

# Exhibit G-5

Kathy's House Option

## OPTION TO PURCHASE AGREEMENT

Vacant Land  
Tax Key# 3819999022  
City of Wauwatosa, Wisconsin  
County of Milwaukee, Wisconsin

For and in consideration of the sum of Five Thousand Dollars (\$5,000.00) ("Option Fee") tendered herewith, Milwaukee County ("County") does hereby grant unto Froedtert Memorial Lutheran Hospital, Inc. ("FMLH") an exclusive Option to Purchase ("Option") for that vacant 3.8 acre parcel of land located at Tax Key #3819999022 in the City of Wauwatosa, Wisconsin ("Property") and more particularly described in Exhibit A attached hereto, on the following terms and conditions:

1. **Purpose.** This Option is granted for the purpose of FMLH constructing a multi-unit supportive hospital guest house facility including all relevant related operational space, operated by Kathy's House, serving patients and their family members (the "Project").
2. **Acceptance Date.** The "Acceptance Date" shall be the date on which both County and FMLH execute and deliver this Option.
3. **Agreement to Sell and Purchase.** If FMLH exercises this Option, County shall sell to FMLH and FMLH shall buy from County, the Property along with all of the following (collectively, the "Property"):
  - a. All rights and appurtenances pertaining to the Property, including, without limitation, any and all right, title, and interest of County in and to adjacent roads, alleys, streets and ways, and any easements or other rights appurtenant to the Property;
  - b. Any governmental permits, approvals and licenses owned or held by County in connection with the Property, and the right to the use thereof, all to the extent the same are assignable; and
  - c. During the Option Period, the Property may be modified, by mutual agreement of the parties, to accommodate public access such as the widening of Doyne Avenue or 92<sup>nd</sup> Street or the installation of a bus stop, in which event the parties shall provide a substitute Exhibit A to replace the initial Exhibit A, provided that such modification shall not in any way impact development of the Project.
4. **Purchase Price.** If the Option is exercised, the purchase price shall be Five Hundred and Fifty-One Thousand Dollars and No Cents (\$551,000.00) payable by certified check or wire transfer ("Purchase Price") at time of closing, subject to customary deductions and pro-rations in a commercial real estate transaction in Wauwatosa, Wisconsin.
5. **County's Deliveries.**

a. **Due Diligence Materials.** Within thirty (30) days from the Acceptance Date, the County shall (at County's sole cost) make available to FMLH, upon FMLH's request, copies of the following documents to the extent they are in the County's possession and control (all such documents being referred to as the "Due Diligence Materials"):

(i) All surveys, site plans, or other drawings of the Property and tests, inspections, evaluations and/or reports relating to the Property, including but not limited to, environmental, topographical and geological studies and reports.

(ii) All notices, orders or other communications by or between County and any federal, state, municipal, local, or governmental agency regarding the Property.

(iii) Any appraisal of the Property from 2014 to present.

If at any time prior to Closing any additional Due Diligence Materials come into County's possession or control, or otherwise become reasonably obtainable by County or its agents, County shall deliver same to FMLH. All documents required to be provided under the foregoing provisions shall hereinafter be referred to as the "Additional Due Diligence Materials." If County delivers any Additional Due Diligence Materials after FMLH has exercised its Option hereunder, FMLH may, in its discretion, cancel the transaction prior to Closing and the Option Fee shall be returned to FMLH.

b. **Title Commitment.** After the Acceptance Date, County shall diligently seek to obtain a title insurance commitment showing title to the Property as of a date that is no more than fifteen (15) days before the delivery of such title commitment (the "Title Commitment"). The Title Commitment shall be subject only to those liens which will be paid out of the proceeds of Closing (as defined herein). The Title Commitment shall be issued by an insurer licensed to write title insurance in Wisconsin that has been approved by FMLH. County shall pay all costs associated with the Title Commitment.

6. **Term.** This Option shall commence immediately upon the Acceptance Date and, unless terminated earlier pursuant to terms elsewhere in the Option, shall continue in effect for twelve (12) months (the "Initial Option Period"). Unless otherwise specified in this Option, the Option Fee is nonrefundable, unless written notice of FMLH's intent not to exercise is received by County during the first six (6) months of the Initial Option Period. The Purchaser may extend the Initial Option Period for up to two (2) additional six (6) month periods (each an "Extension Option Period;" the Initial Option Period together with any Extension Option Period exercised by Purchaser referred to collectively as the "Option Period") by delivering written notice of such extension to the County before the end of the applicable Option Period, together with a fee of \$5,000 for the first extension and \$5,000 for the second extension (each a "Renewal Fee" and collectively, "Renewal

Fees”) and a progress report on the Project. Unless otherwise provided herein, any Renewal Fees paid by FMLH for an Extension Option Period are nonrefundable. The Option and Renewal Fees shall be credited toward the Purchase Price only if FMLH closes on the Property.

7. **Manner of Exercise.**

- a. FMLH shall exercise this Option by delivering a written statement to the Economic Development Director on or before the end of the Option Period. Throughout this Option, the term “Economic Development Director” means the Milwaukee County Economic Development Director or, if that position is vacant, means the Director of the Milwaukee County Department of Administrative Services.
- b. FMLH may only exercise this Option if FMLH exercises a separate Option to Purchase Agreement for all land currently leased from Milwaukee County on the Milwaukee Regional Medical Center campus, as depicted on Exhibit B.

8. **Closing.** Provided that all of the conditions for closing hereunder have been satisfied, the closing (“Closing”) shall occur within thirty (30) days from the date of the delivery of FMLH’s written statement to exercise the Option (the “Closing Date”), unless another date is agreed to by the parties in writing. The transaction shall be closed at the place in Milwaukee County, Wisconsin, designated by County. Occupancy of the Property shall be given to FMLH at the time of Closing. At any time after exercising this Option but before Closing, FMLH shall have the right to inspect the Property at reasonable times upon reasonable notice to determine if there has been a significant change in the condition of the Property. If FMLH reasonably determines there has been a significant change in the condition of the Property, FMLH may, in its discretion, terminate this Option and negate the exercise of the Option, in which event the Option Fee shall be returned to FMLH.

9. **Due Diligence Review.**

- a. Prior to the end of the Option Period but before exercising the Option, FMLH and/or FMLH’s agents and representatives shall have the right to:
  - (i) Conduct any soil, environmental or other assessment of the Property that FMLH deems necessary including, without limitation, any geotechnical investigation, a Phase I and/or Phase II environmental assessment, or any procurement and testing of soil, groundwater, or any other material located on the Property (collectively together the “Soil/Environmental Assessments”). FMLH shall pay all costs associated with the Soil/Environmental Assessments and promptly restore any portions of the Property damaged by such tests (e.g., due to soil borings) to substantially the same condition as existing just prior to such Assessment. FMLH shall, and shall request that its agents, representatives, and independent



contractors, perform such work in a manner that does not unreasonably cause disturbance to the Property. In conducting such Soil/Environmental Assessment, FMLH shall not disturb, excavate, exhume or relocate any buried bodies or remains on, in or under the soil discovered during Soil/Environmental Assessments. Should FMLH violate this provision, FMLH shall remedy such violation at the earliest possible time upon such discovery, including by preservation of the burial site from further disturbance, pursuant to Wis. Stat. §157.70(6m). FMLH signs this agreement with the express condition that all work by FMLH be performed and completed according to applicable laws and regulations, and consistent with the information and terms and conditions stated herein.

- (ii) Conduct any other test, inspection or review of the Property (or any information related to the Property) or seek to obtain any financing, approvals, or other information relating to the Project, including, but not limited to, (i) reviewing the Due Diligence Materials and (ii) reviewing or seeking to obtain any permit, notice, approval, variance, review or other matter relating to any federal, state, municipal, local or governmental agency involving the Property or the Project (collectively, the “Due Diligence Review”).
  
- (iii) In this Option, “Burial Site” and “Human Remains” have the meanings defined in Wis. Stats. §§ 157.70(1)(b) and (f), respectively. The County and FMLH agree to mutually cooperate to apply to the Wisconsin Historical Society (“WHS”) prior to Closing for pre-approval of a plan to handle any Human Remains found on the Property after Closing. The County agrees to execute any applications with respect to same reasonably required by WHS from the owner of the Property. In the event FMLH encounters any buried Human Remains during Soil/Environmental Assessments, FMLH shall not thereafter further disturb, excavate, exhume or relocate the Human Remains. Should FMLH violate this provision, FMLH shall indemnify and hold the County harmless and be responsible for all claims, damages and liability related thereto and shall use all best efforts to pursue and remedy such violation at the earliest possible time upon such discovery. FMLH shall immediately notify County of the discovery or existence of any buried Human Remains and County shall thereafter take such actions as may be required by applicable law with respect to the preservation of same. At no time before Closing shall FMLH transfer possession or control of any Burial Site to any person who is not a municipality unless the transfer provides for preservation of the Burial Site from any disturbance and is approved by the State of Wisconsin Burial Site Preservation Board pursuant to Wis. Stat. § 157.70(6m). The County does not represent or warrant that there are no Human Remains on the Land.

- (iv) FMLH and County understand that the discovery of any buried Human Remains on a portion of the Property prior to the Closing may complicate transfer of that portion of the Property to FMLH by the County per Wis. Stat. § 157.70(6m). In the event of such a discovery, FMLH and County, in cooperation, shall seek to obtain any needed approvals for the transaction or identify another mutually acceptable resolution of the issue, which resolution may include exclusion from the transaction of portions of the land containing buried Human Remains if the remaining portions of the Property are deemed suitable for its purposes by FMLH. In that event, the parties will enter into at Closing a lease of the excluded area to FMLH or an easement over the excluded area for the benefit of FMLH, in either case with no "base rent" or similar charge but whereby in either case FMLH will at its sole cost maintain and use the area in a fashion that is consistent with applicable law, and by which FMLH indemnifies the County against loss, claims, damages or actions arising out of FMLH's activities on the area so affected (whether lease or easement, the document establishing such interests shall be referred to herein as an "Excluded Area Easement Agreement"). If FMLH determines that the remaining portions of the land are unsuitable for its purposes, its sole remedy shall be to terminate the Option and receive a refund of the Option Fees.
- (v) If buried Human Remains are discovered on the Property after Closing, it shall be FMLH's obligation to deal with them in accordance with applicable legal requirements. County shall cooperate with FMLH as reasonably requested by FMLH in FMLH's efforts to do so; however, all costs and expenses associated with such Human Remains shall be FMLH's responsibility. If buried Human Remains are discovered on the Property after Closing, FMLH may elect to convey back to County the portion of the Property where such Human Remains are located, at no additional cost to County, provided that FMLH and the County enter into an Excluded Area Easement Agreement whereby FMLH agrees to continue to maintain such area at its sole cost and give a similar indemnity to that described above.
- b. County hereby grants to FMLH and FMLH's agents permission to enter onto and/or into the Property at reasonable times upon reasonable notice to conduct the activities set forth in this Section 9. County shall also cooperate with FMLH with respect to FMLH's activities set forth in this Section 9. Notwithstanding the provisions of this Section 9, before engaging in any Soil/Environmental Assessment or Due Diligence Review requiring the installation of soil borings on the Property, FMLH shall submit its contractor's proposed work plan to the Economic Development Director for approval as to the location of the proposed borings (which approval shall not be unreasonably withheld, conditioned or delayed) and the Economic Development Director shall respond within ten (10) business days. In the event that the Economic Development Director fails to

respond to FMLH within ten (10) business days after FMLH's submission, the proposed work shall be deemed acceptable and FMLH may proceed. The Economic Development Director shall require any contractor to produce a certificate of insurance complying with the requirements set forth in Exhibit C attached hereto.

10. **Closing Deliveries.**

- a. **FMLH's Deliveries.** At Closing, or as otherwise provided herein, FMLH shall deliver the following:
- (i) the Purchase Price.
  - (ii) three (3) executed versions of the Development Agreement. A draft of the Development Agreement shall be provided to FMLH within three (3) months after FMLH's Acceptance of the Option, and County and FMLH shall negotiate in good faith to finalize it within six (6) months from the Acceptance Date of this Option.
  - (iii) a certificate certifying that FMLH and Kathy's House have executed a lease agreement applying to the entire Property for the long-term provision of a hospital guest house facility, operated by Kathy's House, serving patients and members of their family.
- b. **County Deliveries.** At Closing, or as otherwise provided herein, County shall deliver the following:
- (i) Deliver a Warranty Deed in recordable form warranting that title to the Property is free and clear of all liens and encumbrances except any of the following items identified in the Title Commitment to which FMLH has not objected: any municipal and zoning ordinances and recorded agreements entered under them, recorded easements for the distribution of utility and municipal services, recorded building and use restrictions and covenants and the general taxes levied in the year of closing.
  - (ii) Complete and execute the documents necessary to record the conveyance at County's cost, including the payment of the Wisconsin Real Estate Transfer fee, if any.
  - (iii) Deliver an owner's policy of title insurance (from the same insurer issuing the Title Commitment) in the amount of the Purchase Price on a current ALTA form (the "Title Policy"). The Title Policy shall be the evidence of the County's title. The Title Policy shall be subject only to those items shown in the Title Commitment which FMLH has expressly accepted. The Title Policy shall contain a "gap" endorsement or other equivalent gap coverage (at County's sole cost) to provide coverage for any liens or

encumbrances first filed or recorded after the effective date of the Title Commitment and before the deed is recorded. All other endorsements to the Title Policy shall be issued at FMLH's sole cost. County shall provide any affidavits or other documents required by the title company to issue the GAP endorsement (or equivalent coverage), to remove the applicable standard exceptions to title and/or to issue any endorsements reasonably requested by FMLH.

- (iv) Deliver a recorded Certified Survey Map or other survey instrument evidencing a property for conveyance similar to that described in Exhibit A, subject to approval by FMLH.
- (v) Any other documents reasonably requested by FMLH's lenders or otherwise required for the financing for the Project.
- (vi) Any other documents customarily associated with the sale of commercial real estate in Wauwatosa, Wisconsin.

c. **Additional Closing Terms.**

- (i) **Restrictions on Assignment.** This Option shall not be assigned by FMLH without the written consent of the Economic Development Director, other than to an entity in which FMLH has an ownership interest and controlling managerial authority. Notwithstanding the foregoing, the assignment of this Option by FMLH to Froedtert Health, Inc. shall be permitted without having to obtain the written consent of the Economic Development Director. Any assignment of the Option by FMLH in violation of this Section shall result in termination of the Option by County and retention of the entire Option Fee by County as liquidated damages.
- (ii) **Real Estate Proration.** General real estate taxes and private and municipal charges, if any, shall be prorated at Closing. Special assessments levied or attributable to work actually commenced prior to Closing shall be paid by County no later than Closing. Any income, taxes or expenses shall accrue to the County and be prorated through the Closing Date.

d. **The Development Agreement.** The "Development Agreement" shall define FMLH's development obligations on the Project. The Development Agreement shall be negotiated by the Economic Development Director and shall incorporate at least the following provisions:

- (i) If FMLH does not commence construction of the Project, defined as commencement of excavation of the Project, within twelve (12) months of Closing, County shall have the right to compel FMLH to reconvey the

Property to County, on ten (10) days written notice, in exchange for payment to FMLH of 85% of the Purchase Price.

