



**CITY OF WAUKESHA**

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<b>Committee:</b> Human Resources Committee	<b>Date:</b> 10/20/2021
<b>Common Council Item Number:</b> ID# 21-2987	<b>Date:</b> 10/20/2021
<b>Submitted By:</b> Kevin Lahner, City Administrator	<b>City Administrator Approval:</b> <a href="#">Click here to enter text.</a>
<b>Finance Department Review:</b> <a href="#">Click here to enter text.</a>	<b>City Attorney's Office Review:</b> <a href="#">Click here to enter text.</a>
<b>Subject:</b> Two-Party Intergovernmental Agreement (IGA) between City of Waukesha and County of Waukesha for On-Site Medical Services Clinic.	

**Details:**  
The IGA is presented by the City Administrator for review by the HR Committee. This IGA includes rate increases for Clinic staff members and the removal of the School District of Waukesha from the agreement.  
  
Red lined amended agreement on next page.

**Options & Alternatives:**  
[Click here to enter text.](#)

**Financial Remarks:**  
The Clinic is a valuable resource to both employees and the City.  
The Clinic's return on investment (ROI) for the City in 2020 was \$5.5M (\$22M since opening).  
The Clinic helped save employees \$101,332 in 2020.  
Approximate annual cost for the Clinic is \$519,000. This cost is funded by the City health insurance fund.

**Executive Recommendation:** I recommend approval of this IGA. Denial of the agreement will remove the City from the governmental partnership and may result in the closure of the clinic ultimately effecting the County and their employees as well.



**AMENDED AND RESTATED**  
**MEDICAL CLINIC INTERGOVERNMENTAL COOPERATION AGREEMENT**

This Intergovernmental Cooperation Agreement (this "**Agreement**") is entered into as of the 1<sup>st</sup> day of August 2021 (the "**Effective Date**"), by and between WAUKESHA COUNTY, WISCONSIN (the "**County**"), and the City of Waukesha, Waukesha County, Wisconsin (the "**City**"). The County and, the City, and any additional members pursuant to Article IV, are each sometimes referred to herein as a "**Party**" and collectively as the "**Parties**."

**RECITALS**

WHEREAS, the County owns a building located at 615 W. Moreland Boulevard in Waukesha, Wisconsin (the "**Facility**");

WHEREAS, the Parties wish to have the Provider (as defined in Section 1.3) assist the Parties by establishing and operating a medical clinic (the "**Clinic**") at the Facility and provide other value-added services, which will be designed to assist the Parties in supplementing the current health benefit plans offered to the Parties' respective employees as well as reduce occupational medicine costs associated with worker's compensation and decreasing lost productivity due to illness-related absences;

WHEREAS, under Wis. Stat. § 66.0301, two or more municipalities may contract to join together in the joint exercise of any power or duty required or authorized by law and to provide for administration of the function or project thereby contracted for, including but not limited to, proration of expenses involved, deposit and disbursement of funds appropriated, submission and approval of budget, creation of a commission, selection and removal of commissioners, and formation and letting of contracts;

WHEREAS, the County and, City are "municipalities" as defined in Wis. Stat. § 66.0301;

WHEREAS, the County and the City are parties to that certain Medical Clinic Intergovernmental Cooperation Agreement, together with the School District of Waukesha (the "District"), dated on or about March 12, 2014 (the "Prior Agreement") for the operation of the Clinic and following the District's withdrawal from that Prior Agreement, the County and the City now wish to amend and restate their Prior Agreement for the cooperative operation of the Clinic going forward.

NOW, THEREFORE, in consideration of the foregoing, the Parties agree as follows:

## AGREEMENT

### ARTICLE I ESTABLISHMENT OF CLINIC

#### 1.1 ~~Construction of~~ Improvements to Facility.

The County shall be responsible for constructing and acquiring all building improvements and renovations and equipment (collectively, the "**Improvements**") ~~and paying such other one-time start-up costs (the "**Start-Up Costs**") necessary for the initial operation of the Clinic.~~ Each Party shall be responsible for reimbursing the County for a share of the Improvements ~~and Start-Up Costs~~ as provided in Article II.

