

LEASE

LEASE made and effective as of the 19 day of January, 2009, by and between the City of Milwaukee, a Wisconsin municipal corporation, through its Health Department, (the "City") and The State of Wisconsin Department of Health Services, a government entity, (the "Agency").

WITNESSETH:

WHEREAS, the City has provided space in the Northwest Health Center, 7630 W. Mill Road ("NWHC") for use by the Agency; and

WHEREAS, the Agency has agreed to pay rent and other occupancy fees to the City in consideration for the use of said space; and

WHEREAS, the City and the Agency desire to enter into this Lease providing for the use of said space and the payment rent and other occupancy fees by the Agency;

WHEREAS, the City, per Common Council Resolution No.081428 dated \_\_\_\_\_, 2009, authorized the proper City officers to enter into this Lease;

NOW, THEREFORE, in consideration of the mutual Agreements and covenants hereinafter set forth, and for other good and valuable consideration the parties hereto agree as follows:

TERM

1. The term of this Lease shall be from January 19, 2009 to September 30, 2009. It may be extended only by a written extension executed by both parties.

2. The City reserves the right to terminate this Lease, during its term, upon sixty (60) days written notice, if the Health Center is closed or a determination is made that operating the Health Center is no longer feasible

RESPONSIBILITIES OF THE AGENCY

3. The Agency shall provide Medicaid Assistance and Outreach services to the community at the NWHC.

RESPONSIBILITIES OF THE CITY

4. The City shall provide and maintain a facility for provision of services required of the Agency under the terms of this Lease. The Agency shall occupy a set of rooms in the NWHC, identified, depicted and marked as "the Agency" in Exhibit A, attached hereto. This space shall include the following:

NWHC: 120 square feet of exclusive space in room 216 on the second floor of the building; 120 square feet of exclusive space in room 207 on the second floor of the building; 600 square feet of exclusive space in room 204 on the second floor of the building; and 2,018 square feet of exclusive space with storefront access in room B1 of the lower level of the building.

The City shall also provide heat, electricity, water, mechanical and structural maintenance for the NWHC space referenced above. The City shall not, in any event be responsible for any loss or damage to the Agency's equipment, fixtures, or personal property located within the Health Center.

## RENT

5. The Agency shall make monthly payment of rent to the Commissioner of Health, City of Milwaukee, 841 N. Broadway, 3<sup>rd</sup> Floor, Milwaukee, WI 53202, in the amount of 21,435 Dollars during the timeframe specified. Payments shall be made within fifteen 15 days of the first date of each calendar month.

## SERVICE REIMBURSEMENTS DUE TO CITY

### 6. Security Guard

The Agency shall reimburse to the City on a monthly basis, during the Term or any renewal or extension thereof, a prorated share of cost of security guard services when such services are provided at the NWHC.

### 7. Telephone

The Agency shall reimburse to the City on a monthly basis, during the Term or any renewal or extension thereof, the cost of the Agency's telephone calls and services.

### 8. Custodial and Housekeeping

The Agency shall reimburse to the City on a monthly basis the direct cost of custodial and housekeeping services at the Health Centers during the Term or any renewal or extension thereof.

### 9. Payments

Reimbursement of services under paragraphs 6 through 8 of this Lease shall be made quarterly by the Agency to the City and shall be based on detailed billings provided to the Agency by the end of the month following the quarter being billed. The Agency shall issue payment to the City within fifteen business days following receipt of the invoice.

## MISCELLANEOUS

### 10. Equipment

Any equipment required by the Agency shall be acquired by the Agency at its own expense. The Agency shall be solely responsible for the repair and maintenance of all such equipment.

### 11. Signage and/or Other Advertising

The Agency shall not install or maintain any signs or other forms of advertisement either within or outside the NWHC prior without written approval of the City of Milwaukee Health Department.

## INDEMNIFICATION

12. The Agency agrees to so conduct its activities at the Health Center so as not to endanger any person; and to indemnify and save harmless City against any and all claims for injury to persons or property (including, but not necessarily limited to, claims of employees, agents, invitees or guests of the Agency) arising out of the activities conducted by the Agency, its agents, invitees or guests during or subsequent to the period covered by this Lease; provided, however that the Agency shall not be responsible to the City or third parties for acts or omissions solely attributable to the negligence of the City's agents or employees. City shall not be responsible for any damage or injury that may happen to the Agency or to the Agency's agents, servants, employees or property from any cause whatever prior to, during or subsequent to the period covered by this Lease.