(ii) If FMLH, having commenced construction, does not substantially complete construction of the Project within sixteen (16) months from the commencement of construction, or such longer period of time as may be needed to complete construction if FMLH is diligently pursuing construction, County shall have the right to compel FMLH to reconvey the Property to County, on ten (10) days written notice of the sixteen (16) month anniversary from the commencement of construction, in exchange for payment to FMLH of 85% of the Purchase Price, plus the sum of FMLH's certified construction costs expended for improvement of the Property.

(iii) FMLH has submitted Concept Plans for the Project, copies of which are attached hereto as Exhibit D (the "Concept Plans"). The schematic design plans for the Project should be generally consistent with the Concept Plans. Any Material Alteration from the Concept Plans shall require the written approval of the Economic Development Director, which approval shall not be unreasonably withheld, delayed or conditioned. As used herein, Material Alteration includes:

(a) A 20% variation in square footage of the proposed Project as provided in the Concept Plans; or

(b) Any use of the Property for other than residential, green spaces and accessory parking.

Material Alteration does not include:

(a) An alteration required by any municipality or other governmental agency or otherwise required by law; or

(b) An alteration required due to shortages or unavailability of materials (though substitute must be of comparable quality).

(iv) Deliver an executed Community Benefits Compliance Plan (the "Plan") from its construction manager for the Project (the "Construction Manager") which provides that the Construction Manager will comply with the following goals and requirements:

a. TBE Participation. The Construction Manager shall commit to ensuring that Targeted Business Enterprises ("TBE" or "TBEs") have an equal opportunity to receive and participate in the Project and shall require that its subcontractors do the same, as required by Chapter 42 of the Milwaukee County Code of General Ordinances. The Construction Manager shall utilize good faith efforts to achieve its goal of a minimum

of 25 percent TBE participation for Project costs relating to the hard construction costs. The Plan, which will require the approval of the County's Economic Development Division and the Office of Community Business Development Partners, will restate these goals, outline the minimum good faith efforts necessary to achieve the goals and specify the reporting requirements of the Construction Manager. Any change to the TBE goals shall require recertification pursuant to Wis. Stat. § 59.17(2)(b)3. Participation will be monitored through B2GNow, an online reporting system.

b. Residential Hiring. The Construction Manager shall commit to utilizing good faith efforts to achieve its goal of 25 percent of total construction labor hours being allocated to Milwaukee County residents. The Plan will restate this goal, outline the minimum good faith efforts necessary to achieve the goal and specify the reporting requirements of the Construction Manager. Any change to the Residential Hiring goal shall require recertification pursuant to Wis. Stat. § 59.17(2)(b)3. Participation will be monitored through certified monthly payroll reports from the Construction Manager and all other contractors and subcontractors, submitted by Construction Manager through LCPTracker, an online reporting system. Achievement of this goal will be consistent with the terms of the Local Employment and Coordination section of the Plan.

c. Workforce/Apprenticeship Training. The Construction Manager shall commit to utilizing good faith efforts to achieve its goal of having at least 5 apprentices participate on construction of the Project. The Plan will restate this goal, outline the minimum good faith efforts necessary to achieve the goal and specify the reporting requirements of the Construction Manager. Any change to the Workforce Training/Apprenticeship goal shall require recertification pursuant to Wis. Stat. § 59.17(2)(b)3. Participation will be monitored through certified monthly payroll reports from the Construction Manager and all other contractors and subcontractors, submitted by the Construction Manager through LCPTracker, an online reporting system. Achievement of this goal will be consistent with the terms of the Enhanced Apprenticeship and Training section of the Plan.

d. Prevailing Wage. The construction of the Project shall be subject to the following labor standards: (a) all labor shall be contracted and paid on an hourly basis; use of a per piece or other hourly equivalent basis is not permitted, (b) overtime at prevailing overtime rates for work on Saturday, Sunday and legal holidays and for more than 40 hours per week or 8 hours in any calendar day, (c) minimum hourly base wage rates and minimum hourly fringe benefits as specified in the US Department of Labor's Final Determination of annual prevailing wages in Milwaukee

County. These labor standards shall be included in FMLH's contract with the Construction Manager and the Construction Manager shall include such labor standards in its other contracts and subcontracts in connection with development of the Project. As part of the Plan, Construction Manager shall maintain records of compliance and require all other contractors and subcontractors to maintain and submit to the County certified payrolls for verification purposes.

- (v) After execution, a Memorandum of the Development Agreement may be recorded with the Register of Deeds.

11. **County's Warranties and Representations.** County hereby makes the following warranties and representations with respect to the Property:

- a. County has the full power and authority to enter into this Option and to close the transaction contemplated hereunder pursuant to Wis. Stat. §59.17(2)(b)3 and that certification attached hereto as Exhibit F.
- b. To the best of County's current and actual knowledge, County has not received, and County has no knowledge of any predecessor receiving, notice of any violation of any law, municipal ordinance or other governmental requirement affecting the Property. County has no knowledge that any governmental authority is contemplating issuing such notice or that any such violation exists.
- c. To the best of County's current and actual knowledge, County is not a party to any agreement, contract or commitment to sell, convey, lease, assign, transfer, provide option rights, provide rights of first refusal, or otherwise give any third party any rights to use or occupy all or any part of the Property.
- d. To the best of County's current and actual knowledge, there are no condemnation or eminent domain proceedings, nor any negotiations in lieu of condemnation, pending against the Property, and County is not aware of any condemnation or eminent domain proceedings being contemplated or threatened against the Property.
- e. County is not aware of any outstanding permits, certificates, licenses or other similar approvals or authorizations that are required (but have not been obtained) for the transfer of all or any part of the Property under any federal, state or local law, ordinance, rule or regulation, or by any governmental or quasi-governmental agency having jurisdiction over the Property.
- f. County has no actual knowledge of any existing law, ordinance, governmental requirement or restriction that would prevent or limit the Project on the Property.
- g. To the best of County's current and actual knowledge, there are no claims, actions, litigation, proceedings, inquiries, disputes, rulings, judgments, or orders

that are (i) attached or pending against or relating to the Property or the transaction contemplated herein; or (ii) attached or pending that could affect the Property or the transaction contemplated herein.

- h. To the best of County's current and actual knowledge, there are no attachments, executions, assignments for the benefit of creditors, receiverships, or voluntary or involuntary proceedings in bankruptcy, or pursuant to any other debtor relief laws which have been (i) filed by County; (ii) contemplated by County; (iii) threatened against County; or (iv) which are currently pending against County in any judicial or administrative proceeding.
- i. Except as specified in Exhibit E, to the best of County's current and actual knowledge, (i) County has no knowledge of any Hazardous Material (as defined below) being or having been transported to or from, or generated, released, stored, or disposed of on or under the Property; (ii) County has no knowledge that the Property or any part of any improvements and equipment thereon contains any polychlorinated biphenyls; (iii) County has not received any notice of any action or proceeding relating to any Hazardous Material or notice of any release or threatened release thereof on or under the Property or any notice contrary to (i) and (ii) above; and (iv) County has no knowledge of any underground tanks on the Property.

For purposes of this Option, "Hazardous Material" means, without limitation, any substance or material defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous waste," "acutely hazardous waste," "restricted hazardous waste," "toxic substances" (including toxic mold) or "known to cause cancer or reproductive toxicity" (or words of similar import), petroleum products (including crude oil or any fraction thereof) or any other chemical, substance or material which is prohibited, limited or regulated under any federal, state or local law, ordinance, regulation, order, permit, license, decree, common law, or treaty regulating, relating to or imposing liability or standards concerning materials or substances known or suspected to be toxic or hazardous to health and safety, the environment, or natural resources. For purposes of this sub-paragraph, laws and regulations shall include, but not be limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. § 1901, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. § 901, et seq.; the Federal Water Pollution Control Act, 33 U.S.C. § 1251, et seq.; the Clean Air Act, 42 U.S.C. § 7401, et seq.; the Toxic Substances Control Act, 15 U.S.C. § 2601, et seq.; the Oil Pollution Act of 1990, 33 U.S.C. § 2701, et seq.; the Occupational Safety and Health Act, 29 U.S.C. § 651, et seq.; the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. § 11001, et seq.; A.R.S. §§ 49-201(16), 49-901(3), and 49-921(5); and in the regulations adopted pursuant to such laws; and any substance or material which has been determined by a state,



federal or local governmental authority with jurisdiction over the Property to be capable of posing a risk of injury to health or safety.

- k. To the knowledge of County, no brokerage fee, commission or finder's fee of any type is due any person in connection with the transaction contemplated by this Option.

All such warranties and representations of County, together with any others made hereunder, shall be reaffirmed to be true and correct as of the Closing Date to the same extent as the date of this Option. If any of the foregoing warranties and representations becomes untrue in any respect after the execution of this Option and is not cured by County (at no cost to FMLH) on or before Closing, then FMLH may elect to terminate this Option, in which event the Option Fee shall be returned to FMLH.

12. **Property Condition.**

- a. Except as otherwise provided herein, County shall convey the Property in its "AS IS" physical condition with all faults and defects, known or unknown, including but not limited to environmental defects, and without representation or warranty, express or implied. Such provisions shall bar all tort, warranty, and misrepresentation claims, including any action based on non-disclosure, except as otherwise provided herein.
- b. County discloses that the Property may contain old building foundations, building materials and other debris. Without changing the "AS-IS" nature of this transaction, FMLH is aware that the Property is or may be affected by adverse geotechnical conditions due to the presence of these materials or due to the bearing capacity of the soil. County has conducted no geotechnical investigation of the Property and assumes no liability for any subsurface conditions. FMLH is encouraged to undertake a geotechnical investigation and other due diligence reviews that it deems necessary upon execution of this Option by both parties.
- c. If FMLH exercises this Option, it shall release County from, and shall indemnify, hold harmless, and defend County from and against any and all liabilities, claims, penalties, forfeitures, and suits, and all reasonable costs and expenses, including the costs of defense, settlement, and reasonable attorney's fees and/or any other environmental damages related to, or arising out of, soil, subsoil and environmental conditions arising out of, or in any way connected with the presence of any Hazardous Material on, in, or under the Property, including but not limited to, liability arising out of or in any way connected with the investigation, monitoring or cleanup under any federal, state or local law or regulation or ordinance of any Hazardous Material on, in or under the Property, and including but not limited to the transportation, storage and disposal of such Hazardous Materials.

- d. If FMLH exercises this Option, it shall be solely responsible for any required repair, cleanup, remediation or detoxification arising out of any Hazardous Materials brought onto or introduced into the Property or surrounding areas by FMLH, its employees, contractors, agents or guests, and Hazardous Materials whose presence pre-exists the inception of FMLH's possession, located in and on the Property, regardless of whether they are discovered or disturbed as a result of FMLH's construction activities on, at or near the Property. FMLH shall indemnify, defend and hold County harmless from any liability, cost, damage, claim or injury (including reasonable attorney fees) related to, or arising out of, such FMLH's obligations, or failure to perform such obligations described above, and any claim, action or damages asserted against the County by any party or governmental agency related to, or arising out of any Hazardous Material at, in, under, or migrating to or from the Property.
- e. County shall not provide an updated survey of the Property.
13. **ADA Compliance.** FMLH agrees that the Project will comply with all requirements of the Americans with Disabilities Act of 1990, U.S.C. §12101, et. seq.
14. **Time is of the Essence.** It is understood that time is of the essence as to the provisions of this Option.
15. **Notices.** All notices and demands by either party to the other shall be given in writing and personally delivered or sent by United States certified mail, postage prepaid, and addressed:

To the County: Economic Development Director  
 Dept. of Administrative Services  
 Economic Development Division  
 633 W. Wisconsin Avenue, Suite 903  
 Milwaukee, WI 53203

With a copy to: Milwaukee County Corporation Counsel  
 901 North 9th Street, Room 303  
 Milwaukee, WI 53233

To FMLH: c/o Froedtert Health, Inc.  
 9200 West Wisconsin Avenue  
 Milwaukee, WI 53226  
 Attn: Scott Hawig, CFO

With a copy to: c/o Froedtert Health, Inc.  
 9200 W. Wisconsin Avenue  
 Milwaukee, WI 53226  
 Attn: Amy Marquardt, Esq.

Either party may, upon prior notice to the other, specify a different address for the giving of notice. Notices shall be deemed given upon receipt (in the case of personal delivery) or on the date of their deposit in the United States mail (in the case of mailing).

16. **Default.** A material failure to perform any obligation relating to the purchase or sale of the Property after FMLH's exercise of this Option shall be a default which may subject the defaulting party to liability for damages or other legal remedies. If FMLH defaults on the terms of the purchase of the Property after FMLH's exercise of this Option, County may sue for specific performance and request the Option Fee as partial payment of the Purchase Price, or terminate this Option and sue for actual damages. If County defaults on the terms of the purchase of the Property after FMLH's exercise of this Option, FMLH may sue for specific performance, receive a return of the Option Fee, or terminate this Option and sue for actual damages. In addition, either party may seek any other remedies available in law or equity.
17. **Authority.** County has the authority to enter into this Option, pursuant to that Wis. Stat. §59.17(2)(b)3 certification set forth in Exhibit F.
18. **Special Conditions.**
  - a. **Force Majeure Delay.** If any party is delayed or prevented from the performance of any act required by this Option by reason of either fire, earthquake, war, flood, riot, strikes, labor disputes, judicial orders, public emergency or regulations, or other causes beyond the reasonable control of the party obligated to perform, then performance of such act shall be excused for the period of such delay and the time for the performance of any such act shall be extended for a period equivalent to such delay.
  - b. **Distribution.** County and FMLH agree that FMLH (or its agents) may distribute copies of this Option to any potential lenders, investors or other persons interested in the Project, and to any appraisers, title insurance companies and other settlement service providers connected to the transaction contemplated herein or the Project.
  - c. **Dates and Deadlines.** Deadlines expressed as a number of "days" from an event, such as the calculation of the Option Period or the Closing Date, shall be calculated by excluding the day the event occurred and by counting subsequent calendar days. The deadline expires at midnight on the last day.
  - d. **Counterparts.** The Option may be executed in two (2) counterparts, each of which shall constitute one and the same instrument. The parties agree that a signature affixed to any counterpart of this Option and delivered by facsimile or email shall be valid, binding and enforceable against such party.
  - e. **Further Assurance.** Each of the parties hereto hereby agrees to execute and deliver such documents and to take such other actions at any time and from time

to time hereafter as may be reasonably requested by the other party hereto to carry out the provisions or purposes of this Option.