#### 1.2 Ownership of Facility and Improvements.

(a) The County shall have sole ownership of the Facility, the Improvements and any supplies or equipment purchased for the Clinic pursuant to Section 2.2.

(b) The County agrees that it will make the Facility available for the Clinic through the ~~Initial Initial~~ Term ~~and any Subsequent Term~~ (as defined in Section 4.1) ~~unless the agreement has been terminated earlier in accordance with Section 4.2.~~ – In the event that the Facility is not available after the ~~Initial Initial~~ Term, the County will provide the Parties with 12 months notice and the Advisory Council (~~as defined in Article III~~) will recommend an alternative location to the Parties for approval.

#### 1.3 Contract with Provider.

(a) The Parties will enter into a services contract (the "**Provider Contract**") with a health services provider (the "**Provider**") to staff and operate the Clinic. The Provider Contract shall be for a term at least equal to the Initial Term of this Agreement. The Provider Contract shall establish the scope of services, staffing, hours of operation, pricing, insurance requirements, indemnification and other provisions necessary for the operation of the Clinic by the Provider.

(b) The Parties hereby authorize, empower and direct the Advisory Council ~~(as defined in Article III)~~ and hereby expressly delegate all necessary authority to the Advisory Council, to negotiate changes to the Provider Contract or make decisions under the Provider Contract, including without limitation, for the scope of services, staffing, hours of operating, pricing, insurance requirements, indemnification and all other provisions necessary for the operation of the Clinic.

(c) Any renewal of the Provider Contract after the Initial Term or any subsequent Provider Contract either with the initial Provider or a subsequent Provider shall require approval of the respective governing bodies of the Parties.

1.4 [reserved]

## ARTICLE II FINANCING AND OPERATION OF THE CLINIC

### ~~2.1 — Payment of Building the Improvements and Start-Up Costs by Parties.~~

~~(a) — The County shall pay for the costs of initial Improvements and Start-Up Costs necessary for the opening of the Clinic. The City and the District will reimburse the County for their respective portion of such costs in equal annual payments over a four-year period beginning with the first year of 2015. Payments from the City and the District under this Section 2.1 shall be due on March 31, 2015 and March 31 of each year thereafter through the year 2018. The County shall deliver an itemized invoice to the City and the District by no later than 30 days prior to the date in which payment is due. The respective portion of the costs of the Improvements and Start-Up Costs that each Party shall be responsible for paying is as follows:~~

~~County: 40%~~

~~City: 16%~~

~~District: 44%~~

~~(b) — The Advisory Council shall determine the need for any building additional Improvements for after the opening of the Clinic, and the need for any Improvements to a building other than the Facility utilized in any Subsequent Term (as defined in Section 4.1), the respective portion of such costs to be paid by each Party and the schedule of such payments pursuant to Article III.~~

### ~~2.2 — Costs of the Facility and Grounds.~~

~~(a) — The County shall be responsible for providing all ongoing incidental services necessary for operating the Facility not provided by the Provider under the Provider Contract, including but not limited to, repairs and maintenance to the Facility, utilities, insurance and snow plowing and removal and acquisition of certain supplies and equipment for the Facility (collectively, the "**Facility and Grounds Costs**"). The Parties will reimburse the County on each March 31 and September 30 for their respective portion of the Facility and Grounds Costs from the previous two calendar quarters. The first payment will be made by the Parties to the County~~

~~on January 31, 2015 for any Facility and Grounds Costs incurred in calendar year 2014. Regular payments under this Section 2.2 will begin on September 30, 2015. The portion of the Facility and Grounds Costs to be paid by each Party until the payment due March 31, 2020 (which payment shall include all remaining Facility and Grounds Costs incurred through the Initial Term) shall be as follows:~~

~~County: 40%~~

~~City: 16%~~

~~District: 44%~~

~~The County shall deliver an itemized invoice to the other Parties by no later than 30 days prior to when payment of the Parties' respective portion of the Facility and Grounds Costs is due.~~

~~2.12.3~~ Operating Costs of the Clinic; Collection of Fees.

