approves the related documents, including the Grant Agreement, Use Restriction Easement, and the Agreement between Myrick Hixon EcoPark, Inc. and the City Concerning the Grant and Use Restriction Easement.

BE IT FURTHER RESOLVED that the Mayor and City Clerk are hereby authorized to execute any documents in connection with the same.

BE IT FURTHER RESOLVED that the City Attorney, Finance Director, and Director of Parks & Recreation are hereby authorized to take any and all steps necessary to effectuate this resolution.

# GRANT AGREEMENT

Between the

State of Wisconsin  
Department of Administration

And

Myrick Hixon EcoPark, Incorporated

This Agreement is made and entered into by and between the Department of Administration, State of Wisconsin ("Grantor") and Myrick Hixon EcoPark, Inc. ("Grantee").

Recording Area

Name and return address:

Cari Anne Renlund, Chief Counsel  
WI Department of Administration  
P.O. Box 7864  
Madison, WI 57707

PIN #

**WHEREAS**, the Wisconsin State Legislature has determined that creating a unique destination with dynamic educational programming is a statewide responsibility of statewide dimension; and

**WHEREAS**, the Wisconsin State Legislature has determined that the EcoPark in the city of La Crosse plays a vital role in improving the education of the citizens of this state and that it will advance the appreciation and conservation of this state's natural resources; and

**WHEREAS**, the Wisconsin State Legislature has determined that it is in the public interest and it is the public policy of the state to assist Myrick Hixon EcoPark, Inc. in the city of La Crosse in the construction of a new educational center, which is operated and maintained by Myrick Hixon EcoPark, Inc. and owned by the City of La Crosse; and

**WHEREAS**, the Legislature has provided that the Wisconsin State Building Commission may authorize up to Five Hundred Thousand (\$500,000.00) Dollars of general fund supported borrowing to aid in the construction of a new educational center; and

**WHEREAS**, the statutes provide that the state funding commitment for the construction of the educational center shall be in the form of a grant to the Grantee; and

**WHEREAS**, the statutes provide that the state funding commitment for the construction of the educational center shall not be released by the Wisconsin State Building Commission until the Commission has determined that the Myrick Hixon EcoPark, Inc. has secured all necessary additional funding commitments from non-state revenue sources; and



**WHEREAS**, the Wisconsin State Building Commission, at its meeting on October 21, 2009, determined that Myrick Hixon Ecopark, Inc has met all the conditions set forth by the Legislature and authorized the Grantor to release funds to Myrick Hixon EcoPark, Inc. for the construction of an educational center at the facility in La Crosse in the amount of Five Hundred Thousand (\$500,000.00) Dollars general fund supported borrowing as a grant to the Grantee.

**NOW, THEREFORE**, in consideration of the mutual promises and agreements contained herein, the parties hereto agree as follows:

1. The Grantor shall make payments to the Grantee in the total amount of Five Hundred Thousand (\$500,000.00) Dollars, as reimbursement of construction expenses paid by the Grantee. The Grantor shall disburse the grant as a one time lump sum payment (Form of requisition attached as Exhibit A).
2. The Grantee has provided information to the Grantor showing that it has secured additional funding commitments for the remainder of the approximately Two Million Three Hundred Thousand (\$2,300,000.00) Dollars project cost from non-state revenue sources, the non-state revenue sources are reasonable and available and the total funding commitments of the state and the non-state sources will permit Grantee to satisfy the payments for the construction of the educational center. The Grantee shall provide such additional information as may be required by the Grantor from time to time to show its compliance with the requirement of this paragraph.
3. The educational center is located at 789 Myrick Park Drive in the city of La Crosse. The legal description of the facility is attached hereto as Exhibit B.
4. Other than payment of the Five Hundred Thousand (\$500,000.00) Dollars in grant funds, the State of Wisconsin and its agencies, officers and employees will have no obligation regarding the new facility. Therefore, the Grantee hereby agrees to indemnify, hold harmless and defend the State of Wisconsin and its agencies, officers and employees against any financial obligation or liability regarding the construction of the educational center, including, but not limited to, injury to any person or property or environmental hazards which may be encountered in the construction, maintenance and management of this facility. Grantee shall maintain full replacement cost coverage for the facility and upon loss or destruction of the facility shall repair or rebuild the facility within three (3) years from the date of loss or repay to Grantor the amount of the Grant. The form of this replacement cost coverage shall be satisfactory to the Grantor.
5. Pursuant to 2009 Wisconsin Act 28 and Article 8, section 7, sub. 2 of the State of Wisconsin Constitution, all grantees are required to sign the attached Use Restriction Easement. The grantee, by its acceptance of funds voluntarily granted by the Building Commission, hereby accepts a use restriction easement over property for a period of five (5) years hereof or until such time that the person charged with the administration of the grant determines that the purpose of the grant has been satisfied. The use restriction easement

shall be of the nature and character and to the extent and on the terms and conditions set forth therein.

