

LAW ENFORCEMENT SERVICES AGREEMENT
BETWEEN
THE CITY OF WAUWATOSA
AND
FROEDTERT MEMORIAL LUTHERAN HOSPITAL, INC.

This Agreement for Law Enforcement Services (the "Agreement") is made effective as of the date of last signature below (the "Effective Date") by and between the City of Wauwatosa (the "City"), with offices at 1700 North 116th Street, Wauwatosa, WI 53226, and Froedtert Memorial Lutheran Hospital, Inc. ("Hospital" or "Froedtert Hospital" or "FMLH"), with offices at 9200 West Wisconsin Avenue, Milwaukee, WI 53226. The City and Hospital are referred to herein each as a "Party" and collectively as the "Parties."

1 Services.

- 1.1 The City will provide supplemental and enhanced policing, law enforcement, and security services, which services shall be above and beyond what is provided pursuant to applicable law, including, but not limited to, uniformed security services and critical incident response services specific to Hospital, and such other services as set forth in more detail on Exhibit A attached hereto and incorporated herein (collectively, the "Enhanced Services").
- 1.2 The Enhanced Services will be provided on-site at Hospital's Emergency Department and at other locations on the premises of Hospital ("Hospital Campus") as requested by Hospital from time to time.
- 1.3 The City agrees to train each of its police officers providing the Enhanced Services and other personnel of the City involved in the provision of the Enhanced Services, as applicable, in accordance with the training plan set forth on Exhibit B attached hereto and incorporated herein by reference.
- 1.4 The City acknowledges that certain supplemental and enhanced policing and security services are currently provided to Hospital by Milwaukee County through the Milwaukee County Sheriff's Office. It is the intent of the Parties that the City assist Hospital to transition such services in a manner that meets the security needs of Hospital. The City agrees to provide the Enhanced Services in accordance with the transition plan set forth on Exhibit C attached hereto and incorporated herein.
- 1.5 Enhanced Services are separate from other additional services provided by the City to Milwaukee Regional Medical Center, Inc. ("MRMC") related to supplemental policing, law enforcement, patrol, and security services, or other additional services to be provided by the City as memorialized in separate agreements.

2 Implementation.

- 2.1 The implementation of the Enhanced Services (the "Implementation Phase") shall commence on the Effective Date of this Agreement and shall continue for the time period agreed upon by the Parties for the transition of the Enhanced Services as set forth on Exhibit C attached hereto and incorporated herein, as such Exhibit C may be amended by the Parties from time to time in writing.

- 2.2 During the Implementation Phase, the City agrees to train its staff and further agrees to coordinate the transition of services with the security and public safety teams of MRMC and its members, and the Hospital's security team (collectively, the "Team") in a manner to meet all of Hospital's Enhanced Services needs as set forth on Exhibit A.

3 Permanent Staffing Levels.

- 3.1 On the initiation date set forth on Exhibit C (the "Initiation Date"), the City shall commence and assume full responsibility for the provision of the Enhanced Services. The City agrees to meet the staffing requirements set forth on Exhibit A, which includes, without limitation, levels currently anticipated to be required for the City to provide this coverage, including necessary supervisory positions to maintain appropriate levels of command and control.
- 3.2 The Parties may review and discuss position needs on the Hospital Campus from time to time and associated capital or operational costs (hereinafter referred to as the "Adjustment Discussions"). If the Parties agree upon any modifications or adjustments, the Parties shall amend this Agreement in writing. The Parties agree that Adjustment Discussions shall not occur more than two (2) times during the Initial Term (defined in Section 6, below) nor more than one (1) time during any Renewal Term.
- 3.3 It is anticipated that the City will assign police officers to provide the Enhanced Services on a rotating basis so that the City's police officers have a widespread uniform understanding of the Enhanced Services provided on the Hospital Campus. The police officers assigned to provide the Enhanced Services on the Hospital Campus shall participate in site-specific training prior to initial assignment to the Hospital Campus. Hospital shall be responsible for monitoring compliance with training requirements referenced on Exhibit B attached hereto and incorporated herein, as being required by Hospital. The City shall be responsible for monitoring compliance with all other statutory or regulatory training requirements or training required by the City.
- 3.4 The Parties agree that the City may redeploy police officers from the Hospital Campus during a critical incident requiring immediate response by the Wauwatosa Police Department which requires both redeployment of the patrols then assigned to the MRMC Campus and redeployment of the police officers assigned to the Hospital Campus for a period of 15 minutes or longer (each such critical incident, an "Off-Campus Critical Incident"). The City will notify the Security Director of the Hospital or his or her designee as soon as reasonably possible of such need for re-deployment, but no later than six (6) hours following such redeployment of personnel. The City shall redeploy police officers to the Hospital Campus as soon as reasonably feasible after responding to the Off-Campus Critical Incident.

4 Performance Measures.

- 4.1 Exhibit A attached hereto includes the initial parameters and targets/metrics for the key performance indicators which will be used to evaluate the success or performance of the Enhanced Services (the "KPIs"). During the Term of this Agreement, the Parties will meet, quarterly, to review the KPIs and the performance by the City based upon the KPIs. The Parties agree that every six (6) months, commencing on the Initiation Date, the Parties will review the KPIs and set additional or new target metrics based upon actual data from the Enhanced Services provided. Any revisions to the KPIs must be mutually agreed upon by the Parties in a written amendment to this Agreement. The Parties further agree that full assessment and evaluation against the KPIs shall not commence until 6 months after the Initiation Date.

- 4.2 In the event that either Party believes there has been a breach of the Agreement or a failure to satisfactorily perform the responsibilities assigned and agreed upon as part of this Agreement, said Party may promptly notify the other Party in writing of the deficiency. The Parties will meet to discuss the alleged deficiency within seven (7) days of such written notice. This meeting need not wait for the regular quarterly meeting referenced above. The allegedly deficient Party will be permitted not more than forty-five (45) days following such written notice to correct the alleged deficiency(ies) and cure the breach, unless some alternative time period is agreed upon by the Parties in writing at that time.
- 4.3 To the extent a performance deficiency reduces the cost to the City of providing the Enhanced Service (for example, if the deficiency involves failure to provide the requisite number of police officers on the Hospital Campus as part of daily staffing assignments), the Fee (defined in Section 5.1 below) shall be reduced by a pro rata amount during the period of deficiency.

5 Costs and Billing.

- 5.1 As compensation for providing the Enhanced Services, Hospital will pay the City a quarterly fee based on the actual costs reasonably incurred by the City directly related to providing the Enhanced Services, including costs of staffing, supervision and training, equipment and space needs, provided, however, notwithstanding the foregoing or any other provisions of this Agreement to the contrary, in no event will the aggregate annual fee or costs to be paid by Hospital for any year exceed the budgeted amount for such year by more than ten percent (10%), unless mutually agreed to by both parties in writing in advance. The budgeted amount agreed upon by the Parties for the Initial Term is set forth on Exhibit D, attached hereto and incorporated herein.
- 5.2 Prior to setting the Hospital's budget each year, Hospital and City will meet to review and adjust the budget for Enhanced Services for the subsequent year. Agreement between Hospital and the City as to each such budget shall be evidenced in writing. In the event Hospital and the City are unable to agree upon a budget for such subsequent year, the budget shall be set at the preceding year's budget with non-labor operating costs adjusted for inflation by indexing with the prior year's Consumer Price Index - Midwest Urban and labor costs modified based on the negotiated wages and other compensation contractually agreed to with the Wauwatosa Peace Officers Association. (In the event that wage increases are not agreed upon at the beginning of a billing cycle, such personnel cost increases may be back-billed in a manner similar to the City's back payments to personnel at the time of contract settlement.)
- 5.3 Costs for the Enhanced Services will be pro-rated during the Implementation Phase.
- 5.4 The labor, training and equipment costs for all police officers hired to provide Enhanced Services (up to 1 assigned police officer) will be charged as a one-time cost as set forth on Exhibit D under this Agreement.