~~(a) The Parties agree to Provider shall separately bill each of the Parties on a monthly basis for pay their share of the operational expenses of the clinic, including but not limited to costs for contracted clinic staff, technology fees, dues and licenses, professional development, marketing and communications, laboratory fees and other operating costs (the "Operating Costs"). The portion of the Operating Costs to be paid by each Party from the Effective Date to August 31, 2015 shall be as follows:~~

~~(b) The Parties agree to pay their share of all ongoing incidental services necessary for operating the Facility not provided by the Provider under the Provider Contract, including but not limited to repairs and maintenance to the Facility, utilities, insurance and snow plowing and removal and acquisition of certain supplies and equipment for the Facility (collectively, the "Facility and Grounds Costs").~~

~~(c) The Parties agree to pay their share of all costs of reasonable consulting services necessary for the negotiation or ongoing management of the Provider Contract, including but not limited to services provided by CBIZ Benefits & Insurance Services, Inc. or any subsequent benefits and insurance consultant (collectively, the "Consulting Costs").~~

~~(d) Costs of new Improvements, Operating Costs, Facilities and Grounds Costs, Fee for Services and Consulting Costs (collectively "Shared Costs") The costs of the Facilities and Grounds, Clinic Operating Costs, Fee for Services, and Consulting Services are shared based on a rolling 3-year average of clinic utilization of the eligible insured for each Party. The Advisory Council will review and approve the percentage allocation each year.~~

~~(e) The County shall be responsible for paying the collectively "Shared Costs". The Parties will reimburse the County by each March 31 and September 30 for their respective portion of these collectively "Shared Costs" from the previous two calendar quarters. The first payment will be made by the Parties to the County by September 30, 2022 for any Costs incurred in quarters one and two 2022. The portion of the collectively "Shared Costs" to be~~

paid by each Party until the payment due March 31, 2024 (which payment shall include all remaining Costs incurred through the Initial Term).

(f) The allocation for the first year of the agreement (2022) for 2.1(a) and 2.1(b) the Shared Costs is based on the rolling three-year average of the three preceding years under the ~~previous intergovernmental a~~ Prior Agreement adjusted for the removal of non-continuing parties and is as follows:

County: ~~65~~40%

City: ~~35~~16%

~~(a) District: 44%~~

The County will deliver an itemized invoice to the other Parties by no later than 30 days prior to when payment of the Parties' respective portion is due.

~~After the clinic has been operational for two full years the Advisory Council will evaluate and determine if the Operating Costs to be paid by each Party should be based on the extent to which the Party's eligible insured employees (the Eligible Insured") use the Clinic.~~

~~(bd) The Advisory Council may agree to amend the cost sharing methodology for direct Party costs.~~

(g) The Advisory Council may agree to amend the cost sharing methodology for direct Party costs.

(h) ~~(e)~~ Fees for services- (patient copays) paid by the a Party's covered employees and their enrolled dependents ("Eligible Insured") (subscriber and enrolled dependents) will be collected by the Provider in accordance with the Provider Contract and credited in full against ~~the each Eligible Insured's employer~~ corresponding Party's account.

(ee fi) If any of the Parties requires a specific program or service to be developed and delivered by the Provider, then the Operating Costs allocable to that specific program or service (the "Specific Operating Costs") will be the sole responsibility of the Party or Parties requiring the program or service and will not be included in the Operating Costs under Section 2.31(ba). The Advisory Council shall prepare a schedule showing such Specific Operating Costs. The Provider shall separately bill the Party or Parties responsible for any Specific Operating Costs.