6. The Grantee shall not discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical conditions, developmental disability as defined in Section 51.01(5), Wisconsin Statutes, sexual orientation, or national origin. This provision shall include, but not be limited to, employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the Grantee shall take affirmative action to ensure equal employment opportunities. The Grantee shall post in conspicuous places, available for employees and applicants for employment, notices to be provided by the Grantee setting forth the provisions of the nondiscrimination clause. An Affirmative Action Plan is required from any Grantee who receives an award from the Grantor in excess of Twenty-five Thousand (\$25,000.00) Dollars and who has a workforce of twenty-five (25) or more employees as of the Grant date. The Grantee shall include these provisions in any subcontract associated with this Grant.
7. The Grantee shall establish a record keeping system, which assures that the Grantee is in compliance with this Agreement. The system shall provide an historic account of Agreement activities for examination and review by anyone authorized by the Grantor. Records must be maintained after final completion of construction for a period of not less than three (3) years.

The minimum acceptable records for administrative purposes of this Agreement consist of invoices for allowable construction costs, materials and equipment and construction services and professional, architectural and engineering fees.

The Grantee shall maintain sufficient segregation of accounting records for this Agreement separate from other agreements, projects and programs. Documents related to this Agreement shall be made available for review by the Grantor during normal business hours. The Grantor shall have access to all records related to this Agreement at any time during normal business hours, and shall have the right to examine, audit, excerpt, transcribe and copy on the premises any directly pertinent records, in whatever form, relating to this Agreement. If the material is on electronic media, the Grantee shall provide copies in such form as may be requested by the Grantor. This provision shall also apply in the event of termination of this Agreement.

8. If the facility that is constructed with funds from the Grant is not used for the new education center, the Grantor shall retain an ownership interest in the facility equal to the amount of the state's grant. In the event such ownership interest is retained, it may be reconveyed by repayment of the original amount of the Grant to the Grantor.

9. This Grant Agreement shall be recorded in the Office of the City Clerk of the City of La Crosse.

**STATE OF WISCONSIN  
(GRANTOR)**

**Myrick Hixon EcoPark, Inc.  
(GRANTEE)**

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

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

Name: David W. Helbach  
Title: Secretary  
State of Wisconsin Building  
Commission

Name: Patrick Caffrey  
Title: President

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

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

**ACKNOWLEDGEMENT**

State of Wisconsin  
County of \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_, by  
\_\_\_\_\_ as \_\_\_\_\_ of  
\_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
Notary Public, Wisconsin  
My Commission (expires) (is) \_\_\_\_\_

**ACKNOWLEDGEMENT**

State of Wisconsin  
County of \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_, by  
\_\_\_\_\_ as \_\_\_\_\_ of  
\_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
Notary Public, Wisconsin

**Attachment A**

State of Wisconsin Capital Finance Office  
Attn: Mr. Frank R. Hoadley, Capital Finance Director  
101 East Wilson Street, 10<sup>th</sup> Floor  
P.O. Box 7864  
Madison, WI 53707

To Whom It May Concern:

Requisition Date: \_\_\_\_\_ Requisition Number \_\_\_\_\_

Requisition of Construction Grant Funds  
Myrick Hixon EcoPark, Inc.

On behalf of Myrick Hixon EcoPark, Inc. a draw on available grant funds for the above project is hereby requested. The invoice(s) for which reimbursement is requested are listed and attached separately. This grant draw is to reimburse construction invoice(s) paid by Myrick Hixon EcoPark, Inc. The calculation of the amount of grant available and this draw is as follows:

1. Total Amount of Grant:	\$500,000.00
2. Total of Previous Grant Draws	0.00
3. Remaining Grant Available:	\$500,000.00
4. Total Invoices Submitted/Grant Draw	\$0.00
5. Cumulative total of Grant Draws (line 2 plus line 4)	\$0.00
6. Remaining Grant Available (line 1 minus line 5)	\$500,000.00

On behalf of the Myrick Hixon EcoPark, Inc., I hereby certify that the invoices submitted with this letter are true and correct copies of the original invoices paid by the Myrick Hixon EcoPark, Inc. for this project and that the amounts requested for payment under this Requisition are due to the Myrick Hixon EcoPark, Inc.

