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2 MEMORANDUM OF UNDERSTANDING BETWEEN MILWAUKEE COUNTY
3 AND AURORA HEALTH CARE METRO, INC.
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6 WHEREAS, the County Board authorized the Parks Department to negotiate an
7 agreement with Aurora Health Care Metro, Inc. (which operates St. Luke's Medical
8 Center) ("St. Luke's") for the use of County land adjacent to St. Luke's campus; and

9 WHEREAS, St. Luke's is already utilizing the land for a parking lot through a
10 rental arrangement, but the area can be utilized to greater advantage by St. Luke's to assist
11 in their development program; and
12

13 WHEREAS, the County has determined that an easement is preferable to a rental
14 or lease arrangement due to the nature of the development; and
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16 WHEREAS, a number of factors enter into the easement, including an
17 opportunity for Public/Private Cooperation; now, therefore
18

19 This Memorandum of Understanding made and entered into this 20th day of
20 AUGUST, 200~~2~~ by and between MILWAUKEE COUNTY (hereinafter
21 referred to as "County") acting through its COUNTY EXECUTIVE, Room 306, 901 N.
22 Ninth Street, Milwaukee, Wisconsin, 53233; and AURORA HEALTH CARE METRO,
23 INC., for St. Luke's Medical Center, 2900 West Oklahoma Avenue, P.O. Box 2901,
24 Milwaukee, Wisconsin, 53201-2901 (hereinafter referred to as "St. Luke's"), and its
25 successors and assigns, (the County and St. Luke's together are hereinafter referred to as
26 the "Parties").
27

28 WITNESSETH:
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30 Each Party in consideration of mutual promises hereby agrees as follows:
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- 33 1. Pursuant to Adopted County Board Resolution (County Board File
34 NO. 02-273 ; adopted JULY 25 , 2002) the County and St.
35 Luke's agree to enter into this Memorandum of Understanding ("MOU") to grant
36 easements as hereinafter enumerated, establish duties and responsibilities for the
37 Parties and detail compensation and various arrangements for the Parties subject to
38 the terms and conditions as hereinafter enumerated.
39
- 40 2. The County shall provide an easement to St. Luke's to replace the existing Parking
41 Lot Lease and change the permitted usage as detailed in the easement. This easement
42 is attached to this MOU and incorporated by reference.
43
- 44 3. Upon execution of this MOU and the recording of the easement, the existing Parking
45 Lot Lease between St. Luke's and the County shall terminate and be replaced by the
46 new easement. However, no refund will be made or prorated for the Lease rent

- 47 because payments under this MOU will first become due and payable on January 1,
48 2003.
- 49
- 50 4. Compensation to the County from St. Luke's is due January 1 of each year and
51 payable within 31 days, except that it is agreed and understood that discounts derived
52 under the "In Kind Services" compensation are expected to be utilized throughout the
53 year.
- 54
- 55 5. The Parties agree that neither has knowledge of, or reason to suspect that any
56 environmental contamination exists in the easement area. St. Luke's obligations
57 under the easement and this MOU are conditioned upon its receipt of Phase I
58 environment reports obtained at St. Luke's expense showing no adverse matter or
59 recommendation for further review.
- 60
- 61 6. Upon or under such contingency, St. Luke's agrees that St. Luke's assumes all
62 responsibility and cost for any and all environmental remediation that may be
63 required on the land covered by the easement without limitation and that the County
64 shall incur no cost in this regard.
- 65
- 66 7. The Parties agree that St. Luke's accepts the easement subject to all existing
67 easements and/or restrictions on the easement area, provided St. Luke's obligations
68 under the easement are contingent upon it obtaining any and all approvals necessary
69 for its use as contemplated, including elimination of the City of Milwaukee
70 restriction. The County does not represent to St. Luke's that the easement area is
71 suitable to St. Luke's proposed use. The County is not responsible for any required
72 zoning changes, building permits or other required authorizations from regulatory
73 agencies, without limitation. St. Luke's accepts the easement and enters into this
74 MOU with this knowledge and understanding but subject to its contingencies.
- 75 8. St. Luke's will pay compensation for the easement by cash payments, some in-kind
76 services and by assuming responsibility for payment of certain repair obligations.
77 The aggregate value of the compensation adjusted as specified is \$1,500,000
78 (adjusted by inflation as described) plus obligations for repairs as herein provided.
79 The obligations are as herein described:
- 80
- 81 A. Cash Payments. St. Luke's will make cash payments of \$100,000
82 to the County for each year commencing upon January 1, 2003 and on January 1 of each
83 of the next five successive years. The \$100,000 payments after the initial payment shall
84 increase by the "CPI Adjustment" hereafter defined, to reflect increases in inflation.
- 85
- 86 B. In-Kind Health Care Services. St. Luke's will provide to the
87 County aggregate discounts on health care services provided to the County by St. Luke's
88 or another Aurora Health Care system entity of \$900,000 adjusted by the CPI Adjustment
89 as hereafter described over the period from January 1, 2003 through December 31, 2008;
90 provided in each year no more than \$150,000 plus 30% in excess of \$150,000 increased
91 by the plus CPI Adjustment any unissued from the prior year may be consumed, subject
92 to the aggregate cap of the discount of \$900,000 as adjusted. The \$900,000 will be

