

University of Wisconsin-Milwaukee, Joseph J. Zilber School of Public Health **USE OF SPACE
AGREEMENT**

by and between

**The Board of Regents of the University of Wisconsin System
on behalf of the University of Wisconsin-Milwaukee**

and

City of Milwaukee

This Use of Space (the “*Agreement*”) is made by and between the Board of Regents of the University of Wisconsin System on behalf of the University of Wisconsin-Milwaukee, Joseph J. Zilber School of Public Health (“*UWM*”) and City of Milwaukee (“*CITY*”) and is entered into as of the date of full execution and effective as of July 1, 2012 or as provided in section 4., hereafter.

RECITALS

WHEREAS, UWM anticipates that that a dedicated building for its Joseph J. Zilber School of Public Health located at 1240 N. 10th Street Milwaukee, Wisconsin 53205 (“*Facility*”) will be available for occupancy on or after July 1, 2012; and,

WHEREAS, the establishment of University of Wisconsin-Milwaukee Joseph J. Zilber School of Public Health was prompted by the need to conduct research to enhance the state of public health particularly in urban areas; and,

WHEREAS, the Milwaukee Health Department, a department of the City is an entity that is strongly committed to the goal of collaborating in the pursuit of research to improve health and sanitation conditions within its urban boundaries; and

WHEREAS, the location of a research component of the Milwaukee Health Department, namely its Public Health Research and Policy Office in the Facility serving as the hub for the faculty and students of the UWM Joseph J. Zilber School of Public Health will facilitate the pursuit of research grants that are intended to address recognized public health challenges and public health educational needs peculiar to urban settings; and

WHEREAS, UWM will benefit from the presence of a research component of the Milwaukee Health Department in the Facility of the UWM Joseph J. Zilber School of Public Health because it will present unique opportunities for research collaborations, joint grant submissions as well as reciprocal subgrantee engagements;

WHEREAS Section 16.845 of the Wisconsin Statutes, in conjunction with Section UWS 18.06(16) and Chapter UWS 21 of the Wisconsin Administrative Code recognize that facilities under the control of UWM may be used by non-UWM entities under certain circumstances; and

WHEREAS UWM has concluded that its mission can best be served by allowing CITY to use UWM's Facility in accordance with the terms of this Agreement; and

NOW, THEREFORE, in consideration of the fees and mutual benefits to both parties, it is agreed as follows:

1. License to Use Facilities and Furnishings.

- a. **Facility.** UWM hereby grants to CITY a limited license ("License") to use a portion of the Facility (as defined below and sometimes referred to as "Dedicated Area") for the purposes of planning and conducting research as well as office furnishings (as defined below and sometimes referred to as "Furnishings"). Such use shall at all times be consistent with UWM and UW System Board of Regents' policies, and all other applicable federal or state laws and municipal ordinances.
- b. **Description of Dedicated Area.** The Dedicated Area consists of an approximately 2200 square foot space located on the second floor at the Facility. The Dedicated Area is detailed in the floor plan attached as Exhibit A.
- c. **Description of Furnishings.** The Furnishings collectively consists of office furniture and carpeting. CITY shall be permitted to use the Furnishings on an exclusive basis for the duration of CITY use of the Dedicated Area. The Furnishings are detailed in attached Exhibit B.
- d. **Utilities and Other Inclusions and Exclusions.** In providing the Dedicated Area and Furnishings under this Agreement, UWM:
 - (i) Shall include the following related services/utilities: public rest rooms, building heat and air conditioning and electricity.
 - (ii) Shall include office rubbish removal, and janitorial services. However, CITY shall be responsible for the lawful and offsite disposal of any laboratory materials, wastes or equipment used by CITY staff in the Facility.
 - (iii) Shall not allow CITY to utilize any UWM mailroom services, the UWM mailing permit, or UWM's tax exempt identification number, parking spaces connected with the Facility or any other services, including any exercise/fitness room within the Facility unless expressly provided herein.
 - (iv) Shall not include any communications services of any type or related components. CITY must provide and install its own phone service and internet and electronic communications systems and cannot use UWM services otherwise available at the Facility. All installations or modifications to any installation shall be subject to written approval from within the UWM University Information Technology Services unit

[(414) 229-6383.]