Sincerely,

\_\_\_\_\_  
Patrick Caffrey, President,

Myrick Hixon EcoPark, Inc.

**Legal Description of the Facility**

Myrick Hixon EcoPark, Inc. – Educational Center

# **EXHIBIT “C”**

## **PLANNED IMPROVEMENTS BY MHEP**



**REVISED BUSINESS & IMPLEMENTATION PLAN**

**Submitted to City Park Department January 2013**

- EcoPark Overview: Mission and Programs Schematic
- Business Plan Update
- Outdoor Playscape Budget and Assumptions
- List of Activities and Events



*City of La Crosse  
Board of Park Commissioners*

Hixon Forest

*Myrick Hixon EcoPark  
Play, Learn, Repeat  
Promoting Healthy, Sustainable Living*

Myrick Marsh

**PK-12 Schools**

<p><b>EE Curriculum Support</b></p> <ul style="list-style-type: none"> <li>• ELEM Curriculum</li> <li>• Mid &amp; HS Schools</li> <li>• Private Schools</li> </ul> <p><b>School EE Partnership (TBD)</b></p> <ul style="list-style-type: none"> <li>• Summit</li> <li>• Montessori Middle</li> </ul>	<p><b>Summer Options</b></p> <ul style="list-style-type: none"> <li>• HPL Eco-Leaders</li> <li>• Trail Crew</li> <li>• HS Internships</li> <li>• Nature Camps</li> <li>• Partner with City Park/Rec</li> </ul>	<p><b>Teacher Prof Development</b></p> <ul style="list-style-type: none"> <li>• <i>WAEF conference</i></li> <li>• <i>KEEP-energy</i></li> <li>• <i>Flying WILDBIRDS</i></li> <li>• <i>Facing the Future-CPS</i></li> <li>• <i>LEAF-forestry</i></li> <li>• <i>Leopold Educ Project-conservation ethics</i></li> </ul>
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**Family/Community Activities**

**General Signature Events (evolving)**

- Enchanted Forest
- Earth Week site
- Barn Dance
- River-Ridge

<p><b>Nature</b></p> <ul style="list-style-type: none"> <li>• Movies, concerts, speakers</li> <li>• Naturalist-led "silent sports"</li> <li>• Geocaching</li> <li>• Green Wedding planning</li> <li>• Birthday parties</li> <li>• Art in Nature</li> <li>• Family Camps</li> <li>• Sustainability Activities</li> </ul>	<p><b>Fun &amp; Fitness</b></p> <ul style="list-style-type: none"> <li>• Wellness Events</li> <li>• Minutes in Motion - GL</li> <li>• Eat Local Challenge</li> <li>• Bike Share</li> <li>• Farmer's Markets</li> <li>• Snowshoe Rental</li> <li>• Support City &amp; ORA web offerings</li> </ul>	<p><b>Citizen Science</b></p> <ul style="list-style-type: none"> <li>• Frog Call Survey</li> <li>• Dec Bird Count</li> <li>• Internal Migratory Bird Day</li> <li>• Water Action Volunteers (WAV)</li> <li>• Marsh Research</li> <li>• More TBD</li> </ul>
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**Outdoor Playscapes**

<p><b>Wild Water</b></p> <ul style="list-style-type: none"> <li>• Hydrology</li> <li>• Locks &amp; Dams</li> <li>• Marsh and Floods</li> <li>• Uses &amp; Quality</li> </ul> <p><b>Prairie Maze</b></p> <ul style="list-style-type: none"> <li>• History</li> <li>• Value to soil, gardens</li> </ul>	<p><b>Forest Scramble</b></p> <ul style="list-style-type: none"> <li>• Animal Habitat</li> <li>• Forest Value/Uses</li> <li>• Vertical diversity</li> </ul> <p><b>Invited Wildlife</b></p> <ul style="list-style-type: none"> <li>• Birds &amp; Butterflies</li> <li>• Touch pools</li> <li>• Bees, Ants</li> </ul>	<p><b>Farm Play</b></p> <ul style="list-style-type: none"> <li>• Growing Cycles</li> <li>• Soil &amp; Composting</li> <li>• Prepare, plant, harvest</li> <li>• Backyard ideas for healthy eating</li> <li>• Food Miles -toy tractors</li> </ul>
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**ABOUT THE ECOPARK**

City-owned Park space: 7 acres leased for EcoCenter and surrounding "Playscapes", linking education and exploration of natural habitats to surrounding marsh and 8 miles of Hixon Forest trails in fun ways; Privately funded and operated by nonprofit organization, Myrick Hixon EcoPark.