**[SIGNATURE PAGES FOLLOW]**

IN WITNESS WHEREOF, FMLH has caused this Option to be duly executed in its name and on its behalf by Catherine A. Jacobson its President & CEO

FROEDTERT MEMORIAL LUTHERAN HOSPITAL, INC.

By: Catherine A. Jacobson  
Name: Catherine A. Jacobson  
Title: President & CEO

Date: June 13, 2018

STATE OF WISCONSIN )  
 ) ss.  
COUNTY OF MILWAUKEE )

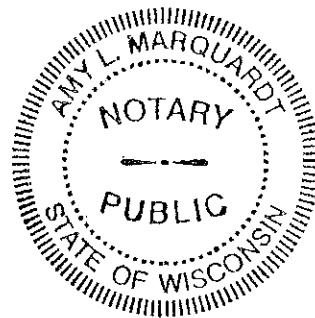
Personally came before me this 13<sup>th</sup> day of June, 2018, Catherine Jacobson, the President & CEO of Froedtert Memorial Lutheran Hospital, Inc., and to me known to be the person who executed the above and foregoing Option.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

[SEAL]

[Signature]  
Notary Public  
Milwaukee County,

My Commission is permanent



IN WITNESS WHEREOF, Milwaukee County, has caused this Option to be duly executed in its name and on its behalf by Chris Abele, its County Executive.

MILWAUKEE COUNTY

By: [Signature]  
Chris Abele, County Executive

Date: 6-13, 2018

Approved as to form: [Signature]  
Paul Kuglitsch, Deputy Corporation Counsel

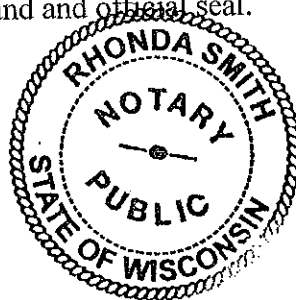
Approved as to availability of funds: \_\_\_\_\_  
Scott Manske, County Comptroller

STATE OF WISCONSIN )  
) ss.  
COUNTY OF MILWAUKEE )

Personally came before me this 13<sup>th</sup> day of June, 2018, Chris Abele, the County Executive for Milwaukee County, and to me known to be the person who executed the above and foregoing Option.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

[Signature]  
Notary Public  
Milwaukee County,



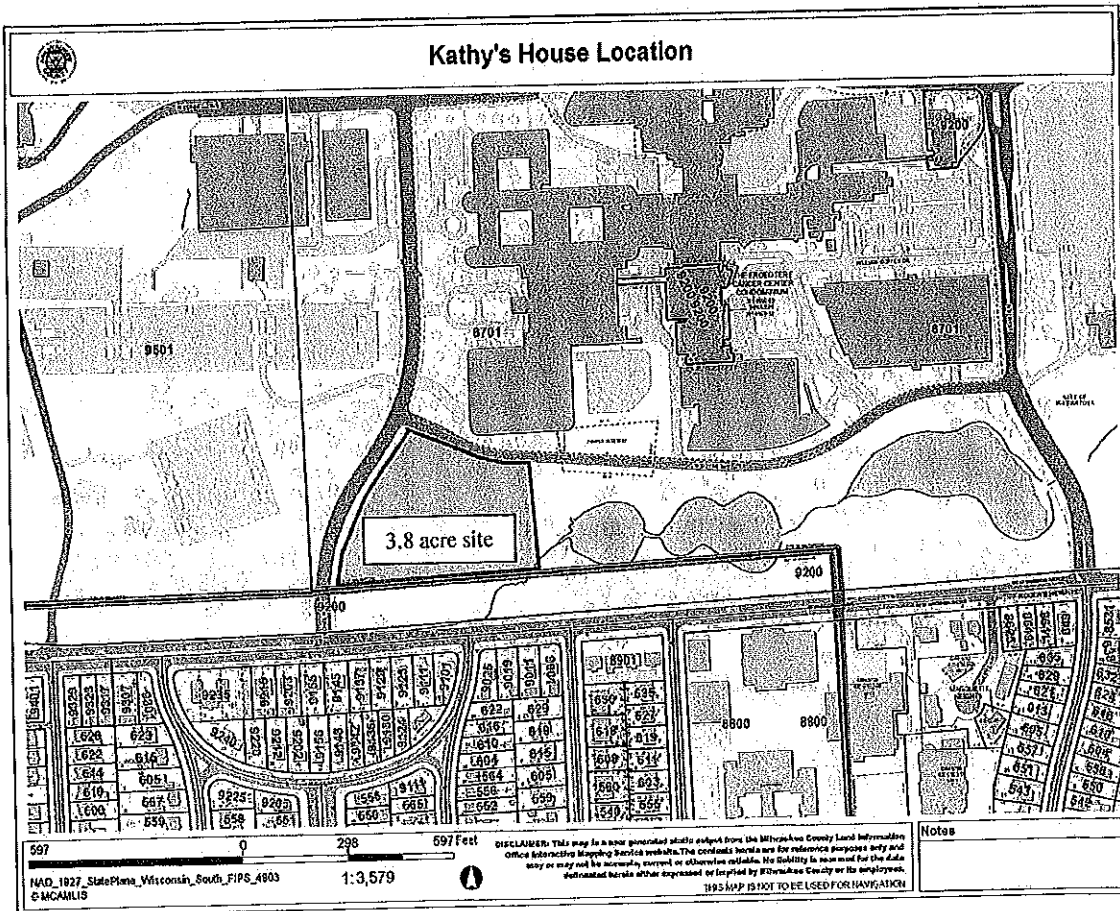
[SEAL]

My Commission expires 3/8/2019

## Exhibit A

### Description of Real Property

Address:	N/A, SE corner of N 92 <sup>nd</sup> St and Doyne Ave on the MRMC Campus
Land area:	168,340 sf (3.8 acres, subject to change)
Zoning:	Zoned SP-MED, Special Purpose – Medical Center District by the City of Wauwatosa



**Exhibit B**

FMLH Leased Area  
(Highlighted in Yellow)





Exhibit C

Insurance Requirements -Right of Entry

A Certificate of Insurance, naming Milwaukee County as an additional insured, must be sent for inspection and approval prior to the Closing to the Economic Development Director, Department of Administrative Services, Milwaukee County by email to james.tarantino@milwaukeecountywi.gov, evidencing the following coverages and minimum amounts:

<u>Type of Coverage</u>	<u>Minimum Limits</u>
Wisconsin Workers' Compensation or Proof of All States Coverage	Statutory (waiver of subrogation)
Employer's Liability	\$100,000/500,000/100,000
Commercial or Comprehensive General Liability Bodily Injury and Property Damage (incl. Personal Injury, Fire Legal, Contractual & Products/Completed Operations)	\$1,000,000 Per Occurrence \$1,000,000 General Aggregate
Professional Liability	\$1,000,000 Per Occurrence \$1,000,000 Aggregate
Automobile Liability Bodily Injury & Property Damage All Autos-Owned, non-owned and/or hired Uninsured Motorists	\$1,000,000 Per Accident Per Wisconsin Requirements

Coverages shall be placed with an insurance company approved by the State of Wisconsin and rated "A" per Best's Key Rating Guide. Additional information as to policy form, retroactive date, discovery provisions and applicable retentions shall be submitted to County, if requested, to obtain approval of insurance requirements. Any deviations, including use of purchasing groups, risk retention groups, etc., or requests for waiver from the above requirements shall be submitted in writing to the County for approval prior to the issuance of a right of entry permit.

The insurance requirements are subject to periodic review and reasonable adjustment by the County Risk Manager.

**Exhibit D**

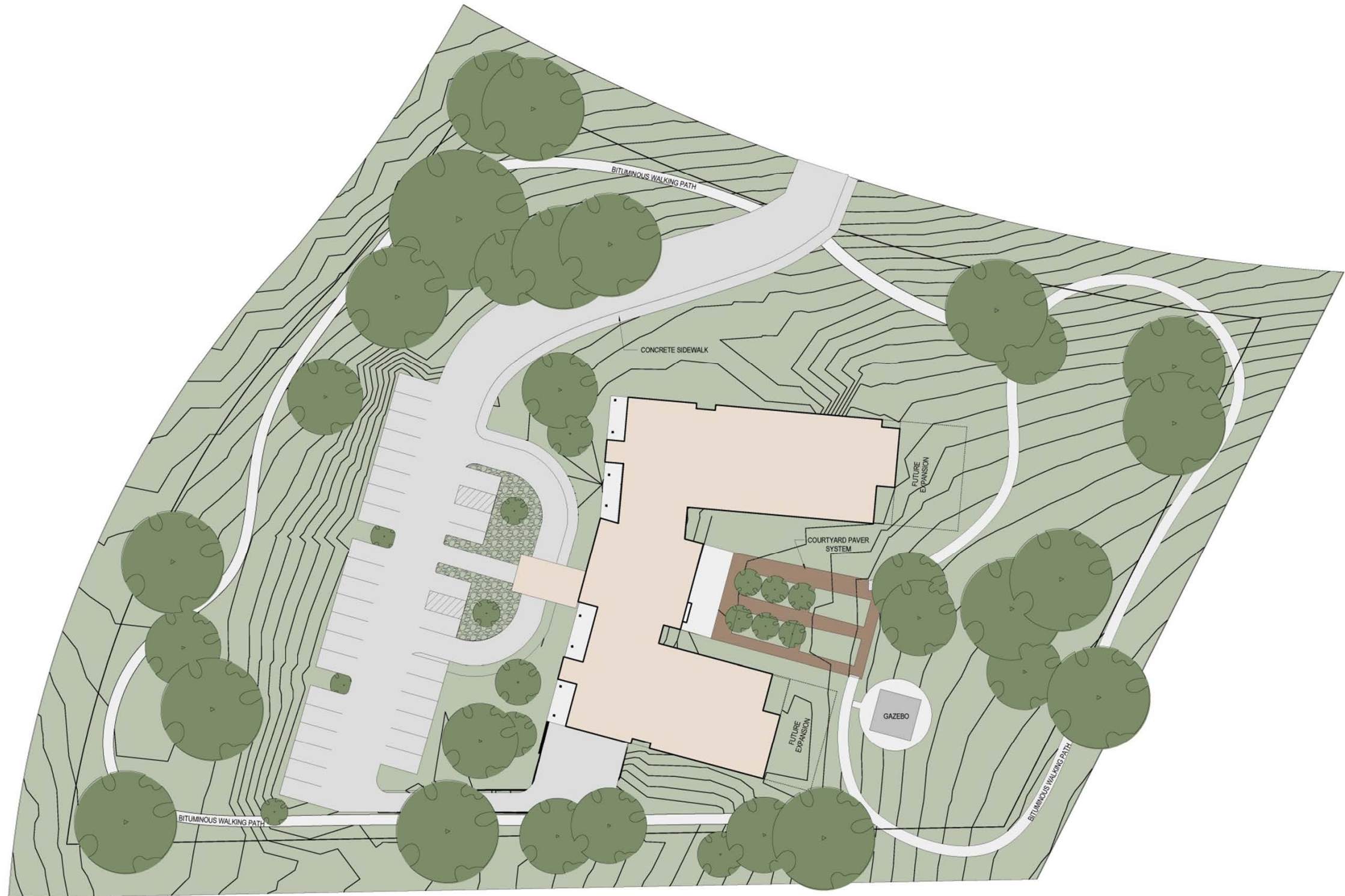
Concept Design Plans

See attached.



**KATHY'S HOUSE**  
WAUWATOSA, WI

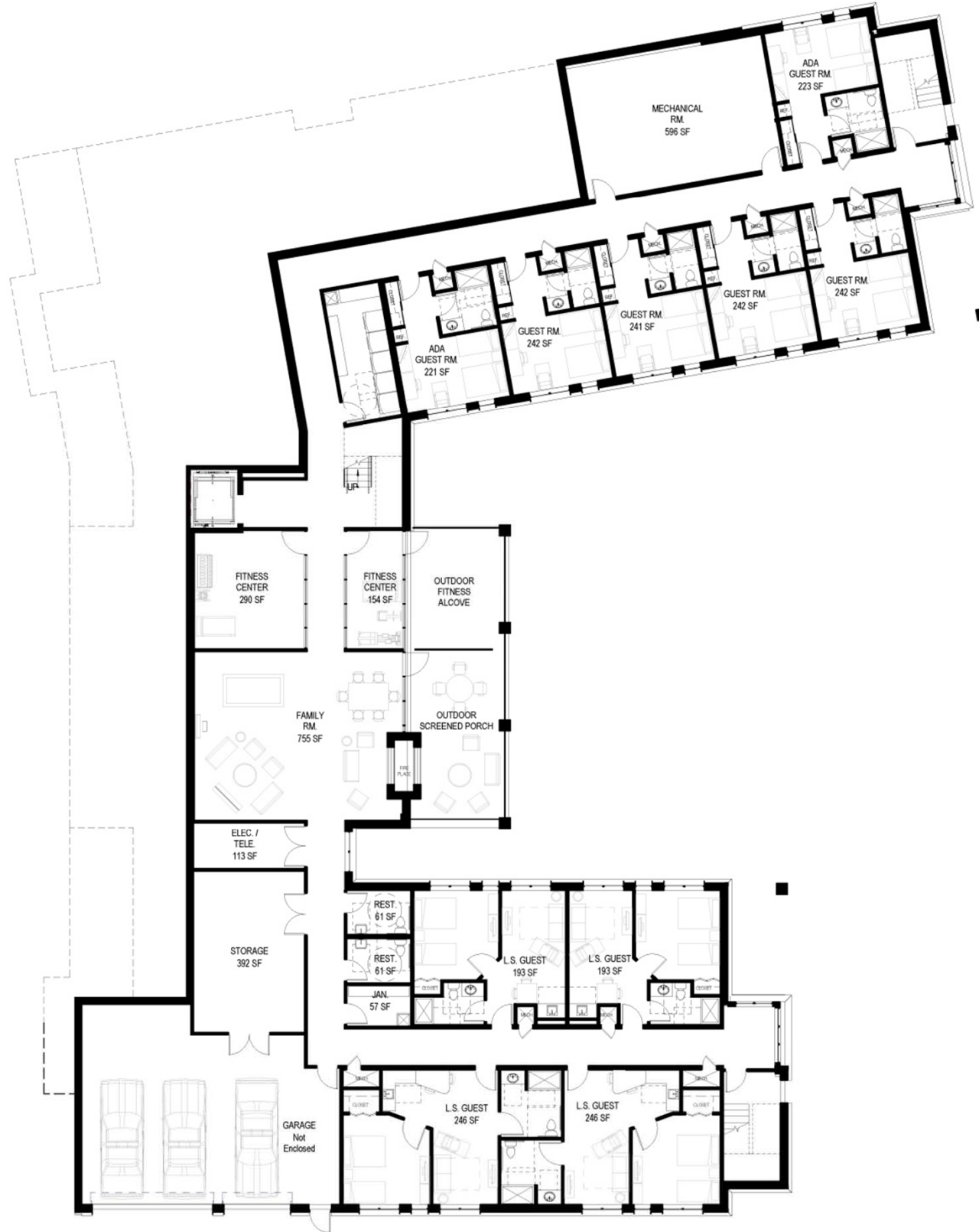
CURRENT DRAWINGS 5/9/2017



# SITE PLAN



# FIRST LEVEL



## LOWER LEVEL

















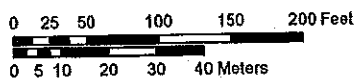


# Exhibit E

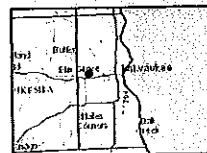
## Hazardous Materials Reports



Map Details: UWM-CRM 2016-093  
Coordinate System: NAD 1927 StatePlane Wisconsin South FIPS 4803  
Projection: Lambert Conformal Conic  
Datum: North American 1927  
Created by: UWM-CRM 2/26/2016