5.5 The City will invoice Hospital for the cost of Enhanced Services in arrears. Such invoices will be payable by Hospital within thirty (30) days after receipt thereof. Prior to the end of each fiscal year for Hospital, the Parties will meet to reconcile the actual fee for such year. In the event Hospital paid more than the actual costs reasonably incurred by the City directly related to providing the Enhanced Services during a contract year, the City will refund such excess to Hospital within thirty (30) days of the end of such fiscal year. In the event Hospital paid less than the actual costs reasonably incurred by the City directly related to providing the Enhanced Services, Hospital will pay the City the difference between such actual costs and the fee paid by Hospital within thirty (30) days of the determination thereof, provided, however, in no event shall Hospital pay or be responsible for any amount that exceeds the budgeted amount for such year by more than ten percent (10%).

6 Term of Agreement. This Agreement shall become effective on the Effective Date and shall continue for a period of four years (the "Initial Term"). Upon expiration of the Initial Term, this Agreement will automatically renew for additional successive five-year terms (each, a "Renewal Term" and together with the Initial Term, the "Term"), unless either party provides at least 24 months' prior written notice to the other party of non-renewal.

7 Termination and Ramp Down.

7.1 This Agreement may be terminated as follows:

7.1.1 upon the mutual written agreement of the Parties;

7.1.2 upon non-renewal of this Agreement as provided in Section 6 above; or

7.1.3 if at any time a party (the "Defaulting Party") breaches a material term of this Agreement or any exhibit incorporated herein or fails to perform any material obligation under this Agreement or any exhibit incorporated herein (a "Default"), then the other party shall have the right to give written notice to the Defaulting Party specifying the Default pursuant to the provisions of Section 4.2, above. Unless the Default is cured within 45 days after written notice, the non-defaulting party may terminate this Agreement by further written notice of termination given to the Defaulting Party. A party's right to terminate this Agreement due to a default by the Defaulting Party is in addition to, and not in lieu of, all other rights and remedies available to the non-defaulting party at law, in equity or under this Agreement, and all rights and remedies of the non-defaulting party are cumulative and may be exercised concurrently, individually and in such order as the non-defaulting party shall choose.

7.1.4 if at any time after the initial term for any reason a party provides the other party with at least twelve (12) months prior written notice of termination of this Agreement.

7.2 Upon the occurrence of an event under Section 7.1.2 or 7.1.3 or 7.1.4, the Parties will agree upon a ramp down plan for the Enhanced Services (the "Ramp Down Plan"). During the implementation of the Ramp Down Plan, the City agrees to cooperate reasonably in connection with the transition of services with Hospital and/or the replacement provider of Enhanced Services in a manner to meet Hospital's needs for Enhanced Services. The Ramp Down Plan shall be implemented under the following guidelines:

7.2.1 if a non-renewal under Section 6 or a termination pursuant to 7.1.2 or 7.1.3 or 7.1.4 above, the Ramp Down Plan is anticipated to last up to 24 months.

8 Independent Contractor, Insurance and Indemnification.

8.1 The Parties agree as follows with respect to the City's status as an independent contractor:

8.1.1 This Agreement is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association, between the Parties. The employees and agents of one party shall not be, or be construed to be, the employees or agents of any other party for any purpose whatsoever.

8.1.2 The City shall be solely liable and responsible for providing to, or on behalf of, all employees performing work on its behalf pursuant to this Agreement, all compensation and benefits. Hospital shall have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, disability benefits, federal, state, or local taxes, or other compensation, benefits, or taxes for any personnel provided by or on behalf of the City.

8.1.3 The Parties understand and agree that all of the City's employees performing work on behalf of the City pursuant to this Agreement are, for purposes of Workers' Compensation and Duty Disability liability, solely employees of the City and not employees of Hospital. The City shall be solely liable and responsible for furnishing any and all Workers' Compensation and Duty Disability benefits to any such employee as a result of any injuries arising from or connected with any work performed by or on behalf of the City pursuant to this Agreement.

8.2 Each party to this Agreement shall be responsible for the actions of its own employees, agents and other actors on its behalf. Nothing contained within this Agreement is intended to be or may be interpreted to act as a waiver or estoppel of the City or its insurer to rely upon the limitations, defenses, and immunities contained within Wisconsin law, including those contained within Wisconsin Statutes 893.80, 895.52, and 345.05. To the extent that indemnification is available and enforceable, the City or its insurer shall not be liable in indemnity or contribution for an amount greater than the limits of liability for municipal claims established by Wisconsin law.

8.3 Each party to the Agreement shall maintain insurance coverage to protect against risks arising out of this Agreement, which shall include general liability coverage, automobile liability coverage, workers compensation coverage, and such additional coverage and amounts as further specified, if necessary, by mutual agreement in writing. Such coverage shall be endorsed, if necessary, to cover claims arising out of contractual liabilities as a result of this Agreement. City will name Hospital and its affiliates as additional insureds under the City's liability policies.

- 8.4 Subject to the limitations described in paragraph 8.2, above, the City shall be responsible for the acts or omissions of any of its officers, employees, and affiliates providing services under this Agreement. Again subject to the limitations in paragraph 8.2, the City shall indemnify, defend and hold harmless Hospital and its affiliates, and each of their respective directors, officers, employees, agents and volunteers {"Hospital Indemnitees"}) from and against any and all claims, demands, damages, liabilities, losses, costs, and expenses, including, but not limited to, defense costs and legal, accounting and other expert, consulting or professional fees, arising from and/or relating to the City's performance of its obligations pursuant to this Agreement, except for such loss or damage arising from the actions of the Hospital Indemnitees. Any legal defense of Hospital Indemnitees pursuant to the City's indemnification obligations under this section shall be conducted by the City and/or performed by counsel selected by the City. Notwithstanding the preceding sentence, Hospital and Hospital Indemnitees shall have the right to participate in its own such defense at its sole cost and expense. Neither of the Parties shall have the right to enter into any settlement, agree to any injunction or other equitable relief, or make any admission, in each case, on behalf of any other Party without that other Party's prior written approval. This section shall survive termination of this Agreement.
- 8.5 The City shall reimburse Hospital for any and all costs and expenses incurred to repair, or cause to be repaired, any and all damage to the Hospital premises, including any and all damage to facilities, building, or grounds, caused by the City or employees, affiliates, contractors, representatives, or agents of the City. All costs and expenses incurred by Hospital or its affiliates, as determined by Hospital, for such repairs shall be repaid by the City by cash payment upon demand.

9 Compliance with Law.

- 9.1 The Parties will, and will require that their agents and employees performing services under this Agreement will, abide by all applicable rules and regulations, as well as comply with all local state, and federal laws, rules, and regulations, including, but not limited to, all applicable state licensing standards, as established from time to time. Either Party shall notify the other Party as soon as reasonably possible of any incidents of which that Party becomes aware in which the rights of the other Party or any of their respective employees or patients, may have been violated.
- 9.2 The Parties and their employees, officers, directors, agents, affiliates, and contractors, shall not discriminate against any employee or applicant for employment or against any patient or other individual because of age, race, religious creed, color, disability, marital status, sex, national origin, ancestry, sexual orientation, arrest record, conviction record, veteran status or handicap in its performance of this Agreement.

10 Health Care Regulations.

- 10.1 The City will take such safety precautions as are customary in the health care industry and comply with all aspects of the Occupational Safety and Health Administration Regulations and Standards. The City acknowledges independent responsibility for training and vaccinating all of the employees, independent contractors and agents of the City providing services under this Agreement, and the City agrees that such individuals will, while providing services under this Agreement, comply with the procedures relating to the occupational exposure to blood (or other potentially infectious materials). The police officers and other City personnel (including employees, agents, contractors or representatives) providing services pursuant to this Agreement will comply with the health standards, screening requirements, and other requirements as specified in Exhibit E, as may be amended from time to time. The City will maintain records sufficient to show compliance with all applicable requirements of Exhibit E, and the City will furnish such information upon request.
- 10.2 The City acknowledges that, in the provision of the Enhanced Services under this Agreement, the City may be acting as the Hospital's "Business Associate" (as that term is defined in HIPAA) from time to time and that, in such event, the City shall comply with the provisions of the Business Associate Agreement set forth on Exhibit F attached hereto and incorporated herein.
- 10.3 Upon the written request of the Secretary of the Department of Health and Human Services or the Comptroller General or any of their duly authorized representatives, the City will make available those contracts, books, documents and records necessary to verify the nature and extent of the costs of providing services under this Agreement. Such inspection shall be available up to four (4) years after the rendering of such services. If the City carries out any of the duties of this Agreement through a subcontract with a value of \$10,000 or more over a twelve (12) month period with a related individual or organization, the City agrees to include this requirement in any such subcontract. Nothing in the foregoing sentence shall be construed to permit the City to enter into any such subcontract. This section is included pursuant to and is governed by the requirements of Public Law 96-499, Sec. 952 (Sec.1861(v)(l)(I) of the Social Security Act) and the regulations promulgated thereunder.
- 10.4 The City covenants, represents and warrants that the City and all of its employees and any individuals or entities contracted by the City to fulfill the obligations in connection with the operation of the City or the provision of services pursuant to this Agreement are not and have not been, and, during the term of this Agreement, will not be, excluded by the Department of Health and Human Services Office of the Inspector General (the "OIG") as set forth on the List of Excluded Individuals/Entities, or excluded by the General Services Administration as set forth on the System for Award Management (see <http://exclusions.oig.hhs.gov/> and <https://www.sam.gov>). The City will immediately notify Hospital of any change in the status of the covenant, representation and warranty set forth in this section, and the City will immediately remove any of its employees and any individuals or entities contracted by the City that are or become ineligible to participate in the federal health care programs as defined in 42 U.S.C. § 1320a-7b(f) from providing services at or for Hospital. Notwithstanding any other provision contained herein, any breach of this section gives Hospital the right to terminate this Agreement immediately for cause.