County: 40%

City: 16%

District: 44%

~~The County shall deliver an itemized invoice to the other Parties by no later than 30 days prior to when the payment is due.~~

## 2.2 Insurance.

(a) The County shall maintain customary physical loss or damage insurance on the Facility. The County and each other Party hereby release each other from any and all responsibility and liability to the other Parties to the extent permitted by their insurance carriers for any loss or damage, including consequential ~~losses, that losses damages, that~~ any Party may incur if the property loss or damage is caused by fire or other peril.

(b) The Provider Contract shall require the Provider to maintain, at all times during the term of the Provider Contract, insurance policies meeting the following minimum requirements:

- (i) Worker's Compensation and Employers' Liability Insurance: Statutory worker's compensation benefits and employers' liability insurance with a limit of liability not less than \$100,000 each accident. The Provider shall require any subcontractors not protected under its insurance to take out and maintain such insurance.
- (ii) General Liability Insurance: Limit of liability not less than \$1,000,000 each occurrence and aggregate.
- (iii) Automobile Liability ~~Insurance:~~ Insurance: Limit of liability not less than \$1,000,000 combined single limit.
- (iv) Professional Liability/Medical Malpractice: Limits of liability not less than \$1,000,000 per occurrence and \$3,000,000 aggregate.
- (v) Umbrella Liability Insurance: Limits of liability not less than \$3,000,000 each occurrence and aggregate.

The Provider shall furnish the County a Certificate of Insurance and upon request, certified copies of the required insurance policies. The County shall provide such documents to any other Party upon request.

## 2.5-3 Records.

(a) The County shall maintain all records associated with administering and performance of this Agreement, and will make those records available to any Party upon request.

(b) The Parties recognize the importance of protecting the privacy and security of Eligible Insured's health information. The Parties agree to only use and disclose Eligible Insured's health information in accordance with state and federal law, including without limitation, the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations ("HIPAA"). The Parties may share aggregated, de-identified information with one another for purposes of reviewing the performance objectives of the Clinic. The Parties shall not use, disclose or receive any personally identifiable health information about any Eligible Insured without the written authorization of such Eligible Insured except as permitted by applicable law.

#### 2.6.4 Guaranty and Other Payments Under Provider Contract.

~~(a)~~ ~~(a)~~ If the Provider fails to meet performance measures specified in the Provider Contract, the Provider shall be required to refund certain management fees allocable to ~~the first year being assessed of the Provider Contract.~~ In the event of such refund, such management fees shall be returned to the Parties in accordance with the cost sharing following proportions: established for the year being assessed correlated to the fees refunded.

~~(a)(b)~~ Any other payments to be refunded under the Provider Contract and not attributable to a particular Party shall be refunded to the Parties in accordance with the cost sharing proportions established for the year correlated to the payments refunded.

~~County: 40%~~

~~City: 16%~~

~~District: 44%~~

~~(b) — Any other payments received by the County from the Provider under the Provider Contract, which may include but are not limited to, payments resulting from any performance or service guaranties under the Provider Contract, shall be disbursed by the County to the Parties in a timely manner in the following proportions:~~

~~County: 40%~~

~~City: 16%~~

~~District: 44%~~

~~Upon receiving of any payments from the Provider referenced in this Section 2.6(b), the County shall provide written notice to the District and the City of the total amount received.~~

#### 2.7.5 [reserved]

### ARTICLE III CREATION OF ADVISORY COUNCIL

#### 3.1 Establishment of Advisory Council.

The Parties hereby create the "Waukesha Intergovernmental Health Group" (the "Advisory Council") as a commission pursuant to Wis. Stat. § 66.0301. The Advisory Council shall be made up of one representative from each Party which enters into this Agreement. The chief executive officer of each Party, or his or her designee, shall serve as the representative to the Advisory Council. The initial members of the Advisory Council shall be the Director of Administration of the County and, ~~the City Administrator, of the City and the Superintendent of the District.~~ The Advisory Council shall serve as an advisory body to the Parties on all matters affecting the Clinic and shall have power to carry out all duties necessary for operation of the Clinic under this Agreement as may be provided under Wis. Stat. § 66.0301, including those provisions specifically delegated to the Advisory Council pursuant to Section 1.3(b) of this Agreement.