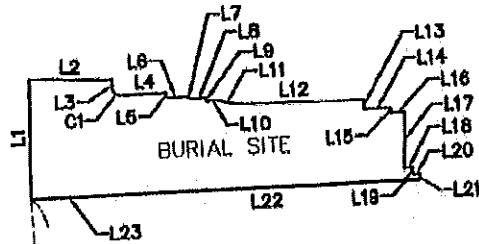


1:1,000



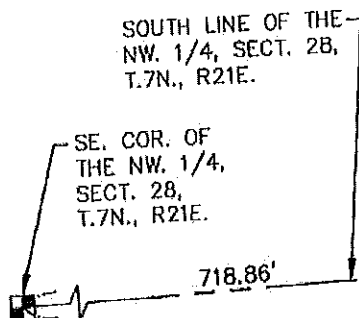
**CURVE DATA**

C1  
 DEL. = 74'21"09"  
 TAN. = 4.35'  
 LEN. = 7.44'  
 RAD. = 5.73'  
 CHD. = 6.93'  
 C.B. = S 52'41"46" E



LINE #	LENGTH	DIRECTION
L1	82.14'	N01'05'53"E
L2	58.04'	S87'24'33"E
L3	7.35'	S00'00'00"W
L4	31.22'	S90'00'00"E
L5	2.36'	S00'00'00"E
L6	14.70'	S88'58'37"E
L7	4.24'	S68'11'55"E
L8	9.97'	N90'00'00"E
L9	2.38'	S08'20'25"E
L10	8.13'	N90'00'00"E
L11	12.41'	S76'33'05"E
L12	90.53'	S89'00'13"E

LINE #	LENGTH	DIRECTION
L13	6.56'	S00'00'00"E
L14	18.10'	N90'00'00"E
L15	3.15'	S00'00'00"W
L16	9.71'	S90'00'00"E
L17	38.34'	S02'21'12"W
L18	5.25'	S87'08'15"E
L19	4.75'	S06'20'25"E
L20	4.99'	S90'00'00"E
L21	3.68'	S04'05'08"W
L22	221.97'	N90'00'00"W
L23	50.64'	S89'42'11"W



**LEGAL DESCRIPTION**

That part of the Northwest 1/4 of Section 28, Township 7 North, Range 21 East, in the City of Wauwatosa, Milwaukee County, Wisconsin, bounded and described as follows:

Commencing at the southwest corner of said Northwest 1/4; thence North 88'05'19" East, on and along the south line of said Northwest 1/4, 718.86 feet; thence North 01'54'41" West, 401.85 to the point of beginning; thence North 01'05'53" East, 82.14 feet; thence South 87'24'33" East, 58.04 feet; thence South 00'00'00" West, 7.35 feet to the beginning of a curve to the left, having a radius of 5.73 feet and a long chord of South 52'41'46" East, 6.93 feet; thence Southeasterly, on and along the arc of said curve, 7.44 feet; thence South 90'00'00" East, 31.22 feet; thence South 00'00'00" West, 2.36 feet; thence South 88'58'37" East, 14.70 feet; thence South 68'11'55" East, 4.24 feet; thence North 90'00'00" East, 9.97 feet; thence South 06'20'25" East, 2.38 feet; thence South 90'00'00" East, 8.13 feet; thence South 76'33'05" East, 12.41 feet; thence South 89'00'13" East, 90.53 feet; thence South 00'00'00" West, 3.15 feet; thence South 90'00'00" East, 18.10 feet; thence South 02'21'12" West, 38.34 feet; thence South 90'00'00" East, 9.71 feet; thence South 06'20'25" East, 4.75 feet; thence South 90'00'00" East, 4.99 feet; thence South 04'05'08" West, 3.68 feet; thence South 89'56'41" West, 272.61 feet to the point of beginning.

Containing 16,899 square feet (0.388 acres), more or less.

PROJECT NUMBER: 20160731.00  
 DATE: 9/12/17  
 SCALE: AS SHOWN

PROJECT TITLE: MILWAUKEE REGIONAL  
 MEDICAL CENTER  
 BURIAL SITE

REEL 3051 IMAG 42

6775503

REGISTRAR'S OFFICE } ss  
MILWAUKEE COUNTY, WI }  
RECORDED

DOCUMENT NO. \_\_\_\_\_  
CATALOG # 161  
BURIAL # BMI-0076  
OWNER NAME Milwaukee County Department of Public Works  
ADDRESS and Development  
Courthouse Annex, Room 305  
907 North 10th Street  
Milwaukee, Wisconsin 53233

'93 JUN -9 AB 41

REEL 3051 IMAGE 42  
*With a Copy of* REGISTER OF DEEDS

**NOTICE OF LOCATION OF CATALOGED BURIAL SITE**

WHEREAS, the legislature intends by 1985 Wisconsin Act 316 to assure that all human burials be accorded equal treatment and respect for human dignity without reference to ethnic origins, cultural backgrounds or religious affiliations; and  
WHEREAS, s. 157.70(2)(a), Wis. Stats. provides that the director of the State Historical Society of Wisconsin shall identify and record in a catalog, burial sites in this state, together with sufficient contiguous land necessary to protect the burial site from disturbance; and  
WHEREAS, s. 7011(13), Wis. Stats. provides a property tax exemption for land containing a burial site which is entered in the state catalog of burial sites and that this makes the property tax treatment of burial sites consistent with the property tax treatment of cemeteries; and  
WHEREAS, s. 157.70(5)(b), Wis. Stats. provides that no person may intentionally cause or permit the disturbance of a cataloged burial site without a permit from the director of the State Historical Society of Wisconsin.  
Now therefore be it known that the following described lands contain a cataloged burial site and are subject to the protection and provisions of 1985 Wisconsin Act 316.

**Pauper Cemetery - Froedtert Hospital Tract**

A parcel of land in the Northwest 1/4 of Section 28, Township 7 North, Range 21 East, in the City of Wauwatosa, Milwaukee County, State of Wisconsin, bounded and described as follows: Commencing at the Southwest corner of said 1/4 Section, thence N 86° 38' 29" East for 731.24 feet along the South line of said 1/4 Section to a point; thence N 03° 21' 31" West for 421.03 feet to the point of beginning; thence N 07° 26' 42" West for 112.92 feet to a point; thence N 86° 30' 58" East for 283.73 feet to a point; thence S 06° 18' 34" West for 149.32 feet to a point; thence North 85° 38' 41" West for 252.90 feet to the point of beginning.

6775503

dated this 16<sup>th</sup> day of April, 1993 RECORD 10.00

THIS INSTRUMENT DRAFTED BY:

Suzanne M. Harris  
\*Suzanne M. Harris

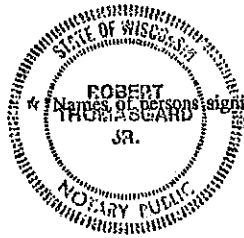
Signature of H. Nicholas Muller III  
Director, State Historical Society of Wisconsin  
\*H. Nicholas Muller III

RETURN TO:  
Burial Sites Preservation  
Historic Preservation Division  
The State Historical Society  
of Wisconsin  
816 State Street  
Madison, Wisconsin 53706

ACKNOWLEDGEMENT  
STATE OF WISCONSIN Dane COUNTY  
Personally came before me this 16<sup>th</sup> day of April, 1993  
the above named INDIVIDUAL

to me known to be the person(s) who executed the foregoing instrument and acknowledge the same.

Robert B. Thomasgard, Jr.  
\*Robert B. Thomasgard, Jr.  
Notary Public Dane County, Wisconsin.  
My Commission is permanent. (If not, state expiration date: \_\_\_\_\_, 19\_\_\_\_)



\*Names of persons signing in any capacity should be typed or printed below their signatures.

**Exhibit F**

Certification pursuant to Wis. Stat. § 59.17(2)(b)3

CERTIFICATION APPROVING THE SALE OF  
Vacant Land, partial Tax Key# 3819999022  
CITY OF WAUWATOSA, WISCONSIN  
COUNTY OF MILWAUKEE, WISCONSIN

The undersigned certify that each has reviewed the terms and conditions of the Option to Purchase Agreement for that vacant 3.8 acre parcel of land located on Tax Key #3819999022 in the City of Wauwatosa, Wisconsin, and more particularly described in Exhibit A of the Option to Purchase Agreement and hereby certifies, pursuant to Wis. Stat. § 59.17(2)(b)3 that the sale is in the best interests of Milwaukee County.

- The sale generates sale proceeds that financially benefit Milwaukee County.
- The anticipated development provides a needed service that is a hospital guest house facility including all relevant related operational space serving patients and their family members.
- The anticipated development provides opportunities for job creation, workforce apprenticeship, and job training for underserved populations.

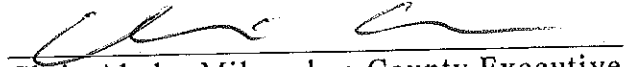
The Economic Development Division of Milwaukee County is hereby authorized to commence all actions necessary to complete the sale of the vacant land as soon as practicable, in accordance with the Option to Purchase Agreement with Froedtert Memorial Lutheran Hospital, Inc., attached hereto.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2018. .

Pursuant to Wis. Stat. § 59.17(2)(b)3, this certificate is valid if signed by two of the following:

1. Chris Abele, Milwaukee County Executive
2. Scott Manske, Milwaukee County Comptroller
3. Sue Eick, An individual who is a resident of the City of Milwaukee who has been appointed by the Milwaukee County Intergovernmental Cooperation Council (ICC), an executive council, as defined in Wis. Stats. § 59.794(1)(d).

Signatures for approval:

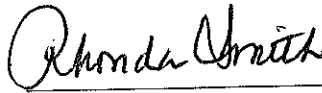
  
Chris Abele, Milwaukee County Executive

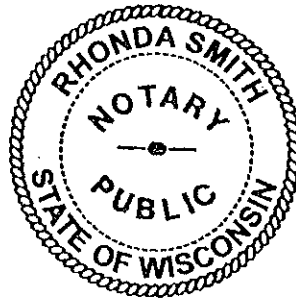
STATE OF WISCONSIN            )  
  ) ss.  
COUNTY OF MILWAUKEE        )

Personally came before me this 13<sup>th</sup> day of June, 2018, Chris Abele, County Executive for Milwaukee County, and to me known to be the person who executed the above and foregoing Certification.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

[SEAL]

  
\_\_\_\_\_  
Notary Public  
Milwaukee County,  
My Commission expires 3/8/2019





\_\_\_\_\_  
Scott Manske, Milwaukee County Comptroller

STATE OF WISCONSIN            )  
  ) ss.  
COUNTY OF MILWAUKEE \_\_\_\_\_)

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2018, Scott Manske, the  
Comptroller for Milwaukee County, and to me known to be the person who executed the above  
and foregoing Certification.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

[SEAL]

\_\_\_\_\_  
Notary Public  
\_\_\_\_\_ County,

My Commission \_\_\_\_\_

\_\_\_\_\_  
Sue Eick, ICC Appointee

STATE OF WISCONSIN            )  
  ) ss.  
COUNTY OF MILWAUKEE        )

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2018, Sue Eick, an individual who is a resident of the City of Milwaukee who has been appointed by the Milwaukee County Intergovernmental Cooperation Council, and to me known to be the person who executed the above and foregoing Certification.