- (v) CITY is also expressly prohibited, except with respect to any grant application, from using UWM's name in any transaction or in the procurement of any service or benefit ordinarily available to a subunit of UWM.
- e. **Potential Access to Areas Beyond the Dedicated Area.** CITY may, from time to time request, access to use conference rooms, commons areas or classrooms for specific gatherings for limited periods of time on an availability basis from the Dean of The Joseph J. Zilber School of Public Health. The Dean of The Joseph J. Zilber School of Public Health shall have exclusive discretion to determine whether any requested use subordinates or appears to be incompatible with any of the priorities of the Joseph J. Zilber School of Public Health solely from the perspective of UWM. Under no circumstances may any part of the Facility, including the Dedicated Area be utilized as a clinical or outreach location by CITY for the delivery of any City of Milwaukee services.
- f. **Non-transferability of License.** No rights conferred by this Agreement may be assigned, pledged or otherwise disposed of by CITY, directly or indirectly, to any other entity, person, organization or entity.
- g. **Administration of Facilities & Furnishings.** The Dedicated Area shall be administered on a continuing basis by the Dean of The Joseph J. Zilber School of Public Health.
- h. **Condition of Facilities & Equipment.** CITY use of the Dedicated Area and Furnishings shall conform to standards of repair, orderliness, neatness, sanitation, and safety acceptable to UWM and its faculty and students. CITY is not permitted to alter the fixtures or substantially change any portion of the Facility or Furnishing without the prior written consent of the Dean of the Joseph J. Zilber School of Public Health. UWM shall be responsible for maintenance and capital repairs on structural and mechanical systems. Upon abandonment, termination, revocation, or cancellation of this Agreement, CITY shall within thirty (30) days remove all personal property, structures and improvements except those owned by UWM and shall restore the premises and Equipment to the condition when use by CITY began, unless otherwise agreed upon in writing, ordinary wear and tear excepted. If CITY fails to remove all such structures or improvements within the thirty (30) day period, they shall become the property of UWM, but that will not relieve CITY of liability for the cost of their removal and restoration of the site.
- i. **Hazardous Materials.** CITY shall not, without prior written consent of the Dean of the Joseph J. Zilber School of Public Health, cause or permit, knowingly or unknowingly, any Hazardous Material(s) to be brought or remain upon, kept, used, discharged, leaked, or emitted in or about, or treated at, in or upon the Facility or Furnishings. CITY shall protect, defend, and hold UWM harmless from all claims, liens, losses, damages, and expenses, including without limitation, administrative proceedings, and costs of remediation, clean-up, and detoxification arising out of CITY's breach of this environmental covenant or CITY's violation of any Environmental Regulations (defined below) during the term of this Agreement. The obligations of CITY hereunder shall survive the

termination of this Agreement.

“Hazardous Material(s)” means any hazardous, toxic, biological or radioactive substance, material, matter or waste which is or becomes regulated by any federal, state, or local law, ordinance, order, rule, regulation, code, or any other governmental restriction or requirement (the “Environmental Regulations”), and shall include asbestos, petroleum products, and the terms “Hazardous Substance” and “Hazardous Waste” as defined in the Comprehensive Environmental Response Compensation and Liability Act (“CERCLA”) as amended, 42 U.S.C. §9601 et seq., the Resource Conservation and Recovery Act (“RCRA”), as amended, 42 U.S.C. §6901 et seq., and all environmental protection statutes of the state and municipality in which the Facilities are located.