- 11 Notice. All notices, requests, approvals, demands, and other communications required or permitted to be given under this Agreement will be in writing and will be delivered by personal delivery, by a nationally recognized overnight courier service, or by registered or certified mail (return receipt requested, postage prepaid). Notices are deemed to have been given on: (i) the date when personally delivered; (ii) the date which immediately follows the date of delivery to such overnight courier service; or (iii) the date which is seven (7) days from the date of deposit in the United States Postal Service in the manner described above. Notices must be addressed as indicated below, and either party may change such address in accordance with this section. A copy of any notice to Hospital also shall be provided contemporaneously by email to the email address indicated below for Hospital.

If to Hospital:	<p>Froedtert Memorial Lutheran Hospital, Inc. 9200 West Wisconsin Avenue Milwaukee, WI 53022 Attn: General Counsel</p> <p><i>With a copy via email to: legal@froedtert.com</i></p> <p><u>Also Receiving Notices:</u></p> <p>Froedtert Memorial Lutheran Hospital, Inc. 9200 West Wisconsin Avenue Milwaukee, WI 53022 Attn: President</p>
If to the City:	<p>Wauwatosa Chief of Police 1700 N. 116th St. Wauwatosa, WI 53226</p> <p><u>Also Receiving Notices:</u></p> <p>Wauwatosa City Attorney 7725 W. North Ave. Wauwatosa, WI 53213</p>

12 Miscellaneous.

- 12.1 No amendment or variation of the terms of this Agreement shall be valid unless made in writing and signed by duly authorized representatives of the City and Hospital.
- 12.2 This Agreement is drawn to be effective in and shall be construed in accordance with the laws of the State of Wisconsin.

[Signatures on Following Page]

[Signature Page]

CITY OF WAUWATOSA

By:
Name:
Title: Mayor
Date:


By:
Name:
Title: City Clerk
Date:

By:
Name:
Title: Finance Director
Date:

Approved as to form and execution:

By:
Name:
Title: City Attorney
Date:

FROEDTERT MEMORIAL LUTHERAN HOSPITAL, INC.

By: 
Name: Eric Conley
Title: President, Froedtert Hospital
Date: 8/14/2023 | 1:57 PM CDT

230726N1219-10

Exhibit A

**NOTE TO ALL PARTIES- RESERVED RIGHT TO ADD TRAINING
FROM THE AATOPS CONSOLIDATED REPORT**

Scope of Enhanced Services

Enhanced Services: The City will provide supplemental and enhanced policing, law enforcement, and security services, and related services, including, but not limited to, uniformed police services, security services, critical incident response services specific to Hospital, responding to emergency 911 calls, assistance to Hospital's security team and employed or contracted security staff, criminal investigations, participation in training, emergency plan preparation and services, assistance in all support needs of the Hospital, and enforcement of all local, state and federal laws. These services are supplemental in addition to and beyond what is provided pursuant to applicable law and also in addition to and separate and distinct from other additional services provided for MRMC or other additional services that are set forth in separate agreements.

Staffing Requirements:

The City shall require the Wauwatosa Police Department ("WPD") to assign one (1) uniformed police officer to provide and perform the Enhanced Services on-site on or about the premises of Hospital during all (24) hours each day, all (365 or 366) days of the year, during all 3 shifts.

The police officers assigned to provide the Enhanced Services will be responsible for providing the Enhanced Services at Hospital's Emergency Department, which shall include staffing Hospital's Emergency Department desk during the times requested by Hospital and immediately responding to any and all calls for service in Hospital's Emergency Department. The police officers will also immediately respond and provide support with respect to any metal detector process used by Hospital, including at Hospital's Emergency Department entrance as applicable through a mutually agreed upon process. The police officers shall also provide the Enhanced Services at such other specific location(s) as may be requested by Hospital from time to time at the times requested by Hospital.

In the event that a police officer during a shift is required to affect an arrest and is required to leave his or her post, the WPD officer will return to the assigned post as soon as possible upon conclusion of the arrest process.

Standards:

1. City shall require WPD to provide an improved level of security and safety on the Hospital Campus through the provision of the Enhanced Services as demonstrated through the key performance metrics set forth in this Agreement.
2. In the event the need arises, in the opinion of the Command Staff of WPD (i.e., in response to crowd control needs, incident criticality, level of law enforcement activity required, or the need to increase the law enforcement response to protect the safety of the citizenry), WPD may assign additional personnel or assets to the Hospital Campus. Hospital would not, in this situation, be responsible for the payment of any costs relating to those additional personnel or assets.
3. WPD shall coordinate with the Hospital's Director of Security, the Hospital's security team, and Hospital's administrative staff regarding WPD's activities at Hospital, including, but not limited to, process service, execution of warrants, response to disturbances, investigations, interviews, emergency detentions, patients in custody, traffic control or missing persons.
4. WPD shall coordinate, to the extent practicable, with the Hospital's Director of Security for responding to threats to the Hospital Campus, including any necessary armed response. This coordination shall occur at least every 12 months, and shall include a description of the Hospital Campus and the category 1 and category 2 quantities of radioactive materials along with a description of the Hospital Campus's security measures that have been implemented to comply with regulatory requirements. The Hospital will request a timely armed response by WPD to any actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of material.
5. With respect to a Critical Incident occurring on the Hospital Campus, City shall require WPD Command Staff to contact the Hospital's Security Director and/or his or her designee as soon as possible, but in any event within one (1) hour of the Critical Incident. If a Critical Incident occurs, the City shall require that WPD will coordinate its response, investigation, and interviews with the personnel designated by Hospital, as appropriate. City shall also require that WPD Command Staff will convene a meeting to debrief the Security Director of the Hospital and/or his or her designee, and other staff of Hospital or Hospital's affiliates as determined by Hospital, as soon as possible, but in any event within 48 hours following the Critical Incident. A "Critical Incident" is defined as any occurrence that is noteworthy, or requires an immediate response of more than three (3) officers, or includes any of the following:
 - Staff or visitor death or significant injury including suicide or attempted suicide
 - Terrorist event or threat of terrorist event (i.e. bomb threat)
 - Any actual or attempted theft, diversion, or sabotage of risk significant radioactive materials
 - Abduction
 - Significant building damage due to water, weather, fire, explosion, intentional acts, etc. For incidents involving weather, fire or explosion, Wauwatosa Fire is usually the lead agency and WPD will liaison and help coordinate the WFD debrief.
 - Any business crisis (workplace violence, public demonstrations, labor dispute demonstrations, etc.)