### 3.2 Quorum and Majority Vote.

A majority of members of the Advisory Council shall be a quorum for the transaction of business. Any action to be taken by the Advisory Council under this Agreement shall be approved by majority vote of all ~~the current~~ members present of the Advisory Council.

### 3.3 Number of Advisory Council Members.

The Advisory Council shall initially consist of one representative from each Party as provided in Section 3.1. The Parties may, from time to time, deem it desirable to change the number of members of the Advisory Council. Any such decision altering the number of members of the Advisory Council shall be in writing, take the form of an amendment to this Agreement, and be approved by the governing bodies of the Parties.

### 3.4 Meetings.

(a) The Advisory Council shall meet regularly according to a schedule determined by the Advisory Council, ~~which meetings shall initially be at least quarterly, at such time and location as the Advisory Council may determine.~~ Special meetings of the Advisory Council may be held for the purpose of transacting any business of the Advisory Council upon the request of a majority of the members of the Advisory Council.

(b) The Advisory Council shall comply with the provisions of the Wisconsin Open Meeting and Records Law in Chapter 19, Wisconsin Statutes.

### 3.5 Rules of Procedure.

Except as otherwise agreed by the Advisory Council members, meetings and proceedings of the Advisory Council shall be conducted in accordance with Roberts Rules of Order.

### 3.6 [reserved]

**ARTICLE IV**  
**TERM; WITHDRAWAL OR EXPULSION OF PARTIES; NEW PARTIES**

4.1 Effective Date and Term.

The term of this Agreement (the "**Initial Term**") shall begin on the Effective Date and end on January 1, 202~~50~~<sup>5</sup>; provided however that this Agreement shall automatically be renewed for five (5) consecutive periods of two (2) years each (each a "**Subsequent Term**") unless terminated as provided in Section 4.2.

4.2 Renewal of Agreement; Withdrawal of Parties.

(a) Any Party may terminate this Agreement at the expiration of the Initial Term, or at the expiration of any Subsequent Term, by delivering written notice of termination to the other Parties in accordance with the following provisions:

- (i) The termination date (the "**Termination Date**") shall be the last day of the then-current Initial Term or Subsequent Term, as the case may be.
- (ii) The Party electing to terminate this Agreement shall deliver to the other Parties written notice of termination not later than ~~180~~  
days 18 months prior to the Termination Date.

(b) ~~[reserved] Upon withdrawal, the withdrawing Party shall remain responsible for its share of the costs of any Improvements, Start-Up Costs, Facility and Grounds Costs, Operating Costs, Specific Operating Costs or Consulting Costs incurred prior to the Termination Date.~~

4.3 Expulsion of Parties

(a) A Party may be expelled from this Agreement for cause by majority vote of the Advisory Council. Cause for ~~termination-expulsion~~ includes, but is not limited to, failure to cure any Default under Article VII.

(b) Upon expulsion, the expelled Party continues to be responsible for its share of the costs of any Improvements, ~~Start-Up Costs~~, Facility and Grounds Costs, Operating Costs, Specific Operating Costs or Consulting Costs incurred prior to such expulsion pursuant to this Agreement.

4.4 New Parties.

(a) After the Effective Date of this Agreement, additional municipalities (as that term is defined in Wis. Stat. § 66.0301) may join in this Agreement upon request to the Advisory Council and approval by the governing bodies of each of the existing Parties. Approval shall be conditioned upon the adoption by the governing body of the new municipality of the terms and provision of this Agreement by resolution, a certified copy of which is to be provided to each Party.

(b) In the event a new Party joins under this Agreement pursuant to this Section 4.4, the Advisory Council shall determine portion of any costs and reimbursements for each Party under Article II.

4.5 [reserved]

**ARTICLE V  
STATEMENT OF COMMITMENT; DISPUTE RESOLUTION**

The Parties are entering into this Agreement with a full understanding that the success of the Clinic depends upon the commitment of the Parties to work diligently and cooperatively to accomplish their mutual objectives with respect to the Clinic.