13. The Agency shall indemnify and hold the City harmless from any and all losses, costs, damages, and expenses (including reasonable attorneys' fees) suffered by the

City attributable to the acts or negligent omissions of the Agency and arising out of the performance of services under this Lease.

14. The Agency further covenants and agrees that in case the City shall be made a party to any litigation arising out of this Lease, then the Agency shall and will pay all costs and expenses, including reasonable attorney's fees and court costs, incurred by or imposed upon the City by virtue of such litigation. The City shall tender the defense of any claim or action at law or in equity to the Agency or its insurer and, upon such tender; it shall be the duty of the Agency and its insurer to defend such claim or action without cost or expense to the City.

#### INSURANCE

15. The Agency agrees to carry liability insurance on the demised premises within the scope of this Lease by an insurance company licensed in the State of Wisconsin, with minimum limits of \$1,000,000 each occurrence and \$2,000,000 aggregate for general liability and minimum limits of \$500,000 each claim and \$1,000,000 aggregate for professional liability. All policies of insurance (except only professional liability insurance policies) shall name the City as an additional named insured for any liability arising out of an act or omission of the Agency or arising from the agencies business or other operations.

16. The Agency shall furnish the City a Certificate of Insurance as evidence of coverage in compliance with paragraph 15 of this Lease and shall, upon demand by the City, furnish to the City a complete copy of any or all policies of insurance procured in compliance with this paragraph (including all amendments, extensions, endorsements or modifications thereof) The Certificate shall provide that the insurer will furnish the City with a thirty (30) day written notice of cancellation, non-renewal or material change

by the insurer. Failure of the Agency to maintain adequate coverage shall not relieve it of any contractual responsibility or obligation under this Lease. The City shall have the right to review and approve or disapprove the overages required under this section.

17. In lieu of the insurance required by this paragraph the Agency may provide alternative insurance coverage only when such alternative coverage is specifically approved by the City, in advance and in writing.

#### DISCLAIMER OF RELATIONSHIPS

18. The Agency and the City are independent entities contracting with each other for the purpose of carrying out the provisions of this Lease. Nothing contained in this Lease, nor shall any act of the parties hereto, be deemed or construed by any of the parties or by any third person to create any relationship of third party beneficiary, principal and agent, limited or general partnership, joint venture, or any other relationship of similar or like effect.

#### DESTRUCTION OF THE HEALTH CENTER

19. In the event that NWHC, or a substantial portion thereof, shall be destroyed or so badly damaged by fire or some other cause so as to render it unfit for use and occupancy by the Agency, and cannot be restored for practical use and with reasonable diligence within sixty (60) working days from said destruction or damage, then this Lease may be terminated by either party upon written notice to the other as provided herein. Additionally, if NWHC is destroyed or so badly damaged by fire or some other cause so as to render them unfit for use and occupancy by the Agency, and the City chooses not to restore NWHC, the City may terminate this Lease upon written notice to the Agency as provided herein. In the event of termination under these circumstances, the Agency shall pay rent for NWHC up to the time of such termination, at the rate

specified in this Lease. All payments and charges payable by the Agency under this Lease, other than rent shall be prorated as of the date of said termination and the Agency hereby waives any claim for damages or compensation should this Lease be so terminated.

20. If NWHC is so badly damaged by fire or some other causes so as to be unfit for use and occupancy by the Agency for a period of time, and this Lease is not terminated pursuant to the provisions of paragraph 19, the Agency's duty to pay rent shall abate during the period of time during which NWHC is unfit for use and occupancy.

#### DEFAULT

21. The occurrence of one or more of the following events shall be considered events of default under terms of this Lease:

- a) The Agency shall abandon the space for a period of thirty (30) days or be delinquent in any payments of rent, service reimbursement or of any other payments due to the City under this Lease required to be made by the Agency hereunder and such delinquency shall continue for ten (10) days after notice thereof in writing to the Agency; or
- b) The Agency shall fail to obtain or maintain insurance coverage as mandated by paragraphs 15 through 17 of this Lease.
- c) The Agency shall fail or refuse to fully observe any of its other covenants, obligations or undertakings contained in this Lease; or
- d) The Agency shall make any assignment, transfer, sublease, conveyance or other disposition of its interest in this Lease or the space without the prior, express written consent of The City.

Upon occurrence of any one or more of such events of default, it shall be lawful for the City, at its election, to declare this Lease ended, and to recover full possession of the NWHC, either with or without process of law, to re-enter and to expel, and remove the Agency and all agents, employees and representatives of the Agency engaged in operation of NWHC or occupying NWHC, using such force as may be necessary to accomplish these objectives.