6. City shall require that all WPD Officers assigned to duty on the Hospital Campus will be in full duty uniform and equipped with standard WPD equipment.
7. Hospital shall and City shall require WPD to, as a general practice, consult and agree to a general set of operating procedures and expectations for WPD Officers while on assignment at the Hospital Campus.
8. City shall require WPD to the recording of data points or Key Performance Indicators/KPIs as a means to measure the performance of WPD and provide the basis for future data- driven decisions. The data will be collected and presented by WPD at quarterly service review ("QSR") meeting. The KPIs are set forth below on this Exhibit A, below.
9. City shall require WPD leadership and/or Command Staff will participate in the Hospital's emergency planning as requested by Hospital, including Hospital's emergency preparedness activities and exercises. This includes participation in the Milwaukee Regional Medical Center Emergency Preparedness Committee and attending its meetings. This also includes participation in certain Exercise Design subcommittees, which plan, coordinate, and execute the emergency exercises for the MRMC Campus and Hospital.
10. City shall require WPD police officers assigned to Hospital to provide and perform the Enhanced Services, complete Hospital's required training, and comply with Hospital's screening and contractor requirements. City shall require WPD police officers to comply with Hospital's policies as applicable to Enhanced Services.
11. The City shall and shall require the police officers to coordinate with Milwaukee County and the Milwaukee County Sheriff's Office and any other law enforcement jurisdiction personnel and with the personnel of Hospital and its affiliates, including security personnel and administrative personnel for Hospital and its affiliates, regarding City's activities at Hospital, including service of process, execution of warrants, response to disturbances, investigations, interviews, emergency detentions, patients in custody, traffic control, or missing persons, and regarding any law enforcement activities of the Milwaukee County Sheriff's Office or any other law enforcement jurisdiction personnel presenting to the Hospital. Further, to the extent requested by Hospital, the City shall and shall require the police officers to coordinate with security personnel or other staff of MRMC and/or the affiliates of MRMC.
12. The City shall require the police officers to operate on both City communication frequencies and Hospital communication frequencies, via hospital owned radio provided to the WPD officer, and to communicate with Hospital security personnel on the Hospital communication frequencies. The parties agree that Hospital security personnel will work closely with the City, the police officers, and WPD Command Staff, for purposes of assisting with proper deployment during this Agreement.
13. The City shall require the police officers to complete any specific training required by Hospital within thirty (30) days of assignment to Hospital.
14. The City shall require police officers to notify Hospital as soon as reasonably possible, as soon as possible, but in any event within 24 hours of any incidents of which the police officers becomes aware in which the rights of Hospital, or its employees or patients may have been violated.

15. The City agrees that any information received by City, including, without limitation, by the police officers, regarding business, financial, patient, or other private or proprietary information of Hospital or its affiliates is confidential ("Confidential Information"). The City shall maintain the confidentiality of all such Confidential Information. With respect to any Confidential Information obtained by the City, the City shall: (a) not use any such records or information for any purpose whatsoever other than carrying out the Enhanced Services; (b) promptly transmit to Hospital all requests for disclosure of any such records or information; (c) not disclose any such records or information to any person or organization other than Hospital, without the prior written authorization of Hospital that the records are, or information is, releasable; and (d) at the termination of the Agreement or upon Hospital's request, return all such records and information to Hospital or maintain such records and information according to the written procedures sent to the City by Hospital for this purpose. In the event the City receives any court or administrative agency order, service of process, or request by any person or entity for disclosure of any such details, the City shall immediately notify Hospital. Thereafter, the City shall comply with such order, process, or request only to the extent required by applicable law. Notwithstanding the preceding sentence, to the extent permitted by law, the City shall delay such compliance and cooperate with Hospital to obtain relief from such obligations to disclose until Hospital shall have been given a reasonable opportunity to obtain such relief.
16. The City represents and warrants that all goods and services will be provided in compliance and consistent with: (i) all applicable laws, rules, ordinances, and regulations, including without limitation HIPAA; (ii) applicable requirements of the U.S. Department of Health and Human Services, the Centers for Medicare and Medicaid Services, and any other federal, state or local government agency; (iii) requirements of accreditation organizations and state licensing standards, as applicable; (iv) generally accepted professional standards; (v) the policies, rules, and standards of Hospital and its affiliates; and (vi) the terms of the Agreement. The City further acknowledges and agrees that the City, and the police officers, will access and review the policies of Hospital and its affiliates applicable to the Enhanced Services, including those policies available on the Hospital webpage; will comply with such policies in the performance of services for or provision of goods to Hospital; and will make those policies available to its employees and agents.

Key Performance Indicators

Goals of Key Performance Indicators:

- Provide a safe and secure environment that will create and maintain a feeling of safety and security for all, including Hospital patients, visitors, and Hospital staff, and demonstrate an improved level of security and safety on the Hospital Campus through the provision of the Enhanced Services
- Demonstrate responsiveness to the Hospital Campus in the delivery of skillful quality law enforcement service.
- Afford dignity and respect to every individual.
- Improve the quality of life through community partnerships.
- Develop a cooperative relationship with all members of the Hospital Campus community.
- Maintain a well-trained, community oriented, professional work force.
- Work with Hospital's Security Director, security team, and Hospital administrative staff to address concerns and resolve problems.
- Create an environment of teamwork through trust, commitment, collaboration, perspective, direction and cooperation.
- Decrease the amount of actual or perceived criminal activity via high visibility policing.
- Create a community awareness of crime problems and methods of increasing the police department's ability to deal with actual or potential criminal activity in a method that is swift, effective and placing emphasis on safety to the Hospital Campus.
- Educate Hospital staff and in turn be educated by the Hospital staff by one on one contacts, formal classes, community presentations and written communication.

On a quarterly basis at the QSR meeting, the City shall require the WPD to report on the following items:

1. Quantitative Measurements Report

- a. Number of calls for service
- b. Average response times to:
 - i. Critical incidents (target metric is less than 5 minutes)
 - ii. Non-emergency calls for service (target metric is less than 15 minutes)
- c. Number of arrests
- d. Number of citations issued
- e. Number of Investigations
 - i. Concluded and outcome
 - ii. Ongoing
- f. Incidence of Intelligence sharing
- g. Staffing and training levels of scheduled police officers on the Hospital Campus (target metric is 100% fully trained and staffed)
- h. Number and content of safety and education meetings and talks
- i. Number of business checks
- j. Number of police officers who attended department-sponsored diversity & inclusion training
 - i. Target metric is 100% attend training annually

- k. Number of Hospital security department staff who have achieved a position within the police department
- l. Number of police officers who have applied for a position within Hospital's security as reported by Hospital
- m. "Wauwatosa New Hires" reported coinciding with frequency of hiring
- n. Annual report of Wauwatosa Police Department diversity
 - i. Include a target metric for diversity when Wauwatosa institutes one
- o. Number of police officers who attended Crisis Intervention Team (CIT) training
 - ii. Target metric, 100% of front line patrol officers trained within 5 years
- p. Number & category of formal complaints received by Wauwatosa PD specific to Hospital
- q. Number & category of commendations received by Wauwatosa PD specific to Hospital
- r. Number of community engagement events hosted or attended

2. Effectiveness Measurements Report

- a. Crime Analytics on the Hospital Campus
- b. Briefing Information and discussion of effectiveness
- c. Social media utilization
- d. Directed patrols report out
- e. Follow-ups and investigations
- f. Regular meetings to review efforts and strategies
- g. Crime mapping
- h. Intelligence utilization
- i. Tactics utilized
- j. Follow-up reporting

Adjustment Discussion Triggers

Adjustment discussion triggers will need to be developed in accordance with the Agreement that address potential increases or decreases in any or all the following areas:

- Investigative case load
- Specific types of incidents, requiring additional resources or supervision
- Open records requests and redacting or other clerical process changes

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Exhibit B

Enhanced Services Training

Irradiator Security	Minimum of 1 Hour	Annually	1 Hour
HIPAA	Minimum of 1 Hour	Annually	1 Hour
EMTALA	Minimum of 1 Hour	Annually	1 Hour
Restraints	Minimum of 1 Hour	Annually	1 Hour
MRI Safety	Minimum of 1 Hour	Annually	1 Hour
Bloodborne Pathogen	Minimum of 1 Hour	Annually	1 Hour
Building Access	Minimum of 1 Hour	Initial Only	1 Hour
Communications	Minimum of 1 Hour	Initial Only	1 Hour
Evacuation	Minimum of 1 Hour	Initial Only	1 Hour
Records	Minimum of 1 Hour	Initial Only	1 Hour
GIS-CAD	Minimum of 1 Hour	Initial Only	1 Hour
Emergency Response Locations	Minimum of 1 Hour	Initial Only	1 Hour
Emergency Management	Minimum of 2 Hours	Updates as needed	2 Hours

Irradiator Security

An irradiator is a device used to expose a wide range of samples to gamma radiation for a variety of purposes. The source of the radiation is a cesium (Cs-137) sealed source. The radioactive source is completely contained in lead shielding, which is an integral part of the irradiator equipment. The activity of the irradiator source can be in the thousands of Curies. Together with the shielding, the irradiators can weigh thousands of pounds. The gamma radiation does not leave any radioactive residue nor cause any of the exposed samples to become radioactive themselves. Human access to the sealed source and the sample to be irradiated is not physically possible in its designed configuration.

