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ATTORNEY-CLIENT PRIVILEGED AND CONFIDENTIAL**Via Email**

March 31, 2022

Todd Farris
Deputy City Attorney
Office of the City Attorney
841 N. Broadway Street, 10th Floor
Milwaukee, WI 53202
tfarris@milwaukee.gov

Re: Resolution relating to the Permanent Historic Designation of Columbia Hospital
(Northwest Quadrant Building A) at 2015-2025 E. Newport Ave. in the 3rd Aldermanic
District

Dear Mr. Farris:

This letter is in response to the Milwaukee Historic Preservation Commission's notice to the University of Wisconsin System Board of Regents (the "Board" or "UWS") regarding the referenced matter on April 4, 2022. Based on consultation with the Wisconsin Department of Administration and Wisconsin Department of Justice, the Board and the University of Wisconsin-Milwaukee ("UWM") want to provide important background on how the Board and UWM have already complied with the requirements under Wis. Stat. § 44.40 and explain why the City's proposed permanent historic designation does not change those obligations.

Background

The Board purchased the former Columbia Hospital (the "hospital"), a multi-building complex, on UWM's behalf in 2010 after a lack of interest from any other buyer. After extensive study and planning, and given the significant deterioration in the building's condition, UWM concluded that it could not feasibly remodel or repurpose Building A of the Columbia Hospital complex for any University use. UWM considered using it for student housing, but this was not possible due to the building's condition as well as surrounding neighborhood groups' objection to using the complex for student housing. It was also not viable to restore the building for academic purposes due to its condition as well as the hospital layout. Building A's narrow wing layout, floor loading capacity, and closely spaced concrete column structure are not conducive to the creation of larger rooms, which are required for UWM's academic needs. Building A also contains lead and asbestos and lacks a fire suppression sprinkler system, which adds significantly to any remodeling costs. Finally, given its location in the heart of UWM's academic core, current infrastructural integration with the other buildings in the Northwest Quadrant that are intended for academic use, and lack of any adjacent parking, the building is not appropriate for transfer for private or commercial purposes. Accordingly, UWM decided to remodel Buildings B, C and D, and use the current Building A site for much needed green space.

The hospital has long been on the State Register of Historic Places under Wis. Stat. § 44.36. Accordingly, to demolish the building, as a state agency, UWS was required to comply with Wis. Stat. § 44.40, et seq., which requires the review and approval by the Wisconsin Historical Society (“WHS”) of any proposed action by a state agency regarding a designated historic property. Thus, UWS negotiated with WHS to “reduce the effects” of the proposed demolition as required by § 44.40(3). This mitigation plan was in place long prior to the City’s action to declare the hospital an historic property in February 2022. The mitigation process began in November 2019 and included public notice and the opportunity for public input in December 2019 and January 2020. After a public hearing on January 7, 2020, WHS and UWS agreed to a mitigation plan on February 12, 2020. In February 2020, the State Building Commission granted permission to demolish Building A. The mitigation plan included:

- Digital imaging of all elevations of the exterior and character defining features of the interior, including photographs of the defining spaces such as lobbies, stairwells, corridors, gathering spaces, and a representative room from each floor.
- A written summary of the building history in a 200-300-word document for WHS to upload into the Wisconsin Architecture and History Inventory.
- A survey of UW-Green Bay, Parkside, and Superior, as they were not Certified Local Governments at the time of the recent UW System building survey.

UWS and UWM completed the mitigation plan by October 2021. UWM notified the City and UWM’s alderperson of its demolition plans in November 2019, conducted a tour of the site with a City representative in January 2020, provided notice of the Environmental Impact Assessment in December 2019 with a comment due date of January 7, 2020, and UWM’s alderperson attended the January 7, 2020 public meeting.

Historic Designation Outcome

Your office previously shared with UWS and UWM your opinion that Milwaukee’s historic preservation ordinance applies to UWM. That ordinance provides, in part, that “[n]o person or entity shall . . . partially or wholly demolish any historic structure . . . or permit any of these activities to occur unless a certificate of appropriateness has been granted by the [City’s standards and appeals] commission.” MWO 320-21-11-a.

UWS, however, is a state agency, and Wis. Stat. § 44.40 sets forth UWS’s obligations as a state agency regarding historic properties. Under § 44.40(1)-(3), UWS must consider whether the proposed demolition action would affect any historic property—whether state-designated or locally designated, see § 44.40(2)(a)1. 3.— and then must negotiate with WHS to reduce the effects of the demolition. Because Building A is listed on the state register of historic places, UWS and UWM have already fulfilled those statutory obligations, without regard to any local historic designation by the City. Moreover, because § 44.40 sets out specifically applicable statewide requirements governing state agency actions that affect locally designated historic properties, those are the exclusive requirements for state agencies and preclude a municipality from imposing additional restrictions or burdens upon state agency actions. It follows that UWS is not required to obtain a certificate of appropriateness from the City before proceeding with its planned actions regarding Building A.

Work is underway for the asbestos and lead abatement described above, and our schedule calls for the exterior demolition work to begin on May 2, 2022. We believe there would be substantial extra costs to the State and University if the demolition work does not begin on schedule. Because the Board and the Wisconsin Department of Administration believe that the Board already addressed its obligations under

Wis. Stat. § 44.40 to address any historic designation, the demolition will continue even with a local historic designation on April 4. If anyone from the City involved in the historic designation process wants access to the full mitigation efforts to understand the work that occurred, please let us know.

Sincerely,

/s/ Jennifer Lattis
UW System Deputy General Counsel

/s/ Joely Urdan
UWM Chief Legal Counsel