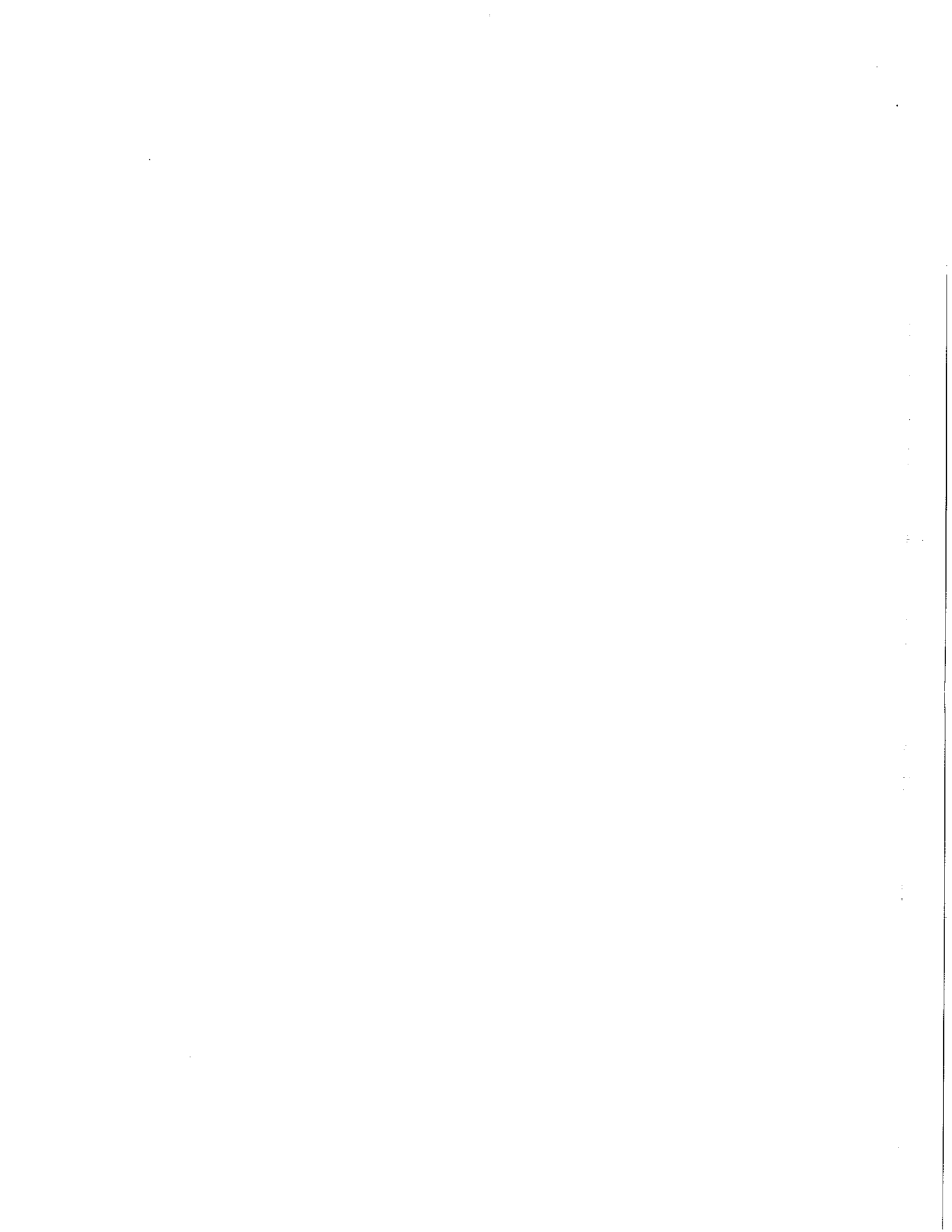
IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

[SEAL]

\_\_\_\_\_  
Notary Public

\_\_\_\_\_ County,

My Commission \_\_\_\_\_



# Exhibit H

Fire Services Agreement with Wauwatosa

FIRE PROTECTION AGREEMENT  
BETWEEN  
THE CITY OF WAUWATOSA  
AND  
MILWAUKEE COUNTY

THIS AGREEMENT, made and entered into this 19<sup>th</sup> day of December, 1980, by and between the CITY OF WAUWATOSA, a municipal corporation of the State of Wisconsin (hereinafter sometimes referred to as "City") and MILWAUKEE COUNTY, a municipal body corporate (hereafter sometimes referred to as "County");

W I T N E S S E T H :

WHEREAS, County and the City have previously entered into negotiations with respect to City assuming first line fire protection for all buildings and property of County and of the Private Geographic Members (PGM's) of the Milwaukee Regional Medical Center on the Milwaukee County Institutions grounds; and

WHEREAS, County is desirous of improving fire protection for its County-owned buildings and property, as well as the buildings and property of said PGM's; and

WHEREAS, City has indicated a willingness to locate a City of Wauwatosa Fire Department Station on the County Institutions grounds in order to enhance said fire protection for County and PGM's and to increase the complement of firefighters and other support services within said fire station so long as County shall contribute financially towards the construction, implementation, manpower and maintenance needs of said new fire station.

NOW, THEREFORE, in consideration of the mutual undertakings and agreements hereinbefore and hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged, City and County hereby agree as follows:

1. Services to be provided by City. City shall provide full fire protection, inspection and other fire and rescue services to all of the County buildings and property now or hereafter located on the County Institutions grounds and all non-County buildings and property now or hereafter located on said grounds. It is the essence of this agreement, in view of the operations conducted in the County Institutions medical facilities involving many occupants who are bedridden, that the buildings and facilities on the County Institutions grounds shall always be furnished fire protection and rescue services by the City of Wauwatosa.

2. Term. This agreement shall be for a period of sixty (60) years effective December 31, 1980, at 8:00 A.M., and terminating December 31, 2040, with automatic renewal for the period of December 31, 2040, to December 31, 2050, and every ten (10) years thereafter unless either party to this agreement shall terminate same upon two year's advance written notice to the other prior to the end of said 60-year term or any 10-year renewal thereof.

In the event that County shall terminate its obligations hereunder with respect to monetary payments for the fire protection services, City shall, notwithstanding such fact of termination, be permitted to occupy the leased premises for an additional period of sixty (60) years at such annual rental as shall be negotiated by the parties.

3. Land to be provided by County: rental fee. County hereby provides and leases to City a building site for the location of a new fire station to be located on the County Institutions grounds. The site plan and the legal description for said property is attached hereto as Exhibit A. City shall pay One Dollar (\$1.00) per year and other good and valuable consideration for the lease of said property. Payments shall be made for the full term of the lease or any renewal at the beginning of the term or renewal. The acceptance of the yearly rentals in advance shall not constitute

a bar to the right of County to terminate the lease for failure of Wauwatosa to live up to the terms and conditions of the agreement.

4. Construction of new fire station; apportionment of cost; approvals. The City shall arrange for the construction of the new fire station (hereafter Facility) to be built on said County leased lands at an estimated cost not to exceed Eight Hundred Thousand Dollars (\$800,000) (except as hereafter provided) and County shall pay to City eighty-five percent (85%) of the cost of said Facility. In the construction of said Facility, the City shall be required to follow all statutory bidding procedures applicable to said construction. If, upon receipt of sealed bids for the construction of said Facility, the firm bids shall exceed said sum of Eight Hundred Thousand Dollars (\$800,000), the parties shall meet and revise the plans for the building construction in such manner as to bring the costs thereof below Eight Hundred Thousand Dollars (\$800,000). Construction of Facility shall be completed within thirty (30) months of the signing of this agreement, which deadline for completion shall be deemed to be extended by the periods of any delays encountered by City due to strikes, pickets, slow-downs, shortages of labor, materials or supplies, acts of God or other causes or circumstances beyond the control of City.

City shall submit its plans, specifications and proposed location on the site to the County Director of Transportation, and the prior written approval of same by said Director shall be required before construction shall commence. The eighty-five percent (85%) cost heretofore referred to shall include architectural fees, the cost of construction of the building, utilities, site preparation, driveways, drive approaches, parking lots, landscaping, and all other expenses connected with the construction of said fire station to a point of total completion in order to commence operations.

Nothing herein shall obligate County to furnish electricity, steam, chilled water, telephone, or extensions for same, without separate agreements having been entered into between the parties. However, County does commit to permitting City to connect to the existing roadways, water lines, storm sewer lines and sanitary sewer lines presently in existence in the vicinity of the leased premises at such appropriate points as shall be approved by County's Director of Public Works and will confer easements, permits or other appropriate legal right on City for the right to make and maintain such connections. County reserves the right to impose a charge for the furnishing or use of water and sanitary sewers provided such charges do not exceed the unit amount charged to County-owned facilities on the County-owned institutions. In the event that at any later date there shall be a fee or charge imposed on County for storm sewer discharge, County shall have the right to assess an appropriate portion of said charge to City.

5. Payments during period of construction. Based on the assumption that City will cause to be constructed a Facility of approximately ten thousand (10,000) square feet, the maximum cost of which shall not exceed Eight Hundred Thousand Dollars (\$800,000), County covenants and agrees as follows:

- (a) As construction work shall be completed, City shall have the right to submit to County on or before the last day of each month an Application for Payment accompanied by such data and summary as will substantiate County's proportionate share and the right of City and City's contractor(s) to payment. Such Application shall be presented to County's Director of Transportation, who shall review said claims for work performed and give his approval for such payment, if



appropriate. Thereafter, County shall promptly issue appropriate payment for such amount authorized by its Director of Transportation.

- (b) County shall have the right to retain ten percent (10%) of its obligation hereunder pending completion in full of the construction of the Facility, at which time said ten percent (10%) shall be paid to City less the total amount of any liens, as disclosed by affidavit of the contractor, or other notice of lien under the laws of the State of Wisconsin.
- (c) At the completion of construction, City shall certify to County's Director of Transportation the actual construction costs of the Facility. In the event that the actual construction costs as certified to the County's Director of Transportation is less than the Eight Hundred Thousand Dollars (\$800,000) construction cost referred to above, the amount of the final payment by County shall be reduced so that County shall not pay more than eighty-five percent (85%) of said actual construction costs.

6. Transfer of City equipment to new Facility. Upon completion of construction, City shall transfer the fire equipment presently used at its fire station at 11401 West Watertown Plank Road, Wauwatosa, Wisconsin, including, but not limited to, the fire fighting vehicles and equipment, radio and communications equipment, alarm devices and such station furnishings as may

appropriately be used in the new location. Upon the effective date of this agreement, County shall transfer all of its fire fighting vehicles and equipment, as set forth in Exhibit B attached hereto, presently used at County's fire station at 8714 West Watertown Plank Road, including two pumper engines, one ladder truck, and the replacement of said ladder truck in either 1980 or 1981 (unless delivery thereof shall be delayed for reasons beyond the control of County). In connection therewith, the County shall furnish to City such evidence of title as to said motorized equipment as shall be requested by the Wauwatosa City Attorney.

7. Interim Site of Operations. Until such time as the new Facility shall be constructed on the County Institutions grounds, it is understood and agreed that all of the obligations of the parties herein expressed shall apply to the Wauwatosa fire station located at 11401 West Watertown Plank Road, and the fire protection and other rescue services herein referred to shall be furnished to County by City from said station.

8. Transfer of City personnel to new Facility. Upon completion of construction of said Facility, City shall transfer the following personnel from its station at 11401 West Watertown Plank Road for the implementation of operations on the County Institutions grounds:

3	-	Fire Captains
6	-	Fire Lieutenants
6	-	Motor Pump Operators
6	-	Firefighters
9	-	Firefighters (Paramedics)
<hr/>		
30	-	TOTAL

County shall not be liable for any cost or expense for said personnel either at the outset of operations or at any time thereafter.

9. Authority of City to hire additional personnel:  
payments for same. City is authorized to hire and retain a minimum of fifteen (15) new positions of firefighters, supervising officers and related personnel to augment its existing personnel being transferred from the West Watertown Plank Road station. During the first full year of operations, the maximum sum that County shall be required to pay for said personnel costs shall be Two Hundred Eighty-eight Thousand Nine Hundred Dollars (\$288,900) (hereafter Base), plus the adjustment applicable in January, 1981 by reason of any increase attributable to the negotiated labor agreement for the year 1981. In subsequent years, the Base shall be further adjusted to reflect the City's increase in fire personnel salaries and fringe benefits in the event that the salaries and fringe benefits of City's fire personnel shall be modified pursuant to collective bargaining agreements between City and labor organization(s) representing the fire personnel. Fringe benefits as used herein shall include the following:

Vacation pay

Sick Leave pay

Annual uniform/clothing allowance  
and replacement

Wisconsin Retirement Fund payments  
(employer and employee shares)

Health and Life Insurance

Special Premium pay

Differential Injury pay

The City shall render an invoice to County by January 1st of each year for that year's base payment, as adjusted, and County shall pay the invoiced amount by February 1st of that year. The City's invoice shall be of such detail and form as to substantiate the charges and credits, if any, for the fire personnel specified in

this agreement. In the event the collective bargaining agreement shall not be consummated until after January 1st of a given year, an appropriate retroactive adjustment shall be made as soon as practicable thereafter.

The new employees shall include the following minimum positions:

- 3 - Fire Lieutenants
- 3 - Motor Pump Operators
- 6 - Firefighters
- 1 - Mechanic
- 1 - Fire Inspector

---

14 - TOTAL

The fifteenth position authorized under this paragraph shall be such additional person as the City's fire chief shall determine. The adjustment of the Base shall be made as of January 1st of each year during the term of this agreement or the effective date of the applicable labor agreement.

It is understood and agreed that the foregoing Fire Inspector's services shall comprise the equivalent of one full-time inspector for the buildings and property now or hereafter located on the County Institutions grounds. His duties shall include those necessary inspection activities required of County for certification, accreditation and licensure. In addition to his inspection duties, the Inspector shall provide fire training for County Institutions and PGM employees at the County Institutions.

10. Adjustment of County payments. In the future, if the total number of firefighters assigned by the City on a regular basis, pursuant to this agreement, to the station on the County Institutions grounds is reduced (other than reductions of a temporary nature, not to exceed thirty (30) days, that are required

to meet the overall staffing needs of the entire Wauwatosa Fire Department), the payments by Milwaukee County of the annual base, plus accrued adjustment, shall be reflected by a proportionate reduction in the payment by Milwaukee County based on said reduction of total salaries and fringe benefits. In addition, if in future years personnel performing fire fighter functions and assigned to the County Institutions grounds shall be assigned to non-fire fighting duties on a regular basis, the amount that the County shall be required to contribute shall be reduced accordingly to reflect such portion of time as said firefighter shall devote to non-fire fighting duties that benefit the City.

11. Payment for operating costs: adjustment of.

County shall, in the first year of the operation of this agreement, pay to City the maximum sum of Fifteen Thousand Dollars (\$15,000) (or appropriate portion thereof if less than one year) for operating costs, including building and equipment maintenance and repair costs, heat, light, water and other utility expenses, cost of insurance on the building and equipment, costs of vehicle operation and maintenance, alarms and other incidental operating costs. In all subsequent years, said sum of Fifteen Thousand Dollars (\$15,000) shall be adjusted based on the previous year's third quarter Milwaukee area consumer price index (All Items category - All Urban Consumers) of the United States Department of Labor. Said adjusted amount, as invoiced by City, shall be paid by County by February 1st of each year.