Facilities must have a security program in place and also have a response plan in place involving local law enforcement. Implementation of these plans is beyond the scope of the Permit or Permit Holder and may involve other USDA or government organizations and agencies and must be approved by the Radiation Safety Division.

HIPAA

HIPAA means the Health Insurance Portability and Accountability Act that was passed by Congress in 1996 and its implementing regulations. HIPAA does the following:

- Provides the ability to transfer and continue health insurance coverage for millions of American workers and their families when they change or lose their jobs;
- Reduces health care fraud and abuse;
- Mandates industry-wide standards for health care information on electronic billing and other processes; and
- Requires the protection and confidential handling of protected health information

EMTALA

The Emergency Medical Treatment and Active Labor Act (EMTALA) is a federal law that regulates how hospitals must treat patients with an emergency medical condition or who are in active labor (i.e., about to give birth). EMTALA only applies to hospitals that accept Medicare and Medicaid patients and covers patients regardless of whether they have health insurance.

Restraints

Restraints in a medical setting are items that limit a patient's movement. Restraints can help keep a person from getting hurt or doing harm to others, including their caregivers. They are used as a last resort.

There are many types of restraints. They can include:

- Belts, vests, jackets, and mitts for the patient's hands
- Devices that prevent people from being able to move their elbows, knees, wrists, and ankles
- Other ways to restrain a patient include:
 - o A caregiver holding a patient in a way that restricts the person's movement
 - o Patients being given medicines against their will to restrict their movement
 - o Placing a patient in a room alone, from which the person is not free to leave

MRI Safety

Magnetic resonance imaging, or MRI, is a way of obtaining detailed images of organs and tissues throughout the body without the need for x-rays or "ionizing" radiation. Instead, MRI uses a powerful magnetic field, radio waves, rapidly-changing magnetic fields, and a computer to create images that show whether or not there is an injury, disease process or abnormal condition present

For the MRI exam, the patient is placed inside the MR system or scanner—typically a large donut-shaped device that is open on both ends. The powerful magnetic field aligns atomic particles called protons that exist in most body tissues. The applied radio waves then interact with these protons to produce signals that are picked up by a receiver within the MR scanner. The signals are specially characterized using the rapidly-changing magnetic field. With the help of computer processing, images of tissues are created as "slices" that can be viewed in any orientation.

An MRI examination causes no pain, and the electromagnetic fields produce no known tissue damage of any kind. The MR scanner may make loud tapping, knocking or other noises at times during the procedure. Ear plugs are provided to prevent problems that may be associated with this noise.

Building Access

To ensure the safety of our campus, most of the exterior doors on our buildings have electronic locks with access granted using an Access Card when the building is locked. Each facility on campus utilizes their own controlled access.

Communications

There are multiple radio and communication systems on campus, including separate communication equipment for each major security department. Interoperability will be reviewed for campus-wide communications between all security departments, police, fire, and EMS.

Evacuation

Evacuation is the process of moving patients from an at-risk location to a safer holding area or alternate location within the hospital or skilled nursing facility, another medical building, or a non-medical facility converted for patient care.

The Hospital Evacuation Plan is a planning document that augments the hospital's existing Emergency Operations Plan (EOP) and incorporates the fundamental principles of all-hazards emergency management. This comprehensive plan provides a concept of operations for evacuation functions and incident management, staff roles and responsibilities, and provides overall guidance to enable evacuation regardless of the hazard or incident type. There are separate evacuation and emergency operation plans for each institution.

Records

The Privacy Rule gives the patient, with few exceptions, the right to inspect, review, and receive a copy of your medical records and billing records that are held by health plans and health care providers covered by the Privacy Rule.

GIS-CAD

A review of campus-wide GIS or mapping systems available, along with review of Computer Aided Dispatch services on campus and how they can be utilized.

Emergency Response Locations

This training will provide a review of Emergency Operations Center and Emergency Command Post locations for each of the campus facilities. This will also include an overview of emergency notification systems on campus.

Emergency Management

Emergency management describes the science of managing complex systems and multidisciplinary personnel to address extreme events, across all hazards, and through the phases of mitigation, preparedness, response, and recovery. Hospital and MRMC each have several different emergency management departments, and emergency management committees and multiple emergency operations centers and notifications. Emergency management includes specific response and responsibilities of law enforcement as it pertains to fire alarms, severe weather and bomb threats.

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Exhibit C

Enhanced Services Transition Plan

Effective Date: Effective as of the date of last signature of the Agreement.

Duration of Implementation Phase: From the Effective Date through the Initiation Date

Initiation Date: October 1, 2023

- Permanent Staffing Requirements are set forth in the Scope of Enhanced Services attached to the Agreement as Exhibit A.

Exhibit D

Budgeted Amount for Initial Contract Year/Estimated Fee

Froedtert Costs -2023 Annual	Units	Unit Cost	Total
Patrol Staffing			
One- time			
Hiring	6	7,152 \$	42,914
Equipping	6	11,272 \$	67,632
Field Training	6	9,049 \$	54,295
Automated License Plate Readers ¹	1	16,000 \$	-
TOTAL ONE-TIME			164,841
Annual			
Personnel			
Officers	5.0	129,192 \$	645,958
Captain	0.25	193,865 \$	48,466
Sergeant	1.25	150,310 \$	187,888
Dispatch (full-time)	0.25	92,736 \$	23,184
Dispatch (part-time)	0.04	74,377 \$	2,916
Additional Dispatch Support	1	16,000 \$	16,000
SUBTOTAL			924,412
Operating Costs			
Vehicles	1	26,324 \$	26,324
County Radio Charge	6	260 \$	1,560
Training and Equipping	6	3,162 \$	18,972
Uniform Allowance	6	800 \$	4,800
External Training Events	6	1,100 \$	6,600
Body Worn Cameras	6	1,085 \$	6,510
SUBTOTAL			64,766
TOTAL ANNUAL			989,178
Overhead		13.5%	133,539
Equipment Replacement	1.25	10,000 \$	12,500
Capital Improvements	1.25	50,000 \$	62,500
GRAND TOTAL - ONE TIME			164,840
GRAND TOTAL - ANNUAL			1,197,720

¹ Cost will be covered by uniform allowance expense which is not incurred until year 4 after new hire

as of 5/26/2023

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Exhibit E

Health Screening and Other Requirements

Froedtert Hospital <p style="text-align: center;">CONTRACTOR CERTIFICATION for Wauwatosa Police assigned to Hospital ED</p>		
Name: _____ Date: _____ Contractor/Agency: Wauwatosa Police Department/City of Wauwatosa Position Title: Police Chief Hospital Leader: _____		
1.	WPD understands that there may be an elevated risk of exposure to certain communicable diseases while working in a healthcare environment and shall comply with all applicable OSHA requirements for law enforcement personnel	Date: _____
2.	Negative 10 Panel drug screen upon hire by WPD	Date: _____
3.	WPD offer of titer draw for immunity to Rubella, Rubeola and Mumps, performed by Hospital at no cost to WPD WPD offer of vaccination against Rubella, Rubeola and Mumps, performed by Hospital at no cost to WPD	Date: _____
4.	WPD offer of one TB blood test or two TB skin tests, performed by Hospital at no cost to WPD *If TB test is positive, must be cleared by Hospital	Date: _____
5.	WPD offer of titer draw for immunity to Varicella, performed by Hospital at no cost to WPD WPD offer of vaccination against Varicella, performed by Hospital at no cost to WPD	Date: _____
6.	WPD offer of influenza vaccine annually between October 1 and March 31. Vaccination may be provided by Hospital at no cost to WPD upon request.	Date: _____
7.	Hospital PPE requirements reviewed and will be followed by the Officers. PPE will not impede an Officer's access to their equipment nor significantly conceal their appearance as a law enforcement officer.	Date: _____
8.	History of antibiotic resistant disease (i.e. MRSA, VRE)* *If yes, must be cleared by Hospital	<input type="checkbox"/> Yes <input type="checkbox"/> No Date: _____
9.	Proof of a physical conducted by a healthcare professional upon hire by WPD	Date: _____