- j. **Chemicals.** CITY shall not, without prior written consent of the Dean of the Joseph J. Zilber School of Public Health cause or permit any chemical or other material subject to Chemical Facility Anti-Terrorism Standards (“CFATS”) to be brought or remain upon the Facilities. If UWM provides such written consent to CITY, CITY shall comply with all standards under CFATS and conditions imposed by UWM applicable to such chemicals.
- k. **Electronic Keys/Loss.** Electronic Keys shall be issued to CITY allowing access to the general entrance of the Facility and the Dedicated Area. UWM shall retain electronic keys in a secure location for emergency purposes. UWM assumes no liability or responsibility for the loss or damage of any data, inventory, equipment or supplies due to theft, mysterious disappearance, vandalism or any other cause.
1. **Insurance and Liability Responsibilities of CITY.** CITY is a municipal government and tax-exempt entity. As such, it is self-insured for purposes of workers compensation and liability insurance.
2. **Hold Harmless.** CITY agrees to protect, save, and keep harmless UWM, its officers, employees and agents, against any and all loss, cost, damage or expense of any kind or nature, for any damages occurring in connection with or in any way incidental to or arising out of the occupancy, use, operation, or undertaking pursued in the exercise of the rights granted in this Agreement, except to the extent such damage or loss is caused by UWM or its officers, employees or agents. UWM agrees to be responsible for the acts and omissions of its officers, employees, and agents consistent with the liability protection provided under Wisconsin Statute Sections 893.82 and 895.46(1).
3. **Payment by CITY.** CITY shall pay UWM a fee as detailed on Exhibit C for the use of the Dedicated Area and Furnishings on or before the Effective Date. The payment of such Fee shall be made annually on or before July 1, commencing July, 2012 by means of a check directed to:

University of Wisconsin-Milwaukee
c/o Division of Finance and Administrative Affairs
P.O. Box 413
Milwaukee, Wisconsin 53201-0413

4. **Effective Date.** The Effective Date of this Agreement shall be the later of (i) July 1, 2012 or (ii) the date on which CITY is granted access to the Dedicated Area.
5. **Term.** The term of this Agreement shall commence on the Effective Date and shall continue for a period of five (5) years unless terminated earlier under Section 6. below. The parties may agree to extend the Agreement in writing.
6. **Termination.** Either party may terminate this Agreement if the other party fails to observe or comply with any of the terms or conditions herein within thirty (30) days after being notified in writing by the non-breaching of such failure. In the event of termination under these conditions, UWM shall not return any Fees paid to date and the breaching party shall be responsible for all damages caused by its breach of this Agreement.
7. **Principal Place of Business.** CITY is prohibited from using any UWM address, including the address of the Facilities as its business address and must maintain a principle place of business separate and distinct from UWM at all times while this Agreement is in effect.
8. **Miscellaneous Provisions.**
 - a. This Agreement may be modified or amended by a written amendment signed by the authorized officer of UWM and an authorized officer of CITY. This Agreement may also be amended, in whole or in part, by such authorized officers to incorporate new terms, conditions, and stipulations as may be required by law or regulation.
 - b. It is the intent of the parties that no agency relationship results from this Agreement. CITY shall at all time refrain from any activity which may imply that it has authority as an agent of UWM. This license does not constitute UWM of State of Wisconsin Endorsement of CITY.
 - c. This Agreement contained the entire agreement and understanding between the Parties with respect to the subject matter contained herein, and will be governed by the laws of the State of Wisconsin. This Agreement may be modified only in writing, signed by both Parties.

IN WITNESS WHEREOF, each Party has executed this Agreement as the date first indicated above.