12. City hiring of County's firefighters. The City is mindful of the effect that this Agreement will have on the displacement of Milwaukee County Fire Department personnel, and also the effect that the implementation of this Agreement will have on creating an immediate need for additional trained and experienced city fire fighting personnel having a special knowledge and familiarity with the County Institutions grounds, the variety of

buildings located thereon, as well as training and experience of fighting aircraft fires due to the use of helicopters in transporting emergency victims. Toward the end of fulfilling the requirements needed for trained and experienced fire fighting personnel, the City shall create within the limits allowed under section 62.13, Wisconsin Statutes, through the action of its Police and Fire Commission, a special class for appointment purposes designed to hire, in the order of their experience, those displaced personnel into the Wauwatosa Fire Department. During this transitional period, personnel who are already trained and experienced and who are familiar with the County Institutions and fire fighting problems and tactics shall be hired in the order of their experience subject to medical examination and police background investigation. It is also understood that under 62.13, Wis. Stats., the City has an obligation to reinstate any firefighters of the City of Wauwatosa Fire Department who are laid off, prior to hiring any special class firefighters as established above. Therefore, nothing contained in this Agreement shall interfere with that legal obligation.

City will notify County fire fighting personnel of all fire department positions available with City within seven (7) days of the signing of this Agreement. Thereafter, County fire fighting personnel shall have fourteen (14) calendar days to file applications for such City departmental vacancies after which time applications for the special class shall no longer be accepted. As to those County fire fighting personnel who apply for a special class City fire department position and are found to be qualified by City but cannot be immediately placed in a City fire department position, the City will give preference to said persons for future openings in the fire department.

Such County personnel, if hired by the City, shall receive the usual and customary salary and fringe benefits for new personnel as specified in the City's labor agreement with the Fire Fighters Association (Local 1923), which includes a one-year probationary period for all new employees.

13. Fire insurance on Facility. City shall maintain fire and extended coverage on the Facility in an amount equal to its replacement value.

14. City's mutual aid commitments. City shall continue to respond to mutual aid commitments with other municipalities as has been done in the past using the new fire station and fire equipment in the same manner as any other City fire station or equipment has been used.

15. Modification of mutual aid commitments. City shall have all mutual aid agreements modified so that such fire protection will be committed to all properties located on the County grounds within the jurisdictional limits of City in the same fashion that such protection is provided to all other properties within the jurisdiction of City.

16. Utilization of personnel and equipment. The Chief of City's Fire Department shall have sole discretion as to the utilization of personnel and equipment.

17. Credit for past payments in event of State legislation. In the event that any time during the term of this agreement, the State Legislature of the State of Wisconsin shall impose any law or requirement on County compelling it, or having the effect of compelling it, to make payment to municipalities for fire protection to buildings, grounds, or personal property located on the County Institutions grounds, all amounts previously or thereafter paid by County pursuant to this Agreement shall be deemed a credit towards any such amount as County might have to

pay to City pursuant to said legislation, including, but not limited to, a credit for the County's cost of the construction of said new Facility, as well as County's share of the wages and fringe benefits payable hereunder.

18. Termination of Existing Agreements. It is agreed that the agreements heretofore entered into between the City of Wauwatosa and Milwaukee County dated December 22, 1977 relating to Milwaukee County furnishing first line fire protection from the buildings located on the County Institutions lands is hereby rescinded, terminated and held for naught and County is hereby released of any and all obligations thereunder. Further, that the Agreement between the City of Wauwatosa and The Kurtis R. Froedtert Memorial Hospital, Inc. dated November 15, 1977 will likewise be terminated, rescinded and held for naught and Froedtert will be released of any and all obligations thereunder.

19. Creation of a County Fire Department. In the event that Milwaukee County shall, at any time during the term of this Agreement, be required by state law, administrative regulation or judicial decision to create or operate a county-wide fire department, County's obligations hereunder shall terminate as of the effective date of such law, regulation or judicial decision. If such event shall occur within the first forty (40) years of the effective date of this Agreement, which period shall be deemed to be the appropriate amortization period of the fire station, City shall pay County the unamortized value of the eighty-five percent (85%) share of the fire station that County shall have previously paid to City. In the event such event shall occur within the first fifteen (15) years (as to the pumpers) and twenty (20) years (as to ladder truck) of the effective date of this Agreement, which shall be deemed to be the appropriate amortization periods for said fire fighting vehicles, City shall pay County the unamortized value of said fire fighting vehicles.



20. Notices. Notices required or permitted to be given hereunder shall be given by registered or certified mail, postage prepaid, return receipt requested, addressed to County at Courthouse, 901 North Ninth Street, Milwaukee, WI 53233, Attention: County Clerk, and to City, Wauwatosa Memorial Civic Center, 7725 West North Avenue, Wauwatosa, WI 53213, Attention: City Clerk, or at such other address as either party may from time to time specify in writing.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement at Milwaukee County, Wisconsin, on the day and year indicated.

Witnesses:

<p>_____</p> <p><u>Catherine Donovan</u></p> <p><u>Helen Weisfeld</u></p> <p><u>Gene F. Paskiewicz</u></p>	<p>CITY OF WAUWATOSA</p> <p>BY <u>James A. Benz</u> Mayor</p> <p>BY <u>J. R. Neuman</u> City Clerk</p> <p>MILWAUKEE COUNTY</p> <p>BY <u>Symon H. Smith</u> Director Institutions &amp; Departments</p> <p>BY <u>Ronald Jablonski</u> County Clerk</p>
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APPROVED  
FOR  
EXECUTION  
*James S. Paskiewicz*  
CORPORATION  
COUNSEL

STATE OF WISCONSIN )  
( ss.  
MILWAUKEE COUNTY )

Personally came before me this 18th day of December, 1980 the above-named James A. Benz and J. R. Neuman, Mayor and City Clerk respectively of the City of Wauwatosa, to me known to be such persons who executed the foregoing instrument on behalf of the City of Wauwatosa, and acknowledged the same to be the free act and deed of said City, made by its authority.

Sally J. Zouren  
Notary Public  
My commission Exp. 9/16/84

STATE OF WISCONSIN )  
( ss.  
MILWAUKEE COUNTY )

Personally came before me this 18<sup>th</sup> day of December, 1980 the above-named Symuel H. Smith, Director, Milwaukee County Institutions and Departments, ~~and Thomas E. Zablocki, County Clerk of Milwaukee County,~~ to me known to be the person who executed the foregoing instrument on behalf of Milwaukee County and acknowledged the same to be the free act and deed of said County, made by its authority.

Helen Westfall  
Notary Public

My commission September 5, 1982

STATE OF WISCONSIN )  
( ss.  
MILWAUKEE COUNTY )

Personally came before me this 19th day of December, 1980 the above-named Thomas E. Zablocki, County Clerk of Milwaukee County, to me known to be the person who executed the foregoing instrument on behalf of Milwaukee County and acknowledged the same to be the free act and deed of said County, made by its authority.

Frank E. Ryan  
Notary Public

My commission 11-19-84

*this instrument drafted by:*  
*James J. O'Donnell*  
*Deputy Corporation Counsel*  
*Rm. 303, Courthouse*

EXHIBIT A

That part of the Northwest One-quarter (1/4) of Section 29, Township 7 North, Range 21 East, in the City of Wauwatosa, Milwaukee County, Wisconsin, bounded and described as follows, to-wit: Commencing at the Northwest Corner of said quarter section; thence South  $89^{\circ}46'$  East, along the North line of said quarter section 1115.97 feet to a point; thence South  $0^{\circ}14'$  West 55.00 feet to the place of beginning:

Thence continuing South  $0^{\circ}14'$  West 75.00 feet to a point; thence North  $89^{\circ}46'$  West 110.00 feet to a point; thence South  $0^{\circ}14'$  West 175.00 feet to a point; thence North  $89^{\circ}46'$  West 285.82 feet to a point; thence 81.08 feet right around a curve, having a radius of 255.42 feet with its chord bearing North  $31^{\circ}32'$  East 80.74 feet, to a point; thence 90.17 feet left around a curve, having a radius of 218.17 feet with its chord bearing North  $28^{\circ}47'15''$  East 89.53 feet to a point; thence North  $16^{\circ}56'50''$  East 106.90 feet to a point; thence South  $89^{\circ}46'$  East 280.35 feet to the place of beginning, containing 63,002.5 square feet.

EXHIBIT A

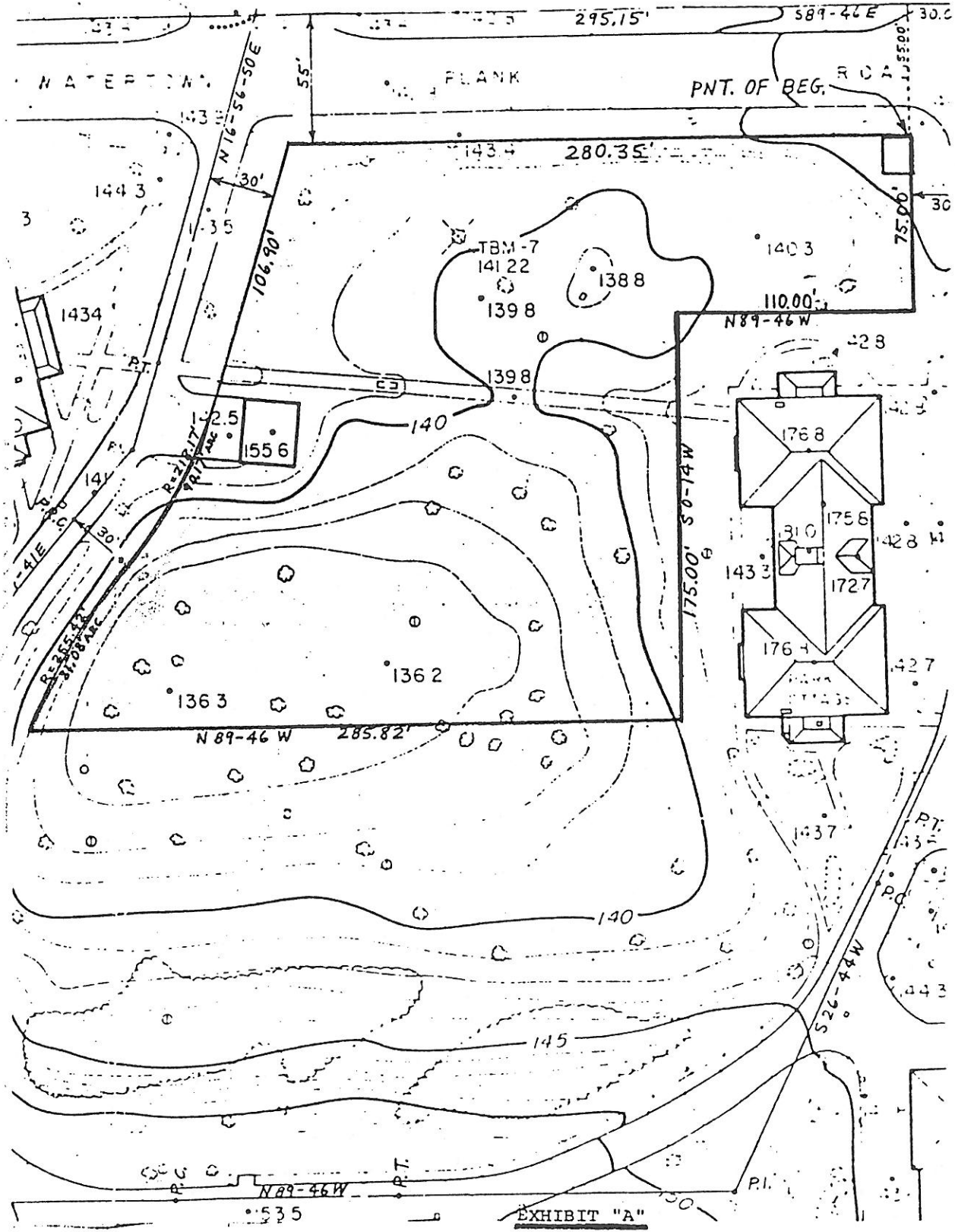


EXHIBIT "A"

EXHIBIT B

LIST OF FIRE FIGHTING EQUIPMENT,  
STATION FURNISHINGS AND OTHER ACCESSORIES

- A. Dormitory:
  - 13 - Metal Lockers
  
- B. Fire Equipment:
  - 2 - 1978 Mack Diesel Pumper Engines w/1250 g.p.m.,  
two stage pumps - Class A each having the following  
equipment:
    - Four-Frequency Radios
    - Required Lighting and Warning Devices  
Equipment meets N.F.P.A. Code 1901-1975
    - 500 gal. Water Tank
    - Hose Bed Containing:
      - 30 Sections of 2½" Hose )
      - 10 " " 3 " " (
      - 8 " " 1½" " )
    - Deluge Gun - Akron Model 501 w/3 Tips (1½" 1-3/4" & 2")  
Mounted Over Crosslay
    - 24' Metal Extension Ladder
    - 14' Metal Roof Ladder
  - 3 - M.S.A. Self-Contained Masks & 3 Spare Air Tanks
    - Compartments Containing Necessary Hydrant Wrenches,  
Tools, Floodlights and Cords
  
- C. 1 - 1957 Mack-Maguris 100' Steel Aerial Ladder Truck having  
the following equipment:
  - Required Lighting and Warning Devices  
Equipment meets N.F.P.A. Code 1901-1975
  - 2-Way Radio

6 - Ground Ladders (Metal) having one each of the following lengths:

40'

30'

18' Straight

18' Roof

16' Extension

14' Roof

8 - Pike Poles (All Wooden Handles) having two each of the following lengths:

16'

12'

8'

6'

4 - M.S.A. Self-Contained Masks

4 - Spare Air Tanks

1 - Homelite Cutting Saw (Gasoline)

1 - Back Pack Cutting Set

Compartments Carrying Necessary Required Tools, Ropes, Salvage Covers and Jacks.

D. Spare Hose consisting of:

50 - Fifty foot Sections 2½"

36 - Fifty foot Sections 1½"

E. 10 - Portable Radios with chargers.



AMENDMENT NO. 1

THIS DOCUMENT IS AN APPENDAGE TO  
FIRE PROTECTION AGREEMENT BETWEEN  
CITY OF WILWATOSA  
and  
MILWAUKEE COUNTY

Document No. 5449778

RECORDED December 29, 1980 (dated 12/19/80)

REEL NO. 1348

IMAGE: 372 - 391, incl.