93 adjusted by adjusting \$150,000 per calendar year by the CPI Adjustment for each
94 calendar year and then adding together such six annual amounts (e.g., (for 2003:
95 \$150,000) plus (for 2004: \$150,000 increased by the CPI Adjustment) plus (for 2005
96 \$150,000 increased by the CPI Adjustment) plus (for 2006: \$150,000 increased by the
97 CPI Adjustment) plus (for 2007: \$150,000 increased by the CPI Adjustment) plus (for
98 2008: \$150,000 adjusted by the CPI Adjustment).

99
100 Subject to the foregoing limitation and maximum value for in-kind
101 services, the County shall receive a discount of 70% off of St. Luke's standard charges.
102 The value of the in-kind services provided shall be value of such discount (i.e. 70% of the
103 charge for the health services provided by St. Luke's (or another Aurora Health Care
104 system entity)). The County shall be responsible for payment of the 30% not discounted,
105 which shall be payable in cash within 45 days of the invoice.

106
107 Any surplus unused amount will carry over into the subsequent year. Any
108 surplus amount carried over to the next year will not be increased by the rate of inflation.
109 However, the County agrees to attempt in good faith to use the in kind services in the
110 year that they are due. The County and St. Luke's agree that an exception would be
111 where a major project is anticipated and a carry over of the allocation is needed for the
112 project. Nevertheless, the amount carried over will not be increased by the rate of
113 inflation. The County and St. Luke's will cooperate in planning for major projects. To
114 this end, the Division of County Health Related Programs will work with St. Luke's to
115 identify the nature of the annual \$150,000 of in-kind health care services to be provided
116 by St. Luke's under the terms of this MOU.

117 St. Luke's and the County will track the allocation and costs through a St.
118 Luke's patient billing system which will track the costs and apply the 70% discount to
119 services as appropriate. The County will be billed for the remaining 30% and the County
120 will have 45 days to make payment. Any disputed charges will be reconciled and any
121 needed adjustments credited or debited to the next billing cycle. St. Luke's will bill
122 according to County organizational units based on a set of organizational and account
123 codes that the County will provide to St. Luke's. The County reserves the right to inspect
124 and audit the billings at its cost. St. Luke's and the County agree to cooperate fully to
125 make the billing work smoothly. The County and St. Luke's may make administrative
126 adjustments to the way the billing operates without modification to this MOU by way of
127 exchanging a mutually signed Letter of Understanding ("LOU"). The Chief Financial
128 Officer of St. Luke's or of Aurora Health Care are the only ones with authority to sign the
129 LOU for St. Luke's. The County initially designates the Director of the Department of
130 Administration, the Fiscal and Budget Administrator, and also the County Controller as
131 its Officials who may sign the LOU on behalf of the County. Since the LOU is agreed to
132 be an administrative undertaking, the County Executive is empowered on behalf of the
133 County to add or delete County Officials who are authorized to sign the LOU on behalf
134 of the County.