<b>ECO-PARK REVISED BUSINESS PLAN</b>	<b>CURRENT STATUS</b> Jan 2013	<b>TRANSITION GOALS</b> 2013 - 2016	<b>REVISED BUSINESS PLAN</b> For Operation by 2017
<b>OPERATING REVENUE</b>	\$301,745	Estimated 2% annual increase	\$650,000
Earned	32%	Increase earned income as possible	75%
Contributed	55%	Reduce need for operating donations	20%
Govt/Grants	13%	Seek grants or other funding as possible	5%
<b>MISSION--REVENUE</b>			
<b>A. EDUC-SCHOOLS</b>	Students = 4,227 (2010) Schools involved Range of programs	Create new educational modules PK-12 Partner with WI Assoc Environ Education; Explore new contracts with school districts Expand retired educator volunteers & higher ed internships	Link Playscape habitats with marsh and forest Develop student leadership Environmental Ed resource to surrounding areas Generate 10% of total budget
<b>B. EDUC-COMMUNITY</b>	Participants = 11,300 (2010) Revenue Sources: Programs Memberships Events Rentals	Expand awareness of "nature deficit"; Refine signature events; Increase community awareness & support; Increase membership; Partner with regional organizations; Increase revenue	Revenue Sources—projected growth in each area Serve as hub: Links to ORA & other nonprofits Co-Host free City Park event(s) annually Rent space per City approval Generate 15% of total budget using all revenue sources outlined
<b>C. EDUC-PLAYSCAPES*</b> (See attached)	Master Plan developed Business Plan developed Demolition occurred Barn in place Intro work in each area Silent phase of Capital Campaign initiated	Form capital campaign team-detailed goals and strategies for final Masterplan; Expand donor base and pledges; Attract interest in outdoor space with community events, fundraisers, tours; Prepare for transition to full operation with Playscapes	Masterplan: \$4.4 million goal, \$760,000 included for long and short-term operating Start construction at 80% pledged and 50% received Open on or before June 2017 42,000 Attendance goal per year Admission Fee of \$5-\$10; 10% Free entrance Generate 50% of total budget
<b>OPERATING EXPENSES</b>		Continue budget with 2% annual increase	
<b>A. OCCUPANCY COSTS:</b> Utilities, Insurance, Maintenance, Safety	\$64,000 = 23% of budget	Anticipate rising fixed costs and new insurance requirements.	Est at 15% of new budget = \$97,500 allows for increased insurance and rising utility costs, plus additional maintenance and security
<b>B. STAFF: FTE + Hourlies</b> Salaries/Benefits	\$144,000 = 48% budget 3.0 FTE, Hourly staff + volunteers	Retain min 3.0 FTE. Use interns, hourlies, and more volunteers to develop, market, and oversee programs	Est 58% of new budget = 6.5 FTE, 1% raise annually with Health SA provided; Volunteers heavily utilized
<b>C. GEN ADMINISTRATION</b> Office, Contracted Services, Marketing, IT, Development	Gen Admin & Programs = 29% = \$87,506	Keep costs at minimum.	Est at 27% of total budget = \$175,500