AGREEMENT NO. 1346

AMENDMENT NO. 1  
TO  
AGREEMENT

Between  
CITY OF WAUWATOSA  
and  
MILWAUKEE COUNTY

THIS AGREEMENT, made and entered into this 11<sup>th</sup> day  
of January, 1982, by and between CITY OF WAUWATOSA,  
a municipal corporation of the State of Wisconsin (hereafter  
sometimes referred to as "City") and MILWAUKEE COUNTY, a municipal  
body corporate (hereafter sometimes referred to as "County");

W I T N E S S E T H :

WHEREAS, City and County have heretofore entered into  
a written agreement dated December 19, 1980, relating to lease  
of lands on County's County institutions grounds, for construc-  
tion by County of a City fire station (hereafter "Facility"); and

WHEREAS, the Agreement between the parties provides  
that County is not obligated to furnish electricity or steam to  
Facility without separate agreements having been entered into  
between the parties; and

WHEREAS, City is about to begin constructing its  
Facility and is presently in urgent need of various supportive  
services; and

WHEREAS, City has not made provision on its Premises  
for the equipment and fixtures necessary for it to supply steam  
for its Facility and has not made independent arrangements for  
same or for electricity; and

WHEREAS, City has requested that County furnish steam  
and electricity to City from its county institutions power plant;  
and

WHEREAS, since County is presently in a position where it can, on an interim basis, furnish electricity and steam to City in order to enable City to proceed with and to complete the construction of its Facility, and in order to enable it to become operational in 1982 upon completion of said Facility; and

WHEREAS, the parties have reached agreement upon the terms and conditions for the furnishing by County of utilities to City;

NOW, THEREFORE, for and in consideration of the mutual covenants of the parties as hereinafter set forth, and other valuable consideration, it is mutually agreed between City and County that the lease agreement between the parties dated December 19, 1980 shall be and it is hereby amended by adding thereto Appendix A, as is set forth in the attached Appendix A, which attachment is made a part hereof as if set forth in full herein.

Except as otherwise specifically provided herein and in the attachment hereto, the terms and conditions of the aforesaid agreement dated December 19, 1980 shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their respective proper officers and have attached their corporate seals thereto as of the date and year first above written.

Witnesses:

CITY OF WAUWATOSA

Phyllis J. Schaefer

BY

James A. Benz  
Mayor

Betty J. Holmgren

BY

J. R. Heumann  
City Clerk

Witnesses:

Catherine Rice

June F. Pastowitz

MILWAUKEE COUNTY

APPROVED FOR EXECUTION  
James W. Walker  
Deputy CORPORATION COUNSEL

APPROVED  
Thomas J. Zabler  
Deputy DIRECTOR  
County Clerk

STATE OF WISCONSIN )  
( ss.  
MILWAUKEE COUNTY )

Personally came before me this 8th day of Jan, 1989, the above-named James A. Benz and J. R. Neuman, Mayor and City Clerk respectively of the City of Wauwatosa, to me known to be such persons who executed the foregoing instrument on behalf of the City of Wauwatosa, and acknowledged the same to be the free act and deed of said City, made by its authority.

Catherine Donovan  
Notary Public

My commission 9-4-83  
expires

STATE OF WISCONSIN )  
( ss.  
MILWAUKEE COUNTY )

Personally came before me this 11th day of January, 1982, the above-named James W. Walker, Director, Milwaukee County Institutions and Departments, to me known to be the person who executed the foregoing instrument on behalf of Milwaukee County and acknowledged the same to be the free act and deed of said County, made by its authority.

Helen Hensel  
Notary Public

My commission September 5, 1982  
EXPIRES

STATE OF WISCONSIN )  
( ss.  
MILWAUKEE COUNTY )

Personally came before me this 19<sup>TH</sup> day of JANUARY,  
1982, the above-named THOMAS E. ZABLOCKI, County Clerk of  
Milwaukee County, to me known to be the person who executed the  
foregoing instrument on behalf of Milwaukee County and acknowledged  
the same to be the free act and deed of said County, made by its  
authority.

Arnold A. Ode  
Notary Public

My commission EXPIRES 2-21-82

APPENDIX A  
SUPPORTIVE SERVICES  
INTERIM AGREEMENT

The term "supportive services" as used herein shall, unless otherwise indicated, refer to electric power, steam and condensate, water, sanitary and storm sewers.

Subject to the terms and conditions hereinafter set forth and subject to all applicable statutes, ordinances, rules and regulations, the parties agree as follows:

(a) Electric Power

(i) Right to Connect to County Distribution System; Limitations Because of County's Reliance on WEPCO.

County furnishes electric power to various county-owned buildings on the county institutions grounds through certain distribution lines emanating from County's power plant. To the extent that County shall continue to furnish electric power to said county-owned buildings, it hereby grants unto City the privilege of connecting to said distribution system for the purpose of securing electric power necessary for the operation of its Facility. However, City understands that County is dependent upon the Wisconsin Electric Power Company, or its successor, for electrical power which is transmitted from the institutions power plant via distribution lines to the various county institutions buildings. Accordingly, any termination, reduction, inability or



refusal by Wisconsin Electric Company, or its successor, to continue to furnish said electrical power to County will relieve County of any commitment or obligation hereunder.

Because of the nature of County's power plant operations and because of its dependence upon Wisconsin Electric Power Company for substantial portions of its electrical power, City shall make suitable arrangements for on-site standby electric generation power source for emergency situations to insure the continued operation of its critical activities in the event of breakdown of County's power plant equipment or because of the happening of any of the above. The use of said standby source by City shall be limited to such times as power is limited or unavailable or for routine testing.

(ii) Distribution Lines; Tie in, Procedures; Approvals by Department of Public Works.

It is understood and agreed between the parties that City shall utilize and tie into County's distribution system at such points as are shown on final construction plans as approved by Department of Public Works and on file in that office. County's Director of Public Works shall have the final right of approval of equipment, material, route, location and method of erecting or installing said electric power lines from point of service to City's Facility. All costs and expenses incidental

to the above, including without limitation because of enumeration, the cost of connections, meters and controls, shall be the sole responsibility of City.

(iii) Interim Electric Facilities During Construction.

Subject to the demands upon County by other on-site institutions and departments, County agrees that during the period of construction of Facility, it will furnish to City temporary electrical power in the capacity, point of connection and manner approved by County's Director of Public Works. The use of any overhead or underground electrical lines by City during the period of construction of the facility shall be deemed an interim measure only and in no event shall City be permitted to utilize or have said overhead or underground lines on (or off) the Premises beyond sixty (60) days of the Construction Completion Date specified in the construction contract document unless said period shall be extended by County's Director of Public Works. The method of disconnection of said temporary overhead or underground electrical lines shall also require the approval of County's Director of Public Works. Electrical power consumed by City during the period of construction shall be metered and shall be paid to County in such manner as shall be

determined by County's Director of Public Works. All interim electrical facilities, including metering device, shall be installed at the expense of City.

(b) Steam and Condensate

(i) General Provisions.

County furnishes steam to various county-owned buildings on the county institutions grounds through certain distribution lines emanating from County's power plant. To the extent that County shall continue to furnish steam to said county-owned buildings, it hereby grants to City the privilege of connecting to the steam distribution and condensate lines for the purposes of providing such supportive service to its Facility. County's Director of Public Works shall have the final right of approval of all details relating to the connections and routing for said service, including, but not limited to, all equipment and material to be used, the amount and method of condensate recovery, the methods and the precise points of connections to said steam distribution and condensate lines. All costs and expenses incidental thereto, including the costs of connections, meters, sensors and controls and for the installation of same, shall be the sole responsibility of City. Condensate shall be returned to the institutions power plant in the manner and in the amounts required by County's Director of Public Works.

County agrees that during the period of construction of Facility, it will furnish steam to City in the capacity, point of connection and manner approved by County's Director of Public Works. Steam consumed by City during the period of construction shall be metered and shall be paid to County in such manner as shall be determined by County's Director of Public Works. The metering device shall be installed at the expense of City.

(ii) Special Provisions.

It is further understood and agreed that County's ability and commitment to furnish steam to City is limited by reason of the existence of only three coal-fired boilers and one gas/oil-fired boiler in County's institutions power plant. In addition, it is understood that County's ability to furnish steam to City may be further restricted by reason of County agreeing to furnish said steam to private geographic members of the Milwaukee Regional Medical Center. In addition thereto, it is understood and agreed that County reserves the right to furnish steam not only to any or all existing county facilities on the county institutions grounds, but to such other new county facilities that may be constructed on the county institutions grounds in the future. Accordingly, in order that County may have ample reserves during normal operations of said boilers

under any or all of the foregoing circumstances, City agrees that its total steam requirements for all buildings on its site will not exceed 800 pounds per hour during the term of this agreement. County agrees that it will, subject to the other provisions of this agreement, furnish up to said 800 pounds per hour. If City's requirements shall exceed said amount at any time, County reserves the right to furnish said excess amount or not to furnish all or portions of any amounts in excess of 800 pounds per hour.

In addition to the provisions of sub (i) hereof, it is understood and agreed that in the event of the breakdown, curtailment, or shutdown of said steam service for any reason whatsoever, County shall have the authority to reduce delivery of steam to City to such amounts as County's Director of Institutions (or his duly designated representative) deems necessary.

(c) Electrical Power; Steam and Condensate; Cost of Installation of Connecting Line; Approvals.

It is understood and agreed by City that it shall be the responsibility of City to arrange for and make all necessary connections between the Facility and the distribution line. County's Director of Public Works shall have the final right of approval of all details relating to the design, construction, routing and the point of connections for said service, including,



but not limited to, all equipment and material to be used, methods and precise points of connection to said distribution lines. All costs and expenses incidental to the design and construction thereof, the cost of connections, meters, sensors and controls and for the construction of same shall be the sole responsibility of City. Maintenance and repair of said distribution lines and equipment shall be the sole responsibility of County and City shall reimburse County for the cost thereof which may be billed to County as part of the operating costs provided for under the agreement between the parties of December 19, 1980.

(d) Electric Power, Steam and Condensate; Agreement to Purchase Exclusively from County.

City, in consideration of County agreeing to furnish the supportive services referred to in (a) and (b) and in consideration of County having expanded its capability to furnish same, and in the interests of enabling County to achieve an energy balance and reduce costs to both County and City, does hereby agree that it will continue to purchase and receive all of said supportive services for whatever length of time County shall be willing to furnish same. Provided that County is able to adequately meet the needs of City with respect thereto during said period of time, City waives any right it may have to make independent arrangements to provide such supportive services or the purchasing of same from public utilities.

(e) Termination of Reduction of Power Plant Operations;  
Sale, Lease Assignment to Public Utility or Others.

It is understood by and between the parties that in the event that County shall terminate or reduce its operation of the County Institutions power plant for any reason, including, but not limited to, the sale, lease, assignment or transfer of said power plant to a public utility organization of any kind or description whatsoever or if County selects any other alternate method for furnishing the utilities enumerated above, County will be relieved of any and all obligations under this agreement to furnish, sell, supply or in any other manner to deliver electricity or steam to City.

In the event County shall terminate or reduce its operation or makes such alternate arrangements, and shall thereafter make other provision for the furnishing of electricity or steam to Milwaukee County Medical Complex, it shall make similar arrangements for providing said supportive services to City's fire station.

(f) Water, Sanitary and Storm Sewers.

As to the needs of City for water and sanitary and storm sewers for Facility, Lessee is extended the privilege to tie into and connect to County's water, sanitary and storm sewer distribution system on the county institutions grounds at such points and locations, in such manner and with such material and equipment as shall be determined and approved by County's Director of Public Works. All costs and expenses incidental thereto, including all costs of

metering and controlling devices, if required by County, and for installation of same, shall be borne solely by City. During the period of construction, utilization of water, sanitary and storm sewers shall be paid for by City, or its contractors in the manner as shall be determined by County's Director of Public Works. If the installation of metering devices shall be requested by County's Director of Public Works, the cost of the metering devices for this temporary use and for installation of same shall be borne by City.

(g) Utility Services Beyond Control of County.

It is understood and agreed between the parties that County cannot and does not guarantee to City the continuing supply of or the availability of water, sanitary and storm sewer since County is not the primary source of said supportive services.

(h) Rates and Charges; Final and Interim Rates.

It is understood by and between the parties that upon the signing of this agreement County has not finalized the rates, fees or charges for said utility services to be furnished to City hereunder, or the methods or procedures for charging or assessing the capital costs incidental to any further capital improvements that County may make in the future in order to maintain or furnish supportive services. The rates, fees or charges to be paid by City for said services and the method of apportioning said capital costs to City shall be as

ultimately determined by the Board of Supervisors, including, but not limited to, the rates, charges and fees or the capital costs apportionment that may be enumerated within an ordinance or resolution to be adopted by the Board of Supervisors at a later date. In the adoption of said ordinance, the Board of Supervisors may take into consideration the requests and objections of City with respect thereto but shall not be bound by said requests or objections or by any provisions of this document. If County adopts such a Utility Cost Sharing Ordinance, or resolution, the provisions of said Ordinance, or resolution, shall be incorporated into and become a part of this agreement, and shall take precedence over any provisions of this agreement inconsistent therewith. Further, in adopting said ordinance, County shall have the unilateral right to set any long-term rate, fee or charge that it believes is necessary or in the best interest of County, including the right to charge City on a different basis or at a different rate than County shall impose for its county-owned facilities.

In the event County shall have made capital improvements that enable County to actually furnish City storm sewer, sanitary sewer and water, and County does adequately furnish same, City agrees that it will thereafter continue to receive, accept and purchase said supportive services from County and to pay to County the rates, fees, costs and charges as may be provided in said utility cost sharing ordinance or resolution to be adopted at a later date.

Since the Board of Supervisors has not finalized its rates, fees or charges or its methods or procedures for assessing costs and charges for said supportive services at the time City requires some or all of said supportive services, City agrees that on an interim basis it will pay County for said supportive services at the same rate which County utilizes from time to time to charge its own county institutions facilities for said supportive services, plus any administrative expenses that County assesses against its county institutions facilities, and applicable sales or excise taxes. The frequency and method of payment shall be consistent with the procedures applicable for County's institutions facilities. If City shall fail to pay for a supportive service within 45 days after the billing date, it shall be required to pay County a penalty of one percent (1%) per month on the unpaid billing.

The rates, fees and charges for such supportive services shall be deemed additional rent due on the first day of the calendar month following the delivery of a bill therefor to City, and County shall have the same remedies for the nonpayment of said additional rent as County has for the nonpayment of other rent, and in addition to said remedies, County, upon not less than ten (10) days notice to City, may discontinue furnishing such of said supportive services as are not paid for, and no such discontinuance shall be deemed an eviction or render County liable to City for damage or



relieve City from performance of its obligations under this lease.

(i) Interruption in Service; Nonliability for.