10.	WPD offer of titer draw for immunity to Hepatitis B, performed by Hospital at no cost to WPD, or signed declination form Declination form maintained by WPD. WPD offer of vaccination against Hepatitis B, performed by Hospital at no cost to WPD	Date: _____
11.	Proof of completion of Bloodborne Pathogen Standard (29 C.F.R. Part 1910.1030) training: https://www.americanbls.com/courses/bloodborne-pathogens-course/	Date: _____
12.	National Sex Offender Registry check with no findings: http://www.nsopr.gov/	Date: _____
13.	Completion of background checks in accordance with City policy and any legal requirements with no criminal convictions or findings substantially related to the job and no criminal convictions or findings that would preclude employment as a law enforcement officer	Date: _____
14.	Completion of the following checks with no findings: <ul style="list-style-type: none"> Office of Inspector General (OIG): https://www.sam.gov/index.html Excluded Parties List: http://exclusions.oig.hhs.gov 	Date: _____ Date: _____
15.	Parties agree that these requirements are subject to be re-opened for negotiation by either party in the event that any law or regulation requires Hospital to have a more or less stringent vaccination or background check requirement than what is agreed to in the contract	Date: _____

*All titer draw and vaccination records would be treated as Patient Health Information and released only to the Officer.

I certify that the above information is on file with the agency listed.

Signature of agency personnel/contractor verifying information

Print Name: _____

Exhibit F

BUSINESS ASSOCIATE AGREEMENT

(see attached)

BUSINESS ASSOCIATE AGREEMENT

THIS BUSINESS ASSOCIATE AGREEMENT (“**Agreement**” or “**BAA**”), effective as of October 1, 2023 (“**Effective Date**”), is made and entered into by and between **Froedtert Health, Inc.**, on behalf of itself and its affiliates (“**FH**”) and **City of Wauwatosa and its affiliated entities** (collectively “**Company**”). FH and Company are each a “**Party**” and collectively the “**Parties**”.

RECITALS

- A. FH and Company are committed to complying with all applicable federal and state laws and regulations governing the confidentiality and privacy of health information, including the Health Insurance Portability and Accountability Act of 1996 and its associated regulations, including the Privacy Rule, Security Rule, and Breach Notification Rule (collectively, “**HIPAA**”). For purposes of this Agreement, “**Privacy Rule**” shall mean the Standards for Privacy of Individually Identifiable Health Information (45 C.F.R. Parts 160 and 164, Subparts A and E), “**Security Rule**” shall mean the Security Standards for the Protection of Electronic Protected Health Information (45 C.F.R. Parts 160 and 164, Subparts A and C), and “**Breach Notification Rule**” shall mean the rule regarding notification obligations in the event of a Breach of Unsecured Protected Health Information (45 C.F.R. Parts 160 and 164, Subpart D). As used in this Agreement, the term “**HIPAA**” includes the Health Information Technology for Economic and Clinical Health Act and its associated regulations (“**HITECH**”).
- B. Company provides, has provided, or will provide services for or on behalf of FH and/or its affiliates (collectively, the “**Services**”) pursuant to one or more agreements between Company and FH or between Company and one or more of the affiliates of FH (collectively, the “**Underlying Agreement**”). As used in this Agreement, the term “**Underlying Agreement**” includes, without limitation, any and all agreements between Company and FH and between Company and any of FH’s affiliates, both written and oral agreements, and purchase orders issued by FH or its affiliates, whether in existence as of the Effective Date of this Agreement or entered into at some future date.
- C. The Parties acknowledge and agree that the Services may involve the use, disclosure, access, creation, receipt, maintenance, storage, or transmission of “protected health information” as defined under HIPAA (“**Protected Health Information**” or “**PHI**”) for or on behalf of FH and/or its affiliates. The Parties acknowledge and agree that: (i) certain of the affiliates of FH are covered entities; (ii) FH and/or its affiliates may act as a business associate of one or more covered entities, including affiliated covered entities and/or third party covered entities, and/or as a subcontractor business associate; and (iii) FH and certain of its affiliates are plan sponsors of certain group health plans.
- D. This Agreement sets forth the terms and conditions pursuant to which PHI (including electronic PHI) will be used, disclosed, accessed, created, received, maintained, stored, or transmitted during the term of the Underlying Agreement and after its termination.

AGREEMENT

The Parties agree as follows:

1. GENERAL.

1.1 **Recitals.** The above recitals are hereby made a part of this Agreement and are incorporated herein.

1.2 Definitions.

1.2.1 The following terms used in this Agreement, whether or not capitalized, shall have the meaning assigned to such terms in HIPAA: Breach of Unsecured Protected Health Information, Data Aggregation, De-identify, Designated Record Set, Disclosure, Health Care Operations, Individual, Information System, Minimum Necessary, Notice of Privacy Practices, Organized Health Care Arrangement, Protected Health Information, Required by Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, Use, and Workforce.

- 1.2.2 As used in this Agreement, the term “Business Associate” shall generally have the same meaning as the term “business associate” at 45 CFR 160.103 and in reference to the Party to this Agreement shall mean Company.
- 1.2.3 As used in this Agreement, the term “Covered Entity” shall generally have the same meaning as the term “covered entity” at 45 CFR 160.103 and in reference to this Agreement shall mean:
- (a) the affiliates of FH that are covered entities, including, without limitation, the following affiliates of FH designated as part of a single affiliated covered entity (“ACE”) for purposes of HIPAA: Froedtert Memorial Lutheran Hospital, Inc., d/b/a Froedtert Hospital; Community Memorial Hospital of Menomonee Falls, Inc., d/b/a Froedtert Menomonee Falls Hospital; St. Joseph’s Community Hospital of West Bend, Inc., d/b/a Froedtert West Bend Hospital; Holy Family Memorial, Inc.; Froedtert Health Neighborhood Hospital, LLC, d/b/a Froedtert Community Hospital; Froedtert & The Medical College of Wisconsin Community Physicians, Inc.; Froedtert Manitowoc Medical Group, LLC, Froedtert Surgery Center, LLC; Menomonee Falls Ambulatory Surgery Center, LLC; West Bend Surgery Center, LLC; Drexel Town Square Surgery Center, LLC; Wisconsin Diagnostic Laboratories, LLC; Holy Family Health Services, Inc.; Froedtert Health Pharmacy, LLC; Froedtert Health Home Infusion, LLC; Inception Health, LLC; and any other affiliate FH designates as part of its ACE for purposes of HIPAA;
 - (b) FH, as a business associate of a covered entity or as a subcontractor business associate, and each affiliate of FH that is a business associate of a covered entity or a subcontractor business associate, including, without limitation, Exceedent LLC; and
 - (c) each health plan for which FH and/or an affiliate of FH is the plan sponsor, including, without limitation the Froedtert Health, Inc. Group Benefit Plan.

2. PERMITTED USES AND DISCLOSURES OF PHI.

- 2.1 **General.** Business Associate may use and disclose PHI (i) to the minimum extent necessary to perform Services for or on behalf of Covered Entity pursuant to the Underlying Agreement, (ii) as Required by Law, or (iii) as otherwise expressly authorized by this Agreement and the Underlying Agreement.
- 2.2 **Management and Administration of Business Associate; Data Aggregation.** Business Associate may not use or disclose PHI in a manner that would violate the requirements of HIPAA if done by Covered Entity, except that Business Associate may use or disclose PHI for the proper management and administration of Business Associate in accordance with Section 2.2.1 of this Agreement, and Business Associate may provide data aggregation services relating to the health care operations of Covered Entity in accordance with Section 2.2.2 of this Agreement.
- 2.2.1 Unless otherwise limited herein, Business Associate may, if necessary, use and disclose the PHI in its possession for the proper management and administration of Business Associate and to carry out the legal responsibilities of Business Associate, provided that such uses and disclosures are permitted under state and federal confidentiality laws and, with respect to any disclosures: (i) the disclosure is Required by Law; or (ii) Business Associate obtains reasonable advance written assurances from the third party or person to which the PHI is disclosed that (a) the PHI will be held confidentially and only used or further disclosed as Required by Law or for the purpose for which it was disclosed to the third party or person, and (b) the third party or person will notify Business Associate of any instances of which it is aware in which the confidentiality or security of the PHI has been breached.
- 2.2.2 If required for the performance of the Services for or on behalf of Covered Entity and to the extent expressly authorized by Covered Entity in writing, Business Associate may use PHI to provide data aggregation services for Covered Entity relating to the health care operations of Covered Entity; provided, however, that Business Associate may not disclose the resulting aggregated data (that is

not De-identified) to a third party unless expressly authorized in the Underlying Agreement or otherwise by Covered Entity in writing.