22. If default shall be made in any covenants, obligations, conditions or undertakings herein contained, to be observed and performed by the Agency other than the payment of rent, service reimbursement fees or any other payments due under this Lease which cannot with due diligence be cured within a period of thirty (30) days, and if notice thereof in writing shall be given to the Agency, and if the Agency prior to the expiration of said thirty (30) days from and after the giving of such notice, commences to eliminate the cause of such default and proceeds diligently and with reasonable dispatch to take all steps and do all work required to cure such default and thereafter does so cure such default, then City shall not have the right to declare the term of this Lease as ended; provided, however, that the curing of such default in such manner shall not be construed to limit or restrict the right of City to declare this Lease ended and terminated, and to enforce all of City's rights and remedies hereunder for any other default not so cured.

#### Notice

23. In the event any notice is required to be delivered hereunder, it shall be given in writing, and shall be delivered personally or shall be deposited in the United States mail, postage prepaid, certified or registered, return receipt requested, in which latter event it shall be deemed given (3) days after the date mailed. If it is to be sent to the City, then it shall be addressed as follows:



City Agency

Health Department  
Northwest Health Center  
7630 West Mill Road  
Milwaukee, WI 53212

Bevan K. Baker, FACHE  
Commissioner of Health  
841 N Broadway, 3<sup>rd</sup> Floor  
Milwaukee, WI 53202

Attn:  
Yvette Rowe,  
Business Operations Manager

Compliance with Laws and Orders

24. The parties agree to comply with all statutes, regulations, rules, directives, ordinances, guidelines, or orders which may be issued by any City, State, Federal or other public agencies having jurisdiction.

Non-Discrimination

25. The Agency hereby agrees that in its use of NWHC and in its activities undertaken pursuant hereto it shall not discriminate, or permit discrimination on any basis prohibited by any law regulation or ordinance. The Agency further agrees to cause this provision to be inserted into all subcontracts, if any, for any work covered by this Service Agreement; excepting only subcontracts for standard commercial supplies or raw materials.

Conflict of Interest

26. Interest in Contract. No officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the carrying out of any services or requirements to which this Lease pertains, shall have any personal interest, direct or indirect, in this Lease. No members of the governing body of the locality and not other public official of such locality who exercises any functions or responsibilities in the

review or approval of the carrying out of this Lease shall have any personal interest, direct or indirect, in this Lease.

#### Governing Law

27. This Lease shall be governed by the laws of the State of Wisconsin. If any term or provision of this Lease or the application thereof to any person or circumstance, shall to any extent be declared invalid or unenforceable, then the remainder of this Lease or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by applicable law.

#### Time of the Essence

28. It is expressly understood and agreed to by the parties hereto that time is of the essence of each term and provision of this Lease.

#### Waiver

29. The waiver by the City of any covenant or condition of this Lease shall not be construed as a waiver of a subsequent breach of the same covenant or condition or of any other covenant or condition.

#### Amendments

30. This Lease may be supplemented or amended only by written instrument executed by both parties.

Successors; Assigns

31. This Lease shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. The Agency's interest under this Lease or any portion thereof, can be assigned only upon the advance written consent of the City.

Authority of City

32. Any matters not herein expressly provided for shall be handled and disposed of in the discretion of the City. Any discretion herein granted to the City may be exercised through the Commissioner of Health or his designees.

Approval by Common Council.

33. It is expressly understood by the parties hereto, that this Lease and any amendments, extensions, modifications thereof shall be subject to and conditioned upon the approval of the Common Council of the City of Milwaukee.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed by their duly authorized representatives as of the day and date first above written.

In Presence of: CITY OF MILWAUKEE

\_\_\_\_\_

By \_\_\_\_\_  
Tom Barrett, Mayor Date

\_\_\_\_\_  
City Clerk Date

COUNTERSIGNED:

\_\_\_\_\_  
W. Martin Morics, Comptroller Date

AGENCY

\_\_\_\_\_  
(Witness) By \_\_\_\_\_  
Date

\_\_\_\_\_  
(Witness) By \_\_\_\_\_  
Date

Approved as to form and execution this  
\_\_\_\_\_ Day of \_\_\_\_\_, 2009

\_\_\_\_\_  
Assistant City Attorney

**List of Exhibits**

**EXHIBIT A**

NWHC Square footage