It is understood and agreed that County, by virtue of the foregoing provisions of this paragraph, shall not be deemed to be the guarantor for such supportive services or for the uninterrupted supply of same. While County will exert its best efforts to assure the continuation of such services to City's Facility to the same extent that it exerts its best efforts to continue the supply of the services to County's county institutions buildings, it shall not, by electing to make said supportive services available to City, be liable to City in damages or otherwise should the availability of any one or more of said services be interrupted or required to be terminated or reduced because of necessary maintenance, repairs or improvements or any other cause whatsoever beyond the control of County. Except as otherwise provided in this appendix, County shall not have the right to interrupt, terminate or reduce willfully the foregoing services to Lessee.

It is further understood and agreed by City that if by reason of the issuance of any judicial or administrative order, decree, judgment, temporary or permanent, by any court or administrative agency, County shall be prohibited, enjoined or prevented from granting to City the privileges hereinbefore referred to with respect to the specified supportive services

enumerated herein, County shall not be liable to City in damages or in any other manner by way of penalty or forfeiture, nor shall County be required to provide any substitute for the supportive services of the kind and nature so prohibited or enjoined.

(j) Change in Location of Points of Connection and Distribution Lines.

It is further understood and agreed by the City that County reserves the right, after consultation with City, to require City at any time to move, alter or discontinue the location of the various points of service to distribution lines and install new connecting lines for the supportive services herein referred to. In such event, City shall be required to make the necessary connections at such points and in such manner and with such materials and equipment as shall be determined and approved by County's Director of Public Works and all costs and expense incidental thereto shall be the sole responsibility of the City, except that if the new distribution lines are at a point further distant from its Facility than the present distribution lines, then City shall not be liable for the pro rata share of the cost thereof that is represented by said additional distance.

(k) Meters; Access to; Repair, Replacement, Modification.

County shall have the right during normal business hours (except in the case of emergency) to enter upon and into the Premises and City's Facility for the purpose of reading, inspecting,

repairing, replacing or modifying the meters, sensors and controls installed thereon or therein for the foregoing supportive services. In addition, County shall have the sole right and responsibility to read, inspect, repair, replace or modify said meters, sensors, and controls from time to time and to bill City for the cost thereof on a lump sum basis or as a part of the rate structure.

(l) Service Rules.

County reserves the right to enact such service rules and regulations as it may believe necessary and prudent in the furnishing of the foregoing supportive services, which rules and regulations shall, so far as practicable, be consistent with rules and regulations applicable to County's facilities similar to County's Milwaukee County Medical Complex.

(m) County Excused from Performance; Additional Reasons.

In making the foregoing supportive services available to City, it is understood and agreed that County shall be excused and relieved of any obligation hereunder in the event of the unavailability or shortages of fuels, labor, materials or supplies, acts of God, casualties, national emergencies, governmental restrictions or other similar causes beyond the reasonable control of County.

(n) Limitation on Facilities to be Serviced.

It is understood and agreed that County's commitments under this agreement relate solely

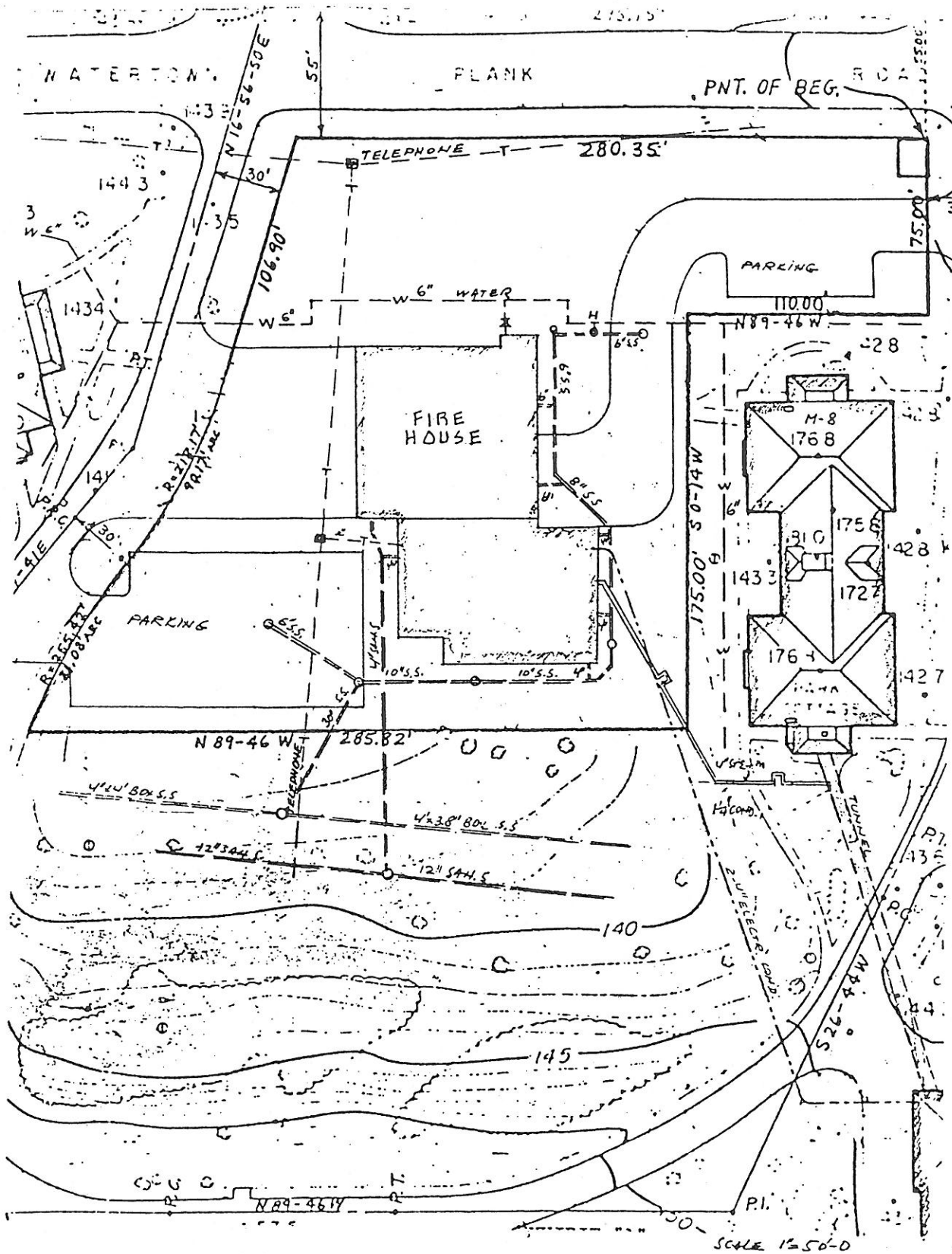
to the proposed Facility as approved by the Director of Public Works and does not extend to any other City facilities or to any additions to said building or additional buildings that City may desire to construct on its leased Premises.

(o) Approval Procedure.

Where approval of the Director of Public Works is required herein, City shall make specific request in writing for each such required approval and concurrent therewith shall submit all necessary drawings, specifications and other supporting documentation, and said Director, or his designee, shall consult with City's Administrator or his designee, with respect thereto.

(p) Exhibit B.

Attached hereto is Exhibit B which reflects the various distribution lines and approximate points of connection.



NOTE: The information shown on this exhibit is taken from the construction contract documents on file in Facilities Management Department at Milwaukee County Institutions and Departments.



AMENDMENT NO. 2 TO LEASE AGREEMENT  
BETWEEN  
MILWAUKEE COUNTY  
AND  
CITY OF WAUWATOSA

THIS AMENDMENT, made and entered into this 20 day of February, 1996, by and between Milwaukee County, a municipal body corporate (hereinafter sometimes referred to as "Lessor"), and the City of Wauwatosa, a corporation organized and existing under the laws of the State of Wisconsin (hereinafter sometimes referred to as "Lessee").

WHEREAS, Lessee entered into a lease agreement with Lessor on December 18, 1980 (as amended from time to time, the "Lease Agreement"), whereby it leased land for the construction and operation by Lessee of a fire station on County Institutions Grounds; and

WHEREAS, Appendix A of Amendment No. 1 dated January 11, 1982, to said Lease Agreement consists of a utility agreement describing, among other things, the terms and conditions for the purchase by Lessee from Lessor of certain utility services produced at and/or distributed through Lessor's power plant so long as Lessor continues to furnish the same; and

WHEREAS, Lessor is selling to Wisconsin Electric Power Company ("WEPCO") certain tangible assets of the power plant consisting of (i) the electrical generation and distribution system (except for the 4160 volt electrical distribution system) serving the County Institutions Grounds ("the Electrical System") and (ii) the steam and chilled water generation and distribution system serving the County Institutions Grounds ("the Steam/Chilled Water System") (the Electrical System and the Steam/Chilled Water System are collectively referred to herein as "the System"); and

WHEREAS, the sale of the System to WEPCO is being accomplished in two phases, a first phase which was closed on or before December 29, 1995, in which WEPCO acquired the Electrical System, and, a second phase being closed on or about the date of this amendment, in which WEPCO is acquiring the Steam/Chilled Water System; and

WHEREAS, since the closing of the first phase, Lessor has not been furnishing electricity at 13.2 kv on the County Institution Grounds, and Lessee has been acquiring its needs, if any, for electricity at such voltage from WEPCO; and

WHEREAS, in connection with the sale of the System, Lessor has granted and is granting to WEPCO, certain easements (the "Easements") for the construction, operation, maintenance, repair and replacement of electric, steam and chilled water distribution facilities on the County Grounds, including the premises subject to the Lease Agreement, as particularly described in an Easement Agreement for Electric Distribution Facilities dated as of December 29, 1995 and recorded with the Register of Deeds of Milwaukee County on \_\_\_\_\_, 1995, as Document No. \_\_\_\_\_ and an Easement Agreement for Steam and Chilled Water Distribution Facilities dated as of Dec 2, 1996 and recorded with the Register of Deeds of Milwaukee County on Dec 3, 1996, as Document No. 7298264 and, in addition, may assign, subject to reassignment, to WEPCO certain of its rights relative to the System, which rights include the right of access to the leased premises and Lessee's facility set forth in paragraph (k) of Appendix A and the right to move, alter or discontinue the location of utility distribution lines or install new utility distribution lines set forth in paragraph (j) therein; and

WHEREAS, Lessor and Lessee desire to amend the Lease Agreement to reflect the sale of the System to WEPCO and the assignment, subject to reassignment, by Lessor to WEPCO of certain rights under the Lease Agreement; and

WHEREAS, although Lessor presently is retaining ownership and operation of those certain tangible assets consisting of the 4160 volt electrical distribution system serving the County Institutions Grounds, Lessor may hereafter sell the 4160 system and certain related rights (the "4160 System") to WEPCO, and the parties desire to provide in this amendment for the possible future sale of the 4160 System to WEPCO; and

NOW, THEREFORE, for and in consideration of the mutual covenants of the parties as herein set forth and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is mutually agreed between Lessor and Lessee that the Lease Agreement is amended in the following particulars:

1. Lessee acknowledges that Lessor has ceased to furnish electricity at 13.2 kv, steam and chilled water, and that Lessor is not, and shall not hereafter be, under any obligation to furnish such services to Lessee.

2. Lessee is not, and shall not hereafter be, under any obligation to purchase electricity at voltages of 13.2 kv or above, steam or chilled water from Lessor. Lessee acknowledges and agrees that Lessor has (i) assigned to WEPCO, with right of reassignment, Lessor's rights under paragraphs (j) and (k) of Appendix A to the Lease Agreement; and (ii) granted the Easements to WEPCO for the construction, operation and maintenance, repair and replacement of electric, steam and chilled water distribution

facilities on the land subject to the Lease Agreement. Lessee further agrees that the Lease Agreement is subordinate to the Easements.

3. If Lessee is currently purchasing electricity at 4160 volts from the County, Lessee shall continue to do so as provided in the Lease Agreement, unaffected by this amendment. However, if Lessor hereafter shall sell the 4160 System, or that part thereof serving Lessee's premises, paragraphs 1 and 2 above shall apply to electricity at 4160 volts as well as electricity at 13.2 kv or above, steam and chilled water, and the Lease Agreement shall be deemed amended accordingly, effective as of the date of such transfer. At the request of either party, the parties shall execute a recordable document memorializing that such transfer has occurred, which document may be executed by Lessor's Director of Public Works and Development, subject to approval for execution by Lessor's Corporation Counsel, without the need for further action by Lessor's Board of Supervisors.

4. Except as otherwise specified or provided herein, the terms and conditions of the Lease Agreement, including, without limitation, the provisions relating to sewer and potable water service and facilities, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective proper officers and have attached their corporate seal hereto as of day and year first above written.

LESSOR:

MILWAUKEE COUNTY  
A Municipal Body Corporate

APPROVED  
FOR  
EXECUTION,  
*J. McClutchy for*  
CORPORATION  
COUNSEL

By: *F. Thomas Ament*  
F. Thomas Ament  
Title: County Executive

By: *Rod Lanser*  
Rod Lanser  
Title: County Clerk

ACKNOWLEDGEMENT

STATE OF WISCONSIN )  
) SS.  
MILWAUKEE COUNTY )

Personally came before me this 7 day of February, 1997, the above-named F. Thomas Ament and Rod Lanser, to me known to be the persons who executed the foregoing instrument, and acknowledged the same.

*James T McClutchy*  
JAMES T M<sup>C</sup>CLUTCHY  
Notary Public, State of Wisconsin  
My Commission: *is permanent*

[Signatures continued on the following page]

LESSEE:

CITY OF WAUWATOSA

By: *Maricölette Walsh*  
Maricölette Walsh  
Title: Mayor

By: *Janice M. Simonsen*  
Janice M. Simonsen  
Title: City Clerk

ACKNOWLEDGEMENT

STATE OF WISCONSIN )  
 ) SS.  
 MILWAUKEE COUNTY )

Personally came before me this 21<sup>st</sup> day of February, 1996, the above-named MARICÖLETTE WALSH and JANICE M. SIMONSEN, to me known to be the persons who executed the foregoing instrument, and acknowledged the same.

*Bernadette A. Williams*  
BERNADETTE A. WILLIAMS  
 Notary Public, State of Wisconsin  
 My Commission: 412-20-00

THIS INSTRUMENT WAS DRAFTED BY  
 AND SHOULD BE RETURNED TO:  
 William B. Guis/Laura E. Campbell  
 Friebert, Finerty & St. John, S.C.  
 330 East Kilbourn Avenue - Suite 1250  
 Milwaukee, WI 53202