The Parties acknowledge and agree that they shall endeavor to resolve any and all issues that may arise under this Agreement in good faith and in a spirit of cooperation consistent with the intent of this Agreement. In the event they are not able to so resolve any material issue related to this Agreement within sixty (60) days after commencement of negotiations with respect thereto, any Party shall have the right to present the matter to the Advisory Council. A Party may submit an issue to the Advisory Council by providing written notice to the other Parties describing the subject at issue and a proposed resolution. The Advisory Council shall meet as soon as reasonably possible thereafter to consider and decide upon the issue identified in the notice. The decision of a majority of the members of the Advisory Council shall be binding upon the Parties.

**ARTICLE VI  
NOTICE**

Any notices under this Agreement shall be in writing and shall be considered given upon delivery, if personally delivered with evidence thereof, or one (1) business day after deposit with a nationally-recognized commercial courier, or two (2) business days after deposit in the United States Postal Service, certified or registered mail, postage prepaid, in all cases addressed as follows:

If to the County:       Waukesha County  
                                  515 W. Moreland Blvd.  
                                  Waukesha, WI 53188

Attn: Director of Administration

If to the City: City of Waukesha  
City Hall  
201 Delafield Street  
Waukesha, WI 53188  
Attn: City Administrator

~~If to the District: School District of Waukesha  
222 Maple Avenue  
Waukesha, WI 53188  
Attn: Superintendent~~

## ARTICLE VII DEFAULT

If any Party shall fail to perform, or shall violate, any covenant, term, condition, or obligation of this Agreement, and if such failure to perform or such violation shall remain uncured for a period of thirty (30) days or more after notice of such failure or violation from any other Party, then such failure or violation shall constitute a "**Default**" under this Agreement; provided, however, that if such failure or violation cannot reasonably be cured within the pertinent thirty (30) day period, and if the Party notified of its failure or violation thereafter immediately commences and diligently and without interruption pursues a cure of such failure or violation, then such Party shall have a reasonable period, not exceeding one hundred twenty (120) days, to cure such failure or violation before the same shall be considered a Default. In the event of any Default, each non-Defaulting Party shall, without any notice (except only the notice of failure or violation required under this Article VII), be entitled to exercise at its option—whether concurrently, successively, or in any combination—any and all remedies available at law or in equity, including without limitation any one or more of the following: (i) expulsion of the defaulting Party under Section 4.3; and (ii) recovery from the defaulting Party of all cost, damage, loss, and expense (including attorneys' fees) reasonably paid or incurred as a result of any such Default.

**ARTICLE VIII  
AUTHORIZING RESOLUTIONS**

This Agreement is entered into by the Parties pursuant to the authority granted under Wis. Stats. §66.0301 and other provisions of the Wisconsin Statutes. By resolution or ordinance adopted by its governing body, each Party has authorized and directed the representatives of the governing body to enter this Agreement on behalf of the Party.

**ARTICLE IX  
MISCELLANEOUS**

9.1 No Assignment.

No Party to this Agreement may assign its interest in this Agreement to any other entity or individual.

9.2 Entire Agreement; Rules of Construction.

The Parties acknowledge and agree that this Agreement, including the recitals which are incorporated into and a part of this Agreement, expresses the entire agreement between the Parties as to the subject matter of this Agreement, and that this Agreement replaces and supersedes any prior negotiations and agreements, written or oral. The Parties further acknowledge and agree that each Party has been adequately and fully represented in connection with the negotiation and execution of this Agreement, and that, accordingly, rules of interpretation that signify that an agreement shall be construed against the drafter shall not apply.

9.3 -Captions.

The captions or headings in this Agreement are for convenience and in no way define, limit, or describe the scope or intent of the provisions of this Agreement

9.4 Governing Law.

The laws of the State of Wisconsin shall govern the interpretation and enforcement of this Agreement.