135 St. Luke's agrees that the services provided will be of the normal quality
136 that is provided to any other customer and that the discount applied will be a discount off

137 charges provided and that services will not be diminished due to the discount being
138 applied. That is, the discount will be a bookkeeping transaction only.

139 The County may assign the annual allocation to its various departments.
140 Departments that exceed their allocation may be charged the full amount for the overage.
141 However, the accounting transaction to accomplish this will be done by the County. St.
142 Luke's is only responsible for tracking the billing and providing the discount up to the
143 approved level.

144 The County hereby agrees and asserts that services obtained from St.
145 Luke's under this discount program are not subject to normal procurement requirements
146 or competitive bidding and that the Division of County Health Related Programs will
147 work with St. Luke's to identify the nature of the annual \$150,000 of in-kind health care
148 services to be provided by St. Luke's under the terms of this MOU..

149 The County and St. Luke's agree that it is possible that the lag between the
150 billing and St. Luke's providing the services could result in instances that the allocation
151 eligible for discount is exceeded. In such instances, the County may, at its option, pay
152 the full price for services, allocate a portion of the subsequent year's appropriation to the
153 current year (not to exceed 30% as provided elsewhere in this MOU) or attempt to
154 negotiate some discounted percent to be applied to the overage. The County and St.
155 Luke's agree that such a discount can be negotiated in advance as a precaution. The
156 County Executive initially designates the Director of the Department of Administration
157 as the County Official empowered to negotiate and accept on behalf of the County any
158 "overage discount". However, if the total discount allocation is used up, the County may
159 notify St. Luke's that no further services shall be provided to County agencies. In this
160 event, the County will also notify County Departments that use the discount program that
161 they should no longer obtain services from St. Luke's (until the next discount allocation
162 is available).

163 St. Luke's will round all billings to the nearest even dollar amount.

164 The County and St. Luke's agree to cooperate on developing any
165 necessary administrative procedures and practices to ensure that this program works
166 efficiently. The County and St. Luke's may from time to time designate individuals or
167 workgroups to work on and resolve problems and generally improve the way the program
168 works. Such improvements and procedures shall be documented through a mutually
169 agreed upon LOU.

170 C. Repairs. At any time after January 1, 2005, St. Luke's will
171 reimburse the County for improvements up to \$150,000 in the KK Parkway area in and
172 around St. Luke's, which improvements benefit the St. Luke's area and are first discussed
173 with St. Luke's. The amount could be applied for a bike trail or other improvements,
174 provided the improvements are discussed with St. Luke's to establish the benefit to the
175 area.
176

177 In addition, St. Luke's agrees to pay an amount estimated at \$950,000 for
 178 major repairs and replacements in the four block area of the KK Parkway next to St.
 179 Luke's as needed for normal wear and tear, excluding construction costs not related to
 180 normal wear and tear which construction is not related to St. Luke's. St. Luke's share,
 181 up to the aggregate estimated amount, shall be payable based on St. Luke's paying one-
 182 half of the cost incurred. A major repair is one costing at least \$300,000. St. Luke's
 183 share of the major scheduled repair cost shall be paid approximately as indicated:
 184

Year	Total Cost	St. Luke's 50% Share
2013	\$600,000	\$300,000
2038	\$350,000	\$175,000
2063	\$600,000	\$300,000
2088	\$350,000	\$175,000

185
 186 The foregoing dollar amounts are stated in current dollars and are all subject to the CPI
 187 Adjustment.
 188

189 D. CPI Adjustment. The CPI Adjustment shall be in the percentage
 190 change in the Consumer Price Index from September of 2002 to the month prior to when
 191 the amount is to be determined. The Consumer Price Index is such index as published by
 192 the U.S. Department of Labor, Bureau of Labor Statistics, National, U.S. City Average,
 193 for Urban Consumers, all items [1982-84=100]. Appropriate adjustments will be made if
 194 the parameters or any components of such index are materially changed.
 195