3. **RESPONSIBILITIES OF THE PARTIES WITH RESPECT TO PHI.**

3.1 **Responsibilities of Business Associate.**

- 3.1.1 Business Associate shall not use or disclose PHI other than (i) to the minimum extent necessary to perform Services for or on behalf of Covered Entity pursuant to the Underlying Agreement, (ii) as Required by Law, or (iii) as otherwise expressly authorized by this Agreement.
- 3.1.2 Business Associate shall use appropriate safeguards and comply with the Security Rule to prevent use or disclosure of PHI other than as provided for by this Agreement and to maintain the security of the PHI.
- 3.1.3 Business Associate shall report in writing to Covered Entity any use or disclosure of PHI not provided for by this Agreement of which it becomes aware, including, but not limited to, breaches of unsecured PHI as required by 45 C.F.R. § 164.410 and any Security Incident, within five (5) business days of its discovery thereof; provided, however, that this Section shall constitute written notice by Business Associate to Covered Entity of the ongoing existence and occurrence of attempted but Unsuccessful Security Incidents (as defined below) for which no additional notice to Covered Entity shall be required. An “**Unsuccessful Security Incident**” means a security incident which does not result in any access to or any use or disclosure of PHI, such as pings and other broadcast attacks on Business Associate’s firewall, port scans, unsuccessful log-on attempts, denials of service, and any combination of the above, provided that in each case: (i) there is no unauthorized access, use, or disclosure of any PHI, and (ii) there is no impact to the confidentiality, integrity, or availability of the PHI or any applicable information systems, including, without limitation, FH or Covered Entity’s information systems or Business Associate’s information systems.
- 3.1.4 Business Associate agrees to mitigate, to the extent practicable, any harmful effect resulting from any violation of this Agreement or resulting from a Security Incident or Use or Disclosure of PHI in violation of this Agreement, and shall cooperate with Covered Entity in any reasonable investigation related thereto. In the event of a Breach of Unsecured Protected Health Information caused by Business Associate or any violation of this Agreement, Business Associate shall, if elected by Covered Entity, prepare and timely distribute any reports or notices required by the Breach Notification Rule or other applicable law (“Required Notifications”); provided, however, that Business Associate shall (i) provide any such Required Notifications to Covered Entity for its review, modification and approval in advance of Business Associate’s distribution thereof, and (ii) provide Covered Entity with proof of their timely distribution. Business Associate shall pay, or reimburse Covered Entity for, the reasonable costs and expenses of investigating, mitigating the harmful effects of, and providing Required Notifications related to any violation of this Agreement or Security Incident or Use or Disclosure of PHI in violation of this Agreement.
- 3.1.5 Business Associate shall ensure that any subcontractors that use, disclose, access, create, receive, maintain, store, or transmit PHI on behalf of Business Associate agree, in writing, to the same restrictions, conditions and requirements that apply to Business Associate with respect to such information, including, without limitation, under 45 C.F.R. §§ 164.502(e)(1)(ii), 164.308(b)(2), and 164.504(e)(2)(ii)(D). Notwithstanding the foregoing or any other provisions of this Agreement to the contrary, Business Associate shall not disclose PHI to any subcontractors unless permitted by 42 C.F.R. Part 2 to do so.
- 3.1.6 In the event that Business Associate possesses or maintains PHI for Covered Entity in a designated record set, Business Associate shall, within five (5) business days of its receipt of a request, make PHI available to Covered Entity or, if requested by Covered Entity, to an Individual, to enable Covered Entity to satisfy its obligations under 45 C.F.R. § 164.524.

- 3.1.7 In the event that Business Associate possesses or maintains PHI for Covered Entity in a designated record set, Business Associate shall, within five (5) business days of its receipt of a request, make PHI available to Covered Entity for amendment, incorporate or make any amendments to PHI as directed or agreed to by Covered Entity, or take other measures as requested by Covered Entity, to enable Covered Entity to satisfy its obligations under 45 C.F.R. § 164.526.
- 3.1.8 Business Associate shall document disclosures of PHI and information related to such disclosures as required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528. Business Associate shall, within five (5) business days of its receipt of a request, make the information required to provide an accounting of disclosures and such other information collected in accordance with this Section available to Covered Entity to permit Covered Entity to respond to an accounting of disclosures in accordance with 45 C.F.R. § 164.528.
- 3.1.9 Business Associate shall notify Covered Entity in writing within five (5) business days of its receipt of a request directly from an Individual for access to or amendment of PHI or an accounting of disclosures.
- 3.1.10 To the extent Business Associate is to carry out any of Covered Entity's obligations under HIPAA, Business Associate shall comply with the requirements of HIPAA that apply to Covered Entity in the performance of such obligations.
- 3.1.11 Business Associate shall, upon request, make its internal practices, policies, procedures, books and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity available to the Secretary and Covered Entity for purposes of determining compliance with HIPAA.
- 3.1.12 Business Associate will request, use and disclose only the minimum PHI necessary to perform or fulfill a specific function required or permitted by this Agreement. At all times, Business Associate shall comply with the Minimum Necessary standard of HIPAA.
- 3.1.13 Business Associate shall not use or disclose PHI if such use or disclosure would violate 42 C.F.R. Part 2. Business Associate acknowledges it is fully bound by HIPAA and 42 C.F.R. Part 2. Business Associate will comply with any and all applicable federal and state laws pertaining to confidentiality, including, but not limited to, state mental health and developmental disability confidentiality laws, state and federal drug and alcohol confidentiality laws, and state AIDS/HIV confidentiality laws.
- 3.1.14 Business Associate shall not directly or indirectly receive remuneration in exchange for PHI unless Business Associate: (i) has obtained express written authorization from Covered Entity in writing in advance to do so; and (ii) has received a valid authorization from the Individual that specifies that Business Associate can further exchange PHI about the Individual for remuneration by the entity receiving the PHI, in compliance with the requirements of 45 C.F.R. § 164.508. The foregoing provision shall not apply to FH's or Covered Entity's payment to Business Associate for Services provided under the Underlying Agreement.
- 3.1.15 If required for the performance of the Services for or on behalf of Covered Entity or to the extent expressly authorized by Covered Entity in writing, Business Associate may De-identify PHI in its possession for Covered Entity in accordance with the requirements of 45 C.F.R. § 164.514.
- 3.1.16 Business Associate shall provide each of its employees and members of its Workforce who will have access to or use, disclose, create, receive, maintain, store, transmit, or dispose of PHI, with HIPAA training and education, as necessary and appropriate for such employees of Business Associate and members of Business Associate's Workforce to carry out their functions and perform the Services for or on behalf of Covered Entity. Such HIPAA training and education shall be provided prior to

permitting the employees or members of Business Associate's Workforce access to PHI, and on an annual basis thereafter.

- 3.1.17 Except as otherwise permitted by Covered Entity in writing, neither Business Associate nor any of its employees, agents, subcontractors, or members of its Workforce to whom Business Associate provides PHI shall provide, transmit or export PHI beyond the borders of the United States of America for any purpose or permit anyone located outside the borders of the United States of America access to PHI.

3.2 Responsibilities of Covered Entity.

- 3.2.1 Covered Entity shall provide its notice of privacy practices to Business Associate by posting such notice on Covered Entity's website.
- 3.2.2 Covered Entity agrees to inform Business Associate of: (i) any changes in or revocation of authorization by an Individual to use or disclose PHI; and (ii) any Individual requests for restriction on the use or disclosure of PHI that Covered Entity has agreed to or is required to abide by under 45 C.F.R. § 164.522, in each case to the extent that such change, revocation, or restriction affects Business Associate's use or disclosure of PHI under the Underlying Agreement and this Agreement.