9.5 Amendment.

This Agreement shall not be effectively modified without the written consent of all Parties hereto, and no such modification shall be binding upon any Party until such modification is reduced to writing and executed by the Parties. If there is a withdrawal of a Party under Section 4.2 or an expulsion of a Party under Section 4.3, the Parties required to agree to an amendment of this Agreement are only the remaining Parties.

9.6 Counterparts

This Agreement may be signed in any number of counterparts with the same effect as if the signatures were on the same instrument.

#### 9.7 No Third-party Beneficiaries

This Agreement is entered into for the sole and exclusive benefit of the Parties. No third party (including, without limitation, any employees of the Parties) shall have, obtain, or derive from this Agreement any rights or other benefits or interests, under law, in equity, or otherwise.

#### 9.8 No Joint Venture.

Nothing contained in this Agreement shall be deemed or construed as creating a partnership or joint venture between the Parties.

#### 9.9 Exculpatory Provision.

The Parties expressly acknowledge and agree that, anything herein to the contrary notwithstanding, that no officer, director, employee, agent, or official (elected or appointed) of any Party shall have any personal liability or obligation arising out of this Agreement, and no Party shall make any claim to the contrary.

#### 9.10 No Waiver.

No failure to exercise, and no delay in exercising, any right, power, or remedy under this Agreement on the part of any Party shall operate as a waiver of such right, power, or remedy, nor shall any single or partial exercise of any right, power, or remedy preclude any other or further exercise thereof or the exercise of any other right, power, or remedy. No express waiver shall affect any event or default other than the event or default specified in such waiver, and any such waiver, to be effective, must be in writing and shall be operative only for the time and to the extent expressly provided therein. A waiver of any covenant, term, or condition contained in this Agreement shall not be construed as a waiver of any subsequent breach of the same covenant, term, or condition.

#### 9.11 Severability.

The terms of this Agreement are severable and any determination by any court or agency having jurisdiction over the subject matter of this Agreement that results in the invalidity of any part shall not affect the remainder of the Agreement.

#### 9.12 Force Majeure.

Except as otherwise specifically provided herein, no Parties shall be considered in default in the performance of any of its obligations under this Agreement, other than obligations to make payments as specified in this Agreement, when there is the occurrence of an event of

Force Majeure, as defined below, and the result is a delay or a failure of performance of a Party, and in such case, no Party shall be liable for any loss or damage suffered by any other Party as a result thereof. **Force Majeure**, as used herein, shall mean any conditions affecting a Party in connection with this Agreement, which condition is beyond the reasonable control of the Party, including, without limitation: acts of God, strikes, lockouts, acts of public enemy, war, blockages, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, civil disturbances, or explosions.

9.13 Indemnification.

(a) Each Party retains for itself all legal responsibility for any injuries, claims, or losses arising from or caused by the acts or omissions of its agents or employees acting within the scope of their employment. Nothing in this Agreement shall be construed as an assumption or indemnification by one Party of any legal liability of the other Party. The obligations of the Parties under this provision shall be subject to the limitations set forth in Wis. Stat. § 893.80 and Wis. Stat. § 895.46, and shall survive the expiration or termination of this Agreement.

(b) The County shall retain for itself all legal responsibility for any injuries, claims or losses relating to the Facility or Facility grounds.

(c) Under the Provider Contract, the Provider shall agree to hold the Parties and their medical insurance carriers and/or third party administrators, and all of their partners, harmless in any and all liability claims that may arise from the services provided under the Provider Contract.

9.14 [reserved]

**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the Effective Date.

**WAUKESHA COUNTY, WISCONSIN**

By:

[\_\_\_\_\_]

By:

[\_\_\_\_\_]

**CITY OF WAUKESHA, WAUKESHA COUNTY, WISCONSIN**

By:

[\_\_\_\_\_]

By:

[\_\_\_\_\_]

**SCHOOL DISTRICT OF WAUKESHA,  
WISCONSIN**

By:

[\_\_\_\_\_]

By:

[\_\_\_\_\_]