196 9. Notices. Whenever in this MOU it shall be required or permitted that notice be given
 197 by any party hereto to the other, such notice shall be given by certified or registered
 198 mail, and any notice so sent shall be deemed to have been given on the date that the
 199 same is deposited in the United States mail, postage prepaid. Notices shall be
 200 addressed to County at Milwaukee County Department of Parks, Recreation and
 201 Culture, 9480 Watertown Plank Road, Wauwatosa, Wisconsin 53226, Attn: Director
 202 (with a copy to Corporation Counsel, Room 303, Milwaukee County Courthouse, 901
 203 North Ninth Street, Milwaukee, Wisconsin 53233), and to Aurora Health Care, Inc.,
 204 3000 West Montana, Milwaukee, WI 53215, Attn: Executive Vice President/CFO,
 205 or at such other address as either party may from time to time specify in writing in
 206 lieu thereof. It is further agreed that each party hereto will promptly furnish to the
 207 other party hereto a copy of any notice it may receive from any third person which
 208 may affect the rights of any party hereunder.
 209

210 10. Prohibited Practices. During the term of this MOU, St. Luke's shall not hire, retain
 211 or utilize for compensation any person who, to the actual knowledge (without
 212 inquiry) of St. Luke's has a conflict of interest.
 213

214 11. Code of Ethics. St. Luke's hereby acknowledges that portion of the County's Code
 215 of Ethics, which states in part: "No person may offer to give to any County officer or
 216 employee or his immediate family, and no County officer or employee or his
 217 immediate family may solicit or receive anything of value pursuant to an

218 understanding that such officers or employees vote, official actions or judgment
219 would be influenced thereby.”
220

221 12. General Provisions. (i) Benefit. This MOU and all of the covenants and conditions
222 herein contained shall be binding upon and inure to the benefit of the parties hereto
223 and their respective successors and assigns; (ii) Provisions Severable. If any
224 provision of the MOU shall be held or declared to be invalid, illegal or unenforceable
225 under any law applicable thereto, such provision shall be deemed deleted from the
226 Lease without impairing or prejudicing the validity, legality and enforceability of the
227 remaining provisions hereof; (iii) Governing Law. This MOU shall be governed by
228 the laws of the State of Wisconsin; (iv) Records and Audits. St. Luke's shall allow
229 the County, the Milwaukee County Department of Audit, or any other party the
230 County may name, when and as they demand, to audit, examine and make copies of,
231 excerpts or transcripts from any records or other information directly relating to
232 matters under this MOU.
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235 13. In the event that St. Luke's assigns its rights and obligations under this agreement to a
236 third party, then that third party shall assume all obligations that are so assigned in
237 their entirety. The County shall be notified of any such assignments as provided
238 under the Notices Section of this MOU.
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240 14. Insurance and indemnification provisions shall be included in the easement.
241

242 15. INDEPENDENT CONTRACTOR. Nothing contained in this MOU shall constitute
243 or be construed to create a partnership or joint venture between the County or its
244 successors or assigns and St. Luke's or its successors or assigns. In entering into this
245 MOU, and in acting in compliance herewith, St. Luke's is at all times acting and
246 performing as an independent contractor duly authorized to perform the acts required
247 of it hereunder. This MOU does not create the relationship of principal and agent or
248 of partnership of joint venture or of any association between County and St. Luke's.
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250
251 **SIGNATURE PAGE FOLLOWS**
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SIGNATURE PAGE

IN WITNESS WHEREOF, the parties hereto have set their hands and seals as of this
26 day of August, 2002₃

In Presence of *Ann Petrelli*
NOTARY PUBLIC
STATE OF WISCONSIN

AURORA HEALTH CARE METRO, INC.
David Edge
Authorized Representative

In Presence of *Janm Sengsakorn* 8/11/03 MILWAUKEE COUNTY
COUNTY EXECUTIVE

Reviewed by Corporation Counsel
Approved as to Form

by: *Janm Sengsakorn* 8/11/03 *Scott Walker*
Scott Walker
County Executive

Reviewed by Risk Management
by: *John R. Roth*