**BOARD OF REGENTS OF THE UNIVERSITY OF WISCONSIN SYSTEM ON
BEHALF OF THE UNIVERSITY OF WISCONSIN-MILWAUKEE**

Name:
Title:

Date

CITY OF MILWAUKEE

Name: Tom Barrett
Title: Mayor

Date

Name: Martin Matson
Title: Comptroller

Date

Name: Jim Owczarski
Title: City Clerk

Date

ACKNOWLEDGED:

Name: `_____
Title: _____

Date_____

EXHIBIT A
Diagram of Dedicated Area

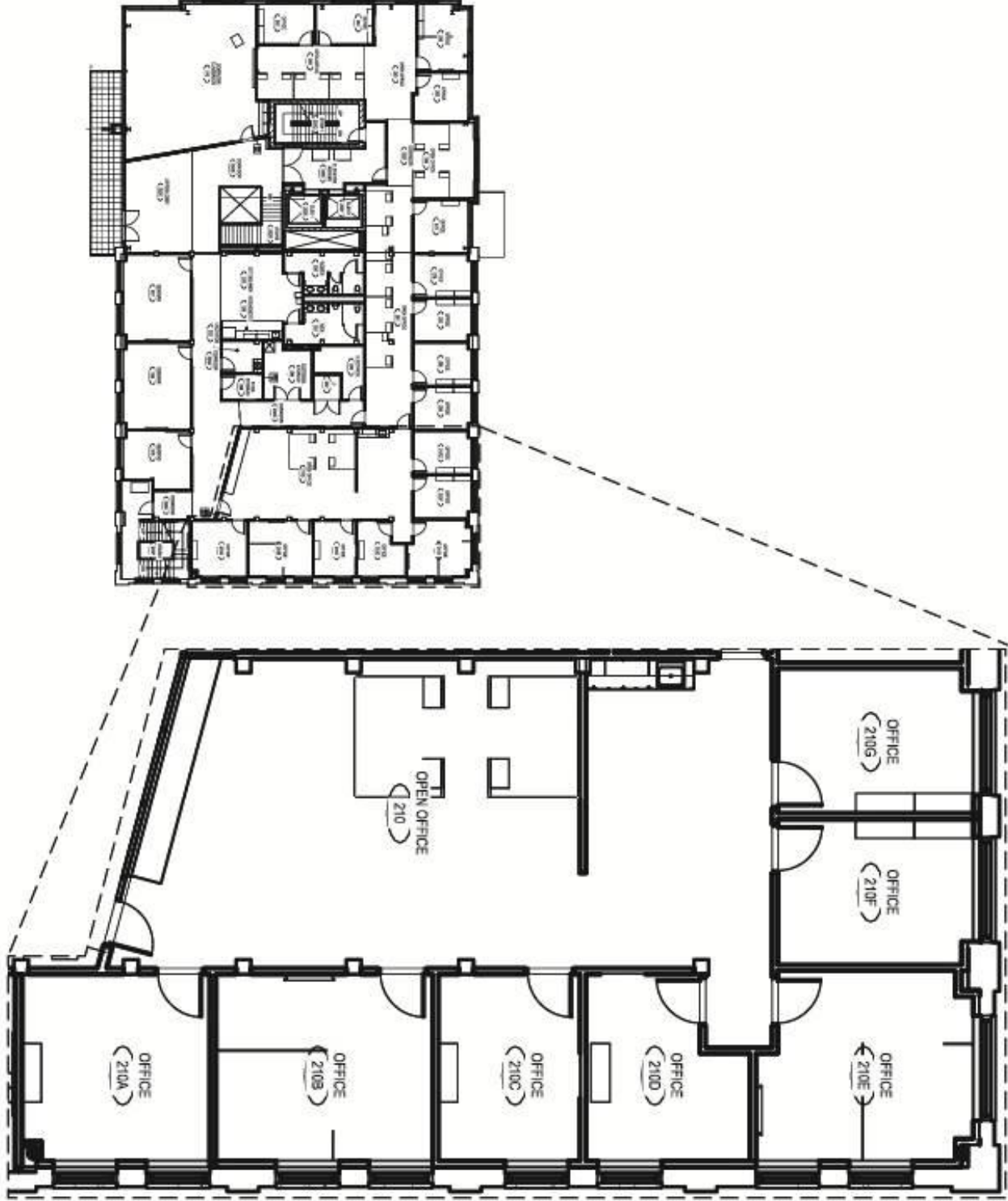


EXHIBIT B
Furnishings

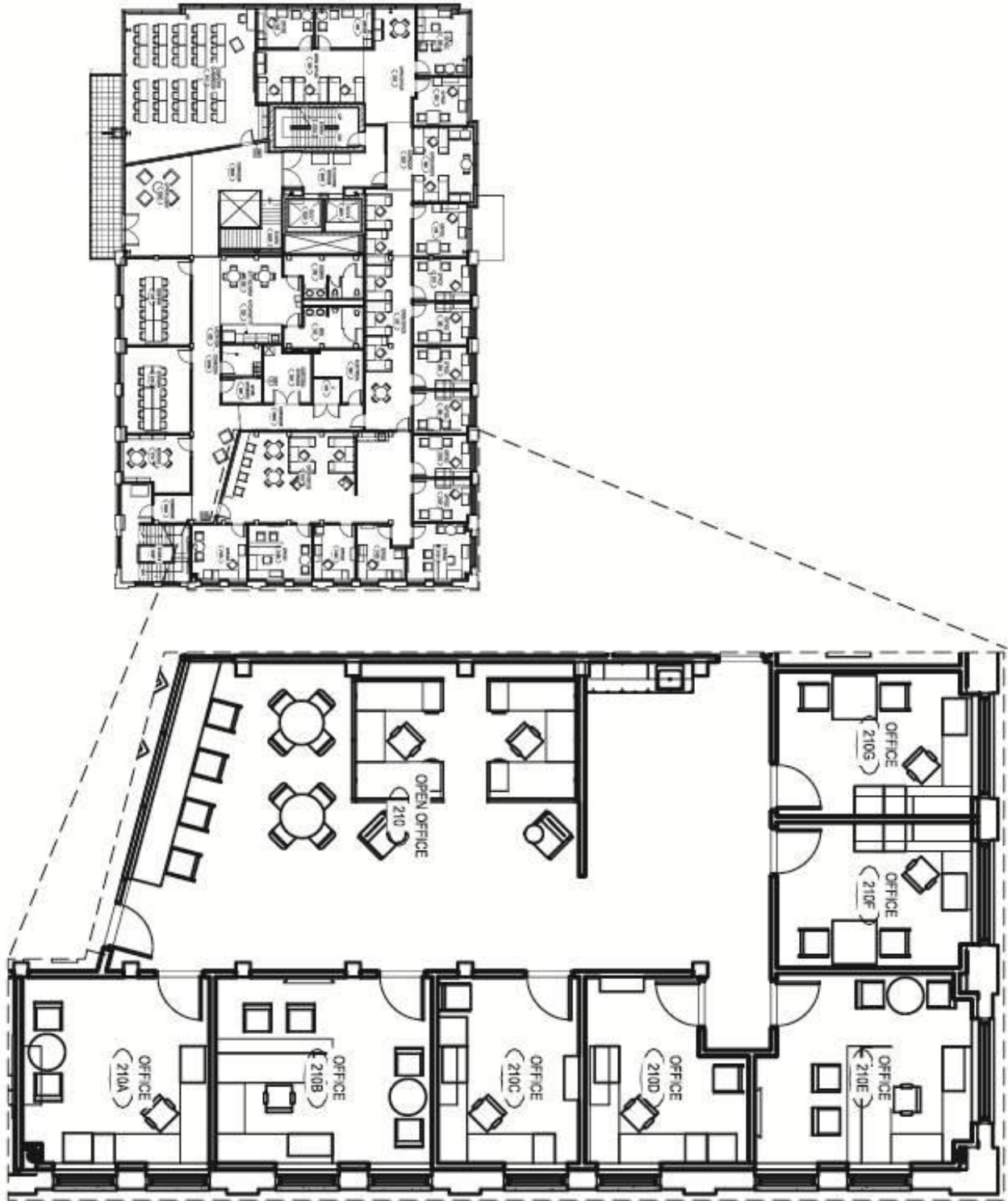


Exhibit C
Fees