- 3.3 Mutual Responsibilities of the Parties.** Covered Entity and Business Associate will reasonably cooperate with one another in the performance of their obligations under this Agreement.

4. TERM AND TERMINATION.

- 4.1 Term.** The term of this Agreement shall commence on the Effective Date and shall continue in full force and effect until terminated as provided for herein.

4.2 Termination for Cause.

- 4.2.1 FH may terminate this Agreement if FH or Covered Entity determines that Business Associate has breached this Agreement and: (i) Business Associate has not cured the breach within the time specified by FH in a written notice; or (ii) FH determines that cure is not possible and provides written notice of termination. If FH determines that neither cure nor termination is feasible, Covered Entity may report the breach to the Secretary.
- 4.2.2 Business Associate may terminate this Agreement if FH or Covered Entity has breached a material term of this Agreement and has not cured the breach within thirty (30) days of receipt of written notice by Business Associate thereof.

- 4.3 Termination Without Cause.** Either Party may terminate this Agreement at any time, for any reason, by providing at least ninety (90) days prior written notice to the other Party; provided, however, that Business Associate may not terminate this Agreement without cause during any period in which one or more Underlying Agreement is in effect to the extent that the Underlying Agreement requires or permits Business Associate to access, use, disclose, create, receive, maintain, store, or transmit PHI.

- 4.4 Effect of Termination.** If this Agreement is terminated for any reason, including, but not limited to, a termination initiated by Business Associate under Section 4.2.2, then FH and/or Covered Entity, as applicable, may, in its sole discretion, terminate the Underlying Agreement upon written notice to Business Associate to the extent that the Underlying Agreement requires or permits Business Associate to access, use, disclose, create, receive, maintain, store, or transmit PHI for or on behalf of Covered Entity. Any termination of the Underlying Agreement as provided hereunder shall be without liability or further obligation on the part of Covered Entity.

- 5. RETURN OR DESTRUCTION OF PHI.** Upon termination of this Agreement, in accordance with 45 C.F.R. § 164.504(e)(2)(ii)(J), or at any time within thirty (30) days of any request by FH or Covered Entity for any reason, Business Associate will return or destroy, if feasible, all PHI received from, or created or received by Business Associate

on behalf of, Covered Entity that Business Associate still maintains in any form or has in its possession, or that Business Associate's agents and subcontractors still maintain in any form or have in their possession, and Business Associate (and its agents and subcontractors, as applicable) will retain no copies (which for purposes of this Agreement shall include destroying all backup tapes). To the extent that return or destruction of the PHI is not feasible, Business Associate shall notify Covered Entity in writing of the reasons that return or destruction is not feasible and, if Covered Entity agrees, Business Associate (or its agents or subcontractors, as applicable) may retain the PHI, provided that Business Associate shall (and shall cause any of its agents and subcontractors to) extend any and all protections, limitations and restrictions contained in this Agreement to any retained PHI and Business Associate shall (and shall cause any of its agents and subcontractors to) limit any further uses and disclosures of such PHI to those purposes that make the return or destruction of the PHI infeasible.

6. **INSURANCE.** Business Associate agrees to obtain and maintain in effect during the term of this Agreement cyber liability insurance with minimum coverage of \$2 million per occurrence and \$10 million in the aggregate. Business Associate will name Covered Entity as an additional insured. Upon request, Business Associate shall provide evidence of continuous coverage to Covered Entity.
7. **MISCELLANEOUS.**
 - 7.1 **Entire Agreement.** This Agreement constitutes the entire understanding and agreement between the Parties with respect to the subject matter hereof, and supersedes any and all prior or contemporaneous agreements, representations and understandings of the Parties. In the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the provisions of this Agreement will remain in full force and effect.
 - 7.2 **Amendments; Waiver.** This Agreement may not be modified or amended, nor shall any provision hereof be waived or amended, except in a writing duly signed by authorized representatives of the Parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any right or remedy as to subsequent events. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for compliance with the requirements of HIPAA and any other applicable law.
 - 7.3 **Cumulative Rights and Remedies; Survival.** All rights and remedies provided in this Agreement are cumulative and not exclusive, and the exercise by either Party of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law, in equity, by statute or in any other agreement between the Parties or otherwise. The respective rights and obligations of FH, Covered Entity and Business Associate under this Agreement shall survive termination of this Agreement indefinitely.
 - 7.4 **Contradictory Terms.** In the event of a conflict or inconsistency between the terms of this Agreement and the Underlying Agreement, the terms of this Agreement will prevail and control over any conflicting or inconsistent terms of the Underlying Agreement.
 - 7.5 **Regulatory References; Construction of Terms.** A reference in this Agreement to HIPAA or a section of HIPAA means HIPAA or the section as in effect or as subsequently updated, amended, or revised. The terms of this Agreement shall be construed in light of any applicable interpretation or guidance regarding HIPAA issued from time to time by the Department of Health and Human Services or the Office for Civil Rights. Any ambiguity in this Agreement shall be interpreted to permit compliance with HIPAA. Mandatory provisions of HIPAA preempt provisions of the Agreement. Provisions of the Agreement not mandated by HIPAA but nonetheless permitted by HIPAA will control. In the event of inconsistencies between HIPAA and 42 C.F.R. Part 2, the more restrictive rule will control. Unless the context otherwise requires, references herein: (a) to an agreement or other document means such agreement or other document as amended, supplemented, and modified from time to time to the extent permitted by the provisions thereof, and (b) to a statute or law means such statute or law as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.

- 7.6 **Third-Party Beneficiaries.** Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person or party other than the Parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever; provided, however, that any Covered Entity hereunder, including any covered entity for or on behalf of which FH or its affiliates provide services as a business associate or subcontractor business associate, is a third-party beneficiary of this Agreement, and provided, further, however, that any covered entity participating in an Organized Health Care Arrangement with Covered Entity is a third-party beneficiary of this Agreement.
- 7.7 **Governing Law.** This Agreement shall be governed by Wisconsin law notwithstanding any conflicts of law provisions to the contrary.
- 7.8 **Ownership of Information.** Covered Entity shall retain all ownership and other rights to PHI that Business Associate receives, has access to, uses, discloses, creates, receives, maintains, stores, or transmits for or on behalf of Covered Entity and any information derived from such PHI.
- 7.9 **Counterparts; Electronic Signatures; Facsimiles.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The Parties agree that electronic signatures of this Agreement (including, but not limited to DocuSign®, or comparable eSign and PDF formats) are sufficient authenticity of the Parties' execution of this Agreement and shall have the same force and effect as manual signatures.
- 7.10 **Notices.** Any notices or other communications required or permitted to be given hereunder shall be in writing and made by personal delivery, registered or certified mail, postage prepaid, return receipt requested, or sent by nationally recognized overnight courier service to the address set forth below. Notices are deemed to have been given on: (i) the date when personally delivered; (ii) the date which immediately follows the date of delivery to such overnight courier service; or (iii) the date which is seven (7) days from the date of deposit in the United States Postal Service in the manner described above. A copy of any notice to Covered Entity also shall be provided contemporaneously by email to the email address indicated below for Covered Entity. Each party may change its address for notices by the giving of notice as set forth herein.

If to FH or Covered Entity:

Froedtert Health, Inc.
400 Woodland Prime
N74 W12501 Leatherwood Court
Menomonee Falls, WI 53051
Attn: Privacy Officer

With copy to:
Froedtert Health, Inc.
9200 West Wisconsin Avenue
Milwaukee, WI 53226
Attn: General Counsel

With a copy via email to: legal@froedtert.com

If to Business Associate:

City of Wauwatosa
7725 W. North Ave.
Wauwatosa, WI 53213
Attn: Wauwatosa City Attorney

With copy to:
Wauwatosa Chief of Police
1700 N. 116th St.
Wauwatosa, WI 53226
Telephone: 414-471-8430

IN WITNESS WHEREOF, each of the undersigned has caused this Agreement to be duly executed.

Froedtert Health, Inc.,

on behalf of itself and its affiliates

DocuSigned by:

By: Alicia Maitland
Name: Alicia Maitland
Title: SVP Finance
Date: 8/22/2023 | 1:33 PM CDT

City of Wauwatosa

By: _____
Name: _____
Title: _____
Date: _____