**MASTER PLAN BUDGET**  
1/25/2013

	Wild Water	Prairie Mystery	Forest Scramble	Farm Play	Community Space	Total
<b>Wild Water</b>	\$ 1,100,450.00					
Commercial Aquatic Engineering						
Excavation						
Pump house						
Sidewalks						
Utilities to location						
Plumbing						
Electrical						
<b>Prairie Area</b>		\$ 45,000.00				
Worm/ ant hill display						
Butterfly Garden						
Soil Profile						
Overseeding/ maintenance						
<b>Forest Scramble</b>			\$ 442,250.00			
Design Fees						
Tree Nests- based on (5)						
Grove Tower with roof						
Round Timber Bridge						
WT Climber						
Small Bridges - (15) ea						
Secondary Pentagon Platform w/ roof						
Roof for main platform						
Hollow logs - (3) ea						
Large branching tree						
Stepping logs						
Spider web to bluff top						
Wooden tea party						
Hanging nests						
Nest-y décor						
Wood bark/ logs to frame paths						
Wood planking walk deck and seating area						
Added safety measures to meet playground stnds						
<b>Barn/ Garden</b>				\$ 539,660.00		
Garden - Blackdirt						
Fencing - demo garden areas						
Concrete - animal area/ ramp to barn						
Farm play area - fencing for gardens/ misc						
Farm play - concrete - 200' x 8'						
Faux vegetables/ tractor						
Farm stand - 200 sf x \$85						
Windmill						
Plumbing - to gardens/ animal area						
Barn Interior - improvements						
Barn floor - stain floor						
Storage building - 600 sf						
Barn addition for restrooms/ waiting						
Barn house FFE						
Trash area						
GreenHouse - 18' X 36'						
<b>Miscellaneous</b>					\$ 762,480.00	
Invited Wildlife						
Multimedia						
Site Lighting - Based on 12 poles						
Site lighting - solar						
Permanent Trails (Brick pavers)-1500' x 8' x \$8 /sf						
Gathering area sidewalks/ pavers - 40' x 15' x\$8/ sf						
Sidewalk to upper parking lot - 300' x 6' * \$5						
Fencing - Perimeter - 1350 *\$30						
Fencing - Gates						
Seatwall/ retaining wall - 472' x 2' x \$45						
Community benches - 24 ea						
Trash Receptacles - 10 ea						
Information Kiosk - 5 ea						
Signage - in the park						
Signage - Way finding						
Equipment to maintain park						
Civil engineering						
Staking						
Storm water management						
Grading/ fill/ topsoil						
Landscaping						
Kid cleanup/ footwash						
Added office space in existing building						
Cul-de-sac/ bike trail reconstruction						
by City of La Crosse						
Totals	\$ 1,100,450.00	\$ 45,000.00	\$ 442,250.00	\$ 539,660.00	\$ 762,480.00	\$ 2,889,840.00
Inflation - 6% (2%/ year x 3 yrs)	\$ 66,027.00	\$ 2,700.00	\$ 26,535.00	\$ 32,379.60	\$ 45,748.80	\$ 173,390.40
Projected Cost for 2016 Construction	\$ 1,166,477.00	\$ 47,700.00	\$ 468,785.00	\$ 572,039.60	\$ 808,228.80	\$ 3,063,230.40
					10% Contingency	\$ 306,323.04
					Subtotal	\$ 3,369,553.44
					5% Management fee	\$ 168,477.67
					Subtotal	\$ 3,538,031.11
					Construction Financing	\$ 100,000.00
					Total Construction Budget	\$ 3,638,031.11
					Short and Long Term Operating Reserves	\$ 760,000.00
					Total Capital Campaign	\$ 4,398,031.11

**Assumptions**

Start construction at 80 % pledged and 50% received  
 Would need \$2.2 million on hand by March 1, 2016  
 Based on a \$4.4 million campaign we would have \$3.52 million pledged and \$2.2 million in hand.  
 Start construction July 1, 2016

## **EcoPark Rental Categories**

### **Private Events/Celebrations: Celebrate Sustainability Theme**

- Birthday parties\* (naturalist-led)
- Weddings & Receptions ("green wedding guide")
- Wedding rehearsals & rehearsal dinners
- Anniversary parties
- Retirement parties
- Graduation Parties
- Family Reunions
- Class Reunions
- Recitals
- Baby Showers
- Dances
- Memorial Services
- Ethnic celebrations

### **Business/Professional, Non-Profit Meetings**

- Business meetings, retreats, & training sessions
- Non-profit organization board or membership meetings
- Classes & training sessions by non-profits
- Business & non-profit organization holiday or recognition parties
- Non-profit fund raising dinners, auctions & indoor concerts

### **Community-Wide Events-Hosted on site (often co-sponsored)**

- Festivals (ie Earth Day, Dulcimer Festival)
- Farmers Market
- Dances
- Lectures
- Wellness Workshops/Classes
- Public Library video or reading events

**EXHIBIT “D”**  
**LEGAL DESCRIPTION**

**EXHIBIT “E”**

**MHEP OFFICERS, DIRECTORS AND EXECUTIVE EMPLOYEES**